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1  
2 An act relating to growth management; amending s.  
3 163.3167, F.S.; prohibiting counties from adopting,  
4 after a specified date, a comprehensive plan, a land  
5 development regulation, or another form of restriction  
6 unless certain conditions are met; prohibiting  
7 counties from limiting a municipality from deciding  
8 land uses, density, and intensity allowed on certain  
9 lands; providing retroactive applicability; amending  
10 s. 171.042, F.S.; prohibiting a municipality from  
11 annexing specified areas under certain circumstances;  
12 amending s. 163.3168, F.S.; requiring the Department  
13 of Economic Opportunity to give a preference to  
14 certain counties and municipalities when selecting  
15 applications for funding for specified technical  
16 assistance; amending s. 163.3177, F.S.; requiring  
17 local governments to include a property rights element  
18 in their comprehensive plans; providing a statement of  
19 rights that a local government may use; requiring a  
20 local government to adopt a property rights element by  
21 a specified date; prohibiting a local government's  
22 property rights element from conflicting with the  
23 statutorily provided statement of rights; amending s.  
24 163.3237, F.S.; providing that certain property owners  
25 are not required to consent to development agreement  
26 changes under certain circumstances; amending s.  
27 337.25, F.S.; requiring the Department of  
28 Transportation to afford a right of first refusal to  
29 certain individuals under specified circumstances;

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30 providing requirements and procedures for the right of  
31 first refusal; amending s. 337.401, F.S.; specifying  
32 timeframes for processing a permit application for a  
33 utility's use of a right-of-way; providing a  
34 declaration of important state interest; amending s.  
35 380.06, F.S.; authorizing certain developments of  
36 regional impact agreements to be amended under certain  
37 circumstances; providing retroactive applicability;  
38 providing an effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Subsection (3) of section 163.3167, Florida  
43 Statutes, is amended, and subsection (11) is added to that  
44 section, to read:

45 163.3167 Scope of act.—

46 (3) A municipality established after the effective date of  
47 this act shall, within 1 year after incorporation, establish a  
48 local planning agency, pursuant to s. 163.3174, and prepare and  
49 adopt a comprehensive plan of the type and in the manner set out  
50 in this act within 3 years after the date of such incorporation.  
51 A county comprehensive plan is controlling until the  
52 municipality adopts a comprehensive plan in accordance with this  
53 act. A comprehensive plan effective ~~adopted~~ after January 1,  
54 2019, and all land development regulations adopted to implement  
55 the comprehensive plan must incorporate each development order  
56 existing before the comprehensive plan's effective date, may not  
57 impair the completion of a development in accordance with such  
58 existing development order, and must vest the density and

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59 intensity approved by such development order existing on the  
60 effective date of the comprehensive plan without limitation or  
61 modification.

62 (11) A county may not adopt, after January 1, 2020, any  
63 comprehensive plan, land development regulation, or other form  
64 of restriction that serves as a limitation on a municipality  
65 from establishing land use and zoning on lands located within a  
66 municipality unless the municipality, through its own  
67 ordinances, adopts and imposes the provision, goal, objective,  
68 or policy on lands located within the municipal jurisdiction. A  
69 county may not limit a municipality from deciding the land uses,  
70 density, and intensity allowed on lands annexed into a  
71 municipality as long as the municipality is in compliance with  
72 subsection (3). This subsection does not apply to a charter  
73 county with a population in excess of 750,000 as of January 1,  
74 2020, which has in place as of that date charter provisions  
75 governing land use or development, which provisions apply to all  
76 jurisdictions within the county.

77 Section 2. Subsection (4) is added to section 171.042,  
78 Florida Statutes, to read:

79 171.042 Prerequisites to annexation.—

80 (4) Except as otherwise provided in s. 171.205, a  
81 municipality may not annex an area within another municipal  
82 jurisdiction without the other municipality's consent.

83 Section 3. Present subsection (4) of section 163.3168,  
84 Florida Statutes, is redesignated as subsection (5), and a new  
85 subsection (4) is added to that section, to read:

86 163.3168 Planning innovations and technical assistance.—

87 (4) When selecting applications for funding for technical

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88 assistance, the state land planning agency shall give a  
89 preference to a county that has a population of 200,000 or less,  
90 and to a municipality located within such a county, for  
91 assistance in determining whether the area in and around a  
92 proposed multiuse corridor interchange as described in s.  
93 338.2278 contains appropriate land uses and natural resource  
94 protections and for aid in developing or amending a local  
95 government's comprehensive plan to provide for such uses,  
96 protections, and intended benefits as provided in s. 338.2278.

97 Section 4. Paragraph (i) is added to subsection (6) of  
98 section 163.3177, Florida Statutes, to read:

99 163.3177 Required and optional elements of comprehensive  
100 plan; studies and surveys.—

101 (6) In addition to the requirements of subsections (1)-(5),  
102 the comprehensive plan shall include the following elements:

103 (i)1. In accordance with the legislative intent expressed  
104 in ss. 163.3161(10) and 187.101(3) that governmental entities  
105 respect judicially acknowledged and constitutionally protected  
106 private property rights, each local government shall include in  
107 its comprehensive plan a property rights element to ensure that  
108 private property rights are considered in local decisionmaking.  
109 A local government may adopt its own property rights element or  
110 use the following statement of rights:

111  
112 The following rights shall be considered in local  
113 decisionmaking:

114  
115 1. The right of a property owner to physically possess  
116 and control his or her interests in the property,

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117 including easements, leases, or mineral rights.

118  
119 2. The right of a property owner to use, maintain,  
120 develop, and improve his or her property for personal  
121 use or the use of any other person, subject to state  
122 law and local ordinances.

123  
124 3. The right of the property owner to privacy and to  
125 exclude others from the property to protect the  
126 owner's possessions and property.

127  
128 4. The right of a property owner to dispose of his or  
129 her property through sale or gift.

130  
131 2. Each local government must adopt a property rights  
132 element in its comprehensive plan by the earlier of its next  
133 proposed plan amendment or July 1, 2023. If a local government  
134 adopts its own property rights element, the element may not  
135 conflict with the statement of rights provided in subparagraph  
136 1.

137 Section 5. Section 163.3237, Florida Statutes, is amended  
138 to read:

139 163.3237 Amendment or cancellation of a development  
140 agreement.—A development agreement may be amended or canceled by  
141 mutual consent of the parties to the agreement or by their  
142 successors in interest. A party or its designated successor in  
143 interest to a development agreement and a local government may  
144 amend or cancel a development agreement without securing the  
145 consent of other parcel owners whose property was originally

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146 subject to the development agreement, unless the amendment or  
147 cancellation directly modifies the allowable uses or  
148 entitlements of such owners' property.

149 Section 6. Subsection (4) of section 337.25, Florida  
150 Statutes, is amended to read:

151 337.25 Acquisition, lease, and disposal of real and  
152 personal property.—

153 (4) The department may convey, in the name of the state,  
154 any land, building, or other property, real or personal, which  
155 was acquired under subsection (1) and which the department has  
156 determined is not needed for the construction, operation, and  
157 maintenance of a transportation facility. When such a  
158 determination has been made, property may be disposed of through  
159 negotiations, sealed competitive bids, auctions, or any other  
160 means the department deems to be in its best interest, with due  
161 advertisement for property valued by the department at greater  
162 than \$10,000. A sale may not occur at a price less than the  
163 department's current estimate of value, except as provided in  
164 paragraphs (a)-(d). The department may afford a right of first  
165 refusal to the local government or other political subdivision  
166 in the jurisdiction in which the parcel is situated, except in a  
167 conveyance transacted under paragraph (a), paragraph (c), or  
168 paragraph (e). Notwithstanding any provision of this section to  
169 the contrary, before any conveyance under this subsection may be  
170 made, except a conveyance under paragraph (a) or paragraph (c),  
171 the department shall first afford a right of first refusal to  
172 the previous property owner for the department's current  
173 estimate of value of the property. The right of first refusal  
174 must be made in writing and sent to the previous owner via

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175 certified mail or hand delivery, effective upon receipt. The  
176 right of first refusal must provide the previous owner with a  
177 minimum of 30 days to exercise the right in writing and must be  
178 sent to the originator of the offer by certified mail or hand  
179 delivery, effective upon dispatch. If the previous owner  
180 exercises his or her right of first refusal, the previous owner  
181 has a minimum of 90 days to close on the property.

182 (a) If the property has been donated to the state for  
183 transportation purposes and a transportation facility has not  
184 been constructed for at least 5 years, plans have not been  
185 prepared for the construction of such facility, and the property  
186 is not located in a transportation corridor, the governmental  
187 entity may authorize reconveyance of the donated property for no  
188 consideration to the original donor or the donor's heirs,  
189 successors, assigns, or representatives.

190 (b) If the property is to be used for a public purpose, the  
191 property may be conveyed without consideration to a governmental  
192 entity.

193 (c) If the property was originally acquired specifically to  
194 provide replacement housing for persons displaced by  
195 transportation projects, the department may negotiate for the  
196 sale of such property as replacement housing. As compensation,  
197 the state shall receive at least its investment in such property  
198 or the department's current estimate of value, whichever is  
199 lower. It is expressly intended that this benefit be extended  
200 only to persons actually displaced by the project. Dispositions  
201 to any other person must be for at least the department's  
202 current estimate of value.

203 (d) If the department determines that the property requires

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204 significant costs to be incurred or that continued ownership of  
205 the property exposes the department to significant liability  
206 risks, the department may use the projected maintenance costs  
207 over the next 10 years to offset the property's value in  
208 establishing a value for disposal of the property, even if that  
209 value is zero.

210 (e) If, at the discretion of the department, a sale to a  
211 person other than an abutting property owner would be  
212 inequitable, the property may be sold to the abutting owner for  
213 the department's current estimate of value.

214 Section 7. Subsection (2) of section 337.401, Florida  
215 Statutes, is amended to read:

216 337.401 Use of right-of-way for utilities subject to  
217 regulation; permit; fees.—

218 (2) The authority may grant to any person who is a resident  
219 of this state, or to any corporation which is organized under  
220 the laws of this state or licensed to do business within this  
221 state, the use of a right-of-way for the utility in accordance  
222 with such rules or regulations as the authority may adopt. No  
223 utility shall be installed, located, or relocated unless  
224 authorized by a written permit issued by the authority. However,  
225 for public roads or publicly owned rail corridors under the  
226 jurisdiction of the department, a utility relocation schedule  
227 and relocation agreement may be executed in lieu of a written  
228 permit. The permit shall require the permitholder to be  
229 responsible for any damage resulting from the issuance of such  
230 permit. The authority may initiate injunctive proceedings as  
231 provided in s. 120.69 to enforce provisions of this subsection  
232 or any rule or order issued or entered into pursuant thereto. A

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233 permit application required under this subsection by a county or  
234 municipality having jurisdiction and control of the right-of-way  
235 of any public road must be processed and acted upon in  
236 accordance with the timeframes provided in subparagraphs  
237 (7) (d) 7., 8., and 9.

238 Section 8. The Legislature finds and declares that this act  
239 fulfills an important state interest.

240 Section 9. Paragraph (d) of subsection (4) of section  
241 380.06, Florida Statutes, is amended to read:

242 380.06 Developments of regional impact.—

243 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

244 (d) Any agreement entered into by the state land planning  
245 agency, the developer, and the local government with respect to  
246 an approved development of regional impact previously classified  
247 as essentially built out, or any other official determination  
248 that an approved development of regional impact is essentially  
249 built out, remains valid unless it expired on or before April 6,  
250 2018, and may be amended pursuant to the processes adopted by  
251 the local government for amending development orders. Any such  
252 agreement or amendment may authorize the developer to exchange  
253 approved land uses, subject to demonstrating that the exchange  
254 will not increase impacts to public facilities. This paragraph  
255 applies to all such agreements and amendments effective on or  
256 after April 6, 2018.

257 Section 10. This act shall take effect July 1, 2020.