

## M E M O R A N D U M

Date: August 5, 2013

**TO:** Town Commission

**FROM:** Dave Bullock, Town Manager  
Maggie Mooney-Portale, Town Attorney

**SUBJECT:** Summary of 2013 Legislation (House Bills 537 and 7019),  
Construction of the Town Charter, Options and Request for  
Authorization

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### **A. Summary of 2013 Legislation: HB 537 and HB 7019**

During the 2013 Florida Legislative Session, the Florida House and Senate passed HB 537 and HB 7019. HB 537 and HB 7019 contained identical language amending Florida Statutes 163.3167(8) as it related to referendum processes for development orders, comprehensive plan amendments and map amendments. Dubbed the "Baby Hometown Democracy" bill, the legislation was a third "glitch" bill. It appears that the intent of the bill was to clarify that the referendum prohibition provided for in Florida Statutes 163.3167(8) only grandfathered certain specifically enumerated existing referenda provisions in local charters on local comprehensive plans.<sup>1</sup> A copy of HB 537 and the last version of the Legislative Staff analysis dated June 6, 2013, is included for your review.

HB 537/HB 7019 amends Florida Statutes 163.3167 (8) to provide that local referenda and initiatives on a development order, comprehensive plan amendment and map amendment are prohibited unless they are expressly authorized by specific language in a local government charter that was in effect on June 1, 2011 and they affect more than five parcels of land. It appears that the limited exception in HB 537/HB 7019 from the referendum prohibitions was based upon a recognition that there were several local governments that had historic referendum provisions in their charters that the Legislature intended to preserve.<sup>2</sup>

HB 537/HB 7019 also included language that made the legislation retroactive such that any initiative or referendum process commenced after June 1, 2011 was declared to be null and void and of no legal force and effect.

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<sup>1</sup> A timeline that includes a summary of the four (4) legislative changes to Florida Statutes 163.3167(8) during the 1995, 2011, 2012, and 2013 Legislative Sessions, respectively, is included in the Town Commission's agenda materials.

<sup>2</sup> Town of Longboat Key was one of four (4) local governments specifically referenced within the staff analysis as having a long-standing referendum provision within its charter. The other three (3) municipalities are: Key West, Miami Beach and Yankeetown.

The Town Attorney, Town Manager and staff became aware of this legislation, after the bills were passed out of the House and Senate, and were forwarded to the Governor for execution. Efforts to have the Governor veto of this legislation were unsuccessful. Both bills were signed into law by Governor Scott and both went into effect on July 1, 2013.

**B. Construction of the Town's Charter: Article II, Section 22**

Article II, Section 22 of the Town's Charters sets forth how the Town is to develop and evaluate comprehensive plans for the Town. Specifically, Section 22 states:

**Sec. 22. Comprehensive plan for town.**

- (a) The town commission shall cause plans to be developed on a continuing basis for the future development and maintenance of the town, considering the health, safety, morals, environmental protection, aesthetics, convenience and general welfare of the town and its residents.
- (b) ***The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key.*** [Emphasis supplied].

Since the adoption of the Sec. 22 in 1984, each applicant that has sought to increase density beyond the limits set in the 1984 Town Comprehensive Plan has been directed by the Charter to obtain referendum approval from the Town residents in a referendum before pursuing a comprehensive plan amendment and a subsequent zoning change.

In an effort to try to reconcile how the Town should construe the recently enacted state legislation in conjunction with the Town's Charter provisions for any new applicants seeking density increases, there are at least two (2) conflicting interpretations that can reasonably be advanced:

- (1) The prohibition on conducting a comprehensive plan amendment referendums as set forth in HB 537, prevents the Town from conducting referendums on density increases. Therefore, the legislation has eliminated the Town's ability to increase density beyond the limits provided for in the 1984 comprehensive plan and has the effect of creating a density cap within the Town.

- OR -

- (2) The prohibition set forth in HB 537 has rendered the entirety of Art. II, Sec. 22 (b) invalid, such that residents of the Town will no longer have the right to vote on whether individual parcels may increase density and the decision on whether to grant density increases will rest solely upon the legislative decision making authority of the Town Commission.

Both of the above interpretations can be argued and there is no way to definitely know which construction would be upheld by a court in a challenge. If an incorrect interpretation is adopted by the Town, and the Town is challenged in a court, there is a potential that a plaintiff could pursue damages against the Town. Accordingly, the impact of HB 537/HB 7019 on Art. II, Sec. 22 of the Town charter is unsettled.

Further, the recently enacted legislation and its inclusion of retroactive language poses additional construction difficulties for the Town with regard to any referendums that have already occurred between June 1, 2011 and July 1, 2013. There were two (2) voter referendums by individual parcel owners to increase density passed by the Town's voters during the June 1, 2011 and July 1, 2013 timeframe. HB 537 has declared that the referendums held by the Town during this timeframe are null and void. Accordingly, the Town will need to take a position on whether and how these two (2) individual parcel owners who successfully obtained voter approval for a density increase can proceed with comprehensive plan amendments. Under interpretation (1), the parcel owners cannot increase density at all; under interpretation (2), the parcel owners proceed through the comprehensive plan amendment process and zoning amendment process.

### **C. Town Options**

Currently, the Town Commission has the option of:

- (1) Pursuing a legislative amendment to general law that further clarifies the exception to the Florida Statutes 163.3167(8) referendum prohibition; and/or
- (2) Filing a declaratory relief action in the Circuit Court and requesting that the court construe Article II, Section 22 of the Town's Charter in light of Florida Statutes 163.3167(8) and provide the Town with an interpretation the Town can apply; and/or
- (3) Taking no action and waiting for the Town to become a defendant in a challenge by an adversely affected party relating to the Town's interpretation of Article II, Section 22 of the Town's Charter and Florida Statutes 163.3167. Such a challenge may include claim(s) for damages from adversely affected plaintiff(s).

## **D. Request for Authorization**

### **(1) Legislative Action**

Pursuit of a legislative change to Florida Statutes 163.3167(8) during the 2014 Session, would be the fourth “glitch” bill relating to this general law. Should the Town Commission choose to pursue such legislation, it is recommended that the Town retain and employ a lobbyist to represent the Town’s interests throughout the legislative and executive branch processes. Discussions with the League of Cities, local delegation members, Sarasota and Manatee County’s lobbyists, and lobbyists who were involved in the prior legislation on this subject have suggested that the most effective way to pursue legislative changes is to engage a lobbyist, immediately obtain local delegation sponsors for the legislation (in the House and Senate) and file draft legislation before the legislative committee meetings commence in September 2013. It has been emphasized that pursuit of a legislative fix requires expedited action.

Should the Town wish to pursue legislation, we would recommend that the Town Commission authorize the Town Manager and Town Attorney to retain and engage the services of lobbyist(s) to take all necessary actions to pursue an amendment to Florida Statutes 163.3167 so that the provisions in Article II, Sec. 22 of the Town Charter can be preserved.

### **(2) Initiation of Litigation – Seeking Declaratory Relief**

Should the Town Commission elect to pursue the filing a declaratory relief action in the Circuit Court that construes Article II, Sec. 22 of the Town Charter in conjunction with Florida Statutes 163.3167 (8)(2013), it is advisable that special litigation counsel be retained by the Town to file such an action. As mentioned above, the lawsuit would ask the Court to instruct the Town how it should interpret its charter provision in conjunction with the recently amended general law. Further, if the Town initiates such a declaratory relief action, other interested and affected parties could intervene in such a lawsuit and bring their particular arguments to the court for consideration.

Should the Town wish to pursue such a declaratory relief action, we would recommend that the Town Commission authorize the Town Manager and Town Attorney to retain and engage special litigation counsel to initiate a declaratory relief action and pursue any other related causes of actions relating to the construction of Florida Statutes 163.3167 and Article II, Sec. 22 of the Town Charter.



ENROLLED  
CS/CS/HB 537, Engrossed 1

2013 Legislature

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An act relating to growth management; amending s. 163.3167, F.S.; clarifying the prohibition on an initiative or referendum process in regard to development orders; clarifying the prohibition on an initiative or referendum process in regard to comprehensive plan amendments and map amendments; clarifying that the exception to the prohibition on an initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is limited to a local government charter provision in effect on June 1, 2011, that specifically authorized an initiative or referendum process for local comprehensive plan or map amendments that affect more than five parcels of land; providing legislative intent; providing for retroactive application; providing for the retroactive repeal of s. 4 of chapter 2012-75, Laws of Florida, relating to a presumption regarding agricultural enclaves; providing an effective date.

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

Section 1. Subsection (8) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(8) (a) An initiative or referendum process in regard to any development order ~~or in regard to any local comprehensive~~



ENROLLED

CS/CS/HB 537, Engrossed 1

2013 Legislature

29 ~~plan amendment or map amendment is prohibited. However, any~~  
30 ~~local government charter provision that was in effect as of June~~  
31 ~~1, 2011, for an initiative or referendum process in regard to~~  
32 ~~development orders or in regard to local comprehensive plan~~  
33 ~~amendments or map amendments may be retained and implemented.~~

34 (b) An initiative or referendum process in regard to any  
35 local comprehensive plan amendment or map amendment is  
36 prohibited. However, an initiative or referendum process in  
37 regard to any local comprehensive plan amendment or map  
38 amendment that affects more than five parcels of land is allowed  
39 if it is expressly authorized by specific language in a local  
40 government charter that was lawful and in effect on June 1,  
41 2011; a general local government charter provision for an  
42 initiative or referendum process is not sufficient.

43 (c) It is the intent of the Legislature that initiative  
44 and referendum be prohibited in regard to any development order.  
45 It is the intent of the Legislature that initiative and  
46 referendum be prohibited in regard to any local comprehensive  
47 plan or map amendment, except as specifically and narrowly  
48 permitted in paragraph (b) with regard to local comprehensive  
49 plan or map amendments that affect more than five parcels of  
50 land. Therefore, the prohibition on initiative and referendum  
51 stated in paragraphs (a) and (b) is remedial in nature and  
52 applies retroactively to any initiative or referendum process  
53 commenced after June 1, 2011, and any such initiative or  
54 referendum process that has been commenced or completed  
55 thereafter is hereby deemed null and void and of no legal force  
56 and effect.

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S



ENROLLED

CS/CS/HB 537, Engrossed 1

2013 Legislature

57 Section 2. Section 4 of chapter 2012-75, Laws of Florida,  
58 is repealed, retroactive to June 30, 2012.

59 Section 3. This act shall take effect upon becoming a law.

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 537	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Local & Federal Affairs Committee, Economic Development & Tourism Subcommittee, and Moraitis, Rogers	114 Y's	0 N's
<b>COMPANION BILLS:</b>	(CS/CS/SB 528, CS/HB 7019)	<b>GOVERNOR'S ACTION:</b> Pending	

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**SUMMARY ANALYSIS**

CS/CS/HB 537 passed the House on April 12, 2013. The bill was amended by the Senate on April 25, 2013, and subsequently passed the House on May 2, 2013.

The bill prohibits local government initiative or referendum processes for local comprehensive plan and map amendments affecting more than five parcels of land, except for those processes in effect as of June 1, 2011, and specifically authorized by charter language.

The bill also repeals Section 4, Chapter 2012-75, Laws of Florida, which allowed qualifying agricultural enclaves to use a different approval process when applying for comprehensive plan amendments.

The bill has no fiscal impact on state or local funds.

Subject to the Governor's veto powers, the effective date of this bill is upon becoming law.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Local Initiatives and Referenda on Land Use Changes

In 2006, voters in St. Pete Beach amended the city's charter to require voter referendums on all future changes to comprehensive plans, redevelopment plans, and building height regulations.<sup>1</sup> This process, often called "Hometown Democracy," caused delay in the local development process.<sup>2</sup> In November 2010, Florida voters decided against implementing Hometown Democracy statewide with a 67.1 percent 'no' vote on Amendment 4.<sup>3</sup> Shortly thereafter, in March 2011, voters in St. Pete Beach repealed the town's Hometown Democracy provisions by 54.07 percent.<sup>4</sup>

The 2011 Legislature passed HB 7207, known as the "Community Planning Act." Section 7, amending s. 163.3167, F.S., prohibited local governments from adopting initiative or referendum processes for any development orders, comprehensive plan amendments, or map amendments.<sup>5</sup>

At the time, very few local governments had a land use referendum or initiative process in place.<sup>6</sup> One of these affected governments, The Town of Yankeetown (Yankeetown), had a charter provision which specifically authorized a referendum vote on comprehensive plan amendments affecting more than five parcels of land.<sup>7</sup> Following the enactment of HB 7207 (2011), Yankeetown filed a complaint in the Leon County Circuit Court against the Department of Community Affairs (DCA), now the Department of Economic Opportunity (DEO), stating its desire to maintain its charter provision.<sup>8</sup>

In September 2011, DCA and Yankeetown reached a proposed settlement agreement contingent upon the Legislature passing, and the Governor signing into law, a proposed amendment to the Community Planning Act.<sup>9</sup> The resulting bill, CH/HB 7081 (2012), was designed to allow charter provisions like that of Yankeetown to remain valid. The bill was intended to have a limited impact, protecting only those local government charter provisions that: 1) were in effect as of June 1, 2011, and 2) authorized an initiative or referendum process for development orders, comprehensive plan amendments, or map amendments.<sup>10</sup> The Legislature passed the bill on March 7, 2012, and the Governor signed CS/HB 7081 (2012) into law on April 6, 2012.

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<sup>1</sup> "Is St. Pete Beach a Valid Case Study for Amendment 4?" *St. Petersburg Times*, March 19, 2010. Retrieved from: [http://www.politifact.com/florida/statements/2010\\_mar/19/citizens-lower-taxes-and-stronger-economy/st-pete-beach-amendment-4-hometown-democracy/](http://www.politifact.com/florida/statements/2010_mar/19/citizens-lower-taxes-and-stronger-economy/st-pete-beach-amendment-4-hometown-democracy/) (2/25/13).

<sup>2</sup> *Id.*

<sup>3</sup> See, November 2, 2010 General Election Official Results provided by the Florida Department of State. Retrieved from: <https://doe.dos.state.fl.us/elections/resultsarchive/Index.asp?ElectionDate=11.2/2010&DATAMODE=2/26/13>.

<sup>4</sup> See, 2011 Municipal Election Results provided by the Pinellas County Supervisor of Elections. Retrieved from: <http://www.votePinellas.com/index.php?id=1789> (2/26/13).

<sup>5</sup> See, "The Community Planning Act," s. 7, ch. 2011-139, L.O.F., 2011 CS/HB 7207.

<sup>6</sup> Longboat Key, Key West, Miami Beach, and the Town of Yankeetown.

<sup>7</sup> See, *Town of Yankeetown, FL v. Dep't of Econ. Opportunity, et. al.*, No. 37 2011-CA-002036 (Fla. 2d Cir. Ct. 2011), Town of Yankeetown's Amended Complaint for Declaratory Judgment, p. 3 (Aug. 9, 2011).

<sup>8</sup> *Id.* The complaint alleged that ch. 2011-139, L.O.F., violated the single subject provision in s. 6, Art. III, State Constitution, and that it was read by a misleading, inaccurate title. Yankeetown also alleged that the law contained unconstitutionally vague terms and contained an unlawful delegation of legislative authority. The city of St. Pete Beach also filed a motion to intervene as a defendant in the case, on the same side as the state.

<sup>9</sup> Settlement Letter between the Department of Community Affairs and St. Pete Beach and Yankeetown, Re: Case No. 37 2011 CA 002036 (9/28/2011).

<sup>10</sup> Section 1, ch. 2012-99, L.O.F.

CS/HB 7081 (2012) left open the possibility for an interpretation that allowed all referendum or initiative provisions in effect as of June 1, 2011, not merely those specifically for development orders, comprehensive plan amendments, or map amendments.

In October 2012, the Palm Beach County Circuit Court ruled that CS/HB 7081 (2012) extended the exception to all local government general referendum or initiative charter provisions in effect as of June 1, 2011.<sup>11</sup> The court held that such a general provision encompassed specific land amendments, such as development orders and comprehensive map amendments, despite the charter language not specifically authorizing either. This broad interpretation is contrary to the intent of the 2011 and 2012 legislation, which sought to restrict these voting mechanisms.

### Agricultural Enclaves

Chapter 163.3164, F.S., defines an agricultural enclave as an unincorporated, undeveloped parcel that: a) is owned by a single person or entity, b) has been used for at least five continuous years for agricultural purposes prior to a comprehensive plan amendment application and c) is surrounded on at least 75 percent of its perimeter by property that has existing industrial, commercial, or residential development or property designated for said development that is substantially developed.

Chapter 163.3162, F.S., allows an owner of an agricultural enclave as designated by s. 163.3164, F.S., to apply for a comprehensive plan amendment pursuant to s. 163.3184, F.S. The statute presumes such development is not urban sprawl, but allows for rebuttal of the presumption by clear and convincing evidence. There is no limit to the size of an allowable enclave, although enclaves in excess of 640 acres are required to include new urbanism concepts in the development plan.

Owners of agricultural enclaves seeking a comprehensive plan amendment must apply for the change and then engage in good faith negotiations with the local government to reach an agreement about the land uses that are consistent with surrounding areas. The landowner and local government must also reach agreement on a schedule for information submittal, public hearings, negotiations, and final action on the amendment.

Following good faith negotiations between the landowner and local government, or the passage of 180 days after receipt of the complete application, the local government shall transmit the proposed amendment to the state land planning agency for final review. While agricultural enclave amendments are presumed not to be urban sprawl, this presumption may be rebutted by clear and convincing evidence, and does not apply if the landowner fails to engage in good faith negotiations with the local government.

In 2012, the passage of CS/HB 979 created an alternate route for owners of designated agricultural enclaves to apply for a comprehensive plan amendment pursuant to s. 163.3184, F.S.<sup>12</sup> The alternate route for amendment approval is available only to enclaves greater than 500 acres and less than 640 acres in size, and surrounded by 95 percent or more of land designated for development. Under the alternate route, land owners are not required to engage in good faith negotiations with local governments, the presumption of no urban sprawl is not rebuttable, and final review by the state land planning agency is not required. In order to qualify for the alternate route, land owners were required to submit an application to the county by January 1, 2013.

### Effect of Proposed Changes

#### Local Initiatives and Referenda on Land Use Changes

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<sup>11</sup> *City of Boca Raton v. Kennedy, et. al.*, No. 2012-CA-009962-MB (Fla. 15th Cir. Ct. 2012), Order denying plaintiff, City of Boca Raton's and Intervener/Co-Plaintiff, Archstone Palmetto Park, LLC's Motions for Summary Judgment and Granting Defendants' Motion for Summary Judgment. J. Chernow Brown, Oct. 16, 2012.

<sup>12</sup> S. 4, Ch. 2012-75, Laws of Florida.

CS/CS/HB 537 narrows the current interpretation of s. 163.3167(8), F.S., while preserving the purpose of the 2011 Community Planning Act. CS/HB 537 prohibits initiative or referendum processes for any development order, local comprehensive plan amendment, or map amendment. However, if the local government charter (1) specifically authorizes initiative and referendum voting processes for land use amendments and (2) was lawful and in effect June 1, 2011, then such processes are allowed for (1) local comprehensive plan amendments or (2) map amendments affecting more than five parcels of land. Provisions in regard to development orders are not included in the exception and are always prohibited.

#### Agricultural Enclaves

CS/CS/HB 537 repeals s. 4, ch. 2012-75, Laws of Florida, eliminating the alternate route application process for owners of land qualifying as an agricultural enclave to apply for comprehensive plan amendments.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There could be cost savings for local governments by limiting the number special elections and the number of issues presented to voters in general and special elections.<sup>13</sup>

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Removes potential impediments to developers seeking land use permit changes and eliminates an alternative method of applying for comprehensive plan amendments by owners of land located in an unincorporated area of a county that qualifies as an agricultural enclave.

### D. FISCAL COMMENTS:

None.

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<sup>13</sup> Financial Information Statement: Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans, #05-18. Office of Economic & Demographic Research. Retrieved from: <http://edr.state.fl.us/Content/constitutional-amendments/2010Ballot/LandUse/LandUseInformationStatement.cfm> (2/26/13).

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/HB 537	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Local & Federal Affairs Committee, Economic Development & Tourism Subcommittee, and Moraitis, Rogers	114 Y's	0 N's
<b>COMPANION BILLS:</b>	(CS/CS/SB 528, CS/HB 7019)	<b>GOVERNOR'S ACTION:</b>	Approved

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The bill also repeals Section 4, Chapter 2012-75, Laws of Florida, which allowed qualifying agricultural enclaves to use a different approval process when applying for comprehensive plan amendments.

The bill has no fiscal impact on state or local funds.

The bill was approved by the Governor on June 5, 2013, ch. 2013-115, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

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CS/HB 7081 (2012) left open the possibility for an interpretation that allowed all referendum or initiative provisions in effect as of June 1, 2011, not merely those specifically for development orders, comprehensive plan amendments, or map amendments.

In October 2012, the Palm Beach County Circuit Court ruled that CS/HB 7081 (2012) extended the exception to all local government general referendum or initiative charter provisions in effect as of June 1, 2011.<sup>11</sup> The court held that such a general provision encompassed specific land amendments, such as development orders and comprehensive map amendments, despite the charter language not specifically authorizing either. This broad interpretation is contrary to the intent of the 2011 and 2012 legislation, which sought to restrict these voting mechanisms.

### Agricultural Enclaves

Chapter 163.3164, F.S., defines an agricultural enclave as an unincorporated, undeveloped parcel that: a) is owned by a single person or entity, b) has been used for at least five continuous years for agricultural purposes prior to a comprehensive plan amendment application and c) is surrounded on at least 75 percent of its perimeter by: property that has existing industrial, commercial, or residential development or property designated for said development that is substantially developed.

Chapter 163.3162, F.S., allows an owner of an agricultural enclave as designated by s. 163.3164, F.S., to apply for a comprehensive plan amendment pursuant to s. 163.3184, F.S. The statute presumes such development is not urban sprawl, but allows for rebuttal of the presumption by clear and convincing evidence. There is no limit to the size of an allowable enclave, although enclaves in excess of 640 acres are required to include new urbanism concepts in the development plan.

Owners of agricultural enclaves seeking a comprehensive plan amendment must apply for the change and then engage in good faith negotiations with the local government to reach an agreement about the land uses that are consistent with surrounding areas. The landowner and local government must also reach agreement on a schedule for information submittal, public hearings, negotiations, and final action on the amendment.

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### Effect of Proposed Changes

#### Local Initiatives and Referenda on Land Use Changes

<sup>11</sup> *City of Boca Raton v. Kennedy, et. al.*, No. 2012-CA-009962-MB (Fla. 15th Cir. Ct. 2012). Order denying plaintiff, City of Boca Raton's and Intervener-Co-Plaintiff, Archstone Palmetto Park, LLC's Motions for Summary Judgment and Granting Defendants' Motion for Summary Judgment. J. Chernow Brown, Oct. 16, 2012.

<sup>12</sup> S. 4, Ch. 2012-75, Laws of Florida.

CS/CS/HB 537 narrows the current interpretation of s. 163.3167(8), F.S., while preserving the purpose of the 2011 Community Planning Act. CS/HB 537 prohibits initiative or referendum processes for any development order, local comprehensive plan amendment, or map amendment. However, if the local government charter (1) specifically authorizes initiative and referendum voting processes for land use amendments and (2) was lawful and in effect June 1, 2011, then such processes are allowed for (1) local comprehensive plan amendments or (2) map amendments affecting more than five parcels of land. Provisions in regard to development orders are not included in the exception and are always prohibited.

#### Agricultural Enclaves

CS/CS/HB 537 repeals s. 4, ch. 2012-75, Laws of Florida, eliminating the alternate route application process for owners of land qualifying as an agricultural enclave to apply for comprehensive plan amendments.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There could be cost savings for local governments by limiting the number special elections and the number of issues presented to voters in general and special elections.<sup>13</sup>

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Removes potential impediments to developers seeking land use permit changes and eliminates an alternative method of applying for comprehensive plan amendments by owners of land located in an unincorporated area of a county that qualifies as an agricultural enclave.

### D. FISCAL COMMENTS:

None.

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<sup>13</sup> Financial Information Statement: Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans, #05-18. Office of Economic & Demographic Research. Retrieved from: <http://edr.state.fl.us/Content/constitutional-amendments/2010Ballot/LandUse/LandUseInformationStatement.cfm> (2/26/13).