Tab 1	**SB 1026** by **Book (CO-INTRODUCERS) Steube, Farmer**; (Identical to H 00729) Text-to-911 Service

Tab 2	**SB 858** by **Steube (CO-INTRODUCERS) Mayfield, Taddeo**; Daylight Saving Time

502402	A		S	CA, Steube	Delete everything after	01/22 03:47 PM

Tab 3	**SB 720** by **Young (CO-INTRODUCERS) Campbell**; (Identical to H 00449) Children's Initiatives

Tab 4	**CS/SB 876** by **RI, Bean**; (Similar to CS/H 00539) Alarm Verification

Tab 5	**SB 1348** by **Perry**; (Identical to CS/H 00883) Community Development Districts

Tab 6	**SB 1244** by **Lee**; (Identical to H 01151) Developments of Regional Impact

926510	A		S	CA, Lee	btw L.210 - 211:	01/22 03:48 PM
639678	A		S	CA, Lee	Delete L.3038 - 3187:	01/22 03:48 PM
829228	A		S	CA, Bean	Delete L.3599 - 3629:	01/22 03:47 PM
776810	A		S	L CA, Simmons	Delete L.3207:	01/23 01:51 PM

Tab 7	**SB 1632** by **Mayfield**; (Similar to H 00963) Towing and Immobilization Fees and Charges

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Lee, Chair
Senator Bean, Vice Chair

MEETING DATE: Tuesday, January 23, 2018
TIME: 3:30—5:30 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Lee, Chair; Senator Bean, Vice Chair; Senators Brandes, Campbell, Perry, Rodriguez, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1026** Book (Identical H 729)	Text-to-911 Service; Requiring counties to develop a plan for implementing a text-to-911 system and have a system to receive E911 text messages by a specified date, etc. CA 01/23/2018 GO RC	
2	**SB 858** Steube	Daylight Saving Time; Exempting the State of Florida and its political subdivisions from daylight saving time; requiring that the state and all of its political subdivisions observe standard time, etc. CA 01/23/2018 CM RC	
3	**SB 720** Young (Identical H 449)	Children's Initiatives; Creating the Tampa Sulphur Springs Neighborhood of Promise Success Zone within the City of Tampa in Hillsborough County and the Overtown Children and Youth Coalition within the City of Miami in Miami-Dade County; providing for the projects to be managed by not-for-profit corporations that are not subject to control, supervision, or direction by any department of the state, etc. CF 01/09/2018 Favorable CA 01/23/2018 RC	
4	**CS/SB 876** Regulated Industries / Bean (Similar CS/H 539)	Alarm Verification ; Revising requirements for alarm verification to include additional methods by which an alarm monitoring company may verify a residential or commercial intrusion/burglary alarm signal and to require that two attempts be made to verify an alarm signal, etc. RI 01/10/2018 Fav/CS CA 01/23/2018 RC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SB 1348** Perry (Identical CS/H 883)	Community Development Districts; Authorizing adjacent lands located within the county or municipality which a petitioner anticipates adding to the boundaries of a new community development district to also be identified in a petition to establish the new district under certain circumstances; providing that the amendment of a district by the addition of a parcel does not alter the transition from landowner voting to qualified elector voting; requiring the petitioner to cause to be recorded a certain notice of boundary amendment upon adoption of the ordinance expanding the district, etc. CA 01/23/2018 JU RC	
6	**SB 1244** Lee (Identical H 1151)	Developments of Regional Impact; Revising the statewide guidelines and standards for developments of regional impact; specifying that amendments to a development order for an approved development may not alter the dates before which a development would be subject to downzoning, unit density reduction, or intensity reduction, except under certain conditions; requiring local governments to file a notice of abandonment under certain conditions, etc. CA 01/23/2018 ATD AP	
7	**SB 1632** Mayfield (Similar H 963)	Towing and Immobilization Fees and Charges; Expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; prohibiting counties and municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions, etc. CA 01/23/2018 TR RC	

Workshop - At 5:00 PM or upon completion of the above referenced bills, whichever occurs first, the committee will workshop SB 572 by Senator Mayfield

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 1026
INTRODUCER:	Senator Book and others
SUBJECT:	Text-to-911 Service
DATE:	January 22, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Pre-meeting**
2.			GO	
3.			RC	

I. Summary:

In Florida, Text-to-911 is currently available in 20 counties. Approximately 18 other counties are in the project planning stage to have this service implemented. By the end of 2018, more than 50% of the counties will have implemented or will be in the test phase of implementing Text-to-911.

SB 1026 requires all counties to develop a plan for implementing a Text-to-911 system, and to have a system in place to receive E911 text messages by January 1, 2021.

II. Present Situation:

E911 Board and System

In 2007, the Florida Legislature established the E911 Board, which is composed of eleven members. The secretary of the Department of Management Services (DMS) designates the chair of the board. The Governor appoints five members who are county 911 coordinators and five members from the telecommunications industry. The E911 Board's primary function is to administer the funds derived from a monthly fee on each subscriber with a Florida billing address (place of primary use). The E911 Board makes disbursements from the E911 Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. [1]

The Secretary of DMS, or his or her designee, is designated as the director of the statewide E911 system.[2] The Office of the Secretary has designated a statewide E911 coordinator to carry out day-to-day activities. Statewide coordination of 911 and E911 services, including the Emergency

[1] *Florida Department of Management Services, Senate Bill 1026 Analysis (December 11, 2017).*
[2] Section 365.171, F.S.

Communications Number E911 State Plan (State E911 Plan) is the responsibility of the DMS.[3] The State E911 Plan is a statewide plan for implementing and maintaining E911 services, thereby establishing the framework for a statewide emergency E911 communications system. The State E911 Plan establishes the Board of County Commissioners in each county as the responsible fiscal agent. The county E911 systems are under the direct control of the 67 boards. Each county board designates a county 911 coordinator to act as the single point of contact for the DMS and Public Safety Answering Points (PSAPs), and to coordinate effective delivery of E911 services in the county.[4]

In recognition that Next Generation 911 (NG-911)[5] services are a few years away, the E911 Board and the DMS have worked with the industry as part of a process to move forward on a critical short-term NG-911 component, the ability to provide text notifications to 911 PSAPs. To advance these efforts, the E911 Board and the DMS provide a planning resource to assist counties with their Text-to-911 implementation.[6]

Rule 60FF1-5, F.A.C., permits counties to request funding for Text-to-911 from the E911 Board. Counties whose request for funding is granted by the E911 Board shall not receive additional funding from the E911 Board for "Text-to-911" for 365 days from the date of the prior disbursement to the recipient.[7]

III. Effect of Proposed Changes:

Section 1 amends s. 365.172, F.S., to require counties to develop a plan for implementing a text-to-911 system, and to have a system in place to receive E911 text messages by January 1, 2021.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18, Florida Constitution, provides that cities and counties are not bound by general laws requiring them to spend funds or to take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. By requiring that all counties develop a Text-to-911 system by January 1, 2021, the bill requires the expenditure of money by some counties.

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[3] Florida Department of Management Services, *State of Florida Text to 911 Initiative*, https://www.dms.myflorida.com/content/download/112482/625449/Statewide_Text-to-911_Initiative_8-11-2016.pdf at 4-5 (last visited January 18, 2018).
[4] Florida Department of Management Services, *State of Florida Text to 911 Initiative*, https://www.dms.myflorida.com/content/download/112482/625449/Statewide_Text-to-911_Initiative_8-11-2016.pdf at 6 (last visited January 18, 2018).
[5] Next Generation 911 refers to an initiative aimed at updating the 911 service infrastructure in the United States and Canada to improve public emergency communications services in a growingly wireless mobile society.
[6] Florida Department of Management Services, *State of Florida Text to 911 Initiative*, https://www.dms.myflorida.com/content/download/112482/625449/Statewide_Text-to-911_Initiative_8-11-2016.pdf at 3 (last visited January 18, 2018).
[7] *Id*.

An exemption from the mandates provision may apply if the expected fiscal impact of the bill is less than $2 million. If costs exceed $2 million, none of the constitutional exceptions or exemptions apply, and if the bill becomes law, counties will not be bound by the law unless the legislature determines that the bill fulfills an important state interest and approves the bill by a two-thirds vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost to implement a Text-to-911 service will vary by county. Local governments may have to increase local taxes or fees to create a source of revenue to implement this service.[8] Counties are able to request funding but disbursement is limited.[9]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 365.172 of the Florida Statutes.

[8] Florida Department of Management Services, *Senate Bill 1026 Analysis* (December 11, 2017).
[9] *Id*.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Book

32-01474-18 20181026__

A bill to be entitled

An act relating to text-to-911 service; amending s. 365.172, F.S.; requiring counties to develop a plan for implementing a text-to-911 system and have a system to receive E911 text messages by a specified date; providing an effective date.

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

Section 1. Subsection (15) of section 365.172, Florida Statutes, is renumbered as subsection (16), and a new subsection (15) is added to that section, to read:

365.172 Emergency communications number "E911."—

(15) TEXT-TO-911 SERVICE.—Each county shall develop a countywide implementation plan for text-to-911 services and have in place a system to receive E911 text messages from providers by January 1, 2021.

Section 2. This act shall take effect July 1, 2018.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 858
INTRODUCER:	Senator Steube and others
SUBJECT:	Daylight Saving Time
DATE:	January 22, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Pre-meeting**
2.			CM	
3.			RC	

I. Summary:

SB 858 exempts the State of Florida and all of its political subdivisions from daylight saving time and requires that the state and its political subdivisions observe standard time.

II. Present Situation:

History of Daylight Saving Time in the United States[1]

Although railroads in the United States and Canada instituted standard time in 1883, standard time was not established in law until the Act of March 19, 1918, sometimes called the Standard Time Act or the Calder Act. The Standard Time Act also established Daylight Saving Time. Daylight Saving Time was later repealed in 1919, but standard time in time zones remained in law. At that point, Daylight Saving Time became a local matter. It was re-established nationally early in World War II, and was continuously observed from February 9, 1942 to September 30, 1945. After World War II, the use of Daylight Saving Time varied among states and localities.

The Uniform Time Act of 1966 standardized the beginning and the end of daylight time in the U.S. but allowed for local exemptions from its observance. The Uniform Time Act provided that daylight time begins on the last Sunday in April and ends on the last Sunday in October, with the changeover to occur at 2 a.m. local time. Specifically, clocks are moved forward from 2:00 a.m. to 3:00 a.m. in spring, and they are moved back from 2:00 a.m. to 1:00 a.m. in fall.

While the law does not require that all states observe Daylight Saving Time, if a state chooses to observe Daylight Saving Time, it must begin and end on federally mandated dates. Individual

[1] United States Naval Observatory, *Daylight Time*, available at http://aa.usno.navy.mil/faq/docs/daylight_time.php.

states may exempt themselves from Daylight Saving Time and observe standard time[2] year-round by passing a state law if:

- The state lies entirely within a single time zone, and the exemption applies statewide; or
- The state is divided by a time zone boundary, and the exemptions applies either statewide or to the entire part of the state on one side of the time zone boundary.

Currently, Hawaii, most of Arizona,[3] several United States commonwealths and territories,[4] and various Native American nations[5] are exempt from Daylight Saving Time.

The U.S. Department of Transportation states that Daylight Saving Time is observed because it saves energy, saves lives and prevents traffic injuries, and reduces crime.[6]

Currently, Florida law does not speak to the issue of DST. However, section 1.02, F.S., states that with regard to any act by an officer or department in Florida, "it shall be understood and intended that the…time shall be the United States standard time of the zone within which the act is to be performed…"

III. Effect of Proposed Changes:

The bill creates an unnumbered section that provides that Florida exempts itself and all of its political subdivisions from the observance of daylight saving time, between 2 a.m. on the second Sunday in March and 2 a.m. on the first Sunday in November of each calendar year. Additionally, the bill provides that the entire state and all of its political subdivisions shall observe the standard time that is otherwise applicable during that period.

The bill takes effect January 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[2] Standard time is the official time in the United States, as determined by two federal agencies: the National Institute of Standards and Technology (NIST), an agency within the U.S. Department of Commerce; and its military counterpart, the United States Naval Observatory (USNO). The clocks run by these services are kept synchronized with each other as well as with those of other international timekeeping organizations. *See* http://www.usno.navy.mil/USNO/time and https://www.nist.gov/pml/time-and-frequency-division for more information.

[3] Native American nations within Arizona have the right to use or opt out of DST. The Navajo Nation, which includes land in Arizona, New Mexico, and Utah, has chosen to use DST.

[4] The commonwealths of the Northern Mariana Islands and Puerto Rico, and the territories of American Samoa, Guam, and the U.S. Virgin Islands do not observe DST.

[5] The Navajo Nation observes DST, but the Hopi Nation does not.

[6] U.S. Department of Transportation, *Purpose of Daylight Saving Time*, available at https://www.transportation.gov/regulations/daylight-saving-time.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be indeterminate costs to reprogram computers and other electronic devices to eliminate the automatic changing of the clocks. However, these costs are likely to be insignificant.

C. Government Sector Impact:

There may be indeterminate costs to reprogram computers and other electronic devices to eliminate the automatic changing of the clocks. However, these costs are likely to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

502402

LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. (1) This section may be cited as the "Sunshine Protection Act."

(2) If the United States Congress amends 15 U.S.C. s. 260a to authorize states to observe daylight saving time year-round, it is the intent of the Legislature that daylight saving time shall be the year-round standard time of the entire state and

502402

all of its political subdivisions.

Section 2. As soon as practicable after this act becomes a law, the Legislature of the State of Florida shall submit a request to the Secretary of the United States Department of Transportation to initiate rulemaking to redesignate those portions of Florida that currently lie within the Central Time Zone to the Eastern Time Zone. The request must include a formal certification, contact information, and any supporting documentation demonstrating that moving the entire state of Florida into one time zone would serve the convenience of commerce.

Section 3. This act shall take effect July 1, 2018.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to time observances; providing a short title; providing legislative intent regarding the State of Florida and its political subdivisions observing daylight saving time year-round under certain conditions; directing the Legislature to submit a request to the Secretary of the United States Department of Transportation to redesignate portions of the state in the Central Time Zone into the Eastern Time Zone; specifying requirements for the request; providing an effective date.

WHEREAS, the State of Florida is known as the "Sunshine State," and

WHEREAS, as the "Sunshine State," Florida should be kept sunny year-round, NOW, THEREFORE,

By Senator Steube

23-01219-18 2018858__

A bill to be entitled

An act relating to daylight saving time; exempting the State of Florida and its political subdivisions from daylight saving time; requiring that the state and all of its political subdivisions observe standard time; providing an effective date.

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

Section 1. Pursuant to 15 U.S.C. s. 260(a), this state exempts itself and all of its political subdivisions from the observance of daylight saving time, between 2 a.m. on the second Sunday in March and 2 a.m. on the first Sunday in November of each calendar year, and the entire state and all of its political subdivisions shall observe the standard time that is otherwise applicable during that period.

Section 2. This act shall take effect January 1, 2019.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 720
INTRODUCER:	Senators Young and Campbell
SUBJECT:	Children's Initiatives
DATE:	January 18, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Favorable**
2.	Cochran	Yeatman	CA	**Pre-meeting**
3.			RC	

I. Summary:

SB 720 codifies the Tampa Sulphur Springs Neighborhood Promise Zone and the Overtown Children and Youth Coaltion in Miami that are currently in existence and have been designated by the Ounce of Prevention Fund (Ounce) as a Florida children's initiative pursuant to section 409.147, F.S. The bill provides that the initiatives are designed to encompass an area large enough to include all necessary components of community life, but small enough to reach every member of each neighborhood who wishes to participate.

II. Present Situation:

Harlem Children's Zone

The Harlem Children's Zone (HCZ) began in 1970 as an organization working with young children and their families as the city's first truancy-prevention program.[1] In the early 1990s, the HCZ ran a pilot project that brought a range of support services to a single block. The idea was to address all the problems that poor families were facing including crumbling apartments, failing schools, violent crime, and chronic health problems.[2]

Believing that for children to do well, their families have to do well, and for families to do well, their community must do well, the HCZ works to strengthen families as well as empowering them to have a positive impact on their children's development. The two fundamental principles of the HCZ are to help kids in a sustained way, starting as early in their lives as possible, and to create a critical mass of adults around them who understand what it takes to help children succeed.[3]

[1] Harlem Children's Zone, *available at* http://www.hcz.org/index.php/about-us/history/ (last visited January 18, 2018). The organization was then known as the Rheedlen Centers for Children and Families.
[2] *Id*.
[3] Harlem Children's Zone, *available at* https://hcz.org/about-us/ (last visited January 18, 2018).

The HCZ Project began as a one-block pilot in the 1990s, then following a 10-year business plan to ensure its best-practice programs were operating as planned, it expanded to 24 blocks, then 60 blocks, then ultimately 97 blocks. The HCZ became a model among nonprofits that began carefully evaluating and tracking the results of their work. Those evaluation results enabled staff to see if programs were achieving their objectives and to take corrective actions if they were not.[4]

Children's Zones in Florida

Using the Harlem Children's Zone as a model, the Legislature created children's zones in Florida in 2008.[5] The stated policy and purpose for the zones was:

> It is the policy of this state to provide the necessary means to assist local communities, the children and families who live in those communities, and the private sector in creating a sound educational, social, and economic environment. To achieve this objective, the state intends to provide investments sufficient to encourage community partners to commit financial and other resources to severely disadvantaged areas. The purpose of this section is to establish a process that clearly identifies the severely disadvantaged areas and provides guidance for developing a new social service paradigm that systematically coordinates programs that address the critical needs of children and their families and for directing efforts to rebuild the basic infrastructure of the community. The Legislature, therefore, declares the creation of children's zones, through the collaborative efforts of government and the private sector, to be a public purpose.[6]

The 2008 legislation and the amending 2009 legislation relating to children's initiatives also contained the following provisions:[7]

- Created a nominating process for areas within communities to be designated as children's zones and provided for the creation of a planning team, a strategic community plan, and focus areas to be included in the plan;
- Required the creation of a not for profit corporation to implement and govern a designated children's zone;
- Created a ten-year project within the Liberty City neighborhood in Miami to be known as the Miami Children's Initiative (MCI); and

[4] *Id*.
[5] Chapter 2008-96, Laws of Fla. In 2009, the term "children's zone" was changed to "children's initiative." Shortly after the 2008 legislation was signed into law, the HCZ notified the Florida Legislature that they had trademarked the term "children's zone" and the state was no longer able to use the term. Chapter 2009-43, Laws of Fla.
[6] *Id*.
[7] Section 409.147, F.S., provides that a county or municipality or other designated area may apply to the Ounce to designate an area as a children's initiative. The area must first adopt a resolution stating that the area has issues related to poverty, that changes are necessary for the area to improve, and that resources are necessary for revitalization of the area. The county or municipality must then establish a children's initiative planning team and develop and adopt a strategic community plan. Once a county or municipality has completed these steps, they must create a not-for-profit corporation to facilitate fundraising and secure broad community ownership of the children's initiative. The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families and communities.

- Required the Department of Children and Families to contract with an existing private nonprofit corporation, incorporated for certain specified purposes, to implement the newly created Miami Children's Initiative.[8]

Florida children's initiatives were created to assist disadvantaged areas within the state in creating a community-based service network that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within its boundaries. There are currently three Florida children's initiatives that have been recognized in statute; the Miami Children's Initiative, Inc., the New Town Success Zone in Jacksonville, and the Parramore Kidz Zone in Orlando.[9]

Miami Children's Initiative

The idea for the Miami Children's Initiative dates back to 2006, when a group of Liberty City community leaders, local politicians and residents came together to try and determine possible solutions to perceived problems in the community. Liberty City was once a thriving neighborhood for many African Americans, but the high concentration of low-income housing projects, the exit of the area's businesses, increased joblessness, low performing schools, growing poverty, crime, juvenile delinquency, drugs and poor health had eroded the quality of life.[10]

Creation of the MCI in 2008 brought residents and local business people, as well as leaders in health care, education and human services, together to begin to formulate the foundation for this community-wide initiative. Today, the initiative has grown to include early childhood programs, K-12 programs, student enrichment and development programs, an asthma initiative, a fresh food co-op, community vegetable gardens and a gym and fitness facility.[11]

New Town Success Zone

After a trip by city officials to Harlem and a review of a number of Jacksonville neighborhoods, the New Town community was selected by community leadership of Jacksonville in 2008 as the site for a Florida children's initiative. In 2009, a strategic plan was developed and work began on the New Town Success Zone.[12] The initiative's mission is to provide a place-based continuum of services from prenatal to college, the military or some form of postsecondary training for the children and their families living in the neighborhood.[13] In the first five year report to the community, the New Town Success Zone has reported higher FCAT scores, an improvement in school promotion rates, and a reduction in violent crimes, theft and truancy since 2008.[14]

[8] Chapter 2009-43, Laws of Fla.
[9] Section 409.147, F.S.
[10] Miami Children's Initiative, *available at*: http://www.iamlibertycity.org/ (last visited January 18,2018).
[11] Miami Children's Initiative, *available at*: http://www.iamlibertycity.org/our-work/our-work (last visited January 18, 2018).
[12] The New Town Success Zone, *available at:* http://jaxkids.org/afterschool-summer/new-town-success-zone/. *Also see*: New Town Success Zone Five Years Later, available at: http://www.metrojacksonville.com/article/2013-may-new-town-success-zone-five-years-later (last visited January 18, 2018).
[13] *Id*.
[14] New Town Success Zone, Five Year Report to the Community, *available at*: https://issuu.com/jermynshannonel/docs/newtown_5yr_report (last visited January 18, 2018)

Parramore Kidz Zone

The Parramore Kidz Zone (PKZ) was launched by the City of Orlando on July 1, 2006, as part of a comprehensive effort to revitalize Orlando's highest crime, highest poverty neighborhood. The Parramore Kidz Zone replicates some aspects of the Harlem Children's Zone to create positive child-rearing conditions that will result in lower teen pregnancy rates, improved school performance, and decreased juvenile crime and child abuse rates. The Parramore Kidz Zone was implemented by a coalition of nonprofit organizations and neighborhood residents and was designated by the Ounce as a Florida children's initiative in June 2009.[15] The initiative was designed to invest in those things that make a difference in children's lives, such as quality early childhood education, after school programs, programs that build family economic success, youth development programs for teenagers, access to health care, and mentoring.[16]

Since 2006, program evaluators have documented a 61% decline in juvenile arrests, a 56% decline in teen pregnancies, and a 38% decline in child abuse cases in the neighborhood since PKZ started, as well as across-the-board increases in the percentage of elementary, middle and high school students performing at grade level in math and reading. Every year the number of Parramore youth who attend college increases. Today, 70 PKZ youth are in college, all of whom are the first generation in their families to attend.[17]

III. Effect of Proposed Changes:

Section 1 amends s. 409.147, F.S., relating to children's initiatives, to add the Tampa Sulphur Springs Neighborhood of Promise Success Zone and the Overtown Children and Youth Coalition as entities designated by the Ounce of Prevention Fund as children's initiatives.

The bill provides that the initiatives are subject to Florida public records laws, public meeting laws, and procurement laws, and that the initiatives are designed to encompass an area large enough to include all necessary components of community life, but small enough to reach every member of each neighborhood who wishes to participate.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[15] The Ounce of Prevention Fund of Florida, Parramore Kidz Zone, *available at*: https://www.ounce.org/fci_communities.html (last visited January 18, 2018).
[16] City of Orlando, Parramore Kidz Zone, available at: http://www.cityoforlando.net/parramorekidzzone/ (last visited January 18, 2018).
[17] *Id*.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends s. 409.147 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Young

18-00403-18 2018720__

A bill to be entitled

An act relating to children's initiatives; amending s. 409.147, F.S.; creating the Tampa Sulphur Springs Neighborhood of Promise Success Zone within the City of Tampa in Hillsborough County and the Overtown Children and Youth Coalition within the City of Miami in Miami-Dade County; providing for the projects to be managed by not-for-profit corporations that are not subject to control, supervision, or direction by any department of the state; providing legislative intent; requiring the corporations to be subject to public records and public meeting requirements and to requirements for the procurement of commodities and contractual services; providing that the success zone and the coalition are designed to encompass areas large enough to include certain components but small enough to allow programs and services to reach participants; providing implementation of the coalition and the success zone; providing an effective date.

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

Section 1. Present subsection (11) of section 409.147, Florida Statutes, is redesignated as subsection (13) and amended, and a new subsection (11) and subsection (12) are added to that section, to read:

409.147 Children's initiatives.—

(11) CREATION OF THE TAMPA SULPHUR SPRINGS NEIGHBORHOOD OF PROMISE (SSNOP) SUCCESS ZONE.—

(a) There is created within the City of Tampa in Hillsborough County a 10-year project that shall be managed by an entity organized as a not-for-profit corporation that is registered, incorporated, organized, and operated in compliance with chapter 617. The Tampa SSNOP Success Zone is not subject to control, supervision, or direction by any department of the state in any manner. The Legislature determines, however, that public policy dictates that the corporation operate in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature declares that the corporation is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to procurement of commodities or contractual services.

(b) This initiative is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(12) CREATION OF THE OVERTOWN CHILDREN AND YOUTH COALITION.—

(a) There is created within the City of Miami in Miami-Dade County a 10-year project that shall be managed by an entity organized as a not-for-profit corporation that is registered, incorporated, organized, and operated in compliance with chapter 617. The Overtown Children and Youth Coalition is not subject to control, supervision, or direction by any department of the

state in any manner. The Legislature determines, however, that public policy dictates that the corporation operate in the most open and accessible manner consistent with its public purpose. Therefore, the Legislature declares that the corporation is subject to chapter 119, relating to public records, chapter 286, relating to public meetings and records, and chapter 287, relating to procurement of commodities or contractual services.

(b) This initiative is designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project.

(13)~~(11)~~ IMPLEMENTATION.—

(a) The Miami Children's Initiative, Inc., the New Town Success Zone, ~~and~~ the Parramore Kidz Zone, the Tampa SSNOP Success Zone, and the Overtown Children and Youth Coalition have been designated as Florida Children's Initiatives consistent with the legislative intent and purpose of s. 16, chapter 2009-43, Laws of Florida, and as such shall each assist the disadvantaged areas of the state in creating a community-based service network and programming that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within their boundaries.

(b) In order to implement this section for the Miami Children's Initiative, Inc., the Department of Children and

Families shall contract with a not-for-profit corporation, to work in collaboration with the governing body to adopt the resolution described in subsection (4), to establish the planning team as provided in subsection (5), and to develop and adopt the strategic community plan as provided in subsection (6). The not-for-profit corporation is also responsible for the development of a business plan and for the evaluation, fiscal management, and oversight of the Miami Children's Initiative, Inc.

Section 2. This act shall take effect July 1, 2018.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	CS/SB 876
INTRODUCER:	Regulated Industries Committee and Senator Bean
SUBJECT:	Alarm Verification
DATE:	January 22, 2018 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	**Fav/CS**
2.	Present	Yeatman	CA	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 876 revises s. 489.529, F.S., to require, in most circumstances, two attempts to confirm alarm signals generated by residential or commercial intrusion and burglary alarms systems that have central monitoring, before law enforcement may be contacted for response to the premises generating the alarm.

The bill requires the first attempt to confirm an active alarm signal be made by the central monitoring station, via communication by telephone call, text message, or other electronic means, with a person associated with the premises generating the alarm signal. If the first attempt to confirm the alarm signal is unsuccessful, then the central monitoring station must attempt to confirm the alarm signal a second time, via communication by telephone call, text message, or other electronic means, with the premises owner, an occupant, or an authorized designee.

Under current law, contact with law enforcement for a response to an alarm may not be made unless a "central monitoring verification call" is made to a telephone number associated with the premises,[1] and if that call is not answered, then other, undefined "call-verification methods" for the premises must be employed.

[1] Section 489.529, F.S., was revised effective October 1, 2017, to require the first verification call be made to a telephone number associated with the premises. *See* ch. 2017-52, s. 2, Laws of Fla.

II. Present Situation:

An alarm system is "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."[2] An alarm system includes home-automation equipment, thermostats, closed-circuit television systems, and video cameras.[3]Alarm systems contractors must be licensed, have sufficient technical expertise in the trade prior to licensure, and be tested on technical and business matters.[4] Part II of ch. 489, F.S., deals with the licensing of electrical and alarm systems contractors who install such alarms.[5]

Verification of Intrusion/Burglary Alarm Signals

All residential or commercial intrusion/burglary alarms with central monitoring must have a central monitoring verification call made to a telephone number associated with the premises generating the alarm signal, before alarm monitor personnel may contact a law enforcement agency for dispatch of law enforcement officers to the premises.[6] The central monitoring station must employ call-verification methods for the premises generating the alarm signal, if the first call is not answered.[7]

Verification calling is not required, however, if the intrusion/burglary alarm:

- Has a properly operating visual or auditory sensor that enables the monitoring personnel to verify the alarm signal; or
- Is installed on a premises used for the storage of firearms or ammunition by a customer who holds a valid federal firearms license as a manufacturer, importer, or dealer of firearms or ammunition (licensed firearms dealer),[8] who has notified the alarm monitoring company that he or she would like to bypass the two-call verification protocol.[9]

Upon initiation of a new alarm monitoring service contract, an alarm monitoring company must make reasonable efforts to inform a customer who is a licensed firearms dealer of the right to opt out of the two-call verification protocol.[10]

Licensed Alarm System Contractors

Part II of ch. 489, F.S., dealing with electrical and alarm system contracting, sets forth requirements for qualified persons to be licensed if they have sufficient technical expertise in the

[2] *See* s. 489.505(1), F.S.
[3] *See* s. 553.793(1)(b), F.S.
[4] *See* s. 489.501, F.S.
[5] *See* ss. 489.501 through 489.538, F.S.
[6] *See* s. 489.529, F.S.
[7] *Id*.
[8] The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) notes that each year, it receives thousands of reports of theft or loss from federally licensed firearms dealers. The steps that the ATF recommends to protect a firearms business include store design measures, after-hours security methods, reinforcement and narrowing of store door and window openings, alarm systems, and 24-hour video camera recording adequate to capture faces and features. *See* *https://www.atf.gov/firearms/learn-about-firearms-safety-and-security* (last visited Jan. 17, 2018).
[9] *See* s. 489.529, F.S.
[10] *See* s. 489.529(2), F.S.

applicable trade, and have been tested on technical and business matters.[11] The Electrical Contractors' Licensing Board (board) in the Department of Business and Professional Regulation (DBPR) implements Part II of ch. 489, F.S.[12]

Section 489.505, F.S., specifies the types of contractors that may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An alarm system contractor is a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.[13] The term also includes any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.[14] An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an "alarm system contractor I;" the practice area of an "alarm system contractor II" is identical except it does not include fire alarm systems.[15]

The DBPR may also issue geographically unlimited certificates of competency to an alarm system contractor (certificateholder).[16] The scope of certification is limited to specific alarm circuits and equipment, and no mandatory licensure requirement is created by the availability of a certification. [17]

Part IV of ch. 553, F.S., constitutes the Florida Building Codes Act (act). The act provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the Florida Building Code, consisting of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities, and to the enforcement of such requirements.[18] The Florida Building Code is adopted, modified, updated, interpreted, and maintained by the Florida Building Commission.[19]

Pursuant to s. 553.88, F.S., the current edition of the following standards are in effect to establish minimum electrical and alarm standards in Florida:

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[11] *See* s. 489.501, F.S.
[12] *See* ss. 489.507 through 489.517, F.S., concerning the powers and duties of the board.
[13] *See* s. 489.505(2), F.S.
[14] *Id.*
[15] *Id.*
[16] *See* ss. 489.505(4), 489.505(5), and 489.515(1), F.S.
[17] *See* s. 489.505(7), F.S., which describes the limitations on the scope of a certificate of competency as those circuits originating in alarm control panels and equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks. With respect to voltage and current, RMS is the abbreviation for "root mean square," a statistical term defined as the square root of mean square. *See* http://www.practicalphysics.org/explaining-rms-voltage-and-current.html (last visited Jan. 17, 2018).
[18] *See* s. 553.72(1), F.S., which also indicates that effective and reasonable protection for public safety, health, and general welfare at the most reasonable cost to the consumer is also intended.
[19] *See* s. 553.72(3), F.S.

- National Electrical Code, NFPA[20] No. 70;
- Underwriters' Laboratories, Inc. (UL), Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps, UL 57 and UL 153;
- Underwriters' Laboratories, Inc., Standard for Electric Signs, UL 48;
- The provisions of the following which prescribe minimum electrical and alarm standards:
  - NFPA No. 56A, Inhalation Anesthetics;
  - NFPA No. 56B, Respiratory Therapy;
  - NFPA No. 56C, Laboratories in Health-related Institutions;
  - NFPA No. 56D, Hyperbaric Facilities;
  - NFPA No. 56F, Nonflammable Medical Gas Systems;
  - NFPA No. 72, National Fire Alarm Code; and
  - NFPA No. 76A, Essential Electrical Systems for Health Care Facilities;
- The rules and regulations of the Department of Health, entitled "Nursing Homes and Related Facilities Licensure"; and
- The minimum standards for grounding of portable electric equipment in Florida Administrative Code Rule Chapter 8C-27, as recommended by the Division of Workers' Compensation in the Department of Financial Services.

Section 553.71(5), F.S., provides that a local enforcement agency[21] is an agency with jurisdiction to make inspections of buildings and to enforce the codes that establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities. A local enforcement agency must make uniform permit labels available for purchase by a contractor for the installation or replacement of a new or existing alarm system for not more than $40 per label per project per unit, and may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of an alarm system.[22]

A municipality, county, district, or other entity of local government may not adopt or maintain in effect any ordinance or rule regarding a low-voltage alarm system project that is inconsistent with s. 553.793, F.S.[23]

III. Effect of Proposed Changes:

The bill revises s. 489.529, F.S., to require, in most circumstances, two attempts to confirm alarm signals generated by residential or commercial intrusion and burglary alarms systems that

[20] NFPA is the acronym for the National Fire Protection Association, which is an international nonprofit organization established in 1896. Its mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes, standards, research, training and education. The NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks. *See* http://www.nfpa.org/about-nfpa (last visited Jan. 17, 2018).

[21] Section 553.71(5), F.S., of the Florida Building Codes Act defines local enforcement agency as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

[22] *See* s. 553.793(5), F.S.

[23] *See* s. 553.793(10), F.S.

have central monitoring, before law enforcement may be contacted for response to the premises generating the alarm.

The bill requires the first attempt to confirm an active alarm signal be made by the central monitoring station, via communication by telephone call, text message, or other electronic means, with a person associated with the premises generating the alarm signal. If the first attempt to confirm the alarm signal is unsuccessful, then the central monitoring station must attempt to confirm the alarm signal a second time via communication by telephone call, text message, or other electronic means, with the premises owner, an occupant, or an authorized designee.

Under current law, contact with law enforcement for a response to an alarm may not be made unless a "central monitoring verification call" is made to a telephone number associated with the premises,[24] and if that call is not answered, then other, undefined "call-verification methods" for the premises must be employed.

The authorization in current law for immediate contact with law enforcement for a response to an active alarm is retained, when the intrusion/burglary alarm generating the alarm:

- Has a properly operating visual or auditory sensor that allows monitoring personnel to verify the alarm signal; or
- Is installed on a premises that is used for the storage of firearms or ammunition by a person who holds a valid federal firearms license.[25]

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[24] Section 489.529, F.S. was revised effective October 1, 2017, to require the first verification call be made to a telephone number associated with the premises. *See* ch. 2017-52, s. 2, Laws of Fla.
[25] *Id*.

B. Private Sector Impact:

The bill provides additional methods for confirmation of an alarm signal generated at a residential or commercial premises with a centrally monitored intrusion/burglary alarm and could assist in reducing the number of alarm dispatch calls to law enforcement agencies.

C. Government Sector Impact:

Reductions in false alarms may reduce the costs of responses to intrusion/burglary alarms by local governments and law enforcement agencies.

Reduction of false alarm calls may alleviate the associated burden to law enforcement agencies that must respond to premises generating intrusion/burglary alarms. Authorizing the use of text messages and other electronic means as methods that may be used in addition to telephone calls to attempt to confirm an alarm signal with a person associated with the premises generating the alarm signal may reduce false alarms.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.529 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on January 10, 2018:

- Expands the methods for verification of an alarm signal generated by residential or commercial intrusion/burglary alarms that have central monitoring, before law enforcement is contacted for response to the premises, to allow – in addition to a telephone call – verification by:
  - A text message; or
  - Other electronic means.
- Requires a second attempt to verify the alarm signal be made (if the first attempt is not successful) with the premises owner, occupant, or an authorized designee, by:
  - A telephone call;
  - A text message; or
  - Other electronic means.
- Deletes the bill's provisions that:
  - Alarm monitoring personnel make the first attempt at verifying the alarm signal;

- The first verification attempt be made to persons "at" the premises generating the alarm signal; and
- Refer to alarm "confirmation" to maintain consistency with references in current law to alarm "verification" and "verification protocol."

- Revises the short title of the bill to "Alarm Verification" from "Alarm Confirmation."

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Bean

580-02001-18 2018876c1

A bill to be entitled

An act relating to alarm verification; amending s. 489.529, F.S.; revising requirements for alarm verification to include additional methods by which an alarm monitoring company may verify a residential or commercial intrusion/burglary alarm signal and to require that two attempts be made to verify an alarm signal; providing an effective date.

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

Section 1. Section 489.529, Florida Statutes, is amended to read:

489.529 Alarm verification ~~calls~~ required.—All residential or commercial intrusion/burglary alarms that have central monitoring must have the ~~a~~ central monitoring station attempt to verify an alarm signal via communication by telephone ~~verification~~ call, text message, or other electronic means with a person ~~made to a telephone number~~ associated with the premises generating the alarm signal, before alarm monitor personnel contact a law enforcement agency for alarm dispatch. The central monitoring station must attempt to verify ~~employ call-verification methods for the premises generating~~ the alarm signal a second time via communication by telephone call, text message, or other electronic means with the premises owner, occupant, or his or her authorized designee if the first attempt to verify the alarm signal ~~call~~ is not successful ~~answered~~. However, verification attempts are ~~calling is~~ not required if:

(1) The intrusion/burglary alarm has a properly operating visual or auditory sensor that enables the alarm monitoring personnel to verify the alarm signal; or

(2) The intrusion/burglary alarm is installed on a premises that is used for the storage of firearms or ammunition by a person who holds a valid federal firearms license as a manufacturer, importer, or dealer of firearms or ammunition, provided the customer notifies the alarm monitoring company that he or she holds such license and would like to bypass the two-attempt ~~two-call~~ verification protocol. Upon initiation of a new alarm monitoring service contract, the alarm monitoring company shall make reasonable efforts to inform a customer who holds a valid federal firearms license as a manufacturer, importer, or dealer of firearms or ammunition of his or her right to opt out of the two-attempt ~~two-call~~ verification protocol.

Section 2. This act shall take effect July 1, 2018.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 1348
INTRODUCER:	Senator Perry
SUBJECT:	Community Development Districts
DATE:	January 22, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 1348 authorizes Community Development Districts (CDDs) of less than 2,500 acres and solely in one county or municipality to include a list of parcels in the CDD's establishment petition that the CDD expects to add within the next 10 years. A parcel may only be included with the consent of the landowner. The bill provides a process for expanding the boundaries of the CDD to include these additional parcels. The bill also provides that the expansion of CDD boundaries to include these parcels does not alter the time period for transition from a landowner board to a board composed of qualified electors under s. 190.006, F.S., and states that the parcels may be added even if the resulting CDD is greater than 2,500 acres.

II. Present Situation:

Chapter 190, F.S., the "Uniform Community Development District Act of 1980,"[1] sets forth the exclusive and uniform procedures for establishing and operating a community development district (CDD).[2] This type of independent special district[3] is an alternative method to manage and finance basic services for community development.[4] There are currently 642 active CDDs in Florida.[5]

[1] Section 190.001, F.S.
[2] Sections 190.004 and 190.005, F.S.
[3] A "special district" is "a unit of local government created for a special purpose… within a limited geographic boundary … created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Section 189.012(6), F.S. An "independent special district" is a special district that does not mean any of the criteria listed in s. 189.012(2), F.S. Additionally, any special district including more than one county is an independent special district, unless the district lies wholly within a single municipality. Section 189.012(3), F.S.
[4] Section 190.003(6), F.S.
[5] Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx (last visited Jan. 18, 2017).

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general-purpose government.[6] CDDs have certain general powers, including the authority to:

- Assess and impose ad valorem taxes upon lands in the CDD;
- Sue and be sued;
- Participate in the state retirement system;
- Contract for services;
- Borrow money;
- Accept gifts;
- Adopt rules and orders pursuant to the Administrative Procedure Act (APA);[7]
- Maintain an office;
- Lease;
- Issue bonds;
- Raise money by user charges or fees; and
- Levy and enforce special assessments.[8]

The statute also authorizes additional special powers pertaining to public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.[9] With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

- Improvements such as parks and recreational areas;
- Fire prevention and control;
- School buildings and related structures;
- Security;
- Control and elimination of mosquitoes and other arthropods of public health importance; and
- Waste collection and disposal.[10]

Establishing a CDD

Petition for Rulemaking by the Florida Land and Water Adjudicatory Commission

The method for establishing a CDD depends upon its size. CDDs of 2,500 acres or more are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)[11] to

[6] Section 190.004(3), F.S.
[7] Ch. 120, F.S.
[8] Section 190.011, F.S.
[9] Section 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. Section 190.005(1)(f) and (2)(d), F.S.
[10] Section 190.012(2), F.S.
[11] Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.

adopt an administrative rule creating the district.[12] The statute requires each petition to contain specific information, including the written consent to establishing the CDD by all landowners[13] of real property to be included in the district.[14] Prior to filing, the petitioner must submit copies of the petition and pay separate filing fees of $15,000 each to the county and any municipality in which the proposed CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.[15] The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.[16] Additionally, a public hearing on the petition must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the APA[17] before an administrative law judge.[18] Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the FLWAC meeting agenda for final consideration with the petition.[19] If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

Petition for Ordinance Creating a CDD

CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located, with certain exceptions.[20] A petition to establish a CDD is filed with the county commission.[21] After conducting a local public hearing before an administrative law judge,[22] the commission may adopt an ordinance creating the CDD.[23] If any of the land proposed for inclusion in the CDD lies within the area of a municipality the county cannot create the district without approval of the affected municipality.[24]

If all the land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the duties otherwise performed by the county commission.[25] In this case, the CDD would be created by municipal ordinance. Within 90 days after receiving the petition, the county commission (or municipality,

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[12] Section 190.005(1), F.S.
[13] "Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years. Section 190.003(14), F.S.
[14] Section 190.005(1)(a), F.S.
[15] Section 190.005(1)(b), F.S.
[16] Section 190.005(1)(c), F.S.
[17] The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.
[18] Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.
[19] Section 190.005(1)(e), F.S. A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. *See* FLWAC Agenda Item 1 and attachments (Aug. 16, 2011), at http://www.myflorida.com/myflorida/cabinet/agenda11/0816/FLWAC0816.pdf (last visited Jan. 18, 2017).
[20] Section 190.005(2), F.S.
[21] Section 190.005(2)(a), F.S. The petition must contain the same information as required for submission to the FLWAC.
[22] Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.
[23] *See* s. 190.005(2)(d), F.S.
[24] Section 190.005(2)(e), F.S.
[25] *Id*.

as applicable) may transfer the petition to the FLWAC.[26] Finally, if all the land of the proposed CDD lies within the territorial jurisdiction of two or more municipalities or two or more counties, the petition must be filed with the FLWAC even if the total area is less than 2,500 acres.[27]

Requirements for Notice, Meeting, and Vote of Landowners in a CDD

The powers of a CDD are exercised by the board of supervisors elected by the landowners of the district.[28] The board must have five members serving 2- or 4-year terms.[29] The initial members of the board are designated in the original petition to create the CDD and serve until new members are elected after the district is established.[30] A meeting of landowners for the purpose of electing the board must be held within 90 days after the effective date of the rule or ordinance creating the district.[31] Each landowner is entitled to one vote for each acre owned.[32] The top two candidates are elected to 4-year terms, while the next three candidates are elected to 2-year terms.[33] A new board election, held among the qualified electors of the district, occurs when either the board proposes to exercise its ad valorem taxing authority or 6 years after the formation of the district (10 years for districts exceeding 5,000 acres).[34] Elections of board members by qualified electors are non-partisan general elections conducted by the supervisor of elections.[35]

Financial Reporting by a CDD

CDDs are subject to the financial reporting requirements of Chapters, 189, 190, and 218, F.S.[36] The district manager is responsible for drafting a proposed budget on or before June 15 of each year.[37] The board of the CDD considers the proposed budget, makes amendments as necessary, and adopts the budget by resolution.[38] After the board adopts the budget, a public hearing on the budget is held and the board may make further changes as it deems necessary.[39] At least 60 days prior to adoption, the district is required to submit its budget to the local government entities having jurisdiction over the area.[40] This submission is for the purposes of disclosure and information only, but the local government entities may submit written comments to the CDD

[26] Section 190.005(2)(f), F.S.
[27] Section 190.005(2)(e), F.S.
[28] Section 190.006(1), F.S.
[29] *Id*.
[30] Sections 190.005(1)(a)3., and 190.005(2)(a), F.S.
[31] Section 190.006(2)(a), F.S.
[32] Section 190.006(2)(b), F.S.
[33] *Id*.
[34] Sections 190.006(3)(a)1.-2., F.S. For CDDs with less than certain minimum numbers of qualified electors after 6 or 10 years, as applicable, the district landowners shall continue to elect the board members (s. 190.006(3)(a)2.a., F.S.) until the number of qualified electors in the district exceeds the statutory minimum (s. 190.006(3)(a)2.b., F.S.).
[35] Section 190.006(3)(b), F.S. The statute does not specify which supervisor of elections conducts the board election if the district encompasses property in more than one county.
[36] Sections 189.013 and 190.008(1), F.S.
[37] Section 190.008(2)(a), F.S.
[38] *Id*.
[39] *Id*.
[40] Section 190.008(2)(b), F.S.

board.[41] CDDs are also required to take affirmative steps to provide full disclosure of information related to public financing and maintenance of improvements constructed by the district.[42] The district must provide any developer of residential property in the district with sufficient copies of this information to be able to provide a copy to each prospective initial purchaser of property.[43] Districts must file disclosures of this information in the property records of each county in which the district is located.[44] The Department of Economic Opportunity (DEO) is required to keep a current list of districts and their disclosures of public financing.[45]

CDDs, like other special districts, also must comply with the annual financial reporting and financial audit reporting requirements of Chapter 218, F.S. [46] A CDD with revenues or total expenditures or expenses in excess of $100,000 is required to have an annual audit conducted by an independent certified public accountant.[47] The auditor shall review the financial accounts and records of the district, reports on compliance and internal control, management letters, and financial statements, as required by rules adopted by the Auditor General.[48] The auditor must present these findings to the chair of the district's governing board and submit a copy of the report to the Auditor General.[49] The audit report is a public record once the report is submitted by the auditor to the district.[50] All CDDs are required to file an annual financial report with the Department of Financial Services.[51]

Expansion or Contraction of a CDD

A landowner or the board of a CDD may petition for the boundaries of the district to be expanded or contracted.[52] This petition must contain the same information as is required to form a district and follows the same hearing process.[53] If the petition seeks to expand the district boundaries, the petition must include a proposed timetable for the construction of any district services in the new area, the estimated cost of constructing the proposed services, and the designation of the future land use plan for the area from the relevant local government local comprehensive plan.[54] If the petition seeks to contract the district boundaries, the petition must include a list of services and facilities currently provided by the district to the removed area, as well as the future land use plan for the area from the relevant local government local comprehensive plan.[55]

[41] Section 190.008(2)(b)-(c), F.S.
[42] Section 190.009(1), F.S.
[43] *Id*.
[44] *Id.*
[45] Section 190.009(2), F.S.
[46] Sections 189.016(9), F.S. and 190.008(1), F.S.
[47] Section 218.39(1), F.S. An entity is exempt from this requirement if it is informed by the first day of the fiscal year that the Auditor General will be conducting an audit of the entity for that fiscal year.
[48] Section 218.39(2), F.S. The rules of the Auditor General are Rules 10.550, 10.650, 10.700, 10.800, and 10.850, F.A.C. *See* Rule 61H1-20.0093, F.A.C.
[49] Sections 218.39(5) and (7), F.S.
[50] *See* s. 119.0713(3), F.S.
[51] Section 218.32(1)(a), F.S.
[52] Section 190.046(1), F.S.
[53] Sections 190.046(1)(a)-(d), F.S.
[54] Section 190.046(1)(a), F.S.
[55] *Id.*

For districts established by county ordinance, the petition for expansion or contraction must be filed with the county commission; there is no filing fee requirement.[56] The county commission then conducts a public hearing on the petition in the same manner as for other ordinance amendments. For districts established by FLWAC rule, the petitioner must pay a $1,500 filing fee to each county or municipality in which the proposed resulting CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district, and the required public meeting is conducted by the board of the CDD instead of a hearing officer.[57]

The amount of land that can be added to a CDD is restricted. Whether a district was initially established by FLWAC rule or county or municipal ordinance, the cumulative additions to the district may not be greater than the lesser of fifty percent of the land area of the initial district or 1,000 acres.[58]

Merger of a CDD

A CDD may be merged with another CDD with the filing of a petition for merger that states the elements for establishing a new CDD, including being evaluated by the criteria for creating a new district and the submission of the filing fee.[59] The petition must state whether one of the existing districts will be considered the surviving district or if a new district is being created.[60] A CDD may also be merged with other types of special districts using the process for creating a new district, with the CDD inheriting the rights and associated obligations of property and creditors of the merged special district(s).[61] A CDD merging with another type of special district is required to enter a merger agreement to allocate indebtedness to be assumed by the new CDD and the process for retiring the debt.[62] The approval of the merger agreement and the petition by the board of supervisors of the CDD is deemed to constitute the consent of the district landowners.[63]

A CDD may also be merged with up to four other CDDs created by the same local general-purpose government, as long as the membership of each board of directors is composed entirely of qualified electors.[64] This method may be used even if the merged district would have been required to receive FLWAC approval if the CDD was being newly created. The filing of a petition approved by the board of each CDD applying constitutes consent of the landowners within each district.

The CDDs planning to merge must meet the requirements of s. 190.046(3), F.S. and must enter into a merger agreement specifying that:[65]

- The merged district's board will consist of five members;

[56] Section 190.046(1)(b), F.S.
[57] Section 190.046(1)(d)1.-4., F.S.
[58] Section 190.046(1)(e), F.S.
[59] Section 190.046(3), F.S.
[60] *Id.*
[61] *Id.*
[62] *Id.*
[63] *Id.*
[64] Section 190.046(4)(a), F.S.
[65] Section 190.046(4)(b), F.S.

- Each at-large member of the merged district's board represents the entire district;
- Each former district is entitled to elect at least one board member from its former boundary;
- The members of the merged district's interim board will consist of:
    - If two CDDs merge, two members from each former district and one at-large member
    - If three CDDs merge, one member from each former district and two at-large members
    - If four CDDs merge, one member from each former district and one at-large member
    - If five CDDs merge, one member from each former district; and
- All pre-existing board members' terms will end at the next general election and a new board representing the entire district will be elected.

Before filing the merger petition, each CDD must hold a public hearing to take comment on the proposed merger, the merger agreement, and the assignment of board seats.[66] The hearing must be noticed at least 14 days beforehand. If any CDD withdraws after the public hearing, the remaining districts considering merger must hold a public hearing on a revised merger agreement between the remaining parties. The petition may not be filed for at least 30 days after the last public hearing.

Dissolution of a CDD

A CDD remains in existence unless the district is merged with another district, all community development services associated with the district have been transferred to a county or municipal government, or the district is dissolved as provided in statute.[67] A CDD may be dissolved in one of three ways:

- Automatic dissolution: If a landowner does not receive a development permit for some part of the area covered by the CDD within 5 years of the effective date of the rule or ordinance establishing the district, the CDD is automatically dissolved.[68]
- Action by local government: If a CDD is declared inactive by DEO pursuant to s. 189.062, F.S., the county or municipal government that created the district must be informed and is required to take "appropriate action."[69]
- Petition for dissolution: A CDD with no outstanding financial obligations and no operating or maintenance responsibilities may petition the authority that created the district to dissolve the district by appropriate action.[70] If a county or municipal government created the district, the CDD may be dissolved by a non-emergency ordinance.[71] If the district was created by FLWAC rule, the CDD may petition the commission to repeal the rule.

[66] Section 190.046(4)(c), F.S.
[67] Section 190.046(2), F.S.
[68] Section 190.046(8), F.S. This subsection also requires a "judge of the circuit shall cause a statement (of dissolution) to be filed in the public records." No guidance is provided as to whether a party must ask the court for the statement, who is authorized to ask, or the procedure to bring the matter before the court.
[69] Section 190.046(9), F.S.
[70] Section 190.046(10), F.S.
[71] *Id*.

III. Effect of Proposed Changes:

Section 1 amends s. 190.046, F.S., to provide that a petition to establish a new CDD of less than 2,500 acres located solely in one county or municipality may include a list of parcels adjacent to the district within the same county or municipality which the petitioner expects to add to the district boundaries within 10 years. The petition must include the legal description of the adjacent parcels of land, the name of the current landowners, the acreage of each parcel, and the current land use designation of each parcel. The petitioner must provide notice to the current landowners of the filing of the petition, the date and time of the public hearing on the petition, and the name and address of the petitioner at least 14 days before the public hearing concerning the creation of the CDD. A parcel may only be included with written consent of the landowner.

After the district is established, a person may then petition the county or municipality to amend the boundaries of the CDD to include the previously identified parcel that was a proposed addition to the CDD before its establishment. A filing fee may not be charged for this petition. Additionally, each petition must include:

- A metes and bounds description of each parcel to be added;
- A new legal description by metes and bounds of the district with the added parcels;
- Written consent of all landowners of the parcels to be added;
- A map of the district including the parcels to be added;
- A description of the development proposed on each additional parcel; and
- A copy of the original petition identifying the parcel to be added.

Before filing the petition with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

Once the petition is determined to be sufficient and complete, the county or municipality must process the addition of the parcel to the CDD as an amendment to the ordinance that establishes the district. The county or municipality may process all petitions to amend the ordinance, even if, after adding such parcels, the district exceeds 2,500 acres.

The petitioner shall publish a notice of the intent to amend the ordinance that establishes the district in a newspaper of general circulation in the proposed district. This notice shall be in addition to any notice required for the adoption of the ordinance amendment. The notice must be published at least 10 days before the scheduled hearing on the ordinance amendment and may be published in the section of the newspaper reserved for legal notices. The notice must include a general description of the land to be added to the district and the data and the time of the scheduled hearing to amend the ordinance. The petitioner must mail the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

The amendment of a district by the addition of a parcel does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, F.S., even if the total size of the district after the addition exceeds 5,000 acres. After adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

The bill provides that this new method of adding lands to a district does not preclude the addition of lands using procedures in other provisions of s. 190.046, F.S.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Line 50 of the bill states the petition may include parcels the district expects to add "within the next 10 years." It is unclear if this time period refers to 10 years after the date of the petition or 10 years after the creation of the district.

Line 62 states that "a person" may petition the county or municipality to amend the boundaries of the CDD to annex property included in the petition creating the district. It is unclear if this provision could be exercised by persons other than the board of the district or the landowner of the property to be added.

Similarly, line 79 states that the "person" must provide the petition to the CDD and to the owner of the proposed additional parcel before filing the county or municipality if the owner is not the petitioner.

Lines 89-93 require the petitioner for annexation to publish notice of intent to amend the ordinance that created the district to include the annexed parcels. It may provide greater clarity to require the county to publish notice of the intent to amend the ordinance, with any associated expenses being paid by the petitioner.

VIII. Statutes Affected:

This bill substantially amends section 190.046 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Perry

8-01270-18 20181348__

A bill to be entitled

An act relating to community development districts; amending s. 190.046, F.S.; authorizing adjacent lands located within the county or municipality which a petitioner anticipates adding to the boundaries of a new community development district to also be identified in a petition to establish the new district under certain circumstances; providing requirements for the petition; providing notification requirements for the petition; prohibiting a parcel from being included in the district without the written consent of the owner of the parcel; authorizing a person to petition the county or municipality to amend the boundaries of the district to include a certain parcel after establishment of the district; prohibiting a filing fee for such petition; providing requirements for the petition; requiring the person to provide the petition to the district and to the owner of the proposed additional parcel before filing the petition with the county or municipality; requiring the county or municipality to process the addition of the parcel to the district as an amendment to the ordinance that establishes the district once the petition is determined sufficient and complete; authorizing the county or municipality to process all such petitions even if the addition exceeds specified acreage; providing notice requirements for the intent to amend the ordinance establishing the district; providing that the amendment of a district by the addition of a

8-01270-18 20181348__

parcel does not alter the transition from landowner voting to qualified elector voting; requiring the petitioner to cause to be recorded a certain notice of boundary amendment upon adoption of the ordinance expanding the district; providing construction; providing an effective date.

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

Section 1. Paragraph (h) is added to subsection (1) of section 190.046, Florida Statutes, to read:

190.046 Termination, contraction, or expansion of district.—

(1) A landowner or the board may petition to contract or expand the boundaries of a community development district in the following manner:

(h) For a petition to establish a new community development district of less than 2,500 acres on land located solely in one county or one municipality, adjacent lands located within the county or municipality which the petitioner anticipates adding to the boundaries of the district within the next 10 years may also be identified. If such adjacent land is identified, the petition must include a legal description of each additional parcel within the adjacent land, the current owner of the parcel, the acreage of the parcel, and the current land use designation of the parcel. At least 14 days before the hearing required under s. 190.005(2)(b), the petitioner must give the current owner of each such parcel notice of filing the petition to establish the district, the date and time of the public

hearing on the petition, and the name and address of the petitioner. A parcel may not be included in the district without the written consent of the owner of the parcel.

1. After establishment of the district, a person may petition the county or municipality to amend the boundaries of the district to include a previously identified parcel that was a proposed addition to the district before its establishment. A filing fee may not be charged for this petition. Each such petition must include:

a. A legal description by metes and bounds of the parcel to be added;

b. A new legal description by metes and bounds of the district;

c. Written consent of all owners of the parcel to be added;

d. A map of the district including the parcel to be added;

e. A description of the development proposed on the additional parcel; and

f. A copy of the original petition identifying the parcel to be added.

2. Before filing with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

3. Once the petition is determined sufficient and complete, the county or municipality must process the addition of the parcel to the district as an amendment to the ordinance that establishes the district. The county or municipality may process all petitions to amend the ordinance for parcels identified in the original petition, even if, by adding such parcels, the

district exceeds 2,500 acres.

4. The petitioner shall cause to be published in a newspaper of general circulation in the proposed district a notice of the intent to amend the ordinance that establishes the district, which notice shall be in addition to any notice required for adoption of the ordinance amendment. Such notice must be published at least 10 days before the scheduled hearing on the ordinance amendment and may be published in the section of the newspaper reserved for legal notices. The notice must include a general description of the land to be added to the district and the date and time of the scheduled hearing to amend the ordinance. The petitioner shall mail the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

5. The amendment of a district by the addition of a parcel pursuant to this paragraph does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, even if the total size of the district after the addition of the parcel exceeds 5,000 acres. Upon adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

6. This paragraph is intended to facilitate the orderly addition of lands to a district under certain circumstances and does not preclude the addition of lands to any district using the procedures in the other provisions of this section.

Section 2. This act shall take effect July 1, 2018.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 1244
INTRODUCER:	Senator Lee
SUBJECT:	Developments of Regional Impact
DATE:	January 22, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Pre-meeting**
2.			ATD	
3.			AP	

I. Summary:

SB 1244 makes several changes to the state's development of regional impact (DRI) statutes after the program was ended in 2015. Specifically, the bill:

- Deletes obsolete language for the application and review of DRIs;
- Changes the process for existing DRIs to change a development order;
- Retains statewide guidelines and standards for determining when a development is subject to state coordinated review;
- Updates reporting requirements;
- Preserves certain unexpired letters, development orders, and agreements;
- Ends all DRI appeals to the Administration Commission except decisions by local governments under the DRI abandonment process;
- Repeals state land planning agency rules related to DRIs and Administration Commission rules related to aggregation of developments for the purpose of DRI review;
- Repeals the Florida Quality Developments (FQD) program and allows FQD development orders to be replaced by local government development orders; and
- Makes technical and conforming changes.

II. Present Situation:

Development of Regional Impact

A development of regional impact (DRI) is defined in s. 380.06, F.S., as "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. The DRI program provided a lengthy and complicated review process for proposed projects that was largely duplicated by the successor comprehensive planning review process.

Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed law that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) that is required to be included in local comprehensive plans.[1] After much controversy, this recommendation was not implemented, and the DRI program continued in its previous form.

In 2015, the Florida Legislature eliminated the requirement that new developments be reviewed pursuant to the DRI process. Instead, the Legislature directed that proposed developments only need to comply with the requirements of the State Coordinated Review Process for the review of local government comprehensive plan amendments.[2]

DRI Review

Before the program ended, all developments that met the DRI thresholds and standards provided by statute[3] and rules adopted by the Administration Commission[4] were required to undergo DRI review, unless the Legislature provided an exemption for that particular type of project, the development was located within a "dense urban land area,"[5] or the development was located in a planning area receiving a legislative exemption such as a sector plan or a rural land stewardship area. The types of developments required to undergo DRI review upon meeting the specified thresholds and standards included attraction and recreation facilities, office developments, retail and service developments, mixed-use developments, residential developments, schools, and recreational vehicle developments.[6] Over the years, the Legislature enacted many exemptions and increased the thresholds that projects must surpass in order to trigger DRI review.

Florida's 11 RPCs coordinated the multi-agency review of proposed DRIs. A DRI review began by a developer contacting the RPC with jurisdiction over a proposed development to arrange a pre-application conference.[7] The developer or the RPC could request other affected state and regional agencies participate in the conference to identify issues raised by the proposed project and the level of information that the agency would require in the application to assess those issues. At the pre-application conference, the RPC provided the developer with information about the DRI process and used the pre-application conference to identify issues and to coordinate the appropriate state and local agency requirements.

Upon completion of the pre-application conference with all parties, the developer filed an application for development approval with the local government, the RPC, and the state land

[1] *See* Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.
[2] Section 380.06(30), F.S. Chapter 2015-30, L.O.F.
[3] Section 380.0651, F.S.
[4] Rule 28-24, F.A.C.
[5] The criteria for qualification as a dense urban land area are contained in s. 380.06(29), F.S. Currently, eight counties and 243 cities qualify as dense urban land areas that are exempt from the DRI program.
[6] Section 380.0651, F.S.
[7] Section 380.06(7), F.S.

planning agency (DEO). The RPC reviewed the application for sufficiency and could request additional information (no more than twice) if the application was deemed insufficient.[8]

When the RPC determined the application was sufficient or the developer declined to provide additional information, the local government had to hold a public hearing on the application for development within 90 days.[9] Within 50 days after receiving notice of the public hearing, the RPC was required to prepare and submit to the local government a report and recommendations on the regional impact of the proposed development.[10] The RPC was required to identify regional issues specifically examining the extent to which:

- The development would have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state (state comprehensive plan) or regional (strategic regional policy plan) plans;
- The development would significantly impact adjacent jurisdictions; and
- In reviewing the first two issues, whether the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.[11]

If the proposed project will have impacts within the purview of other state agencies, those agencies would also prepare reports and recommendations on the issues raised by the project and within their statutorily-prescribed jurisdiction. These reports became part of the RPC's report, but the RPC could attach dissenting views.[12] When water management district (WMD) and Department of Environmental Protection (DEP) permits had been issued pursuant to ch. 373, F.S., or ch. 403, F.S., the RPC could comment on the regional implications of the permits but could not offer conflicting recommendations.[13] Finally, the state land planning agency also reviewed DRIs for compliance with state laws and to identify regional and state impacts and to make recommendations to local governments for approving, not approving, or suggesting mitigation conditions.[14]

At the local public hearing on the proposed DRI, concurrent comprehensive plan amendments associated with the proposed DRI had to be heard as well. When considering whether the development must be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government considered the extent to which:

- The development was consistent with its comprehensive plan and land development regulations;
- The development was consistent with the report and recommendations of the RPC; and
- The development was consistent with the state comprehensive plan.[15]

[8] Section 380.06(10), F.S.
[9] Section 380.06(11), F.S.
[10] Section 380.06(12), F.S.
[11] Section 380.06(12)(a), F.S.
[12] Section 380.06(12)(b), F.S.
[13] *Id*.
[14] *See* Senate Interim Report 2012-114, *The Development of Regional Impact Process*, Sept. 2011.
[15] Section 380.06(13), F.S. DRIs located in areas of critical state concern must also comply with the land development regulations in s. 380.05, F.S.

Within 30 days of the public hearing on the application for development approval, the local government had to decide whether to issue a development order or not. Within 45 days after a development order was or was not rendered, the owner or developer of the property or the state land planning agency could appeal the order to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.[16] An "aggrieved or adversely affected party" could appeal and challenge the consistency of a development order with the local comprehensive plan.[17]

Completion of this entire process could take one to two years and require the expenditure of significant resources, both on the part of private developers and state agencies, resulting in costs totaling in the millions of dollars.

Substantial Deviation

After a development order was issued, any proposed change to a previously approved DRI development order that creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, constitutes a "substantial deviation" and requires such proposed change to be subject to further DRI review. To determine whether a proposed change requires further DRI review, Florida law establishes the following:

- Certain threshold criteria beyond which a change constitutes a substantial deviation;
- Certain changes in development that do not amount to a substantial deviation;
- Scenarios in which a substantial deviation is presumed; and
- Scenarios in which a change is presumed not to create a substantial deviation.

In addition, Florida law directs DEO to establish by rule standard forms for submittal of proposed changes to a previously approved DRI development order. At a minimum, the form must require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order. The developer must submit the form to the local government, the regional planning agency, and DEO.

After the developer submits the form, the appropriate regional planning agency or DEO must review the proposed change and, no later than 45 days after submittal of the proposed change, must advise the local government in writing whether it objects to the proposed change, specifying the reasons for its objection, and must provide a copy to the developer.

In addition, the local government must give 15 days' notice and schedule a public hearing to consider the change. This public hearing must be held within 60 days after submittal of the proposed changes, unless the developer wishes to extend the time.

At the public hearing, the local government must determine whether the proposed change requires further DRI review based on the thresholds and standards set out in law. The local government may also deny the proposed change based on matters relating to local issues.

[16] Section 380.07(2), F.S.
[17] Section 163.3215, F.S.

If the local government determines that the proposed change does not require further DRI review and is otherwise approved, the local government must issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. If, however, the local government determines that proposed change does require further DRI review, the local government must determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.

DRI Exemptions

Over the years, the DRI program was amended to include a number of exemptions. The following list of exemptions is not exhaustive, but illustrates the number and variety of the exemptions from the DRI program that have been enacted:

- Certain projects that created at least 100 jobs that met certain qualifications – 1997;
- Certain expansions to port harbors, certain port transportation facilities, and certain intermodal transportation facilities – 1999;
- The thresholds used to identify projects subject to the program were increased by 150 percent for development in areas designated as rural areas of critical economic concern (now known as rural areas of opportunity) – 2001;
- Certain proposed facilities for the storage of any petroleum product or certain expansions of existing petroleum product storage facilities – 2002;
- Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use – 2002;
- Certain waterport or marina developments – 2002; and
- The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S. – 2005.

In 2009, the Legislature enacted the most significant exemption from the DRI program: the exemption for Dense Urban Land Areas (DULAs).[18] In 2015, 8 counties and 243 cities qualified as DULAs. This meant that all projects within those counties and cities were exempted from the DRI program. The areas qualifying as DULAs accounted for more than half of Florida's population.[19]

Comprehensive Plans and the Comprehensive Plan Amendment Process

The Growth Management Act of 1985 required every city and county to create and implement a comprehensive plan to guide future development.[20] A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government first amends its comprehensive plan.

[18] Chapter 2009-96, L.O.F.
[19] Department of Economic Opportunity, Community Planning, Development, and Services, Community Planning, *Community Planning Table of Content: List of Local Governments Qualifying as Dense Urban Land Areas*, (June 11, 2015), available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/list-of-local-governments-qualifying-as-dense-urban-land-areas (last visited January 19, 2018).
[20] Chapter 1985-55, L.O.F.

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.[21] The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.[22]

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities.[23] The DEO will compile reports from the various involved agencies and issue an Objections, Recommendation, and Comments Report.[24] The report is a consolidated report comprised of objections, recommendations, and comments from the involved agencies. Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.[25] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.[26]

The Expedited State Review Process vs. the State Coordinated Review Process

In 2011, the Florida Legislature bifurcated the process for approving comprehensive plan amendments.[27] Most plan amendments were placed into the Expedited State Review Process, while plan amendments related to large-scale developments were placed into the State Coordinated Review Process. The two processes operate in much the same way, however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the DEO, rather than communicated directly to the permitting local government by each individual reviewing agency.

Florida Quality Developments

Florida Quality Developments (FQDs) are DRI-sized projects that receive a Florida Quality Development designation if they meet certain statutory criteria. The criteria is designed to enhance the developments, e.g., protect and preserve environmentally sensitive lands including wildlife habitat and wetlands; participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area; provide for construction and maintenance of all onsite infrastructure necessary to support the project; include open space, recreation areas,

[21] Section 163.3174(4)(a), F.S.
[22] Section 163.3184, F.S.
[23] Section 163.3184(3)(b)3.a., F.S.
[24] Florida Department of Economic Opportunity, State Coordinated Review Amendment Process, http://floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=2 (last visited January 19, 2018).
[25] Section 163.3184(3)(c) and (4)(e), F.S.
[26] *Id*.
[27] Chapter 2011-14, L.O.F. *See* s. 163.3184(3) and (4), F.S.

Florida-friendly landscaping as defined in s. 373.185, F.S., and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project; and similar enhancements. The state land planning agency issues the development orders for FQDs. According to the Department's records, the last FQD development order was issued in 2002, which was also the last time an FQD development order was requested.[28]

III. Effect of Proposed Changes:

The bill grants local governments the responsibility for implementation of amendments to DRIs and FQD development orders.

Section 1 amends s. 380.06, F.S., to retain statewide guidelines and standards and exemptions for DRIs to use them to determine whether a development is subject to the state coordinated review process. These guidelines will remain in effect unless repealed by statute. This section also:

- Deletes provisions that are obsolete with the removal if the DRI program;
- Maintains the guidelines and standards for thresholds that determine whether a development will be subject to state coordinated review;
- Preserves unexpired binding letters, essentially built out agreements, capital contribution front loading agreements between a developer and local government, any agreements between a local government and a developer to reimburse the developer for voluntary contributions paid in excess of his or her fair share, time extensions previously granted by statute, agreements related to projects that include more than one DRI, and areawide DRI development orders;
- Gives local governments the authority to amend a binding letter of vested rights pursuant to its comprehensive plan and land development regulations upon request by the developer;
- Amends the provision regarding the local government development order; authorizing development within a portion of the DRI that is not directly affected by a proposed change to continue during the review of the proposed change, and provides that review is limited to impacts created by the proposed change;
- Revises the provision relating to credits against local impact fees. The adoption of a change to a development order for an approved DRI does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions when such credits are based upon the developer's contribution of land or a public facility. The subsection adds mobility fees to the types of fees a developer can petition;
- Requires a developer to follow whatever reporting requirements are set by the local government with jurisdiction over the development. (The requirement used to be a biennial report submitted by the developer in alternate years as specified by the development order.);
- Amends the former substantial deviations subsection, now titled "changes." This section requires any proposed change to a previously approved DRI to be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including but not limited to procedures for notice to the applicant and the public regarding issuance of development orders. There must be at least one public hearing for proposed changes, and the local governing body must approve any changes before it becomes effective. Development within a portion of the DRI

[28] Florida Department of Economic Opportunity, *Senate Bill 1244 Analysis* (December 22, 2017).

that is not directly affected by a proposed change can continue during the review of the proposed change, and review is limited to impacts created by the proposed change. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation (consistent with current law);

- Provides that abandonment of a DRI development order shall be deemed to have occurred when the required notice of abandonment is filed with the county clerk. Local governments must issue an abandonment order if requested by a developer if all development that exists at the time of abandonment has been mitigated or will be mitigated pursuant to an existing permit enforceable through an administrative or judicial proceeding;
- Moves the statutory exemptions, partial statutory exemptions, exemptions for DULAs from the DRI program to s. 380.0651, F.S., so they continue to be exempt from state coordinated review; and
- Prescribes that proposed developments that exceed the statewide guidelines and standards and are not otherwise exempt must be approved by a local government following the statewide coordinated review process in s. 163.3184(4), F.S.

Section 2 amends s. 380.061, F.S., and effectively repeals the FQD program, allowing FQD development orders to be replaced by local government development orders.

Section 3 amends s. 380.0651, F.S., maintaining the guidelines and standards formerly used for developments required to undergo DRI review. The guidelines and standards are retained to now determine whether developments are subject to state coordinated review. The following updates have been made to the relocated statutory exemptions:

- A provision that required an owner or developer to apply for a development permit if they wanted to rely on an exemption for a sports facility expansion has been deleted.
- An exemption for port transportation facilities and projects listed in s. 311.07, F.S., and intermodal transportation facilities identified in s. 311.09, F.S., was deleted.
- A previously approved solid mineral mine DRI development order will continue to have vested rights and will continue to be effective unless rescinded by the developer. Language was removed that said proposed changes to any previously approved solid mineral mine DRI development orders that vested were not subject to further review or approval as a DRI or notice of proposed change review or approval.
- A provision exempting any proposed development that is located in a local government jurisdiction that does not qualify for an exemption based on the population and density criteria, that is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4), F.S., and that is the subject of an agreement pursuant to s. 288.106(5), F.S., has been deleted.

The exemption for dense urban land areas (DULAs) and partial statutory exemptions in this section are also existing statutory language, and have just been relocated. The following updates have been made to the relocated DULA exemptions:

- A provision requiring that a development located partially outside a DULA had to undergo DRI review has been deleted. Also deleted was language that allowed a DRI development order to be rescinded unless the portion of the development outside the exempt area met the threshold criteria of a DRI.
- A provision requiring local governments to submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable

DRI threshold and would require DRI review but for the exemption from the program has been deleted.

The section also repeals DRI aggregation criteria to allow local governments to set their own criteria.

Section 4 amends s. 380.07, F.S., removing DRIs from the Florida Land and Water Adjudicatory Commission's rulemaking authority. This provision provides that the state land planning agency may challenge a local order abandoning a DRI.

Section 5 amends s. 380.115, F.S., allowing developments that have received a DRI development order but are no longer required to undergo DRI review to elect to rescind the development order pursuant to certain procedures. Section 5 also adds that the local government issuing the development order must monitor the development and enforce the development order.

Section 7 amends s. 163. 3245, F.S., to correct cross references due to renumbering and provides that a development subject to a master plan remains subject to the master plan unless it is abandoned or rescinded.

Section 8 amends s. 163.3246, F.S., to correct a cross reference and delete a reference to DRI reviews.

Section 9 amends s. 189.08, F.S., allowing those special districts building, improving, or expanding public facilities addressed by a development order issued to the developer pursuant to s. 380.06, F.S. to use the most recent local government report required by s. 380.06(6), F.S. to the extent needed to submit its own public facilities report required by s. 189.08(2), F.S.

Section 11 amends s. 190.012, F.S., to delete a reference related to the FQD program.

Section 18 repeals s. 380.065, F.S., which governed the certification of local government review of development.

Section 21 repeals the rules adopted by the state land planning agency governing DRIs codified in chapter 73C-40, Florida Administrative Code.

Section 22 states that the Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" with "the date this act takes effect" wherever it occurs in this act.

Sections 6, 10, 12, 14, 15, 16, and 20 correct various cross references due to renumbering.

Sections 13, 17, and 19 amend various sections to delete references to the DRI program.

Section 23 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The state land planning agency will have decreased review responsibilities over various processes for DRIs. Many of these responsibilities have been transferred to local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 380.06, 380.061, 380.0651, 380.07, 380.115, 125.68, 163.3245, 163.3246, 189.08, 190.005, 190.012, 252.363, 369.303, 369.307, 373.236, 373.414, 378.601, 380.11, and 403.524.

This bill repeals section 380.065 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 210 and 211
insert:

Section 1. Subsection (1) of section 165.0615, Florida Statutes, is amended to read:

165.0615 Municipal conversion of independent special districts upon elector-initiated and approved referendum.—

(1) The qualified electors of an independent special district may commence a municipal conversion proceeding by

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filing a petition with the governing body of the independent special district proposed to be converted if the district meets all of the following criteria:

(a) It was created by special act of the Legislature.

(b) It is designated as an improvement district and created pursuant to chapter 298 or is designated as a stewardship district and created pursuant to s. 189.031.

(c) Its governing board is elected.

(d) Its governing board agrees to the conversion.

(e) It provides at least four of the following municipal services: water, sewer, solid waste, drainage, roads, transportation, public works, fire and rescue, street lighting, parks and recreation, or library or cultural facilities.

(f) No portion of the district is located within the jurisdictional limits of a municipality.

(g) It meets the minimum population standards specified in s. 165.061(1)(b).

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete line 2

and insert:

An act relating to growth management; amending s. 165.0615, F.S.; adding a minimum population standard as a criteria that must be met before qualified electors of an independent special district commence a certain municipal conversion proceeding;

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LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Lee) recommended the following:

Senate Amendment

Delete lines 3038 - 3187
and insert:

Any owner or developer who intends to rely on this statutory exemption shall provide to the state land planning agency a copy of the local government application for a development permit. Within 45 days after receipt of the application, the state land

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planning agency shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the state land planning agency's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the state land planning agency. The owner, developer, or state land planning agency may appeal the local government development order pursuant to s. 380.07 within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions that were exempt under this paragraph must be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of the ports specified in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) when such expansions, projects, or facilities are consistent with port master plans and are in compliance with s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility.

(j) Any renovation or redevelopment within the same parcel as the existing development if such renovation or redevelopment does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage

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facilities.

(l) Any proposed development within an urban service area boundary established under s. 163.3177(14), Florida Statutes(2010), that is not otherwise exempt pursuant to subsection (3),if the local government having jurisdiction over the area where the development is proposed has adopted the urban service area boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.

(m) Any proposed development within a rural land stewardship area created under s. 163.3248.

(n) The establishment, relocation, or expansion of any military installation as specified in s. 163.3175.

(o) Any self-storage warehousing that does not allow retail or other services.

(p) Any proposed nursing home or assisted living facility.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4.

(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30.

(s) Any development in a detailed specific area plan prepared and adopted pursuant to s. 163.3245.

(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine. A mine owner must, however, enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities. Proposed

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changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which are governed by s. 380.115(2). Notwithstanding this requirement, pursuant to s. 380.115(1), a previously approved solid mineral mine development-of-regional impact development order continues to have vested rights and continues to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines are applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.

(u) Notwithstanding any provision in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of regional-impact review under the revised thresholds specified in s. 380.06(2)(b) and this section.

(v) Any development within a county that has a research and education authority created by special act and which is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159.

(w) Any development in an energy economic zone designated pursuant to s. 377.809 upon approval by its local governing body.

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If a use is exempt from review pursuant to paragraphs (a)-(u), but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the state land planning agency under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(3) EXEMPTIONS FOR DENSE URBAN LAND AREAS.

(a) The following are exempt from the requirements of s. 380.06:

1. Any proposed development in a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

2. Any proposed development within a county, including the municipalities located therein, having an average of at least 1,000 people per square mile of land area and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan as defined in s. 163.3164;

3. Any proposed development within a county, including the municipalities located therein, having a population of at least 900,000 and an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; and

4. Any proposed development within a county, including the municipalities located therein, having a population of at least 1 million and the development is located within an urban service

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area as defined in s. 163.3164 which has been adopted into the comprehensive plan.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency must maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section

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until the municipality as a whole meets the criteria. Any county that meets the criteria must remain on the list. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, must remain on the list.

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from s. 380.06 unless otherwise required by part II of chapter 163:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service area boundary pursuant to s. 163.3177(14), Florida Statutes (2010).

(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Urban infill and redevelopment pursuant to s. 163.2517; or

3. Urban service areas as defined in s. 163.3164.

(d) If any portion of a development is located in an area that is not exempt from review under s. 380.06, the development must undergo review pursuant to that section.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 3599 - 3629
and insert:
Section 8. Subsections (11), (12), and (14) of section 163.3246, Florida Statutes, are amended to read:
163.3246 Local government comprehensive planning certification program.—
(11) If the local government of an area described in subsection (10) does not request that the state land planning

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agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area is ~~shall be~~ exempt from ~~review under~~ s. 380.06.

(12) A local government's certification shall be reviewed by the local government and the state land planning agency as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year after the deadline for the local government to update its comprehensive plan based on the evaluation and appraisal, the state land planning agency must ~~shall~~ renew or revoke the certification. The local government's failure to timely adopt necessary amendments to update its comprehensive plan based on an evaluation and appraisal, which are found to be in compliance by the state land planning agency, is ~~shall be~~ cause for revoking the certification agreement. The state land planning agency's decision to renew or revoke is ~~shall be considered~~ agency action subject to challenge under s. 120.569.

(14) It is the intent of the Legislature to encourage

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete lines 179 - 182

and insert:

amending s. 163.3246, F.S.; conforming provisions to

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LEGISLATIVE ACTION

Senate . House

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The Committee on Community Affairs (Simmons) recommended the following:

Senate Amendment

Delete line 3207
and insert:
described in s. 369.316, unless any proposed development is located in a county or municipality that has implemented all of the following:
a. One or more alternative water supplies providing service within the Wekiva Study Area; and
b. One of the following adopted plans, which must be

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consistent with the local comprehensive plan:

(I) A specific area plan;

(II) A sector plan pursuant to s. 163.3245; or

(III) A mobility plan pursuant to s. 163.3180; or

By Senator Lee

20-00962-18 20181244__

A bill to be entitled

An act relating to developments of regional impact; amending s. 380.06, F.S.; revising the statewide guidelines and standards for developments of regional impact; deleting criteria that the Administration Commission is required to consider in adopting its guidelines and standards; revising provisions relating to the application of guidelines and standards; revising provisions relating to variations and thresholds for such guidelines and standards; deleting provisions relating to the issuance of binding letters; specifying that previously issued letters remain valid unless previously expired; specifying the procedure for amending a binding letter of interpretation; specifying that previously issued clearance letters remain valid unless previously expired; deleting provisions relating to authorizations to develop, applications for approval of development, concurrent plan amendments, preapplication procedures, preliminary development agreements, conceptual agency review, application sufficiency, local notice, regional reports, and criteria for the approval of developments inside and outside areas of critical state concern; revising provisions relating to local government development orders; specifying that amendments to a development order for an approved development may not alter the dates before which a development would be subject to downzoning, unit density reduction, or intensity

20-00962-18 20181244__

reduction, except under certain conditions; removing a requirement that certain conditions of a development order meet specified criteria; specifying that construction of certain mitigation-of-impact facilities is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional; removing requirements relating to local government approval of developments of regional impact that do not meet certain requirements; removing a requirement that the Department of Economic Opportunity and other agencies cooperate in preparing certain ordinances; authorizing developers to record notice of certain rescinded development orders; specifying that certain agreements regarding developments that are essentially built out remain valid unless previously expired; deleting requirements for a local government to issue a permit for a development subsequent to the buildout date contained in the development order; specifying that amendments to development orders do not diminish or otherwise alter certain credits for a development order exaction or fee against impact fees, mobility fees, or exactions; deleting a provision relating to the determination of certain credits for impact fees or extractions; deleting a provision exempting a nongovernmental developer from being required to competitively bid or negotiate construction or design of certain facilities except under certain circumstances; specifying that certain capital

contribution front-ending agreements remain valid unless previously expired; deleting a provision relating to local monitoring; revising requirements for developers regarding reporting to local governments and specifying that such reports are not required unless required by a local government with jurisdiction over a development; revising the requirements and procedure for proposed changes to a previously approved development of regional impact and deleting rulemaking requirements relating to such procedure; revising provisions relating to the approval of such changes; specifying that certain extensions previously granted by statute are still valid and not subject to review or modification; deleting provisions relating to determinations as to whether a proposed change is a substantial deviation; deleting provisions relating to comprehensive development-of-regional-impact applications and master plan development orders; specifying that certain agreements that include two or more developments of regional impact which were the subject of a comprehensive development-of-regional-impact application remain valid unless previously expired; deleting provisions relating to downtown development authorities; deleting provisions relating to adoption of rules by the state land planning agency; deleting statutory exemptions from development-of-regional-impact review; specifying that an approval of an authorized developer for an areawide development of

regional impact remains valid unless previously expired; deleting provisions relating to areawide developments of regional impact; deleting an authorization for the state land planning agency to adopt rules relating to abandonment of developments of regional impact; requiring local governments to file a notice of abandonment under certain conditions; deleting an authorization for the state land planning agency to adopt a procedure for filing such notice; requiring a development-of-regional-impact development order to be abandoned by a local government under certain conditions; deleting a provision relating to abandonment of developments of regional impact in certain high-hazard coastal areas; authorizing local governments to approve abandonment of development orders for an approved development under certain conditions; deleting a provision relating to rights, responsibilities, and obligations under a development order; deleting partial exemptions from development-of regional-impact review; deleting exemptions for dense urban land areas; specifying that proposed developments that exceed the statewide guidelines and standards and that are not otherwise exempt be approved by local governments instead of through specified development-of-regional-impact proceedings; amending s. 380.061, F.S.; specifying that the Florida Quality Developments program only applies to previously approved developments in the program before the effective date of the act; specifying a process

for local governments to adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Developments; deleting program intent, eligibility requirements, rulemaking authorizations, and application and approval requirements and processes; deleting an appeals process and the Quality Developments Review Board; amending s. 380.0651, F.S.; deleting provisions relating to the superseding of guidelines and standards adopted by the Administration Commission and the publishing of guidelines and standards by the Administration Commission; conforming a provision to changes made by the act; specifying exemptions and partial exemptions from development-of-regional-impact review; deleting provisions relating to determining whether there is a unified plan of development; deleting provisions relating to the circumstances where developments should be aggregated; deleting a provision relating to prospective application of certain provisions; deleting a provision authorizing state land planning agencies to enter into agreements for the joint planning, sharing, or use of specified public infrastructure, facilities, or services by developers; deleting an authorization for the state land planning agency to adopt rules; amending s. 380.07, F.S.; deleting an authorization for the Florida Land and Water Adjudicatory Commission to adopt rules regarding the requirements for developments of regional impact; revising when a local

government must transmit a development order to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order; deleting a process for regional planning agencies to undertake appeals of development-of-regional-impact development orders; revising a process for appealing development orders for consistency with a local comprehensive plan to be available only for developments in areas of critical state concern; deleting a procedure regarding certain challenges to development orders relating to developments of regional impact; amending s. 380.115, F.S.; deleting a provision relating to changes in development-of-regional-impact guidelines and standards and the impact of such changes on vested rights, duties, and obligations pursuant to any development order or agreement; requiring local governments to monitor and enforce development orders and prohibiting local governments from issuing permits, approvals, or extensions of services if a developer does not act in substantial compliance with an order; deleting provisions relating to changes in development of regional impact guidelines and standards and their impact on the development approval process; amending s. 125.68, F.S.; conforming a cross-reference; amending s. 163.3245, F.S.; conforming cross-references; conforming provisions to changes made by the act; revising the circumstances in which applicants who apply for master development approval

for an entire planning area must remain subject to a master development order; specifying an exception; deleting a provision relating to the level of review for applications for master development approval; amending s. 163.3246, F.S.; deleting a provision under which certain developments of regional impact proposed within a certified area are exempt from development-of-regional-impact review; conforming provisions to changes made by the act; conforming cross-references; amending s. 189.08, F.S.; conforming a cross-reference; conforming a provision to changes made by the act; amending s. 190.005, F.S.; conforming cross-references; amending ss. 190.012 and 252.363, F.S.; conforming cross-references; amending s. 369.303, F.S.; conforming a provision to changes made by the act; amending ss. 369.307, 373.236, and 373.414, F.S.; conforming cross-references; amending s. 378.601, F.S.; conforming a provision to changes made by the act; repealing s. 380.065, F.S., relating to a process to allow local governments to request certification to review developments of regional impact that are located within their jurisdictions in lieu of the regional review requirements; amending ss. 380.11 and 403.524, F.S.; conforming cross-references; repealing specified rules regarding uniform review of developments of regional impact by the state land planning agency and regional planning agencies; repealing the rules adopted by the Administration Commission regarding whether two or more developments,

represented by their owners or developers to be separate developments, shall be aggregated; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(1) DEFINITION.—The term "development of regional impact," as used in this section, means any development that ~~which~~, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2) STATEWIDE GUIDELINES AND STANDARDS.—

~~(a)~~ The statewide guidelines and standards and the exemptions specified in s. 380.0651 and the statewide guidelines and standards adopted by the Administration Commission and codified in chapter 28-24, Florida Administrative Code, must be ~~state land planning agency shall recommend to the Administration Commission specific statewide guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt statewide guidelines and standards to be~~ used in determining whether particular developments are subject to the requirements of subsection (12) ~~shall undergo development of regional impact review~~. The statewide guidelines and standards previously adopted by the Administration Commission and approved by the Legislature shall

remain in effect unless ~~revised pursuant to this section or~~ superseded or repealed by statute ~~by other provisions of law~~.

~~(b) In adopting its guidelines and standards, the Administration Commission shall consider and shall be guided by:~~

~~1. The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.~~

~~2. The amount of pedestrian or vehicular traffic likely to be generated.~~

~~3. The number of persons likely to be residents, employees, or otherwise present.~~

~~4. The size of the site to be occupied.~~

~~5. The likelihood that additional or subsidiary development will be generated.~~

~~6. The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments.~~

~~7. The unique qualities of particular areas of the state.~~

~~(c) With regard to the changes in the guidelines and standards authorized pursuant to this act, in determining whether a proposed development must comply with the review requirements of this section, the state land planning agency shall apply the guidelines and standards which were in effect when the developer received authorization to commence development from the local government. If a developer has not received authorization to commence development from the local government prior to the effective date of new or amended guidelines and standards, the new or amended guidelines and standards shall apply.~~

~~(d)~~ The statewide guidelines and standards shall be applied as follows:

(a)~~1. Fixed thresholds.—~~

~~a.~~ A development that is below 100 percent of all numerical thresholds in the statewide guidelines and standards is not subject to subsection (12) ~~is not required to undergo development-of-regional-impact review~~.

(b)~~b.~~ A development that is at or above 100 ~~120~~ percent of any numerical threshold in the statewide guidelines and standards is subject to subsection (12) ~~shall be required to undergo development-of-regional-impact review~~.

~~c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Department of Economic Opportunity as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(c) and (f) are not required to undergo development-of-regional-impact review.~~

~~2. Rebuttable presumption.—It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.~~

~~(e) With respect to residential, hotel, motel, office, and retail developments, the applicable guidelines and standards shall be increased by 50 percent in urban central business districts and regional activity centers of jurisdictions whose~~

~~local comprehensive plans are in compliance with part II of chapter 163. With respect to multiuse developments, the applicable individual use guidelines and standards for residential, hotel, motel, office, and retail developments and multiuse guidelines and standards shall be increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163, if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. With respect to resort or convention hotel developments, the applicable guidelines and standards shall be increased by 150 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163 and where the increase is specifically for a proposed resort or convention hotel located in a county with a population greater than 500,000 and the local government specifically designates that the proposed resort or convention hotel development will serve an existing convention center of more than 250,000 gross square feet built before July 1, 1992. The applicable guidelines and standards shall be increased by 150 percent for development in any area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656 during the effectiveness of the designation.~~

~~(3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES AND STANDARDS. The state land planning agency, a regional planning agency, or a local government may petition the Administration Commission to increase or decrease the numerical thresholds of~~

~~any statewide guideline and standard. The state land planning agency or the regional planning agency may petition for an increase or decrease for a particular local government's jurisdiction or a part of a particular jurisdiction. A local government may petition for an increase or decrease within its jurisdiction or a part of its jurisdiction. A number of requests may be combined in a single petition.~~

~~(a) When a petition is filed, the state land planning agency shall have no more than 180 days to prepare and submit to the Administration Commission a report and recommendations on the proposed variation. The report shall evaluate, and the Administration Commission shall consider, the following criteria:~~

~~1. Whether the local government has adopted and effectively implemented a comprehensive plan that reflects and implements the goals and objectives of an adopted state comprehensive plan.~~

~~2. Any applicable policies in an adopted strategic regional policy plan.~~

~~3. Whether the local government has adopted and effectively implemented both a comprehensive set of land development regulations, which regulations shall include a planned unit development ordinance, and a capital improvements plan that are consistent with the local government comprehensive plan.~~

~~4. Whether the local government has adopted and effectively implemented the authority and the fiscal mechanisms for requiring developers to meet development order conditions.~~

~~5. Whether the local government has adopted and effectively implemented and enforced satisfactory development review procedures.~~

~~(b) The affected regional planning agency, adjoining local governments, and the local government shall be given a reasonable opportunity to submit recommendations to the Administration Commission regarding any such proposed variations.~~

~~(c) The Administration Commission shall have authority to increase or decrease a threshold in the statewide guidelines and standards up to 50 percent above or below the statewide presumptive threshold. The commission may from time to time reconsider changed thresholds and make additional variations as it deems necessary.~~

~~(d) The Administration Commission shall adopt rules setting forth the procedures for submission and review of petitions filed pursuant to this subsection.~~

~~(e) Variations to guidelines and standards adopted by the Administration Commission under this subsection shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved as submitted by general law, the revisions shall not become effective.~~

(3)~~(4)~~ BINDING LETTER.—

(a) Any binding letter previously issued to a developer by the state land planning agency as to ~~If any developer is in doubt~~ whether his or her proposed development must undergo development-of-regional-impact review ~~under the guidelines and standards~~, whether his or her rights have vested pursuant to subsection (8) ~~(20)~~, or whether a proposed substantial change to a development of regional impact concerning which rights had

previously vested pursuant to subsection (8) ~~(20)~~ would divest such rights, remains valid unless it expired on or before the effective date of this act ~~the developer may request a determination from the state land planning agency~~. ~~The developer or the appropriate local government having jurisdiction may request that the state land planning agency determine whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3.~~

(b) Upon a request by the developer, a binding letter of interpretation regarding which rights had previously vested in a development of regional impact may be amended by the local government of jurisdiction, based on standards and procedures in the adopted local comprehensive plan or the adopted local land development code, to reflect a change to the plan of development and modification of vested rights, provided that any such amendment to a binding letter of vested rights must be consistent with s. 163.3167(5). Review of a request for an amendment to a binding letter of vested rights may not include a review of the impacts created by previously vested portions of the development ~~Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this section, the state land planning agency or local government with jurisdiction over the land on which a development is proposed may require a developer to obtain a binding letter if the development is at a presumptive numerical threshold or up to 20 percent above a numerical threshold in the guidelines and standards~~.

~~(c) Any local government may petition the state land~~

~~planning agency to require a developer of a development located in an adjacent jurisdiction to obtain a binding letter of interpretation. The petition shall contain facts to support a finding that the development as proposed is a development of regional impact. This paragraph shall not be construed to grant standing to the petitioning local government to initiate an administrative or judicial proceeding pursuant to this chapter.~~

~~(d) A request for a binding letter of interpretation shall be in writing and in such form and content as prescribed by the state land planning agency. Within 15 days of receiving an application for a binding letter of interpretation or a supplement to a pending application, the state land planning agency shall determine and notify the applicant whether the information in the application is sufficient to enable the agency to issue a binding letter or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the state land planning agency in writing that the information will not be supplied and the reasons therefor. If the applicant does not respond to the request for additional information within 120 days, the application for a binding letter of interpretation shall be deemed to be withdrawn. Within 35 days after acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development. A binding letter of interpretation issued by the state land planning agency shall bind all state, regional, and local agencies, as well as the developer.~~

~~(e) In determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the state land planning agency shall review the proposed change within the context of:~~

~~1. Criteria specified in paragraph (19)(b);~~

~~2. Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;~~

~~3. All rights and obligations arising out of the vested status of such development;~~

~~4. Permit conditions or requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and~~

~~5. Any regional impacts arising from the proposed change.~~

~~(f) If a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would result in reduced regional impacts, the change shall not divest rights to complete the development pursuant to subsection (20). Furthermore, where all or a portion of the development of regional impact for which rights had previously vested pursuant to subsection (20) is demolished and reconstructed within the same approximate footprint of buildings and parking lots, so that any change in the size of the development does not exceed the criteria of paragraph (19)(b), such demolition and reconstruction shall not divest the rights which had vested.~~

(c) ~~(g)~~ Every binding letter determining that a proposed development is not a development of regional impact, but not

including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:

1. Three years from October 1, 1985, for binding letters issued prior to the effective date of this act; or

2. Three years from the date of issuance of binding letters issued on or after October 1, 1985.

(d) ~~(h)~~ The expiration date of a binding letter begins~~, established pursuant to paragraph (g), shall begin~~ to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the state land planning agency, the local government of jurisdiction, and the developer.

(e) ~~(i) In response to an inquiry from a developer or the appropriate local government having jurisdiction, the state land planning agency may issue~~ An informal determination by the state land planning agency, in the form of a clearance letter as to whether a development is required to undergo development-of-regional-impact review or whether the amount of development that remains to be built in an approved development of regional impact, remains valid unless it expired on or before the effective date of this act ~~meets the criteria of subparagraph (15)(g)3. A clearance letter may be based solely on the information provided by the developer, and the state land planning agency is not required to conduct an investigation of that information. If any material information provided by the developer is incomplete or inaccurate, the clearance letter is not binding upon the state land planning agency. A clearance letter does not constitute final agency action~~.

~~(5) AUTHORIZATION TO DEVELOP.~~

~~(a)1. A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if the development has been approved under the requirements of this section.~~

~~2. If the land on which the development is proposed is within an area of critical state concern, the development must also be approved under the requirements of s. 380.05.~~

~~(b) State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development of regional impact review, any state or regional permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), any state or regional agency permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-~~

~~impact review or after the developer obtains a development order pursuant to this section.~~

~~(c) Prior to the issuance of a final development order, the developer may elect to be bound by the rules adopted pursuant to chapters 373 and 403 in effect when such development order is issued. The rules adopted pursuant to chapters 373 and 403 in effect at the time such development order is issued shall be applicable to all applications for permits pursuant to those chapters and which are necessary for and consistent with the development authorized in such development order, except that a later adopted rule shall be applicable to an application if:~~

~~1. The later adopted rule is determined by the rule adopting agency to be essential to the public health, safety, or welfare;~~

~~2. The later adopted rule is adopted pursuant to s. 403.061(27);~~

~~3. The later adopted rule is being adopted pursuant to a subsequently enacted statutorily mandated program;~~

~~4. The later adopted rule is mandated in order for the state to maintain delegation of a federal program; or~~

~~5. The later adopted rule is required by state or federal law.~~

~~(d) The provision of day care service facilities in developments approved pursuant to this section is permissible but is not required.~~

~~Further, in order for any developer to apply for permits pursuant to this provision, the application must be filed within 5 years from the issuance of the final development order and the~~

~~permit shall not be effective for more than 8 years from the issuance of the final development order. Nothing in this paragraph shall be construed to alter or change any permitting agency's authority to approve permits or to determine applicable criteria for longer periods of time.~~

~~(6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.—~~

~~(a) Prior to undertaking any development, a developer that is required to undergo development-of-regional-impact review shall file an application for development approval with the appropriate local government having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake a development of regional impact as required under this section.~~

~~(b) Any local government comprehensive plan amendments related to a proposed development of regional impact, including any changes proposed under subsection (19), may be initiated by a local planning agency or the developer and must be considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in s. 163.3184 and applicable local ordinances, without regard to local limits on the frequency of consideration of amendments to the local comprehensive plan. This paragraph does not require favorable consideration of a plan amendment solely because it is related to a development of regional impact. The procedure for processing such comprehensive plan amendments is as follows:~~

~~1. If a developer seeks a comprehensive plan amendment~~

~~related to a development of regional impact, the developer must so notify in writing the regional planning agency, the applicable local government, and the state land planning agency no later than the date of preapplication conference or the submission of the proposed change under subsection (19).~~

~~2. When filing the application for development approval or the proposed change, the developer must include a written request for comprehensive plan amendments that would be necessitated by the development-of-regional-impact approvals sought. That request must include data and analysis upon which the applicable local government can determine whether to transmit the comprehensive plan amendment pursuant to s. 163.3184.~~

~~3. The local government must advertise a public hearing on the transmittal within 30 days after filing the application for development approval or the proposed change and must make a determination on the transmittal within 60 days after the initial filing unless that time is extended by the developer.~~

~~4. If the local government approves the transmittal, procedures set forth in s. 163.3184 must be followed.~~

~~5. Notwithstanding subsection (11) or subsection (19), the local government may not hold a public hearing on the application for development approval or the proposed change or on the comprehensive plan amendments sooner than 30 days after reviewing agency comments are due to the local government pursuant to s. 163.3184.~~

~~6. The local government must hear both the application for development approval or the proposed change and the comprehensive plan amendments at the same hearing. However, the~~

~~local government must take action separately on the application for development approval or the proposed change and on the comprehensive plan amendments.~~

~~7. Thereafter, the appeal process for the local government development order must follow the provisions of s. 380.07, and the compliance process for the comprehensive plan amendments must follow the provisions of s. 163.3184.~~

~~(7) PREAPPLICATION PROCEDURES.—~~

~~(a) Before filing an application for development approval, the developer shall contact the regional planning agency having jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. The levels of service required in the transportation methodology shall be the same levels of service used to evaluate concurrency in accordance with s. 163.3180. The regional planning agency shall provide the developer information about the development-of-regional-impact process and the use of preapplication conferences to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. If an agreement is reached regarding assumptions and methodology to be used in the application for development approval, the reviewing agencies may not subsequently object to those assumptions and methodologies unless subsequent changes to the project or information obtained~~

~~during the review make those assumptions and methodologies inappropriate. The reviewing agencies may make only recommendations or comments regarding a proposed development which are consistent with the statutes, rules, or adopted local government ordinances that are applicable to developments in the jurisdiction where the proposed development is located.~~

~~(b) The regional planning agency shall establish by rule a procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.~~

~~(c) If the application for development approval is not submitted within 1 year after the date of the preapplication conference, the regional planning agency, the local government having jurisdiction, or the applicant may request that another preapplication conference be held.~~

~~(8) PRELIMINARY DEVELOPMENT AGREEMENTS.—~~

~~(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in~~

~~the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:~~

~~1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7) within 45 days after the execution of the agreement.~~

~~2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning agency agrees to a different time for good cause shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.~~

~~3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.~~

~~4. The preliminary development shall be limited to lands that the state land planning agency agrees are suitable for development and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development, when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.~~

~~5. The preliminary development agreement may allow~~

~~development which is:~~

~~a. Less than 100 percent of any applicable threshold if the developer demonstrates that such development is consistent with subparagraph 4.; or~~

~~b. Less than 120 percent of any applicable threshold if the developer demonstrates that such development is part of a proposed downtown development of regional impact specified in subsection (22) or part of any areawide development of regional impact specified in subsection (25) and that the development is consistent with subparagraph 4.~~

~~6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development or to particular conditions in a final development order.~~

~~7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.~~

~~8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.~~

~~9. In the event of a breach of the agreement or failure to~~

~~comply with any condition of the agreement, or if the agreement was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.~~

~~10. A notice of the preliminary development agreement shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement constitutes a land development regulation applicable to portions of the land covered by the agreement. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.~~

~~11. Except for those agreements which authorize preliminary development for substantial deviations pursuant to subsection (19), a developer who no longer wishes to pursue a development of regional impact may propose to abandon any preliminary development agreement executed after January 1, 1985, including those pursuant to s. 380.032(3), provided at the time of abandonment:~~

~~a. A final development order under this section has been rendered that approves all of the development actually constructed; or~~

~~b. The amount of development is less than 100 percent of all numerical thresholds of the guidelines and standards, and~~

~~the state land planning agency determines in writing that the development to date is in compliance with all applicable local regulations and the terms and conditions of the preliminary development agreement and otherwise adequately mitigates for the impacts of the development to date.~~

~~In either event, when a developer proposes to abandon said agreement, the developer shall give written notice and state that he or she is no longer proposing a development of regional impact and provide adequate documentation that he or she has met the criteria for abandonment of the agreement to the state land planning agency. Within 30 days of receipt of adequate documentation of such notice, the state land planning agency shall make its determination as to whether or not the developer meets the criteria for abandonment. Once the state land planning agency determines that the developer meets the criteria for abandonment, the state land planning agency shall issue a notice of abandonment which shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located.~~

~~(b) The state land planning agency may enter into other types of agreements to effectuate the provisions of this act as provided in s. 380.032.~~

~~(c) The provisions of this subsection shall also be available to a developer who chooses to seek development approval of a Florida Quality Development pursuant to s. 380.061.~~

~~(9) CONCEPTUAL AGENCY REVIEW.—~~

~~(a)1. In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits, a developer may elect to request conceptual agency review under this subsection either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference held pursuant to subsection (7).~~

~~2. "Conceptual agency review" means general review of the proposed location, densities, intensity of use, character, and major design features of a proposed development required to undergo review under this section for the purpose of considering whether these aspects of the proposed development comply with the issuing agency's statutes and rules.~~

~~3. Conceptual agency review is a licensing action subject to chapter 120, and approval or denial constitutes final agency action, except that the 90-day time period specified in s. 120.60(1) shall be tolled for the agency when the affected regional planning agency requests information from the developer pursuant to paragraph (10)(b). If proposed agency action on the conceptual approval is the subject of a proceeding under ss. 120.569 and 120.57, final agency action shall be conclusive as to any issues actually raised and adjudicated in the proceeding, and such issues may not be raised in any subsequent proceeding under ss. 120.569 and 120.57 on the proposed development by any parties to the prior proceeding.~~

~~4. A conceptual agency review approval shall be valid for up to 10 years, unless otherwise provided in a state or regional agency rule, and may be reviewed and reissued for additional~~

~~periods of time under procedures established by the agency.~~

~~(b) The Department of Environmental Protection, each water management district, and each other state or regional agency that requires construction or operation permits shall establish by rule a set of procedures necessary for conceptual agency review for the following permitting activities within their respective regulatory jurisdictions:~~

~~1. The construction and operation of potential sources of water pollution, including industrial wastewater, domestic wastewater, and stormwater.~~

~~2. Dredging and filling activities.~~

~~3. The management and storage of surface waters.~~

~~4. The construction and operation of works of the district, only if a conceptual agency review approval is requested under subparagraph 3.~~

~~Any state or regional agency may establish rules for conceptual agency review for any other permitting activities within its respective regulatory jurisdiction.~~

~~(c)1. Each agency participating in conceptual agency reviews shall determine and establish by rule its information and application requirements and furnish these requirements to the state land planning agency and to any developer seeking conceptual agency review under this subsection.~~

~~2. Each agency shall cooperate with the state land planning agency to standardize, to the extent possible, review procedures, data requirements, and data collection methodologies among all participating agencies, consistent with the requirements of the statutes that establish the permitting~~

~~programs for each agency.~~

~~(d) At the conclusion of the conceptual agency review, the agency shall give notice of its proposed agency action as required by s. 120.60(3) and shall forward a copy of the notice to the appropriate regional planning council with a report setting out the agency's conclusions on potential development impacts and stating whether the agency intends to grant conceptual approval, with or without conditions, or to deny conceptual approval. If the agency intends to deny conceptual approval, the report shall state the reasons therefor. The agency may require the developer to publish notice of proposed agency action in accordance with s. 403.815.~~

~~(e) An agency's decision to grant conceptual approval shall not relieve the developer of the requirement to obtain a permit and to meet the standards for issuance of a construction or operation permit or to meet the agency's information requirements for such a permit. Nevertheless, there shall be a rebuttable presumption that the developer is entitled to receive a construction or operation permit for an activity for which the agency granted conceptual review approval, to the extent that the project for which the applicant seeks a permit is in accordance with the conceptual approval and with the agency's standards and criteria for issuing a construction or operation permit. The agency may revoke or appropriately modify a valid conceptual approval if the agency shows:~~

~~1. That an applicant or his or her agent has submitted materially false or inaccurate information in the application for conceptual approval;~~

~~2. That the developer has violated a condition of the~~

~~conceptual approval; or~~

~~3. That the development will cause a violation of the agency's applicable laws or rules.~~

~~(f) Nothing contained in this subsection shall modify or abridge the law of vested rights or estoppel.~~

~~(g) Nothing contained in this subsection shall be construed to preclude an agency from adopting rules for conceptual review for developments which are not developments of regional impact.~~

~~(10) APPLICATION; SUFFICIENCY.—~~

~~(a) When an application for development approval is filed with a local government, the developer shall also send copies of the application to the appropriate regional planning agency and the state land planning agency.~~

~~(b) If a regional planning agency determines that the application for development approval is insufficient for the agency to discharge its responsibilities under subsection (12), it shall provide in writing to the appropriate local government and the applicant a statement of any additional information desired within 30 days of the receipt of the application by the regional planning agency. The applicant may supply the information requested by the regional planning agency and shall communicate its intention to do so in writing to the appropriate local government and the regional planning agency within 5 working days of the receipt of the statement requesting such information, or the applicant shall notify the appropriate local government and the regional planning agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the regional planning agency shall review it and may request only that information~~

~~needed to clarify the additional information or to answer new questions raised by, or directly related to, the additional information. The regional planning agency may request additional information no more than twice, unless the developer waives this limitation. If an applicant does not provide the information requested by a regional planning agency within 120 days of its request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn.~~

~~(c) The regional planning agency shall notify the local government that a public hearing date may be set when the regional planning agency determines that the application is sufficient or when it receives notification from the developer that the additional requested information will not be supplied, as provided for in paragraph (b).~~

~~(11) LOCAL NOTICE.—Upon receipt of the sufficiency notification from the regional planning agency required by paragraph (10)(c), the appropriate local government shall give notice and hold a public hearing on the application in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such hearing proceedings shall be recorded by tape or a certified court reporter and made available for transcription at the expense of any interested party. When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the developer, may hold a joint public hearing. The local government shall comply with the following additional requirements:~~

~~(a) The notice of public hearing shall state that the~~

~~proposed development is undergoing a development-of-regional-impact review.~~

~~(b) The notice shall be published at least 60 days in advance of the hearing and shall specify where the information and reports on the development of regional impact application may be reviewed.~~

~~(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, to any state or regional permitting agency participating in a conceptual agency review process under subsection (9), and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.~~

~~(d) A public hearing date shall be set by the appropriate local government at the next scheduled meeting. The public hearing shall be held no later than 90 days after issuance of notice by the regional planning agency that a public hearing may be set, unless an extension is requested by the applicant.~~

~~(12) REGIONAL REPORTS.—~~

~~(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:~~

~~1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans. As used in this subsection, the term "applicable state plan" means the state comprehensive plan. As used in this subsection, the term "applicable regional plan" means an adopted strategic regional policy plan.~~

~~2. The development will significantly impact adjacent jurisdictions. At the request of the appropriate local government, regional planning agencies may also review and comment upon issues that affect only the requesting local government.~~

~~3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment if the regional planning agency has adopted an affordable housing policy as part of its strategic regional policy plan. The determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.~~

~~(b) The regional planning agency report must contain recommendations that are consistent with the standards required by the applicable state permitting agencies or the water management district.~~

~~(c) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are~~

~~clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Protection permits have been issued pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits but may not offer conflicting recommendations.~~

~~(d) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.~~

~~(e) If the location of a proposed development involves land within the boundaries of multiple regional planning councils, the state land planning agency shall designate a lead regional planning council. The lead regional planning council shall prepare the regional report.~~

~~(13) CRITERIA IN AREAS OF CRITICAL STATE CONCERN.—If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under s. 380.05 and the provisions of this section. The provisions of this section shall not apply to developments in areas of critical state concern which had pending applications and had been noticed or agendaed by local government after September 1, 1985, and before October 1, 1985, for development order approval. In all such cases, the state land planning agency may consider and address applicable regional issues contained in subsection (12) as part of its area-of-critical-state-concern review pursuant to ss. 380.05,~~

~~380.07, and 380.11.~~

~~(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development is approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:~~

~~(a) The development is consistent with the local comprehensive plan and local land development regulations.~~

~~(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~

~~(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).~~

~~However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).~~

(4) ~~(15)~~ LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(a) Notwithstanding any provision of any adopted local comprehensive plan or adopted local government land development regulation to the contrary, an amendment to a development order for an approved development of regional impact adopted pursuant

to subsection (7) may not alter the ~~appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer~~.

~~(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.~~

~~(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:~~

~~1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.~~

~~2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout date that reasonably reflects the time anticipated to complete the development.~~

~~3. Shall establish a~~ date until which the local government agrees that the approved development of regional impact will ~~shall~~ not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this paragraph may not be ~~subparagraph shall be no~~ sooner

than the buildout date of the project.

~~4. Shall specify the requirements for the biennial report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.~~

~~5. May specify the types of changes to the development which shall require submission for a substantial deviation determination or a notice of proposed change under subsection (19).~~

~~6. Shall include a legal description of the property.~~

~~(d) Conditions of a development order that require a developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:~~

~~1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.~~

~~2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.~~

~~3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable~~

~~to the proposed development.~~

~~4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design.~~

(b) ~~(c)~~1. A local government may ~~shall~~ not include~~,~~ as a development order condition for a development of regional impact~~,~~ any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Selection of a contractor or design professional for any aspect of construction or design related to the construction or expansion of a public facility by a nongovernmental developer which is undertaken as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation ~~A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the~~

~~development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development~~.

~~3. The Department of Economic Opportunity and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.~~

(c) ~~(f)~~ Notice of the adoption of an amendment ~~a development order or the subsequent amendments~~ to an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice does ~~shall~~ not constitute a lien, cloud, or encumbrance on real

property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980. If the local government of jurisdiction rescinds a development order for an approved development of regional impact pursuant to s. 380.115, the developer may record notice of the rescission.

(d) ~~(g)~~ Any agreement entered into by the state land planning agency, the developer, and the ~~A~~ local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before the effective date of this act. ~~may not issue a permit for a development subsequent to the buildout date contained in the development order unless:~~

~~1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after the termination or expiration date;~~

~~2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with subsection (26);~~

~~3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any~~

~~applicable development-of-regional-impact threshold; or~~

~~4. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of this paragraph, a development of regional impact is considered essentially built out, if:~~

~~a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date or reporting requirements; and~~

~~b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or~~

~~(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.~~

~~The single-family residential portions of a development may be considered essentially built out if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered essentially built out if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use as specified in the agreement. Before the issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, the local government shall consult with the Department of Transportation before approving the exchange.~~

~~(h) If the property is annexed by another local~~

~~jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.~~

(5) ~~(16)~~ CREDITS AGAINST LOCAL IMPACT FEES.—

(a) Notwithstanding any provision of an adopted local comprehensive plan or adopted local government land development regulations to the contrary, the adoption of an amendment to a development order for an approved development of regional impact pursuant to subsection (7) does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions when such credits are based upon the developer's contribution of land or a public facility or the construction, expansion, or payment for land acquisition or construction or expansion of a public facility, or a portion thereof ~~If the development order requires the developer to contribute land or a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the developer is also subject by local ordinance to impact fees or exactions to meet the same needs, the local government shall establish and implement a procedure that credits a development order exaction or fee toward an impact fee or exaction imposed by local ordinance for the same need; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, the local government shall not be required to grant a credit toward the local exaction or impact fee unless the local government determines that such required contribution, payment, or construction meets the same need that the local exaction or impact fee would address. The nongovernmental~~

~~developer need not be required, by virtue of this credit, to competitively bid or negotiate any part of the construction or design of the facility, unless otherwise requested by the local government~~.

(b) If the local government imposes or increases an impact fee, mobility fee, or exaction by local ordinance after a development order has been issued, the developer may petition the local government, and the local government shall modify the affected provisions of the development order to give the developer credit for any contribution of land for a public facility, or construction, expansion, or contribution of funds for land acquisition or construction or expansion of a public facility, or a portion thereof, required by the development order toward an impact fee or exaction for the same need.

(c) Any ~~The local government and the developer may enter into~~ capital contribution front-ending agreement entered into by a local government and a developer which is still in effect as of the effective date of this act ~~agreements~~ as part of a development-of-regional-impact development order to reimburse the developer, or the developer's successor, for voluntary contributions paid in excess of his or her fair share remains valid.

(d) This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services to the development.

~~(17) LOCAL MONITORING. The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development~~

~~order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.~~

(6) ~~(18) BIENNIAL~~ REPORTS.—Notwithstanding any condition in a development order for an approved development of regional impact, the developer is not required to ~~shall~~ submit an annual or a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies ~~in alternate years on the date specified in the development order,~~ unless required to do so by the local government that has jurisdiction over the development. The penalty for failure to file such a required report is as prescribed by the local government ~~development order by its terms requires more frequent monitoring. If the report is not received, the state land planning agency shall notify the local government. If the local government does not receive the report or receives notification that the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for a report. Development orders that require annual reports may be amended to require biennial reports at the option of the local government~~.

(7) ~~(19)~~ CHANGES ~~SUBSTANTIAL DEVIATIONS~~.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, any proposed change to a previously approved development of regional impact shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. At least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change ~~which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose~~.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or

without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5), the adopted comprehensive plan, and adopted land development regulations. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved ~~Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the criteria in subparagraphs 1.-11. constitutes a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change process under this section~~.

~~1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.~~

~~2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.~~

~~3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is~~

~~greater.~~

~~4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.~~

~~5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.~~

~~6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.~~

~~7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.~~

~~8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.~~

~~9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.~~

~~10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development of regional impact review.~~

~~11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (c)2.j.~~

~~The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under~~

~~s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.~~

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations ~~An extension of the date of buildout of a development, or any phase thereof, by more than 7 years is presumed to create a substantial deviation subject to further development-of-regional-impact review~~.

~~1. An extension of the date of buildout, or any phase thereof, of more than 5 years but not more than 7 years is presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less is not a substantial deviation.~~

~~2. In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension. Associated mitigation requirements are extended for the same period unless, before December 1, 2011, a governmental entity notifies a developer that has commenced any construction within the phase for which the mitigation is required that the local government has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer. The 4-year extension is not a substantial deviation, is not subject to further development-of-regional-impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension.~~

~~For the purpose of calculating when a buildout or phase date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time.~~

~~(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development of regional impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.~~

~~(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.~~

~~2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:~~

~~a. Changes in the name of the project, developer, owner, or~~

~~monitoring official.~~

~~b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.~~

~~c. Changes to minimum lot sizes.~~

~~d. Changes in the configuration of internal roads which do not affect external access points.~~

~~e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.~~

~~f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.~~

~~g. Changes to eliminate an approved land use, if there are no additional regional impacts.~~

~~h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.~~

~~i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.~~

~~j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting~~

~~such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.~~

~~k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.~~

~~l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.~~

~~m. Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. and that does not create the likelihood of any additional regional impact.~~

~~This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development~~

~~order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m. and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.~~

~~3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.~~

~~4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.~~

~~5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~

~~a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.~~

~~b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases~~

~~and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.~~

~~6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.~~

~~(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.~~

~~2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.~~

~~3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This~~

~~public hearing shall be held within 60 days after submittal of the proposed changes, unless that time is extended by the developer.~~

~~4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.~~

~~5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (c), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (c)3. shall be applicable in determining whether further development-of-regional-impact review is required. The local government may also deny the proposed change based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the proposed change.~~

~~6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to~~

~~subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The requirement that a change be otherwise approved shall not be construed to require additional local review or approval if the change is allowed by applicable local ordinances without further local review or approval. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (c)1. or subparagraph (c)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.~~

~~(g) If a proposed change requires further development-of-regional-impact review pursuant to this section, the review shall be conducted subject to the following additional conditions:~~

~~1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.~~

~~2. The regional planning agency shall consider, and the~~

~~local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.~~

~~3. If the local government determines that the proposed change should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.~~

~~4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.~~

~~(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.~~

~~(i) An increase in the number of residential dwelling units shall not constitute a substantial deviation and shall not be subject to development of regional impact review for additional impacts, provided that all the residential dwelling units are~~

~~dedicated to affordable workforce housing and the total number of new residential units does not exceed 200 percent of the substantial deviation threshold. The affordable workforce housing shall be subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters. For purposes of this paragraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this paragraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.~~

(8)~~(20)~~ VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal

rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined

under this subsection, provided such zoning change is actually granted by such government.

(9) ~~(21)~~ VALIDITY OF COMPREHENSIVE APPLICATION~~; MASTER PLAN DEVELOPMENT ORDER~~.—

~~(a)~~ Any agreement previously entered into by a developer, a regional planning agency, and a local government regarding ~~If~~ a development project that includes two or more developments of regional impact and was the subject of~~, a developer may file~~ a comprehensive development-of-regional-impact application remains valid unless it expired on or before the effective date of this act.

~~(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (9) do not apply to this subsection, except that a developer may elect to utilize the review process established in subsection (9) for review of the increments of a master plan.~~

~~1. Prior to adoption of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the development order to ensure that anticipated regional impacts have been adequately addressed and that information requirements for subsequent incremental application review are clearly defined. The development order for a master application shall specify the information which~~

~~must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.~~

~~2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.~~

~~(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.~~

~~(22) DOWNTOWN DEVELOPMENT AUTHORITIES.—~~

~~(a) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to this section. The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in s. 380.031(5). For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.~~

~~(b) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (15), the development order shall specify the amount of development approved within each land use category. Development~~

~~undertaken in conformance with a development order issued under this section does not require further review.~~

~~(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).~~

~~(d) The provisions of subsection (9) do not apply to this subsection.~~

~~(23) ADOPTION OF RULES BY STATE LAND PLANNING AGENCY.~~

~~(a) The state land planning agency shall adopt rules to ensure uniform review of developments of regional impact by the state land planning agency and regional planning agencies under this section. These rules shall be adopted pursuant to chapter 120 and shall include all forms, application content, and review guidelines necessary to implement development-of-regional-impact reviews. The state land planning agency, in consultation with the regional planning agencies, may also designate types of development or areas suitable for development in which reduced information requirements for development-of-regional-impact review shall apply.~~

~~(b) Regional planning agencies shall be subject to rules adopted by the state land planning agency. At the request of a regional planning council, the state land planning agency may adopt by rule different standards for a specific comprehensive planning district upon a finding that the statewide standard is inadequate to protect or promote the regional interest at issue.~~

~~If such a regional standard is adopted by the state land planning agency, the regional standard shall be applied to all pertinent development-of-regional-impact reviews conducted in that region until rescinded.~~

~~(c) Within 6 months of the effective date of this section, the state land planning agency shall adopt rules which:~~

~~1. Establish uniform statewide standards for development-of-regional-impact review.~~

~~2. Establish a short application for development approval form which eliminates issues and questions for any project in a jurisdiction with an adopted local comprehensive plan that is in compliance.~~

~~(d) Regional planning agencies that perform development-of-regional-impact and Florida Quality Development review are authorized to assess and collect fees to fund the costs, direct and indirect, of conducting the review process. The state land planning agency shall adopt rules to provide uniform criteria for the assessment and collection of such fees. The rules providing uniform criteria shall not be subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3) by substantially affected persons. Until the state land planning agency adopts a rule implementing this paragraph, rules of the regional planning councils currently in effect regarding fees shall remain in effect. Fees may vary in relation to the type and size of a proposed project, but shall not exceed $75,000, unless the state land planning agency, after reviewing any disputed expenses charged by the regional planning agency, determines that said~~

~~expenses were reasonable and necessary for an adequate regional review of the impacts of a project.~~

~~(24) STATUTORY EXEMPTIONS.—~~

~~(a) Any proposed hospital is exempt from this section.~~

~~(b) Any proposed electrical transmission line or electrical power plant is exempt from this section.~~

~~(c) Any proposed addition to an existing sports facility complex is exempt from this section if the addition meets the following characteristics:~~

~~1. It would not operate concurrently with the scheduled hours of operation of the existing facility.~~

~~2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.~~

~~3. The sports facility complex property is owned by a public body before July 1, 1983.~~

~~This exemption does not apply to any pari-mutuel facility.~~

~~(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.~~

~~(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body before July 1, 1973, is exempt from this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.~~

~~(f) Any increase in the seating capacity of an existing~~

~~sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.~~

~~(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from this section, if the following conditions exist:~~

~~1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;~~

~~b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or~~

~~c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and~~

~~2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact~~

~~that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.~~

~~Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days after receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions which were exempt under this paragraph shall be included in the development-of-regional-impact review.~~

~~(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from this section when such expansions, projects, or facilities are~~

~~consistent with comprehensive master plans that are in compliance with s. 163.3178.~~

~~(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from this section.~~

~~(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.~~

~~(k) Waterport and marina development, including dry storage facilities, are exempt from this section.~~

~~(l) Any proposed development within an urban service boundary established under s. 163.3177(14), Florida Statutes (2010), which is not otherwise exempt pursuant to subsection (29), is exempt from this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.~~

~~(m) Any proposed development within a rural land stewardship area created under s. 163.3248.~~

~~(n) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.~~

~~(o) Any self-storage warehousing that does not allow retail or other services is exempt from this section.~~

~~(p) Any proposed nursing home or assisted living facility is exempt from this section.~~

~~(q) Any development identified in an airport master plan~~

~~and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4. is exempt from this section.~~

~~(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.~~

~~(s) Any development in a detailed specific area plan which is prepared and adopted pursuant to s. 163.3245 is exempt from this section.~~

~~(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine is exempt from this section. A mine owner will enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities pursuant to the transportation thresholds in subsection (19) or rule 9J-2.045(6), Florida Administrative Code. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are is not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which shall be governed by s. 380.115(2). Notwithstanding the foregoing, however, pursuant to s. 380.115(1), previously approved solid mineral mine development-of-regional-impact development orders shall continue to enjoy vested rights and continue to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines shall be applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.~~

~~(u) Notwithstanding any provisions in an agreement with or~~

~~among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo such review.~~

~~(v) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.~~

~~(w) Any development in an energy economic zone designated pursuant to s. 377.809 is exempt from this section upon approval by its local governing body.~~

~~(x) Any proposed development that is located in a local government jurisdiction that does not qualify for an exemption based on the population and density criteria in paragraph (29)(a), that is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4), and that is the subject of an agreement pursuant to s. 288.106(5) is exempt from this section. This exemption shall only be effective upon a written agreement executed by the applicant, the local government, and the state land planning agency. The state land planning agency shall only be a party to the agreement upon a determination that the development is the subject of an agreement pursuant to s. 288.106(5) and that the local government has the capacity to adequately assess the impacts of the proposed development. The local government shall only be a party to the agreement upon approval by the governing body of the local government and upon providing at least 21 days' notice to adjacent local governments~~

~~that includes, at a minimum, information regarding the location, density and intensity of use, and timing of the proposed development. This exemption does not apply to areas within the boundary of any area of critical state concern designated pursuant to s. 380.05, within the boundary of the Wekiva Study Area as described in s. 369.316, or within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592(2).~~

~~If a use is exempt from review as a development of regional impact under paragraphs (a)-(u), but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development of regional impact that includes a landowner, tenant, or user that has entered into a funding agreement with the Department of Economic Opportunity under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.~~

(10)~~(25)~~ AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—

~~(a)~~ Any approval of an authorized developer for ~~may submit~~ an areawide development of regional impact remains valid unless it expired on or before the effective date of this act. ~~to be reviewed pursuant to the procedures and standards set forth in this section. The areawide development-of-regional-impact review shall include an areawide development plan in addition to any other information required under this section. After review and approval of an areawide development of regional impact under this section, all development within the defined planning area~~

~~shall conform to the approved areawide development plan and development order. Individual developments that conform to the approved areawide development plan shall not be required to undergo further development-of-regional-impact review, unless otherwise provided in the development order. As used in this subsection, the term:~~

~~1. "Areawide development plan" means a plan of development that, at a minimum:~~

~~a. Encompasses a defined planning area approved pursuant to this subsection that will include at least two or more developments;~~

~~b. Maps and defines the land uses proposed, including the amount of development by use and development phasing;~~

~~c. Integrates a capital improvements program for transportation and other public facilities to ensure development staging contingent on availability of facilities and services;~~

~~d. Incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of regional and state significance; and~~

~~e. Specifies responsibilities and identifies the mechanisms for carrying out all commitments in the areawide development plan and for compliance with all conditions of any areawide development order.~~

~~2. "Developer" means any person or association of persons, including a governmental agency as defined in s. 380.031(6), that petitions for authorization to file an application for development approval for an areawide development plan.~~

~~(b) A developer may petition for authorization to submit a proposed areawide development of regional impact for a defined~~

~~planning area in accordance with the following requirements:~~

~~1. A petition shall be submitted to the local government, the regional planning agency, and the state land planning agency.~~

~~2. A public hearing or joint public hearing shall be held if required by paragraph (c), with appropriate notice, before the affected local government.~~

~~3. The state land planning agency shall apply the following criteria for evaluating a petition:~~

~~a. Whether the developer is financially capable of processing the application for development approval through final approval pursuant to this section.~~

~~b. Whether the defined planning area and anticipated development therein appear to be of a character, magnitude, and location that a proposed areawide development plan would be in the public interest. Any public interest determination under this criterion is preliminary and not binding on the state land planning agency, regional planning agency, or local government.~~

~~4. The state land planning agency shall develop and make available standard forms for petitions and applications for development approval for use under this subsection.~~

~~(c) Any person may submit a petition to a local government having jurisdiction over an area to be developed, requesting that government to approve that person as a developer, whether or not any or all development will be undertaken by that person, and to approve the area as appropriate for an areawide development of regional impact.~~

~~(d) A general purpose local government with jurisdiction over an area to be considered in an areawide development of~~

~~regional impact shall not have to petition itself for authorization to prepare and consider an application for development approval for an areawide development plan. However, such a local government shall initiate the preparation of an application only:~~

~~1. After scheduling and conducting a public hearing as specified in paragraph (c); and~~

~~2. After conducting such hearing, finding that the planning area meets the standards and criteria pursuant to subparagraph (b)3. for determining that an areawide development plan will be in the public interest.~~

~~(e) The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days prior to the hearing. In addition to the public hearing notice by the local government, the petitioner, except when the petitioner is a local government, shall provide actual notice to each person owning land within the proposed areawide development plan at least 30 days prior to the hearing. If the petitioner is a local government, or local governments pursuant to an interlocal agreement, notice of the public hearing shall be provided by the publication of an advertisement in a newspaper of general circulation that meets the requirements of this paragraph. The advertisement must be no less than one-quarter page in a standard size or tabloid size newspaper, and the headline in the advertisement must be in type no smaller than 18 point. The advertisement shall not be published in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in a newspaper of~~

~~general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement must appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published less than 5 days a week. The advertisement must be in substantially the form used to advertise amendments to comprehensive plans pursuant to s. 163.3184. The local government shall specifically notify in writing the regional planning agency and the state land planning agency at least 30 days prior to the public hearing. At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications, the need for and benefits of an areawide development of regional impact, and such other issues relevant to a full consideration of the petition. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. Such hearing shall address, at a minimum, the need to resolve conflicting ordinances or comprehensive plans, if any. The local government holding the joint hearing shall comply with the following additional requirements:~~

~~1. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.~~

~~2. The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.~~

~~3. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.~~

~~(f) Following the public hearing, the local government shall issue a written order, appealable under s. 380.07, which approves, approves with conditions, or denies the petition. It shall approve the petitioner as the developer if it finds that the petitioner and defined planning area meet the standards and criteria, consistent with applicable law, pursuant to subparagraph (b)3.~~

~~(g) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the regional planning agency, and to the state land planning agency within 30 days after the order becomes effective.~~

~~(h) The petitioner, an owner of property within the defined planning area, the appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in s. 380.07 shall be followed for such an appeal.~~

~~(i) After the time for appeal of the decision has run, an approved developer may submit an application for development approval for a proposed areawide development of regional impact for land within the defined planning area, pursuant to subsection (6). Development undertaken in conformance with an areawide development order issued under this section shall not require further development-of-regional-impact review.~~

~~(j) In reviewing an application for a proposed areawide development of regional impact, the regional planning agency shall evaluate, and the local government shall consider, the following criteria, in addition to any other criteria set forth in this section:~~

~~1. Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact.~~

~~2. Whether the developer has demonstrated that all property owners within the defined planning area consent or do not object to the proposed areawide development of regional impact.~~

~~3. Whether the area and the anticipated development are consistent with the applicable local, regional, and state comprehensive plans, except as provided for in paragraph (k).~~

~~(k) In addition to the requirements of subsection (14), a development order approving, or approving with conditions, a proposed areawide development of regional impact shall specify the approved land uses and the amount of development approved within each land use category in the defined planning area. The development order shall incorporate by reference the approved areawide development plan. The local government shall not approve an areawide development plan that is inconsistent with the local comprehensive plan, except that a local government may amend its comprehensive plan pursuant to paragraph (6)(b).~~

~~(l) Any owner of property within the defined planning area may withdraw his or her consent to the areawide development plan at any time prior to local government approval, with or without conditions, of the petition; and the plan, the areawide~~

~~development order, and the exemption from development-of-regional-impact review of individual projects under this section shall not thereafter apply to the owner's property. After the areawide development order is issued, a landowner may withdraw his or her consent only with the approval of the local government.~~

~~(m) If the developer of an areawide development of regional impact is a general purpose local government with jurisdiction over the land area included within the areawide development proposal and if no interest in the land within the land area is owned, leased, or otherwise controlled by a person, corporate or natural, for the purpose of mining or beneficiation of minerals, then:~~

~~1. Demonstration of property owner consent or lack of objection to an areawide development plan shall not be required; and~~

~~2. The option to withdraw consent does not apply, and all property and development within the areawide development planning area shall be subject to the areawide plan and to the development order conditions.~~

~~(n) After a development order approving an areawide development plan is received, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).~~

(11) ~~(26)~~ ABANDONMENT OF DEVELOPMENTS OF REGIONAL IMPACT.—

(a) There is hereby established a process to abandon a development of regional impact and its associated development orders. A development of regional impact and its associated

development orders may be proposed to be abandoned by the owner or developer. The local government in whose jurisdiction ~~in which~~ the development of regional impact is located also may propose to abandon the development of regional impact, provided that the local government gives individual written notice to each development-of-regional-impact owner and developer of record, and provided that no such owner or developer objects in writing to the local government before ~~prior to~~ or at the public hearing pertaining to abandonment of the development of regional impact. ~~The state land planning agency is authorized to promulgate rules that shall include, but not be limited to, criteria for determining whether to grant, grant with conditions, or deny a proposal to abandon, and provisions to ensure that the developer satisfies all applicable conditions of the development order and adequately mitigates for the impacts of the development.~~ If there is no existing development within the development of regional impact at the time of abandonment and no development within the development of regional impact is proposed by the owner or developer after such abandonment, an abandonment order may ~~shall~~ not require the owner or developer to contribute any land, funds, or public facilities as a condition of such abandonment order. The local government must file ~~rules shall also provide a procedure for filing~~ notice of the abandonment pursuant to s. 28.222 with the clerk of the circuit court for each county in which the development of regional impact is located. Abandonment will be deemed to have occurred upon the recording of the notice. Any decision by a local government concerning the abandonment of a development of regional impact is ~~shall be~~ subject to an appeal pursuant to s.

380.07. The issues in any such appeal must ~~shall~~ be confined to whether the provisions of this subsection ~~or any rules promulgated thereunder~~ have been satisfied.

(b) If requested by the owner, developer, or local government, the development-of-regional-impact development order must be abandoned by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development which existed on the date of abandonment has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), provided such permit or authorization is subject to enforcement through administrative or judicial remedies ~~Upon receipt of written confirmation from the state land planning agency that any required mitigation applicable to completed development has occurred, an industrial development of regional impact located within the coastal high-hazard area of a rural area of opportunity which was approved before the adoption of the local government's comprehensive plan required under s. 163.3167 and which plan's future land use map and zoning designates the land use for the development of regional impact as commercial may be unilaterally abandoned without the need to proceed through the process described in paragraph (a) if the developer or owner provides a notice of abandonment to the local government and records such notice with the applicable clerk of court. Abandonment shall be deemed to have occurred upon the recording of the notice~~. All development following abandonment must ~~shall~~ be fully consistent with the current comprehensive plan and applicable zoning.

(c) A development order for abandonment of an approved

development of regional impact may be amended by a local government pursuant to subsection (7), provided that the amendment does not reduce any mitigation previously required as a condition of abandonment, unless the developer demonstrates that changes to the development no longer will result in impacts that necessitated the mitigation.

~~(27) RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS UNDER A DEVELOPMENT ORDER.—If a developer or owner is in doubt as to his or her rights, responsibilities, and obligations under a development order and the development order does not clearly define his or her rights, responsibilities, and obligations, the developer or owner may request participation in resolving the dispute through the dispute resolution process outlined in s. 186.509. The Department of Economic Opportunity shall be notified by certified mail of any meeting held under the process provided for by this subsection at least 5 days before the meeting.~~

~~(28) PARTIAL STATUTORY EXEMPTIONS.—~~

~~(a) If the binding agreement referenced under paragraph (24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.~~

~~(b) If the binding agreement referenced under paragraph (24)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.~~

~~(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.~~

~~(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(m) shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects within an urban service boundary under paragraph (24)(l), or a rural land stewardship area under paragraph (24)(m), must address transportation impacts only.~~

~~(e) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).~~

~~(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—~~

~~(a) The following are exempt from this section:~~

~~1. Any proposed development in a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;~~

~~2. Any proposed development within a county, including the municipalities located in the county, that has an average of at~~

~~least 1,000 people per square mile of land area and is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan;~~

~~3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, that has an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; or~~

~~4. Any proposed development within a county, including the municipalities located therein, which has a population of at least 1 million and is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan.~~

~~The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's Internet website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency shall maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until such time as the municipality as a whole meets the criteria. Any county that meets the criteria shall remain on the list in accordance with the provisions of this paragraph. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, shall remain on the list in accordance with the provisions of this paragraph.~~

~~(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:~~

~~1. Urban infill as defined in s. 163.3164;~~

~~2. Community redevelopment areas as defined in s. 163.340;~~

~~3. Downtown revitalization areas as defined in s. 163.3164;~~

~~4. Urban infill and redevelopment under s. 163.2517; or~~

~~5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s.~~

~~163.3177(14), Florida Statutes (2010).~~

~~(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:~~

~~1. Urban infill as defined in s. 163.3164;~~

~~2. Urban infill and redevelopment under s. 163.2517; or~~

~~3. Urban service areas as defined in s. 163.3164.~~

~~(d) A development that is located partially outside an area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to this section. However, if the total acreage that is included within the area exempt from development-of-regional-impact review exceeds 85 percent of the total acreage and square footage of the approved development of regional impact, the development-of-regional-impact development order may be rescinded in both local governments pursuant to s. 380.115(1), unless the portion of the development outside the exempt area meets the threshold criteria of a development-of-regional-impact.~~

~~(e) In an area that is exempt under paragraphs (a)-(c), any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be governed by s. 380.115(1). A pending application for development approval shall be governed by s. 380.115(2).~~

~~(f) Local governments must submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of-regional-impact threshold and would require development-of-~~

~~regional-impact review but for the exemption from the program under paragraphs (a)-(c). For such development orders, the state land planning agency may appeal the development order pursuant to s. 380.07 for inconsistency with the comprehensive plan adopted under chapter 163.~~

~~(g) If a local government that qualifies as a dense urban land area under this subsection is subsequently found to be incligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved.~~

~~(h) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.~~

~~(i) This subsection does not apply to areas:~~

~~1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;~~

~~2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or~~

~~3. Within 2 miles of the boundary of the Everglades Protection Area as described in s. 373.4592(2).~~

(12)~~(30)~~ PROPOSED DEVELOPMENTS.—A proposed development that exceeds the statewide guidelines and standards specified in s. 380.0651 and is not otherwise exempt pursuant to s. 380.0651 must ~~otherwise subject to the review requirements of this section shall~~ be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this

section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 2. Section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(1) This section only applies to developments approved as Florida Quality Developments before the effective date of this act ~~There is hereby created the Florida Quality Developments program. The intent of this program is to encourage development which has been thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire. It is further intended that the developer be provided, through a cooperative and coordinated effort, an expeditious and timely review by all agencies with jurisdiction over the project of his or her proposed development~~.

(2) Following written notification to the state land planning agency and the appropriate regional planning agency, a local government with an approved Florida Quality Development within its jurisdiction must set a public hearing pursuant to its local procedures and shall adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Development. Thereafter, the Florida Quality Development shall follow the

procedures and requirements for developments of regional impact as specified in this chapter ~~Developments that may be designated as Florida Quality Developments are those developments which are above 80 percent of any numerical thresholds in the guidelines and standards for development of regional impact review pursuant to s. 380.06~~.

~~(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements if applicable to the site of a qualified development:~~

~~1. Donate or enter into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of this requirement, the developer may enter into a binding commitment that runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for passive recreation that is consistent with the purposes for which the land was preserved.~~

~~a. Those wetlands and water bodies throughout the state which would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities if such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the~~

~~jurisdiction of the Department of Environmental Protection which have been artificially created if the redesign or alteration is done so as to produce a more naturally functioning system.~~

~~b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.~~

~~c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.~~

~~d. Areas known to be important to animal species designated as endangered or threatened by the United States Fish and Wildlife Service or by the Fish and Wildlife Conservation Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.~~

~~e. Areas known to contain plant species designated as endangered by the Department of Agriculture and Consumer Services.~~

~~2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency, the Department of Environmental Protection, or the Department of Agriculture and Consumer Services. This subparagraph does not apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.~~

~~3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.~~

~~4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as permitted pursuant to s. 403.813(1), and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.~~

~~5. Include open space, recreation areas, Florida-friendly landscaping as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.~~

~~6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts that the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, are available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.~~

~~7. Design and construct the development in a manner that is~~

~~consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.~~

~~(b) In addition to the foregoing requirements, the developer shall plan and design his or her development in a manner which includes the needs of the people in this state as identified in the state comprehensive plan and the quality of life of the people who will live and work in or near the development. The developer is encouraged to plan and design his or her development in an innovative manner. These planning and design features may include, but are not limited to, such things as affordable housing, care for the elderly, urban renewal or redevelopment, mass transit, the protection and preservation of wetlands outside the jurisdiction of the Department of Environmental Protection or of uplands as wildlife habitat, provision for the recycling of solid waste, provision for onsite child care, enhancement of emergency management capabilities, the preservation of areas known to be primary habitat for significant populations of species of special concern designated by the Fish and Wildlife Conservation Commission, or community economic development. These additional amenities will be considered in determining whether the development qualifies for designation under this program.~~

~~(4) The department shall adopt an application for development designation consistent with the intent of this section.~~

~~(5)(a) Before filing an application for development designation, the developer shall contact the Department of Economic Opportunity to arrange one or more preapplication~~

~~conferences with the other reviewing entities. Upon the request of the developer or any of the reviewing entities, other affected state or regional agencies shall participate in this conference. The department, in coordination with the local government with jurisdiction and the regional planning council, shall provide the developer information about the Florida Quality Developments designation process and the use of preapplication conferences to identify issues, coordinate appropriate state, regional, and local agency requirements, fully address any concerns of the local government, the regional planning council, and other reviewing agencies and the meeting of those concerns, if applicable, through development order conditions, and otherwise promote a proper, efficient, and timely review of the proposed Florida Quality Development. The department shall take the lead in coordinating the review process.~~

~~(b) The developer shall submit the application to the state land planning agency, the appropriate regional planning agency, and the appropriate local government for review. The review shall be conducted under the time limits and procedures set forth in s. 120.60, except that the 90-day time limit shall cease to run when the state land planning agency and the local government have notified the applicant of their decision on whether the development should be designated under this program.~~

~~(c) At any time prior to the issuance of the Florida Quality Development development order, the developer of a proposed Florida Quality Development shall have the right to withdraw the proposed project from consideration as a Florida Quality Development. The developer may elect to convert the~~

~~proposed project to a proposed development of regional impact. The conversion shall be in the form of a letter to the reviewing entities stating the developer's intent to seek authorization for the development as a development of regional impact under s. 380.06. If a proposed Florida Quality Developments converts to a development of regional impact, the developer shall resubmit the appropriate application and the development shall be subject to all applicable procedures under s. 380.06, except that:~~

~~1. A preapplication conference held under paragraph (a) satisfies the preapplication procedures requirement under s. 380.06(7); and~~

~~2. If requested in the withdrawal letter, a finding of completeness of the application under paragraph (a) and s. 120.60 may be converted to a finding of sufficiency by the regional planning council if such a conversion is approved by the regional planning council.~~

~~The regional planning council shall have 30 days to notify the developer if the request for conversion of completeness to sufficiency is granted or denied. If granted and the application is found sufficient, the regional planning council shall notify the local government that a public hearing date may be set to consider the development for approval as a development of regional impact, and the development shall be subject to all applicable rules, standards, and procedures of s. 380.06. If the request for conversion of completeness to sufficiency is denied, the developer shall resubmit the appropriate application for review and the development shall be subject to all applicable procedures under s. 380.06, except as otherwise provided in this paragraph.~~

~~(d) If the local government and state land planning agency agree that the project should be designated under this program, the state land planning agency shall issue a development order which incorporates the plan of development as set out in the application along with any agreed-upon modifications and conditions, based on recommendations by the local government and regional planning council, and a certification that the development is designated as one of Florida's Quality Developments. In the event of conflicting recommendations, the state land planning agency, after consultation with the local government and the regional planning agency, shall resolve such conflicts in the development order. Upon designation, the development, as approved, is exempt from development-of-regional-impact review pursuant to s. 380.06.~~

~~(c) If the local government or state land planning agency, or both, recommends against designation, the development shall undergo development-of-regional-impact review pursuant to s. 380.06, except as provided in subsection (6) of this section.~~

~~(6)(a) In the event that the development is not designated under subsection (5), the developer may appeal that determination to the Quality Developments Review Board. The board shall consist of the secretary of the state land planning agency, the Secretary of Environmental Protection and a member designated by the secretary, the Secretary of Transportation, the executive director of the Fish and Wildlife Conservation Commission, the executive director of the appropriate water management district created pursuant to chapter 373, and the chief executive officer of the appropriate local government.~~

~~When there is a significant historical or archaeological site within the boundaries of a development which is appealed to the board, the director of the Division of Historical Resources of the Department of State shall also sit on the board. The staff of the state land planning agency shall serve as staff to the board.~~

~~(b) The board shall meet once each quarter of the year. However, a meeting may be waived if no appeals are pending.~~

~~(c) On appeal, the sole issue shall be whether the development meets the statutory criteria for designation under this program. An affirmative vote of at least five members of the board, including the affirmative vote of the chief executive officer of the appropriate local government, shall be necessary to designate the development by the board.~~

~~(d) The state land planning agency shall adopt procedural rules for consideration of appeals under this subsection.~~

~~(7)(a) The development order issued pursuant to this section is enforceable in the same manner as a development order issued pursuant to s. 380.06.~~

~~(b) Appeal of a development order issued pursuant to this section shall be available only pursuant to s. 380.07.~~

~~(8)(a) Any local government comprehensive plan amendments related to a Florida Quality Development may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval. Nothing in this subsection shall be construed to require favorable consideration of a Florida Quality Development solely because it is related to a development of regional impact.~~

~~(b) The department shall adopt, by rule, standards and~~

~~procedures necessary to implement the Florida Quality Developments program. The rules must include, but need not be limited to, provisions governing annual reports and criteria for determining whether a proposed change to an approved Florida Quality Development is a substantial change requiring further review.~~

Section 3. Section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines, ~~and~~ standards, and exemptions.—

(1) STATEWIDE GUIDELINES AND STANDARDS.—~~The statewide guidelines and standards for developments required to undergo development of regional impact review provided in this section supersede the statewide guidelines and standards previously adopted by the Administration Commission that address the same development. Other standards and guidelines previously adopted by the Administration Commission, including the residential standards and guidelines, shall not be superseded. The guidelines and standards shall be applied in the manner described in s. 380.06(2)(a).~~

~~(2) The Administration Commission shall publish the statewide guidelines and standards established in this section in its administrative rule in place of the guidelines and standards that are superseded by this act, without the proceedings required by s. 120.54 and notwithstanding the provisions of s. 120.545(1)(c). The Administration Commission shall initiate rulemaking proceedings pursuant to s. 120.54 to make all other technical revisions necessary to conform the rules to this act. Rule amendments made pursuant to this~~

~~subsection shall not be subject to the requirement for legislative approval pursuant to s. 380.06(2).~~

~~(3)~~ Subject to the exemptions and partial exemptions specified in this section, the following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments are subject to the requirements of s. 380.06 ~~shall be required to undergo development-of-regional-impact review~~:

(a) *Airports.*—

1. Any of the following airport construction projects is ~~shall be~~ a development of regional impact:

a. A new commercial service or general aviation airport with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport is ~~shall~~ not ~~be~~ a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal

facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.

(b) *Attractions and recreation facilities.*—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:

1. For single performance facilities:

a. Provides parking spaces for more than 2,500 cars; or

b. Provides more than 10,000 permanent seats for spectators.

2. For serial performance facilities:

a. Provides parking spaces for more than 1,000 cars; or

b. Provides more than 4,000 permanent seats for spectators.

For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

(c) *Office development.*—Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local

comprehensive plan.

(d) *Retail and service development.*—Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. Provides parking spaces for more than 2,500 cars.

(e) *Recreational vehicle development.*—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(f) *Multiuse development.*—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(g) *Residential development.*—A rule may not be adopted concerning residential developments which treats a residential

development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 miles or less of the less populated adjacent county. The residential thresholds of adjacent counties with less population and a lower threshold may not be controlling on any development wholly located within areas designated as rural areas of opportunity.

(h) *Workforce housing.*—The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the total residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this paragraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For the purposes of this paragraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the

Florida Association of Realtors and the University of Florida Real Estate Research Center.

(i) *Schools.*—

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

(2) STATUTORY EXEMPTIONS.—The following developments are exempt from s. 380.06:

(a) Any proposed hospital.

(b) Any proposed electrical transmission line or electrical power plant.

(c) Any proposed addition to an existing sports facility complex if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled

hours of operation of the existing facility;

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility; and

3. The sports facility complex property was owned by a public body before July 1, 1983.

This exemption does not apply to any pari-mutuel facility as defined in s. 550.002.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university, if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body before July 1, 1973, if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and does not exceed a total of 10 percent in any 5-year period. The sports facility must notify the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan must be consistent

with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction over the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer, and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of the ports specified in s. 403.021(9)(b) when such expansions, projects, or facilities are consistent with port master plans and are in compliance with s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility.

(j) Any renovation or redevelopment within the same parcel as the existing development if such renovation or redevelopment does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities.

(l) Any proposed development within an urban service area boundary established under s. 163.3177(14), Florida Statutes (2010), that is not otherwise exempt pursuant to subsection (3), if the local government having jurisdiction over the area where the development is proposed has adopted the urban service area boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.

(m) Any proposed development within a rural land stewardship area created under s. 163.3248.

(n) The establishment, relocation, or expansion of any military installation as specified in s. 163.3175.

(o) Any self-storage warehousing that does not allow retail or other services.

(p) Any proposed nursing home or assisted living facility.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4.

(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30.

(s) Any development in a detailed specific area plan prepared and adopted pursuant to s. 163.3245.

(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine. A mine owner must, however, enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities. Notwithstanding this requirement, pursuant to s. 380.115(1), a previously approved solid mineral mine development-of-regional-impact development order continues to have vested rights and continues to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines are applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.

(u) Notwithstanding any provision in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under the revised thresholds specified in s. 380.06(2)(b) and this section.

(v) Any development within a county that has a research and education authority created by special act and which is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159.

(w) Any development in an energy economic zone designated pursuant to s. 377.809 upon approval by its local governing body.

If a use is exempt from review pursuant to paragraphs (a)-(u),

but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the Department of Economic Opportunity under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(3) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(a) The following are exempt from the requirements of s. 380.06:

1. Any proposed development in a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

2. Any proposed development within a county, including the municipalities located therein, having an average of at least 1,000 people per square mile of land area and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan as defined in s. 163.3164;

3. Any proposed development within a county, including the municipalities located therein, having a population of at least 900,000 and an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; and

4. Any proposed development within a county, including the municipalities located therein, having a population of at least 1 million and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the

comprehensive plan.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency must maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until the municipality as a whole meets the criteria. Any county

that meets the criteria must remain on the list. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, must remain on the list.

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from s. 380.06 unless otherwise required by part II of chapter 163:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service area boundary pursuant to s. 163.3177(14), Florida Statutes (2010).

(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Urban infill and redevelopment pursuant to s. 163.2517; or

3. Urban service areas as defined in s. 163.3164.

(d) If any part of the development is located an area that is exempt from s. 380.06, all of the development is exempt from s. 380.06.

(e) In an area that is exempt under paragraphs (a), (b), and (c), any previously approved development-of-regional-impact development orders shall continue to be effective. However, the

developer has the option to be governed by s. 380.115(1).

(f) If a local government qualifies as a dense urban land area under this subsection and is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development shall maintain the exemption if the developer is continuing the application process in good faith or the development is approved.

(g) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.

(h) This subsection does not apply to areas:

1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;

2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or

3. Within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592.

(4) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (2)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service area boundary, the review pursuant to s. 380.06(12) for projects within the urban service area boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (2)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land

stewardship area, the review pursuant to s. 380.06(12) for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the review pursuant to s. 380.06(12) for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (2)(l) or paragraph (2)(m) must provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b), and (c). Following the notification of the state land planning agency, a review pursuant to s. 380.06(12) for projects within an urban service area boundary under paragraph (2)(l), or a rural land stewardship area under paragraph (2)(m), must address transportation impacts only.

(e) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from s. 380.06 under paragraphs (a)-(d) of this subsection.

~~(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and~~

~~are physically proximate to one other.~~

~~(a) The criteria of three of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:~~

~~1.a. The same person has retained or shared control of the developments;~~

~~b. The same person has ownership or a significant legal or equitable interest in the developments; or~~

~~c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.~~

~~2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.~~

~~3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of Florida Condominiums, Timeshares, and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.~~

~~4. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.~~

~~(b) The following activities or circumstances shall not be~~

~~considered in determining whether to aggregate two or more developments:~~

~~1. Activities undertaken leading to the adoption or amendment of any comprehensive plan element described in part II of chapter 163.~~

~~2. The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels.~~

~~3. The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which it has an interest.~~

~~4. Drainage improvements that are not designed to accommodate the types of development listed in the guidelines and standards contained in or adopted pursuant to this chapter or which are not designed specifically to accommodate the developments sought to be aggregated.~~

~~(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply:~~

~~1. Developments that are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may not be aggregated with the approved development of regional impact. However, this subparagraph does not preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.~~

~~2. Two or more developments, each of which is independently~~

~~a development of regional impact that has or will obtain a development order pursuant to s. 380.06.~~

~~3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.~~

~~4. The developments sought to be aggregated were authorized to commence development before September 1, 1988, and could not have been required to be aggregated under the law existing before that date.~~

~~5. Any development that qualifies for an exemption under s. 380.06(29).~~

~~6. Newly acquired lands intended for development in coordination with a developed and existing development of regional impact are not subject to aggregation if the newly acquired lands comprise an area that is equal to or less than 10 percent of the total acreage subject to an existing development-of-regional-impact development order.~~

~~(d) The provisions of this subsection shall be applied prospectively from September 1, 1988. Written decisions, agreements, and binding letters of interpretation made or issued by the state land planning agency prior to July 1, 1988, shall not be affected by this subsection.~~

~~(e) In order to encourage developers to design, finance, donate, or build infrastructure, public facilities, or services, the state land planning agency may enter into binding agreements~~

~~with two or more developers providing that the joint planning, sharing, or use of specified public infrastructure, facilities, or services by the developers shall not be considered in any subsequent determination of whether a unified plan of development exists for their developments. Such binding agreements may authorize the developers to pool impact fees or impact-fee credits, or to enter into front-end agreements, or other financing arrangements by which they collectively agree to design, finance, donate, or build such public infrastructure, facilities, or services. Such agreements shall be conditioned upon a subsequent determination by the appropriate local government of consistency with the approved local government comprehensive plan and land development regulations. Additionally, the developers must demonstrate that the provision and sharing of public infrastructure, facilities, or services is in the public interest and not merely for the benefit of the developments which are the subject of the agreement. Developments that are the subject of an agreement pursuant to this paragraph shall be aggregated if the state land planning agency determines that sufficient aggregation factors are present to require aggregation without considering the design features, financial arrangements, donations, or construction that are specified in and required by the agreement.~~

~~(f) The state land planning agency has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.~~

Section 4. Section 380.07, Florida Statutes, is amended to read:

380.07 Florida Land and Water Adjudicatory Commission.—

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program ~~and the requirements for developments of regional impact as set forth in this chapter~~.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to the abandonment of any approved development of regional impact, copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with ~~the provisions of~~ this part. ~~The appropriate regional planning agency by vote at a regularly scheduled meeting may recommend that the state land planning agency undertake an appeal of a development-of-regional-impact development order. Upon the request of an appropriate regional planning council, affected local government, or any citizen, the state land planning agency shall consider whether to appeal the order and shall respond to the request within the 45-day appeal period.~~

(3) Notwithstanding any other provision of law, an appeal

of a development order in an area of critical state concern by the state land planning agency under this section may include consistency of the development order with the local comprehensive plan. ~~However, if a development order relating to a development of regional impact has been challenged in a proceeding under s. 163.3215 and a party to the proceeding serves notice to the state land planning agency of the pending proceeding under s. 163.3215, the state land planning agency shall:~~

~~(a) Raise its consistency issues by intervening as a full party in the pending proceeding under s. 163.3215 within 30 days after service of the notice; and~~

~~(b) Dismiss the consistency issues from the development order appeal.~~

(4) ~~The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after the completion of the appeal process.~~

~~(5) The 45-day appeal period for a development of regional impact within the jurisdiction of more than one local government shall not commence until after all the local governments having jurisdiction over the proposed development of regional impact have rendered their development orders.~~ The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government that ~~which~~ issued the order. The filing of the notice of appeal stays ~~shall stay~~ the effectiveness of the order until after the completion of the appeal process.

(5)~~(6)~~ Before ~~Prior to~~ issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to ~~the provisions of~~ chapter 120. The commission shall encourage the submission of appeals on the record made pursuant to subsection (7) ~~below~~ in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(6)~~(7)~~ The Florida Land and Water Adjudicatory Commission shall issue a decision granting or denying permission to develop pursuant to the standards of this chapter and may attach conditions and restrictions to its decisions.

(7)~~(8)~~ If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403 and for which a permit or conceptual review approval has been obtained before ~~prior to~~ the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed pursuant to this section, together with other issues that ~~which~~ constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained before ~~prior to~~ the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there is ~~shall be~~ a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or conceptual approval has been obtained are not

adversely affected.

Section 5. Section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in statewide guidelines and standards.—

~~(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact.~~ A development that has received a development-of-regional-impact development order pursuant to s. 380.06 but is no longer required to undergo development-of-regional-impact review by operation of law may elect ~~a change in the guidelines and standards, a development that has reduced its size below the thresholds as specified in s. 380.0651, a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects~~ to rescind the development order pursuant to ~~are governed by~~ the following procedures:

(1)~~(a)~~ The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in subsection (2) ~~paragraph (b)~~. Any proposed changes to developments which continue to be governed by a development-of-regional-impact development order must be approved pursuant to s. 380.06(7) ~~s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are doubled and all other criteria are increased by 10 percent~~. The local

government issuing the development order must monitor the development and enforce the development order. Local governments may not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order. The development-of-regional-impact development order may be enforced ~~by the local government~~ as provided in s. 380.11 ~~ss. 380.06(17) and 380.11~~.

(2)~~(b)~~ If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if such permit or authorization is subject to enforcement through administrative or judicial remedies.

~~(2) A development with an application for development approval pending, pursuant to s. 380.06, on the effective date of a change to the guidelines and standards, or a notification of proposed change pending on the effective date of a change to the guidelines and standards, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).~~

~~(3) A landowner that has filed an application for a development of regional impact review prior to the adoption of a sector plan pursuant to s. 163.3245 may elect to have the~~

~~application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of the sector plan, and any requested comprehensive plan amendments that accompany the application.~~

Section 6. Paragraph (c) of subsection (1) of section 125.68, Florida Statutes, is amended to read:

125.68 Codification of ordinances; exceptions; public record.—

(1)

(c) The following ordinances are exempt from codification and annual publication requirements:

1. Any development agreement, or amendment to such agreement, adopted by ordinance pursuant to ss. 163.3220-163.3243.

2. Any development order, or amendment to such order, adopted by ordinance pursuant to s. 380.06(4) ~~s. 380.06(15)~~.

Section 7. Paragraph (e) of subsection (3), subsection (6), and subsection (12) of section 163.3245, Florida Statutes, are amended to read:

163.3245 Sector plans.—

(3) Sector planning encompasses two levels: adoption pursuant to s. 163.3184 of a long-term master plan for the entire planning area as part of the comprehensive plan, and adoption by local development order of two or more detailed specific area plans that implement the long-term master plan and within which s. 380.06 is waived.

(e) Whenever a local government issues a development order approving a detailed specific area plan, a copy of such order shall be rendered to the state land planning agency and the

owner or developer of the property affected by such order, as prescribed by rules of the state land planning agency for a development order for a development of regional impact. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the detailed specific area plan is not consistent with the comprehensive plan or with the long-term master plan adopted pursuant to this section. The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after completion of the appeal process. However, if a development order approving a detailed specific area plan has been challenged by an aggrieved or adversely affected party in a judicial proceeding pursuant to s. 163.3215, and a party to such proceeding serves notice to the state land planning agency, the state land planning agency shall dismiss its appeal to the commission and shall have the right to intervene in the pending judicial proceeding pursuant to s. 163.3215. Proceedings for administrative review of an order approving a detailed specific area plan shall be conducted consistent with s. 380.07(5) ~~s. 380.07(6)~~. The commission shall issue a decision granting or denying permission to develop pursuant to the long-term master plan and the standards of this part and may attach conditions or restrictions to its decisions.

(6) An applicant who applied ~~Concurrent with or subsequent to review and adoption of a long-term master plan pursuant to paragraph (3)(a), an applicant may apply~~ for master development

approval pursuant to s. 380.06 ~~s. 380.06(21)~~ for the entire planning area shall remain subject to the master development order ~~in order to establish a buildout date until which the approved uses and densities and intensities of use of the master plan are not subject to downzoning, unit density reduction, or intensity reduction,~~ unless the developer elects to rescind the development order pursuant to s. 380.115, the development order is abandoned pursuant to s. 380.06(11), or the local government can demonstrate that implementation of the master plan is not continuing in good faith based on standards established by plan policy, that substantial changes in the conditions underlying the approval of the master plan have occurred, that the master plan was based on substantially inaccurate information provided by the applicant, or that change is clearly established to be essential to the public health, safety, or welfare. ~~Review of the application for master development approval shall be at a level of detail appropriate for the long-term and conceptual nature of the long-term master plan and, to the maximum extent possible, may only consider information provided in the application for a long-term master plan.~~ Notwithstanding s. 380.06, an increment of development in such an approved master development plan must be approved by a detailed specific area plan pursuant to paragraph (3)(b) and is exempt from review pursuant to s. 380.06.

(12) Notwithstanding s. 380.06, this part, or any planning agreement or plan policy, a landowner or developer who has received approval of a master development-of-regional-impact development order pursuant to s. 380.06(9) ~~s. 380.06(21)~~ may apply to implement this order by filing one or more applications

to approve a detailed specific area plan pursuant to paragraph (3)(b).

Section 8. Subsections (11) through (14) of section 163.3246, Florida Statutes, are amended to read:

163.3246 Local government comprehensive planning certification program.—

~~(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area shall be exempt from review under s. 380.06.~~

(11)~~(12)~~ A local government's certification shall be reviewed by the local government and the state land planning agency as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year after the deadline for the local government to update its comprehensive plan based on the evaluation and appraisal, the state land planning agency must ~~shall~~ renew or revoke the certification. The local government's failure to timely adopt necessary amendments to update its comprehensive plan based on an evaluation and appraisal, which are found to be in compliance by the state land planning agency, is ~~shall be~~ cause for revoking the certification agreement. The state land planning agency's decision to renew or revoke is ~~shall be considered~~ agency action subject to challenge under s. 120.569.

(12)~~(13)~~ The state land planning agency shall, by July 1 of each odd-numbered year, submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a

report listing certified local governments, evaluating the effectiveness of the certification, and including any recommendations for legislative actions.

(13)~~(14)~~ It is the intent of the Legislature to encourage the creation of connected-city corridors that facilitate the growth of high-technology industry and innovation through partnerships that support research, marketing, workforce, and entrepreneurship. It is the further intent of the Legislature to provide for a locally controlled, comprehensive plan amendment process for such projects that are designed to achieve a cleaner, healthier environment; limit urban sprawl by promoting diverse but interconnected communities; provide a range of intergenerational housing types; protect wildlife and natural areas; assure the efficient use of land and other resources; create quality communities of a design that promotes alternative transportation networks and travel by multiple transportation modes; and enhance the prospects for the creation of jobs. The Legislature finds and declares that this state's connected-city corridors require a reduced level of state and regional oversight because of their high degree of urbanization and the planning capabilities and resources of the local government.

(a) Notwithstanding subsections (2), (4), (5), (6), and (7), Pasco County is named a pilot community and shall be considered certified for a period of 10 years for connected-city corridor plan amendments. The state land planning agency shall provide a written notice of certification to Pasco County by July 15, 2015, which shall be considered a final agency action subject to challenge under s. 120.569. The notice of certification must include:

1. The boundary of the connected-city corridor certification area; and

2. A requirement that Pasco County submit an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report must, at a minimum, include the number of amendments to the comprehensive plan adopted by Pasco County, the number of plan amendments challenged by an affected person, and the disposition of such challenges.

(b) A plan amendment adopted under this subsection may be based upon a planning period longer than the generally applicable planning period of the Pasco County local comprehensive plan, must specify the projected population within the planning area during the chosen planning period, may include a phasing or staging schedule that allocates a portion of Pasco County's future growth to the planning area through the planning period, and may designate a priority zone or subarea within the connected-city corridor for initial implementation of the plan. A plan amendment adopted under this subsection is not required to demonstrate need based upon projected population growth or on any other basis.

(c) If Pasco County adopts a long-term transportation network plan and financial feasibility plan, and subject to compliance with the requirements of such a plan, the projects within the connected-city corridor are deemed to have satisfied all concurrency and other state agency or local government transportation mitigation requirements except for site-specific access management requirements.

(d) If Pasco County does not request that the state land

planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area is exempt from ~~review under~~ s. 380.06.

(e) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, a report and recommendations for implementing a statewide program that addresses the legislative findings in this subsection. In consultation with the state land planning agency, OPPAGA shall develop the report and recommendations with input from other state and regional agencies, local governments, and interest groups. OPPAGA shall also solicit citizen input in the potentially affected areas and consult with the affected local government and stakeholder groups. Additionally, OPPAGA shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program. At a minimum, the report and recommendations must include:

1. Identification of local governments other than the local government participating in the pilot program which should be certified. The report may also recommend that a local government is no longer appropriate for certification; and

2. Changes to the certification pilot program.

Section 9. Subsection (4) of section 189.08, Florida Statutes, is amended to read:

189.08 Special district public facilities report.—

(4) Those special districts building, improving, or

expanding public facilities addressed by a development order issued to the developer pursuant to s. 380.06 may use the most recent local government ~~annual~~ report required by s. 380.06(6) ~~s. 380.06(15) and (18)~~ and submitted by the developer, to the extent the annual report provides the information required by subsection (2).

Section 10. Subsection (2) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(2) The exclusive and uniform method for the establishment of a community development district of less than 2,500 acres in size or a community development district of up to 7,000 acres in size located within a connected-city corridor established pursuant to s. 163.3246(13) ~~s. 163.3246(14)~~ shall be pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located granting a petition for the establishment of a community development district as follows:

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the county commission. The petition shall contain the same information as required in paragraph (1)(a).

(b) A public hearing on the petition shall be conducted by the county commission in accordance with the requirements and procedures of paragraph (1)(d).

(c) The county commission shall consider the record of the public hearing and the factors set forth in paragraph (1)(e) in making its determination to grant or deny a petition for the establishment of a community development district.

(d) The county commission may ~~shall~~ not adopt any ordinance which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041. An ordinance establishing a community development district shall only include the matters provided for in paragraph (1)(f) unless the commission consents to any of the optional powers under s. 190.012(2) at the request of the petitioner.

(e) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipal corporation, then the petition requesting establishment of a community development district under this act shall be filed by the petitioner with that particular municipal corporation. In such event, the duties of the county, hereinabove described, in action upon the petition shall be the duties of the municipal corporation. If any of the land area of a proposed district is within the land area of a municipality, the county commission may not create the district without municipal approval. If all of the land in the area for the proposed district, even if less than 2,500 acres, is within the territorial jurisdiction of two or more municipalities or two or more counties, except for proposed districts within a connected-city corridor established pursuant to s. 163.3246(13) ~~s. 163.3246(14)~~, the petition shall be filed with the Florida Land and Water Adjudicatory Commission and proceed in accordance with subsection (1).

(f) Notwithstanding any other provision of this subsection, within 90 days after a petition for the establishment of a community development district has been filed pursuant to this subsection, the governing body of the county or municipal

corporation may transfer the petition to the Florida Land and Water Adjudicatory Commission, which shall make the determination to grant or deny the petition as provided in subsection (1). A county or municipal corporation shall have no right or power to grant or deny a petition that has been transferred to the Florida Land and Water Adjudicatory Commission.

Section 11. Paragraph (g) of subsection (1) of section 190.012, Florida Statutes, is amended to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(g) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 ~~or s. 380.061~~ approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

Section 12. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

(1)(a) The declaration of a state of emergency by the Governor tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 6 months in addition to the tolled period. This paragraph applies to the following:

1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c) ~~pursuant to s. 380.06(19)(c)~~.

Section 13. Subsection (4) of section 369.303, Florida Statutes, is amended to read:

369.303 Definitions.—As used in this part:

(4) "Development of regional impact" means a development that ~~which~~ is subject to ~~the review procedures established by~~ s. 380.06 ~~or s. 380.065, and s. 380.07~~.

Section 14. Subsection (1) of section 369.307, Florida Statutes, is amended to read:

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.—

(1) Notwithstanding s. 380.06(4) ~~the provisions of s. 380.06(15)~~, the counties shall consider and issue the development permits applicable to a proposed development of regional impact which is located partially or wholly within the Wekiva River Protection Area at the same time as the development order approving, approving with conditions, or denying a development of regional impact.

Section 15. Subsection (8) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(8) A water management district may issue a permit to an applicant, as set forth in s. 163.3245(13), for the same period of time as the applicant's approved master development order if the master development order was issued under s. 380.06(9) ~~s. 380.06(21)~~ by a county which, at the time the order was issued, was designated as a rural area of opportunity under s. 288.0656, was not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), and was not located within the basin management action plan of a first magnitude spring. In reviewing the permit application and determining the permit duration, the water management district shall apply s. 163.3245(4)(b).

Section 16. Subsection (13) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(13) Any declaratory statement issued by the department

under s. 403.914, 1984 Supplement to the Florida Statutes 1983, as amended, or pursuant to rules adopted thereunder, or by a water management district under s. 373.421, in response to a petition filed on or before June 1, 1994, shall continue to be valid for the duration of such declaratory statement. Any such petition pending on June 1, 1994, shall be exempt from the methodology ratified in s. 373.4211, but the rules of the department or the relevant water management district, as applicable, in effect prior to the effective date of s. 373.4211, shall apply. Until May 1, 1998, activities within the boundaries of an area subject to a petition pending on June 1, 1994, and prior to final agency action on such petition, shall be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9). In the event that a jurisdictional declaratory statement pursuant to the vegetative index in effect prior to the effective date of chapter 84-79, Laws of Florida, has been obtained and is valid prior to the effective date of the rules adopted under subsection (9) or July 1, 1994, whichever is later, and the affected lands are part of a project for which a master development order has been issued pursuant to s. 380.06(9) ~~s. 380.06(21)~~, the declaratory statement shall remain valid for the duration of the buildout period of the project. Any jurisdictional determination validated by the department pursuant to rule 17-301.400(8), Florida Administrative Code, as

it existed in rule 17-4.022, Florida Administrative Code, on April 1, 1985, shall remain in effect for a period of 5 years following the effective date of this act if proof of such validation is submitted to the department prior to January 1, 1995. In the event that a jurisdictional determination has been revalidated by the department pursuant to this subsection and the affected lands are part of a project for which a development order has been issued pursuant to s. 380.06(4) ~~s. 380.06(15)~~, a final development order to which s. 163.3167(5) applies has been issued, or a vested rights determination has been issued pursuant to s. 380.06(8) ~~s. 380.06(20)~~, the jurisdictional determination shall remain valid until the completion of the project, provided proof of such validation and documentation establishing that the project meets the requirements of this sentence are submitted to the department prior to January 1, 1995. Activities proposed within the boundaries of a valid declaratory statement issued pursuant to a petition submitted to either the department or the relevant water management district on or before June 1, 1994, or a revalidated jurisdictional determination, prior to its expiration shall continue thereafter to be exempt from the methodology ratified in s. 373.4211 and to be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9).

Section 17. Subsection (5) of section 378.601, Florida Statutes, is amended to read:

378.601 Heavy minerals.—

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less may ~~shall~~ not be subject ~~required to undergo development of regional impact review~~ ~~pursuant~~ to s. 380.06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s. 378.901, are issued.

Section 18. Section 380.065, Florida Statutes, is repealed.

Section 19. Paragraph (a) of subsection (2) of section 380.11, Florida Statutes, is amended to read:

380.11 Enforcement; procedures; remedies.—

(2) ADMINISTRATIVE REMEDIES.—

(a) If the state land planning agency has reason to believe a violation of this part or any rule, development order, or other order issued hereunder or of any agreement entered into under s. 380.032(3) ~~or s. 380.06(8)~~ has occurred or is about to occur, it may institute an administrative proceeding pursuant to this section to prevent, abate, or control the conditions or activity creating the violation.

Section 20. Paragraph (b) of subsection (2) of section 403.524, Florida Statutes, is amended to read:

403.524 Applicability; certification; exemptions.—

(2) Except as provided in subsection (1), construction of a transmission line may not be undertaken without first obtaining certification under this act, but this act does not apply to:

(b) Transmission lines that have been exempted by a binding letter of interpretation issued under s. 380.06(3) ~~s. 380.06(4)~~, or in which the Department of Economic Opportunity or its

predecessor agency has determined the utility to have vested development rights within the meaning of s. 380.05(18) or s. 380.06(8) ~~s. 380.06(20)~~.

Section 21. (1) The rules adopted by the state land planning agency to ensure uniform review of developments of regional impact by the state land planning agency and regional planning agencies and codified in chapter 73C-40, Florida Administrative Code, are repealed.

(2) The rules adopted by the Administration Commission, as defined in s. 380.031, Florida Statutes, regarding whether two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under chapter 380, Florida Statutes, are repealed.

Section 22. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" where it occurs in this act with the date this act takes effect.

Section 23. This act shall take effect upon becoming a law.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL:	SB 1632
INTRODUCER:	Senator Mayfield
SUBJECT:	Towing and Immobilization Fees and Charges
DATE:	January 22, 2018
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Pre-meeting**
2.			TR	
3.			RC	

I. Summary:

County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators.

Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S. Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

SB 1632 requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well placing a cap on the maximum rate for immobilizing a vehicle or vessel. The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill does not impact the ability of a county or municipality to impose a reasonable administrative fee on the legal owner, legally authorized user, or lienholder of a vehicle or vessel to cover the cost of enforcement actions. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose additional fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator. The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that

includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.[1] After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur though the creation of geographic zones, a rotation schedule, or a combination of those methods.[2] Any wrecker operator that is included in the wrecker operator system is an "authorized wrecker operator" in the jurisdiction, while any wrecker operation not included is an "unauthorized wrecker operator." [3]

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.[4] If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- Whether he or she has an insurance policy providing $300,000 in liability coverage and $50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.[5]

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.[6] It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.[7] An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.[8] In either instance, the unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.[9]

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[1] Section 323.002(1)(c), F.S. Section 323.002(1)(c), F.S. The definition of "vehicle" does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining "motor vehicle" for the purpose of issuance of motor vehicle licenses and separately defining a "marine boat trailer dealer" as a person engaged in "business of buying … trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.")
[2] *Id*.
[3] Section 323.002(1)(a)-(b), F.S.
[4] Section 323.002(2)(b), F.S.
[5] Section 323.002(2)(c), F.S.
[6] *Id*.
[7] *Id*.
[8] Section 323.002(2)(d), F.S.
[9] Section 323.002(2)(c) and (d), F.S.

Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.[10]

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.[11] A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.[12]

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.[13] A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or Ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.[14]

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.[15] The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.[16]

The investigating agency must inform the wrecker operator within the five day holding period if the agency intends to hold the vehicle for a longer period of time.[17] The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.[18]

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee, if the vehicle or vessel is removed upon instructions from:

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[10] Section 323.002(2)(a), F.S.
[11] Sections 125.0103(1)(c) and 166.043(1)(c), F.S.
[12] *Compare* 125.0103(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) *with* s. 715.07, F.S. (towing of vehicles or vessels parked on private property).
[13] Section 323.001(1), F.S.
[14] Section 323.001(4)(a)-(e), F.S.
[15] Section 323.001(4)(f)-(g), F.S.
[16] Section 323.001(5), F.S.
[17] Section 323.001(2), F.S.
[18] Section 323.001(2)(a)-(b), F.S.

- The owner of the vehicle or vessel,
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed pursuant to s. 715.07, F.S.),
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to s. 83.806, F.S., or s. 715.104, F.S.), or
- Any law enforcement agency.[19]

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.[20] However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.[21] The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.[22] On the other hand, a tax is a "forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed."[23] Usually a fee is applied for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.[24]

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.[25] The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty ($500), hearing costs ($50), and towing and storage fees ($125 plus $25 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty ($500).

[19] Section 713.78(2), F.S
[20] Art. VII, s. 1(a), Fla. Const.
[21] *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).
[22] *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).
[23] *Id*. at 758-59.
[24] *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).
[25] Sarasota Police Department, *Vehicle Seizure Program*, available at http://www.sarasotapd.org/vehicle-seizure-program/ (last accessed Jan. 9, 2018).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses the same process and rate structure.[26]

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an "impoundment administrative fee" on all vehicles seized incident to an arrest. The fee is $500 if the impoundment stems from a felony arrest and $250 if the impoundment stems from a misdemeanor.[27]

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.[28] The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee ($550). If the registered owner waives the right to hearing, the administrative fee is reduced to $250. These fees are payable to the city but are collected by towing companies.[29]

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city $10,151 per month for "the opportunity to provide" wrecker services, as well as $500 for each impounded vehicle sold by the wrecker service.[30]

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 125.0103 and 166.043, F.S., to authorize a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing, immobilization or storage of vehicles and vessels. The bill provides that the maximum rate to immobilize a vehicle or vessel may not exceed 20 percent of the maximum rate allowed by the county or municipality for towing a vehicle or vessel from private property. The bill defines immobilization as the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot," "club," "Barnacle," or any other device which renders the vehicle or vessel inoperable.

Sections 2 and 4 create ss. 125.01047 and 166.04465, F.S., to prohibit a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The prohibition would not impact the ability of the county or municipality to levy a business tax

[26] Bradenton, Fla. Code of Ordinances, ch. 54, art. IV (2016).
[27] Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c) (2017).
[28] Winter Springs, Fla. Ordinance No. 2016-01 (effective October 23, 2016).
[29] Florida House of Representatives, House Bill 963 Staff Analysis (January 16, 2018) Winter Springs, FL Notice of Right to Hearing Form available at http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0963a.LFV.DOCX&DocumentType=Analysis&BillNumber=0963&Session=2018
[30] Florida House of Representatives, House Bill 963 Staff Analysis (January 16, 2018) Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing Form available at http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0963a.LFV.DOCX&DocumentType=Analysis&BillNumber=0963&Session=2018

under ss. 205.0315, 205.033, or 205.0535, F.S. It also would not impact the ability of the county to impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality. The administrative fee imposed under this section may not exceed 25 percent of the maximum towing rate. The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is actually collected.

Section 5 amends s. 332.002, F.S., to prohibit a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement.

Section 6 amends s. 713.78, F.S., to provide that the administrative fee shall be included as part of the lien on the vehicle or vessel held by the towing operator.

Section 7 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee on authorized wrecker operators.

C. Government Sector Impact:

The bill will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker

operators and towing companies which are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0103, 166.043, 323.002, and 713.78.

This bill creates the following sections of the Florida Statutes: 125.01047 and 166.04465.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Mayfield

17-01484B-18 20181632__

A bill to be entitled

An act relating to towing and immobilization fees and charges; amending ss. 125.0103 and 166.043, F.S.; expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; establishing a maximum rate that counties and municipalities may charge for the immobilization of vehicles or vessels under certain conditions; defining the term "immobilize"; creating ss. 125.01047 and 166.04465, F.S.; prohibiting counties and municipalities from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; defining the term "towing business"; providing exceptions to the prohibition; amending s. 323.002, F.S.; prohibiting counties and municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions; providing an exception; amending s. 713.78, F.S.; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended to read:

17-01484B-18 20181632__

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. The maximum rate to immobilize a vehicle or vessel on public or private property may not exceed 20 percent of the maximum rate to tow a vehicle or vessel from private property. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or

immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance shall not apply within such municipality. For purposes of this paragraph, the term "immobilize" means the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot" or "club," the "Barnacle," or any other device that renders a vehicle or vessel inoperable.

Section 2. Section 125.01047, Florida Statutes, is created to read:

125.01047 Rules and ordinances relating to towing services.—

(1) A county may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or on a towing business for towing, impounding, or storing a vehicle or vessel. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition set forth in subsection (1) does not affect a county's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.033, or s. 205.0535.

(b) Impose and collect a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county when the vehicle or vessel is towed from public property. However, an authorized wrecker operator or towing business may impose and collect the administrative fee or

charge on behalf of the county and shall remit such fee or charge to the county only after it is collected.

Section 3. Paragraphs (b) and (c) of subsection (1) of section 166.043, Florida Statutes, are amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. The maximum rate to immobilize a vehicle or vessel on

public or private property may not exceed 20 percent of the maximum rate to tow a vehicle or vessel from private property. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 shall not apply within such municipality. For purposes of this paragraph, the term "immobilize" means the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot" or "club," the "Barnacle," or any other device that renders a vehicle or vessel inoperable.

Section 4. Section 166.04465, Florida Statutes, is created to read:

166.04465 Rules and ordinances relating to towing services.—

(1) A municipality may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or on a towing business for towing, impounding, or storing a vehicle or vessel. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition set forth in subsection (1) does not affect a municipality's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.043, or s. 205.0535.

(b) Impose and collect a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, not to exceed 25 percent of the maximum

towing rate, to cover the cost of enforcement, including parking enforcement, by the municipality when the vehicle or vessel is towed from public property. However, an authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the municipality and shall remit such fee or charge to the municipality only after it is collected.

Section 5. Subsection (4) of section 323.002, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

(4)(a) Except as provided in paragraph (b), a county or municipality may not adopt or maintain in effect an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty on a registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator under this chapter.

(b) A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, which is towed by an authorized wrecker operator, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. However, an authorized wrecker operator or towing business may impose and collect the

administrative fee or charge on behalf of the county or municipality and shall remit such fee or charge to the county or municipality only after it is collected.

Section 6. Subsection (2) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

(a) The owner thereof;

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;

(c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that no storage fee shall be charged if the vehicle or vessel is stored for less than 6 hours.

Section 7. This act shall take effect July 1, 2018.