

By the Committee on Governmental Rules & Regulations and  
Representatives Lynn, Wallace, Argenziano, Byrd and Culp

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled  
An act relating to growth management; amending  
s. 380.06, F.S.; revising statewide guidelines  
and standards and substantial deviations for  
developments of regional impact; amending s.  
403.973, F.S.; providing for an expedited  
permitting process for economic development  
projects and comprehensive plan amendments;  
providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) and  
paragraph (b) of subsection (19) of section 380.06, Florida  
Statutes, 1996 Supplement, are amended to read:

380.06 Developments of regional impact.--

(2) STATEWIDE GUIDELINES AND STANDARDS.--

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

1. Fixed thresholds.--

a. A development that is at or below 80 percent of all  
numerical thresholds in the guidelines and standards shall not  
be required to undergo development-of-regional-impact review.

b. A development that is at or above 120 percent of  
any numerical threshold 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 Office of Tourism,  
Trade, and Economic Development 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

1 thresholds for industrial plants, industrial parks,  
2 distribution, warehousing or wholesaling facilities, office  
3 development or multiuse projects other than residential, as  
4 described in s. 380.0651(3)(c), (d), and (i), are not required  
5 to undergo development-of-regional-impact review.

6 2. Rebuttable presumptions.--

7 a. It shall be presumed that a development that is  
8 between 80 and 100 percent of a numerical threshold shall not  
9 be required to undergo development-of-regional-impact review.

10 b. It shall be presumed that a development that is at  
11 100 percent or between 100 and 120 percent of a numerical  
12 threshold shall be required to undergo  
13 development-of-regional-impact review.

14 (19) SUBSTANTIAL DEVIATIONS.--

15 (b) Any proposed change to a previously approved  
16 development of regional impact or development order condition  
17 which, either individually or cumulatively with other changes,  
18 exceeds any of the following criteria shall constitute a  
19 substantial deviation and shall cause the development to be  
20 subject to further development-of-regional-impact review  
21 without the necessity for a finding of same by the local  
22 government:

23 1. An increase in the number of parking spaces at an  
24 attraction or recreational facility by 5 percent or 300  
25 spaces, whichever is greater, or an increase in the number of  
26 spectators that may be accommodated at such a facility by 5  
27 percent or 1,000 spectators, whichever is greater.

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

1 airport is located in two counties, a 10-percent lengthening  
2 of an existing runway or a 20-percent increase in the number  
3 of gates of an existing terminal is the applicable criteria.  
4         3. An increase in the number of hospital beds by 5  
5 percent or 60 beds, whichever is greater.  
6         4. An increase in industrial development area by 5  
7 percent or 32 acres, whichever is greater.  
8         5. An increase in the average annual acreage mined by  
9 5 percent or 10 acres, whichever is greater, or an increase in  
10 the average daily water consumption by a mining operation by 5  
11 percent or 300,000 gallons, whichever is greater. An increase  
12 in the size of the mine by 5 percent or 750 acres, whichever  
13 is less.  
14         6. An increase in land area for office development by  
15 5 percent or 6 acres, whichever is greater, or an increase of  
16 gross floor area of office development by 5 percent or 60,000  
17 gross square feet, whichever is greater.  
18         7. An increase in the storage capacity for chemical or  
19 petroleum storage facilities by 5 percent, 20,000 barrels, or  
20 7 million pounds, whichever is greater.  
21         8. An increase of development at a waterport of wet  
22 storage for 20 watercraft, dry storage for 30 watercraft, or  
23 wet/dry storage for 60 watercraft in an area identified in the  
24 state marina siting plan as an appropriate site for additional  
25 waterport development or a 5-percent increase in watercraft  
26 storage capacity, whichever is greater.  
27         9. An increase in the number of dwelling units by 5  
28 percent or 50 dwelling units, whichever is greater.  
29         10. An increase in commercial development by 6 acres  
30 of land area or by 50,000 square feet of gross floor area, or  
31

1 of parking spaces provided for customers for 300 cars or a  
2 5-percent increase of any of these, whichever is greater.  
3 11. An increase in hotel or motel facility units by 5  
4 percent or 75 units, whichever is greater.  
5 12. An increase in a recreational vehicle park area by  
6 5 percent or 100 vehicle spaces, whichever is less.  
7 13. A decrease in the area set aside for open space of  
8 5 percent or 20 acres, whichever is less.  
9 14. A proposed increase to an approved multiuse  
10 development of regional impact where the sum of the increases  
11 of each land use as a percentage of the applicable substantial  
12 deviation criteria is equal to or exceeds 100 percent. The  
13 percentage of any decrease in the amount of open space shall  
14 be treated as an increase for purposes of determining when 100  
15 percent has been reached or exceeded.  
16 15. A 15-percent increase in the number of external  
17 vehicle trips generated by the development above that which  
18 was projected during the original  
19 development-of-regional-impact review.  
20 16. Any change which would result in development of  
21 any area which was specifically set aside in the application  
22 for development approval or in the development order for  
23 preservation or special protection of endangered or threatened  
24 plants or animals designated as endangered, threatened, or  
25 species of special concern and their habitat, primary dunes,  
26 or archaeological and historical sites designated as  
27 significant by the Division of Historical Resources of the  
28 Department of State. The further refinement of such areas by  
29 survey shall be considered under sub-subparagraph (e)5.b.  
30  
31

1 The substantial deviation numerical standards in subparagraphs  
2 4., 6., 10., 14., excluding residential uses, and 15., are  
3 increased by 100 percent for a project certified under s.  
4 403.973 which creates jobs and meets criteria established by  
5 the Office of Tourism, Trade, and Economic Development as to  
6 its impact on an area's economy, employment, and prevailing  
7 wage and skill levels.

8 Section 2. Section 403.973, Florida Statutes, 1996  
9 Supplement, is amended to read:

10 403.973 Expedited permitting; comprehensive plan  
11 amendments.--

12 (1) It is the intent of the Legislature to encourage  
13 and facilitate the location and expansion of those types of  
14 economic development projects which offer job creation and  
15 high wages, strengthen and diversify the state's economy, and  
16 have been thoughtfully planned to take into consideration the  
17 protection of the state's environment. It is also the intent  
18 of the Legislature to provide for an expedited permitting and  
19 comprehensive plan amendment process for such projects.

20 (2) As used in this section, the term:

21 (a) "Duly noticed" means publication in a newspaper of  
22 general circulation in the municipality or county with  
23 jurisdiction. The notice shall appear on at least 2 separate  
24 days one of which shall be at least 7 days prior to the  
25 meeting. The notice shall state the date, time, and place of  
26 the meeting scheduled to discuss or enact the memorandum of  
27 agreement, and the places within the municipality or county  
28 where such proposed memorandum of agreement may be inspected  
29 by the public. The notice shall be one-eighth of a page in  
30 size, and shall be published in a portion of the paper other  
31 than the legal notices section. The notice shall also advise

1 that interested parties may appear at the meeting and be heard  
2 with respect to the memorandum of agreement.

3 (b) "Jobs" means permanent, full-time equivalent  
4 positions not including construction jobs.

5 (c) "Office" means the Office of Tourism, Trade, and  
6 Economic Development.

7 (d) "Permit applications" means state permits and  
8 licenses, and at the option of a participating local  
9 government, local development permits or orders.

10 (3)(2) The Governor, through the office of ~~Tourism,~~  
11 ~~Trade, and Economic Development,~~ shall direct the creation of  
12 regional permit action teams, for the purpose of expediting  
13 review of permit applications and local comprehensive plan  
14 amendments submitted by:

15 (a) Businesses creating at least 100 jobs, or

16 (b) Businesses creating ~~the creation of~~ at least 50  
17 jobs if the project is located in an enterprise zone, or in a  
18 county having a population of less than 75,000 ~~50,000~~ or in a  
19 county having a population of less than 100,000 which is  
20 contiguous to a county having a population of less than 75,000  
21 ~~50,000~~, as determined by the most recent decennial census,  
22 residing in incorporated and unincorporated areas of the  
23 county, ~~or~~.

24 (c) On a case-by-case basis and at the request of a  
25 county or municipal government, the office may certify as  
26 eligible for expedited review a project not meeting the  
27 minimum job creation thresholds but creating a minimum of 10  
28 jobs. The recommendation from the governing body of the county  
29 or municipality in which the project may be located is  
30 required in order for the office to certify that any project  
31 is eligible for expedited review under this paragraph. When

1 considering projects that do not meet the minimum job creation  
2 thresholds but that are recommended by the governing body in  
3 which the project may be located, the office shall consider  
4 economic impact factors that include, but are not limited to:  
5 1. The proposed wage and skill levels relative to  
6 those existing in the area in which the project may be  
7 located;  
8 2. The project's potential to diversify and strengthen  
9 the area's economy;  
10 3. The amount of capital investment; and  
11 4. The number of jobs that will be made available for  
12 persons served by the WAGES program.~~Jobs are defined as~~  
13 ~~full-time equivalent positions not including construction~~  
14 ~~jobs.~~  
15 (4) The regional teams shall be established through  
16 the execution of memoranda of agreement between the office and  
17 the respective heads of the Departments of Environmental  
18 Protection, Community Affairs, Transportation, and Agriculture  
19 and Consumer Services, the Game and Fresh Water Fish  
20 Commission, appropriate regional planning councils, and any  
21 appropriate water management districts, and voluntarily  
22 participating municipalities and counties. The memoranda of  
23 agreement should also accommodate participation in this  
24 expedited process by other local governments and federal  
25 agencies as circumstances warrant.  
26 (5) In order to facilitate local government's option  
27 to participate in this expedited review process, the office  
28 shall, in cooperation with local governments and participating  
29 state agencies, create a standard form memorandum of  
30 agreement. A local government shall hold a duly noticed public  
31 workshop to review and explain to the public the expedited

1 permitting process and the terms and conditions of the  
2 standard form memorandum of agreement.

3 (6) The local government shall hold a duly noticed  
4 public hearing to execute a memorandum of agreement for each  
5 qualified project. The memorandum of agreement that a local  
6 government signs shall include a provision identifying  
7 necessary local government procedures and time limits that  
8 will be modified to allow for the local government decision on  
9 the project within 90 days. The memorandum of agreement  
10 applies to projects, on a case-by-case basis, that qualify for  
11 special review and approval as specified in this section. The  
12 memorandum of agreement must make it clear that this expedited  
13 permitting and review process does not modify, qualify, or  
14 otherwise alter existing local government nonprocedural  
15 standards for permit applications, unless expressly authorized  
16 by law.

17 (7) At the option of the participating local  
18 government, appeals of its final approval for a project may be  
19 pursuant to the summary hearing provisions of s. 120.574,  
20 pursuant to s. 403.973(13), or pursuant to other appellate  
21 processes available to the local government. The local  
22 government's decision to enter into a summary hearing must be  
23 made as provided in s. 120.574 or in the memorandum of  
24 agreement.

25 (8)(3) Each memorandum of agreement shall include a  
26 process for final agency action on permit applications and  
27 local comprehensive plan amendment approvals within 90 days  
28 after receipt of a completed application, unless the applicant  
29 agrees to a longer time period or the office determines that  
30 unforeseen or uncontrollable circumstances preclude final  
31 agency action within the 90-day timeframe. Permit



1 applications governed by federally delegated or approved  
2 permitting programs whose requirements would prohibit or be  
3 inconsistent with the 90-day timeframe are exempt from this  
4 provision, but must be processed by the agency with federally  
5 delegated or approved program responsibility as expeditiously  
6 as possible.

7 ~~(9)(4) Each agreement shall be executed by the office~~  
8 ~~no later than January 1, 1997.~~ The office shall inform the  
9 Legislature by October ~~February~~ 1, 1997, and every October  
10 thereafter, ~~of~~ which agencies have not entered into or  
11 implemented an agreement, and identify any ~~the~~ barriers to  
12 achieving success of the program. The Office of Program Policy  
13 Analysis and Government Accountability shall study the  
14 implementation of this program and make recommendations to the  
15 Governor and the Legislature by October 1, 1998, on how this  
16 program may be made more efficient and effective. ~~an agreement~~  
17 ~~for legislative consideration and action, as necessary.~~

18 ~~(10)(5)~~ The memoranda of agreement may provide for the  
19 waiver or modification of procedural rules prescribing forms,  
20 fees, procedures, or time limits for the review or processing  
21 of permit applications under the jurisdiction of those  
22 agencies that are party to the memoranda of agreement.  
23 Notwithstanding any other provision of law to the contrary, a  
24 memorandum of agreement must to the extent feasible ~~may~~  
25 provide for proceedings and hearings otherwise held separately  
26 by the parties to the memorandum of agreement to be combined  
27 into one proceeding or held jointly and at one location. Such  
28 waivers or modifications shall not be available for permit  
29 applications governed by federally delegated or approved  
30 permitting programs, the requirements of which would prohibit,  
31 or be inconsistent with, such a waiver or modification.

1           ~~(11)(6)~~ The memoranda of agreement shall include  
2 guidelines to be used in working with state, regional, and  
3 local permitting authorities. Guidelines may include, but are  
4 not limited to, the following:  
5           (a) A central contact point for filing permit  
6 applications and local comprehensive plan amendments and for  
7 obtaining information on permit and local comprehensive plan  
8 amendment requirements;  
9           (b) Identification of the individual or individuals  
10 within each respective agency who will be responsible for  
11 processing the expedited permit application or local  
12 comprehensive plan amendment for that agency;  
13           ~~(c) An agreement that any challenges be brought~~  
14 ~~pursuant to the summary hearing provisions of s. 120.54+~~  
15           ~~(c)(d)~~ A mandatory preapplication review process to  
16 reduce permitting conflicts by providing guidance to  
17 applicants regarding the permits needed from each agency and  
18 governmental entity, site planning and development, site  
19 suitability and limitations, facility design, and steps the  
20 applicant can take to ensure expeditious permit application  
21 and local comprehensive plan amendment review. As a part of  
22 this process, the first interagency meeting to discuss a  
23 project shall be held within 14 days after the office's  
24 determination that the project is eligible for expedited  
25 review. Subsequent interagency meetings may be scheduled to  
26 accommodate the needs of participating local governments that  
27 are unable to meet public notice requirements for executing a  
28 memorandum of agreement within this timeframe. This  
29 accommodation may not exceed 45 days from the office's  
30 determination that the project is eligible for expedited  
31 review;

1       (d) The preparation of a single coordinated project  
2 description form and checklist and an agreement by state and  
3 regional agencies to reduce the burden on an applicant to  
4 provide duplicate information to multiple agencies;

5       (e) Establishment of a process for the adoption and  
6 review of any comprehensive plan amendment needed by any  
7 certified project within 90 days after the submission of an  
8 application for a comprehensive plan amendment. However, the  
9 memorandum of agreement may not prevent affected persons as  
10 defined in s. 163.3184 from appealing or participating in this  
11 expedited plan amendment process and any review or appeals of  
12 decisions made under this paragraph; and

13       (f)~~(e)~~ Additional incentives for an applicant who  
14 proposes to propose a project that provides a net ecosystem  
15 benefit.

16       (12) Notwithstanding any other provisions of law:

17       (a) Local comprehensive plan amendments for projects  
18 qualified under this section are exempt from the twice-a-year  
19 limits provision in s. 163.3187; and

20       (b) Projects qualified under this section are not  
21 subject to interstate highway level of service standards  
22 adopted by the Department of Transportation for concurrency  
23 purposes. The memorandum of agreement specified in subsection  
24 (5) must include a process by which the applicant will be  
25 assessed a fair share of the cost of mitigating the project's  
26 significant traffic impacts, as defined in chapter 380 and  
27 related rules.

28       (13) Challenges to state agency action in the  
29 expedited permitting process for projects processed under this  
30 section are subject to the summary hearing provisions of s.  
31 120.574, except that the administrative law judge's decision,

1 as provided in s. 120.574(2)(f), shall be in the form of a  
2 recommended order and shall not constitute the final action of  
3 the state agency. In those proceedings where the action of  
4 only one agency of the state is challenged, the agency of the  
5 state shall issue the final order within 10 working days of  
6 receipt of the administrative law judge's recommended order.  
7 In those proceedings where the actions of more than one agency  
8 of the state are challenged, the Governor shall issue the  
9 final order within 10 working days of receipt of the  
10 administrative law judge's recommended order. The  
11 participating agencies of the state may opt at the preliminary  
12 hearing conference to allow the administrative law judge's  
13 decision to constitute the final agency action. If a  
14 participating local government agrees to participate in the  
15 summary hearing provisions of s. 120.574 for purposes of  
16 review of local government comprehensive plan amendments, s.  
17 163.3184(9) and (10) apply.

18 (14)(7) This expedited permitting process shall not  
19 modify, qualify, or otherwise alter existing agency  
20 nonprocedural standards for permit applications or local  
21 comprehensive plan amendments approval, unless expressly  
22 authorized by law. If it is determined that the applicant  
23 ~~company~~ is not eligible to use this process, the applicant may  
24 apply for permitting of ~~company must permit~~ the project  
25 through the normal permitting processes.

26 (15)(8) The office of ~~Tourism, Trade, and Economic~~  
27 ~~Development~~ shall be responsible for certifying a business as  
28 eligible for undergoing expedited review under this section  
29 ~~agreement~~. Enterprise Florida, Inc., a county or municipal  
30 government, or the Rural Economic Development Initiative may  
31 recommend to the Office of Tourism, Trade, and Economic

1 Development that a project meeting the minimum job creation  
2 threshold undergo expedited review. ~~On a case-by-case basis~~  
3 ~~and at the request of a county or municipal government, the~~  
4 ~~office may allow a business not meeting the minimum job~~  
5 ~~creation threshold, but creating a minimum of 25 jobs, to use~~  
6 ~~the expedited permit review process. The recommendation from~~  
7 ~~the governing body of the county or municipality in which the~~  
8 ~~project may be located is required in order for the Office of~~  
9 ~~Tourism, Trade, and Economic Development to certify that any~~  
10 ~~project is eligible for expedited review under this part.~~

11 (16)~~(9)~~ The office of Tourism, Trade, and Economic  
12 Development, working with the Rural Economic Development  
13 Initiative and the agencies participating in teams established  
14 ~~through~~ the memoranda of agreement, shall provide technical  
15 assistance in preparing permit applications and local  
16 comprehensive plan amendments ~~permits~~ for counties having a  
17 population of less than 75,000 ~~50,000~~ residents, or counties  
18 having fewer ~~less~~ than 100,000 residents which are contiguous  
19 to counties having fewer ~~less~~ than 75,000 ~~50,000~~ residents.  
20 Additional assistance may include, but not be limited to,  
21 guidance in land development regulations and permitting  
22 processes, working cooperatively with state, regional, and  
23 local entities to identify areas within these counties which  
24 may be suitable or adaptable for preclearance review of  
25 specified types of land uses and other activities requiring  
26 permits.

27 (17)~~(10)~~ The following projects are ineligible for  
28 review under this part:

29 (a) A project funded and operated by a local  
30 government, as defined in s. 377.709, and located within that  
31 government's jurisdiction.

- 1 (b) A project, the primary purpose of which is to:  
2 1. Effect the final disposal of solid waste,  
3 biomedical waste, or hazardous waste in this state.  
4 2. Produce electrical power, unless the production of  
5 electricity is incidental and not the primary function of the  
6 project.  
7 3. Extract natural resources.  
8 4. Produce oil.  
9 5. Construct, maintain, or operate an oil, petroleum,  
10 natural gas, or sewage pipeline.  
11 Section 3. This act shall take effect October 1, 1997.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31