

By Representative Bennett

1 A bill to be entitled
2 An act relating to growth management; amending
3 s. 163.3177, F.S.; requiring each licensed
4 publicly owned and operated airport to prepare
5 an airport master plan and providing
6 requirements with respect thereto; providing
7 for incorporation of the plan into the affected
8 local government comprehensive plan and
9 providing requirements with respect thereto;
10 providing for technical assistance; providing
11 that development that is consistent with an
12 approved plan is not a development of regional
13 impact; amending s. 380.06, F.S., relating to
14 developments of regional impact; removing the
15 rebuttable presumptions with respect to
16 application of the statewide guidelines and
17 standards; removing provisions which specify
18 that certain changes in airport facilities,
19 increases in the storage capacity for chemical
20 or petroleum storage facilities, or development
21 at a waterport constitute a substantial
22 deviation and require further
23 development-of-regional-impact review;
24 exempting certain proposed facilities for the
25 storage of any petroleum product from
26 development-of-regional-impact requirements;
27 exempting proposed waterport development in
28 certain counties from such requirements and
29 providing application of such exemption to
30 counties identified in s. 370.12(2)(f), F.S.;
31 repealing s. 380.0651(3)(a) and (e), F.S.,

1 which provide the
2 development-of-regional-impact statewide
3 guidelines and standards for airports and port
4 facilities; amending ss. 163.3180 and 331.303,
5 F.S.; correcting references; providing
6 application with respect to airports, marinas,
7 and petroleum storage facilities which have
8 received a development-of-regional-impact
9 development order, or which have an application
10 for development approval or notification of
11 proposed change pending, on the effective date
12 of the act; providing for severability;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (k) is added to subsection (6) of
18 section 163.3177, Florida Statutes, to read:

19 163.3177 Required and optional elements of
20 comprehensive plan; studies and surveys.--

21 (6) In addition to the requirements of subsections
22 (1)-(5), the comprehensive plan shall include the following
23 elements:

24 (k) An airport master plan shall be prepared by each
25 publicly owned and operated airport licensed by the Department
26 of Transportation under chapter 330. The airport master plan
27 shall address the airport, projected airport or aviation
28 development, and land use compatibility around the airport.
29 The airport master plan must be consistent with applicable
30 requirements for airport master planning issued by the Federal
31 Aviation Administration, pursuant to the applicable Federal

1 Aviation Administration's Advisory Circulars and Airport
2 Environmental Handbook, and by the Department of
3 Transportation, pursuant to s. 332.007(5), and with the
4 Department of Transportation's Guidebook for Airport Master
5 Planning and Airport Compatible Land Use Guidance. The airport
6 master plan, and any subsequent amendments to the airport
7 master plan, shall be incorporated into the transportation or
8 traffic circulation element of each affected local government
9 comprehensive plan by the adoption of a local government
10 comprehensive plan amendment. The authorized entity having
11 responsibility for governing the operation of the airport
12 shall submit copies of an airport master plan which meets the
13 requirements of this paragraph to the affected local
14 government no later than July 1, 2001. The affected local
15 government shall incorporate an airport master plan into the
16 local government comprehensive plan no later than July 1,
17 2002. As used in this paragraph, "affected local government"
18 means any local government having jurisdiction under this act
19 over the area in which the airport or projected airport or
20 aviation development is located. The Department of Community
21 Affairs, in conjunction with the Department of Transportation,
22 shall provide technical assistance to airports and local
23 governments to assist in the coordination of airport master
24 plans with the local government comprehensive plan, consistent
25 with the State Comprehensive Plan, the applicable strategic
26 regional policy plan, and state goals and objectives related
27 to airport planning. In the amendment to the local
28 comprehensive plan which integrates the airport master plan,
29 the affected local government shall address land use
30 compatibility consistent with chapter 333 regarding airport
31 zoning; the provision of regional transportation facilities

1 for the efficient use and operation of the transportation
2 system and airport; consistency with the transportation or
3 traffic circulation element of the applicable local
4 comprehensive plan and applicable metropolitan planning
5 organization long-range transportation plan; and the execution
6 of any necessary interlocal agreements for the purpose of the
7 provision of public facilities and services to maintain the
8 adopted level of service standards for facilities subject to
9 concurrency. The amendment to the local comprehensive plan
10 which integrates the airport master plan shall meet the
11 requirements of this paragraph. Development or expansion of
12 any publicly owned or operated airport, or airport-related or
13 aviation-related development, meeting the requirements of this
14 paragraph shall not be a development of regional impact when
15 such development, expansion, project, or facility is
16 consistent with an adopted airport master plan that is
17 approved by the Federal Aviation Administration and the
18 Department of Transportation and is in compliance with this
19 part.

20 Section 2. Paragraph (d) of subsection (2), paragraph
21 (c) of subsection (3), paragraph (b) of subsection (4), and
22 paragraphs (b) and (e) of subsection (19) of section 380.06,
23 Florida Statutes, are amended, and paragraphs (i) and (j) are
24 added to subsection (24) of said section, to read:

25 380.06 Developments of regional impact.--

26 (2) STATEWIDE GUIDELINES AND STANDARDS.--

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

29 ~~1. Fixed thresholds.--~~

30 1.a. A development that is at or below 80 percent of
31 all numerical thresholds in the guidelines and standards shall

1 not be required to undergo development-of-regional-impact
2 review.

3 2.b. A development that is at or above 120 percent of
4 any numerical threshold shall be required to undergo
5 development-of-regional-impact review.

6 3.c. Projects certified under s. 403.973 which create
7 at least 100 jobs and meet the criteria of the Office of
8 Tourism, Trade, and Economic Development as to their impact on
9 an area's economy, employment, and prevailing wage and skill
10 levels that are at or below 100 percent of the numerical
11 thresholds for industrial plants, industrial parks,
12 distribution, warehousing or wholesaling facilities, office
13 development or multiuse projects other than residential, as
14 described in s. 380.0651(3)(b)(c), (c)(d), and (g)(i), are not
15 required to undergo development-of-regional-impact review.

16 ~~2. Rebuttable presumptions.--~~

17 ~~a. It shall be presumed that a development that is~~
18 ~~between 80 and 100 percent of a numerical threshold shall not~~
19 ~~be required to undergo development-of-regional-impact review.~~

20 ~~b. It shall be presumed that a development that is at~~
21 ~~100 percent or between 100 and 120 percent of a numerical~~
22 ~~threshold shall be required to undergo~~
23 ~~development-of-regional-impact review.~~

24 (3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES
25 AND STANDARDS.--The state land planning agency, a regional
26 planning agency, or a local government may petition the
27 Administration Commission to increase or decrease the
28 numerical thresholds of any statewide guideline and standard.
29 The state land planning agency or the regional planning agency
30 may petition for an increase or decrease for a particular
31 local government's jurisdiction or a part of a particular

1 jurisdiction. A local government may petition for an increase
2 or decrease within its jurisdiction or a part of its
3 jurisdiction. A number of requests may be combined in a
4 single petition.

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

11 (4) BINDING LETTER.--

12 (b) Unless a developer waives the requirements of this
13 paragraph by agreeing to undergo
14 development-of-regional-impact review pursuant to this
15 section, the state land planning agency or local government
16 with jurisdiction over the land on which a development is
17 proposed may require a developer to obtain a binding letter
18 if+

19 ~~1. the development is at a presumptive numerical~~
20 ~~threshold or up to 20 percent above a numerical threshold in~~
21 ~~the guidelines and standards.~~ 1 or

22 ~~2. The development is between a presumptive numerical~~
23 ~~threshold and 20 percent below the numerical threshold and the~~
24 ~~local government or the state land planning agency is in doubt~~
25 ~~as to whether the character or magnitude of the development at~~
26 ~~the proposed location creates a likelihood that the~~
27 ~~development will have a substantial effect on the health,~~
28 ~~safety, or welfare of citizens of more than one county.~~

29 (19) SUBSTANTIAL DEVIATIONS.--

30 (b) Any proposed change to a previously approved
31 development of regional impact or development order condition

1 which, either individually or cumulatively with other changes,
2 exceeds any of the following criteria shall constitute a
3 substantial deviation and shall cause the development to be
4 subject to further development-of-regional-impact review
5 without the necessity for a finding of same by the local
6 government:

7 1. An increase in the number of parking spaces at an
8 attraction or recreational facility by 5 percent or 300
9 spaces, whichever is greater, or an increase in the number of
10 spectators that may be accommodated at such a facility by 5
11 percent or 1,000 spectators, whichever is greater.

12 ~~2. A new runway, a new terminal facility, a 25-percent~~
13 ~~lengthening of an existing runway, or a 25-percent increase in~~
14 ~~the number of gates of an existing terminal, but only if the~~
15 ~~increase adds at least three additional gates. However, if an~~
16 ~~airport is located in two counties, a 10-percent lengthening~~
17 ~~of an existing runway or a 20-percent increase in the number~~
18 ~~of gates of an existing terminal is the applicable criteria.~~

19 2.3. An increase in the number of hospital beds by 5
20 percent or 60 beds, whichever is greater.

21 3.4. An increase in industrial development area by 5
22 percent or 32 acres, whichever is greater.

23 4.5. An increase in the average annual acreage mined
24 by 5 percent or 10 acres, whichever is greater, or an increase
25 in the average daily water consumption by a mining operation
26 by 5 percent or 300,000 gallons, whichever is greater. An
27 increase in the size of the mine by 5 percent or 750 acres,
28 whichever is less.

29 5.6. An increase in land area for office development
30 by 5 percent or 6 acres, whichever is greater, or an increase
31

1 of gross floor area of office development by 5 percent or
2 60,000 gross square feet, whichever is greater.

3 ~~7. An increase in the storage capacity for chemical or~~
4 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~
5 ~~7 million pounds, whichever is greater.~~

6 ~~8. An increase of development at a waterport of wet~~
7 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
8 ~~wet/dry storage for 60 watercraft in an area identified in the~~
9 ~~state marina siting plan as an appropriate site for additional~~
10 ~~waterport development or a 5-percent increase in watercraft~~
11 ~~storage capacity, whichever is greater.~~

12 6.9. An increase in the number of dwelling units by 5
13 percent or 50 dwelling units, whichever is greater.

14 7.10. An increase in commercial development by 6 acres
15 of land area or by 50,000 square feet of gross floor area, or
16 of parking spaces provided for customers for 300 cars or a
17 5-percent increase of any of these, whichever is greater.

18 8.11. An increase in hotel or motel facility units by
19 5 percent or 75 units, whichever is greater.

20 9.12. An increase in a recreational vehicle park area
21 by 5 percent or 100 vehicle spaces, whichever is less.

22 10.13. A decrease in the area set aside for open space
23 of 5 percent or 20 acres, whichever is less.

24 11.14. A proposed increase to an approved multiuse
25 development of regional impact where the sum of the increases
26 of each land use as a percentage of the applicable substantial
27 deviation criteria is equal to or exceeds 100 percent. The
28 percentage of any decrease in the amount of open space shall
29 be treated as an increase for purposes of determining when 100
30 percent has been reached or exceeded.

31

1 ~~12.15.~~ A 15-percent increase in the number of external
2 vehicle trips generated by the development above that which
3 was projected during the original
4 development-of-regional-impact review.

5 ~~13.16.~~ Any change which would result in development of
6 any area which was specifically set aside in the application
7 for development approval or in the development order for
8 preservation or special protection of endangered or threatened
9 plants or animals designated as endangered, threatened, or
10 species of special concern and their habitat, primary dunes,
11 or archaeological and historical sites designated as
12 significant by the Division of Historical Resources of the
13 Department of State. The further refinement of such areas by
14 survey shall be considered under sub-subparagraph (e)5.b.

15
16 The substantial deviation numerical standards in subparagraphs
17 ~~3.4.~~, ~~5.6.~~, ~~7.10.~~, ~~11.14.~~, excluding residential uses, and
18 ~~12.15.~~, are increased by 100 percent for a project certified
19 under s. 403.973 which creates jobs and meets criteria
20 established by the Office of Tourism, Trade, and Economic
21 Development as to its impact on an area's economy, employment,
22 and prevailing wage and skill levels. The substantial
23 deviation numerical standards in subparagraphs ~~3.4.~~, ~~5.6.~~,
24 ~~6.9.~~, ~~7.10.~~, ~~8.11.~~, and ~~11.14.~~ are increased by 50 percent for
25 a project located wholly within an urban infill and
26 redevelopment area designated on the applicable adopted local
27 comprehensive plan future land use map and not located within
28 the coastal high hazard area.

29 (e)1. A proposed change which, either individually or,
30 if there were previous changes, cumulatively with those
31 changes, is equal to or exceeds 40 percent of any numerical

1 criterion in subparagraphs (b)1.-12.1.-15., but which does not
2 exceed such criterion, shall be presumed not to create a
3 substantial deviation subject to further
4 development-of-regional-impact review. The presumption may be
5 rebutted by clear and convincing evidence at the public
6 hearing held by the local government pursuant to subparagraph
7 (f)5.

8 2. Except for a development order rendered pursuant to
9 subsection (22) or subsection (25), a proposed change to a
10 development order that individually or cumulatively with any
11 previous change is less than 40 percent of any numerical
12 criterion contained in subparagraphs (b)1.-12.1.-15.and does
13 not exceed any other criterion, or that involves an extension
14 of the buildout date of a development, or any phase thereof,
15 of less than 5 years is not subject to the public hearing
16 requirements of subparagraph (f)3., and is not subject to a
17 determination pursuant to subparagraph (f)5. Notice of the
18 proposed change shall be made to the regional planning council
19 and the state land planning agency. Such notice shall include
20 a description of previous individual changes made to the
21 development, including changes previously approved by the
22 local government, and shall include appropriate amendments to
23 the development order. The following changes, individually or
24 cumulatively with any previous changes, are not substantial
25 deviations:

26 a. Changes in the name of the project, developer,
27 owner, or monitoring official.

28 b. Changes to a setback that do not affect noise
29 buffers, environmental protection or mitigation areas, or
30 archaeological or historical resources.

31 c. Changes to minimum lot sizes.

1 d. Changes in the configuration of internal roads that
2 do not affect external access points.

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

8 f. Changes to increase the acreage in the development,
9 provided that no development is proposed on the acreage to be
10 added.

11 g. Changes to eliminate an approved land use, provided
12 that there are no additional regional impacts.

13 h. Changes required to conform to permits approved by
14 any federal, state, or regional permitting agency, provided
15 that these changes do not create additional regional impacts.

16 i. Any other change which the state land planning
17 agency agrees in writing is similar in nature, impact, or
18 character to the changes enumerated in sub-subparagraphs a.-h.
19 and which does not create the likelihood of any additional
20 regional impact.

21
22 This subsection does not require a development order amendment
23 for any change listed in sub-subparagraphs a.-i. unless such
24 issue is addressed either in the existing development order or
25 in the application for development approval, but, in the case
26 of the application, only if, and in the manner in which, the
27 application is incorporated in the development order.

28 3. Except for the change authorized by
29 sub-subparagraph 2.f., any addition of land not previously
30 reviewed or any change not specified in paragraph (b) or
31 paragraph (c) shall be presumed to create a substantial

1 deviation. This presumption may be rebutted by clear and
2 convincing evidence.

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

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

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

19 b. Except for the types of uses listed in subparagraph
20 (b)~~13.16~~, any change which would result in the 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, buffers, or special protection, including
24 habitat for plant and animal species, archaeological and
25 historical sites, dunes, and other special areas.

26 c. Notwithstanding any provision of paragraph (b) to
27 the contrary, a proposed change consisting of simultaneous
28 increases and decreases of at least two of the uses within an
29 authorized multiuse development of regional impact which was
30 originally approved with three or more uses specified in s.

31

1 380.0651(3)~~(b)(e)~~,~~(c)(d)~~,~~(d)(f)~~, and~~(e)(g)~~and residential
2 use.

3 (24) STATUTORY EXEMPTIONS.--

4 (i) Any proposed facility for the storage of any
5 petroleum product is exempt from the provisions of this
6 section, if such facility is consistent with a local
7 comprehensive plan that is in compliance with s. 163.3177 or
8 is consistent with a comprehensive port master plan that is in
9 compliance with s. 163.3178.

10 (j) Any proposal to increase development at a
11 waterport is exempt from the provisions of this section,
12 unless such proposed development is located within a county
13 identified in s. 370.12(2)(f). Such a county shall be exempt
14 after a manatee protection plan has been adopted by the county
15 and submitted for approval to the Fish and Wildlife
16 Conservation Commission, or on October 1, 2002, whichever is
17 earlier.

18 Section 3. Paragraphs (a) and (e) of subsection (3) of
19 section 380.0651, Florida Statutes, are repealed.

20 Section 4. Paragraph (a) of subsection (12) of section
21 163.3180, Florida Statutes, is amended to read:

22 163.3180 Concurrency.--

23 (12) When authorized by a local comprehensive plan, a
24 multiuse development of regional impact may satisfy the
25 transportation concurrency requirements of the local
26 comprehensive plan, the local government's concurrency
27 management system, and s. 380.06 by payment of a
28 proportionate-share contribution for local and regionally
29 significant traffic impacts, if:

30 (a) The development of regional impact meets or
31 exceeds the guidelines and standards of s. 380.0651(3)~~(g)(i)~~

1 and rule 28-24.032(2), Florida Administrative Code, and
2 includes a residential component that contains at least 100
3 residential dwelling units or 15 percent of the applicable
4 residential guideline and standard, whichever is greater;

5
6 The proportionate-share contribution may be applied to any
7 transportation facility to satisfy the provisions of this
8 subsection and the local comprehensive plan, but, for the
9 purposes of this subsection, the amount of the
10 proportionate-share contribution shall be calculated based
11 upon the cumulative number of trips from the proposed
12 development expected to reach roadways during the peak hour
13 from the complete buildout of a stage or phase being approved,
14 divided by the change in the peak hour maximum service volume
15 of roadways resulting from construction of an improvement
16 necessary to maintain the adopted level of service, multiplied
17 by the construction cost, at the time of developer payment, of
18 the improvement necessary to maintain the adopted level of
19 service. For purposes of this subsection, "construction cost"
20 includes all associated costs of the improvement.

21 Section 5. Subsection (20) of section 331.303, Florida
22 Statutes, is amended to read:

23 331.303 Definitions.--

24 (20) "Spaceport launch facilities" shall be defined as
25 industrial facilities in accordance with s. 380.0651(3)~~(b)(c)~~
26 and include any launch pad, launch control center, and fixed
27 launch-support equipment.

28 Section 6. (1) Nothing contained in this act abridges
29 or modifies any vested or other right or any duty or
30 obligation pursuant to any development order or agreement
31 which is applicable to a development of regional impact on the

1 effective date of this act. An airport, marina, or petroleum
2 storage facility which has received a
3 development-of-regional-impact development order pursuant to
4 s. 380.06, Florida Statutes 2000, but is no longer required to
5 undergo development-of-regional-impact review by operation of
6 this act, shall be governed by the following procedures:

7 (a) The development shall continue to be governed by
8 the development-of-regional-impact development order, and may
9 be completed in reliance upon and pursuant to the development
10 order. The development-of-regional-impact development order
11 may be enforced by the local government as provided by ss.
12 380.06(17) and 380.11, Florida Statutes 2000.

13 (b) If requested by the developer or landowner, the
14 development-of-regional-impact development order may be
15 amended or rescinded by the local government consistent with
16 the local comprehensive plan and land development regulations,
17 and pursuant to the local government procedures governing
18 local development orders.

19 (2) An airport, marina, or petroleum storage facility
20 with an application for development approval pending on the
21 effective date of this act, or a notification of proposed
22 change pending on the effective date of this act, may elect to
23 continue such review pursuant to s. 380.06, Florida Statutes
24 2000. At the conclusion of the pending review, including any
25 appeals pursuant to s. 380.07, Florida Statutes 2000, the
26 resulting development order shall be governed by the
27 provisions of subsection (1).

28 Section 7. If any provision of this act or the
29 application thereof to any person or circumstance is held
30 invalid, the invalidity shall not affect other provisions or
31 applications of the act which can be given effect without the

1 invalid provision or application, and to this end the
2 provisions of this act are declared severable.

3 Section 8. This act shall take effect upon becoming a
4 law.

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6 *****

7 HOUSE SUMMARY

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9 Requires each licensed publicly owned and operated
10 airport to prepare an airport master plan, provides for
11 incorporation of the plan into the affected local
12 government comprehensive plan, and provides requirements
13 with respect thereto. Provides that development that is
14 consistent with an approved plan is not a development of
15 regional impact. Removes the rebuttable presumptions with
16 respect to application of the statewide guidelines and
17 standards for developments of regional impact. Removes
18 provisions which specify that certain changes in airport
19 facilities, increases in the storage capacity for
20 chemical or petroleum storage facilities, or development
21 at a waterport constitute a substantial deviation and
22 require further development-of-regional-impact review.
23 Exempts certain proposed facilities for the storage of
24 any petroleum product and proposed waterport development
25 in certain counties from development-of-regional-impact
26 requirements. Removes provisions which provide the
27 development-of-regional-impact statewide guidelines and
28 standards for airports and port facilities. Provides
29 application with respect to airports, marinas, and
30 petroleum storage facilities which have received a
31 development-of-regional-impact development order, or
which have an application for development approval or
notification of proposed change pending, on the effective
date of the act.