

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 Representative(s) Henriquez offered the following:

12

13 **Amendment (with title amendment)**

14 Remove everything after the enacting clause

15

16 and insert:

17 Section 1. Paragraph (c) is added to subsection (4) of  
18 section 163.3180, Florida Statutes, to read:

19 163.3180 Concurrency.--

20 (4)

21 (c) The concurrency requirement, except as it relates  
22 to transportation facilities, as implemented in local  
23 government comprehensive plans may be waived by a local  
24 government for urban infill and redevelopment areas designated  
25 pursuant to s. 163.2517 if such a waiver does not endanger  
26 public health or safety as defined by the local government in  
27 its local government comprehensive plan. The waiver shall be  
28 adopted as a plan amendment pursuant to the process set forth  
29 in s. 163.3187(3)(a). A local government may grant a  
30 concurrency exception pursuant to subsection (5) for  
31 transportation facilities located within these urban infill

1 and redevelopment areas.

2 Section 2. Paragraph (a) of subsection (1),  
3 subsections (3), (4), (6), (7), (8), and (15), and paragraph  
4 (d) of subsection (16) of section 163.3184, Florida Statutes,  
5 are amended to read:

6 163.3184 Process for adoption of comprehensive plan or  
7 plan amendment.--

8 (1) DEFINITIONS.--As used in this section, the term:

9 (a) "Affected person" includes the affected local  
10 government; persons owning property, residing, or owning or  
11 operating a business within the boundaries of the local  
12 government whose plan is the subject of the review; owners of  
13 real property abutting real property that is the subject of a  
14 proposed change to a future land use map; and adjoining local  
15 governments that can demonstrate that the plan or plan  
16 amendment will produce substantial impacts on the increased  
17 need for publicly funded infrastructure or substantial impacts  
18 on areas designated for protection or special treatment within  
19 their jurisdiction. Each person, other than an adjoining local  
20 government, in order to qualify under this definition, shall  
21 also have submitted oral or written comments, recommendations,  
22 or objections to the local government during the period of  
23 time beginning with the transmittal hearing for the plan or  
24 plan amendment and ending with the adoption of the plan or  
25 plan amendment.

26 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR  
27 AMENDMENT.--

28 (a) Each local governing body shall transmit the  
29 complete proposed comprehensive plan or plan amendment to the  
30 state land planning agency, the appropriate regional planning  
31 council and water management district, the Department of

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 Environmental Protection, the Department of State, and the  
2 Department of Transportation and, in the case of municipal  
3 plans, to the appropriate county and, in the case of county  
4 plans, to the Fish and Wildlife Conservation Commission and  
5 the Department of Agriculture and Consumer Services  
6 immediately following a public hearing pursuant to subsection  
7 (15) as specified in the state land planning agency's  
8 procedural rules. The local governing body shall also transmit  
9 a copy of the complete proposed comprehensive plan or plan  
10 amendment to any other unit of local government or government  
11 agency in the state that has filed a written request with the  
12 governing body for the plan or plan amendment. If the plan or  
13 plan amendment includes or relates to a public school  
14 facilities element, the local governing body shall submit a  
15 copy to the Office of Educational Facilities within the Office  
16 of the Commissioner of Education for review and comment. The  
17 local government may request a review by the state land  
18 planning agency pursuant to subsection (6) at the time of the  
19 transmittal of an amendment.

20 (b) A local governing body shall not transmit portions  
21 of a plan or plan amendment unless it has previously provided  
22 to all state agencies designated by the state land planning  
23 agency a complete copy of its adopted comprehensive plan  
24 pursuant to subsection (7) and as specified in the agency's  
25 procedural rules. In the case of comprehensive plan  
26 amendments, the local governing body shall transmit to the  
27 state land planning agency, the appropriate regional planning  
28 council and water management district, the Department of  
29 Environmental Protection, the Department of State, and the  
30 Department of Transportation and, in the case of municipal  
31 plans, to the appropriate county and, in the case of county

1 plans, to the Fish and Wildlife Conservation Commission and  
 2 the Department of Agriculture and Consumer Services the  
 3 materials specified in the state land planning agency's  
 4 procedural rules and, in cases in which the plan amendment is  
 5 a result of an evaluation and appraisal report adopted  
 6 pursuant to s. 163.3191, a copy of the evaluation and  
 7 appraisal report. Local governing bodies shall consolidate all  
 8 proposed plan amendments into a single submission for each of  
 9 the two plan amendment adoption dates during the calendar year  
 10 pursuant to s. 163.3187.

11 (c) A local government may adopt a proposed plan  
 12 amendment previously transmitted pursuant to this subsection,  
 13 unless review is requested or otherwise initiated pursuant to  
 14 subsection (6).

15 (d) In cases in which a local government transmits  
 16 multiple individual amendments that can be clearly and legally  
 17 separated and distinguished for the purpose of determining  
 18 whether to review the proposed amendment, and the state land  
 19 planning agency elects to review several or a portion of the  
 20 amendments and the local government chooses to immediately  
 21 adopt the remaining amendments not reviewed, the amendments  
 22 immediately adopted and any reviewed amendments that the local  
 23 government subsequently adopts together constitute one  
 24 amendment cycle in accordance with s. 163.3187(1).

25 (4) INTERGOVERNMENTAL REVIEW.--~~The if review of a~~  
 26 ~~proposed comprehensive plan amendment is requested or~~  
 27 ~~otherwise initiated pursuant to subsection (6), the state land~~  
 28 ~~planning agency within 5 working days of determining that such~~  
 29 ~~a review will be conducted shall transmit a copy of the~~  
 30 ~~proposed plan amendment to various government agencies, as~~  
 31 ~~appropriate, for response or comment, including, but not~~

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~limited to, the Department of Environmental Protection, the~~  
2 ~~Department of Transportation, the water management district,~~  
3 ~~and the regional planning council, and, in the case of~~  
4 ~~municipal plans, to the county land planning agency. These~~  
5 ~~governmental agencies specified in paragraph (3)(a) shall~~  
6 provide comments to the state land planning agency within 30  
7 days after receipt by the state land planning agency of the  
8 complete proposed plan amendment. The appropriate regional  
9 planning council shall also provide its written comments to  
10 the state land planning agency within 30 days after receipt by  
11 the state land planning agency of the complete proposed plan  
12 amendment and shall specify any objections, recommendations  
13 for modifications, and comments of any other regional agencies  
14 to which the regional planning council may have referred the  
15 proposed plan amendment. Written comments submitted by the  
16 public within 30 days after notice of transmittal by the local  
17 government of the proposed plan amendment will be considered  
18 as if submitted by governmental agencies. All written agency  
19 and public comments must be made part of the file maintained  
20 under subsection (2).

21 (6) STATE LAND PLANNING AGENCY REVIEW.--

22 (a) The state land planning agency shall review a  
23 proposed plan amendment upon request of a regional planning  
24 council, affected person, or local government transmitting the  
25 plan amendment. The request from the regional planning council  
26 or affected person must be if the request is received within  
27 30 days after transmittal of the proposed plan amendment  
28 pursuant to subsection (3). ~~The agency shall issue a report~~  
29 ~~of its objections, recommendations, and comments regarding the~~  
30 ~~proposed plan amendment.~~ A regional planning council or  
31 affected person requesting a review shall do so by submitting

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 a written request to the agency with a notice of the request  
2 to the local government and any other person who has requested  
3 notice.

4 (b) The state land planning agency may review any  
5 proposed plan amendment regardless of whether a request for  
6 review has been made, if the agency gives notice to the local  
7 government, and any other person who has requested notice, of  
8 its intention to conduct such a review within 35 ~~30~~ days after  
9 receipt of transmittal of the complete proposed plan amendment  
10 pursuant to subsection (3).

11 (c) The state land planning agency shall establish by  
12 rule a schedule for receipt of comments from the various  
13 government agencies, as well as written public comments,  
14 pursuant to subsection (4). If the state land planning agency  
15 elects to review the amendment or the agency is required to  
16 review the amendment as specified in paragraph (a), the agency  
17 shall issue a report giving its objections, recommendations,  
18 and comments regarding the proposed amendment within 60 days  
19 after receipt of the complete proposed amendment by the state  
20 land planning agency.~~The state land planning agency shall~~  
21 ~~have 30 days to review comments from the various government~~  
22 ~~agencies along with a local government's comprehensive plan or~~  
23 ~~plan amendment. During that period, the state land planning~~  
24 ~~agency shall transmit in writing its comments to the local~~  
25 ~~government along with any objections and any recommendations~~  
26 ~~for modifications.~~ When a federal, state, or regional agency  
27 has implemented a permitting program, the state land planning  
28 agency shall not require a local government to duplicate or  
29 exceed that permitting program in its comprehensive plan or to  
30 implement such a permitting program in its land development  
31 regulations. Nothing contained herein shall prohibit the

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 state land planning agency in conducting its review of local  
2 plans or plan amendments from making objections,  
3 recommendations, and comments or making compliance  
4 determinations regarding densities and intensities consistent  
5 with the provisions of this part. In preparing its comments,  
6 the state land planning agency shall only base its  
7 considerations on written, and not oral, comments, from any  
8 source.

9 (d) The state land planning agency review shall  
10 identify all written communications with the agency regarding  
11 the proposed plan amendment. If the state land planning agency  
12 does not issue such a review, it shall identify in writing to  
13 the local government all written communications received 30  
14 days after transmittal. The written identification must  
15 include a list of all documents received or generated by the  
16 agency, which list must be of sufficient specificity to enable  
17 the documents to be identified and copies requested, if  
18 desired, and the name of the person to be contacted to request  
19 copies of any identified document. The list of documents must  
20 be made a part of the public records of the state land  
21 planning agency.

22 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF  
23 PLAN OR AMENDMENTS AND TRANSMITTAL.--

24 (a) The local government shall review the written  
25 comments submitted to it by the state land planning agency,  
26 and any other person, agency, or government. Any comments,  
27 recommendations, or objections and any reply to them shall be  
28 public documents, a part of the permanent record in the  
29 matter, and admissible in any proceeding in which the  
30 comprehensive plan or plan amendment may be at issue. The  
31 local government, upon receipt of written comments from the

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 state land planning agency, shall have 120 days to adopt or  
2 adopt with changes the proposed comprehensive plan or s.  
3 163.3191 plan amendments. In the case of comprehensive plan  
4 amendments other than those proposed pursuant to s. 163.3191,  
5 the local government shall have 60 days to adopt the  
6 amendment, adopt the amendment with changes, or determine that  
7 it will not adopt the amendment. The adoption of the proposed  
8 plan or plan amendment or the determination not to adopt a  
9 plan amendment, other than a plan amendment proposed pursuant  
10 to s. 163.3191, shall be made in the course of a public  
11 hearing pursuant to subsection (15). The local government  
12 shall transmit the complete adopted comprehensive plan or  
13 ~~adopted~~ plan amendment, including the names and addresses of  
14 persons compiled pursuant to paragraph (15)(c), to the state  
15 land planning agency as specified in the agency's procedural  
16 rules within 10 working days after adoption. The local  
17 governing body shall also transmit a copy of the adopted  
18 comprehensive plan or plan amendment to the regional planning  
19 agency and to any other unit of local government or  
20 governmental agency in the state that has filed a written  
21 request with the governing body for a copy of the plan or plan  
22 amendment.

23 (b) If the adopted plan amendment is unchanged from  
24 the proposed plan amendment transmitted pursuant to subsection  
25 (3) and an affected person as defined in paragraph (1)(a) did  
26 not raise any objection, the state land planning agency did  
27 not review the proposed plan amendment, and the state land  
28 planning agency did not raise any objections during its review  
29 pursuant to subsection (6), the local government may state in  
30 the transmittal letter that the plan amendment is unchanged  
31 and was not the subject of objections.



716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 (8) NOTICE OF INTENT.--

2 (a) If the transmittal letter correctly states that  
3 the plan amendment is unchanged and was not the subject of  
4 review or objections pursuant to paragraph (7)(b), the state  
5 land planning agency has 20 days after receipt of the  
6 transmittal letter within which to issue a notice of intent  
7 that the plan amendment is in compliance.

8 (b)~~(a)~~ Except as provided in paragraph (a) or in s.  
9 163.3187(3), the state land planning agency, upon receipt of a  
10 local government's complete adopted comprehensive plan or plan  
11 amendment, shall have 45 days for review and to determine if  
12 the plan or plan amendment is in compliance with this act,  
13 unless the amendment is the result of a compliance agreement  
14 entered into under subsection (16), in which case the time  
15 period for review and determination shall be 30 days. If  
16 review was not conducted under subsection (6), the agency's  
17 determination must be based upon the plan amendment as  
18 adopted. If review was conducted under subsection (6), the  
19 agency's determination of compliance must be based only upon  
20 one or both of the following:

21 1. The state land planning agency's written comments  
22 to the local government pursuant to subsection (6); or

23 2. Any changes made by the local government to the  
24 comprehensive plan or plan amendment as adopted.

25 ~~(c)(b)1. During the time period provided for in this~~  
26 ~~subsection, the state land planning agency shall issue,~~  
27 ~~through a senior administrator or the secretary, as specified~~  
28 ~~in the agency's procedural rules, a notice of intent to find~~  
29 ~~that the plan or plan amendment is in compliance or not in~~  
30 ~~compliance. A notice of intent shall be issued by publication~~  
31 ~~in the manner provided by this paragraph and by mailing a copy~~

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~to the local government and to persons who request notice.~~  
2 ~~The required advertisement shall be no less than 2 columns~~  
3 ~~wide by 10 inches long, and the headline in the advertisement~~  
4 ~~shall be in a type no smaller than 12 point. The advertisement~~  
5 ~~shall not be placed in that portion of the newspaper where~~  
6 ~~legal notices and classified advertisements appear. The~~  
7 ~~advertisement shall be published in a newspaper which meets~~  
8 ~~the size and circulation requirements set forth in paragraph~~  
9 ~~(15)(c) and which has been designated in writing by the~~  
10 ~~affected local government at the time of transmittal of the~~  
11 ~~amendment. Publication by the state land planning agency of a~~  
12 ~~notice of intent in the newspaper designated by the local~~  
13 ~~government shall be prima facie evidence of compliance with~~  
14 ~~the publication requirements of this section.~~

15       ~~2. For fiscal year 2001-2002 only, the provisions of~~  
16 ~~this subparagraph shall supersede the provisions of~~  
17 ~~subparagraph 1. During the time period provided for in this~~  
18 ~~subsection, the state land planning agency shall issue,~~  
19 ~~through a senior administrator or the secretary, as specified~~  
20 ~~in the agency's procedural rules, a notice of intent to find~~  
21 ~~that the plan or plan amendment is in compliance or not in~~  
22 ~~compliance. A notice of intent shall be issued by publication~~  
23 ~~in the manner provided by this paragraph and by mailing a copy~~  
24 ~~to the local government. The advertisement shall be placed in~~  
25 ~~that portion of the newspaper where legal notices appear. The~~  
26 ~~advertisement shall be published in a newspaper that meets the~~  
27 ~~size and circulation requirements set forth in paragraph~~  
28 ~~(15)(e)(e) and that has been designated in writing by the~~  
29 ~~affected local government at the time of transmittal of the~~  
30 ~~amendment. Publication by the state land planning agency of a~~  
31 ~~notice of intent in the newspaper designated by the local~~

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 government shall be prima facie evidence of compliance with  
2 the publication requirements of this section. The state land  
3 planning agency shall post a copy of the notice of intent on  
4 the agency's Internet site. The agency shall, no later than  
5 the date the notice of intent is transmitted to the newspaper,  
6 send by regular mail a courtesy informational statement to  
7 persons who provide their names and addresses to the local  
8 government at the transmittal hearing or at the adoption  
9 hearing where the local government has provided the names and  
10 addresses of such persons to the department at the time of  
11 transmittal of the adopted amendment. The informational  
12 statements shall include the name of the newspaper in which  
13 the notice of intent will appear, the approximate date of  
14 publication, the ordinance number of the plan or plan  
15 amendment, and a statement that affected persons have 21 days  
16 after the actual date of publication of the notice to file a  
17 petition. ~~This subparagraph expires July 1, 2002.~~

18 2. A local government that has an Internet site shall  
19 post a copy of the state land planning agency's notice of  
20 intent on the site within 5 days after receipt of the mailed  
21 copy of the agency's notice of intent.

22 (15) PUBLIC HEARINGS.--

23 (a) The procedure for transmittal of a complete  
24 proposed comprehensive plan or plan amendment pursuant to  
25 subsection (3) and for adoption of a comprehensive plan or  
26 plan amendment pursuant to subsection (7) shall be by  
27 affirmative vote of not less than a majority of the members of  
28 the governing body present at the hearing. The adoption of a  
29 comprehensive plan or plan amendment shall be by ordinance.  
30 For the purposes of transmitting or adopting a comprehensive  
31 plan or plan amendment, the notice requirements in chapters

1 125 and 166 are superseded by this subsection, except as  
2 provided in this part.

3 (b) The local governing body shall hold at least two  
4 advertised public hearings on the proposed comprehensive plan  
5 or plan amendment as follows:

6 1. The first public hearing shall be held at the  
7 transmittal stage pursuant to subsection (3). It shall be  
8 held on a weekday at least 7 days after the day that the first  
9 advertisement is published.

10 2. The second public hearing shall be held at the  
11 adoption stage pursuant to subsection (7). It shall be held  
12 on a weekday at least 5 days after the day that the second  
13 advertisement is published.

14 (c) The local government shall provide a sign-in form  
15 at the transmittal hearing and at the adoption hearing for  
16 persons to provide their names and mailing addresses. The  
17 sign-in form shall advise that any person providing the  
18 requested information will receive a courtesy informational  
19 statement concerning publications of the state land planning  
20 agency's notice of intent. The local government shall add to  
21 the sign-in form the name and address of any person who  
22 submits written comments concerning the proposed plan or plan  
23 amendment during the time period between the commencement of  
24 the transmittal hearing and the end of the adoption hearing.  
25 It is the responsibility of the person completing the form or  
26 providing written comments to accurately, completely, and  
27 legibly provide all information needed in order to receive the  
28 courtesy informational statement.

29 (d) The agency shall provide a model sign-in form for  
30 providing the list to the agency that may be used by the local  
31 government to satisfy the requirements of this subsection.

1           (e)~~(c)~~ If the proposed comprehensive plan or plan  
2 amendment changes the actual list of permitted, conditional,  
3 or prohibited uses within a future land use category or  
4 changes the actual future land use map designation of a parcel  
5 or parcels of land, the required advertisements shall be in  
6 the format prescribed by s. 125.66(4)(b)2. for a county or by  
7 s. 166.041(3)(c)2.b. for a municipality.

8           (16) COMPLIANCE AGREEMENTS.--

9           (d) A local government may adopt a plan amendment  
10 pursuant to a compliance agreement in accordance with the  
11 requirements of paragraph (15)(a). The plan amendment shall be  
12 exempt from the requirements of subsections (2)-(7). The  
13 local government shall hold a single adoption public hearing  
14 pursuant to the requirements of subparagraph (15)(b)2. and  
15 paragraph (15)(e)~~(c)~~. Within 10 working days after adoption of  
16 a plan amendment, the local government shall transmit the  
17 amendment to the state land planning agency as specified in  
18 the agency's procedural rules, and shall submit one copy to  
19 the regional planning agency and to any other unit of local  
20 government or government agency in the state that has filed a  
21 written request with the governing body for a copy of the plan  
22 amendment, and one copy to any party to the proceeding under  
23 ss. 120.569 and 120.57 granted intervenor status.

24           Section 3. Paragraph (d) of subsection (2), paragraph  
25 (b) of subsection (4), paragraph (a) of subsection (8),  
26 paragraph (c) of subsection (15), subsection (18), and  
27 paragraphs (c) and (e) of subsection (19) of section 380.06,  
28 Florida Statutes, are amended to read:

29           380.06 Developments of regional impact.--

30           (2) STATEWIDE GUIDELINES AND STANDARDS.--

31           (d) The guidelines and standards shall be applied as

1 follows:

2 1. Fixed thresholds.--

3 a. A development that is at or below 100 ~~80~~ percent of  
4 all numerical thresholds in the guidelines and standards shall  
5 not be required to undergo development-of-regional-impact  
6 review.

7 b. A development that is at or above 120 percent of  
8 any numerical threshold shall be required to undergo  
9 development-of-regional-impact review.

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

20 2. Rebuttable presumption ~~presumptions~~.--

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

24 ~~b.~~ It shall be presumed that a development that is at  
25 100 percent or between 100 and 120 percent of a numerical  
26 threshold shall be required to undergo  
27 development-of-regional-impact review.

28 (4) BINDING LETTER.--

29 (b) Unless a developer waives the requirements of this  
30 paragraph by agreeing to undergo  
31 development-of-regional-impact review pursuant to this

1 section, the state land planning agency or local government  
2 with jurisdiction over the land on which a development is  
3 proposed may require a developer to obtain a binding letter  
4 if+

5 ~~1. the development is at a presumptive numerical~~  
6 ~~threshold or up to 20 percent above a numerical threshold in~~  
7 ~~the guidelines and standards.~~~~7 or~~

8 ~~2. The development is between a presumptive numerical~~  
9 ~~threshold and 20 percent below the numerical threshold and the~~  
10 ~~local government or the state land planning agency is in doubt~~  
11 ~~as to whether the character or magnitude of the development at~~  
12 ~~the proposed location creates a likelihood that the~~  
13 ~~development will have a substantial effect on the health,~~  
14 ~~safety, or welfare of citizens of more than one county.~~

15 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

16 (a) A developer may enter into a written preliminary  
17 development agreement with the state land planning agency to  
18 allow a developer to proceed with a limited amount of the  
19 total proposed development, subject to all other governmental  
20 approvals and solely at the developer's own risk, prior to  
21 issuance of a final development order. All owners of the land  
22 in the total proposed development shall join the developer as  
23 parties to the agreement. Each agreement shall include and be  
24 subject to the following conditions:

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

28 2. The developer shall file an application for  
29 development approval for the total proposed development within  
30 3 months after execution of the agreement, unless the state  
31 land planning agency agrees to a different time for good cause

1 shown. Failure to timely file an application and to otherwise  
2 diligently proceed in good faith to obtain a final development  
3 order shall constitute a breach of the preliminary development  
4 agreement.

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

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

22           5. The preliminary development agreement may allow  
23 development which is:

24           a. Less than or equal to 100 ~~80~~ percent of any  
25 applicable threshold if the developer demonstrates that such  
26 development is consistent with subparagraph 4.; or

27           b. Less than 120 percent of any applicable threshold  
28 if the developer demonstrates that such development is part of  
29 a proposed downtown development of regional impact specified  
30 in subsection (22) or part of any areawide development of  
31 regional impact specified in subsection (25) and that the



1 development is consistent with subparagraph 4.

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

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

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

20           9. In the event of a breach of the agreement or  
21 failure to comply with any condition of the agreement, or if  
22 the agreement was based on materially inaccurate information,  
23 the state land planning agency may terminate the agreement or  
24 file suit to enforce the agreement as provided in this section  
25 and s. 380.11, including a suit to enjoin all development.

26           10. A notice of the preliminary development agreement  
27 shall be recorded by the developer in accordance with s.  
28 28.222 with the clerk of the circuit court for each county in  
29 which land covered by the terms of the agreement is located.  
30 The notice shall include a legal description of the land  
31 covered by the agreement and shall state the parties to the

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 agreement, the date of adoption of the agreement and any  
2 subsequent amendments, the location where the agreement may be  
3 examined, and that the agreement constitutes a land  
4 development regulation applicable to portions of the land  
5 covered by the agreement. The provisions of the agreement  
6 shall inure to the benefit of and be binding upon successors  
7 and assigns of the parties in the agreement.

8           11. Except for those agreements which authorize  
9 preliminary development for substantial deviations pursuant to  
10 subsection (19), a developer who no longer wishes to pursue a  
11 development of regional impact may propose to abandon any  
12 preliminary development agreement executed after January 1,  
13 1985, including those pursuant to s. 380.032(3), provided at  
14 the time of abandonment:

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

18           b. The amount of development is less than 100 ~~80~~  
19 percent of all numerical thresholds of the guidelines and  
20 standards, and the state land planning agency determines in  
21 writing that the development to date is in compliance with all  
22 applicable local regulations and the terms and conditions of  
23 the preliminary development agreement and otherwise adequately  
24 mitigates for the impacts of the development to date.

25

26 In either event, when a developer proposes to abandon said  
27 agreement, the developer shall give written notice and state  
28 that he or she is no longer proposing a development of  
29 regional impact and provide adequate documentation that he or  
30 she has met the criteria for abandonment of the agreement to  
31 the state land planning agency. Within 30 days of receipt of

1 adequate documentation of such notice, the state land planning  
2 agency shall make its determination as to whether or not the  
3 developer meets the criteria for abandonment. Once the state  
4 land planning agency determines that the developer meets the  
5 criteria for abandonment, the state land planning agency shall  
6 issue a notice of abandonment which shall be recorded by the  
7 developer in accordance with s. 28.222 with the clerk of the  
8 circuit court for each county in which land covered by the  
9 terms of the agreement is located.

10 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

17 2. Shall establish compliance dates for the  
18 development order, including a deadline for commencing  
19 physical development and for compliance with conditions of  
20 approval or phasing requirements, and shall include a  
21 termination date that reasonably reflects the time required to  
22 complete the development.

23 3. Shall establish a date until which the local  
24 government agrees that the approved development of regional  
25 impact shall not be subject to downzoning, unit density  
26 reduction, or intensity reduction, unless the local government  
27 can demonstrate that substantial changes in the conditions  
28 underlying the approval of the development order have occurred  
29 or the development order was based on substantially inaccurate  
30 information provided by the developer or that the change is  
31 clearly established by local government to be essential to the

1 public health, safety, or welfare.

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

9 5. May specify the types of changes to the development  
10 which shall require submission for a substantial deviation  
11 determination under subsection (19).

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

13 (18) BIENNIAL ~~ANNUAL~~ REPORTS.--The developer shall  
14 submit a biennial ~~an annual~~ report on the development of  
15 regional impact to the local government, the regional planning  
16 agency, the state land planning agency, and all affected  
17 permit agencies in alternate years on the date specified in  
18 the development order, unless the development order by its  
19 terms requires more frequent monitoring. If the ~~annual~~ report  
20 is not received, the regional planning agency or the state  
21 land planning agency shall notify the local government. If  
22 the local government does not receive the ~~annual~~ report or  
23 receives notification that the regional planning agency or the  
24 state land planning agency has not received the report, the  
25 local government shall request in writing that the developer  
26 submit the report within 30 days. The failure to submit the  
27 report after 30 days shall result in the temporary suspension  
28 of the development order by the local government. If no  
29 additional development pursuant to the development order has  
30 occurred since the submission of the previous report, then a  
31 letter from the developer stating that no development has

716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

1 occurred shall satisfy the requirement for a report.  
2 Development orders which require annual reports may be amended  
3 to require biennial reports at the option of the local  
4 government.

5 (19) SUBSTANTIAL DEVIATIONS.--

6 (c) An extension of the date of buildout of a  
7 development, or any phase thereof, by 7 or more years shall be  
8 presumed to create a substantial deviation subject to further  
9 development-of-regional-impact review. An extension of the  
10 date of buildout, or any phase thereof, of ~~5 years or more but~~  
11 ~~less than 7 years shall be presumed not to create a~~  
12 ~~substantial deviation. These presumptions may be rebutted by~~  
13 ~~clear and convincing evidence at the public hearing held by~~  
14 ~~the local government. An extension of less than 7 5 years is~~  
15 not a substantial deviation. For the purpose of calculating  
16 when a buildout, phase, or termination date has been exceeded,  
17 the time shall be tolled during the pendency of administrative  
18 or judicial proceedings relating to development permits. Any  
19 extension of the buildout date of a project or a phase thereof  
20 shall automatically extend the commencement date of the  
21 project, the termination date of the development order, the  
22 expiration date of the development of regional impact, and the  
23 phases thereof by a like period of time.

24 (e)1. A proposed change which, either individually or,  
25 if there were previous changes, cumulatively with those  
26 changes, is equal to or exceeds 40 percent of any numerical  
27 criterion in subparagraphs (b)1.-15., but which does not  
28 exceed such criterion, shall be presumed not to create a  
29 substantial deviation subject to further  
30 development-of-regional-impact review. The presumption may be  
31 rebutted by clear and convincing evidence at the public

1 hearing held by the local government pursuant to subparagraph  
2 (f)5.

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

- 21 a. Changes in the name of the project, developer,
- 22 owner, or monitoring official.
- 23 b. Changes to a setback that do not affect noise
- 24 buffers, environmental protection or mitigation areas, or
- 25 archaeological or historical resources.
- 26 c. Changes to minimum lot sizes.
- 27 d. Changes in the configuration of internal roads that
- 28 do not affect external access points.
- 29 e. Changes to the building design or orientation that
- 30 stay approximately within the approved area designated for
- 31 such building and parking lot, and which do not affect

1 historical buildings designated as significant by the Division  
2 of Historical Resources of the Department of State.

3 f. Changes to increase the acreage in the development,  
4 provided that no development is proposed on the acreage to be  
5 added.

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

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

11 i. Any other change which the state land planning  
12 agency agrees in writing is similar in nature, impact, or  
13 character to the changes enumerated in sub-subparagraphs a.-h.  
14 and which does not create the likelihood of any additional  
15 regional impact.

16  
17 This subsection does not require a development order amendment  
18 for any change listed in sub-subparagraphs a.-i. unless such  
19 issue is addressed either in the existing development order or  
20 in the application for development approval, but, in the case  
21 of the application, only if, and in the manner in which, the  
22 application is incorporated in the development order.

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

29 4. Any submittal of a proposed change to a previously  
30 approved development shall include a description of individual  
31 changes previously made to the development, including changes

1 previously approved by the local government. The local  
2 government shall consider the previous and current proposed  
3 changes in deciding whether such changes cumulatively  
4 constitute a substantial deviation requiring further  
5 development-of-regional-impact review.

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

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

14 b. Except for the types of uses listed in subparagraph  
15 (b)16., any change which would result in the development of  
16 any area which was specifically set aside in the application  
17 for development approval or in the development order for  
18 preservation, buffers, or special protection, including  
19 habitat for plant and animal species, archaeological and  
20 historical sites, dunes, and other special areas.

21 c. Notwithstanding any provision of paragraph (b) to  
22 the contrary, a proposed change consisting of simultaneous  
23 increases and decreases of at least two of the uses within an  
24 authorized multiuse development of regional impact which was  
25 originally approved with three or more uses specified in s.  
26 380.0651(3)(c), (d), (f), and (g) and residential use.

27 Section 4. This act shall take effect upon becoming a  
28 law.

29  
30  
31



716-137AX-22

Bill No. CS/HB 1535

Amendment No. \_\_\_\_ (for drafter's use only)

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

2 And the title is amended as follows:

3 remove:    the entire title

4

5 and insert:

6

                  A bill to be entitled

7

          An act relating to growth management; amending

8

          s. 163.3180, F.S.; providing for the waiver of

9

          concurrency requirements; amending s. 163.3184,

10

          F.S.; revising definitions; revising provisions

11

          governing the process for adopting

12

          comprehensive plans and plan amendments;

13

          amending s. 380.06, F.S., relating to

14

          developments of regional impact; removing a

15

          rebuttable presumption with respect to

16

          application of the statewide guidelines and

17

          standards and revising the fixed thresholds;

18

          providing for submission of biennial, rather

19

          than annual, reports by the developer;

20

          authorizing submission of a letter, rather than

21

          a report, under certain circumstances;

22

          providing for amendment of development orders

23

          with respect to report frequency; providing

24

          that an extension of the date of buildout of

25

          less than 7 years is not a substantial

26

          deviation; providing an effective date.

27

28

29

30

31