

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 546
 SPONSOR: Senator Constantine
 SUBJECT: Developments of Regional Impact
 DATE: April 16, 2003 REVISED: 04/21/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/5 amendments</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill expresses the Legislature’s intent to revise laws relating to developments of regional impact.

II. Present Situation:

Chapter 380, F.S., includes the Development of Regional Impact (DRI) program, enacted as part of the Florida Environmental Land and Water Management Act of 1972. The DRI Program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Rule 28-24, Florida Administrative Code. Examples of the land uses for which guidelines are established include: airports; attractions and recreational facilities; industrial plants; office development; port facilities, including marinas; hotel or motel development; retail and service development; recreational vehicle development; multi-use development; residential development; and schools.

Percentage thresholds, as defined in 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120% of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100% of a numerical threshold or between 100-120% of a numerical threshold is presumed to require DRI review.

Section 380.06, F.S., establishes the basic process for DRI review. The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities.
- The development will significantly impact adjacent jurisdictions.
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

The local government where the project is located must hold a public hearing and issue a development order. The development order may require the developer to contribute land or funds for the construction of public facilities or infrastructure. The issuance of a final development order vests the developer with the right to construct the development as configured.

In addition, under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a substantial likelihood of additional regional impact, or any type of regional impact constitutes a "substantial deviation" that requires further DRI review and entry of a new or amended local development order. The statute sets out criteria for determining when certain changes are to be considered substantial deviations without need for a hearing, and provides that all such changes are considered cumulatively. The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. These presumptions may be rebutted by clear and convincing evidence at hearing.
8-24, F.A.C.

Section 380.115, F.S., allows a developer to abandon a DRI pursuant to the process in s. 380.06(26), F.S. This process in s. 380.06(26), F.S., allows a developer or local government to abandon a DRI and its associated development orders. The local government may propose to abandon a DRI upon written notification to each DRI owner and developer of record and if there is local government does not receive an objection to the abandonment in writing or at the public hearing on the issue. If development has not occurred within the DRI at the time of abandonment and the developer is not proposing any development after the abandonment, the abandonment order may not require the owner or developer to contribute any land, funds, or public facilities as a condition of abandonment. The abandonment of a DRI by a local government is subject to appeal under s. 380.07, F.S., but the appeal is limited to the whether the conditions in s. 380.06(26), F.S., and any rules promulgated pursuant to that subsection have been satisfied.

III. Effect of Proposed Changes:

Section 1 expresses the Legislature's intent to revise laws relating to developments of regional impact.

Section 2 provides the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Comprehensive Planning:

Provides for the extension of the date of buildout for a DRI by more than 5 years but less than 10 years is not presumed to create a substantial deviation. (WITH TITLE AMENDMENT)

#2 by Comprehensive Planning:

Provides that a multimodal transit station within in a DRI is not a substantial deviation and may be approved by a local government in certain circumstances. (WITH TITLE AMENDMENT)

#3 by Comprehensive Planning:

Provides that quasi-judicial development orders of local governments that are not on appeal may

not be abrogated if the land use regulation is later invalidated because of insufficient approval standards. (WITH TITLE AMENDMENT)

#4 by Comprehensive Planning:

Provides certain conditions under which an incremental development approval is deemed approved. (WITH TITLE AMENDMENT)

#5 by Comprehensive Planning:

Allows a developer to abandon a DRI order upon written notification to the applicable local government. (WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
