

By Senator Bennett

21-844-04

1 A bill to be entitled
2 An act relating to developments of regional
3 impact; amending s. 380.06, F.S.; providing for
4 a reduction in the issues that must be included
5 in an application for development approval;
6 revising the requirements for development
7 orders; revising requirements for development
8 orders that require a contribution of land or
9 public facilities; deleting provisions
10 prohibiting a local government from issuing a
11 permit for development subsequent to the
12 termination date contained in a development
13 order; revising certain thresholds under which
14 a proposed change to a previously approved
15 development constitutes a substantial deviation
16 and is subject to review as a development of
17 regional impact; requiring the state land
18 planning agency to adopt rules; revising the
19 criteria under which certain marinas and
20 waterports are exempt from review; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (1), (15), (19), (23), and (24)
26 of section 380.06, Florida Statutes, are amended to read:

27 380.06 Developments of regional impact.--

28 (1) DEFINITION.--The term "development of regional
29 impact," as used in this section, means any development that
30 ~~which~~, because of its character, magnitude, or location, would
31 have a substantial effect upon the health, safety, or welfare

1 of residents ~~citizens~~ of more than one county. Each
2 application for development approval filed after July 1, 2004,
3 need provide only information and analysis for regionally
4 significant multijurisdictional issues that are not reviewed
5 by resource agencies, such as a water management district, the
6 Fish and Wildlife Conservation Commission, or the Department
7 of Environmental Protection. Additional issues may not be
8 included in the regional analysis report or in the development
9 order.

10 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

11 (a) The appropriate local government shall render a
12 decision on the application within 30 days after the hearing
13 unless an extension is requested by the developer.

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

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

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

24 2. Shall establish compliance dates for the
25 development order, including a deadline for commencing
26 physical development and for compliance with conditions of
27 approval or phasing requirements, ~~and shall include a~~
28 ~~termination date that reasonably reflects the time required to~~
29 ~~complete the development.~~

30 3. Shall establish ~~a date until which the local~~
31 ~~government agrees~~ that the approved development of regional

1 impact shall not be subject to amendment of the comprehensive
2 plan, downzoning, unit density reduction, or intensity
3 reduction, unless the local government can demonstrate that
4 substantial adverse changes in the conditions underlying the
5 approval of the development order have occurred, or the
6 development order was based on substantially inaccurate
7 information provided by the developer, or that the change is
8 clearly established by local government to be essential to
9 prevent an imminent danger to the public health, safety, or
10 welfare.

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

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

21 ~~5.6.~~ Shall include a legal description of the
22 property.

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

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

31

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

8 3. Any funds or lands contributed must be expressly
9 designated and used to mitigate impacts reasonably
10 attributable and beneficial to the proposed development in
11 proportion to its contribution.

12 4. Construction or expansion of a public facility by a
13 nongovernmental developer as a condition of a development
14 order to mitigate the impacts reasonably attributable to the
15 proposed development is not subject to competitive bidding or
16 competitive negotiation for selection of a contractor or
17 design professional for any part of the construction or design
18 unless required by the local government that issues the
19 development order.

20 (e)1. Effective July 1, 1986, a local government shall
21 not include, as a development order condition for a
22 development of regional impact, any requirement that a
23 developer contribute or pay for land acquisition or
24 construction or expansion of public facilities or portions
25 thereof unless the local government has enacted and has
26 uniformly enforced a local ordinance that ~~which~~ requires all
27 other development not subject to this section to contribute a
28 ~~its~~ proportionate share of the funds, land, or public
29 facilities necessary to accommodate any impacts having a
30 rational nexus to the proposed development, and the need to
31 construct new facilities or add to the present system of

1 public facilities must be reasonably attributable to the
2 proposed development and must be timely provided to the
3 proposed development so that it provides benefits in
4 proportion to its contribution.

5 2. A local government shall not approve a development
6 of regional impact that does not make adequate provision for
7 the public facilities needed to accommodate the impacts of the
8 proposed development unless the local government includes in
9 the development order a commitment by the local government to
10 provide these facilities consistently with the development
11 schedule approved in the development order; however, a local
12 government's failure to meet the requirements of subparagraph
13 1. and this subparagraph shall not preclude the issuance of a
14 development order where adequate provision is made by the
15 developer for the public facilities needed to accommodate the
16 impacts of the proposed development. Any funds or lands
17 contributed by a developer must be expressly designated and
18 used to accommodate impacts reasonably attributable and
19 beneficial to the proposed development in proportion to its
20 contribution.

21 3. The Department of Community Affairs and other state
22 and regional agencies involved in the administration and
23 implementation of this act may not impose or recommend the
24 imposition of any requirement or condition, including, but not
25 limited to, impact fees, land dedication, contribution, or
26 other exaction, except as specifically authorized by law. Such
27 agencies shall cooperate and work with units of local
28 government in preparing and adopting local impact fee and
29 other contribution ordinances of uniform application to all
30 development within the local government's jurisdiction.

31

1 (f) Notice of the adoption of a development order or
2 the subsequent amendments to an adopted development order
3 shall be recorded by the developer, in accordance with s.
4 28.222, with the clerk of the circuit court for each county in
5 which the development is located. The notice shall include a
6 legal description of the property covered by the order and
7 shall state which unit of local government adopted the
8 development order, the date of adoption, the date of adoption
9 of any amendments to the development order, the location where
10 the adopted order with any amendments may be examined, and
11 that the development order constitutes a land development
12 regulation applicable to the property. The recording of this
13 notice shall not constitute a lien, cloud, or encumbrance on
14 real property, or actual or constructive notice of any such
15 lien, cloud, or encumbrance. This paragraph applies only to
16 developments initially approved under this section after July
17 1, 1980.

18 ~~(g) A local government shall not issue permits for~~
19 ~~development subsequent to the termination date or expiration~~
20 ~~date contained in the development order unless:~~

21 ~~1. The proposed development has been evaluated~~
22 ~~cumulatively with existing development under the substantial~~
23 ~~deviation provisions of subsection (19) subsequent to the~~
24 ~~termination or expiration date;~~

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

28 ~~3. The project has been determined to be an~~
29 ~~essentially built-out development of regional impact through~~
30 ~~an agreement executed by the developer, the state land~~
31 ~~planning agency, and the local government, in accordance with~~

1 ~~s. 380.032, which will establish the terms and conditions~~
2 ~~under which the development may be continued. If the project~~
3 ~~is determined to be essentially built-out, development may~~
4 ~~proceed pursuant to the s. 380.032 agreement after the~~
5 ~~termination or expiration date contained in the development~~
6 ~~order without further development-of-regional-impact review~~
7 ~~subject to the local government comprehensive plan and land~~
8 ~~development regulations or subject to a modified~~
9 ~~development-of-regional-impact analysis. As used in this~~
10 ~~paragraph, an "essentially built-out" development of regional~~
11 ~~impact means:~~

12 ~~a. The development is in compliance with all~~
13 ~~applicable terms and conditions of the development order~~
14 ~~except the built-out date; and~~

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

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

26 ~~(g)(h)~~ If the property is annexed by another local
27 jurisdiction, the annexing jurisdiction shall amend its
28 comprehensive plan and land development regulations and adopt
29 a new development order that incorporates all previous rights
30 and obligations specified in the prior development order.

31 (19) SUBSTANTIAL DEVIATIONS.--

1 (a) Any proposed change to a previously approved
2 development which creates a reasonable likelihood of
3 additional regional impact, or any type of regional impact
4 created by the change not previously reviewed by the regional
5 planning agency, shall constitute a substantial deviation and
6 shall cause the development to be subject to further
7 development-of-regional-impact review. There are a variety of
8 reasons why a developer may wish to propose changes to an
9 approved development of regional impact, including changed
10 market conditions. The procedures set forth in this
11 subsection are for that purpose.

12 (b) Effective July 1, 2004, any proposed change to a
13 previously approved development of regional impact or
14 development order condition which, either individually or
15 cumulatively with other changes, exceeds any of the following
16 criteria shall constitute a substantial deviation and shall
17 cause the development to be subject to further
18 development-of-regional-impact review without the necessity
19 for a finding of same by the local government:

20 1. An increase in the number of parking spaces at an
21 attraction or recreational facility by 10 ~~5~~ percent or 300
22 spaces, whichever is greater, or an increase in the number of
23 spectators that may be accommodated at such a facility by 10 ~~5~~
24 percent or 1,500 ~~1,000~~ spectators, whichever is greater.

25 2. A new runway, a new terminal facility, a 25-percent
26 lengthening of an existing runway, or a 25-percent increase in
27 the number of gates of an existing terminal, but only if the
28 increase adds at least three additional gates. However, if an
29 airport is located in two counties, a 10-percent lengthening
30 of an existing runway or a 20-percent increase in the number
31 of gates of an existing terminal is the applicable criteria.

1 3. An increase in the number of hospital beds by 5
2 percent or 60 beds, whichever is greater.

3 4. An increase in industrial development area by 5
4 percent or 32 acres, whichever is greater.

5 5. An increase in the average annual acreage mined by
6 5 percent or 10 acres, whichever is greater, or an increase in
7 the average daily water consumption by a mining operation by 5
8 percent or 300,000 gallons, whichever is greater. An increase
9 in the size of the mine by 5 percent or 750 acres, whichever
10 is less.

11 6. An increase in land area for office development by
12 5 percent or an increase of gross floor area of office
13 development by 5 percent or 60,000 gross square feet,
14 whichever is greater.

15 7. An increase in the storage capacity for chemical or
16 petroleum storage facilities by 5 percent, 20,000 barrels, or
17 7 million pounds, whichever is greater.

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

24 ~~8.9.~~ An increase in the number of dwelling units by 10
25 5 percent or 100 ~~50~~ dwelling units, whichever is greater.

26 ~~9.10.~~ An increase in commercial development by 75,000
27 ~~50,000~~ square feet of gross floor area or of parking spaces
28 provided for customers for 450 ~~300~~ cars or a 10-percent
29 ~~5-percent~~ increase of either of these, whichever is greater.

30 ~~10.11.~~ An increase in hotel or motel facility units by
31 5 percent or 75 units, whichever is greater.

1 ~~11.12.~~ An increase in a recreational vehicle park area
2 by 5 percent or 100 vehicle spaces, whichever is less.

3 ~~12.13.~~ A decrease in the area set aside for open space
4 of 5 percent or 20 acres, whichever is less.

5 ~~13.14.~~ A proposed increase to an approved multiuse
6 development of regional impact where the sum of the increases
7 of each land use as a percentage of the applicable substantial
8 deviation criteria is equal to or exceeds 150 ~~100~~ percent. The
9 percentage of any decrease in the amount of open space shall
10 be treated as an increase for purposes of determining when 150
11 ~~100~~ percent has been reached or exceeded.

12 ~~14.15.~~ A 25-percent ~~15-percent~~ increase in the number
13 of external vehicle trips generated by the development above
14 that which was projected during the original
15 development-of-regional-impact review.

16 ~~15.16.~~ Any change that ~~which~~ would result in
17 development of any area which was specifically set aside in
18 the application for development approval or in the development
19 order for preservation or special protection of endangered or
20 threatened plants or animals designated as endangered,
21 threatened, or species of special concern and their habitat,
22 primary dunes, or archaeological and historical sites
23 designated as significant by the Division of Historical
24 Resources of the Department of State. The further refinement
25 of such areas by survey shall be considered under
26 sub-subparagraph (e)5.b.

27
28 The substantial deviation numerical standards in subparagraphs
29 4., 6., 9., 13.10., 14., excluding residential uses, and 14.
30 ~~15.~~, are increased by 100 percent for a project certified
31 under s. 403.973 which creates jobs and meets criteria

1 established by the Office of Tourism, Trade, and Economic
2 Development as to its impact on an area's economy, employment,
3 and prevailing wage and skill levels. The substantial
4 deviation numerical standards in subparagraphs 4., 6., 8., 9.,
5 10., and 13.9., 10., 11., and 14.are increased by 50 percent
6 for a project located wholly within an urban infill and
7 redevelopment area designated on the applicable adopted local
8 comprehensive plan future land use map and not located within
9 the coastal high hazard area.

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

28 (d) A change in the plan of development of an approved
29 development of regional impact resulting from requirements
30 imposed by the Department of Environmental Protection or any
31 water management district created by s. 373.069 or any of

1 their successor agencies or by any appropriate federal
2 regulatory agency shall be submitted to the local government
3 pursuant to this subsection. The change does ~~shall be presumed~~
4 not to create a substantial deviation subject to further
5 development-of-regional-impact review. ~~The presumption may be~~
6 ~~rebutted by clear and convincing evidence at the public~~
7 ~~hearing held by the local government.~~

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

24 2. The following changes, individually or cumulatively
25 with any previous changes, are not substantial 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 renovation or redevelopment of development
17 within a previously approved development of regional impact
18 which does not change land use or increase density or
19 intensity of use.

20 j. Any other change which the state land planning
21 agency agrees in writing is similar in nature, impact, or
22 character to the changes enumerated in sub-subparagraphs a.-i.
23 and which does not create the likelihood of any additional
24 regional impact.

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

1 3. Except for the change authorized by
2 sub-subparagraph 2.f., any addition of contiguous land not
3 previously reviewed or any change not specified in paragraph
4 (b) or paragraph (c) may not ~~shall~~ be presumed to create a
5 substantial deviation unless additional development approval
6 is requested. This presumption may be rebutted by clear and
7 convincing evidence.

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

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

20 a. A change proposed for 25 ~~15~~ percent or more of the
21 acreage to a land use not previously approved in the
22 development order. Changes of less than 25 ~~15~~ percent do
23 ~~shall be presumed~~ not to create a substantial deviation.

24 b. Except for the types of uses listed in subparagraph
25 ~~(b)15.(b)16~~, any change that ~~which~~ would result in the
26 development of any area that ~~which~~ was specifically set aside
27 in the application for development approval or in the
28 development order for preservation, buffers, or special
29 protection, including habitat for plant and animal species,
30 archaeological and historical sites, dunes, and other special
31 areas.

1 c. Notwithstanding any provision of paragraph (b) to
2 the contrary, a proposed change consisting of simultaneous
3 increases and decreases of at least two of the uses within an
4 authorized multiuse development of regional impact which was
5 originally approved with three or more uses specified in s.
6 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

18 3. ~~No sooner than 30 days but~~ No later than 30 ~~45~~ days
19 after submittal by the developer to the local government, the
20 state land planning agency, and the appropriate regional
21 planning agency, the local government shall give 15 days'
22 notice and schedule a public hearing to consider the change
23 that the developer asserts does not create a substantial
24 deviation. This public hearing shall be held within 60 ~~90~~ days
25 after submittal of the proposed changes, unless that time is
26 extended by the developer.

27 4. The appropriate regional planning agency or the
28 state land planning agency shall review the proposed change
29 and, no later than 30 ~~45~~ days after submittal by the developer
30 of the proposed change, unless that time is extended by the
31 developer, and prior to the public hearing at which the

1 proposed change is to be considered, shall advise the local
2 government in writing whether it objects to the proposed
3 change, shall specify the reasons for its objection, if any,
4 and shall provide a copy to the developer.

5 5. Within 15 days after submittal by the developer of
6 the proposed change ~~At the public hearing~~, the local
7 government shall determine whether the proposed change
8 requires further development-of-regional-impact review. The
9 provisions of paragraphs (a) and (e), the thresholds set forth
10 in paragraph (b), and the presumptions set forth in paragraphs
11 (c) and (d) and subparagraph (e)3. shall be applicable in
12 determining whether further development-of-regional-impact
13 review is required.

14 6. If the local government determines that the
15 proposed change does not require further
16 development-of-regional-impact review and is otherwise
17 approved, or if the proposed change is not subject to a
18 hearing and determination pursuant to subparagraphs 3. and 5.
19 and is otherwise approved, the local government shall issue an
20 amendment to the development order incorporating the approved
21 change and conditions of approval relating to the change. Such
22 approval is entitled to complete vesting and does not divest
23 any of the approvals provided for the original development of
24 regional impact.The decision of the local government to
25 approve, with or without conditions, or to deny the proposed
26 change that the developer asserts does not require further
27 review shall be subject to the appeal provisions of s. 380.07.
28 However, the state land planning agency may not appeal the
29 local government decision if it did not comply with
30 subparagraph 4. The state land planning agency may not appeal
31 a change to a development order made pursuant to subparagraph

1 (e)1. or subparagraph (e)2. for developments of regional
2 impact approved after January 1, 1980, unless the change would
3 result in a significant impact to a regionally significant
4 archaeological, historical, or natural resource not previously
5 identified in the original development-of-regional-impact
6 review.

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

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

15 2. The regional planning agency shall consider, and
16 the local government shall determine whether to approve,
17 approve with conditions, or deny the proposed change as it
18 relates to the entire development. If the local government
19 determines that the proposed change, as it relates to the
20 entire development, is unacceptable, the local government
21 shall deny the change.

22 3. If the local government determines that the
23 proposed change, as it relates to the entire development,
24 should be approved, any new conditions in the amendment to the
25 development order issued by the local government shall address
26 only those issues raised by the proposed change.

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

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

11 (23) ADOPTION OF RULES BY STATE LAND PLANNING
12 AGENCY.--

13 (a) The state land planning agency shall adopt rules
14 to ensure uniform review of developments of regional impact by
15 the state land planning agency and regional planning agencies
16 under this section. These rules shall be adopted pursuant to
17 chapter 120 and shall include all forms, application content,
18 and review guidelines necessary to implement
19 development-of-regional-impact reviews. The state land
20 planning agency, in consultation with the regional planning
21 agencies, may also designate types of development or areas
22 suitable for development in which reduced information
23 requirements for development-of-regional-impact review shall
24 apply. Effective July 1, 2004, the rules must reflect that the
25 development-of-regional-impact review is limited to the
26 regionally significant multijurisdictional issues that are not
27 reviewed by resource agencies, such as a water management
28 district, the Fish and Wildlife Conservation Commission, and
29 the Department of Environmental Protection. Effective July 1,
30 2004, the minimum threshold for development-of-regional-impact
31 review is 1,000 residential dwelling units.

1 (b) Regional planning agencies shall be subject to
2 rules adopted by the state land planning agency. At the
3 request of a regional planning council, the state land
4 planning agency may adopt by rule different standards for a
5 specific comprehensive planning district upon a finding that
6 the statewide standard is inadequate to protect or promote the
7 regional interest at issue. If such a regional standard is
8 adopted by the state land planning agency, the regional
9 standard shall be applied to all pertinent
10 development-of-regional-impact reviews conducted in that
11 region until rescinded.

12 (c) By July 1, 2004 ~~Within 6 months of the effective~~
13 ~~date of this section~~, the state land planning agency shall
14 adopt modified rules that ~~which~~:

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

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

21 3. Limit the questions in the application for
22 development approval pursuant to subsection (1) and paragraph
23 (a).

24 (d) Regional planning agencies that perform
25 development-of-regional-impact and Florida Quality Development
26 review are authorized to assess and collect fees to fund the
27 costs, direct and indirect, of conducting the review process.
28 The state land planning agency shall adopt rules to provide
29 uniform criteria for the assessment and collection of such
30 fees. The rules providing uniform criteria shall not be
31 subject to rule challenge under s. 120.56(2) or to drawout

1 proceedings under s. 120.54(3)(c)2., but, once adopted, shall
2 be subject to an invalidity challenge under s. 120.56(3) by
3 substantially affected persons. Until the state land planning
4 agency adopts a rule implementing this paragraph, rules of the
5 regional planning councils currently in effect regarding fees
6 shall remain in effect. Fees may vary in relation to the type
7 and size of a proposed project, but shall not exceed \$75,000,
8 unless the state land planning agency, after reviewing any
9 disputed expenses charged by the regional planning agency,
10 determines that said expenses were reasonable and necessary
11 for an adequate regional review of the impacts of a project.

12 (24) STATUTORY EXEMPTIONS.--

13 (a) Any proposed hospital that ~~which~~ has a designed
14 capacity of not more than 100 beds is exempt from the
15 provisions of this section.

16 (b) Any proposed electrical transmission line or
17 electrical power plant is exempt from the provisions of this
18 section, except any steam or solar electrical generating
19 facility of less than 50 megawatts in capacity attached to a
20 development of regional impact.

21 (c) Any proposed addition to an existing sports
22 facility complex is exempt from the provisions of this section
23 if the addition meets the following characteristics:

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

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

28 3. The sports facility complex property is owned by a
29 public body prior to July 1, 1983.

30

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

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

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

12 (f) Any increase in the seating capacity of an
13 existing sports facility having a permanent seating capacity
14 of at least 50,000 spectators is exempt from the provisions of
15 this section, provided that such an increase does not increase
16 permanent seating capacity by more than 5 percent per year and
17 not to exceed a total of 10 percent in any 5-year period, and
18 provided that the sports facility notifies the appropriate
19 local government within which the facility is located of the
20 increase at least 6 months prior to the initial use of the
21 increased seating, in order to permit the appropriate local
22 government to develop a traffic management plan for the
23 traffic generated by the increase. Any traffic management
24 plan shall be consistent with the local comprehensive plan,
25 the regional policy plan, and the state comprehensive plan.

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

30
31

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

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

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

11 2. The local government having jurisdiction of the
12 sports facility includes in the development order or
13 development permit approving such expansion under this
14 paragraph a finding of fact that the proposed expansion is
15 consistent with the transportation, water, sewer and
16 stormwater drainage provisions of the approved local
17 comprehensive plan and local land development regulations
18 relating to those provisions.

19
20 Any owner or developer who intends to rely on this statutory
21 exemption shall provide to the department a copy of the local
22 government application for a development permit. Within 45
23 days after ~~of~~ receipt of the application, the department shall
24 render to the local government an advisory and nonbinding
25 opinion, in writing, stating whether, in the department's
26 opinion, the prescribed conditions exist for an exemption
27 under this paragraph. The local government shall render the
28 development order approving each such expansion to the
29 department. The owner, developer, or department may appeal
30 the local government development order pursuant to s. 380.07,
31 within 45 days after the order is rendered. The scope of

1 review shall be limited to the determination of whether the
2 conditions prescribed in this paragraph exist. If any sports
3 facility expansion undergoes development of regional impact
4 review, all previous expansions which were exempt under this
5 paragraph shall be included in the development of regional
6 impact review.

7 (h) Expansion to port harbors, spoil disposal sites,
8 navigation channels, turning basins, harbor berths, and other
9 related inwater harbor facilities of ports listed in s.
10 403.021(9)(b), port transportation facilities and projects
11 listed in s. 311.07(3)(b), and intermodal transportation
12 facilities identified pursuant to s. 311.09(3) are exempt from
13 the provisions of this section when such expansions, projects,
14 or facilities are consistent with comprehensive master plans
15 that are in compliance with the provisions of s. 163.3178.

16 (i) Any proposed facility for the storage of any
17 petroleum product or any expansion of an existing facility is
18 exempt from the provisions of this section, if the facility is
19 consistent with a local comprehensive plan that is in
20 compliance with s. 163.3177 or is consistent with a
21 comprehensive port master plan that is in compliance with s.
22 163.3178.

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

26 (k) A marina or waterport that is expanded or
27 constructed after July 1, 2004, and that has fewer than 300
28 vehicular parking spaces is exempt from this section unless
29 the marina or waterport is located in one of the counties
30 enumerated in s. 370.12 where a manatee protection plan has
31 not been adopted by the board of county commissioners.~~1. Any~~

1 ~~waterport or marina development is exempt from the provisions~~
2 ~~of this section if the relevant county or municipality has~~
3 ~~adopted a boating facility siting plan or policy which~~
4 ~~includes applicable criteria, considering such factors as~~
5 ~~natural resources, manatee protection needs and recreation and~~
6 ~~economic demands as generally outlined in the Bureau of~~
7 ~~Protected Species Management Boat Facility Siting Guide, dated~~
8 ~~August 2000, into the coastal management or land use element~~
9 ~~of its comprehensive plan. The adoption of boating facility~~
10 ~~siting plans or policies into the comprehensive plan is exempt~~
11 ~~from the provisions of s. 163.3187(1). Any waterport or marina~~
12 ~~development within the municipalities or counties with boating~~
13 ~~facility siting plans or policies that meet the above~~
14 ~~criteria, adopted prior to April 1, 2002, are exempt from the~~
15 ~~provisions of this section, when their boating facility siting~~
16 ~~plan or policy is adopted as part of the relevant local~~
17 ~~government's comprehensive plan.~~

18 ~~2. Within 6 months of the effective date of this law,~~
19 ~~the Department of Community Affairs, in conjunction with the~~
20 ~~Department of Environmental Protection and the Florida Fish~~
21 ~~and Wildlife Conservation Commission, shall provide technical~~
22 ~~assistance and guidelines, including model plans, policies and~~
23 ~~criteria to local governments for the development of their~~
24 ~~siting plans.~~

25 Section 2. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Revises various provisions governing developments of regional impact. Limits the issues that must be included in an application for development approval. Revises the requirements for development orders. Deletes certain exceptions under which a local government is prohibited from issuing a permit for development subsequent to the termination date contained in a development order. Revises thresholds pertaining to development that constitutes a substantial deviation. Revises rule adoption authority. Revises criteria exempting certain marinas and waterports from review. (See bill for details.)