

By the Committee on Comprehensive Planning; and Senator
Bennett

316-2391-04

1 A bill to be entitled
2 An act relating to developments of regional
3 impact; amending s. 380.06, F.S.; requiring
4 that certain guidelines and standards be
5 increased for multiuse developments; providing
6 that the regional planning agency has primary
7 responsibility over the
8 development-of-regional-impact review process;
9 limiting issues addressed in the review
10 process; revising requirements for development
11 orders that require a contribution of land or
12 public facilities; requiring a local government
13 to issue a certificate of completion; requiring
14 a local government to apply a noise-exposure
15 map approved by the Federal Aviation
16 Administration in certain circumstances;
17 revising certain thresholds under which an
18 airport expansion or a proposed change to a
19 previously approved development constitutes a
20 substantial deviation and is subject to review
21 as a development of regional impact; requiring
22 the state land planning agency to adopt rules;
23 revising notice and hearing requirements;
24 revising the criteria under which certain
25 marinas and waterports are exempt from review;
26 amending s. 380.0651, F.S.; providing that
27 statewide guidelines and standards for
28 residential development apply when a specified
29 number of dwelling units are proposed to be
30 constructed; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsection (2), paragraph (a) of subsection
4 (12), and subsections (15), (19), (23), and (24) of section
5 380.06, Florida Statutes, are amended to read:

6 380.06 Developments of regional impact.--

7 (2) STATEWIDE GUIDELINES AND STANDARDS.--

8 (a) The state land planning agency shall recommend to
9 the Administration Commission specific statewide guidelines
10 and standards for adoption under ~~pursuant to~~ this subsection.
11 The Administration Commission shall by rule adopt statewide
12 guidelines and standards to be used in determining whether
13 particular developments shall undergo
14 development-of-regional-impact review. The statewide
15 guidelines and standards previously adopted by the
16 Administration Commission and approved by the Legislature
17 shall remain in effect unless revised under ~~pursuant to~~ this
18 section or superseded by other provisions of law. Revisions
19 to the present statewide guidelines and standards, after
20 adoption by the Administration Commission, shall be
21 transmitted on or before March 1 to the President of the
22 Senate and the Speaker of the House of Representatives for
23 presentation at the next regular session of the Legislature.
24 Unless approved by law by the Legislature, the revisions to
25 the present guidelines and standards shall not become
26 effective.

27 (b) In adopting its guidelines and standards, the
28 Administration Commission shall consider and shall be guided
29 by:

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1 1. The extent to which the development would create or
2 alleviate environmental problems such as air or water
3 pollution or noise.

4 2. The amount of pedestrian or vehicular traffic
5 likely to be generated.

6 3. The number of persons likely to be residents,
7 employees, or otherwise present.

8 4. The size of the site to be occupied.

9 5. The likelihood that additional or subsidiary
10 development will be generated.

11 6. The extent to which the development would create an
12 additional demand for, or additional use of, energy, including
13 the energy requirements of subsidiary developments.

14 7. The unique qualities of particular areas of the
15 state.

16 (c) With regard to the changes in the guidelines and
17 standards authorized under ~~pursuant to~~ this act, in
18 determining whether a proposed development must comply with
19 the review requirements of this section, the state land
20 planning agency shall apply the guidelines and standards which
21 were in effect when the developer received authorization to
22 commence development from the local government. If a
23 developer has not received authorization to commence
24 development from the local government prior to the effective
25 date of new or amended guidelines and standards, the new or
26 amended guidelines and standards shall apply.

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

29 1. Fixed thresholds.--
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1 a. A development that is below 100 percent of all
2 numerical thresholds in the guidelines and standards shall not
3 be required to undergo development-of-regional-impact review.

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

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

17 2. Rebuttable presumption.--It shall be presumed that
18 a development that is at 100 percent or between 100 and 120
19 percent of a numerical threshold shall be required to undergo
20 development-of-regional-impact review.

21 (e) With respect to residential, hotel, motel, office,
22 and retail developments, the applicable guidelines and
23 standards shall be increased by 50 percent in urban central
24 business districts and regional activity centers of
25 jurisdictions whose local comprehensive plans are in
26 compliance with part II of chapter 163. With respect to
27 multiuse developments, the applicable individual use
28 guidelines and standards for residential, hotel, motel,
29 office, and retail developments and multiuse guidelines and
30 standards shall be increased by 100 percent in urban central
31 business districts and regional activity centers of

1 | jurisdictions whose local comprehensive plans are in
2 | compliance with part II of chapter 163, if one land use of the
3 | multiuse development is residential and amounts to not less
4 | than 35 percent of the jurisdiction's applicable residential
5 | threshold. With respect to resort or convention hotel
6 | developments, the applicable guidelines and standards shall be
7 | increased by 150 percent in urban central business districts
8 | and regional activity centers of jurisdictions whose local
9 | comprehensive plans are in compliance with part II of chapter
10 | 163 and where the increase is specifically for a proposed
11 | resort or convention hotel located in a county with a
12 | population greater than 500,000 and the local government
13 | specifically designates that the proposed resort or convention
14 | hotel development will serve an existing convention center of
15 | more than 250,000 gross square feet built prior to July 1,
16 | 1992. The applicable guidelines and standards shall be
17 | increased by 150 percent for development in any area
18 | designated by the Governor as a rural area of critical
19 | economic concern under ~~pursuant to~~ s. 288.0656 during the
20 | effectiveness of the designation.

21 | (12) REGIONAL REPORTS.--

22 | (a) Within 50 days after receipt of the notice of
23 | public hearing required in paragraph (11)(c), the regional
24 | planning agency, if one has been designated for the area
25 | including the local government, shall prepare and submit to
26 | the local government a report and recommendations on the
27 | regional impact of the proposed development. The regional
28 | planning agency has primary responsibility to coordinate,
29 | manage, and oversee the development-of-regional-impact review
30 | process. The process is intended to ensure adequate
31 | infrastructure and services, protect critical environmental

1 resources, and stimulate the economy and create employment
2 opportunities. The lead agency shall act as a depository of
3 comments from all other agencies regarding the resource
4 issues. However, the lead agency shall make final findings and
5 recommendations. Lead agencies shall supply their findings and
6 recommendations at least 10 days prior to the regional
7 planning agency's report deadline.In preparing its report and
8 recommendations, the regional planning agency shall, after
9 consultation with the applicant and local government, identify
10 regional issues based upon the following review criteria and
11 make recommendations to the local government on these regional
12 issues, specifically considering whether, and the extent to
13 which:

14 1. The development will have a favorable or
15 unfavorable impact on state or regional resources or
16 facilities identified in the applicable state or regional
17 plans. For the purposes of this subsection, "applicable state
18 plan" means the state comprehensive plan. For the purposes of
19 this subsection, "applicable regional plan" means an adopted
20 comprehensive regional policy plan until the adoption of a
21 strategic regional policy plan pursuant to s. 186.508, and
22 thereafter means an adopted strategic regional policy plan.
23 Only regional issues adopted by rule in the applicable
24 regional plan shall be part of the review process.

25 2. The development will significantly impact adjacent
26 jurisdictions. At the request of the appropriate local
27 government, regional planning agencies may also review and
28 comment upon issues that affect only the requesting local
29 government.

30 3. As one of the issues considered in the review in
31 subparagraphs 1. and 2., the development will favorably or

1 adversely affect the ability of people to find adequate
2 housing reasonably accessible to their places of employment.
3 The determination should take into account information on
4 factors that are relevant to the availability of reasonably
5 accessible adequate housing. Adequate housing means housing
6 that is available for occupancy and that is not substandard.

7 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

18 1. Shall specify the monitoring procedures and the
19 local official responsible for assuring compliance by the
20 developer with the development order.

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

27 3. Shall establish a date until which the local
28 government agrees that the approved development of regional
29 impact shall not be subject to downzoning, unit density
30 reduction, or intensity reduction, unless the local government
31 can demonstrate that substantial changes in the conditions

1 underlying the approval of the development order have
2 occurred, ~~or~~ the development order was based on substantially
3 inaccurate information provided by the developer, ~~or~~ that the
4 change is clearly established by local government to be
5 essential to prevent harm to the public health, safety, or
6 welfare.

7 4. Shall specify the requirements for the biennial
8 report designated under subsection (18), including the date of
9 submission, parties to whom the report is submitted, and
10 contents of the report, based upon the rules adopted by the
11 state land planning agency. The ~~Such~~ rules shall specify the
12 scope of any additional local requirements that may be
13 necessary for the report. The order may provide that no
14 additional development may occur and certificates of occupancy
15 will not be issued unless the biennial report is timely filed.

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

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

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

25 1. The need to construct new facilities or add to the
26 present system of public facilities must be reasonably
27 attributable to the proposed development.

28 2. Any contribution of funds, land, or public
29 facilities required from the developer shall be comparable to
30 the amount of funds, land, or public facilities that the state
31 or the local government would reasonably expect to expend or

1 provide, based on projected costs of comparable projects, to
2 mitigate the impacts reasonably attributable to the proposed
3 development.

4 3. Any funds or lands contributed must be expressly
5 designated and used to mitigate impacts reasonably
6 attributable to, and must be expended in a manner to benefit,
7 the proposed development.

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

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

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1 development's impact and the type of mitigation being
2 provided.

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

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

29 (f) Notice of the adoption of a development order or
30 the subsequent amendments to an adopted development order
31 shall be recorded by the developer, in accordance with s.

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

15 (g) A local government shall not issue permits for
16 development subsequent to the termination date or expiration
17 date contained in the development order unless:

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

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

25 3. The project has been determined to be an
26 essentially built-out development of regional impact through
27 an agreement executed by the developer, the state land
28 planning agency, and the local government, in accordance with
29 s. 380.032, which will establish the terms and conditions
30 under which the development may be continued. If the project
31 is determined to be essentially built-out, development may

1 proceed pursuant to the s. 380.032 agreement after the
2 termination or expiration date contained in the development
3 order without further development-of-regional-impact review
4 subject to the local government comprehensive plan and land
5 development regulations or subject to a modified
6 development-of-regional-impact analysis. As used in this
7 paragraph, an "essentially built-out" development of regional
8 impact means:

9 a. The development is in compliance with all
10 applicable terms and conditions of the development order
11 except the built-out date; and

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

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

23 (h) If the property is annexed by another local
24 jurisdiction, the annexing jurisdiction shall amend its future
25 land use map and zoning district designation for the subject
26 property and adopt a new development order that incorporates
27 all previous rights and obligations specified in the prior
28 development order.

29 (i) If an airport authority or other governing body
30 operating a publicly owned, public-use airport has conducted a
31 noise study in accordance with 14 C.F.R. part 150 or if a

1 county or municipality has not conducted a noise study or
2 adopted a noise-exposure map or otherwise regulated airport
3 noise impacts in connection with its airport operations, such
4 county or municipality in applying a noise-exposure map to a
5 development as defined in s. 163.3164(6) pursuant to its
6 comprehensive plan; to a development order or a permit as
7 defined in s. 163.3164(4), (7) and (8); to any land
8 development regulation as defined in s. 163.3221(8); or to
9 laws as defined in s. 163.3221(9), shall apply the applicable
10 noise-exposure map most recently approved by the Federal
11 Aviation Administration.

12 (j) The development order shall also provide for the
13 issuance of a certificate of completion. The local government
14 shall render the certificate at the completion of the project
15 upon the request of the developer and a finding by the local
16 government that the project is in substantial compliance with
17 the terms and conditions of the order. Notice of the rendering
18 of the certificate of completion shall be filed by the
19 developer with the clerk of the circuit court for recording in
20 accordance with s. 28.222. The rendering of a certificate of
21 completion shall be subject to appeal pursuant to s. 380.07.
22 Upon recording of the certificate of completion, the project
23 shall cease to be a development-of-regional-impact subject to
24 s. 380.06 and further development of the project shall not be
25 entitled to vesting under this section or part II of chapter
26 163.

27 (19) SUBSTANTIAL DEVIATIONS.--

28 (a) Any proposed change to a previously approved
29 development which creates a reasonable likelihood of
30 additional regional impact, or any type of regional impact
31 created by the change not previously reviewed by the regional

1 | planning agency, shall constitute a substantial deviation and
2 | shall cause the development to be subject to further
3 | development-of-regional-impact review. There are a variety of
4 | reasons why a developer may wish to propose changes to an
5 | approved development of regional impact, including changed
6 | market conditions. The procedures set forth in this
7 | subsection are for that purpose.

8 | (b) Effective January 1, 2005,any proposed change to
9 | a previously approved development of regional impact or
10 | development order condition which, either individually or
11 | cumulatively with other changes, exceeds any of the following
12 | criteria shall constitute a substantial deviation and shall
13 | cause the development to be subject to further
14 | development-of-regional-impact review without the necessity
15 | for a finding of same by the local government:

16 | 1. An increase in the number of parking spaces at an
17 | attraction or recreational facility by 5 percent or 300
18 | spaces, whichever is greater, or an increase in the number of
19 | spectators that may be accommodated at such a facility by 5
20 | percent or 1,000 spectators, whichever is greater.

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

28 | 3. An increase in the number of hospital beds by 5
29 | percent or 60 beds, whichever is greater.

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

1 5. An increase in the average annual acreage mined by
2 5 percent or 10 acres, whichever is greater, or an increase in
3 the average daily water consumption by a mining operation by 5
4 percent or 300,000 gallons, whichever is greater. An increase
5 in the size of the mine by 5 percent or 750 acres, whichever
6 is less.

7 6. An increase in land area for office development by
8 5 percent or an increase of gross floor area of office
9 development by 5 percent or 60,000 gross square feet,
10 whichever is greater.

11 7. An increase in the storage capacity for chemical or
12 petroleum storage facilities by 5 percent, 20,000 barrels, or
13 7 million pounds, whichever is greater.

14 8. An increase of development at a waterport of wet
15 storage for 20 watercraft, dry storage for 30 watercraft, or
16 wet/dry storage for 60 watercraft in an area identified in the
17 state marina siting plan as an appropriate site for additional
18 waterport development or a 15-percent ~~5-percent~~ increase in
19 watercraft storage capacity, whichever is greater.

20 9. An increase in the number of dwelling units by 10 ~~5~~
21 percent or 100 ~~50~~ dwelling units, whichever is greater.

22 10. An increase in commercial development by 75,000
23 ~~50,000~~ square feet of gross floor area or of parking spaces
24 provided for customers for 450 ~~300~~ cars or a 10-percent
25 ~~5-percent~~ increase of either of these, whichever is greater.

26 11. An increase in hotel or motel facility units by 5
27 percent or 75 units, whichever is greater.

28 12. An increase in a recreational vehicle park area by
29 5 percent or 100 vehicle spaces, whichever is less.

30 13. A decrease in the area set aside for open space of
31 5 percent or 20 acres, whichever is less.

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

8 15. A 15-percent increase in the number of external
9 vehicle trips generated by the development above that which
10 was projected during the original
11 development-of-regional-impact review.

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

23
24 The substantial deviation numerical standards in subparagraphs
25 4., 6., 10., 14., excluding residential uses, and 15., are
26 increased by 100 percent for a project certified under s.
27 403.973 which creates jobs and meets criteria established by
28 the Office of Tourism, Trade, and Economic Development as to
29 its impact on an area's economy, employment, and prevailing
30 wage and skill levels. The substantial deviation numerical
31 standards in subparagraphs 4., 6., 9., 10., 11., and 14. are

1 increased by 50 percent for a project located wholly within an
2 urban infill and redevelopment area designated on the
3 applicable adopted local comprehensive plan future land use
4 map and not located within the coastal high hazard area.

5 (c) An extension of the date of buildout of a
6 development, or any phase thereof, by 7 or more years shall be
7 presumed to create a substantial deviation subject to further
8 development-of-regional-impact review. An extension of the
9 date of buildout of an areawide development of regional impact
10 by more than, ~~or any phase thereof, of 5 years but or more but~~
11 less than 10 7 years is ~~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 (d) A change in the plan of development of an approved
25 development of regional impact resulting from requirements
26 imposed by the Department of Environmental Protection or any
27 water management district created by s. 373.069 or any of
28 their successor agencies or by any appropriate federal
29 regulatory agency shall be submitted to the local government
30 under ~~pursuant to~~ this subsection. The change does ~~shall be~~
31 ~~presumed~~ not to create a substantial deviation subject to

1 further development-of-regional-impact review. However, the
2 agency-imposed change may be subject to review pursuant to the
3 comprehensive plan in place at the time of change.~~The~~
4 ~~presumption may be rebutted by clear and convincing evidence~~
5 ~~at the public hearing held by the local government.~~

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

22 2. The following changes, individually or cumulatively
23 with any previous changes, are not substantial deviations:

24 a. Changes in the name of the project, developer,
25 owner, or monitoring official.

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

29 c. Changes to minimum lot sizes.

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

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

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

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

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

14 i. Any renovation or redevelopment of development
15 within a previously approved development of regional impact
16 which does not change land use or increase density or
17 intensity of use.

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

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

31

1 3. Except for the change authorized by
2 sub-subparagraph 2.f., any addition of 10 percent or 100
3 acres, whichever is less, of contiguous land not previously
4 reviewed or any change not specified in paragraph (b) or
5 paragraph (c) shall be presumed not to create a substantial
6 deviation unless additional density or intensity of
7 development is requested. This presumption may be rebutted by
8 clear and convincing evidence. This additional acreage shall,
9 if applicable, be subject to the comprehensive plan in place
10 at the time the land is added.

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

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

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

27 b. Except for the types of uses listed in subparagraph
28 (b)16., any change that ~~which~~ would result in the development
29 of any area that ~~which~~ was specifically set aside in the
30 application for development approval or in the development
31 order for preservation, buffers, or special protection,

1 including habitat for plant and animal species, archaeological
2 and historical sites, dunes, and other special areas.

3 c. Notwithstanding any provision of paragraph (b) to
4 the contrary, a proposed change consisting of simultaneous
5 increases and decreases of at least two of the uses within an
6 authorized multiuse development of regional impact which was
7 originally approved with three or more uses specified in s.
8 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

20 3. ~~No sooner than 30 days but~~ No later than 30 ~~45~~ days
21 after submittal by the developer to the local government, the
22 state land planning agency, and the appropriate regional
23 planning agency, the local government shall give 15 days'
24 notice and schedule a public hearing to consider the change
25 that the developer asserts does not create a substantial
26 deviation. This public hearing shall be held within 75 ~~90~~ days
27 after submittal of the proposed changes, unless that time is
28 extended by the developer.

29 4. The appropriate regional planning agency or the
30 state land planning agency shall review the proposed change
31 and, no later than 30 ~~45~~ days after submittal by the developer

1 of the proposed change, unless that time is extended by the
2 developer, and prior to the public hearing at which the
3 proposed change is to be considered, shall advise the local
4 government in writing whether it objects to the proposed
5 change, shall specify the reasons for its objection, if any,
6 and shall provide a copy to the developer.

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

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

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

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

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

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

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

28 4. Development within the previously approved
29 development of regional impact may continue, as approved,
30 during the development-of-regional-impact review in those
31

1 portions of the development which are not affected by the
2 proposed change.

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

13 (23) ADOPTION OF RULES BY STATE LAND PLANNING
14 AGENCY.--

15 (a) The state land planning agency shall adopt rules
16 to ensure uniform review of developments of regional impact by
17 the state land planning agency and regional planning agencies
18 under this section. These rules shall be adopted under
19 ~~pursuant to~~ chapter 120 and shall include all forms,
20 application content, and review guidelines necessary to
21 implement development-of-regional-impact reviews. The state
22 land planning agency, in consultation with the regional
23 planning agencies, may also designate types of development or
24 areas suitable for development in which reduced information
25 requirements for development-of-regional-impact review shall
26 apply. Prior to January 1, 2005, the state land planning
27 agency shall commence rulemaking to streamline and reduce
28 duplication by revising the questions contained in the
29 application for development approval. Questions should avoid
30 duplicative information demands and be posed at a planning
31 level of detail.

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) Within 6 months of the effective date of this
13 section, the state land planning agency shall adopt rules
14 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 (d) Regional planning agencies that perform
22 development-of-regional-impact and Florida Quality Development
23 review are authorized to assess and collect fees to fund the
24 costs, direct and indirect, of conducting the review process.
25 The state land planning agency shall adopt rules to provide
26 uniform criteria for the assessment and collection of such
27 fees. The rules providing uniform criteria shall not be
28 subject to rule challenge under s. 120.56(2) or to drawout
29 proceedings under s. 120.54(3)(c)2., but, once adopted, shall
30 be subject to an invalidity challenge under s. 120.56(3) by
31 substantially affected persons. Until the state land planning

1 agency adopts a rule implementing this paragraph, rules of the
2 regional planning councils currently in effect regarding fees
3 shall remain in effect. Fees may vary in relation to the type
4 and size of a proposed project, but shall not exceed \$75,000,
5 unless the state land planning agency, after reviewing any
6 disputed expenses charged by the regional planning agency,
7 determines that said expenses were reasonable and necessary
8 for an adequate regional review of the impacts of a project.

9 (24) STATUTORY EXEMPTIONS.--

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

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

18 (c) Any proposed addition to an existing sports
19 facility complex is exempt from ~~the provisions of~~ this section
20 if the addition meets the following characteristics:

21 1. It would not operate concurrently with the
22 scheduled hours of operation of the existing facility.

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

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

27
28 This exemption does not apply to any pari-mutuel facility.

29 (d) Any proposed addition or cumulative additions
30 subsequent to July 1, 1988, to an existing sports facility
31 complex owned by a state university is exempt if the increased

1 seating capacity of the complex is no more than 30 percent of
2 the capacity of the existing facility.

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

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

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

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

31

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

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

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

16
17 Any owner or developer who intends to rely on this statutory
18 exemption shall provide to the department a copy of the local
19 government application for a development permit. Within 45
20 days after ~~of~~ receipt of the application, the department shall
21 render to the local government an advisory and nonbinding
22 opinion, in writing, stating whether, in the department's
23 opinion, the prescribed conditions exist for an exemption
24 under this paragraph. The local government shall render the
25 development order approving each such expansion to the
26 department. The owner, developer, or department may appeal
27 the local government development order under ~~pursuant to~~ s.
28 380.07, within 45 days after the order is rendered. The scope
29 of review shall be limited to the determination of whether the
30 conditions prescribed in this paragraph exist. If any sports
31 facility expansion undergoes development of regional impact

1 review, all previous expansions which were exempt under this
2 paragraph shall be included in the development of regional
3 impact review.

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

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

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

24 (k) A marina or waterport that is not subject to a
25 development order under s. 380.06(15), that is expanded or
26 constructed after July 1, 2004, and that has fewer than 300
27 new vehicular parking spaces is exempt from this section
28 unless the marina or waterport is located in one of the
29 counties enumerated in s. 370.12 where a manatee protection
30 plan has not been adopted by the board of county
31 commissioners.

1 ~~1. Any waterport that is not subject to a development~~
2 ~~or marina development is exempt from the provisions of this~~
3 ~~section if the relevant county or municipality has adopted a~~
4 ~~boating facility siting plan or policy which includes~~
5 ~~applicable criteria, considering such factors as natural~~
6 ~~resources, manatee protection needs and recreation and~~
7 ~~economic demands as generally outlined in the Bureau of~~
8 ~~Protected Species Management Boat Facility Siting Guide, dated~~
9 ~~August 2000, into the coastal management or land use element~~
10 ~~of its comprehensive plan. The adoption of boating facility~~
11 ~~siting plans or policies into the comprehensive plan is exempt~~
12 ~~from the provisions of s. 163.3187(1). Any waterport or marina~~
13 ~~development within the municipalities or counties with boating~~
14 ~~facility siting plans or policies that meet the above~~
15 ~~criteria, adopted prior to April 1, 2002, are exempt from the~~
16 ~~provisions of this section, when their boating facility siting~~
17 ~~plan or policy is adopted as part of the relevant local~~
18 ~~government's comprehensive plan.~~

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

26 Section 2. Paragraph (j) of subsection (3) of section
27 380.0651, Florida Statutes, is amended to read:

28 380.0651 Statewide guidelines and standards.--

29 (3) The following statewide guidelines and standards
30 shall be applied in the manner described in s. 380.06(2) to
31

1 determine whether the following developments shall be required
2 to undergo development-of-regional-impact review:

3 (j) Residential development.--No rule may be adopted
4 concerning residential developments which treats a residential
5 development in one county as being located in a less populated
6 adjacent county unless more than 25 percent of the development
7 is located within 2 or less miles of the less populated
8 adjacent county. Effective January 1, 2005, the minimum
9 threshold for a development-of-regional-impact review is 625
10 residential dwelling units. However, the minimum 625
11 residential-dwelling-unit review criterion is not subject to
12 the 150-percent multiplier permitted in rural areas of
13 economic concern under s. 380.06(2)(e). A local government
14 having a development-of-regional-impact threshold below 625
15 residential dwelling units shall receive financial assistance
16 for third-party planning and technical assistance in the form
17 of application fees not to exceed \$75,000 for residential
18 development projects that fall between its current threshold
19 and 625 residential dwelling units.

20 Section 3. This act shall take effect July 1, 2004.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1174

4 The committee substitute (CS) deletes language that limited
5 the information to be included in an application for
6 development approval to only those "regionally" significant
7 mutijurisdictional issues." It provides that regional planning
8 agencies have primary responsibility for the coordination,
9 management, and oversight of the
10 development-of-regional-impact review process. The CS limits
11 the review process to those issues that are adopted by rule in
12 the applicable regional plan.

13 The CS requires the funds, lands, or facilities necessary to
14 serve new development to be provided over a reasonable period
15 of time considering the development's impact and the type of
16 mitigation being provided. It deletes language that prohibited
17 the Department of Community Affairs from recommending a
18 requirement or contribution, or other exaction, except as
19 authorized by law.

20 In addition, this CS provides that an airport authority or
21 other governing body must apply the noise-exposure map most
22 recently approved by the Federal Aviation Administration when
23 applying such a map to certain developments, development
24 orders, land development regulations, or laws. It revises
25 thresholds for certain airport expansions and proposed changes
26 to a previously approved development of regional impact when
27 determining whether such change constitutes a substantial
28 deviation that requires further review. Finally, it provides
29 that the minimum threshold for a
30 development-of-regional-impact review is 625 residential
31 dwelling units. This 625 residential-dwelling-unit review
32 criterion is not subject to the 150-percent multiplier
33 permitted in rural areas of economic concern.