

Bill No. CS for CS for SB 1020

Barcode 700352

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Bennett) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (g) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

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

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(g)1. For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

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1           ~~a.1.~~ Maintenance, restoration, and enhancement of the  
2 overall quality of the coastal zone environment, including,  
3 but not limited to, its amenities and aesthetic values.

4           ~~b.2.~~ Continued existence of viable populations of all  
5 species of wildlife and marine life.

6           ~~c.3.~~ The orderly and balanced utilization and  
7 preservation, consistent with sound conservation principles,  
8 of all living and nonliving coastal zone resources.

9           ~~d.4.~~ Avoidance of irreversible and irretrievable loss  
10 of coastal zone resources.

11           ~~e.5.~~ Ecological planning principles and assumptions to  
12 be used in the determination of suitability and extent of  
13 permitted development.

14           ~~f.6.~~ Proposed management and regulatory techniques.

15           ~~g.7.~~ Limitation of public expenditures that subsidize  
16 development in high-hazard coastal areas.

17           ~~h.8.~~ Protection of human life against the effects of  
18 natural disasters.

19           ~~i.9.~~ The orderly development, maintenance, and use of  
20 ports identified in s. 403.021(9) to facilitate deepwater  
21 commercial navigation and other related activities.

22           ~~j.10.~~ Preservation, including sensitive adaptive use  
23 of historic and archaeological resources.

24           2. As part of this element, affected local governments  
25 are encouraged to adopt a boating facility siting plan or  
26 policy that includes applicable criteria and considers such  
27 factors as natural resources, manatee protection needs, and  
28 recreation and economic demands as generally outlined in the  
29 Boat Facility Siting Guide dated August 2000 and prepared by  
30 the Bureau of Protected Species Management of the Fish and  
31 Wildlife Conservation Commission. The local government's

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1 adoption of a boating facility siting plan or policy by  
 2 comprehensive plan amendment is exempt from the provisions of  
 3 s. 163.3187(1). Local governments that wish to adopt a boating  
 4 facility siting plan or policy may be eligible for assistance  
 5 with the development of a plan or policy through the Florida  
 6 Coastal Management Program.

7 Section 2. Paragraph (a) of subsection (12) of section  
 8 163.3180, Florida Statutes, is amended to read:

9 163.3180 Concurrency.--

10 (12) When authorized by a local comprehensive plan, a  
 11 multiuse development of regional impact may satisfy the  
 12 transportation concurrency requirements of the local  
 13 comprehensive plan, the local government's concurrency  
 14 management system, and s. 380.06 by payment of a  
 15 proportionate-share contribution for local and regionally  
 16 significant traffic impacts, if:

17 (a) The development of regional impact meets or  
 18 exceeds the guidelines and standards of s. 380.0651(3)(~~h~~)(i)  
 19 and rule 28-24.032(2), Florida Administrative Code, and  
 20 includes a residential component that contains at least 100  
 21 residential dwelling units or 15 percent of the applicable  
 22 residential guideline and standard, whichever is greater;

23  
 24 The proportionate-share contribution may be applied to any  
 25 transportation facility to satisfy the provisions of this  
 26 subsection and the local comprehensive plan, but, for the  
 27 purposes of this subsection, the amount of the  
 28 proportionate-share contribution shall be calculated based  
 29 upon the cumulative number of trips from the proposed  
 30 development expected to reach roadways during the peak hour  
 31 from the complete buildout of a stage or phase being approved,

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1 divided by the change in the peak hour maximum service volume  
 2 of roadways resulting from construction of an improvement  
 3 necessary to maintain the adopted level of service, multiplied  
 4 by the construction cost, at the time of developer payment, of  
 5 the improvement necessary to maintain the adopted level of  
 6 service. For purposes of this subsection, "construction cost"  
 7 includes all associated costs of the improvement.

8 Section 3. Subsection (3) of section 197.303, Florida  
 9 Statutes, is amended to read:

10 197.303 Ad valorem tax deferral for recreational and  
 11 commercial working waterfront properties.--

12 (3) The ordinance shall designate the percentage or  
 13 amount of the deferral and the type and location of working  
 14 waterfront property, including the type of public lodging  
 15 establishments, for which deferrals may be granted, which may  
 16 include any property meeting the provisions of s. 342.07(2),  
 17 which property may be further required to be located within a  
 18 particular geographic area or areas of the county or  
 19 municipality.

20 Section 4. Section 342.07, Florida Statutes, is  
 21 amended to read:

22 342.07 Recreational and commercial working  
 23 waterfronts; legislative findings; definitions.--

24 (1) The Legislature recognizes that there is an  
 25 important state interest in facilitating boating and other  
 26 recreational access to the state's navigable waters. This  
 27 access is vital to tourists and recreational users and the  
 28 marine industry in the state, to maintaining or enhancing the  
 29 \$57 billion economic impact of tourism and the \$14 billion  
 30 economic impact of boating in the state annually, and to  
 31 ensuring continued access to all residents and visitors to the

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1 navigable waters of the state. The Legislature recognizes that  
2 there is an important state interest in maintaining viable  
3 water-dependent support facilities, such as public lodging  
4 establishments and boat hauling and repairing and commercial  
5 fishing facilities, and in maintaining the availability of  
6 public access to the navigable waters of the state. The  
7 Legislature further recognizes that the waterways of the state  
8 are important for engaging in commerce and the transportation  
9 of goods and people upon such waterways and that such commerce  
10 and transportation is not feasible unless there is access to  
11 and from the navigable waters of the state through  
12 recreational and commercial working waterfronts.

13           (2) As used in this section, the term "recreational  
14 and commercial working waterfront" means a parcel or parcels  
15 of real property that provide access for water-dependent  
16 commercial and recreational activities, including public  
17 lodging establishments as defined in chapter 509, or provide  
18 access for the public to the navigable waters of the state.  
19 Recreational and commercial working waterfronts require direct  
20 access to or a location on, over, or adjacent to a navigable  
21 body of water. The term includes water-dependent facilities  
22 that are open to the public and offer public access by vessels  
23 to the waters of the state or that are support facilities for  
24 recreational, commercial, research, or governmental vessels.  
25 These facilities include public lodging establishments, docks,  
26 wharfs, lifts, wet and dry marinas, boat ramps, boat hauling  
27 and repair facilities, commercial fishing facilities, boat  
28 construction facilities, and other support structures over the  
29 water. As used in this section, the term "vessel" has the same  
30 meaning as in s. 327.02(37). Seaports are excluded from the  
31 definition.

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1 Section 5. Section 373.4132, Florida Statutes, is  
2 created to read:

3 373.4132 Dry storage facility permitting.--The  
4 governing board or the department shall require a permit under  
5 this part, including s. 373.4145, for the construction,  
6 alteration, operation, maintenance, abandonment, or removal of  
7 a dry storage facility for 10 or more vessels that is  
8 functionally associated with a boat launching area. As part of  
9 an applicant's demonstration that such a facility will not be  
10 harmful to the water resources and will not be inconsistent  
11 with the overall objectives of the district, the governing  
12 board or department shall require the applicant to provide  
13 reasonable assurance that the secondary impacts from the  
14 facility will not cause adverse impacts to the functions of  
15 wetlands and surface waters, including violations of state  
16 water quality standards applicable to waters as defined in s.  
17 403.031(13), and will meet the public interest test of s.  
18 373.414(1)(a), including the potential adverse impacts to  
19 manatees. Nothing in this section shall affect the authority  
20 of the governing board or the department to regulate such  
21 secondary impacts under this part for other regulated  
22 activities.

23 Section 6. Paragraph (d) of subsection (2), paragraphs  
24 (a) and (i) of subsection (4), and subsections (15), (19), and  
25 (24) of section 380.06, Florida Statutes, are amended, and  
26 subsection (28) is added to that section, to read:

27 380.06 Developments of regional impact.--

28 (2) STATEWIDE GUIDELINES AND STANDARDS.--

29 (d) The guidelines and standards shall be applied as  
30 follows:

31 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 ~~(h)(i)~~, are not  
16 required 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 (4) BINDING LETTER.--

22 (a) If any developer is in doubt whether his or her  
23 proposed development must undergo  
24 development-of-regional-impact review under the guidelines and  
25 standards, whether his or her rights have vested pursuant to  
26 subsection (20), or whether a proposed substantial change to a  
27 development of regional impact concerning which rights had  
28 previously vested pursuant to subsection (20) would divest  
29 such rights, the developer may request a determination from  
30 the state land planning agency. The developer or the  
31 appropriate local government having jurisdiction may request

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1 that the state land planning agency determine whether the  
 2 amount of development that remains to be built in an approved  
 3 development of regional impact meets the criteria of  
 4 subparagraph (15)(g)3.

5 (i) In response to an inquiry from a developer or the  
 6 appropriate local government having jurisdiction, the state  
 7 land planning agency may issue an informal determination in  
 8 the form of a clearance letter as to whether a development is  
 9 required to undergo development-of-regional-impact review or  
 10 whether the amount of development that remains to be built in  
 11 an approved development of regional impact meets the criteria  
 12 of subparagraph (15)(g)3. A clearance letter may be based  
 13 solely on the information provided by the developer, and the  
 14 state land planning agency is not required to conduct an  
 15 investigation of that information. If any material information  
 16 provided by the developer is incomplete or inaccurate, the  
 17 clearance letter is not binding upon the state land planning  
 18 agency. A clearance letter does not constitute final agency  
 19 action.

20 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

24 (b) When possible, local governments shall issue  
 25 development orders concurrently with any other local permits  
 26 or development approvals that may be applicable to the  
 27 proposed development.

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

- 31 1. Shall specify the monitoring procedures and the



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1 local official responsible for assuring compliance by the  
2 developer with the development order.

3           2. Shall establish compliance dates for the  
4 development order, including a deadline for commencing  
5 physical development and for compliance with conditions of  
6 approval or phasing requirements, and shall include a buildout  
7 ~~termination~~ date that reasonably reflects the time anticipated  
8 ~~required~~ to complete the development.

9           3. Shall establish a date until which the local  
10 government agrees that the approved development of regional  
11 impact shall not be subject to downzoning, unit density  
12 reduction, or intensity reduction, unless the local government  
13 can demonstrate that substantial changes in the conditions  
14 underlying the approval of the development order have occurred  
15 or the development order was based on substantially inaccurate  
16 information provided by the developer or that the change is  
17 clearly established by local government to be essential to the  
18 public health, safety, or welfare. The date established  
19 pursuant to this subparagraph shall be no sooner than the  
20 buildout date of the project.

21           4. Shall specify the requirements for the biennial  
22 report designated under subsection (18), including the date of  
23 submission, parties to whom the report is submitted, and  
24 contents of the report, based upon the rules adopted by the  
25 state land planning agency. Such rules shall specify the scope  
26 of any additional local requirements that may be necessary for  
27 the report.

28           5. May specify the types of changes to the development  
29 which shall require submission for a substantial deviation  
30 determination or a notice of proposed change under subsection  
31 (19).

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

2           (d) Conditions of a development order that require a  
3 developer to contribute land for a public facility or  
4 construct, expand, or pay for land acquisition or construction  
5 or expansion of a public facility, or portion thereof, shall  
6 meet the following criteria:

7           1. The need to construct new facilities or add to the  
8 present system of public facilities must be reasonably  
9 attributable to the proposed development.

10           2. Any contribution of funds, land, or public  
11 facilities required from the developer shall be comparable to  
12 the amount of funds, land, or public facilities that the state  
13 or the local government would reasonably expect to expend or  
14 provide, based on projected costs of comparable projects, to  
15 mitigate the impacts reasonably attributable to the proposed  
16 development.

17           3. Any funds or lands contributed must be expressly  
18 designated and used to mitigate impacts reasonably  
19 attributable to the proposed development.

20           4. Construction or expansion of a public facility by a  
21 nongovernmental developer as a condition of a development  
22 order to mitigate the impacts reasonably attributable to the  
23 proposed development is not subject to competitive bidding or  
24 competitive negotiation for selection of a contractor or  
25 design professional for any part of the construction or design  
26 ~~unless required by the local government that issues the~~  
27 ~~development order.~~

28           (e)1. ~~Effective July 1, 1986,~~ A local government shall  
29 not include, as a development order condition for a  
30 development of regional impact, any requirement that a  
31 developer contribute or pay for land acquisition or

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1 construction or expansion of public facilities or portions  
 2 thereof unless the local government has enacted a local  
 3 ordinance which requires other development not subject to this  
 4 section to contribute its proportionate share of the funds,  
 5 land, or public facilities necessary to accommodate any  
 6 impacts having a rational nexus to the proposed development,  
 7 and the need to construct new facilities or add to the present  
 8 system of public facilities must be reasonably attributable to  
 9 the proposed development.

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

25           3. The Department of Community Affairs and other state  
 26 and regional agencies involved in the administration and  
 27 implementation of this act shall cooperate and work with units  
 28 of local government in preparing and adopting local impact fee  
 29 and other contribution ordinances.

30           (f) Notice of the adoption of a development order or  
 31 the subsequent amendments to an adopted development order

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

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

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

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

26 3. The development of regional impact is essentially  
27 built out, in that all the mitigation requirements in the  
28 development order have been satisfied, all developers are in  
29 compliance with all applicable terms and conditions of the  
30 development order except the buildout date, and the amount of  
31 proposed development that remains to be built is less than 20

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1 percent of any applicable development-of-regional-impact  
2 threshold; or

3       ~~4.3.~~ The project has been determined to be an  
4 essentially built-out development of regional impact through  
5 an agreement executed by the developer, the state land  
6 planning agency, and the local government, in accordance with  
7 s. 380.032, which will establish the terms and conditions  
8 under which the development may be continued. If the project  
9 is determined to be essentially built out ~~built-out~~,  
10 development may proceed pursuant to the s. 380.032 agreement  
11 after the termination or expiration date contained in the  
12 development order without further  
13 development-of-regional-impact review subject to the local  
14 government comprehensive plan and land development regulations  
15 or subject to a modified development-of-regional-impact  
16 analysis. As used in this paragraph, an "essentially  
17 built-out" development of regional impact means:

18           a. The developers are ~~development is~~ in compliance  
19 with all applicable terms and conditions of the development  
20 order except the buildout ~~built-out~~ date; and

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

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

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1  
2 The single-family residential portions of a development may be  
3 considered "essentially built out" if all of the workforce  
4 housing obligations and all of the infrastructure and  
5 horizontal development have been completed, at least 50  
6 percent of the dwelling units have been completed, and more  
7 than 80 percent of the lots have been conveyed to third-party  
8 individual lot owners or to individual builders who own no  
9 more than 40 lots at the time of the determination. The mobile  
10 home park portions of a development may be considered  
11 "essentially built out" if all the infrastructure and  
12 horizontal development has been completed, and at least 50  
13 percent of the lots are leased to individual mobile home  
14 owners.

15 (h) If the property is annexed by another local  
16 jurisdiction, the annexing jurisdiction shall adopt a new  
17 development order that incorporates all previous rights and  
18 obligations specified in the prior development order.

19 (19) SUBSTANTIAL DEVIATIONS.--

20 (a) Any proposed change to a previously approved  
21 development which creates a reasonable likelihood of  
22 additional regional impact, or any type of regional impact  
23 created by the change not previously reviewed by the regional  
24 planning agency, shall constitute a substantial deviation and  
25 shall cause the proposed change ~~development~~ to be subject to  
26 further development-of-regional-impact review. There are a  
27 variety of reasons why a developer may wish to propose changes  
28 to an approved development of regional impact, including  
29 changed market conditions. The procedures set forth in this  
30 subsection are for that purpose.

31 (b) Any proposed change to a previously approved

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

8           1. An increase in the number of parking spaces at an  
 9 attraction or recreational facility by 10 5 percent or 330 ~~300~~  
 10 spaces, whichever is greater, or an increase in the number of  
 11 spectators that may be accommodated at such a facility by 10 5  
 12 percent or 1,100 ~~1,000~~ spectators, whichever is greater.

13           2. A new runway, a new terminal facility, a 25-percent  
 14 lengthening of an existing runway, or a 25-percent increase in  
 15 the number of gates of an existing terminal, but only if the  
 16 increase adds at least three additional gates.

17           ~~3. An increase in the number of hospital beds by 5~~  
 18 ~~percent or 60 beds, whichever is greater.~~

19           ~~3.4.~~ An increase in industrial development area by 10  
 20 ~~5~~-percent or 35 ~~32~~ acres, whichever is greater.

21           ~~4.5.~~ An increase in the average annual acreage mined  
 22 by 10 5 percent or 11 ~~10~~ acres, whichever is greater, or an  
 23 increase in the average daily water consumption by a mining  
 24 operation by 10 5 percent or 330,000 ~~300,000~~ gallons,  
 25 whichever is greater. A net ~~An~~ increase in the size of the  
 26 mine by 10 5 percent or 825 ~~750~~ acres, whichever is less. For  
 27 purposes of calculating any net increases in size, only  
 28 additions and deletions of lands that have not been mined  
 29 shall be considered. An increase in the size of a heavy

30 mineral mine as defined in s. 378.403(7) will only constitute  
 31 a substantial deviation if the average annual acreage mined is

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1 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million  
2 gallons of water per day.

3 ~~5.6.~~ An increase in land area for office development  
4 by 10 ~~5~~ percent or an increase of gross floor area of office  
5 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square  
6 feet, whichever is greater.

7 ~~7.~~ ~~An increase in the storage capacity for chemical or~~  
8 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~  
9 ~~7 million pounds, whichever is greater.~~

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

16 ~~6.9.~~ An increase in the number of dwelling units by 10  
17 ~~5~~-percent or 55 ~~50~~ dwelling units, whichever is greater.

18 7. An increase in the number of dwelling units by 50  
19 percent or 200 units, whichever is greater, provided that 15  
20 percent of the proposed additional dwelling units are  
21 dedicated to affordable workforce housing, subject to a  
22 recorded land use restriction, which includes resale  
23 provisions and provision for the workforce housing to be  
24 commenced prior to the completion of 50 percent of the market  
25 rate dwelling. For purposes of this subparagraph, the term  
26 "affordable workforce housing" means housing that is  
27 affordable to a person who earns less than 120 percent of the  
28 area median income, or less than 140 percent of the area  
29 median income if located in a county in which the median  
30 purchase price for a single-family existing home exceeds the  
31 statewide median purchase price of a single-family existing



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1 home. For purposes of this subparagraph, the term "statewide  
 2 median purchase price of a single-family existing home" means  
 3 the statewide purchase price as determined in the Florida  
 4 Sales Report, Single-Family Existing Homes, released each  
 5 January by the Florida Association of Realtors and the  
 6 University of Florida Real Estate Research Center.

7 ~~8.10.~~ An increase in commercial development by 55,000  
 8 ~~50,000~~ square feet of gross floor area or of parking spaces  
 9 provided for customers for 330 ~~300~~ cars or a 10-percent  
 10 ~~5-percent~~ increase of either of these, whichever is greater.

11 ~~9.11.~~ An increase in hotel or motel rooms ~~facility~~  
 12 ~~units~~ by 10 5 percent or 83 rooms ~~75-units~~, whichever is  
 13 greater.

14 ~~10.12.~~ An increase in a recreational vehicle park area  
 15 by 10 5 percent or 110 ~~100~~ vehicle spaces, whichever is less.

16 ~~11.13.~~ A decrease in the area set aside for open space  
 17 of 5 percent or 20 acres, whichever is less.

18 ~~12.14.~~ A proposed increase to an approved multiuse  
 19 development of regional impact where the sum of the increases  
 20 of each land use as a percentage of the applicable substantial  
 21 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The  
 22 percentage of any decrease in the amount of open space shall  
 23 be treated as an increase for purposes of determining when 110  
 24 ~~100~~ percent has been reached or exceeded.

25 ~~13.15.~~ A 15-percent increase in the number of external  
 26 vehicle trips generated by the development above that which  
 27 was projected during the original  
 28 development-of-regional-impact review.

29 ~~14.16.~~ Any change which would result in development of  
 30 any area which was specifically set aside in the application  
 31 for development approval or in the development order for

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1 preservation or special protection of endangered or threatened  
 2 plants or animals designated as endangered, threatened, or  
 3 species of special concern and their habitat, any species  
 4 protected by 16 U.S.C. s. 668a-668d, primary dunes, or  
 5 archaeological and historical sites designated as significant  
 6 by the Division of Historical Resources of the Department of  
 7 State. The ~~further~~ refinement of the boundaries and  
 8 configuration of such areas ~~by survey~~ shall be considered  
 9 under sub-subparagraph(e)2.j. ~~(e)5.b.~~

10

11 The substantial deviation numerical standards in subparagraphs  
 12 3., 5., 8., 9., and 12. ~~4., 6., 10., 14.,~~ excluding  
 13 residential uses, and in subparagraph 13. ~~15.~~ are increased  
 14 by 100 percent for a project certified under s. 403.973 which  
 15 creates jobs and meets criteria established by the Office of  
 16 Tourism, Trade, and Economic Development as to its impact on  
 17 an area's economy, employment, and prevailing wage and skill  
 18 levels. The substantial deviation numerical standards in  
 19 subparagraphs 3., 5., 6., 7., 8., 9., 12., and 13. ~~4., 6., 9.,~~  
 20 ~~10., 11., and 14.~~ are increased by 50 percent for a project  
 21 located wholly within an urban infill and redevelopment area  
 22 designated on the applicable adopted local comprehensive plan  
 23 future land use map and not located within the coastal high  
 24 hazard area.

25 (c) An extension of the date of buildout of a  
 26 development, or any phase thereof, by more than 7 ~~or more~~  
 27 years shall be presumed to create a substantial deviation  
 28 subject to further development-of-regional-impact review. An  
 29 extension of the date of buildout, or any phase thereof, of  
 30 more than 5 years ~~or more~~ but not more ~~less~~ than 7 years shall  
 31 be presumed not to create a substantial deviation. The

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1 extension of the date of buildout of an areawide development  
2 of regional impact by more than 5 years but less than 10 years  
3 is presumed not to create a substantial deviation. These  
4 presumptions may be rebutted by clear and convincing evidence  
5 at the public hearing held by the local government. An  
6 extension of 5 years or less ~~than 5 years~~ is not a substantial  
7 deviation. For the purpose of calculating when a buildout or,  
8 ~~phase, or termination~~ date has been exceeded, the time shall  
9 be tolled during the pendency of administrative or judicial  
10 proceedings relating to development permits. Any extension of  
11 the buildout date of a project or a phase thereof shall  
12 automatically extend the commencement date of the project, the  
13 termination date of the development order, the expiration date  
14 of the development of regional impact, and the phases thereof  
15 if applicable by a like period of time.

16 (d) A change in the plan of development of an approved  
17 development of regional impact resulting from requirements  
18 imposed by the Department of Environmental Protection or any  
19 water management district created by s. 373.069 or any of  
20 their successor agencies or by any appropriate federal  
21 regulatory agency shall be submitted to the local government  
22 pursuant to this subsection. The change shall be presumed not  
23 to create a substantial deviation subject to further  
24 development-of-regional-impact review. The presumption may be  
25 rebutted by clear and convincing evidence at the public  
26 hearing held by the local government.

27 (e)1. Except for a development order rendered pursuant  
28 to subsection (22) or subsection (25), a proposed change to a  
29 development order that individually or cumulatively with any  
30 previous change is less than any numerical criterion contained  
31 in subparagraphs (b)1.-13. ~~(b)1.-15.~~ and does not exceed any

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1 other criterion, or that involves an extension of the buildout  
 2 date of a development, or any phase thereof, of less than 5  
 3 years is not subject to the public hearing requirements of  
 4 subparagraph (f)3., and is not subject to a determination  
 5 pursuant to subparagraph (f)5. Notice of the proposed change  
 6 shall be made to the regional planning council and the state  
 7 land planning agency. Such notice shall include a description  
 8 of previous individual changes made to the development,  
 9 including changes previously approved by the local government,  
 10 and shall include appropriate amendments to the development  
 11 order.

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

14             a. Changes in the name of the project, developer,  
 15 owner, or monitoring official.

16             b. Changes to a setback that do not affect noise  
 17 buffers, environmental protection or mitigation areas, or  
 18 archaeological or historical resources.

19             c. Changes to minimum lot sizes.

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

22             e. Changes to the building design or orientation that  
 23 stay approximately within the approved area designated for  
 24 such building and parking lot, and which do not affect  
 25 historical buildings designated as significant by the Division  
 26 of Historical Resources of the Department of State.

27             f. Changes to increase the acreage in the development,  
 28 provided that no development is proposed on the acreage to be  
 29 added.

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

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

4 i. Any renovation or redevelopment of development  
5 within a previously approved development of regional impact  
6 which does not change land use or increase density or  
7 intensity of use.

8 j. Changes that modify boundaries and configuration of  
9 areas described in subparagraph (b)14. due to science-based  
10 refinement of such areas by survey, by habitat evaluation, by  
11 other recognized assessment methodology, or by an  
12 environmental assessment. In order for changes to qualify  
13 under this sub-subparagraph, the survey, habitat evaluation,  
14 or assessment must occur prior to the time a conservation  
15 easement protecting such lands is recorded and must not result  
16 in any net decrease in the total acreage of the lands  
17 specifically set aside for permanent preservation in the final  
18 development order.

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

25  
26 This subsection does not require the filing of a notice of  
27 proposed change but shall require an application to the local  
28 government to amend the development order in accordance with  
29 the local government's procedures for amendment of a  
30 development order. In accordance with the local government's  
31 procedures, including requirements for notice to the applicant

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1 and the public, the local government shall either deny the  
2 application for amendment or adopt an amendment to the  
3 development order which approves the application with or  
4 without conditions. Following adoption, the local government  
5 shall render to the state land planning agency the amendment  
6 to the development order. The state land planning agency may  
7 appeal, pursuant to s. 380.07(3), the amendment to the  
8 development order if the amendment involves sub-subparagraph  
9 g., sub-subparagraph h., sub-subparagraph j., or  
10 sub-subparagraph k. and it believes the change creates a  
11 reasonable likelihood of new or additional regional impacts a  
12 ~~development order amendment for any change listed in~~  
13 ~~sub-subparagraphs a.-j. unless such issue is addressed either~~  
14 ~~in the existing development order or in the application for~~  
15 ~~development approval, but, in the case of the application,~~  
16 ~~only if, and in the manner in which, the application is~~  
17 ~~incorporated in the development order.~~

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

24           4. Any submittal of a proposed change to a previously  
25 approved development shall include a description of individual  
26 changes previously made to the development, including changes  
27 previously approved by the local government. The local  
28 government shall consider the previous and current proposed  
29 changes in deciding whether such changes cumulatively  
30 constitute a substantial deviation requiring further  
31 development-of-regional-impact review.

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1           5. The following changes to an approved development of  
2 regional impact shall be presumed to create a substantial  
3 deviation. Such presumption may be rebutted by clear and  
4 convincing evidence.

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

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

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

22           (f)1. The state land planning agency shall establish  
23 by rule standard forms for submittal of proposed changes to a  
24 previously approved development of regional impact which may  
25 require further development-of-regional-impact review. At a  
26 minimum, the standard form shall require the developer to  
27 provide the precise language that the developer proposes to  
28 delete or add as an amendment to the development order.

29           2. The developer shall submit, simultaneously, to the  
30 local government, the regional planning agency, and the state  
31 land planning agency the request for approval of a proposed

1 change.

2           3. No sooner than 30 days but no later than 45 days  
3 after submittal by the developer to the local government, the  
4 state land planning agency, and the appropriate regional  
5 planning agency, the local government shall give 15 days'  
6 notice and schedule a public hearing to consider the change  
7 that the developer asserts does not create a substantial  
8 deviation. This public hearing shall be held within 60 ~~90~~ days  
9 after submittal of the proposed changes, unless that time is  
10 extended by the developer.

11           4. The appropriate regional planning agency or the  
12 state land planning agency shall review the proposed change  
13 and, no later than 45 days after submittal by the developer of  
14 the proposed change, unless that time is extended by the  
15 developer, and prior to the public hearing at which the  
16 proposed change is to be considered, shall advise the local  
17 government in writing whether it objects to the proposed  
18 change, shall specify the reasons for its objection, if any,  
19 and shall provide a copy to the developer.

20           5. At the public hearing, the local government shall  
21 determine whether the proposed change requires further  
22 development-of-regional-impact review. The provisions of  
23 paragraphs (a) and (e), the thresholds set forth in paragraph  
24 (b), and the presumptions set forth in paragraphs (c) and (d)  
25 and subparagraph (e)3. shall be applicable in determining  
26 whether further development-of-regional-impact review is  
27 required.

28           6. If the local government determines that the  
29 proposed change does not require further  
30 development-of-regional-impact review and is otherwise  
31 approved, or if the proposed change is not subject to a



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1 hearing and determination pursuant to subparagraphs 3. and 5.  
 2 and is otherwise approved, the local government shall issue an  
 3 amendment to the development order incorporating the approved  
 4 change and conditions of approval relating to the change. The  
 5 requirement that a change be otherwise approved shall not be  
 6 construed to require additional local review or approval if  
 7 the change is allowed by applicable local ordinances without  
 8 further local review or approval. The decision of the local  
 9 government to approve, with or without conditions, or to deny  
 10 the proposed change that the developer asserts does not  
 11 require further review shall be subject to the appeal  
 12 provisions of s. 380.07. However, the state land planning  
 13 agency may not appeal the local government decision if it did  
 14 not comply with subparagraph 4. The state land planning agency  
 15 may not appeal a change to a development order made pursuant  
 16 to subparagraph (e)1. or subparagraph (e)2. for developments  
 17 of regional impact approved after January 1, 1980, unless the  
 18 change would result in a significant impact to a regionally  
 19 significant archaeological, historical, or natural resource  
 20 not previously identified in the original  
 21 development-of-regional-impact review.

22 (g) If a proposed change requires further  
 23 development-of-regional-impact review pursuant to this  
 24 section, the review shall be conducted subject to the  
 25 following additional conditions:

26 1. The development-of-regional-impact review conducted  
 27 by the appropriate regional planning agency shall address only  
 28 those issues raised by the proposed change except as provided  
 29 in subparagraph 2.

30 2. The regional planning agency shall consider, and  
 31 the local government shall determine whether to approve,

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1 approve with conditions, or deny the proposed change as it  
2 relates to the entire development. If the local government  
3 determines that the proposed change, as it relates to the  
4 entire development, is unacceptable, the local government  
5 shall deny the change.

6           3. If the local government determines that the  
7 proposed change, ~~as it relates to the entire development,~~  
8 should be approved, any new conditions in the amendment to the  
9 development order issued by the local government shall address  
10 only those issues raised by the proposed change and require  
11 mitigation only for the individual and cumulative impacts of  
12 the proposed change.

13           4. Development within the previously approved  
14 development of regional impact may continue, as approved,  
15 during the development-of-regional-impact review in those  
16 portions of the development which are not directly affected by  
17 the proposed change.

18           (h) When further development-of-regional-impact review  
19 is required because a substantial deviation has been  
20 determined or admitted by the developer, the amendment to the  
21 development order issued by the local government shall be  
22 consistent with the requirements of subsection (15) and shall  
23 be subject to the hearing and appeal provisions of s. 380.07.  
24 The state land planning agency or the appropriate regional  
25 planning agency need not participate at the local hearing in  
26 order to appeal a local government development order issued  
27 pursuant to this paragraph.

28           (i) An increase in the number of residential dwelling  
29 units shall not constitute a substantial deviation and shall  
30 not be subject to development-of-regional-impact review for  
31 additional impacts provided that all the residential dwelling

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1 units are dedicated to affordable workforce housing, subject  
2 to a recorded land use restriction, which includes resale  
3 provisions. For purposes of this paragraph, the term  
4 "affordable workforce housing" means housing that is  
5 affordable to a person who earns less than 120 percent of the  
6 area median income, or less than 140 percent of the area  
7 median income if located in a county in which the median  
8 purchase price for a single-family existing home exceeds the  
9 statewide median purchase price of a single-family existing  
10 home. For purposes of this paragraph, the term "statewide  
11 median purchase price of a single-family existing home" means  
12 the statewide purchase price as determined in the Florida  
13 Sales Report, Single-Family Existing Homes, released each  
14 January by the Florida Association of Realtors and the  
15 University of Florida Real Estate Research Center.

16 (24) STATUTORY EXEMPTIONS.--

17 (a) Any proposed hospital ~~which has a designed~~  
18 ~~capacity of not more than 100 beds~~ is exempt from the  
19 provisions of this section.

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

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

28 1. It would not operate concurrently with the  
29 scheduled hours of operation of the existing facility.

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

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

3  
4 This exemption does not apply to any pari-mutuel facility.

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

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

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

30           (g) Any expansion in the permanent seating capacity or  
31 additional improved parking facilities of an existing sports

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1 facility is exempt from the provisions of this section, if the  
2 following conditions exist:

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

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

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

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

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

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1 local government development order pursuant to s. 380.07,  
 2 within 45 days after the order is rendered. The scope of  
 3 review shall be limited to the determination of whether the  
 4 conditions prescribed in this paragraph exist. If any sports  
 5 facility expansion undergoes development of regional impact  
 6 review, all previous expansions which were exempt under this  
 7 paragraph shall be included in the development of regional  
 8 impact review.

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

18 (i) Any proposed facility for the storage of any  
 19 petroleum product or any expansion of an existing facility is  
 20 exempt from the provisions of this section, ~~if the facility is~~  
 21 ~~consistent with a local comprehensive plan that is in~~  
 22 ~~compliance with s. 163.3177 or is consistent with a~~  
 23 ~~comprehensive port master plan that is in compliance with s.~~  
 24 ~~163.3178.~~

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

28 (k) ~~1. Waterport and marina development, including dry~~  
 29 ~~storage facilities, are exempt from the provisions of this~~  
 30 ~~section~~ Any waterport or marina development is exempt from the  
 31 provisions of this section if the relevant county or

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

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

23 (1) Any proposed development within an urban service  
24 boundary established under s. 163.3177(14) is exempt from the  
25 provisions of this section if the local government having  
26 jurisdiction over the area where the development is proposed  
27 has adopted the urban service boundary, ~~and~~ and has entered into a  
28 binding agreement with ~~adjacent~~ adjacent jurisdictions that would be  
29 impacted and with the Department of Transportation regarding  
30 the mitigation of impacts on state and regional transportation  
31 facilities, and has adopted a proportionate share methodology

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1 pursuant to s. 163.3180(16).

2 (m) Any proposed development within a rural land  
3 stewardship area created under s. 163.3177(11)(d) is exempt  
4 from the provisions of this section if the local government  
5 that has adopted the rural land stewardship area has entered  
6 into a binding agreement with jurisdictions that would be  
7 impacted and the Department of Transportation regarding the  
8 mitigation of impacts on state and regional transportation  
9 facilities, and has adopted a proportionate share methodology  
10 pursuant to s. 163.3180(16).

11 (n) Any proposed development or redevelopment within  
12 an area designated as an urban infill and redevelopment area  
13 under s. 163.2517 is exempt from ~~the provisions of this~~  
14 section if the local government has entered into a binding  
15 agreement with jurisdictions that would be impacted and the  
16 Department of Transportation regarding the mitigation of  
17 impacts on state and regional transportation facilities, and  
18 has adopted a proportionate share methodology pursuant to s.  
19 163.3180(16).

20 (o) The establishment, relocation, or expansion of any  
21 military installation as defined in s. 163.3175, is exempt  
22 from this section.

23 (p) Any self-storage warehousing that does not allow  
24 retail or other services is exempt from this section.

25 (q) Any proposed nursing home or assisted living  
26 facility is exempt from this section.

27 (r) Any development identified in an airport master  
28 plan and adopted into the comprehensive plan pursuant to s.  
29 163.3177(6)(k) is exempt from this section.

30 (s) Any development identified in a campus master plan  
31 and adopted pursuant to s. 1013.30 is exempt from this



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1 section.

2 (t) Any development in a specific area plan which is  
3 prepared pursuant to s. 163.3245 and adopted into the  
4 comprehensive plan is exempt from this section.

5  
6 If a use is exempt from review as a development of regional  
7 impact under paragraphs (a)-(t) but will be part of a larger  
8 project that is subject to review as a development of regional  
9 impact, the impact of the exempt use must be included in the  
10 review of the larger project.

11 (28) PARTIAL STATUTORY EXEMPTIONS.--

12 (a) If the binding agreement referenced under  
13 paragraph (24)(l) for urban service boundaries is not entered  
14 into within 12 months after establishment of the urban service  
15 boundary, the development-of-regional-impact review for  
16 projects within the urban service boundary must address  
17 transportation impacts only.

18 (b) If the binding agreement referenced under  
19 paragraph (24)(m) for rural land stewardship areas is not  
20 entered into within 12 months after the designation of a rural  
21 land stewardship area, the development-of-regional-impact  
22 review for projects within the rural land stewardship area  
23 must address transportation impacts only.

24 (c) If the binding agreement referenced under  
25 paragraph (24)(n) for designated urban infill and  
26 redevelopment areas is not entered into within 12 months after  
27 the designation of the area or July 1, 2007, whichever occurs  
28 later, the development-of-regional-impact review for projects  
29 within the urban infill and redevelopment area must address  
30 transportation impacts only.

31 (d) A local government that does not wish to enter

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1 into a binding agreement or that is unable to agree on the  
 2 terms of the agreement referenced under paragraph (24)(l),  
 3 paragraph (24)(m), or paragraph (24)(n) shall provide written  
 4 notification to the state land planning agency of the decision  
 5 to not enter into a binding agreement or the failure to enter  
 6 into a binding agreement within the 12-month period referenced  
 7 in paragraphs (a), (b) and (c). Following the notification of  
 8 the state land planning agency, development-of-regional-impact  
 9 review for projects within an urban service boundary under  
 10 paragraph (24)(l), a rural land stewardship area under  
 11 paragraph (24)(m), or an urban infill and redevelopment area  
 12 under paragraph (24)(n), must address transportation impacts  
 13 only.

14 (e) The vesting provision of s. 163.3167(8) relating  
 15 to an authorized development of regional impact shall not  
 16 apply to those projects partially exempt from the  
 17 development-of-regional-impact review process under paragraphs  
 18 (a)-(d).

19 Section 7. Paragraphs (d) and (e) of subsection (3) of  
 20 section 380.0651, Florida Statutes, are amended, paragraphs  
 21 (f) through (i) are redesignated as paragraphs (e) through  
 22 (h), respectively, paragraph (j) is redesignated as paragraph  
 23 (i) and amended, and a new paragraph (j) is added to that  
 24 subsection, to read:

25 380.0651 Statewide guidelines and standards.--  
 26 (3) The following statewide guidelines and standards  
 27 shall be applied in the manner described in s. 380.06(2) to  
 28 determine whether the following developments shall be required  
 29 to undergo development-of-regional-impact review:

30 (d) Office development.--Any proposed office building  
 31 or park operated under common ownership, development plan, or

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1 management that:

2 1. Encompasses 300,000 or more square feet of gross  
3 floor area; or

4 2. Encompasses more than 600,000 square feet of gross  
5 floor area in a county with a population greater than 500,000  
6 and only in a geographic area specifically designated as  
7 highly suitable for increased threshold intensity in the  
8 approved local comprehensive plan ~~and in the strategic~~  
9 ~~regional policy plan.~~

10 ~~(e) Port facilities. The proposed construction of any~~  
11 ~~waterport or marina is required to undergo~~  
12 ~~development of regional impact review, except one designed~~  
13 ~~for:~~

14 ~~1.a. The wet storage or mooring of fewer than 150~~  
15 ~~watercraft used exclusively for sport, pleasure, or commercial~~  
16 ~~fishing, or~~

17 ~~b. The dry storage of fewer than 200 watercraft used~~  
18 ~~exclusively for sport, pleasure, or commercial fishing, or~~

19 ~~c. The wet or dry storage or mooring of fewer than 150~~  
20 ~~watercraft on or adjacent to an inland freshwater lake except~~  
21 ~~Lake Okeechobee or any lake which has been designated an~~  
22 ~~Outstanding Florida Water, or~~

23 ~~d. The wet or dry storage or mooring of fewer than 50~~  
24 ~~watercraft of 40 feet in length or less of any type or~~  
25 ~~purpose. The exceptions to this paragraph's requirements for~~  
26 ~~development of regional impact review shall not apply to any~~  
27 ~~waterport or marina facility located within or which serves~~  
28 ~~physical development located within a coastal barrier resource~~  
29 ~~unit on an unbridged barrier island designated pursuant to 16~~  
30 ~~U.S.C. s. 3501.~~

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1 ~~In addition to the foregoing, for projects for which no~~  
 2 ~~environmental resource permit or sovereign submerged land~~  
 3 ~~lease is required, the Department of Environmental Protection~~  
 4 ~~must determine in writing that a proposed marina in excess of~~  
 5 ~~10 slips or storage spaces or a combination of the two is~~  
 6 ~~located so that it will not adversely impact Outstanding~~  
 7 ~~Florida Waters or Class II waters and will not contribute boat~~  
 8 ~~traffic in a manner that will have an adverse impact on an~~  
 9 ~~area known to be, or likely to be, frequented by manatees. If~~  
 10 ~~the Department of Environmental Protection fails to issue its~~  
 11 ~~determination within 45 days of receipt of a formal written~~  
 12 ~~request, it has waived its authority to make such~~  
 13 ~~determination. The Department of Environmental Protection~~  
 14 ~~determination shall constitute final agency action pursuant to~~  
 15 ~~chapter 120.~~

16         ~~2. The dry storage of fewer than 300 watercraft used~~  
 17 ~~exclusively for sport, pleasure, or commercial fishing at a~~  
 18 ~~marina constructed and in operation prior to July 1, 1985.~~

19         ~~3. Any proposed marina development with both wet and~~  
 20 ~~dry mooring or storage used exclusively for sport, pleasure,~~  
 21 ~~or commercial fishing, where the sum of percentages of the~~  
 22 ~~applicable wet and dry mooring or storage thresholds equals~~  
 23 ~~100 percent. This threshold is in addition to, and does not~~  
 24 ~~preclude, a development from being required to undergo~~  
 25 ~~development-of-regional-impact review under sub-subparagraphs~~  
 26 ~~1.a. and b. and subparagraph 2.~~

27         ~~(i)(j)~~ Residential development.--No rule may be  
 28 adopted concerning residential developments which treats a  
 29 residential development in one county as being located in a  
 30 less populated adjacent county unless more than 25 percent of  
 31 the development is located within 2 or less miles of the less

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1 populated adjacent county. The residential thresholds of  
 2 adjacent counties with less population and a lower threshold  
 3 shall not be controlling on any development wholly located  
 4 within a municipality in a rural county of economic concern.

5 (j) Workforce housing.--The applicable guidelines for  
 6 residential development and the residential component for  
 7 multiuse development shall be increased by 50 percent where  
 8 the developer demonstrates that at least 15 percent of the  
 9 total residential dwelling units authorized within the  
 10 development of regional impact will be dedicated to affordable  
 11 workforce housing, subject to a recorded land use restriction,  
 12 which includes resale provisions and provisions for the  
 13 workforce housing to be commenced prior to the completion of  
 14 50 percent of the market rate dwelling. For purposes of this  
 15 paragraph, the term "affordable workforce housing" means  
 16 housing that is affordable to a person who earns less than 120  
 17 percent of the area median income, or less than 140 percent of  
 18 the area median income if located in a county in which the  
 19 median purchase price for a single-family existing home  
 20 exceeds the statewide median purchase price of a single-family  
 21 existing home. For the purposes of this paragraph, the term  
 22 "statewide median purchase price of a single-family existing  
 23 home" means the statewide purchase price as determined in the  
 24 Florida Sales Report, Single-Family Existing Homes, released  
 25 each January by the Florida Association of Realtors and the  
 26 University of Florida Real Estate Research Center.

27 Section 8. Section 380.07, Florida Statutes, is  
 28 amended to read:

29 380.07 Florida Land and Water Adjudicatory  
 30 Commission.--

31 (1) There is hereby created the Florida Land and Water

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1 Adjudicatory Commission, which shall consist of the  
 2 Administration Commission. The commission may adopt rules  
 3 necessary to ensure compliance with the area of critical state  
 4 concern program and the requirements for developments of  
 5 regional impact as set forth in this chapter.

6 (2) Whenever any local government issues any  
 7 development order in any area of critical state concern, or in  
 8 regard to any development of regional impact, copies of such  
 9 orders as prescribed by rule by the state land planning agency  
 10 shall be transmitted to the state land planning agency, the  
 11 regional planning agency, and the owner or developer of the  
 12 property affected by such order. The state land planning  
 13 agency shall adopt rules describing development order  
 14 rendition and effectiveness in designated areas of critical  
 15 state concern. Within 45 days after the order is rendered, the  
 16 owner, the developer, or the state land planning agency may  
 17 appeal the order to the Florida Land and Water Adjudicatory  
 18 Commission by filing a petition alleging that the development  
 19 order is not consistent with the provisions of this part  
 20 ~~notice of appeal with the commission.~~ The appropriate regional  
 21 planning agency by vote at a regularly scheduled meeting may  
 22 recommend that the state land planning agency undertake an  
 23 appeal of a development-of-regional-impact development order.  
 24 Upon the request of an appropriate regional planning council,  
 25 affected local government, or any citizen, the state land  
 26 planning agency shall consider whether to appeal the order and  
 27 shall respond to the request within the 45-day appeal period.  
 28 ~~Any appeal taken by a regional planning agency between March~~  
 29 ~~1, 1993, and the effective date of this section may only be~~  
 30 ~~continued if the state land planning agency has also filed an~~  
 31 ~~appeal. Any appeal initiated by a regional planning agency on~~

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1 ~~or before March 1, 1993, shall continue until completion of~~  
2 ~~the appeal process and any subsequent appellate review, as if~~  
3 ~~the regional planning agency were authorized to initiate the~~  
4 ~~appeal.~~

5 (3) Notwithstanding any other provision of law, an  
6 appeal of a development order by the state land planning  
7 agency under this section may include consistency of the  
8 development order with the local comprehensive plan. However,  
9 if a development order relating to a development of regional  
10 impact has been challenged in a proceeding under s. 163.3215  
11 and a party to the proceeding serves notice to the state land  
12 planning agency of the pending proceeding under s. 163.3215,  
13 the state land planning agency shall:

14 (a) Raise its consistency issues by intervening as a  
15 full party in the pending proceeding under s. 163.3215 within  
16 30 days after service of the notice; and

17 (b) Dismiss the consistency issues from the  
18 development order appeal.

19 (4) The appellant shall furnish a copy of the petition  
20 to the opposing party, as the case may be, and to the local  
21 government that issued the order. The filing of the petition  
22 stays the effectiveness of the order until after the  
23 completion of the appeal process.

24 ~~(5)(3)~~ The 45-day appeal period for a development of  
25 regional impact within the jurisdiction of more than one local  
26 government shall not commence until after all the local  
27 governments having jurisdiction over the proposed development  
28 of regional impact have rendered their development orders. The  
29 appellant shall furnish a copy of the notice of appeal to the  
30 opposing party, as the case may be, and to the local  
31 government which issued the order. The filing of the notice of

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1 appeal shall stay the effectiveness of the order until after  
2 the completion of the appeal process.

3 ~~(6)(4)~~ Prior to issuing an order, the Florida Land and  
4 Water Adjudicatory Commission shall hold a hearing pursuant to  
5 the provisions of chapter 120. The commission shall encourage  
6 the submission of appeals on the record made below in cases in  
7 which the development order was issued after a full and  
8 complete hearing before the local government or an agency  
9 thereof.

10 ~~(7)(5)~~ The Florida Land and Water Adjudicatory  
11 Commission shall issue a decision granting or denying  
12 permission to develop pursuant to the standards of this  
13 chapter and may attach conditions and restrictions to its  
14 decisions.

15 ~~(8)(6)~~ If an appeal is filed with respect to any  
16 issues within the scope of a permitting program authorized by  
17 chapter 161, chapter 373, or chapter 403 and for which a  
18 permit or conceptual review approval has been obtained prior  
19 to the issuance of a development order, any such issue shall  
20 be specifically identified in the notice of appeal which is  
21 filed pursuant to this section, together with other issues  
22 which constitute grounds for the appeal. The appeal may  
23 proceed with respect to issues within the scope of permitting  
24 programs for which a permit or conceptual review approval has  
25 been obtained prior to the issuance of a development order  
26 only after the commission determines by majority vote at a  
27 regularly scheduled commission meeting that statewide or  
28 regional interests may be adversely affected by the  
29 development. In making this determination, there shall be a  
30 rebuttable presumption that statewide and regional interests  
31 relating to issues within the scope of the permitting programs



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1 for which a permit or conceptual approval has been obtained  
2 are not adversely affected.

3 Section 9. Section 380.115, Florida Statutes, is  
4 amended to read:

5 380.115 Vested rights and duties; effect of size  
6 reduction, changes in guidelines and standards ~~chs. 2002-20~~  
7 ~~and 2002-296.--~~

8 (1) A change in a development-of-regional-impact  
9 guideline and standard does not abridge ~~Nothing contained in~~  
10 ~~this act abridges~~ or modify ~~modifies~~ any vested or other right  
11 or any duty or obligation pursuant to any development order or  
12 agreement that is applicable to a development of regional  
13 impact ~~on the effective date of this act~~. A development that  
14 has received a development-of-regional-impact development  
15 order pursuant to s. 380.06, but is no longer required to  
16 undergo development-of-regional-impact review by operation of  
17 a change in the guidelines and standards or has reduced its  
18 size below the thresholds in s. 380.0651 ~~of this act~~, shall be  
19 governed by the following procedures:

20 (a) The development shall continue to be governed by  
21 the development-of-regional-impact development order and may  
22 be completed in reliance upon and pursuant to the development  
23 order unless the developer or landowner has followed the  
24 procedures for rescission in paragraph (b). Any proposed  
25 changes to those developments which continue to be governed by  
26 a development order shall be approved pursuant to s.  
27 380.06(19) as it existed prior to a change in the  
28 development-of-regional-impact guidelines and standards except  
29 that all percentage criteria shall be doubled and all other  
30 criteria shall be increased by 10 percent. The  
31 development-of-regional-impact development order may be

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1 enforced by the local government as provided by ss. 380.06(17)  
 2 and 380.11.

3 (b) If requested by the developer or landowner, the  
 4 development-of-regional-impact development order shall ~~may~~ be  
 5 rescinded by the local government having jurisdiction upon a  
 6 showing that all required mitigation related to the amount of  
 7 development that existed on the date of rescission has been  
 8 completed ~~abandoned pursuant to the process in s. 380.06(26).~~

9 (2) A development with an application for development  
 10 approval pending, ~~and determined sufficient~~ pursuant to s.  
 11 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the  
 12 guidelines and standards ~~this act~~, or a notification of  
 13 proposed change pending on the effective date of a change to  
 14 the guidelines and standards ~~this act~~, may elect to continue  
 15 such review pursuant to s. 380.06. At the conclusion of the  
 16 pending review, including any appeals pursuant to s. 380.07,  
 17 the resulting development order shall be governed by the  
 18 provisions of subsection (1).

19 (3) A landowner that has filed an application for a  
 20 development-of-regional-impact review prior to the adoption of  
 21 an optional sector plan pursuant to s. 163.3245 may elect to  
 22 have the application reviewed pursuant to s. 380.06,  
 23 comprehensive plan provisions in force prior to adoption of  
 24 the sector plan, and any requested comprehensive plan  
 25 amendments that accompany the application.

26 Section 10. Paragraph (i) of subsection (2) of section  
 27 403.813, Florida Statutes, is amended to read:

28 403.813 Permits issued at district centers;  
 29 exceptions.--

30 (2) A permit is not required under this chapter,  
 31 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214

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1 or chapter 25270, 1949, Laws of Florida, for activities  
 2 associated with the following types of projects; however,  
 3 except as otherwise provided in this subsection, nothing in  
 4 this subsection relieves an applicant from any requirement to  
 5 obtain permission to use or occupy lands owned by the Board of  
 6 Trustees of the Internal Improvement Trust Fund or any water  
 7 management district in its governmental or proprietary  
 8 capacity or from complying with applicable local pollution  
 9 control programs authorized under this chapter or other  
 10 requirements of county and municipal governments:

11 (i) The construction of private docks of 1,000 square  
 12 feet or less of over-water surface area and seawalls in  
 13 artificially created waterways where such construction will  
 14 not violate existing water quality standards, impede  
 15 navigation, or affect flood control. This exemption does not  
 16 apply to the construction of vertical seawalls in estuaries or  
 17 lagoons unless the proposed construction is within an existing  
 18 manmade canal where the shoreline is currently occupied in  
 19 whole or part by vertical seawalls.

20 Section 11. This act shall take effect July 1, 2006.

21

22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

29

An act relating to growth management; amending

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s. 163.3177, F.S.; encouraging local

31

governments to adopt boating facility siting

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1 plans or policies; providing criteria and  
 2 exemptions for such plans and policies;  
 3 authorizing assistance for the development of  
 4 such plans and policies; amending s. 163.3180,  
 5 F.S.; conforming a cross-reference; amending s.  
 6 197.303, F.S.; revising the criteria for ad  
 7 valorem tax deferral for working waterfront  
 8 properties; including public lodging  
 9 establishments in the description of working  
 10 waterfront properties; amending s. 342.07,  
 11 F.S.; adding recreational activities as an  
 12 important state interest; including public  
 13 lodging establishments within the definition of  
 14 the term "recreational and commercial working  
 15 waterfront"; creating s. 373.4132, F.S.;  
 16 directing water management district governing  
 17 boards and the Department of Environmental  
 18 Protection to require permits for certain  
 19 activities relating to certain dry storage  
 20 facilities; providing criteria for application  
 21 of such permits; preserving regulatory  
 22 authority for the department and governing  
 23 boards; amending s. 380.06, F.S.; providing for  
 24 the state land planning agency to determine the  
 25 amount of development that remains to be built  
 26 in certain circumstances; specifying certain  
 27 requirements for a development order; revising  
 28 the circumstances in which a local government  
 29 may issue permits for development subsequent to  
 30 the buildout date; revising the definition of  
 31 an essentially built-out development; revising

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1 the criteria under which a proposed change  
2 constitutes a substantial deviation; providing  
3 criteria for calculating certain deviations;  
4 clarifying the criteria under which the  
5 extension of a buildout date is presumed to  
6 create a substantial deviation; requiring that  
7 notice of any change to certain set-aside areas  
8 be submitted to the local government; requiring  
9 that notice of certain changes be given to the  
10 state land planning agency, regional planning  
11 agency, and local government; revising the  
12 statutory exemptions from  
13 development-of-regional-impact review for  
14 certain facilities; removing waterport and  
15 marina developments from  
16 development-of-regional-impact review;  
17 providing statutory exemptions and partial  
18 statutory exemptions for the development of  
19 certain facilities; providing that the impacts  
20 from an exempt use that will be part of a  
21 larger project be included in the  
22 development-of-regional-impact review of the  
23 larger project; providing that vesting  
24 provisions relating to authorized developments  
25 of regional impact are not applicable to  
26 certain projects; amending s. 380.0651, F.S.;  
27 revising the statewide guidelines and standards  
28 for development-of-regional-impact review of  
29 office developments; deleting such guidelines  
30 and standards for port facilities; revising  
31 such guidelines and standards for residential

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1 developments; providing such guidelines and  
2 standards for workforce housing; amending s.  
3 380.07, F.S.; revising the appellate procedures  
4 for development orders within a development of  
5 regional impact to the Florida Land and Water  
6 Adjudicatory Commission; amending s. 380.115,  
7 F.S.; providing that a change in a  
8 development-of-regional-impact guideline and  
9 standard does not abridge or modify any vested  
10 right or duty under a development order;  
11 providing a process for the rescission of a  
12 development order by the local government in  
13 certain circumstances; providing an exemption  
14 for certain applications for development  
15 approval and notices of proposed changes;  
16 amending s. 403.813, F.S.; revising permitting  
17 exceptions for the construction of private  
18 docks in certain waterways; providing an  
19 effective date.

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