

Bill No. CS for SB 1020

Barcode 934324

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Comm: RCS
03/27/2006 06:16 PM

.
. .
. .
. .
. .
. .

The Committee on Environmental Preservation (Baker)
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:

Bill No. CS for SB 1020

Barcode 934324

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 Florida Fish
31 and Wildlife Conservation Commission. A comprehensive plan

Bill No. CS for SB 1020

Barcode 934324

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

6 Section 2. Paragraph (c) of subsection (2) of section
 7 163.3180, Florida Statutes, is amended to read:

8 163.3180 Concurrency.--

9 (2)

10 (c) Consistent with the public welfare, and except as
 11 otherwise provided in this section, transportation facilities
 12 needed to serve new development shall be in place or under
 13 actual construction within 3 years after the local government
 14 approves a building permit or its functional equivalent that
 15 results in traffic generation. A local government may not
 16 require these transportation facilities to be in place or
 17 under actual construction within a shorter timeframe than the
 18 3-year period.

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

21 197.303 Ad valorem tax deferral for recreational and
 22 commercial working waterfront properties.--

23 (3) The ordinance shall designate the percentage or
 24 amount of the deferral and the type and location of working
 25 waterfront property, including the type of public lodging
 26 establishments, for which deferrals may be granted, which may
 27 include any property meeting the provisions of s. 342.07(2),
 28 which property, including the type of public lodging
 29 establishments, may be further required to be located within a
 30 particular geographic area or areas of the county or
 31 municipality.

Bill No. CS for SB 1020

Barcode 934324

1 Section 4. Section 342.07, Florida Statutes, is
2 amended to read:

3 342.07 Recreational and commercial working
4 waterfronts; legislative findings; definitions.--

5 (1) The Legislature recognizes that there is an
6 important state interest in facilitating boating and other
7 recreational access to the state's navigable waters. This
8 access is vital to tourists and recreational users and the
9 marine industry in the state, to maintaining or enhancing the
10 \$57-billion economic impact of tourism and the \$14 billion
11 economic impact of boating in the state annually, and to
12 ensuring continued access to all residents and visitors to the
13 navigable waters of the state. The Legislature recognizes that
14 there is an important state interest in maintaining viable
15 water-dependent support facilities, such as public lodging
16 establishments, boat hauling and repairing, and commercial
17 fishing facilities, and in maintaining the availability of
18 public access to the navigable waters of the state. The
19 Legislature further recognizes that the waterways of the state
20 are important for engaging in commerce and the transportation
21 of goods and people upon such waterways and that such commerce
22 and transportation is not feasible unless there is access to
23 and from the navigable waters of the state through
24 recreational and commercial working waterfronts.

25 (2) As used in this section, the term "recreational
26 and commercial working waterfront" means a parcel or parcels
27 of real property that provide access for water-dependent
28 commercial and recreational activities, including public
29 lodging establishments as defined in chapter 509, or provide
30 access for the public to the navigable waters of the state.
31 Recreational and commercial working waterfronts require direct

Bill No. CS for SB 1020

Barcode 934324

1 access to or a location on, over, or adjacent to a navigable
 2 body of water. The term includes water-dependent facilities
 3 that are open to the public and offer public access by vessels
 4 to the waters of the state or that are support facilities for
 5 recreational, commercial, research, or governmental vessels.
 6 These facilities include public accommodations, docks, wharfs,
 7 lifts, wet and dry marinas, boat ramps, boat hauling and
 8 repair facilities, commercial fishing facilities, boat
 9 construction facilities, and other support structures over the
 10 water. As used in this section, the term "vessel" has the same
 11 meaning as in s. 327.02(37). Seaports are excluded from the
 12 definition.

13 Section 5. Section 373.4132, Florida Statutes, is
 14 created to read:

15 373.4132 Dry storage facility permitting.--The
 16 governing board or the department shall require a permit under
 17 this part, including s. 373.4145, for the construction,
 18 alteration, operation, maintenance, abandonment, or removal of
 19 a dry storage facility for 10 or more vessels which is
 20 functionally associated with a boat launching area. As part of
 21 an applicant's demonstration that such a facility will not be
 22 harmful to the water resources and will not be inconsistent
 23 with the overall objectives of the district, the governing
 24 board or department shall require the applicant to provide
 25 reasonable assurance that the secondary impacts from the
 26 facility will not cause adverse impacts to the functions of
 27 wetlands and surface waters, including violations of state
 28 water quality standards applicable to water as defined in s.
 29 403.031(1), and will meet the public interest test of s.
 30 373.414(1)(a), including the potential adverse impacts to
 31 manatees. Nothing in this section shall affect the authority

Bill No. CS for SB 1020

Barcode 934324

1 of the governing board or the department to regulate such
2 secondary impacts under this part for other regulated
3 activities.

4 Section 6. Paragraphs (a) and (i) of subsection (4)
5 and subsections (15), (19), and (24) of section 380.06,
6 Florida Statutes, are amended, and subsection (28) is added to
7 that section, to read:

8 380.06 Developments of regional impact.--

9 (4) BINDING LETTER.--

10 (a) If any developer is in doubt whether his or her
11 proposed development must undergo
12 development-of-regional-impact review under the guidelines and
13 standards, whether his or her rights have vested pursuant to
14 subsection (20), or whether a proposed substantial change to a
15 development of regional impact concerning which rights had
16 previously vested pursuant to subsection (20) would divest
17 such rights, the developer may request a determination from
18 the state land planning agency. The developer or the
19 appropriate local government having jurisdiction may request
20 that the state land planning agency determine whether the
21 amount of development that remains to be built in an approved
22 development of regional impact meets the criteria of
23 subparagraph (15)(g)3.

24 (i) In response to an inquiry from a developer or the
25 appropriate local government having jurisdiction, the state
26 land planning agency may issue an informal determination in
27 the form of a clearance letter as to whether a development is
28 required to undergo development-of-regional-impact review or
29 whether the amount of development that remains to be built in
30 an approved development of regional impact meets the criteria
31 of subparagraph (15)(g)3. A clearance letter may be based

Bill No. CS for SB 1020

Barcode 934324

1 solely on the information provided by the developer, and the
 2 state land planning agency is not required to conduct an
 3 investigation of that information. If any material information
 4 provided by the developer is incomplete or inaccurate, the
 5 clearance letter is not binding upon the state land planning
 6 agency. A clearance letter does not constitute final agency
 7 action.

8 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

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

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

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

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

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

Bill No. CS for SB 1020

Barcode 934324

1 can demonstrate that substantial changes in the conditions
 2 underlying the approval of the development order have occurred
 3 or the development order was based on substantially inaccurate
 4 information provided by the developer or that the change is
 5 clearly established by local government to be essential to the
 6 public health, safety, or welfare. The date established
 7 pursuant to this subparagraph shall be no sooner than the
 8 buildout date of the project.

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

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

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

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

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

29 2. Any contribution of funds, land, or public
 30 facilities required from the developer shall be comparable to
 31 the amount of funds, land, or public facilities that the state

Bill No. CS for SB 1020

Barcode 934324

1 or the local government would reasonably expect to expend or
2 provide, based on projected costs of comparable projects, to
3 mitigate the impacts reasonably attributable to the proposed
4 development.

5 3. Any funds or lands contributed must be expressly
6 designated and used to mitigate impacts reasonably
7 attributable to 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 a local
22 ordinance which requires other development not subject to this
23 section to contribute its proportionate share of the funds,
24 land, or public facilities necessary to accommodate any
25 impacts having a rational nexus to the proposed development,
26 and the need to construct new facilities or add to the present
27 system of public facilities must be reasonably attributable to
28 the proposed development.

29 2. A local government shall not approve a development
30 of regional impact that does not make adequate provision for
31 the public facilities needed to accommodate the impacts of the

Bill No. CS for SB 1020

Barcode 934324

1 | proposed development unless the local government includes in
 2 | the development order a commitment by the local government to
 3 | provide these facilities consistently with the development
 4 | schedule approved in the development order; however, a local
 5 | government's failure to meet the requirements of subparagraph
 6 | 1. and this subparagraph shall not preclude the issuance of a
 7 | development order where adequate provision is made by the
 8 | developer for the public facilities needed to accommodate the
 9 | impacts of the proposed development. Any funds or lands
 10 | contributed by a developer must be expressly designated and
 11 | used to accommodate impacts reasonably attributable to the
 12 | proposed development.

13 | 3. The Department of Community Affairs and other state
 14 | and regional agencies involved in the administration and
 15 | implementation of this act shall cooperate and work with units
 16 | of local government in preparing and adopting local impact fee
 17 | and other contribution ordinances.

18 | (f) Notice of the adoption of a development order or
 19 | the subsequent amendments to an adopted development order
 20 | shall be recorded by the developer, in accordance with s.
 21 | 28.222, with the clerk of the circuit court for each county in
 22 | which the development is located. The notice shall include a
 23 | legal description of the property covered by the order and
 24 | shall state which unit of local government adopted the
 25 | development order, the date of adoption, the date of adoption
 26 | of any amendments to the development order, the location where
 27 | the adopted order with any amendments may be examined, and
 28 | that the development order constitutes a land development
 29 | regulation applicable to the property. The recording of this
 30 | notice shall not constitute a lien, cloud, or encumbrance on
 31 | real property, or actual or constructive notice of any such

Bill No. CS for SB 1020

Barcode 934324

1 lien, cloud, or encumbrance. This paragraph applies only to
2 developments initially approved under this section after July
3 1, 1980.

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

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

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

14 3. The development of regional impact is essentially
15 built out, in that all the mitigation requirements in the
16 development order have been satisfied, all developers are in
17 compliance with all applicable terms and conditions of the
18 development order except the buildout date, and the amount of
19 proposed development that remains to be built is less than 20
20 percent of any applicable development-of-regional-impact
21 threshold; or

22 ~~4.3-~~ The project has been determined to be an
23 essentially built-out development of regional impact through
24 an agreement executed by the developer, the state land
25 planning agency, and the local government, in accordance with
26 s. 380.032, which will establish the terms and conditions
27 under which the development may be continued. If the project
28 is determined to be essentially built out ~~built-out~~,
29 development may proceed pursuant to the s. 380.032 agreement
30 after the termination or expiration date contained in the
31 development order without further

Bill No. CS for SB 1020

Barcode 934324

1 development-of-regional-impact review subject to the local
2 government comprehensive plan and land development regulations
3 or subject to a modified development-of-regional-impact
4 analysis. As used in this paragraph, an "essentially
5 built-out" development of regional impact means:

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

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

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

20 (h) The single-family residential portions of a
21 development may be considered "essentially built out" if all
22 of the infrastructure and horizontal development have been
23 completed, at least 50 percent of the dwelling units have been
24 completed, and more than 80 percent of the lots have been
25 conveyed to third-party individual lot owners or to individual
26 builders who own no more than 40 lots at the time of the
27 determination.

28 (i) The mobile home park portions of a development may
29 be considered "essentially built out" if all the
30 infrastructure and horizontal development has been completed
31 and at least 50 percent of the lots are leased to individual

Bill No. CS for SB 1020

Barcode 934324

1 mobile home owners.

2 (j)(h) If the property is annexed by another local
3 jurisdiction, the annexing jurisdiction shall adopt a new
4 development order that incorporates all previous rights and
5 obligations specified in the prior development order.

6 (19) SUBSTANTIAL DEVIATIONS.--

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

18 (b) Any proposed change to a previously approved
19 development of regional impact or development order condition
20 which, either individually or cumulatively with other changes,
21 exceeds any of the following criteria shall constitute a
22 substantial deviation and shall cause the development to be
23 subject to further development-of-regional-impact review
24 without the necessity for a finding of same by the local
25 government:

- 26 1. An increase in the number of parking spaces at an
27 attraction or recreational facility by 5 percent or 300
28 spaces, whichever is greater, or an increase in the number of
29 spectators that may be accommodated at such a facility by 10 5
30 percent or 1,100 ~~1,000~~ spectators, whichever is greater.

- 31 2. A new runway, a new terminal facility, a 25-percent

Bill No. CS for SB 1020

Barcode 934324

1 lengthening of an existing runway, or a 25-percent increase in
2 the number of gates of an existing terminal, but only if the
3 increase adds at least three additional gates.

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

6 3.4. An increase in industrial development area by 10
7 5 percent or 35 ~~32~~ acres, whichever is greater.

8 4.5. An increase in the average annual acreage mined
9 by 10 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an
10 increase in the average daily water consumption by a mining
11 operation by 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons,
12 whichever is greater. An increase in the size of the mine by
13 10 ~~5~~ percent or 825 ~~750~~ acres, whichever is less. An increase
14 in the size of a heavy mineral mine as defined in s.

15 378.403(7) will only constitute a substantial deviation if the
16 average annual acreage mined is more than 550 ~~500~~ acres and
17 consumes more than 3.3 ~~3~~ million gallons of water per day.

18 Additions or deletions to contiguous lands described in
19 sub-subparagraph (e)2.k. do not constitute a substantial
20 deviation.

21 5.6. An increase in land area for office development
22 by 10 ~~5~~ percent or an increase of gross floor area of office
23 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square
24 feet, whichever is greater.

25 ~~7. An increase in the storage capacity for chemical or~~
26 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~
27 ~~7 million pounds, whichever is greater.~~

28 ~~8. An increase of development at a waterport of wet~~
29 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
30 ~~wet/dry storage for 60 watercraft in an area identified in the~~
31 ~~state marina siting plan as an appropriate site for additional~~

Bill No. CS for SB 1020

Barcode 934324

1 ~~waterport development or a 5-percent increase in watercraft~~
2 ~~storage capacity, whichever is greater.~~

3 ~~6.9.~~ An increase in the number of dwelling units by 10
4 ~~5~~ percent or 55 ~~50~~ dwelling units, whichever is greater.

5 7. An increase in the number of dwelling units by 50
6 percent or 200 units, whichever is greater, provided that 15
7 percent of the increase in the number of dwelling units is
8 dedicated to the construction of workforce housing. For
9 purposes of this subparagraph, the term "workforce housing"
10 means housing that is affordable to a person who earns less
11 than 150 percent of the area median income.

12 ~~8.10.~~ An increase in commercial development by 55,000
13 ~~50,000~~ square feet of gross floor area or of parking spaces
14 provided for customers for 330 ~~300~~ cars or a 10-percent
15 ~~5-percent~~ increase of either of these, whichever is greater.

16 ~~9.11.~~ An increase in hotel or motel rooms ~~facility~~
17 ~~units~~ by 10 5 percent or 83 rooms ~~75 units~~, whichever is
18 greater.

19 ~~10.12.~~ An increase in a recreational vehicle park area
20 by 10 5 percent or 110 ~~100~~ vehicle spaces, whichever is less.

21 ~~11.13.~~ A decrease in the area set aside for open space
22 of 5 percent or 20 acres, whichever is less.

23 ~~12.14.~~ A proposed increase to an approved multiuse
24 development of regional impact where the sum of the increases
25 of each land use - as a percentage of the applicable substantial
26 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
27 percentage of any decrease in the amount of open space shall
28 be treated as an increase for purposes of determining when 110
29 ~~100~~ percent has been reached or exceeded.

30 ~~13.15.~~ A 15-percent increase in the number of external
31 vehicle trips generated by the development above that which

Bill No. CS for SB 1020

Barcode 934324

1 was projected during the original
2 development-of-regional-impact review.

3 ~~14.16.~~ Any change which would result in development of
4 any area which was specifically set aside in the application
5 for development approval or in the development order for
6 preservation or special protection of endangered or threatened
7 plants or animals designated as endangered, threatened, or
8 species of special concern and their habitat, any species
9 protected by 16 U.S.C. s. 668a-668d, primary dunes, or
10 archaeological and historical sites designated as significant
11 by the Division of Historical Resources of the Department of
12 State. The ~~further~~ refinement of the boundaries and
13 configuration of such areas ~~by survey~~ shall be considered
14 under sub-subparagraph(e)2.j ~~(e)5.b.~~

15
16 The substantial deviation numerical standards in subparagraphs
17 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.,~~ excluding
18 residential uses, and in subparagraph 14. ~~15.,~~ are increased
19 by 100 percent for a project certified under s. 403.973 which
20 creates jobs and meets criteria established by the Office of
21 Tourism, Trade, and Economic Development as to its impact on
22 an area's economy, employment, and prevailing wage and skill
23 levels. The substantial deviation numerical standards in
24 subparagraphs 3., 5., 7., 8., 9., 10., 13., and 14. ~~4., 6.,~~
25 ~~9., 10., 11., and 14.~~ are increased by 50 percent for a
26 project located wholly within an urban infill and
27 redevelopment area designated on the applicable adopted local
28 comprehensive plan future land use map and not located within
29 the coastal high hazard area.

30 (c) An extension of the date of buildout of a
31 development, or any phase thereof, by more than 7 ~~or more~~

Bill No. CS for SB 1020

Barcode 934324

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

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

Bill No. CS for SB 1020

Barcode 934324

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

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

19 a. Changes in the name of the project, developer,
20 owner, or monitoring official.

21 b. Changes to a setback that do not affect noise
22 buffers, environmental protection or mitigation areas, or
23 archaeological or historical resources.

24 c. Changes to minimum lot sizes.

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

27 e. Changes to the building design or orientation that
28 stay approximately within the approved area designated for
29 such building and parking lot, and which do not affect
30 historical buildings designated as significant by the Division
31 of Historical Resources of the Department of State.

Bill No. CS for SB 1020

Barcode 934324

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

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

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

9 i. Any renovation or redevelopment of development
10 within a previously approved development of regional impact
11 which does not change land use or increase density or
12 intensity of use.

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

24 k. Addition or deletion of land contiguous to lands
25 contained in a phosphate mining development of regional impact
26 approved prior to January 1, 2006, regardless of quantity or
27 the resulting time extensions, where the land subject to the
28 addition or deletion will be reviewed pursuant to part III of
29 chapter 378 and part IV of chapter 373, provided that no new
30 beneficiation or processing facility will be constructed.

31 ~~l.j.~~ Any other change which the state land planning

Bill No. CS for SB 1020

Barcode 934324

1 agency agrees in writing is similar in nature, impact, or
 2 character to the changes enumerated in sub-subparagraphs a.-j.
 3 ~~a.-i.~~ and which does not create the likelihood of any
 4 additional regional impact.

5
 6 This subsection does not require the filing of a notice of
 7 proposed change but shall require an application to the local
 8 government to amend the development order in accordance with
 9 the local government's procedures for amendment of a
 10 development order. In accordance with the local government's
 11 procedures, including requirements for notice to the applicant
 12 and the public, the local government shall either deny the
 13 application for amendment or adopt an amendment to the
 14 development order which approves the application with or
 15 without conditions. Following adoption, the local government
 16 shall render the amendment to the development order to the
 17 state land planning agency. The state land planning agency may
 18 appeal, pursuant to s. 380.07(2), the amendment to the
 19 development order if the amendment involves sub-subparagraphs
 20 g., h., j., or k. and it believes the change creates a
 21 reasonable likelihood of new or additional regional impacts ~~a~~
 22 ~~development order amendment for any change listed in~~
 23 ~~sub-subparagraphs a.-j. unless such issue is addressed either~~
 24 ~~in the existing development order or in the application for~~
 25 ~~development approval, but, in the case of the application,~~
 26 ~~only if, and in the manner in which, the application is~~
 27 ~~incorporated in the development order.~~

28 3. Except for the change authorized by
 29 sub-subparagraph 2.f., any addition of land not previously
 30 reviewed or any change not specified in paragraph (b) or
 31 paragraph (c) shall be presumed to create a substantial

Bill No. CS for SB 1020

Barcode 934324

1 deviation. This presumption may be rebutted by clear and
2 convincing evidence.

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

11 5. The following changes to an approved development of
12 regional impact shall be presumed to create a substantial
13 deviation. Such presumption may be rebutted by clear and
14 convincing evidence.

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

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

26 ~~b.c.~~ Notwithstanding any provision of paragraph (b) to
27 the contrary, a proposed change consisting of simultaneous
28 increases and decreases of at least two of the uses within an
29 authorized multiuse development of regional impact which was
30 originally approved with three or more uses specified in s.
31 380.0651(3)(c), (d), (f), and (g) and residential use.

Bill No. CS for SB 1020

Barcode 934324

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

8 2. The developer shall submit, simultaneously, to the
 9 local government, the regional planning agency, and the state
 10 land planning agency the request for approval of a proposed
 11 change.

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

21 4. The appropriate regional planning agency or the
 22 state land planning agency shall review the proposed change
 23 and, no later than 45 days after submittal by the developer of
 24 the proposed change, unless that time is extended by the
 25 developer, and prior to the public hearing at which the
 26 proposed change is to be considered, shall advise the local
 27 government in writing whether it objects to the proposed
 28 change, shall specify the reasons for its objection, if any,
 29 and shall provide a copy to the developer.

30 5. At the public hearing, the local government shall
 31 determine whether the proposed change requires further

Bill No. CS for SB 1020

Barcode 934324

1 development-of-regional-impact review. The provisions of
 2 paragraphs (a) and (e), the thresholds set forth in paragraph
 3 (b), and the presumptions set forth in paragraphs (c) and (d)
 4 and subparagraph (e)3. shall be applicable in determining
 5 whether further development-of-regional-impact review is
 6 required.

7 6. If the local government determines that the
 8 proposed change does not require further
 9 development-of-regional-impact review and is otherwise
 10 approved, or if the proposed change is not subject to a
 11 hearing and determination pursuant to subparagraphs 3. and 5.
 12 and is otherwise approved, the local government shall issue an
 13 amendment to the development order incorporating the approved
 14 change and conditions of approval relating to the change. The
 15 decision of the local government to approve, with or without
 16 conditions, or to deny the proposed change that the developer
 17 asserts does not require further review shall be subject to
 18 the appeal provisions of s. 380.07. However, the state land
 19 planning agency may not appeal the local government decision
 20 if it did not comply with subparagraph 4. The state land
 21 planning agency may not appeal a change to a development order
 22 made pursuant to subparagraph (e)1. or subparagraph (e)2. for
 23 developments of regional impact approved after January 1,
 24 1980, unless the change would result in a significant impact
 25 to a regionally significant archaeological, historical, or
 26 natural resource not previously identified in the original
 27 development-of-regional-impact review.

28 (g) If a proposed change requires further
 29 development-of-regional-impact review pursuant to this
 30 section, the review shall be conducted subject to the
 31 following additional conditions:

Bill No. CS for SB 1020

Barcode 934324

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

5 2. The regional planning agency shall consider, and
 6 the local government shall determine whether to approve,
 7 approve with conditions, or deny the proposed change as it
 8 relates to the entire development. If the local government
 9 determines that the proposed change, as it relates to the
 10 entire development, is unacceptable, the local government
 11 shall deny the change.

12 3. If the local government determines that the
 13 ~~proposed change, as it relates to the entire development,~~
 14 should be approved, any new conditions in the amendment to the
 15 development order issued by the local government shall address
 16 only those issues raised by the proposed change and require
 17 mitigation only for the individual and cumulative impacts of
 18 the proposed change.

19 4. Development within the previously approved
 20 development of regional impact may continue, as approved,
 21 during the development-of-regional-impact review in those
 22 portions of the development which are not directly affected by
 23 the proposed change.

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

Bill No. CS for SB 1020

Barcode 934324

1 order to appeal a local government development order issued
2 pursuant to this paragraph.

3 (i) An increase in the number of residential dwelling
4 units shall not constitute a substantial deviation and shall
5 not be subject to development-of-regional-impact review for
6 additional impacts provided that all the residential dwelling
7 units are dedicated to workforce housing. For purposes of this
8 paragraph, the term "workforce housing" means housing that is
9 affordable to a person who earns less than 150 percent of the
10 area median income.

11 (24) STATUTORY EXEMPTIONS.--

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

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

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

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

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

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

29
30 This exemption does not apply to any pari-mutuel facility.

31 (d) Any proposed addition or cumulative additions

Bill No. CS for SB 1020

Barcode 934324

1 subsequent to July 1, 1988, to an existing sports facility
2 complex owned by a state university is exempt if the increased
3 seating capacity of the complex is no more than 30 percent of
4 the capacity of the existing facility.

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

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

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

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

Bill No. CS for SB 1020

Barcode 934324

1 b. The sum of 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 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 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 pursuant to s. 380.07,
 28 within 45 days after the order is rendered. The scope of
 29 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

Bill No. CS for SB 1020

Barcode 934324

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 pursuant to s. 311.09(3) are exempt from
10 the provisions of this section when such expansions, projects,
11 or facilities are consistent with comprehensive master plans
12 that are in compliance with the provisions of s. 163.3178.

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

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

23 (k) Waterport and marina development, including dry
24 storage facilities, are exempt from the provisions of this
25 section.

26 ~~1. Any waterport or marina development is exempt from~~
27 ~~the provisions of this section if the relevant county or~~
28 ~~municipality has adopted a boating facility siting plan or~~
29 ~~policy which includes applicable criteria, considering such~~
30 ~~factors as natural resources, manatee protection needs and~~
31 ~~recreation and economic demands as generally outlined in the~~

Bill No. CS for SB 1020

Barcode 934324

1 ~~Bureau of Protected Species Management Boat Facility Siting~~
 2 ~~Guide, dated August 2000, into the coastal management or land~~
 3 ~~use element of its comprehensive plan. The adoption of boating~~
 4 ~~facility siting plans or policies into the comprehensive plan~~
 5 ~~is exempt from the provisions of s. 163.3187(1). Any waterport~~
 6 ~~or marina development within the municipalities or counties~~
 7 ~~with boating facility siting plans or policies that meet the~~
 8 ~~above criteria, adopted prior to April 1, 2002, are exempt~~
 9 ~~from the provisions of this section, when their boating~~
 10 ~~facility siting plan or policy is adopted as part of the~~
 11 ~~relevant local government's comprehensive plan.~~

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

19 (1) Any proposed development within an urban service
 20 boundary established under s. 163.3177(14) is exempt from the
 21 provisions of this section if the local government having
 22 jurisdiction over the area where the development is proposed
 23 has adopted the urban service boundary and has entered into a
 24 binding agreement with adjacent jurisdictions that would be
 25 impacted and with the Department of Transportation regarding
 26 the mitigation of impacts on state and regional transportation
 27 facilities, and has adopted a proportionate share methodology
 28 pursuant to s. 163.3180(16).

29 (m) Any proposed development within a rural land
 30 stewardship area created under s. 163.3177(11)(d) is exempt
 31 from the provisions of this section if the local government

Bill No. CS for SB 1020

Barcode 934324

1 that has adopted the rural land stewardship area has entered
2 into a binding agreement with jurisdictions that would be
3 impacted and the Department of Transportation regarding the
4 mitigation of impacts on state and regional transportation
5 facilities, and has adopted a proportionate share methodology
6 pursuant to s. 163.3180(16).

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

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

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

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

23 (r) Any development identified in an airport master
24 plan and adopted into the comprehensive plan pursuant to s.
25 163.3177(6)(k) is exempt from this section.

26 (s) Any development identified in a campus master plan
27 and adopted pursuant to s. 1013.30 is exempt from this
28 section.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

(28) PARTIAL STATUTORY EXEMPTIONS.--

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

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

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

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(n) shall provide written notification to the state land planning agency of the decision to not enter into a

Bill No. CS for SB 1020

Barcode 934324

1 binding agreement or of the failure to enter into a binding
 2 agreement within the 12-month period referenced in paragraphs
 3 (a), (b), and (c). Following the notification of the state
 4 land planning agency, development-of-regional-impact review
 5 for projects within an urban service boundary under paragraph
 6 (24)(l), a rural land stewardship area under paragraph
 7 (24)(m), or an urban infill and redevelopment area under
 8 paragraph (24)(n) must address transportation impacts only.

9 Section 7. Paragraphs (d) and (e) of subsection (3) of
 10 section 380.0651, Florida Statutes, are amended, paragraphs
 11 (f) through (j) are redesignated as paragraphs (e) through
 12 (i), respectively, former paragraph (j) is amended, and a new
 13 paragraph (j) is added to that subsection, to read:

14 380.0651 Statewide guidelines and standards.--

15 (3) The following statewide guidelines and standards
 16 shall be applied in the manner described in s. 380.06(2) to
 17 determine whether the following developments shall be required
 18 to undergo development-of-regional-impact review:

19 (d) Office development.--Any proposed office building
 20 or park operated under common ownership, development plan, or
 21 management that:

22 1. Encompasses 300,000 or more square feet of gross
 23 floor area; or

24 2. Encompasses more than 600,000 square feet of gross
 25 floor area in a county with a population greater than 500,000
 26 and only in a geographic area specifically designated as
 27 highly suitable for increased threshold intensity in the
 28 approved local comprehensive plan ~~and in the strategic~~
 29 ~~regional policy plan.~~

30 ~~(e) Port facilities. The proposed construction of any~~
 31 ~~waterport or marina is required to undergo~~

Bill No. CS for SB 1020

Barcode 934324

1 ~~development of regional impact review, except one designed~~
2 ~~for:~~

3 ~~1.a. The wet storage or mooring of fewer than 150~~
4 ~~watercraft used exclusively for sport, pleasure, or commercial~~
5 ~~fishing, or~~

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

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

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

20
21 ~~In addition to the foregoing, for projects for which no~~
22 ~~environmental resource permit or sovereign submerged land~~
23 ~~lease is required, the Department of Environmental Protection~~
24 ~~must determine in writing that a proposed marina in excess of~~
25 ~~10 slips or storage spaces or a combination of the two is~~
26 ~~located so that it will not adversely impact Outstanding~~
27 ~~Florida Waters or Class II waters and will not contribute boat~~
28 ~~traffic in a manner that will have an adverse impact on an~~
29 ~~area known to be, or likely to be, frequented by manatees. If~~
30 ~~the Department of Environmental Protection fails to issue its~~
31 ~~determination within 45 days of receipt of a formal written~~

Bill No. CS for SB 1020

Barcode 934324

1 ~~request, it has waived its authority to make such~~
2 ~~determination. The Department of Environmental Protection~~
3 ~~determination shall constitute final agency action pursuant to~~
4 ~~chapter 120.~~

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

8 ~~3. Any proposed marina development with both wet and~~
9 ~~dry mooring or storage used exclusively for sport, pleasure,~~
10 ~~or commercial fishing, where the sum of percentages of the~~
11 ~~applicable wet and dry mooring or storage thresholds equals~~
12 ~~100 percent. This threshold is in addition to, and does not~~
13 ~~preclude, a development from being required to undergo~~
14 ~~development of regional impact review under sub-subparagraphs~~
15 ~~1.a. and b. and subparagraph 2.~~

16 ~~(i)(j) Residential development.--No rule may be~~
17 ~~adopted concerning residential developments which treats a~~
18 ~~residential development in one county as being located in a~~
19 ~~less populated adjacent county unless more than 25 percent of~~
20 ~~the development is located within 2 or less miles of the less~~
21 ~~populated adjacent county. The residential thresholds of~~
22 ~~adjacent counties with less population and a lower threshold~~
23 ~~shall not be controlling on any development wholly located~~
24 ~~within a municipality in a rural county of economic concern.~~

25 ~~(j) Workforce housing.--The applicable guidelines for~~
26 ~~residential development and the residential component for~~
27 ~~multiuse development shall be increased by 50 percent where~~
28 ~~the developer demonstrates that at least 15 percent of the~~
29 ~~residential dwelling units will be dedicated to workforce~~
30 ~~housing. For purposes of this subparagraph, the term~~
31 ~~"workforce housing" means housing that is affordable to a~~

Bill No. CS for SB 1020

Barcode 934324

1 person who earns less than 150 percent of the area median
2 income.

3 Section 8. Section 380.07, Florida Statutes, is
4 amended to read:

5 380.07 Florida Land and Water Adjudicatory
6 Commission.--

7 (1) There is hereby created the Florida Land and Water
8 Adjudicatory Commission, which shall consist of the
9 Administration Commission. The commission may adopt rules
10 necessary to ensure compliance with the area of critical state
11 concern program and the requirements for developments of
12 regional impact as set forth in this chapter.

13 (2) Whenever any local government issues any
14 development order in any area of critical state concern, or in
15 regard to any development of regional impact, copies of such
16 orders as prescribed by rule by the state land planning agency
17 shall be transmitted to the state land planning agency, the
18 regional planning agency, and the owner or developer of the
19 property affected by such order. The state land planning
20 agency shall adopt rules describing development order
21 rendition and effectiveness in designated areas of critical
22 state concern. Within 45 days after the order is rendered, the
23 owner, the developer, or the state land planning agency may
24 appeal the order to the Florida Land and Water Adjudicatory
25 Commission by filing a petition alleging that the development
26 order is not consistent with the provisions of this part

27 ~~notice of appeal with the commission.~~ The appropriate
28 regional planning agency by vote at a regularly scheduled
29 meeting may recommend that the state land planning agency
30 undertake an appeal of a development-of-regional-impact
31 development order. Upon the request of an appropriate regional

Bill No. CS for SB 1020

Barcode 934324

1 | planning council, affected local government, or any citizen,
 2 | the state land planning agency shall consider whether to
 3 | appeal the order and shall respond to the request within the
 4 | 45-day appeal period. ~~Any appeal taken by a regional planning~~
 5 | ~~agency between March 1, 1993, and the effective date of this~~
 6 | ~~section may only be continued if the state land planning~~
 7 | ~~agency has also filed an appeal. Any appeal initiated by a~~
 8 | ~~regional planning agency on or before March 1, 1993, shall~~
 9 | ~~continue until completion of the appeal process and any~~
 10 | ~~subsequent appellate review, as if the regional planning~~
 11 | ~~agency were authorized to initiate the appeal.~~

12 | (3) Notwithstanding any other provision of law, an
 13 | appeal of a development order by the state land planning
 14 | agency under this section may include consistency of the
 15 | development order with the local comprehensive plan. However,
 16 | if a development order relating to a development of regional
 17 | impact has been challenged in a proceeding under s. 163.3215
 18 | and a party to the proceeding serves notice to the state land
 19 | planning agency of the pending proceeding under s. 163.3215,
 20 | the state land planning agency shall:

21 | (a) Raise its consistency issues by intervening as a
 22 | full party in the pending proceeding under s. 163.3215 within
 23 | 30 days after service of the notice; and

24 | (b) Dismiss the consistency issues from the
 25 | development order appeal.

26 | (4) The appellant shall furnish a copy of the petition
 27 | to the opposing party, as the case may be, and to the local
 28 | government that issued the order. The filing of the petition
 29 | stays the effectiveness of the order until after the
 30 | completion of the appeal process.

31 | (5)(3) The 45-day appeal period for a development of

Bill No. CS for SB 1020

Barcode 934324

1 regional impact within the jurisdiction of more than one local
2 government shall not commence until after all the local
3 governments having jurisdiction over the proposed development
4 of regional impact have rendered their development orders.
5 The appellant shall furnish a copy of the notice of appeal to
6 the opposing party, as the case may be, and to the local
7 government which issued the order. The filing of the notice
8 of appeal shall stay the effectiveness of the order until
9 after the completion of the appeal process.

10 ~~(6)(4)~~ Prior to issuing an order, the Florida Land and
11 Water Adjudicatory Commission shall hold a hearing pursuant to
12 the provisions of chapter 120. The commission shall encourage
13 the submission of appeals on the record made below in cases in
14 which the development order was issued after a full and
15 complete hearing before the local government or an agency
16 thereof.

17 ~~(7)(5)~~ The Florida Land and Water Adjudicatory
18 Commission shall issue a decision granting or denying
19 permission to develop pursuant to the standards of this
20 chapter and may attach conditions and restrictions to its
21 decisions.

22 ~~(6)~~ ~~If an appeal is filed with respect to any issues~~
23 ~~within the scope of a permitting program authorized by chapter~~
24 ~~161, chapter 373, or chapter 403 and for which a permit or~~
25 ~~conceptual review approval has been obtained prior to the~~
26 ~~issuance of a development order, any such issue shall be~~
27 ~~specifically identified in the notice of appeal which is filed~~
28 ~~pursuant to this section, together with other issues which~~
29 ~~constitute grounds for the appeal. The appeal may proceed with~~
30 ~~respect to issues within the scope of permitting programs for~~
31 ~~which a permit or conceptual review approval has been obtained~~

Bill No. CS for SB 1020

Barcode 934324

1 ~~prior to the issuance of a development order only after the~~
 2 ~~commission determines by majority vote at a regularly~~
 3 ~~scheduled commission meeting that statewide or regional~~
 4 ~~interests may be adversely affected by the development. In~~
 5 ~~making this determination, there shall be a rebuttable~~
 6 ~~presumption that statewide and regional interests relating to~~
 7 ~~issues within the scope of the permitting programs for which a~~
 8 ~~permit or conceptual approval has been obtained are not~~
 9 ~~adversely affected.~~

10 Section 9. Section 380.115, Florida Statutes, is
 11 amended to read:

12 380.115 Vested rights and duties; effect of size
 13 reduction, changes in guidelines and standards ~~chs. 2002-20~~
 14 ~~and 2002-296.--~~

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

27 (a) The development shall continue to be governed by
 28 the development-of-regional-impact development order and may
 29 be completed in reliance upon and pursuant to the development
 30 order unless the developer or landowner has followed the
 31 procedures for rescission in paragraph (b). Any proposed

Bill No. CS for SB 1020

Barcode 934324

1 changes to those developments which continue to be governed by
 2 a development order shall be approved pursuant to s.
 3 380.06(19) as it existed prior to a change in the
 4 development-of-regional-impact guidelines and standards except
 5 that all percentage criteria shall be doubled and all other
 6 criteria shall be increased by 10 percent. The
 7 development-of-regional-impact development order may be
 8 enforced by the local government as provided by ss. 380.06(17)
 9 and 380.11.

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

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

26 (3) A landowner that has filed an application for a
 27 development-of-regional-impact review prior to the adoption of
 28 an optional sector plan pursuant to s. 163.3245 may elect to
 29 have the application reviewed pursuant to s. 380.06,
 30 comprehensive plan provisions in force prior to adoption of
 31 the sector plan, and any requested comprehensive plan

Bill No. CS for SB 1020

Barcode 934324

1 amendments that accompany the application.

2 Section 10. Paragraph (i) of subsection (2) of section
3 403.813, Florida Statutes, is amended to read:

4 403.813 Permits issued at district centers;
5 exceptions.--

6 (2) A permit is not required under this chapter,
7 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
8 or chapter 25270, 1949, Laws of Florida, for activities
9 associated with the following types of projects; however,
10 except as otherwise provided in this subsection, nothing in
11 this subsection relieves an applicant from any requirement to
12 obtain permission to use or occupy lands owned by the Board of
13 Trustees of the Internal Improvement Trust Fund or any water
14 management district in its governmental or proprietary
15 capacity or from complying with applicable local pollution
16 control programs authorized under this chapter or other
17 requirements of county and municipal governments:

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

27 Section 11. In order to maintain the security of the
28 ports of this state and to ensure the continuous flow of goods
29 critical to the economic health and prosperity of this state,
30 the ports of Jacksonville, Tampa, Port Everglades, Miami, Port
31 Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe,

Bill No. CS for SB 1020

Barcode 934324

1 Panama City, St. Petersburg, Pensacola, Fernandina, and Key
 2 West may not transfer ownership or exclusive management
 3 control of real property or port operations to an entity
 4 controlled by a foreign government or foreign business entity
 5 without the express consent of the Legislature.

6 Section 12. If any provision of this act or its
 7 application to any person or circumstance is held invalid, the
 8 invalidity does not affect other provisions or applications of
 9 the act which can be given effect without the invalid
 10 provision or application, and to this end the provisions of
 11 this act are severable.

12 Section 13. This act shall take effect July 1, 2006.

13
 14

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

16 And the title is amended as follows:

17 Delete everything before the enacting clause

18

19 and insert:

20 A bill to be entitled
 21 An act relating to growth management; amending
 22 s. 163.3177, F.S.; encouraging local
 23 governments to adopt boating facility siting
 24 plans; providing criteria and exemptions for
 25 such plans; authorizing assistance for the
 26 development of such plans; amending s.
 27 163.3180, F.S., relating to concurrency;
 28 providing restrictions upon requirements that
 29 local governments may impose upon
 30 transportation facilities; amending s. 197.303,
 31 F.S.; revising the criteria for ad valorem tax

Bill No. CS for SB 1020

Barcode 934324

1 deferral for working waterfront properties;
2 including public lodging establishments in the
3 description of working waterfront properties;
4 amending s. 342.07, F.S.; adding recreational
5 activities as an important state interest;
6 including public lodging establishments within
7 the definition of the term "recreational and
8 commercial working waterfront"; creating s.
9 373.4132, F.S.; directing water management
10 district governing boards and the Department of
11 Environmental Protection to require permits for
12 certain activities relating to certain dry
13 storage facilities; providing criteria for
14 application of such permits; preserving
15 regulatory authority for the department and
16 governing boards; amending s. 380.06, F.S.;
17 providing for the state land planning agency to
18 determine the amount of development that
19 remains to be built in certain circumstances;
20 specifying certain requirements for a
21 development order; revising the circumstances
22 in which a local government may issue permits
23 for development subsequent to the buildout
24 date; revising the definition of an essentially
25 built-out development; revising the criteria
26 under which a proposed change constitutes a
27 substantial deviation; clarifying the criteria
28 under which the extension of a buildout date is
29 presumed to create a substantial deviation;
30 requiring that notice of any change to certain
31 set-aside areas be submitted to the local

Bill No. CS for SB 1020

Barcode 934324

1 government; requiring that notice of certain
2 changes be given to the state land planning
3 agency, regional planning agency, and local
4 government; revising the statutory exemptions
5 from development-of-regional-impact review for
6 certain facilities; removing waterport and
7 marina developments from
8 development-of-regional-impact review;
9 providing statutory exemptions for the
10 development of certain facilities; providing
11 that the impacts from an exempt use that will
12 be part of a larger project be included in the
13 development-of-regional-impact review of the
14 larger project; amending s. 380.0651, F.S.;
15 revising the statewide guidelines and standards
16 for development-of-regional-impact review of
17 certain types of developments; allowing the
18 state land planning agency to consider the
19 impacts of independent developments of regional
20 impact cumulatively under certain
21 circumstances; amending s. 380.07, F.S.;
22 revising the appellate procedures for
23 development orders within a development of
24 regional impact to the Florida Land and Water
25 Adjudicatory Commission; amending s. 380.115,
26 F.S.; providing that a change in a
27 development-of-regional-impact guideline and
28 standard does not abridge or modify any vested
29 right or duty under a development order;
30 providing a process for the rescission of a
31 development order by the local government in

Bill No. CS for SB 1020

Barcode 934324

1 certain circumstances; providing an exemption
2 for certain applications for development
3 approval and notices of proposed changes;
4 prohibiting the sale or exclusive control of
5 the real property or operations of any port in
6 this state to an entity controlled by a foreign
7 government or a foreign business entity without
8 the express consent of the Legislature;
9 providing for severability; providing an
10 effective date.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31