

By Senator Bennett

21-697-06

1                               A bill to be entitled  
2           An act relating to developments of regional  
3           impact; amending s. 380.06, F.S.; conforming a  
4           cross-reference; requiring the state land  
5           planning agency to initiate rulemaking by a  
6           specific date to revise the  
7           development-of-regional-impact review process;  
8           requiring a local government to issue  
9           development orders concurrently with  
10          comprehensive plan amendments; specifying  
11          certain requirements for a development order;  
12          prohibiting a local government from issuing  
13          permits for development subsequent to the  
14          buildout date; revising the circumstances in  
15          which a local government may issue subsequent  
16          permits for development; revising the  
17          definition of an essentially built-out  
18          development; prohibiting the suspension of a  
19          development order for failure to submit a  
20          biennial report under certain circumstances;  
21          revising the criteria under which a proposed  
22          change is presumed to create a substantial  
23          deviation; requiring that notice of certain  
24          changes be given to the state land planning  
25          agency, regional planning agency, and local  
26          government; requiring that a memorandum of  
27          notice of certain changes be filed with the  
28          clerk of court; revising the period of time for  
29          notice and a public hearing after a change to a  
30          development order has been submitted; revising  
31          the requirement for further

1 development-of-regional-impact review of a  
2 proposed change; revising the statutory  
3 exemptions for the development of certain  
4 facilities; providing statutory exemptions for  
5 the development of certain facilities;  
6 providing that the impacts from a use that will  
7 be part of a larger project be included in the  
8 development-of-regional-impact review of the  
9 larger project; amending s. 380.0651, F.S.;  
10 removing the application of statewide  
11 guidelines and standards for  
12 development-of-regional-impact review to the  
13 construction of certain attractions and  
14 recreation facilities; revising the statewide  
15 guidelines and standards for  
16 development-of-regional-impact review of the  
17 construction of certain marinas; removing the  
18 application of statewide guidelines and  
19 standards for development-of-regional-impact  
20 review to the construction of certain schools;  
21 prohibiting the state land planning agency from  
22 considering an impact of an independent  
23 development of regional impact cumulatively  
24 under certain circumstances; amending s.  
25 380.07, F.S.; providing a mechanism for  
26 challenging the consistency of a development  
27 order with a local government comprehensive  
28 plan; providing that the Department of  
29 Community Affairs has standing to initiate an  
30 action to determine the consistency of a  
31 development order with a local government

1 comprehensive plan; amending s. 380.115, F.S.;  
2 providing that a change in a  
3 development-of-regional-impact guideline and  
4 standard does not abridge or modify any vested  
5 right or duty under a development order;  
6 amending ss. 163.3180 and 331.303, F.S.;  
7 conforming cross-references; providing an  
8 effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Paragraph (d) of subsection (2), paragraph  
13 (b) of subsection (7), and subsections (15), (18), (19), and  
14 (24) of section 380.06, Florida Statutes, are amended to read:

15 380.06 Developments of regional impact.--

16 (2) STATEWIDE GUIDELINES AND STANDARDS.--

17 (d) The guidelines and standards shall be applied as  
18 follows:

19 1. Fixed thresholds.--

20 a. A development that is below 100 percent of all  
21 numerical thresholds in the guidelines and standards shall not  
22 be required to undergo development-of-regional-impact review.

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

26 c. Projects certified under s. 403.973 which create at  
27 least 100 jobs and meet the criteria of the Office of Tourism,  
28 Trade, and Economic Development as to their impact on an  
29 area's economy, employment, and prevailing wage and skill  
30 levels that are at or below 100 percent of the numerical  
31 thresholds for industrial plants, industrial parks,

1 distribution, warehousing or wholesaling facilities, office  
2 development or multiuse projects other than residential, as  
3 described in s. 380.0651(3)(b), (c), and (h) ~~s.~~  
4 ~~380.0651(3)(c), (d), and (i)~~, are not required to undergo  
5 development-of-regional-impact review.

6 2. Rebuttable presumption.--It shall be presumed that  
7 a development that is at 100 percent or between 100 and 120  
8 percent of a numerical threshold shall be required to undergo  
9 development-of-regional-impact review.

10 (7) PREAPPLICATION PROCEDURES.--

11 (b) The state land ~~regional~~ planning agency shall  
12 establish by rule a procedure by which a developer may enter  
13 into binding written agreements with the regional planning  
14 agency to eliminate questions from the application for  
15 development approval when those questions are found to be  
16 unnecessary for development-of-regional-impact review. By  
17 August 1, 2006, the department shall initiate rulemaking to  
18 revise the development-of-regional-impact review process. The  
19 department shall eliminate as many duplicative or unnecessary  
20 requirements and questions as possible; provide for the  
21 acceptability and use of data and information provided by the  
22 applicant for federal, state, or local government permits and  
23 authorizations required for the proposed development; and  
24 revise and streamline the application process for development  
25 approval in order to provide for a more efficient review of an  
26 application. It is the legislative intent of this subsection  
27 to encourage reduction of paperwork, to discourage unnecessary  
28 gathering of data, and to encourage the coordination of the  
29 development-of-regional-impact review process with federal,  
30 state, and local environmental reviews when such reviews are  
31 required by law.

1 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

5 (b) Unless otherwise requested by the applicant ~~When~~  
6 ~~possible, the local government governments~~ shall issue  
7 development orders concurrently with comprehensive plan  
8 amendments and, when practicable, with any other local permits  
9 or development approvals that may be applicable to the  
10 proposed development.

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

14 1. Shall specify the monitoring procedures and the  
15 local official responsible for assuring compliance by the  
16 developer with the development order.

17 2. Shall establish compliance dates for the  
18 development order, including a deadline for commencing  
19 physical development and for compliance with conditions of  
20 approval or phasing requirements, and shall include a buildout  
21 ~~termination~~ date that reasonably reflects the time anticipated  
22 ~~required~~ to complete the development.

23 3. Shall establish a date until which the local  
24 government agrees that the approved development of regional  
25 impact shall not be subject to downzoning, unit density  
26 reduction, or intensity reduction, unless the local government  
27 can demonstrate that substantial changes in the conditions  
28 underlying the approval of the development order have occurred  
29 or the development order was based on substantially inaccurate  
30 information provided by the developer or that the change is  
31 clearly established by local government to be essential to the

1 public health, safety, or welfare. The date established  
2 pursuant to this subparagraph shall be no sooner than the  
3 buildout date of the project.

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

11 5. Shall ~~May~~ specify the types of changes, if any, to  
12 the development which shall require submission for a  
13 substantial deviation determination or a notice of proposed  
14 change under subsection (19).

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

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

21 1. The need to construct new facilities or add to the  
22 present system of public facilities must be reasonably  
23 attributable to the proposed development.

24 2. Any contribution of funds, land, or public  
25 facilities required from the developer shall be comparable to  
26 the amount of funds, land, or public facilities that the state  
27 or the local government would reasonably expect to expend or  
28 provide, based on projected costs of comparable projects, to  
29 mitigate the impacts reasonably attributable to the proposed  
30 development.

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

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

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

25           2. A local government shall not approve a development  
26 of regional impact that does not make adequate provision for  
27 the public facilities needed to accommodate the impacts of the  
28 proposed development unless the local government includes in  
29 the development order a commitment by the local government to  
30 provide these facilities consistently with the development  
31 schedule approved in the development order; however, a local

1 government's failure to meet the requirements of subparagraph  
2 1. and this subparagraph shall not preclude the issuance of a  
3 development order where adequate provision is made by the  
4 developer for the public facilities needed to accommodate the  
5 impacts of the proposed development. Any funds or lands  
6 contributed by a developer must be expressly designated and  
7 used to accommodate impacts reasonably attributable to the  
8 proposed development.

9 3. The Department of Community Affairs and other state  
10 and regional agencies involved in the administration and  
11 implementation of this act shall cooperate and work with units  
12 of local government in preparing and adopting local impact fee  
13 and other contribution ordinances.

14 (f) Notice of the adoption of a development order or  
15 the subsequent amendments to an adopted development order  
16 shall be recorded by the developer, in accordance with s.  
17 28.222, with the clerk of the circuit court for each county in  
18 which the development is located. The notice shall include a  
19 legal description of the property covered by the order and  
20 shall state which unit of local government adopted the  
21 development order, the date of adoption, the date of adoption  
22 of any amendments to the development order, the location where  
23 the adopted order with any amendments may be examined, and  
24 that the development order constitutes a land development  
25 regulation applicable to the property. The recording of this  
26 notice shall not constitute a lien, cloud, or encumbrance on  
27 real property, or actual or constructive notice of any such  
28 lien, cloud, or encumbrance. This paragraph applies only to  
29 developments initially approved under this section after July  
30 1, 1980.

31



1 (g) A local government may ~~shall not~~ issue permits for  
2 development subsequent to the buildout ~~termination date or~~  
3 ~~expiration~~ date contained in the development order if unless:

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

8 1.2. The proposed development is consistent with an  
9 abandonment of development order that has been issued in  
10 accordance with the provisions of subsection (26); ~~or~~

11 2. The proposed development has satisfied the  
12 mitigation requirements in the development order and meets the  
13 requirements of sub-sub-subparagraph 3.b.(I); or

14 3. The project has been determined to be an  
15 essentially built-out development of regional impact through  
16 an agreement executed by the developer, the state land  
17 planning agency, and the local government, in accordance with  
18 s. 380.032, which will establish the terms and conditions  
19 under which the development may be continued. If the project  
20 is determined to be essentially built-out, development may  
21 proceed pursuant to the s. 380.032 agreement after the  
22 termination or expiration date contained in the development  
23 order without further development-of-regional-impact review  
24 subject to the local government comprehensive plan and land  
25 development regulations or subject to a modified  
26 development-of-regional-impact analysis. As used in this  
27 paragraph, an "essentially built-out" development of regional  
28 impact means:

29 a. The development is in compliance with all  
30 applicable terms and conditions of the development order  
31 except the built-out date; and

1           b.(I) The amount of development that remains to be  
2 built is less than 20 percent of the development approved by  
3 the original development order but not more than the  
4 applicable development-of-regional-impact threshold.  
5 Development may also be considered essentially built-out if  
6 all the infrastructure and horizontal development for the  
7 project has been completed and more than 80 percent of the  
8 parcels have been conveyed to third-party buyers, including  
9 builders and individual lot owners ~~the substantial deviation~~  
10 ~~threshold specified in paragraph (19)(b) for each individual~~  
11 ~~land use category, or, for a multiuse development, the sum~~  
12 ~~total of all unbuilt land uses as a percentage of the~~  
13 ~~applicable substantial deviation threshold is equal to or less~~  
14 ~~than 100 percent; or~~

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

19           (h) If the property is annexed by another local  
20 jurisdiction, the annexing jurisdiction shall adopt a new  
21 development order that incorporates all previous rights and  
22 obligations specified in the prior development order.

23           (18) BIENNIAL REPORTS.--The developer shall submit a  
24 biennial report on the development of regional impact to the  
25 local government, the regional planning agency, the state land  
26 planning agency, and all affected permit agencies in alternate  
27 years on the date specified in the development order, unless  
28 the development order by its terms requires more frequent  
29 monitoring. If the report is not received, the regional  
30 planning agency or the state land planning agency shall notify  
31 the local government. If the local government does not receive

1 | the report or receives notification that the regional planning  
2 | agency or the state land planning agency has not received the  
3 | report, the local government shall request in writing that the  
4 | developer submit the report within 30 days. The failure to  
5 | submit the report after 30 days shall result in the temporary  
6 | suspension of the development order applicable to the property  
7 | remaining to be developed by the party failing to submit the  
8 | report. If other developers within a development of regional  
9 | impact are in compliance with their reporting requirements,  
10 | the development order as it relates to their property may not  
11 | be suspended by the local government. If no additional  
12 | development pursuant to the development order has occurred  
13 | since the submission of the previous report, then a letter  
14 | from the developer stating that no development has occurred  
15 | shall satisfy the requirement for a report. Development orders  
16 | that require annual reports shall ~~may~~ be amended to require  
17 | biennial reports the next time they are amended ~~at the option~~  
18 | ~~of the local government.~~

19 |       (19) SUBSTANTIAL DEVIATIONS.--

20 |       (a) Any proposed change to a previously approved  
21 | development which creates an ~~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 |

1 (b) Any proposed change to a previously approved  
2 development of regional impact or development order condition  
3 which, either individually or cumulatively with other changes,  
4 exceeds any of the following criteria shall be presumed to  
5 create ~~constitute~~ a substantial deviation ~~and shall cause the~~  
6 ~~development to be subject to further~~  
7 ~~development of regional impact review without the necessity~~  
8 ~~for a finding of same by the local government:~~

9 1. An increase in the number of parking spaces at an  
10 attraction or recreational facility by 10 5 percent or 500 300  
11 spaces, whichever is greater, or an increase in the number of  
12 spectators that may be accommodated at such a facility by 10 5  
13 percent or 1,000 spectators, whichever is greater.

14 2. A new runway, a new terminal facility, a 25-percent  
15 lengthening of an existing runway, or a 25-percent increase in  
16 the number of gates of an existing terminal, but only if the  
17 increase adds at least three additional gates. However, if an  
18 airport is located in two counties, a 10-percent lengthening  
19 of an existing runway or a 20-percent increase in the number  
20 of gates of an existing terminal is the applicable criteria.

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

23 ~~3.4.~~ An increase in industrial development area by 10  
24 5 percent or 64 32 acres, whichever is greater.

25 ~~4.5.~~ An increase in the average annual acreage mined  
26 by 10 5 percent or 20 10 acres, whichever is greater, or an  
27 increase in the average daily water consumption by a mining  
28 operation by 10 5 percent or 600,000 300,000 gallons,  
29 whichever is greater. An increase in the size of the mine by  
30 10 5 percent or 1,000 750 acres, whichever is less. An  
31 increase in the size of a heavy mineral mine as defined in s.

1 378.403(7) will only constitute a substantial deviation if the  
2 average annual acreage mined is more than 500 acres and  
3 consumes more than 3 million gallons of water per day.

4 ~~5.6.~~ An increase in land area for office development  
5 by 10 ~~5~~ percent or an increase of gross floor area of office  
6 development by 10 ~~5~~ percent or 100,000 ~~60,000~~ gross square  
7 feet, whichever is greater.

8 6. An increase of development at a marina of 10  
9 percent of wet storage or for 30 watercraft slips, whichever  
10 is greater, or 20 percent of wet storage or 60 watercraft  
11 slips in an area identified by a local government in a boat  
12 facility siting plan as an appropriate site for additional  
13 marina development, whichever is greater.

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

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

23 ~~7.9.~~ An increase in the number of dwelling units by 10  
24 ~~5~~ percent or 100 ~~50~~ dwelling units, whichever is greater.

25 ~~8.10.~~ An increase in commercial development by 100,000  
26 ~~50,000~~ square feet of gross floor area or of parking spaces  
27 provided for customers for 600 ~~300~~ cars or a 10-percent  
28 ~~5-percent~~ increase of either of these, whichever is greater.

29 ~~9.11.~~ An increase in hotel or motel rooms facility  
30 ~~units~~ by 10 ~~5~~ percent or 100 rooms ~~75-units~~, whichever is  
31 greater.

1           ~~10.12.~~ An increase in a recreational vehicle park area  
2 by 10 ~~5~~ percent or 100 vehicle spaces, whichever is less.

3           ~~11.13.~~ A decrease in the area set aside for open space  
4 of 5 percent or 20 acres, whichever is less.

5           ~~12.14.~~ A proposed increase to an approved multiuse  
6 development of regional impact where the sum of the increases  
7 of each land use as a percentage of the applicable substantial  
8 deviation criteria is equal to or exceeds 120 ~~100~~ percent. The  
9 percentage of any decrease in the amount of open space shall  
10 be treated as an increase for purposes of determining when 120  
11 ~~100~~ percent has been reached or exceeded.

12           ~~13.15.~~ A 20-percent ~~15-percent~~ increase in the number  
13 of external vehicle trips generated by the development above  
14 that which was projected during the original  
15 development-of-regional-impact review. If the transportation  
16 mitigation identified in the adopted development order is  
17 based upon proportionate-share payments, an increase in the  
18 proportionate-share payment commensurate with the increase in  
19 external vehicle trips generated by the development is  
20 adequate to satisfy the obligation of the developer to rebut  
21 the presumption.

22           ~~14.16.~~ Any change that ~~which~~ would result in  
23 development of any area which was specifically set aside in  
24 the application for development approval or in the development  
25 order for preservation or special protection of endangered or  
26 threatened plants or animals designated as endangered,  
27 threatened, or species of special concern and their habitat,  
28 primary dunes, or archaeological and historical sites  
29 designated as significant by the Division of Historical  
30 Resources of the Department of State. The further  
31 science-based refinement of such areas by survey, by habitat

1 evaluation, by other recognized assessment methodology, or by  
2 an environmental assessment is not a substantial deviation  
3 ~~shall be considered under sub-subparagraph (c)5.b.~~

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

18 (c) An extension of the date of buildout of a  
19 development, or any phase thereof, by more than 10 ~~7 or more~~  
20 years shall be presumed to create a substantial deviation  
21 subject to further development-of-regional-impact review. An  
22 extension of the date of buildout, or any phase thereof, of 5  
23 years or more but less than 7 years shall be presumed not to  
24 create a substantial deviation. The extension of the date of  
25 buildout of an areawide development of regional impact by more  
26 than 5 years but less than 10 years is presumed not to create  
27 a substantial deviation. This presumption ~~These presumptions~~  
28 may be rebutted by clear and convincing evidence at the public  
29 hearing held by the local government. An extension of 7 years  
30 ~~or less than 5 years~~ is not a substantial deviation. For the  
31 purpose of calculating when a buildout or, ~~phase, or~~

1 ~~termination~~ date has been exceeded, the time shall be tolled  
2 during the pendency of administrative or judicial proceedings  
3 relating to development permits. Any extension of the buildout  
4 date of a project or a phase thereof shall automatically  
5 extend the commencement date of the project, the buildout date  
6 ~~the termination date of the development order, the expiration~~  
7 ~~date of the development of regional impact~~, and the phases  
8 thereof by a like period of time.

9 (d) A change in the plan of development of an approved  
10 development of regional impact resulting from requirements  
11 imposed by the Department of Environmental Protection or any  
12 water management district created by s. 373.069 or any of  
13 their successor agencies or by any appropriate federal  
14 regulatory agency shall be submitted to the local government  
15 pursuant to this subsection. These changes do ~~The change shall~~  
16 ~~be presumed~~ not to create a substantial deviation subject to  
17 further development-of-regional-impact review. In addition, if  
18 a change to a permit involving property within the development  
19 of regional impact is approved by the agencies with  
20 jurisdiction, the change does not create a substantial  
21 deviation. ~~The presumption may be rebutted by clear and~~  
22 ~~convincing evidence at the public hearing held by the local~~  
23 ~~government.~~

24 (e)1. Except for a development order rendered pursuant  
25 to subsection (22) or subsection (25), a proposed change to a  
26 development order that individually or cumulatively with any  
27 previous change is less than any numerical criterion contained  
28 in subparagraphs (b)1.-14. ~~(b)1.-15.~~ and does not exceed any  
29 other criterion, or that involves an extension of the buildout  
30 date of a development, or any phase thereof, of less than 7 5  
31 years is not subject to the public hearing requirements of



1 | subparagraph (f)3., and is not subject to a determination  
2 | pursuant to subparagraph (f)5. Notice of the proposed change  
3 | shall be made to the regional planning council and the state  
4 | land planning agency. Such notice shall include a description  
5 | of previous individual changes made to the development,  
6 | including changes previously approved by the local government,  
7 | and shall include appropriate amendments to the development  
8 | order.

9 |         2. The following changes, individually or cumulatively  
10 | with any previous changes, are not substantial deviations:

11 |             a. Changes in the name of the project, developer,  
12 | owner, or monitoring official.

13 |             b. Changes to a setback that do not affect noise  
14 | buffers, environmental protection or mitigation areas, or  
15 | archaeological or historical resources.

16 |             c. Changes to minimum lot sizes.

17 |             d. Changes in the configuration of internal roads that  
18 | do not affect external access points.

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

24 |             f. Changes to increase the acreage in the development,  
25 | provided that no development is proposed on the acreage to be  
26 | added.

27 |             g. Changes to eliminate an approved land use, provided  
28 | that there are no additional regional impacts.

29 |             h. Changes required to conform to permits approved by  
30 | any federal, state, or regional permitting agency, ~~provided~~  
31 | ~~that these changes do not create additional regional impacts.~~

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

5           j. Changes to internal utility locations.

6           k. Changes to the internal location of public  
7 facilities.

8           ~~l.j.~~ Any other change which the state land planning  
9 agency agrees in writing is similar in nature, impact, or  
10 character to the changes enumerated in sub-subparagraphs a.-k.  
11 ~~a.-i.~~ and which does not create the likelihood of any  
12 additional regional impact.

13  
14 This subsection does not require a development order amendment  
15 for any change listed in sub-subparagraphs a.-l. but shall  
16 require notice to the state land planning agency, the regional  
17 planning agency, and the local government. In addition, a  
18 memorandum of that notice shall be filed with the clerk of the  
19 circuit court along with a legal description of the affected  
20 development of regional impact. If a subsequent change  
21 requiring a substantial deviation determination is made to the  
22 development of regional impact, modifications to the  
23 development of regional impact made in all prior notices must  
24 be reflected as amendments to the development memorandum.

25 ~~a. j. unless such issue is addressed either in the existing~~  
26 ~~development order or in the application for development~~  
27 ~~approval, but, in the case of the application, only if, and in~~  
28 ~~the manner in which, the application is incorporated in the~~  
29 ~~development order.~~

30           3. Except for the change authorized by  
31 sub-subparagraph 2.f., any addition of land not previously

1 reviewed or any change not specified in paragraph (b) or  
2 paragraph (c) shall be presumed to create a substantial  
3 deviation. This presumption may be rebutted by clear and  
4 convincing evidence.

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

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

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

21 b. Except for the types of uses listed in subparagraph  
22 ~~(b)14.(b)16-~~, any change which would result in the  
23 development of any area which was specifically set aside in  
24 the application for development approval or in the development  
25 order for preservation, buffers, or special protection,  
26 including habitat for plant and animal species, archaeological  
27 and historical sites, dunes, and other special areas.

28 c. Notwithstanding any provision of paragraph (b) to  
29 the contrary, a proposed change consisting of simultaneous  
30 increases and decreases of at least two of the uses within an  
31 authorized multiuse development of regional impact which was

1 originally approved with three or more uses specified in s.  
2 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

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

23 4. The appropriate regional planning agency or the  
24 state land planning agency shall review the proposed change  
25 and, no later than 30 ~~45~~ days after submittal by the developer  
26 of the proposed change, unless that time is extended by the  
27 developer, and prior to the public hearing at which the  
28 proposed change is to be considered, shall advise the local  
29 government in writing whether it objects to the proposed  
30 change, shall specify the reasons for its objection, if any,  
31 and shall provide a copy to the developer.

1           5. At the public hearing, the local government shall  
2 determine whether the proposed change requires further  
3 development-of-regional-impact review. The provisions of  
4 paragraphs (a) and (e), the thresholds set forth in paragraph  
5 (b), and the presumptions set forth in paragraphs (c) and (d)  
6 and subparagraph (e)3. shall be applicable in determining  
7 whether further development-of-regional-impact review is  
8 required.

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

30           (g) If a proposed change requires further  
31 development-of-regional-impact review pursuant to this

1 section, the review shall be conducted subject to the  
2 following additional conditions:

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

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

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

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

25 (h) When further development-of-regional-impact review  
26 is required because a substantial deviation has been  
27 determined or admitted by the developer, the amendment to the  
28 development order issued by the local government shall be  
29 consistent with the requirements of subsection (15) and shall  
30 be subject to the hearing and appeal provisions of s. 380.07.  
31 The state land planning agency or the appropriate regional

1 | planning agency need not participate at the local hearing in  
2 | order to appeal a local government development order issued  
3 | pursuant to this paragraph.

4 | (24) STATUTORY EXEMPTIONS.--

5 | (a) Any proposed hospital ~~which has a designed~~  
6 | ~~capacity of not more than 100 beds~~ is exempt from the  
7 | provisions of this section.

8 | (b) Any proposed electrical transmission line or  
9 | electrical power plant is exempt from the provisions of this  
10 | section, ~~except any steam or solar electrical generating~~  
11 | ~~facility of less than 50 megawatts in capacity attached to a~~  
12 | ~~development of regional impact.~~

13 | (c) Any proposed addition to an existing sports  
14 | facility complex is exempt from the provisions of this section  
15 | if the addition meets the following characteristics:

16 | 1. It would not operate concurrently with the  
17 | scheduled hours of operation of the existing facility.

18 | 2. Its seating capacity would be no more than 75  
19 | percent of the capacity of the existing facility.

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

22 |  
23 | This exemption does not apply to any pari-mutuel facility.

24 | (d) Any proposed addition or cumulative additions  
25 | subsequent to July 1, 1988, to an existing sports facility  
26 | complex owned by a state university is exempt if the increased  
27 | seating capacity of the complex is no more than 30 percent of  
28 | the capacity of the existing facility.

29 | (e) Any addition of permanent seats or parking spaces  
30 | for an existing sports facility located on property owned by a  
31 | public body prior to July 1, 1973, is exempt from the

1 provisions of this section if future additions do not expand  
2 existing permanent seating or parking capacity more than 15  
3 percent annually in excess of the prior year's capacity.

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

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

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

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

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



1           2. The local government having jurisdiction of the  
2 sports facility includes in the development order or  
3 development permit approving such expansion under this  
4 paragraph a finding of fact that the proposed expansion is  
5 consistent with the transportation, water, sewer and  
6 stormwater drainage provisions of the approved local  
7 comprehensive plan and local land development regulations  
8 relating to those provisions.

9  
10 Any owner or developer who intends to rely on this statutory  
11 exemption shall provide to the department a copy of the local  
12 government application for a development permit. Within 45  
13 days of receipt of the application, the department shall  
14 render to the local government an advisory and nonbinding  
15 opinion, in writing, stating whether, in the department's  
16 opinion, the prescribed conditions exist for an exemption  
17 under this paragraph. The local government shall render the  
18 development order approving each such expansion to the  
19 department. The owner, developer, or department may appeal  
20 the local government development order pursuant to s. 380.07,  
21 within 45 days after the order is rendered. The scope of  
22 review shall be limited to the determination of whether the  
23 conditions prescribed in this paragraph exist. If any sports  
24 facility expansion undergoes development of regional impact  
25 review, all previous expansions which were exempt under this  
26 paragraph shall be included in the development of regional  
27 impact review.

28           (h) Expansion to port harbors, spoil disposal sites,  
29 navigation channels, turning basins, harbor berths, and other  
30 related inwater harbor facilities of ports listed in s.  
31 403.021(9)(b), port transportation facilities and projects

1 listed in s. 311.07(3)(b), and intermodal transportation  
2 facilities identified pursuant to s. 311.09(3) are exempt from  
3 the provisions of this section when such expansions, projects,  
4 or facilities are consistent with comprehensive master plans  
5 that are in compliance with the provisions of s. 163.3178.

6 (i) Any proposed facility for the storage of any  
7 petroleum product or any expansion of an existing facility is  
8 exempt from the provisions of this section, ~~if the facility is~~  
9 ~~consistent with a local comprehensive plan that is in~~  
10 ~~compliance with s. 163.3177 or is consistent with a~~  
11 ~~comprehensive port master plan that is in compliance with s.~~  
12 ~~163.3178.~~

13 (j) Any renovation or redevelopment within the same  
14 land parcel which does not change land use or increase density  
15 or intensity of use.

16 (k) ~~1.~~ Any ~~waterport or~~ marina development is exempt  
17 from the provisions of this section if the relevant county or  
18 municipality has adopted a boating facility siting plan or  
19 policy, which includes applicable criteria, considering such  
20 factors as natural resources, manatee protection needs, and  
21 recreation and economic demands as generally outlined in the  
22 Bureau of Protected Species Management Boat Facility Siting  
23 Guide, dated August 2000, into the coastal management or land  
24 use element of its comprehensive plan. The adoption of boating  
25 facility siting plans or policies into the comprehensive plan  
26 is exempt from the provisions of s. 163.3187(1). Any ~~waterport~~  
27 ~~or~~ marina development within the municipalities or counties  
28 with boating facility siting plans or policies that meet the  
29 above criteria, adopted prior to April 1, 2006 ~~2002~~, are  
30 exempt from the provisions of this section, when their boating  
31

1 facility siting plan or policy is adopted as part of the  
2 relevant local government's comprehensive plan.

3 ~~2. Within 6 months of the effective date of this law,~~  
4 ~~the Department of Community Affairs, in conjunction with the~~  
5 ~~Department of Environmental Protection and the Florida Fish~~  
6 ~~and Wildlife Conservation Commission, shall provide technical~~  
7 ~~assistance and guidelines, including model plans, policies and~~  
8 ~~criteria to local governments for the development of their~~  
9 ~~siting plans.~~

10 (l) Any proposed development within an urban service  
11 boundary established under s. 163.3177(14) is exempt from the  
12 provisions of this section if the local government having  
13 jurisdiction over the area where the development is proposed  
14 has adopted the urban service boundary and has entered into a  
15 binding agreement with contiguous adjacent jurisdictions and  
16 the 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). If the binding agreement is not entered into  
20 within 12 months after the establishment of the urban service  
21 boundary, the Department of Transportation shall adopt within  
22 90 days a reasonable impact-mitigation plan that is applicable  
23 in lieu of the binding agreement.

24 (m) Any proposed development within a rural land  
25 stewardship area created under s. 163.3177(11)(d) is exempt  
26 from the provisions of this section if the local government  
27 that has adopted the rural land stewardship area has entered  
28 into a binding agreement with jurisdictions that would be  
29 impacted and the Department of Transportation regarding the  
30 mitigation of impacts on state and regional transportation  
31

1 facilities, and has adopted a proportionate share methodology  
2 pursuant to s. 163.3180(16).

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

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

15 (p) Any self-storage warehousing that does not allow  
16 retail or other services is exempt from the provisions of this  
17 section.

18 (q) Any proposed nursing home or assisted living  
19 facility is exempt from the provisions of this section.

20 (r) Any development identified in an airport master  
21 plan and adopted into the comprehensive plan pursuant to s.  
22 163.3178(6)(k) is exempt from the provisions of this section.

23 (s) Any development identified in a campus master plan  
24 and adopted pursuant to s. 1013.30 is exempt from the  
25 provisions of this section.

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

30 (u) Any development in an area granted an exception  
31 from the concurrency requirements for transportation

1 facilities which has met the requirements of s.  
2 163.3180(5)(b)-(g), including the requirement for  
3 proportionate fair-share mitigation for transportation  
4 facilities, and which has been adopted into the comprehensive  
5 plan is exempt from the provisions of this section.

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

12 Section 2. Subsections (3) and (4) of section  
13 380.0651, Florida Statutes, are amended 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 (a) Airports.--

20 1. Any of the following airport construction projects  
21 shall be a development of regional impact unless exempt under  
22 s. 380.06(24):

23 a. A new commercial service or general aviation  
24 airport with paved runways.

25 b. A new commercial service or general aviation paved  
26 runway.

27 c. A new passenger terminal facility.

28 2. Lengthening of an existing runway by 25 percent or  
29 an increase in the number of gates by 25 percent or three  
30 gates, whichever is greater, on a commercial service airport  
31 or a general aviation airport with regularly scheduled flights

1 is a development of regional impact. However, expansion of  
2 existing terminal facilities at a nonhub or small hub  
3 commercial service airport shall not be a development of  
4 regional impact.

5 3. Any airport development project which is proposed  
6 for safety, repair, or maintenance reasons alone and would not  
7 have the potential to increase or change existing types of  
8 aircraft activity is not a development of regional impact.

9 Notwithstanding subparagraphs 1. and 2., renovation,  
10 modernization, or replacement of airport airside or terminal  
11 facilities that may include increases in square footage of  
12 such facilities but does not increase the number of gates or  
13 change the existing types of aircraft activity is not a  
14 development of regional impact.

15 ~~(b) Attractions and recreation facilities. Any~~  
16 ~~sports, entertainment, amusement, or recreation facility,~~  
17 ~~including, but not limited to, a sports arena, stadium,~~  
18 ~~racetrack, tourist attraction, amusement park, or pari mutuel~~  
19 ~~facility, the construction or expansion of which:~~

20 1. ~~For single performance facilities:~~

21 a. ~~Provides parking spaces for more than 2,500 cars;~~

22 ~~or~~

23 b. ~~Provides more than 10,000 permanent seats for~~

24 ~~spectators.~~

25 2. ~~For serial performance facilities:~~

26 a. ~~Provides parking spaces for more than 1,000 cars;~~

27 ~~or~~

28 b. ~~Provides more than 4,000 permanent seats for~~

29 ~~spectators.~~

30

31

1 ~~For purposes of this subsection, "serial performance~~  
2 ~~facilities" means those using their parking areas or permanent~~  
3 ~~seating more than one time per day on a regular or continuous~~  
4 ~~basis.~~

5 ~~3. For multiscreen movie theaters of at least 8~~  
6 ~~screens and 2,500 seats:~~

7 ~~a. Provides parking spaces for more than 1,500 cars;~~

8 ~~or~~

9 ~~b. Provides more than 6,000 permanent seats for~~  
10 ~~spectators.~~

11 ~~(b)(c)~~ Industrial plants, industrial parks, and  
12 distribution, warehousing or wholesaling facilities.--Any  
13 proposed industrial, manufacturing, or processing plant, or  
14 distribution, warehousing, or wholesaling facility, excluding  
15 wholesaling developments which deal primarily with the general  
16 public onsite, under common ownership, or any proposed  
17 industrial, manufacturing, or processing activity or  
18 distribution, warehousing, or wholesaling activity, excluding  
19 wholesaling activities which deal primarily with the general  
20 public onsite, which:

21 1. Provides parking for more than 2,500 motor  
22 vehicles; or

23 2. Occupies a site greater than 320 acres.

24 ~~(c)(d)~~ Office development.--Any proposed office  
25 building or park operated under common ownership, development  
26 plan, or management that:

27 1. Encompasses 300,000 or more square feet of gross  
28 floor area; or

29 2. Encompasses more than 600,000 square feet of gross  
30 floor area in a county with a population greater than 500,000  
31 and only in a geographic area specifically designated as

1 highly suitable for increased threshold intensity in the  
2 approved local comprehensive plan ~~and in the strategic~~  
3 ~~regional policy plan.~~

4 ~~(d)(e) Marinas Port facilities.~~--The proposed  
5 construction of any ~~waterport or~~ marina is required to undergo  
6 development-of-regional-impact review if it is, ~~except one~~  
7 designed for:

8 1.a. The wet storage or mooring of more ~~fewer~~ than 150  
9 watercraft used ~~exclusively~~ for sport, pleasure, or commercial  
10 fishing; ~~or~~

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

13 ~~b.c. The wet or dry storage or mooring of more ~~fewer~~~~  
14 than 150 watercraft on or adjacent to an inland freshwater  
15 lake except Lake Okeechobee or any lake that ~~which~~ has been  
16 designated an Outstanding Florida Water, ~~or~~

17 ~~d. The wet or dry storage or mooring of fewer than 50~~  
18 ~~watercraft of 40 feet in length or less of any type or~~  
19 ~~purpose.~~

20 2. The subthreshold exceptions to this paragraph's  
21 requirements for development-of-regional-impact review do  
22 ~~shall~~ not apply to any ~~waterport or~~ marina facility located  
23 within or which serves physical development located within a  
24 coastal barrier resource unit on an unbridged barrier island  
25 designated pursuant to 16 U.S.C. s. 3501.

26  
27 In addition to the foregoing, for projects for which no  
28 environmental resource permit or sovereign submerged land  
29 lease is required, the Department of Environmental Protection  
30 must determine in writing that a proposed marina in excess of  
31 75 ~~10~~ slips or storage spaces or a combination of the two is



1 | located so that it will not adversely impact Outstanding  
2 | Florida Waters or Class II waters and will not contribute boat  
3 | traffic in a manner that will have an adverse impact on an  
4 | area known to be, or likely to be, frequented by manatees. If  
5 | the Department of Environmental Protection fails to issue its  
6 | determination within 45 days after ~~of~~ receipt of a formal  
7 | written request, it has waived its authority to make such  
8 | determination. The Department of Environmental Protection  
9 | determination shall constitute final agency action pursuant to  
10 | chapter 120.

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

14 |         ~~3. Any proposed marina development with both wet and~~  
15 | ~~dry mooring or storage used exclusively for sport, pleasure,~~  
16 | ~~or commercial fishing, where the sum of percentages of the~~  
17 | ~~applicable wet and dry mooring or storage thresholds equals~~  
18 | ~~100 percent. This threshold is in addition to, and does not~~  
19 | ~~preclude, a development from being required to undergo~~  
20 | ~~development of regional impact review under sub subparagraphs~~  
21 | ~~1.a. and b. and subparagraph 2.~~

22 |         ~~(e)(f)~~ Retail and service development.--Any proposed  
23 | retail, service, or wholesale business establishment or group  
24 | of establishments which deals primarily with the general  
25 | public onsite, operated under one common property ownership,  
26 | development plan, or management that:

- 27 |             1. Encompasses more than 400,000 square feet of gross  
28 | area; or  
29 |             2. Provides parking spaces for more than 2,500 cars.

30 |         ~~(f)(g)~~ Hotel or motel development.--  
31 |

1           1. Any proposed hotel or motel development that is  
2 planned to create or accommodate 350 or more units; or

3           2. Any proposed hotel or motel development that is  
4 planned to create or accommodate 750 or more units, in a  
5 county with a population greater than 500,000, and only in a  
6 geographic area specifically designated as highly suitable for  
7 increased threshold intensity in the approved local  
8 comprehensive plan and in the strategic regional policy plan.

9           ~~(g)~~(h) Recreational vehicle development.--Any proposed  
10 recreational vehicle development planned to create or  
11 accommodate 500 or more spaces.

12           ~~(h)~~(i) Multiuse development.--Any proposed development  
13 with two or more land uses where the sum of the percentages of  
14 the appropriate thresholds identified in chapter 28-24,  
15 Florida Administrative Code, or this section for each land use  
16 in the development is equal to or greater than 145 percent.  
17 Any proposed development with three or more land uses, one of  
18 which is residential and contains at least 100 dwelling units  
19 or 15 percent of the applicable residential threshold,  
20 whichever is greater, where the sum of the percentages of the  
21 appropriate thresholds identified in chapter 28-24, Florida  
22 Administrative Code, or this section for each land use in the  
23 development is equal to or greater than 160 percent. This  
24 threshold is in addition to, and does not preclude, a  
25 development from being required to undergo  
26 development-of-regional-impact review under any other  
27 threshold.

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

1 the development is located within 2 or less miles of the less  
2 populated adjacent county.

3 ~~(k) Schools.~~

4 ~~1. The proposed construction of any public, private,~~  
5 ~~or proprietary postsecondary educational campus which provides~~  
6 ~~for a design population of more than 5,000 full time~~  
7 ~~equivalent students, or the proposed physical expansion of any~~  
8 ~~public, private, or proprietary postsecondary educational~~  
9 ~~campus having such a design population that would increase the~~  
10 ~~population by at least 20 percent of the design population.~~

11 ~~2. As used in this paragraph, "full time equivalent~~  
12 ~~student" means enrollment for 15 or more quarter hours during~~  
13 ~~a single academic semester. In career centers or other~~  
14 ~~institutions which do not employ semester hours or quarter~~  
15 ~~hours in accounting for student participation, enrollment for~~  
16 ~~18 contact hours shall be considered equivalent to one quarter~~  
17 ~~hour, and enrollment for 27 contact hours shall be considered~~  
18 ~~equivalent to one semester hour.~~

19 ~~3. This paragraph does not apply to institutions which~~  
20 ~~are the subject of a campus master plan adopted by the~~  
21 ~~university board of trustees pursuant to s. 1013.30.~~

22 (4) Two or more developments, represented by their  
23 owners or developers to be separate developments, shall be  
24 aggregated and treated as a single development under this  
25 chapter when they are determined to be part of a unified plan  
26 of development and are physically proximate to one other.

27 (a) The criteria of two of the following subparagraphs  
28 must be met in order for the state land planning agency to  
29 determine that there is a unified plan of development:

30 1.a. The same person has retained or shared control of  
31 the developments;

1           b. The same person has ownership or a significant  
2 legal or equitable interest in the developments; or

3           c. There is common management of the developments  
4 controlling the form of physical development or disposition of  
5 parcels of the development.

6           2. There is a reasonable closeness in time between the  
7 completion of 80 percent or less of one development and the  
8 submission to a governmental agency of a master plan or series  
9 of plans or drawings for the other development which is  
10 indicative of a common development effort.

11           3. A master plan or series of plans or drawings exists  
12 covering the developments sought to be aggregated which have  
13 been submitted to a local general-purpose government, water  
14 management district, the Florida Department of Environmental  
15 Protection, or the Division of Florida Land Sales,  
16 Condominiums, and Mobile Homes for authorization to commence  
17 development. The existence or implementation of a utility's  
18 master utility plan required by the Public Service Commission  
19 or general-purpose local government or a master drainage plan  
20 shall not be the sole determinant of the existence of a master  
21 plan.

22           4. The voluntary sharing of infrastructure that is  
23 indicative of a common development effort or is designated  
24 specifically to accommodate the developments sought to be  
25 aggregated, except that which was implemented because it was  
26 required by a local general-purpose government; water  
27 management district; the Department of Environmental  
28 Protection; the Division of Florida Land Sales, Condominiums,  
29 and Mobile Homes; or the Public Service Commission.

30           5. There is a common advertising scheme or promotional  
31 plan in effect for the developments sought to be aggregated.

1 (b) The following activities or circumstances shall  
2 not be considered in determining whether to aggregate two or  
3 more developments:

4 1. Activities undertaken leading to the adoption or  
5 amendment of any comprehensive plan element described in part  
6 II of chapter 163.

7 2. The sale of unimproved parcels of land, where the  
8 seller does not retain significant control of the future  
9 development of the parcels.

10 3. The fact that the same lender has a financial  
11 interest, including one acquired through foreclosure, in two  
12 or more parcels, so long as the lender is not an active  
13 participant in the planning, management, or development of the  
14 parcels in which it has an interest.

15 4. Drainage improvements that are not designed to  
16 accommodate the types of development listed in the guidelines  
17 and standards contained in or adopted pursuant to this chapter  
18 or which are not designed specifically to accommodate the  
19 developments sought to be aggregated.

20 (c) Aggregation is not applicable when the following  
21 circumstances and provisions of this chapter are applicable:

22 1. Developments that ~~which~~ are otherwise subject to  
23 aggregation with a development of regional impact that ~~which~~  
24 has received approval through the issuance of a final  
25 development order ~~may shall~~ not be aggregated with the  
26 approved development of regional impact. However, ~~nothing~~  
27 ~~contained in this subparagraph~~ does not shall preclude the  
28 state land planning agency from evaluating an allegedly  
29 separate development as a substantial deviation pursuant to s.  
30 380.06(19) or as an independent development of regional impact  
31

1 and, if so, the impacts of the independent developments of  
2 regional impact may not be considered cumulatively.

3         2. Two or more developments, each of which is  
4 independently a development of regional impact that has or  
5 will obtain a development order pursuant to s. 380.06.

6         3. Completion of any development that has been vested  
7 pursuant to s. 380.05 or s. 380.06, including vested rights  
8 arising out of agreements entered into with the state land  
9 planning agency for purposes of resolving vested rights  
10 issues. Development-of-regional-impact review of additions to  
11 vested developments of regional impact shall not include  
12 review of the impacts resulting from the vested portions of  
13 the development.

14         4. The developments sought to be aggregated were  
15 authorized to commence development prior to September 1, 1988,  
16 and could not have been required to be aggregated under the  
17 law existing prior to that date.

18         (d) The provisions of this subsection shall be applied  
19 prospectively from September 1, 1988. Written decisions,  
20 agreements, and binding letters of interpretation made or  
21 issued by the state land planning agency prior to July 1,  
22 1988, shall not be affected by this subsection.

23         (e) In order to encourage developers to design,  
24 finance, donate, or build infrastructure, public facilities,  
25 or services, the state land planning agency may enter into  
26 binding agreements with two or more developers providing that  
27 the joint planning, sharing, or use of specified public  
28 infrastructure, facilities, or services by the developers  
29 shall not be considered in any subsequent determination of  
30 whether a unified plan of development exists for their  
31 developments. Such binding agreements may authorize the

1 developers to pool impact fees or impact-fee credits, or to  
2 enter into front-end agreements, or other financing  
3 arrangements by which they collectively agree to design,  
4 finance, donate, or build such public infrastructure,  
5 facilities, or services. Such agreements shall be conditioned  
6 upon a subsequent determination by the appropriate local  
7 government of consistency with the approved local government  
8 comprehensive plan and land development regulations.  
9 Additionally, the developers must demonstrate that the  
10 provision and sharing of public infrastructure, facilities, or  
11 services is in the public interest and not merely for the  
12 benefit of the developments which are the subject of the  
13 agreement. Developments that are the subject of an agreement  
14 pursuant to this paragraph shall be aggregated if the state  
15 land planning agency determines that sufficient aggregation  
16 factors are present to require aggregation without considering  
17 the design features, financial arrangements, donations, or  
18 construction that are specified in and required by the  
19 agreement.

20 (f) The state land planning agency has authority to  
21 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
22 the provisions of this subsection.

23 Section 3. Subsection (7) is added to section 380.07,  
24 Florida Statutes, to read:

25 380.07 Florida Land and Water Adjudicatory  
26 Commission.--

27 (7) Notwithstanding any other provision of law, s.  
28 163.3215 is the sole mechanism for challenging the consistency  
29 of a development order issued under this chapter with the  
30 local government comprehensive plan. The Department of  
31 Community Affairs has standing to initiate an action under s.

1 163.3215 to determine the consistency of a  
2 development-of-regional-impact development order with the  
3 local government comprehensive plan and for no other purpose.

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

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

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

21 (a) The development shall continue to be governed by  
22 the development-of-regional-impact development order and may  
23 be completed in reliance upon and pursuant to the development  
24 order unless the developer or landowner has followed the  
25 procedures for rescission in paragraph (b). The  
26 development-of-regional-impact development order may be  
27 enforced by the local government as provided by ss. 380.06(17)  
28 and 380.11.

29 (b) If requested by the developer or landowner, the  
30 development-of-regional-impact development order shall ~~may~~ be  
31 rescinded by the local government having jurisdiction upon a



1 showing that all required mitigation related to the amount of  
2 development that existed on the date of rescission has been  
3 completed ~~abandoned pursuant to the process in s. 380.06(26).~~

4 (2) A development with an application for development  
5 approval pending, ~~and determined sufficient pursuant to s.~~  
6 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the  
7 guidelines and standards this act, or a notification of  
8 proposed change pending on the effective date of a change to  
9 the guidelines and standards this act, may elect to continue  
10 such review pursuant to s. 380.06. At the conclusion of the  
11 pending review, including any appeals pursuant to s. 380.07,  
12 the resulting development order shall be governed by the  
13 provisions of subsection (1).

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

21 Section 5. Subsection (12) of section 163.3180,  
22 Florida Statutes, is amended to read:

23 163.3180 Concurrency.--

24 (12) When authorized by a local comprehensive plan, a  
25 multiuse development of regional impact may satisfy the  
26 transportation concurrency requirements of the local  
27 comprehensive plan, the local government's concurrency  
28 management system, and s. 380.06 by payment of a  
29 proportionate-share contribution for local and regionally  
30 significant traffic impacts, if:

31

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

8 (b) The development of regional impact contains an  
9 integrated mix of land uses and is designed to encourage  
10 pedestrian or other nonautomotive modes of transportation;

11 (c) The proportionate-share contribution for local and  
12 regionally significant traffic impacts is sufficient to pay  
13 for one or more required improvements that will benefit a  
14 regionally significant transportation facility;

15 (d) The owner and developer of the development of  
16 regional impact pays or assures payment of the  
17 proportionate-share contribution; and

18 (e) If the regionally significant transportation  
19 facility to be constructed or improved is under the  
20 maintenance authority of a governmental entity, as defined by  
21 s. 334.03(12), other than the local government with  
22 jurisdiction over the development of regional impact, the  
23 developer is required to enter into a binding and legally  
24 enforceable commitment to transfer funds to the governmental  
25 entity having maintenance authority or to otherwise assure  
26 construction or improvement of the facility.

27  
28 The proportionate-share contribution may be applied to any  
29 transportation facility to satisfy the provisions of this  
30 subsection and the local comprehensive plan, but, for the  
31 purposes of this subsection, the amount of the

1 proportionate-share contribution shall be calculated based  
2 upon the cumulative number of trips from the proposed  
3 development expected to reach roadways during the peak hour  
4 from the complete buildout of a stage or phase being approved,  
5 divided by the change in the peak hour maximum service volume  
6 of roadways resulting from construction of an improvement  
7 necessary to maintain the adopted level of service, multiplied  
8 by the construction cost, at the time of developer payment, of  
9 the improvement necessary to maintain the adopted level of  
10 service. For purposes of this subsection, "construction cost"  
11 includes all associated costs of the improvement.

12 Section 6. Subsection (21) of section 331.303, Florida  
13 Statutes, is amended to read:

14 331.303 Definitions.--

15 (21) "Spaceport launch facilities" shall be defined as  
16 industrial facilities in accordance with s. 380.0651(3)(b) ~~s.~~  
17 ~~380.0651(3)(c)~~ and include any launch pad, launch control  
18 center, and fixed launch-support equipment.

19 Section 7. This act shall take effect July 1, 2006.  
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SENATE SUMMARY

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2  
3 Requires the state land planning agency to initiate  
4 rulemaking to revise the development-of-regional-impact  
5 review process. Requires a local government to issue  
6 development orders concurrently with comprehensive plan  
7 amendments. Specifies requirements for development  
8 orders. Provides that a local government may not issue  
9 permits for development subsequent to the buildout date.  
10 Revises exceptions. Revises the definition of an  
11 "essentially built-out" development. Provides that a  
12 development order may not be suspended for failure to  
13 submit a biennial report under certain circumstances.  
14 Revises the criteria for creating a substantial  
15 deviation. Requires that notice be given to the state  
16 land planning agency, regional planning agency, local  
17 government, and the clerk of court. Revises the time for  
18 notice and a public hearing. Revises the requirement for  
19 further development-of-regional-impact review. Revises  
20 the statutory exemptions for the development of certain  
21 facilities. Requires that impacts from a use that will be  
22 part of a larger project be included in the  
23 development-of-regional-impact review. Removes the  
24 guidelines for development-of-regional-impact review of  
25 the construction of certain attractions and recreation  
26 facilities and of certain schools. Revises the guidelines  
27 for development-of-regional-impact review of the  
28 construction of certain marinas. Requires that a state  
29 land planning agency not consider an impact of an  
30 independent development of regional impact cumulatively.  
31 Requires that the Department of Community Affairs have  
standing to initiate an action to determine the  
consistency of a development order with a comprehensive  
plan. Provides that a change in a  
development-of-regional-impact guideline does not modify  
any vested right or duty under a development order.