



1           revising the statutory exemptions from  
2           development-of-regional-impact review for  
3           certain facilities; providing statutory  
4           exemptions for the development of certain  
5           facilities; providing that the impacts from an  
6           exempt use that will be part of a larger  
7           project be included in the  
8           development-of-regional-impact review of the  
9           larger project; amending s. 380.0651, F.S.;  
10          revising the statewide guidelines and standards  
11          for development-of-regional-impact review of  
12          certain types of developments; amending s.  
13          380.07, F.S.; authorizing the state land  
14          planning agency to raise the issue of  
15          consistency with a local comprehensive plan as  
16          part of an appeal of a  
17          development-of-regional-impact development  
18          order to the Florida Land and Water  
19          Adjudicatory Commission; requiring the state  
20          land planning agency to raise its consistency  
21          issues as an intervening party in a proceeding  
22          under s. 163.3215, F.S., and dismiss the  
23          agency's consistency issues from an appeal to  
24          the Florida Land and Water Adjudicatory  
25          Commission in certain circumstances; amending  
26          s. 380.115, 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

1 certain circumstances; providing an exemption  
2 for certain applications for development  
3 approval and notices of proposed changes;  
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"; amending s.  
9 380.06, F.S.; prohibiting a local government  
10 from requiring transportation facilities to be  
11 in place within a shorter timeframe than  
12 otherwise required; prohibiting a local  
13 government from approving a rezoning except by  
14 a majority vote; creating s. 380.0652, F.S.;  
15 authorizing certain amendments to a  
16 comprehensive plan for purposes of creating a  
17 new town in a rural county; providing  
18 requirements for such amendments; specifying  
19 siting and design criteria; providing  
20 additional policy requirements; prohibiting the  
21 state land planning agency from finding an  
22 amendment to the comprehensive plan not in  
23 compliance on the basis of need or urban sprawl  
24 if such requirements are met; prohibiting the  
25 sale or exclusive control of the real property  
26 or operations of any port in this state to an  
27 entity controlled by a foreign government or a  
28 foreign business entity without the express  
29 consent of the Legislature; providing for  
30 severability; providing an effective date.  
31

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Paragraphs (a) and (i) of subsection (4),  
4 paragraphs (c), (d), (e), and (g) of subsection (15),  
5 paragraphs (a), (b), (c), (e), (f), and (g) of subsection  
6 (19), and subsection (24) of section 380.06, Florida Statutes,  
7 are amended, and subsection (28) is added to that section, to  
8 read:

9 380.06 Developments of regional impact.--

10 (4) BINDING LETTER.--

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

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

7 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

11 1. Shall specify the monitoring procedures and the  
12 local official responsible for assuring compliance by the  
13 developer with the development order.

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

20 3. Shall establish a date until which the local  
21 government agrees that the approved development of regional  
22 impact shall not be subject to downzoning, unit density  
23 reduction, or intensity reduction, unless the local government  
24 can demonstrate that substantial changes in the conditions  
25 underlying the approval of the development order have occurred  
26 or the development order was based on substantially inaccurate  
27 information provided by the developer or that the change is  
28 clearly established by local government to be essential to the  
29 public health, safety, or welfare. The date established  
30 pursuant to this subparagraph shall be no sooner than the  
31 buildout date of the project.

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

8           5. May specify the types of changes to the development  
9 which shall require submission for a substantial deviation  
10 determination or a notice of proposed change under subsection  
11 (19).

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

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

18           1. The need to construct new facilities or add to the  
19 present system of public facilities must be reasonably  
20 attributable to the proposed development.

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

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

31

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

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

22           2. A local government shall not approve a development  
23 of regional impact that does not make adequate provision for  
24 the public facilities needed to accommodate the impacts of the  
25 proposed development unless the local government includes in  
26 the development order a commitment by the local government to  
27 provide these facilities consistently with the development  
28 schedule approved in the development order; however, a local  
29 government's failure to meet the requirements of subparagraph  
30 1. and this subparagraph shall not preclude the issuance of a  
31 development order where adequate provision is made by the

1 developer for the public facilities needed to accommodate the  
2 impacts of the proposed development. Any funds or lands  
3 contributed by a developer must be expressly designated and  
4 used to accommodate impacts reasonably attributable to the  
5 proposed development.

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

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

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

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

21 3. The development of regional impact is essentially  
22 built out, in that all the mitigation requirements in the  
23 development order have been satisfied, all developers are in  
24 compliance with all applicable terms and conditions of the  
25 development order except the buildout date, and the amount of  
26 proposed development that remains to be built is less than 20  
27 percent of any applicable development-of-regional-impact  
28 threshold; or

29 ~~4.3-~~ The project has been determined to be an  
30 essentially built-out development of regional impact through  
31 an agreement executed by the developer, the state land



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

13 |       a. The developers are ~~development is~~ in compliance  
14 | with all applicable terms and conditions of the development  
15 | order except the buildout ~~built out~~ date; and

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

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

27 |  
28 | In addition to the requirements of subparagraphs 3. and 4.,  
29 | the single-family residential portions of a development may be  
30 | considered "essentially built out" if all of the  
31 | infrastructure and horizontal development have been completed,

1 at least 50 percent of the dwelling units have been completed,  
2 and more than 80 percent of the lots have been conveyed to  
3 third-party individual lot owners or to individual builders  
4 who own no more than 40 lots at the time of the determination.

5 (19) SUBSTANTIAL DEVIATIONS.--

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

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

25 1. An increase in the number of parking spaces at an  
26 attraction or recreational facility by 10 5 percent or 330 300  
27 spaces, whichever is greater, or an increase in the number of  
28 spectators that may be accommodated at such a facility by 10 5  
29 percent or 1,100 1,000 spectators, whichever is greater.

30 2. A new runway, a new terminal facility, a 25-percent  
31 lengthening of an existing runway, or a 25-percent increase in

1 the number of gates of an existing terminal, but only if the  
2 increase adds at least three additional gates.

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

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

7 4.5. An increase in the average annual acreage mined  
8 by 10 5 percent or 11 ~~10~~ acres, whichever is greater, or an  
9 increase in the average daily water consumption by a mining  
10 operation by 10 5 percent or 330,000 ~~300,000~~ gallons,  
11 whichever is greater. An increase in the size of the mine by  
12 10 5 percent or 825 ~~750~~ acres, whichever is less. An increase  
13 in the size of a heavy mineral mine as defined in s.  
14 378.403(7) will only constitute a substantial deviation if the  
15 average annual acreage mined is more than 550 ~~500~~ acres and  
16 consumes more than 3.3 ~~3~~ million gallons of water per day.

17 5.6. An increase in land area for office development  
18 by 10 5 percent or an increase of gross floor area of office  
19 development by 10 5 percent or 66,000 ~~60,000~~ gross square  
20 feet, whichever is greater.

21 6. An increase of development at a marina of 10  
22 percent of wet storage or for 30 watercraft slips, whichever  
23 is greater, or 20 percent of wet storage or 60 watercraft  
24 slips in an area identified by a local government in a boat  
25 facility siting plan as an appropriate site for additional  
26 marina development, whichever is greater.

27 ~~7. An increase in the storage capacity for chemical or~~  
28 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~  
29 ~~7 million pounds, whichever is greater.~~

30 ~~8. An increase of development at a waterport of wet~~  
31 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~

1 ~~wet/dry storage for 60 watercraft in an area identified in the~~  
2 ~~state marina siting plan as an appropriate site for additional~~  
3 ~~waterport development or a 5 percent increase in watercraft~~  
4 ~~storage capacity, whichever is greater.~~

5 7.9. An increase in the number of dwelling units by 10  
6 5 percent or 55 ~~50~~ dwelling units, whichever is greater.

7 8. An increase in the number of dwelling units by 15  
8 percent or 100 units, whichever is greater, provided that 20  
9 percent of the increase in the number of dwelling units is  
10 dedicated to the construction of workforce housing. For  
11 purposes of this subparagraph, the term "workforce housing"  
12 means housing that is affordable to a person who earns less  
13 than 120 percent of the area median income.

14 9.10. An increase in commercial development by 55,000  
15 50,000 square feet of gross floor area or of parking spaces  
16 provided for customers for 330 ~~300~~ cars or a 10-percent  
17 ~~5-percent~~ increase of either of these, whichever is greater.

18 10.11. An increase in hotel or motel rooms facility  
19 units by 10 ~~5~~ percent or 83 ~~rooms~~ ~~75-units~~, whichever is  
20 greater.

21 11.12. An increase in a recreational vehicle park area  
22 by 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.

23 12.13. A decrease in the area set aside for open space  
24 of 5 percent or 20 acres, whichever is less.

25 13.14. A proposed increase to an approved multiuse  
26 development of regional impact where the sum of the increases  
27 of each land use as a percentage of the applicable substantial  
28 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The  
29 percentage of any decrease in the amount of open space shall  
30 be treated as an increase for purposes of determining when 110  
31 ~~100~~ percent has been reached or exceeded.

1           ~~14.15.~~ A 15-percent increase in the number of external  
2 vehicle trips generated by the development above that which  
3 was projected during the original  
4 development-of-regional-impact review.

5           ~~15.16.~~ Any change which would result in development of  
6 any area which was specifically set aside in the application  
7 for development approval or in the development order for  
8 preservation or special protection of endangered or threatened  
9 plants or animals designated as endangered, threatened, or  
10 species of special concern and their habitat, primary dunes,  
11 or archaeological and historical sites designated as  
12 significant by the Division of Historical Resources of the  
13 Department of State. The ~~further~~ refinement of such areas ~~by~~  
14 ~~survey~~ shall be considered under sub-subparagraph (e)2.i.  
15 ~~(c)5.b.~~

16  
17 The substantial deviation numerical standards in subparagraphs  
18 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.,~~ excluding  
19 residential uses, and in subparagraph 14. 15., are increased  
20 by 100 percent for a project certified under s. 403.973 which  
21 creates jobs and meets criteria established by the Office of  
22 Tourism, Trade, and Economic Development as to its impact on  
23 an area's economy, employment, and prevailing wage and skill  
24 levels. The substantial deviation numerical standards in  
25 subparagraphs 3., 5., 7., 8., 9., 10., 13., and 14. ~~4., 6.,~~  
26 ~~9., 10., 11., and 14.~~ are increased by 50 percent for a  
27 project located wholly within an urban infill and  
28 redevelopment area designated on the applicable adopted local  
29 comprehensive plan future land use map and not located within  
30 the coastal high hazard area.  
31

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

23           (e)1. Except for a development order rendered pursuant  
24 to subsection (22) or subsection (25), a proposed change to a  
25 development order that individually or cumulatively with any  
26 previous change is less than any numerical criterion contained  
27 in subparagraphs (b)1.-15. and does not exceed any other  
28 criterion, or that involves an extension of the buildout date  
29 of a development, or any phase thereof, of less than 5 years  
30 is not subject to the public hearing requirements of  
31 subparagraph (f)3., and is not subject to a determination

1 pursuant to subparagraph (f)5. Notice of the proposed change  
2 shall be made to the regional planning council and the state  
3 land planning agency. Such notice shall include a description  
4 of previous individual changes made to the development,  
5 including changes previously approved by the local government,  
6 and shall include appropriate amendments to the development  
7 order.

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

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

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

15             c. Changes to minimum lot sizes.

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

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

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

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

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

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           i. Changes that modify boundaries described in  
6 subparagraph (b)15. due to science-based refinement of such  
7 areas by survey, by habitat evaluation, by other recognized  
8 assessment methodology, or by an environmental assessment.

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

14  
15 This subsection does not require a development order amendment  
16 for any change listed in sub-subparagraphs a.-k., but shall,  
17 prior to implementation of those changes, require 45 days'  
18 notice with the appropriate documentation to the state land  
19 planning agency, the regional planning agency, and the local  
20 government, and publication of a public notice that meets the  
21 local government's criteria for a notice of proposed change.  
22 If the state land planning agency, the regional planning  
23 agency, or the local government objects within 45 days after  
24 publication of the public notice, the change shall require a  
25 notice of proposed change and shall be presumed not to be a  
26 substantial deviation. In addition, a memorandum of the  
27 notification of the changed notice shall be filed with the  
28 clerk of the circuit court along with a legal description of  
29 the affected development of regional impact. If a subsequent  
30 change requiring a notice of proposed change is made to the  
31 development of regional impact, modifications to the



1 development of regional impact made in all prior notices must  
2 be reflected as amendments to the development order memorandum  
3 ~~a. j. unless such issue is addressed either in the existing~~  
4 ~~development order or in the application for development~~  
5 ~~approval, but, in the case of the application, only if, and in~~  
6 ~~the manner in which, the application is incorporated in the~~  
7 ~~development order.~~

8           3. Except for the change authorized by  
9 sub-subparagraph 2.f., any addition of land not previously  
10 reviewed or any change not specified in paragraph (b) or  
11 paragraph (c) shall be presumed to create a substantial  
12 deviation. This presumption may be rebutted by clear and  
13 convincing evidence.

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

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

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

30           ~~b. Except for the types of uses listed in subparagraph~~  
31 ~~(b)16., any change which would result in the development of~~

1 ~~any area which was specifically set aside in the application~~  
2 ~~for development approval or in the development order for~~  
3 ~~preservation, buffers, or special protection, including~~  
4 ~~habitat for plant and animal species, archaeological and~~  
5 ~~historical sites, dunes, and other special areas.~~

6 b.e. Notwithstanding any provision of paragraph (b) to  
7 the contrary, a proposed change consisting of simultaneous  
8 increases and decreases of at least two of the uses within an  
9 authorized multiuse development of regional impact which was  
10 originally approved with three or more uses specified in s.  
11 380.0651(3)(c), (d), (f), and (g) and residential use.

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

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

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

1           4. The appropriate regional planning agency or the  
2 state land planning agency shall review the proposed change  
3 and, no later than 45 days after submittal by the developer of  
4 the proposed change, unless that time is extended by the  
5 developer, and prior to the public hearing at which the  
6 proposed change is to be considered, shall advise the local  
7 government in writing whether it objects to the proposed  
8 change, shall specify the reasons for its objection, if any,  
9 and shall provide a copy to the developer.

10           5. At the public hearing, the local government shall  
11 determine whether the proposed change requires further  
12 development-of-regional-impact review. The provisions of  
13 paragraphs (a) and (e), the thresholds set forth in paragraph  
14 (b), and the presumptions set forth in paragraphs (c) and (d)  
15 and subparagraph (e)3. shall be applicable in determining  
16 whether further development-of-regional-impact review is  
17 required.

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

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

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

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

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

23 |             3. If the local government determines that the  
24 | ~~proposed change, as it relates to the entire development,~~  
25 | should be approved, any new conditions in the amendment to the  
26 | development order issued by the local government shall address  
27 | only those issues raised by the proposed change and require  
28 | mitigation only for the individual and cumulative impacts of  
29 | the proposed change.

30 |             4. Development within the previously approved  
31 | development of regional impact may continue, as approved,

1 during the development-of-regional-impact review in those  
2 portions of the development which are not directly affected by  
3 the proposed change.

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, 2002,~~ are exempt  
30 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 ~~adjacent~~ jurisdictions that would be  
16 impacted and with the Department of Transportation regarding  
17 the mitigation of impacts on state and regional transportation  
18 facilities, and has adopted a proportionate share methodology  
19 pursuant to s. 163.3180(16).

20 (m) Any proposed development within a rural land  
21 stewardship area created under s. 163.3177(11)(d) is exempt  
22 from the provisions of this section if the local government  
23 that has adopted the rural land stewardship area has entered  
24 into a binding agreement with jurisdictions that would be  
25 impacted and the Department of Transportation regarding the  
26 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 (n) Any proposed development or redevelopment within  
30 an area designated as an urban infill and redevelopment area  
31 under s. 163.2517 is exempt from ~~the provisions of this~~

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

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

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

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

14 (r) Any development identified in an airport master  
15 plan and adopted into the comprehensive plan pursuant to s.  
16 163.3177(6)(k) is exempt from this section.

17 (s) Any development identified in a campus master plan  
18 and adopted pursuant to s. 1013.30 is exempt from this  
19 section.

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

23  
24 If a use is exempt from review as a development of regional  
25 impact under paragraphs (a)-(t) but will be part of a larger  
26 project that is subject to review as a development of regional  
27 impact, the impact of the exempt use must be included in the  
28 review of the larger project.

29 (28) PARTIAL STATUTORY EXEMPTIONS.--

30 (a) If the binding agreement referenced under  
31 paragraph (24)(1) for urban service boundaries is not entered

1 into within 12 months after establishment of the urban service  
2 boundary, the development-of-regional-impact review for  
3 projects within the urban service boundary must address  
4 transportation impacts only.

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

12 (c) A local government that does not wish to enter  
13 into a binding agreement or that is unable to agree on the  
14 terms of the agreement referenced under paragraph (24)(l) or  
15 paragraph (24)(n) shall provide written notification to the  
16 state land planning agency of the failure to enter into a  
17 binding agreement within the 12-month period referenced in  
18 paragraphs (a) and (b). Following the notification of the  
19 state land planning agency, the development-of-regional-impact  
20 review for projects within the urban service boundary under  
21 paragraph (24)(l) or for an urban infill and redevelopment  
22 area under paragraph (24)(n) must address transportation  
23 impacts only.

24 Section 2. Paragraphs (d), (e), and (k) of subsection  
25 (3) and paragraph (c) of subsection (4) of section 380.0651,  
26 Florida Statutes, are amended to read:

27 380.0651 Statewide guidelines and standards.--

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

1 (d) Office development.--Any proposed office building  
2 or park operated under common ownership, development plan, or  
3 management that:

4 1. Encompasses 300,000 or more square feet of gross  
5 floor area; or

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

12 (e) Marinas and port facilities.--The proposed  
13 construction of any waterport or marina is required to undergo  
14 development-of-regional-impact review if it is, ~~except one~~  
15 designed for:

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

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

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

25 ~~d. The wet or dry storage or mooring of fewer than 50~~  
26 ~~watercraft of 40 feet in length or less of any type or~~  
27 ~~purpose.~~

28  
29 The numeric thresholds contained in this subparagraph shall be  
30 doubled for proposed marina developers who enter into a  
31 binding commitment with the local government to set aside at

1 least 15 percent of the wet storage or moorings for public use  
2 or rental.

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

9  
10 In addition to the foregoing, for projects for which no  
11 environmental resource permit or sovereign submerged land  
12 lease is required, the Department of Environmental Protection  
13 must determine in writing that a proposed marina in excess of  
14 75 ~~10~~ slips or storage spaces or a combination of the two is  
15 located so that it will not adversely impact Outstanding  
16 Florida Waters or Class II waters and will not contribute boat  
17 traffic in a manner that will have an adverse impact on an  
18 area known to be, or likely to be, frequented by manatees. If  
19 the Department of Environmental Protection fails to issue its  
20 determination within 45 days after ~~of~~ receipt of a formal  
21 written request, it has waived its authority to make such  
22 determination. The Department of Environmental Protection  
23 determination shall constitute final agency action pursuant to  
24 chapter 120.

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

28         ~~3. Any proposed marina development with both wet and~~  
29 ~~dry mooring or storage used exclusively for sport, pleasure,~~  
30 ~~or commercial fishing, where the sum of percentages of the~~  
31 ~~applicable wet and dry mooring or storage thresholds equals~~

1 ~~100 percent. This threshold is in addition to, and does not~~  
2 ~~preclude, a development from being required to undergo~~  
3 ~~development of regional impact review under sub-subparagraphs~~  
4 ~~1.a. and b. and subparagraph 2.~~

5 (k) Residential development.--The applicable  
6 guidelines for residential development and the residential  
7 component for multiuse development shall be increased by 20  
8 percent where the developer demonstrates that at least 15  
9 percent of the residential dwelling units will be dedicated to  
10 workforce housing. For purposes of this subparagraph, the term  
11 "workforce housing" means housing that is affordable to a  
12 person who earns less than 120 percent of the area median  
13 income.

14 ~~(l)(k)~~ Schools.--

15 1. The proposed construction of any public, private,  
16 or proprietary postsecondary educational campus which provides  
17 for a design population of more than 5,000 full-time  
18 equivalent students, or the proposed physical expansion of any  
19 public, private, or proprietary postsecondary educational  
20 campus having such a design population that would increase the  
21 population by at least 20 percent of the design population.

22 2. As used in this paragraph, "full-time equivalent  
23 student" means enrollment for 15 or more quarter hours during  
24 a single academic semester. In career centers or other  
25 institutions which do not employ semester hours or quarter  
26 hours in accounting for student participation, enrollment for  
27 18 contact hours shall be considered equivalent to one quarter  
28 hour, and enrollment for 27 contact hours shall be considered  
29 equivalent to one semester hour.

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

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

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

11           1. Developments which are otherwise subject to  
12 aggregation with a development of regional impact which has  
13 received approval through the issuance of a final development  
14 order shall not be aggregated with the approved development of  
15 regional impact. However, nothing contained in this  
16 subparagraph shall preclude the state land planning agency  
17 from evaluating an allegedly separate development as a  
18 substantial deviation pursuant to s. 380.06(19) or as an  
19 independent development of regional impact.

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

23           3. Completion of any development that has been vested  
24 pursuant to s. 380.05 or s. 380.06, including vested rights  
25 arising out of agreements entered into with the state land  
26 planning agency for purposes of resolving vested rights  
27 issues. Development-of-regional-impact review of additions to  
28 vested developments of regional impact shall not include  
29 review of the impacts resulting from the vested portions of  
30 the development.  
31

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

5           Section 3. Section 380.07, Florida Statutes, is  
6 amended to read:

7           380.07 Florida Land and Water Adjudicatory  
8 Commission.--

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

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



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

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

23 |           (a) Raise its consistency issues by intervening as a  
24 | full party in the pending proceeding under s. 163.3215 within  
25 | 30 days after service of the notice; and

26 |           (b) Dismiss the consistency issues from the  
27 | development order appeal.

28 |       (4) The appellant shall furnish a copy of the petition  
29 | to the opposing party, as the case may be, and to the local  
30 | government that issued the order. The filing of the petition  
31 |

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

3 ~~(5)(3)~~ The 45-day appeal period for a development of  
4 regional impact within the jurisdiction of more than one local  
5 government shall not commence until after all the local  
6 governments having jurisdiction over the proposed development  
7 of regional impact have rendered their development orders.  
8 The appellant shall furnish a copy of the notice of appeal to  
9 the opposing party, as the case may be, and to the local  
10 government which issued the order. The filing of the notice  
11 of appeal shall stay the effectiveness of the order until  
12 after the completion of the appeal process.

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

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

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

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

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

15 380.115 Vested rights and duties; effect of size  
16 reduction, changes in guidelines and standards ~~chs. 2002-20~~  
17 ~~and 2002-296.--~~

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

30 (a) The development shall continue to be governed by  
31 the development-of-regional-impact development order and may

1 | be completed in reliance upon and pursuant to the development  
2 | order unless the developer or landowner has followed the  
3 | procedures for rescission in paragraph (b). The  
4 | development-of-regional-impact development order may be  
5 | enforced by the local government as provided by ss. 380.06(17)  
6 | and 380.11.

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

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

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

30 |         Section 5. Section 342.07, Florida Statutes, is  
31 | amended to read:

1           342.07 Recreational and commercial working  
2 waterfronts; legislative findings; definitions.--

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

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

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

10 Section 6. Paragraph (c) of subsection (2) of section  
11 163.3180, Florida Statutes, is amended to read:

12 163.3180 Concurrency.--

13 (2)

14 (c) Consistent with the public welfare, and except as  
15 otherwise provided in this section, transportation facilities  
16 needed to serve new development shall be in place or under  
17 actual construction within 3 years after the local government  
18 approves a building permit or its functional equivalent that  
19 results in traffic generation. A local government may not  
20 require these transportation facilities to be in place or  
21 under actual construction within a shorter timeframe than the  
22 3-year period.

23 Section 7. Notwithstanding any other provision of law,  
24 charter, or ordinance, a local government may not approve an  
25 application to rezone real property except by a majority vote  
26 of the governing body of the local government.

27 Section 8. Section 380.0652, Florida Statutes, is  
28 created to read:

29 380.0652 Comprehensive plan amendments creating new  
30 towns in rural counties.--

31

1           (1) This section is intended primarily for a  
2 development of regional impact which requires an amendment to  
3 the comprehensive plan in order to establish a new town in an  
4 eligible county; however, this section may also be used by an  
5 applicant proposing a development that is exempt from review  
6 as a development of regional impact under s. 380.06(24).

7           (2) A local government may adopt an amendment to its  
8 comprehensive plan under this section if the county is  
9 designated as a rural area of critical economic concern or has  
10 a population of fewer than 500,000 persons and has a rural  
11 future land use map that designates a density of one unit per  
12 5 acres or fewer, which comprises 50 percent or more of all  
13 land area of the jurisdiction, excluding lands designated as  
14 conservation within the jurisdiction. Eligibility shall be  
15 determined as of the date any plan amendment is adopted  
16 pursuant to this section. The applicant for such a plan  
17 amendment may include a landowner or the local government.

18           (3) An amendment to the comprehensive plan may be  
19 adopted if the amendment increases density and the intensity  
20 of land use based on economic need and such plan amendment may  
21 not be limited by population projections. The local government  
22 may consider factors such as job creation, capital investment,  
23 economic diversification, targeted industries, economic  
24 clustering, provision of adequate labor supply, regional  
25 growth demands, spillover effects, and similar considerations  
26 as the primary policy basis for adopting such a plan  
27 amendment, if the amendment complies with the following siting  
28 and design criteria:

29           (a) Includes a minimum of 25,000 acres;

30           (b) Is located within an existing urban service area,  
31 an area served by existing or planned urban infrastructure, or

1 a self-contained and planned rural town as shown on the future  
2 land use map; and  
3 (c) Is consistent with the following requirements,  
4 which must be implemented by supporting policies of the  
5 comprehensive plan:  
6 1. Contains an integrated mix of land uses, including  
7 residential, employment, retail, and service uses; contains  
8 community facilities and conservation uses to ensure  
9 self-sufficiency and minimize external impacts; or contains an  
10 integrated mix of uses that are appropriate for any portions  
11 proposed as a self-contained retirement community;  
12 2. Establishes minimum gross densities necessary to  
13 support the objectives of this section;  
14 3. Is designed to promote multimodal alternatives,  
15 including walking, bicycling, motorized personal vehicles, and  
16 public transit;  
17 4. Designates as conservation lands, or otherwise  
18 protects, regionally significant wetlands, high-quality  
19 habitats as determined based on the Integrated Wildlife  
20 Habitat Ranking System, and significant wildlife corridors,  
21 and allows opportunities for passive recreational uses;  
22 5. Includes buffers to protect adjacent agricultural  
23 and natural resources and provides incentive-based policies to  
24 promote retention of highly productive agricultural areas on  
25 site as a viable component of the economic base and for the  
26 enhancement of agriculture and agribusiness as an economic  
27 sector within the local government;  
28 6. Achieves a positive net fiscal impact on the  
29 jurisdiction as determined through the use of a professionally  
30 acceptable fiscal-impact model or methodology;  
31



1           7. Is financially feasible and supported by policies  
2 ensuring that infrastructure is provided on a phased-in basis  
3 to address identified needs through the long-range planning  
4 period of the adopted comprehensive plan. A development  
5 agreement or development-of-regional-impact development order  
6 shall be referenced in the capital improvements schedule in  
7 order to address financial feasibility and provide appropriate  
8 strategies for the long-term provision of required  
9 infrastructure;

10           8. Includes a conceptual site plan generally depicting  
11 the organization of land uses, habitat conservation areas,  
12 major open space and buffer areas, waterbodies, roadways, and  
13 other features consistent with the policies adopted in the  
14 comprehensive plan pursuant to this subsection. A  
15 development-of-regional-impact development order adopted  
16 within the proposed amendment site must be consistent with the  
17 conceptual site plan and may be adopted concurrent with, or  
18 subsequent to, the adoption of the plan amendment; and

19           9. Is not located within a coastal high hazard area or  
20 within the Coastal Barrier Resources System.

21           (4) The state land planning agency may not find a plan  
22 amendment not in compliance as related to need or urban  
23 sprawl, as addressed in s. 163.3177(6)(a) and rule 9J-5.006,  
24 Florida Administrative Code, if the requirements of this  
25 section are met. This section does not limit the ability of  
26 the state land planning agency to find such a comprehensive  
27 plan amendment not in compliance based on other statutory  
28 criteria that are unrelated to need or urban sprawl.

29           Section 9. In order to maintain the security of the  
30 ports of this state and to ensure the continuous flow of goods  
31 critical to the economic health and prosperity of this state,

1 the ports of Jacksonville, Tampa, Port Everglades, Miami, Port  
2 Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe,  
3 Panama City, St. Petersburg, Pensacola, Fernandina, and Key  
4 West may not transfer ownership or exclusive management  
5 control of real property or port operations to an entity  
6 controlled by a foreign government or foreign business entity  
7 without the express consent of the Legislature.

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

14           Section 11. This act shall take effect July 1, 2006.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1020

4       The committee substitute (CS) revises the definition of  
5       "essentially built out," as it relates to single family  
6       residential portions of a development, to require that all  
7       infrastructure and horizontal development be completed, at  
8       least 50 percent of the dwelling units be completed, and more  
9       than 80 percent of the lots must be conveyed to third party  
10      individual lot owners or builders in order to satisfy the  
11      definition. The substantial deviation percentages are doubled  
12      and the thresholds are increased by 10 percent for most uses.  
13      The substantial deviation threshold for an increase in hotel  
14      or motel rooms may be increased by 100 percent for a project  
15      that creates jobs and meets certain criteria. Also, the  
16      thresholds for workforce housing and external vehicle trips  
17      are increased by 50 percent for a project located wholly  
18      within urban infill and redevelopment area designated on the  
19      future land use map.

20      It establishes a process that requires a 45-day notice to  
21      certain governmental entities, public notice, and the filing  
22      of a memorandum with the clerk of court for specified changes  
23      that currently require a notice of proposed change under  
24      existing law. It also increases the number of allowable  
25      residential units that would trigger  
26      development-of-regional-impact (DRI) review and adjust  
27      substantial deviation thresholds upward for developments that  
28      set aside a specified percentage of units dedicated to  
29      workforce housing. The CS provides for a 12-month window for  
30      local governments to negotiate a binding agreement to address  
31      traffic impacts so that the local government can enjoy an  
32      exemption from DRI review within urban service boundaries and  
33      designated urban infill and redevelopment areas. A proposed  
34      DRI will be reviewed only for traffic impacts if there is an  
35      agreement when the 12-month period expires or earlier at the  
36      option of the local government.

37      This CS revises the process for an appeal to a development  
38      order within a DRI. Specifically, it allows the state land  
39      planning agency to raise consistency with the local  
40      comprehensive plan as part of an appeal to the development  
41      order to the Florida Land and Water Adjudicatory Commission.  
42      If the state land planning agency is served with notice that  
43      the consistency of the development order is being challenged  
44      under s. 163.3215, F.S., the agency must intervene and raise  
45      its consistency issues in that proceeding. Also, the state  
46      land planning agency must dismiss its consistency issues from  
47      its appeal to the Florida Land and Water Adjudicatory  
48      Commission.

49      Under this CS, the definition of "recreation and commercial  
50      working waterfront" is revised to include public lodging  
51      establishments for the purpose of eligibility for ad valorem  
52      tax deferral. The CS also prohibits a local government from  
53      requiring that transportation facilities be in place or under  
54      actual construction with a shorter timeframe than a 3-year  
55      period. Local governments may not approve an application to  
56      rezone real property except by a majority vote of the

1 governing body of the local government.

2 In addition, the CS authorizes an amendment to a local  
3 comprehensive plan which would allow the creation of a new  
4 town in a rural county if the county is designated as a rural  
5 area of critical economic concern or has fewer than 500,000  
6 persons and the future land use map provides for 1 unit per 5  
7 acres or fewer in at least 50 percent of the jurisdiction's  
8 land area, excluding conservation lands. If the proposed  
9 development meets certain siting and design criteria, the  
10 state land planning agency may not find the plan amendment not  
11 in compliance based on need or urban sprawl.

12 This CS prohibits the sale or exclusive control of real  
13 property or the operations of any port in this state to an  
14 entity controlled by a foreign government or a foreign  
15 business entity without the express consent of the  
16 Legislature. It also provides for severability.

17 The CS deletes language that extended the period of buildout  
18 for a DRI from 5 years to 7 years. It deletes language that  
19 eliminated the bright-line test for substantial deviations and  
20 creates a presumption. It deletes language relating to  
21 transportation mitigation required by the development order  
22 and proportionate-share payments. Also, it deletes language  
23 that allowed changes to internal locations or changes to the  
24 internal location of public facilities, either individually or  
25 cumulatively, without consideration of a substantial  
26 deviation. It restores existing language that requires the  
27 Department of Community Affairs (DCA), the Department of  
28 Environmental Protection, and the Fish and Wildlife  
29 Conservation Commission to provide technical assistance to  
30 local governments for the development of a marina siting plan.

31 Finally, the CS restores existing language that requires DRI  
32 review for certain types and sizes of facilities, including  
33 attractions and recreations facilities, ports, and  
34 post-secondary schools. It retains the language that exempts  
35 dry storage facilities from DRI review. It deletes language  
36 from prohibiting DCA from considering impacts of independent  
37 DRIs cumulatively when evaluating a DRI that may not be  
38 aggregated with an approved DRI. Also, it deletes language  
39 that provided s. 163.3215, F.S., is the sole mechanism for  
40 challenging the consistency of a DRI development order with  
41 the local government's comprehensive plan. |

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