

By the Committees on Environmental Preservation; Community Affairs; and Senator Bennett

592-2026-06

1 A bill to be entitled

2 An act relating to growth management; amending

3 s. 163.3177, F.S.; encouraging local

4 governments to adopt boating facility siting

5 plans; providing criteria and exemptions for

6 such plans; authorizing assistance for the

7 development of such plans; amending s.

8 163.3180, F.S., relating to concurrency;

9 providing restrictions upon requirements that

10 local governments may impose upon

11 transportation facilities; amending s. 197.303,

12 F.S.; revising the criteria for ad valorem tax

13 deferral for working waterfront properties;

14 including public lodging establishments in the

15 description of working waterfront properties;

16 amending s. 342.07, F.S.; adding recreational

17 activities as an important state interest;

18 including public lodging establishments within

19 the definition of the term "recreational and

20 commercial working waterfront"; creating s.

21 373.4132, F.S.; directing water management

22 district governing boards and the Department of

23 Environmental Protection to require permits for

24 certain activities relating to certain dry

25 storage facilities; providing criteria for

26 application of such permits; preserving

27 regulatory authority for the department and

28 governing boards; amending s. 380.06, F.S.;

29 providing for the state land planning agency to

30 determine the amount of development that

31 remains to be built in certain circumstances;

1 specifying certain requirements for a
2 development order; revising the circumstances
3 in which a local government may issue permits
4 for development subsequent to the buildout
5 date; revising the definition of an essentially
6 built-out development; revising the criteria
7 under which a proposed change constitutes a
8 substantial deviation; clarifying the criteria
9 under which the extension of a buildout date is
10 presumed to create a substantial deviation;
11 requiring that notice of any change to certain
12 set-aside areas be submitted to the local
13 government; requiring that notice of certain
14 changes be given to the state land planning
15 agency, regional planning agency, and local
16 government; revising the statutory exemptions
17 from development-of-regional-impact review for
18 certain facilities; removing waterport and
19 marina developments from
20 development-of-regional-impact review;
21 providing statutory exemptions for the
22 development of certain facilities; providing
23 that the impacts from an exempt use that will
24 be part of a larger project be included in the
25 development-of-regional-impact review of the
26 larger project; amending s. 380.0651, F.S.;
27 revising the statewide guidelines and standards
28 for development-of-regional-impact review of
29 certain types of developments; allowing the
30 state land planning agency to consider the
31 impacts of independent developments of regional

1 impact cumulatively under certain
2 circumstances; amending s. 380.07, F.S.;
3 revising the appellate procedures for
4 development orders within a development of
5 regional impact to the Florida Land and Water
6 Adjudicatory Commission; amending s. 380.115,
7 F.S.; providing that a change in a
8 development-of-regional-impact guideline and
9 standard does not abridge or modify any vested
10 right or duty under a development order;
11 providing a process for the rescission of a
12 development order by the local government in
13 certain circumstances; providing an exemption
14 for certain applications for development
15 approval and notices of proposed changes;
16 prohibiting the sale or exclusive control of
17 the real property or operations of any port in
18 this state to an entity controlled by a foreign
19 government or a foreign business entity without
20 the express consent of the Legislature;
21 providing for severability; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (g) of subsection (6) of section
27 163.3177, Florida Statutes, is amended to read:

28 163.3177 Required and optional elements of
29 comprehensive plan; studies and surveys.--
30
31

1 (6) In addition to the requirements of subsections
2 (1)-(5) and (12), the comprehensive plan shall include the
3 following elements:

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

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

14 ~~b.2.~~ Continued existence of viable populations of all
15 species of wildlife and marine life.

16 ~~c.3.~~ The orderly and balanced utilization and
17 preservation, consistent with sound conservation principles,
18 of all living and nonliving coastal zone resources.

19 ~~d.4.~~ Avoidance of irreversible and irretrievable loss
20 of coastal zone resources.

21 ~~e.5.~~ Ecological planning principles and assumptions to
22 be used in the determination of suitability and extent of
23 permitted development.

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

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

27 ~~h.8.~~ Protection of human life against the effects of
28 natural disasters.

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

1 ~~i.10-~~ Preservation, including sensitive adaptive use
2 of historic and archaeological resources.

3 2. As part of this element, affected local governments
4 are encouraged to adopt a boating facility siting plan or
5 policy that includes applicable criteria and considers such
6 factors as natural resources, manatee protection needs, and
7 recreation and economic demands as generally outlined in the
8 Boat Facility Siting Guide dated August 2000 and prepared by
9 the Bureau of Protected Species Management of the Florida Fish
10 and Wildlife Conservation Commission. The adoption of a
11 boating facility siting plan or policy into the comprehensive
12 plan is exempt from the provisions of s. 163.3187(1). Local
13 governments that wish to adopt a boating facility siting plan
14 or policy may be eligible for assistance with the development
15 of a plan or policy through the Florida Coastal Management
16 Program.

17 Section 2. Paragraph (c) of subsection (2) of section
18 163.3180, Florida Statutes, is amended to read:

19 163.3180 Concurrency.--

20 (2)

21 (c) Consistent with the public welfare, and except as
22 otherwise provided in this section, transportation facilities
23 needed to serve new development shall be in place or under
24 actual construction within 3 years after the local government
25 approves a building permit or its functional equivalent that
26 results in traffic generation. Nothing in this section shall
27 prohibit a local government that has adopted a stricter
28 concurrency management system prior to the enactment of
29 chapter 2005-290, Laws of Florida, which provides for a
30 shorter timeframe than 3 years from retaining this concurrency
31 management system and requirements, wherein a local government

1 need not issue a building permit or its functional equivalent
2 under any circumstances that result in traffic generation
3 until adequate transportation facilities are in place pursuant
4 to this adopted concurrency management system.

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

7 197.303 Ad valorem tax deferral for recreational and
8 commercial working waterfront properties.--

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

18 Section 4. Section 342.07, Florida Statutes, is
19 amended to read:

20 342.07 Recreational and commercial working
21 waterfronts; legislative findings; definitions.--

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

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

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

30 | Section 5. Section 373.4132, Florida Statutes, is
31 | created to read:

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

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

25 380.06 Developments of regional impact.--

26 (4) BINDING LETTER.--

27 (a) If any developer is in doubt whether his or her
28 proposed development must undergo
29 development-of-regional-impact review under the guidelines and
30 standards, whether his or her rights have vested pursuant to
31 subsection (20), or whether a proposed substantial change to a

1 development of regional impact concerning which rights had
2 previously vested pursuant to subsection (20) would divest
3 such rights, the developer may request a determination from
4 the state land planning agency. The developer or the
5 appropriate local government having jurisdiction may request
6 that the state land planning agency determine whether the
7 amount of development that remains to be built in an approved
8 development of regional impact meets the criteria of
9 subparagraph (15)(g)3.

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

25 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

29 (b) When possible, local governments shall issue
30 development orders concurrently with any other local permits
31

1 or development approvals that may be applicable to the
2 proposed development.

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

6 1. Shall specify the monitoring procedures and the
7 local official responsible for assuring compliance by the
8 developer with the development order.

9 2. Shall establish compliance dates for the
10 development order, including a deadline for commencing
11 physical development and for compliance with conditions of
12 approval or phasing requirements, and shall include a buildout
13 ~~termination~~ date that reasonably reflects the time anticipated
14 ~~required~~ to complete the development.

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

27 4. Shall specify the requirements for the biennial
28 report designated under subsection (18), including the date of
29 submission, parties to whom the report is submitted, and
30 contents of the report, based upon the rules adopted by the
31 state land planning agency. Such rules shall specify the

1 scope of any additional local requirements that may be
2 necessary for the report.

3 5. May specify the types of changes to the development
4 which shall require submission for a substantial deviation
5 determination or a notice of proposed change under subsection
6 (19).

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

8 (d) Conditions of a development order that require a
9 developer to contribute land for a public facility or
10 construct, expand, or pay for land acquisition or construction
11 or expansion of a public facility, or portion thereof, shall
12 meet the following criteria:

13 1. The need to construct new facilities or add to the
14 present system of public facilities must be reasonably
15 attributable to the proposed development.

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

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

26 4. Construction or expansion of a public facility by a
27 nongovernmental developer as a condition of a development
28 order to mitigate the impacts reasonably attributable to the
29 proposed development is not subject to competitive bidding or
30 competitive negotiation for selection of a contractor or
31 design professional for any part of the construction or design

1 ~~unless required by the local government that issues the~~
2 ~~development order.~~

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

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

31

1 3. The Department of Community Affairs and other state
2 and regional agencies involved in the administration and
3 implementation of this act shall cooperate and work with units
4 of local government in preparing and adopting local impact fee
5 and other contribution ordinances.

6 (f) Notice of the adoption of a development order or
7 the subsequent amendments to an adopted development order
8 shall be recorded by the developer, in accordance with s.
9 28.222, with the clerk of the circuit court for each county in
10 which the development is located. The notice shall include a
11 legal description of the property covered by the order and
12 shall state which unit of local government adopted the
13 development order, the date of adoption, the date of adoption
14 of any amendments to the development order, the location where
15 the adopted order with any amendments may be examined, and
16 that the development order constitutes a land development
17 regulation applicable to the property. The recording of this
18 notice shall not constitute a lien, cloud, or encumbrance on
19 real property, or actual or constructive notice of any such
20 lien, cloud, or encumbrance. This paragraph applies only to
21 developments initially approved under this section after July
22 1, 1980.

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

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

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

4 3. The development of regional impact is essentially
5 built out, in that all the mitigation requirements in the
6 development order have been satisfied, all developers are in
7 compliance with all applicable terms and conditions of the
8 development order except the buildout date, and the amount of
9 proposed development that remains to be built is less than 20
10 percent of any applicable development-of-regional-impact
11 threshold; or

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

27 a. The developers are ~~development is~~ in compliance
28 with all applicable terms and conditions of the development
29 order except the buildout ~~built out~~ date; and

30 b.(I) The amount of development that remains to be
31 built is less than the substantial deviation threshold

1 specified in paragraph (19)(b) for each individual land use
2 category, or, for a multiuse development, the sum total of all
3 unbuilt land uses as a percentage of the applicable
4 substantial deviation threshold is equal to or less than 100
5 percent; or

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

10 (h) The single-family residential portions of a
11 development may be considered "essentially built out" if all
12 of the infrastructure and horizontal development have been
13 completed, at least 50 percent of the dwelling units have been
14 completed, and more than 80 percent of the lots have been
15 conveyed to third-party individual lot owners or to individual
16 builders who own no more than 40 lots at the time of the
17 determination.

18 (i) The mobile home park portions of a development may
19 be considered "essentially built out" if all the
20 infrastructure and horizontal development has been completed
21 and at least 50 percent of the lots are leased to individual
22 mobile home owners.

23 ~~(j)(h)~~ If the property is annexed by another local
24 jurisdiction, the annexing jurisdiction shall adopt a new
25 development order that incorporates all previous rights and
26 obligations specified in the prior development order.

27 (19) SUBSTANTIAL DEVIATIONS.--

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

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

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

16 | 1. An increase in the number of parking spaces at an
17 | attraction or recreational facility by 5 percent or 300
18 | spaces, whichever is greater, or an increase in the number of
19 | spectators that may be accommodated at such a facility by 10 ~~5~~
20 | percent or 1,100 ~~1,000~~ spectators, whichever is greater.

21 | 2. A new runway, a new terminal facility, a 25-percent
22 | lengthening of an existing runway, or a 25-percent increase in
23 | the number of gates of an existing terminal, but only if the
24 | increase adds at least three additional gates.

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

27 | ~~3.4.~~ An increase in industrial development area by 10
28 | ~~5~~ percent or 35 ~~32~~ acres, whichever is greater.

29 | ~~4.5.~~ An increase in the average annual acreage mined
30 | by 10 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an
31 | increase in the average daily water consumption by a mining

1 operation by 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons,
2 whichever is greater. An increase in the size of the mine by
3 10 ~~5~~ percent or 825 ~~750~~ acres, whichever is less. An increase
4 in the size of a heavy mineral mine as defined in s.
5 378.403(7) will only constitute a substantial deviation if the
6 average annual acreage mined is more than 550 ~~500~~ acres and
7 consumes more than 3.3 ~~3~~ million gallons of water per day.

8 Additions or deletions to contiguous lands described in
9 sub-subparagraph (e)2.k. do not constitute a substantial
10 deviation.

11 ~~5.6.~~ An increase in land area for office development
12 by 10 ~~5~~ percent or an increase of gross floor area of office
13 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square
14 feet, whichever is greater.

15 ~~7. An increase in the storage capacity for chemical or~~
16 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~
17 ~~7 million pounds, whichever is greater.~~

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

24 ~~6.9.~~ An increase in the number of dwelling units by 10
25 ~~5~~ percent or 55 ~~50~~ dwelling units, whichever is greater.

26 7. An increase in the number of dwelling units by 50
27 percent or 200 units, whichever is greater, provided that 15
28 percent of the increase in the number of dwelling units is
29 dedicated to the construction of workforce housing. For
30 purposes of this subparagraph, the term "workforce housing"

31

1 means housing that is affordable to a person who earns less
2 than 150 percent of the area median income.

3 ~~8.10.~~ An increase in commercial development by 55,000
4 ~~50,000~~ square feet of gross floor area or of parking spaces
5 provided for customers for 330 ~~300~~ cars or a 10-percent
6 ~~5-percent~~ increase of either of these, whichever is greater.

7 ~~9.11.~~ An increase in hotel or motel rooms facility
8 ~~units~~ by 10 ~~5~~ percent or 83 rooms ~~75-units~~, whichever is
9 greater.

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

12 ~~11.13.~~ A decrease in the area set aside for open space
13 of 5 percent or 20 acres, whichever is less.

14 ~~12.14.~~ A proposed increase to an approved multiuse
15 development of regional impact where the sum of the increases
16 of each land use as a percentage of the applicable substantial
17 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
18 percentage of any decrease in the amount of open space shall
19 be treated as an increase for purposes of determining when 110
20 ~~100~~ percent has been reached or exceeded.

21 ~~13.15.~~ A 15-percent increase in the number of external
22 vehicle trips generated by the development above that which
23 was projected during the original
24 development-of-regional-impact review.

25 ~~14.16.~~ Any change which would result in development of
26 any area which was specifically set aside in the application
27 for development approval or in the development order for
28 preservation or special protection of endangered or threatened
29 plants or animals designated as endangered, threatened, or
30 species of special concern and their habitat, any species
31 protected by 16 U.S.C. s. 668a-668d, primary dunes, or

1 archaeological and historical sites designated as significant
2 by the Division of Historical Resources of the Department of
3 State. The ~~further~~ refinement of the boundaries and
4 configuration of such areas ~~by survey~~ shall be considered
5 under sub-subparagraph ~~(e)2.j(e)5.b.~~

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

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

1 hearing held by the local government. An extension of 5 years
2 or less than 5 years is not a substantial deviation. For the
3 purpose of calculating when a buildout or, phase, ~~or~~
4 ~~termination~~ date has been exceeded, the time shall be tolled
5 during the pendency of administrative or judicial proceedings
6 relating to development permits. Any extension of the buildout
7 date of a project or a phase thereof shall automatically
8 extend the commencement date of the project, the termination
9 date of the development order, the expiration date of the
10 development of regional impact, and the phases thereof if
11 applicable by a like period of time.

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

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

16 k. Addition or deletion of land contiguous to lands
17 contained in a phosphate mining development of regional impact
18 approved prior to January 1, 2006, regardless of quantity or
19 the resulting time extensions, where the land subject to the
20 addition or deletion will be reviewed pursuant to part III of
21 chapter 378 and part IV of chapter 373, provided that no new
22 beneficiation or processing facility will be constructed.

23 ~~l.j.~~ Any other change which the state land planning
24 agency agrees in writing is similar in nature, impact, or
25 character to the changes enumerated in sub-subparagraphs a.-i.
26 ~~a.-i.~~ and which does not create the likelihood of any
27 additional regional impact.

28
29 This subsection does not require the filing of a notice of
30 proposed change but shall require an application to the local
31 government to amend the development order in accordance with

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

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

26 4. Any submittal of a proposed change to a previously
27 approved development shall include a description of individual
28 changes previously made to the development, including changes
29 previously approved by the local government. The local
30 government shall consider the previous and current proposed
31 changes in deciding whether such changes cumulatively

1 constitute a substantial deviation requiring further
2 development-of-regional-impact review.

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

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

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

18 ~~b.e.~~ Notwithstanding any provision of paragraph (b) to
19 the contrary, a proposed change consisting of simultaneous
20 increases and decreases of at least two of the uses within an
21 authorized multiuse development of regional impact which was
22 originally approved with three or more uses specified in s.
23 380.0651(3)(c), (d), (f), and (g) and residential use.

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

31

1 2. The developer shall submit, simultaneously, to the
2 local government, the regional planning agency, and the state
3 land planning agency the request for approval of a proposed
4 change.

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

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

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

31

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

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

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

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

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

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

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

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

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

1 units are dedicated to workforce housing. For purposes of this
2 paragraph, the term "workforce housing" means housing that is
3 affordable to a person who earns less than 150 percent of the
4 area median income.

5 (24) STATUTORY EXEMPTIONS.--

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

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

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

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

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

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

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

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

30 (e) Any addition of permanent seats or parking spaces
31 for an existing sports facility located on property owned by a

1 public body prior to July 1, 1973, is exempt from the
2 provisions of this section if future additions do not expand
3 existing permanent seating or parking capacity more than 15
4 percent annually in excess of the prior year's capacity.

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

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

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

26 b. The sum of such expansions in permanent seating
27 capacity does not exceed a total of 10 percent in any 5-year
28 period and does not exceed a cumulative total of 20 percent
29 for any such expansions; or
30
31

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

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

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

31

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

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

17 (j) Any renovation or redevelopment within the same
18 land parcel which does not change land use or increase density
19 or intensity of use.

20 (k) Waterport and marina development, including dry
21 storage facilities, are exempt from the provisions of this
22 section.

23 ~~1. Any waterport or marina development is exempt from~~
24 ~~the provisions of this section if the relevant county or~~
25 ~~municipality has adopted a boating facility siting plan or~~
26 ~~policy which includes applicable criteria, considering such~~
27 ~~factors as natural resources, manatee protection needs and~~
28 ~~recreation and economic demands as generally outlined in the~~
29 ~~Bureau of Protected Species Management Boat Facility Siting~~
30 ~~Guide, dated August 2000, into the coastal management or land~~
31 ~~use element of its comprehensive plan. The adoption of boating~~

1 ~~facility siting plans or policies into the comprehensive plan~~
2 ~~is exempt from the provisions of s. 163.3187(1). Any waterport~~
3 ~~or marina development within the municipalities or counties~~
4 ~~with boating facility siting plans or policies that meet the~~
5 ~~above criteria, adopted prior to April 1, 2002, are exempt~~
6 ~~from the provisions of this section, when their boating~~
7 ~~facility siting plan or policy is adopted as part of the~~
8 ~~relevant local government's comprehensive plan.~~

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

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

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

1 mitigation of impacts on state and regional transportation
2 facilities, and has adopted a proportionate share methodology
3 pursuant to s. 163.3180(16).

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

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

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

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

20 (r) Any development identified in an airport master
21 plan and adopted into the comprehensive plan pursuant to s.
22 163.3177(6)(k) is exempt from this section.

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

29
30 If a use is exempt from review as a development of regional
31 impact under paragraphs (a)-(t) but will be part of a larger

1 project that is subject to review as a development of regional
2 impact, the impact of the exempt use must be included in the
3 review of the larger project.

4 (28) PARTIAL STATUTORY EXEMPTIONS.--

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

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

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

24 (d) A local government that does not wish to enter
25 into a binding agreement or that is unable to agree on the
26 terms of the agreement referenced under paragraph (24)(l) or
27 paragraph (24)(n) shall provide written notification to the
28 state land planning agency of the decision to not enter into a
29 binding agreement or of the failure to enter into a binding
30 agreement within the 12-month period referenced in paragraphs
31 (a), (b), and (c). Following the notification of the state

1 land planning agency, development-of-regional-impact review
2 for projects within an urban service boundary under paragraph
3 (24)(l), a rural land stewardship area under paragraph
4 (24)(m), or an urban infill and redevelopment area under
5 paragraph (24)(n) must address transportation impacts only.

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

11 380.0651 Statewide guidelines and standards.--

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

16 (d) Office development.--Any proposed office building
17 or park operated under common ownership, development plan, or
18 management that:

19 1. Encompasses 300,000 or more square feet of gross
20 floor area; or

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

27 ~~(e) Port facilities. The proposed construction of any~~
28 ~~waterport or marina is required to undergo~~
29 ~~development of regional impact review, except one designed~~
30 ~~for:~~

31

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

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

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

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

18
19 ~~In addition to the foregoing, for projects for which no~~
20 ~~environmental resource permit or sovereign submerged land~~
21 ~~lease is required, the Department of Environmental Protection~~
22 ~~must determine in writing that a proposed marina in excess of~~
23 ~~10 slips or storage spaces or a combination of the two is~~
24 ~~located so that it will not adversely impact Outstanding~~
25 ~~Florida Waters or Class II waters and will not contribute boat~~
26 ~~traffic in a manner that will have an adverse impact on an~~
27 ~~area known to be, or likely to be, frequented by manatees. If~~
28 ~~the Department of Environmental Protection fails to issue its~~
29 ~~determination within 45 days of receipt of a formal written~~
30 ~~request, it has waived its authority to make such~~
31 ~~determination. The Department of Environmental Protection~~

1 ~~determination shall constitute final agency action pursuant to~~
2 ~~chapter 120.~~

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

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

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

23 (j) Workforce housing.--The applicable guidelines for
24 residential development and the residential component for
25 multiuse development shall be increased by 50 percent where
26 the developer demonstrates that at least 15 percent of the
27 residential dwelling units will be dedicated to workforce
28 housing. For purposes of this subparagraph, the term
29 "workforce housing" means housing that is affordable to a
30 person who earns less than 150 percent of the area median
31 income.

1 Section 8. Section 380.07, Florida Statutes, is
2 amended to read:

3 380.07 Florida Land and Water Adjudicatory
4 Commission.--

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

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

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

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

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

22 | (b) Dismiss the consistency issues from the
23 | development order appeal.

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

29 | ~~(5)~~~~(3)~~ The 45-day appeal period for a development of
30 | regional impact within the jurisdiction of more than one local
31 | government shall not commence until after all the local

1 governments having jurisdiction over the proposed development
2 of regional impact have rendered their development orders.
3 The appellant shall furnish a copy of the notice of appeal to
4 the opposing party, as the case may be, and to the local
5 government which issued the order. The filing of the notice
6 of appeal shall stay the effectiveness of the order until
7 after the completion of the appeal process.

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

15 (7)~~(5)~~ The Florida Land and Water Adjudicatory
16 Commission shall issue a decision granting or denying
17 permission to develop pursuant to the standards of this
18 chapter and may attach conditions and restrictions to its
19 decisions.

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

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

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

10 380.115 Vested rights and duties; effect of size
11 reduction, changes in guidelines and standards ~~chs. 2002-20~~
12 ~~and 2002-296.--~~

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

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

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

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

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

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

31

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

3 403.813 Permits issued at district centers;
4 exceptions.--

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

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

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

1 West may not transfer ownership or exclusive management
2 control of real property or port operations to an entity
3 controlled by a foreign government or foreign business entity
4 without the express consent of the Legislature.

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

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

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for SB 1020

4
5 Encourages affected local governments to adopt a boating
6 facility siting plan.

7 Provides for technical assistance in the development of such
8 plan through the Florida Coastal Management Program.

9 Requires local tax deferral ordinance to specify the
10 percentage or amount of deferral.

11 If a local government adopts a local tax deferral ordinance,
12 the ordinance must include public lodging establishments as
13 eligible for the deferral and shall specify what type of
14 public lodging is eligible.

15 Establishes a permitting process at the Department of
16 Environmental Protection for dry storage facilities for 10 or
17 more vessels. Applicant must provide reasonable assurance
18 that the secondary impacts of the proposed dry storage
19 facility will not cause adverse impacts to wetlands, surface
20 waters, or manatees.

21 Provides a separate definition of "essentially built out" for
22 the mobile home park portions of a DRI development.

23 Provides that the addition or deletion of contiguous lands in
24 a phosphate mining DRI approved prior to January 1, 2006 does
25 not constitute a substantial deviation. Exemption from DRI
26 review as a substantial deviation applies regardless of
27 quantity or extensions of time if the addition or deletion
28 will be reviewed under Chapters 373 and 378 and no new
29 beneficiation or processing facility will be built.

30 Revises the language relating to the modification of the
31 boundaries of areas set aside in a DRI for preservation or
habitat preservation to include modifications in the list of
changes that are not substantial deviations if:

(1) the changes occur prior to the recording of a
conservation easement; and

(2) the change does not result in a net decrease in the total
acreage set aside in the final development order.

Revises the process for certain proposed changes that do not
constitute a substantial deviation, but currently require a
notice of proposed change under existing law. The applicant
must file an application with the local government and the
local notice requirements regarding review of the application
shall apply. If the local government approves the proposed
change, and adopts an amendment to the development order, the
amendment shall be submitted to the state land planning
agency. The CS gives the state land planning agency standing
to appeal an amendment to a development order it believes has
a reasonable likelihood of creating regional impacts and
involves changes that eliminate an approved land use; changes

1 to conform permits approved by federal, state, or regional
2 entities if there are no additional impacts; changes that
3 modify the boundaries of areas set aside in a DRI for
4 preservation or habitat protection; and the addition or
5 deletion of contiguous lands in a phosphate mining
6 development.

7 Revises the workforce housing thresholds for substantial
8 deviations and in the standards and guidelines. It also
9 increases the percentage of area median income for eligibility
10 for workforce housing.

11 The CS specifically exempts waterports and marina development,
12 including dry storage facilities, from DRI review.

13 It deletes existing language that provides an exemption from
14 DRI review for waterports and marina development within the
15 jurisdiction of a local government that has adopted a boating
16 facility siting plan.

17 Adds Rural Land Stewardship Areas to those areas in which a
18 DRI may proceed after a 12 month negotiation period for local
19 governments to execute an interlocal agreement has expired
20 without such an agreement. The DRI may proceed with DRI
21 review for transportation impacts only.

22 Provides an exception for proposed residential developments
23 from the residential thresholds of adjacent counties with a
24 less population regardless of how much of the development is
25 located near the boundary of the less populated county if the
26 proposed development is wholly located within a municipality
27 in a rural county of economic concern.

28 Provides an exception from certain permitting requirements for
29 private docks of 1,000 square feet or less of over-water
30 surface areas in artificially created waterways.

31