

CHAMBER ACTION

1 The Growth Management Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to growth management; amending s.
7 163.3177, F.S.; encouraging local governments to adopt
8 boating facility siting plans; providing criteria and
9 exemptions for such plans; authorizing assistance for the
10 development of such plans; amending s. 163.3180, F.S.;
11 conforming a cross-reference; amending s. 197.303, F.S.;
12 revising the criteria for ad valorem tax deferral for
13 working waterfront properties; including public lodging
14 establishments in the description of working waterfront
15 properties; amending s. 342.07, F.S.; adding recreational
16 activities as an important state interest; including
17 public lodging establishments within the definition of the
18 term "recreational and commercial working waterfront";
19 creating s. 373.4132, F.S.; directing water management
20 district governing boards and the Department of
21 Environmental Protection to require permits for certain
22 activities relating to certain dry storage facilities;
23 providing criteria for application of such permits;

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24 | preserving regulatory authority for the department and
25 | governing boards; amending s. 380.06, F.S.; providing for
26 | the state land planning agency to determine the amount of
27 | development that remains to be built in certain
28 | circumstances; specifying certain requirements for a
29 | development order; revising the circumstances in which a
30 | local government may issue permits for development
31 | subsequent to the buildout date; revising the definition
32 | of an essentially built-out development; revising the
33 | criteria under which a proposed change constitutes a
34 | substantial deviation; clarifying the criteria under which
35 | the extension of a buildout date is presumed to create a
36 | substantial deviation; requiring that notice of any change
37 | to certain set-aside areas be submitted to the local
38 | government; requiring that notice of certain changes be
39 | given to the state land planning agency, regional planning
40 | agency, and local government; revising the statutory
41 | exemptions from development-of-regional-impact review for
42 | certain facilities; removing waterport and marina
43 | developments from development-of-regional-impact review;
44 | providing statutory exemptions and partial statutory
45 | exemptions for the development of certain facilities;
46 | providing that the impacts from an exempt use that will be
47 | part of a larger project be included in the development-
48 | of-regional-impact review of the larger project; amending
49 | s. 380.0651, F.S.; revising the statewide guidelines and
50 | standards for development-of-regional-impact review of
51 | office developments; deleting such guidelines and

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52 standards for port facilities; providing such guidelines
 53 and standards for workforce housing; amending s. 380.07,
 54 F.S.; revising the appellate procedures for development
 55 orders within a development of regional impact to the
 56 Florida Land and Water Adjudicatory Commission; amending
 57 s. 380.115, F.S.; providing that a change in a
 58 development-of-regional-impact guideline and standard does
 59 not abridge or modify any vested right or duty under a
 60 development order; providing a process for the rescission
 61 of a development order by the local government in certain
 62 circumstances; providing an exemption for certain
 63 applications for development approval and notices of
 64 proposed changes; amending s. 403.813, F.S.; revising
 65 permitting exceptions for the construction of private
 66 docks in certain waterways; providing an effective date.

67

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

69

70 Section 1. Paragraph (g) of subsection (6) of section
 71 163.3177, Florida Statutes, is amended to read:

72 163.3177 Required and optional elements of comprehensive
 73 plan; studies and surveys.--

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

77 (g)1. For those units of local government identified in s.
 78 380.24, a coastal management element, appropriately related to
 79 the particular requirements of paragraphs (d) and (e) and

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80 meeting the requirements of s. 163.3178(2) and (3). The coastal
81 management element shall set forth the policies that shall guide
82 the local government's decisions and program implementation with
83 respect to the following objectives:

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

87 ~~b.2.~~ Continued existence of viable populations of all
88 species of wildlife and marine life.

89 ~~c.3.~~ The orderly and balanced utilization and
90 preservation, consistent with sound conservation principles, of
91 all living and nonliving coastal zone resources.

92 ~~d.4.~~ Avoidance of irreversible and irretrievable loss of
93 coastal zone resources.

94 ~~e.5.~~ Ecological planning principles and assumptions to be
95 used in the determination of suitability and extent of permitted
96 development.

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

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

100 ~~h.8.~~ Protection of human life against the effects of
101 natural disasters.

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

105 ~~j.10.~~ Preservation, including sensitive adaptive use of
106 historic and archaeological resources.

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107 2. As part of this element, affected local governments are
108 encouraged to adopt a boating facility siting plan or policy
109 that includes applicable criteria and considers such factors as
110 natural resources, manatee protection needs, and recreation and
111 economic demands as generally outlined in the Boat Facility
112 Siting Guide dated August 2000 and prepared by the Bureau of
113 Protected Species Management of the Fish and Wildlife
114 Conservation Commission. A comprehensive plan that adopts a
115 boating facility siting plan or policy is exempt from the
116 provisions of s. 163.3187(1). Local governments that wish to
117 adopt a boating facility siting plan or policy may be eligible
118 for assistance with the development of a plan or policy through
119 the Florida Coastal Management Program.

120 Section 2. Paragraph (a) of subsection (12) of section
121 163.3180, Florida Statutes, is amended to read:

122 163.3180 Concurrency.--

123 (12) When authorized by a local comprehensive plan, a
124 multiuse development of regional impact may satisfy the
125 transportation concurrency requirements of the local
126 comprehensive plan, the local government's concurrency
127 management system, and s. 380.06 by payment of a proportionate-
128 share contribution for local and regionally significant traffic
129 impacts, if:

130 (a) The development of regional impact meets or exceeds
131 the guidelines and standards of s. 380.0651(3) ~~(h)(i)~~ and rule
132 28-24.032(2), Florida Administrative Code, and includes a
133 residential component that contains at least 100 residential

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134 dwelling units or 15 percent of the applicable residential
135 guideline and standard, whichever is greater;

136
137 The proportionate-share contribution may be applied to any
138 transportation facility to satisfy the provisions of this
139 subsection and the local comprehensive plan, but, for the
140 purposes of this subsection, the amount of the proportionate-
141 share contribution shall be calculated based upon the cumulative
142 number of trips from the proposed development expected to reach
143 roadways during the peak hour from the complete buildout of a
144 stage or phase being approved, divided by the change in the peak
145 hour maximum service volume of roadways resulting from
146 construction of an improvement necessary to maintain the adopted
147 level of service, multiplied by the construction cost, at the
148 time of developer payment, of the improvement necessary to
149 maintain the adopted level of service. For purposes of this
150 subsection, "construction cost" includes all associated costs of
151 the improvement.

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

154 197.303 Ad valorem tax deferral for recreational and
155 commercial working waterfront properties.--

156 (3) The ordinance shall designate the percentage or amount
157 of the deferral and the type and location of working waterfront
158 property, including the type of public lodging establishments,
159 for which deferrals may be granted, which may include any
160 property meeting the provisions of s. 342.07(2), which property

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161 | may be further required to be located within a particular
162 | geographic area or areas of the county or municipality.

163 | Section 4. Section 342.07, Florida Statutes, is amended to
164 | read:

165 | 342.07 Recreational and commercial working waterfronts;
166 | legislative findings; definitions.--

167 | (1) The Legislature recognizes that there is an important
168 | state interest in facilitating boating and other recreational
169 | access to the state's navigable waters. This access is vital to
170 | tourists and recreational users and the marine industry in the
171 | state, to maintaining or enhancing the \$57 billion economic
172 | impact of tourism and the \$14 billion economic impact of boating
173 | in the state annually, and to ensuring continued access to all
174 | residents and visitors to the navigable waters of the state. The
175 | Legislature recognizes that there is an important state interest
176 | in maintaining viable water-dependent support facilities, such
177 | as public lodging establishments and boat hauling and repairing
178 | and commercial fishing facilities, and in maintaining the
179 | availability of public access to the navigable waters of the
180 | state. The Legislature further recognizes that the waterways of
181 | the state are important for engaging in commerce and the
182 | transportation of goods and people upon such waterways and that
183 | such commerce and transportation is not feasible unless there is
184 | access to and from the navigable waters of the state through
185 | recreational and commercial working waterfronts.

186 | (2) As used in this section, the term "recreational and
187 | commercial working waterfront" means a parcel or parcels of real
188 | property that provide access for water-dependent commercial and

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189 recreational activities, including public lodging establishments
 190 as defined in chapter 509, or provide access for the public to
 191 the navigable waters of the state. Recreational and commercial
 192 working waterfronts require direct access to or a location on,
 193 over, or adjacent to a navigable body of water. The term
 194 includes water-dependent facilities that are open to the public
 195 and offer public access by vessels to the waters of the state or
 196 that are support facilities for recreational, commercial,
 197 research, or governmental vessels. These facilities include
 198 docks, wharfs, lifts, wet and dry marinas, boat ramps, boat
 199 hauling and repair facilities, commercial fishing facilities,
 200 boat construction facilities, and other support structures over
 201 the water. As used in this section, the term "vessel" has the
 202 same meaning as in s. 327.02(37). Seaports are excluded from the
 203 definition.

204 Section 5. Section 373.4132, Florida Statutes, is created
 205 to read:

206 373.4132 Dry storage facility permitting.--The governing
 207 board or the department shall require a permit under this part,
 208 including s. 373.4145, for the construction, alteration,
 209 operation, maintenance, abandonment, or removal of a dry storage
 210 facility for 10 or more vessels that is functionally associated
 211 with a boat launching area. As part of an applicant's
 212 demonstration that such a facility will not be harmful to the
 213 water resources and will not be inconsistent with the overall
 214 objectives of the district, the governing board or department
 215 shall require the applicant to provide reasonable assurance that
 216 the secondary impacts from the facility will not cause adverse

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217 impacts to the functions of wetlands and surface waters,
218 including violations of state water quality standards applicable
219 to waters as defined in s. 403.031(13), and will meet the public
220 interest test of s. 373.414(1)(a), including the potential
221 adverse impacts to manatees. Nothing in this section shall
222 affect the authority of the governing board or the department to
223 regulate such secondary impacts under this part for other
224 regulated activities.

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

229 380.06 Developments of regional impact.--

230 (2) STATEWIDE GUIDELINES AND STANDARDS.--

231 (d) The guidelines and standards shall be applied as
232 follows:

233 1. Fixed thresholds.--

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

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

240 c. Projects certified under s. 403.973 which create at
241 least 100 jobs and meet the criteria of the Office of Tourism,
242 Trade, and Economic Development as to their impact on an area's
243 economy, employment, and prevailing wage and skill levels that
244 are at or below 100 percent of the numerical thresholds for

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245 industrial plants, industrial parks, distribution, warehousing
 246 or wholesaling facilities, office development or multiuse
 247 projects other than residential, as described in s.
 248 380.0651(3)(c), (d), and (h)~~(i)~~, are not required to undergo
 249 development-of-regional-impact review.

250 2. Rebuttable presumption.--It shall be presumed that a
 251 development that is at 100 percent or between 100 and 120
 252 percent of a numerical threshold shall be required to undergo
 253 development-of-regional-impact review.

254 (4) BINDING LETTER.--

255 (a) If any developer is in doubt whether his or her
 256 proposed development must undergo development-of-regional-impact
 257 review under the guidelines and standards, whether his or her
 258 rights have vested pursuant to subsection (20), or whether a
 259 proposed substantial change to a development of regional impact
 260 concerning which rights had previously vested pursuant to
 261 subsection (20) would divest such rights, the developer may
 262 request a determination from the state land planning agency. The
 263 developer or the appropriate local government having
 264 jurisdiction may request that the state land planning agency
 265 determine whether the amount of development that remains to be
 266 built in an approved development of regional impact meets the
 267 criteria of subparagraph (15)(g)3.

268 (i) In response to an inquiry from a developer or the
 269 appropriate local government having jurisdiction, the state land
 270 planning agency may issue an informal determination in the form
 271 of a clearance letter as to whether a development is required to
 272 undergo development-of-regional-impact review or whether the

273 amount of development that remains to be built in an approved
 274 development of regional impact meets the criteria of
 275 subparagraph (15)(g)3. A clearance letter may be based solely on
 276 the information provided by the developer, and the state land
 277 planning agency is not required to conduct an investigation of
 278 that information. If any material information provided by the
 279 developer is incomplete or inaccurate, the clearance letter is
 280 not binding upon the state land planning agency. A clearance
 281 letter does not constitute final agency action.

282 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

286 (b) When possible, local governments shall issue
 287 development orders concurrently with any other local permits or
 288 development approvals that may be applicable to the proposed
 289 development.

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

293 1. Shall specify the monitoring procedures and the local
 294 official responsible for assuring compliance by the developer
 295 with the development order.

296 2. Shall establish compliance dates for the development
 297 order, including a deadline for commencing physical development
 298 and for compliance with conditions of approval or phasing
 299 requirements, and shall include a buildout ~~termination~~ date that

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300 reasonably reflects the time anticipated ~~required~~ to complete
301 the development.

302 3. Shall establish a date until which the local government
303 agrees that the approved development of regional impact shall
304 not be subject to downzoning, unit density reduction, or
305 intensity reduction, unless the local government can demonstrate
306 that substantial changes in the conditions underlying the
307 approval of the development order have occurred or the
308 development order was based on substantially inaccurate
309 information provided by the developer or that the change is
310 clearly established by local government to be essential to the
311 public health, safety, or welfare. The date established pursuant
312 to this subparagraph shall be no sooner than the buildout date
313 of the project.

314 4. Shall specify the requirements for the biennial report
315 designated under subsection (18), including the date of
316 submission, parties to whom the report is submitted, and
317 contents of the report, based upon the rules adopted by the
318 state land planning agency. Such rules shall specify the scope
319 of any additional local requirements that may be necessary for
320 the report.

321 5. May specify the types of changes to the development
322 which shall require submission for a substantial deviation
323 determination or a notice of proposed change under subsection
324 (19).

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

326 (d) Conditions of a development order that require a
327 developer to contribute land for a public facility or construct,

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328 | expand, or pay for land acquisition or construction or expansion
 329 | of a public facility, or portion thereof, shall meet the
 330 | following criteria:

331 | 1. The need to construct new facilities or add to the
 332 | present system of public facilities must be reasonably
 333 | attributable to the proposed development.

334 | 2. Any contribution of funds, land, or public facilities
 335 | required from the developer shall be comparable to the amount of
 336 | funds, land, or public facilities that the state or the local
 337 | government would reasonably expect to expend or provide, based
 338 | on projected costs of comparable projects, to mitigate the
 339 | impacts reasonably attributable to the proposed development.

340 | 3. Any funds or lands contributed must be expressly
 341 | designated and used to mitigate impacts reasonably attributable
 342 | to the proposed development.

343 | 4. Construction or expansion of a public facility by a
 344 | nongovernmental developer as a condition of a development order
 345 | to mitigate the impacts reasonably attributable to the proposed
 346 | development is not subject to competitive bidding or competitive
 347 | negotiation for selection of a contractor or design professional
 348 | for any part of the construction or design ~~unless required by~~
 349 | ~~the local government that issues the development order.~~

350 | (e)1. ~~Effective July 1, 1986,~~ A local government shall not
 351 | include, as a development order condition for a development of
 352 | regional impact, any requirement that a developer contribute or
 353 | pay for land acquisition or construction or expansion of public
 354 | facilities or portions thereof unless the local government has
 355 | enacted a local ordinance which requires other development not

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356 subject to this section to contribute its proportionate share of
357 the funds, land, or public facilities necessary to accommodate
358 any impacts having a rational nexus to the proposed development,
359 and the need to construct new facilities or add to the present
360 system of public facilities must be reasonably attributable to
361 the proposed development.

362 2. A local government shall not approve a development of
363 regional impact that does not make adequate provision for the
364 public facilities needed to accommodate the impacts of the
365 proposed development unless the local government includes in the
366 development order a commitment by the local government to
367 provide these facilities consistently with the development
368 schedule approved in the development order; however, a local
369 government's failure to meet the requirements of subparagraph 1.
370 and this subparagraph shall not preclude the issuance of a
371 development order where adequate provision is made by the
372 developer for the public facilities needed to accommodate the
373 impacts of the proposed development. Any funds or lands
374 contributed by a developer must be expressly designated and used
375 to accommodate impacts reasonably attributable to the proposed
376 development.

377 3. The Department of Community Affairs and other state and
378 regional agencies involved in the administration and
379 implementation of this act shall cooperate and work with units
380 of local government in preparing and adopting local impact fee
381 and other contribution ordinances.

382 (f) Notice of the adoption of a development order or the
383 subsequent amendments to an adopted development order shall be

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384 recorded by the developer, in accordance with s. 28.222, with
 385 the clerk of the circuit court for each county in which the
 386 development is located. The notice shall include a legal
 387 description of the property covered by the order and shall state
 388 which unit of local government adopted the development order,
 389 the date of adoption, the date of adoption of any amendments to
 390 the development order, the location where the adopted order with
 391 any amendments may be examined, and that the development order
 392 constitutes a land development regulation applicable to the
 393 property. The recording of this notice shall not constitute a
 394 lien, cloud, or encumbrance on real property, or actual or
 395 constructive notice of any such lien, cloud, or encumbrance.
 396 This paragraph applies only to developments initially approved
 397 under this section after July 1, 1980.

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

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

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

408 3. The development of regional impact is essentially built
 409 out, in that all the mitigation requirements in the development
 410 order have been satisfied, all developers are in compliance with
 411 all applicable terms and conditions of the development order

412 except the buildout date, and the amount of proposed development
413 that remains to be built is less than 20 percent of any
414 applicable development-of-regional-impact threshold; or

415 4.3- The project has been determined to be an essentially
416 built-out development of regional impact through an agreement
417 executed by the developer, the state land planning agency, and
418 the local government, in accordance with s. 380.032, which will
419 establish the terms and conditions under which the development
420 may be continued. If the project is determined to be essentially
421 built out ~~built-out~~, development may proceed pursuant to the s.
422 380.032 agreement after the termination or expiration date
423 contained in the development order without further development-
424 of-regional-impact review subject to the local government
425 comprehensive plan and land development regulations or subject
426 to a modified development-of-regional-impact analysis. As used
427 in this paragraph, an "essentially built-out" development of
428 regional impact means:

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

432 b.(I) The amount of development that remains to be built
433 is less than the substantial deviation threshold specified in
434 paragraph (19)(b) for each individual land use category, or, for
435 a multiuse development, the sum total of all unbuilt land uses
436 as a percentage of the applicable substantial deviation
437 threshold is equal to or less than 100 percent; or

438 (II) The state land planning agency and the local
439 government have agreed in writing that the amount of development

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440 to be built does not create the likelihood of any additional
441 regional impact not previously reviewed.

442 (h) The single-family residential portions of a
443 development may be considered "essentially built out" if all of
444 the infrastructure and horizontal development have been
445 completed, at least 50 percent of the dwelling units have been
446 completed, and more than 80 percent of the lots have been
447 conveyed to third-party individual lot owners or to individual
448 builders who own no more than 40 lots at the time of the
449 determination.

450 (i) The mobile home park portions of a development may be
451 considered "essentially built out" if all the infrastructure and
452 horizontal development has been completed, and at least 50
453 percent of the lots are leased to individual mobile home owners.

454 (j) If the property is annexed by another local
455 jurisdiction, the annexing jurisdiction shall adopt a new
456 development order that incorporates all previous rights and
457 obligations specified in the prior development order.

458 (19) SUBSTANTIAL DEVIATIONS.--

459 (a) Any proposed change to a previously approved
460 development which creates a reasonable likelihood of additional
461 regional impact, or any type of regional impact created by the
462 change not previously reviewed by the regional planning agency,
463 shall constitute a substantial deviation and shall cause the
464 proposed change development to be subject to further
465 development-of-regional-impact review. There are a variety of
466 reasons why a developer may wish to propose changes to an
467 approved development of regional impact, including changed

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468 market conditions. The procedures set forth in this subsection
469 are for that purpose.

470 (b) Any proposed change to a previously approved
471 development of regional impact or development order condition
472 which, either individually or cumulatively with other changes,
473 exceeds any of the following criteria shall constitute a
474 substantial deviation and shall cause the development to be
475 subject to further development-of-regional-impact review without
476 the necessity for a finding of same by the local government:

477 1. An increase in the number of parking spaces at an
478 attraction or recreational facility by 10 5 percent or 330 300
479 spaces, whichever is greater, or an increase in the number of
480 spectators that may be accommodated at such a facility by 10 5
481 percent or 1,100 1,000 spectators, whichever is greater.

482 2. A new runway, a new terminal facility, a 25-percent
483 lengthening of an existing runway, or a 25-percent increase in
484 the number of gates of an existing terminal, but only if the
485 increase adds at least three additional gates.

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

488 ~~3.4.~~ An increase in industrial development area by 10 5
489 percent or 35 32 acres, whichever is greater.

490 ~~4.5.~~ An increase in the average annual acreage mined by 10
491 5 percent or 11 10 acres, whichever is greater, or an increase
492 in the average daily water consumption by a mining operation by
493 10 5 percent or 330,000 300,000 gallons, whichever is greater.
494 An increase in the size of the mine by 10 5 percent or 825 750
495 acres, whichever is less. An increase in the size of a heavy

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496 mineral mine as defined in s. 378.403(7) will only constitute a
497 substantial deviation if the average annual acreage mined is
498 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~-million
499 gallons of water per day.

500 ~~5.6.~~ An increase in land area for office development by 10
501 ~~5~~ percent or an increase of gross floor area of office
502 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet,
503 whichever is greater.

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

507 ~~8.~~ ~~An increase of development at a waterport of wet~~
508 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
509 ~~wet/dry storage for 60 watercraft in an area identified in the~~
510 ~~state marina siting plan as an appropriate site for additional~~
511 ~~waterport development or a 5 percent increase in watercraft~~
512 ~~storage capacity, whichever is greater.~~

513 ~~6.9.~~ An increase in the number of dwelling units by 10 ~~5~~
514 percent or 55 ~~50~~ dwelling units, whichever is greater.

515 7. An increase in the number of dwelling units by 50
516 percent or 200 units, whichever is greater, provided that 15
517 percent of the increase in the number of dwelling units is
518 dedicated to the construction of workforce housing. For purposes
519 of this subparagraph, the term "workforce housing" means housing
520 that is affordable to a person who earns less than 150 percent
521 of the area median income.

522 ~~8.10.~~ An increase in commercial development by 55,000
523 ~~50,000~~ square feet of gross floor area or of parking spaces

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524 provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-~~
525 ~~percent~~ increase of either of these, whichever is greater.

526 9.11. An increase in hotel or motel rooms ~~facility units~~
527 by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.

528 10.12. An increase in a recreational vehicle park area by
529 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.

530 11.13. A decrease in the area set aside for open space of
531 5 percent or 20 acres, whichever is less.

532 12.14. A proposed increase to an approved multiuse
533 development of regional impact where the sum of the increases of
534 each land use as a percentage of the applicable substantial
535 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
536 percentage of any decrease in the amount of open space shall be
537 treated as an increase for purposes of determining when 110 ~~100~~
538 percent has been reached or exceeded.

539 13.15. A 15-percent increase in the number of external
540 vehicle trips generated by the development above that which was
541 projected during the original development-of-regional-impact
542 review.

543 14.16. Any change which would result in development of any
544 area which was specifically set aside in the application for
545 development approval or in the development order for
546 preservation or special protection of endangered or threatened
547 plants or animals designated as endangered, threatened, or
548 species of special concern and their habitat, any species
549 protected by 16 U.S.C. s. 668a-668d, primary dunes, or
550 archaeological and historical sites designated as significant by
551 the Division of Historical Resources of the Department of State.

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552 The ~~further~~ refinement of the boundaries and configuration of
553 such areas ~~by survey~~ shall be considered under sub-subparagraph
554 (e)2.j. ~~(e)5.b.~~

555

556 The substantial deviation numerical standards in subparagraphs
557 3., 5., 8., 9., and 12. ~~4., 6., 10., 14.,~~ excluding residential
558 uses, and in subparagraph 13. ~~15.,~~ are increased by 100 percent
559 for a project certified under s. 403.973 which creates jobs and
560 meets criteria established by the Office of Tourism, Trade, and
561 Economic Development as to its impact on an area's economy,
562 employment, and prevailing wage and skill levels. The
563 substantial deviation numerical standards in subparagraphs 3.,
564 5., 6., 7., 8., 9., 12., and 13. ~~4., 6., 9., 10., 11., and 14.~~
565 are increased by 50 percent for a project located wholly within
566 an urban infill and redevelopment area designated on the
567 applicable adopted local comprehensive plan future land use map
568 and not located within the coastal high hazard area.

569 (c) An extension of the date of buildout of a development,
570 or any phase thereof, by more than 7 ~~or more~~ years shall be
571 presumed to create a substantial deviation subject to further
572 development-of-regional-impact review. An extension of the date
573 of buildout, or any phase thereof, of more than 5 years ~~or more~~
574 but less than 7 years shall be presumed not to create a
575 substantial deviation. The extension of the date of buildout of
576 an areawide development of regional impact by more than 5 years
577 but less than 10 years is presumed not to create a substantial
578 deviation. These presumptions may be rebutted by clear and
579 convincing evidence at the public hearing held by the local

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580 government. An extension of 5 years or less ~~than 5 years~~ is not
581 a substantial deviation. For the purpose of calculating when a
582 buildout or, ~~phase, or termination~~ date has been exceeded, the
583 time shall be tolled during the pendency of administrative or
584 judicial proceedings relating to development permits. Any
585 extension of the buildout date of a project or a phase thereof
586 shall automatically extend the commencement date of the project,
587 the termination date of the development order, the expiration
588 date of the development of regional impact, and the phases
589 thereof if applicable by a like period of time.

590 (d) A change in the plan of development of an approved
591 development of regional impact resulting from requirements
592 imposed by the Department of Environmental Protection or any
593 water management district created by s. 373.069 or any of their
594 successor agencies or by any appropriate federal regulatory
595 agency shall be submitted to the local government pursuant to
596 this subsection. The change shall be presumed not to create a
597 substantial deviation subject to further development-of-
598 regional-impact review. The presumption may be rebutted by clear
599 and convincing evidence at the public hearing held by the local
600 government.

601 (e)1. Except for a development order rendered pursuant to
602 subsection (22) or subsection (25), a proposed change to a
603 development order that individually or cumulatively with any
604 previous change is less than any numerical criterion contained
605 in subparagraphs (b)1.-15. and does not exceed any other
606 criterion, or that involves an extension of the buildout date of
607 a development, or any phase thereof, of less than 5 years is not

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608 subject to the public hearing requirements of subparagraph
609 (f)3., and is not subject to a determination pursuant to
610 subparagraph (f)5. Notice of the proposed change shall be made
611 to the regional planning council and the state land planning
612 agency. Such notice shall include a description of previous
613 individual changes made to the development, including changes
614 previously approved by the local government, and shall include
615 appropriate amendments to the development order.

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

618 a. Changes in the name of the project, developer, owner,
619 or monitoring official.

620 b. Changes to a setback that do not affect noise buffers,
621 environmental protection or mitigation areas, or archaeological
622 or historical resources.

623 c. Changes to minimum lot sizes.

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

626 e. Changes to the building design or orientation that stay
627 approximately within the approved area designated for such
628 building and parking lot, and which do not affect historical
629 buildings designated as significant by the Division of
630 Historical Resources of the Department of State.

631 f. Changes to increase the acreage in the development,
632 provided that no development is proposed on the acreage to be
633 added.

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

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

639 i. Any renovation or redevelopment of development within a
640 previously approved development of regional impact which does
641 not change land use or increase density or intensity of use.

642 j. Changes that modify boundaries and configuration of
643 areas described in subparagraph (b)14. due to science-based
644 refinement of such areas by survey, by habitat evaluation, by
645 other recognized assessment methodology, or by an environmental
646 assessment. In order for changes to qualify under this sub-
647 subparagraph, the survey, habitat evaluation, or assessment must
648 occur prior to the time a conservation easement protecting such
649 lands is recorded and must not result in any net decrease in the
650 total acreage of the lands specifically set aside for permanent
651 preservation in the final development order.

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

657
658 This subsection does not require the filing of a notice of
659 proposed change but shall require an application to the local
660 government to amend the development order in accordance with the
661 local government's procedures for amendment of a development
662 order. In accordance with the local government's procedures,
663 including requirements for notice to the applicant and the

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664 public, the local government shall either deny the application
665 for amendment or adopt an amendment to the development order
666 which approves the application with or without conditions.
667 Following adoption, the local government shall render to the
668 state land planning agency the amendment to the development
669 order. The state land planning agency may appeal, pursuant to s.
670 380.07(3), the amendment to the development order if the
671 amendment involves sub-subparagraph g., sub-subparagraph h.,
672 sub-subparagraph j., or sub-subparagraph k. and it believes the
673 change creates a reasonable likelihood of new or additional
674 regional impacts ~~a development order amendment for any change~~
675 ~~listed in sub-subparagraphs a. j. unless such issue is addressed~~
676 ~~either in the existing development order or in the application~~
677 ~~for development approval, but, in the case of the application,~~
678 ~~only if, and in the manner in which, the application is~~
679 ~~incorporated in the development order.~~

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

685 4. Any submittal of a proposed change to a previously
686 approved development shall include a description of individual
687 changes previously made to the development, including changes
688 previously approved by the local government. The local
689 government shall consider the previous and current proposed
690 changes in deciding whether such changes cumulatively constitute

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691 a substantial deviation requiring further development-of-
692 regional-impact review.

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

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

701 ~~b. Except for the types of uses listed in subparagraph~~
702 ~~(b)16., any change which would result in the development of any~~
703 ~~area which was specifically set aside in the application for~~
704 ~~development approval or in the development order for~~
705 ~~preservation, buffers, or special protection, including habitat~~
706 ~~for plant and animal species, archaeological and historical~~
707 ~~sites, dunes, and other special areas.~~

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

714 (f)1. The state land planning agency shall establish by
715 rule standard forms for submittal of proposed changes to a
716 previously approved development of regional impact which may
717 require further development-of-regional-impact review. At a
718 minimum, the standard form shall require the developer to

719 | provide the precise language that the developer proposes to
720 | delete or add as an amendment to the development order.

721 | 2. The developer shall submit, simultaneously, to the
722 | local government, the regional planning agency, and the state
723 | land planning agency the request for approval of a proposed
724 | change.

725 | 3. No sooner than 30 days but no later than 45 days after
726 | submittal by the developer to the local government, the state
727 | land planning agency, and the appropriate regional planning
728 | agency, the local government shall give 15 days' notice and
729 | schedule a public hearing to consider the change that the
730 | developer asserts does not create a substantial deviation. This
731 | public hearing shall be held within 60 ~~90~~ days after submittal
732 | of the proposed changes, unless that time is extended by the
733 | developer.

734 | 4. The appropriate regional planning agency or the state
735 | land planning agency shall review the proposed change and, no
736 | later than 45 days after submittal by the developer of the
737 | proposed change, unless that time is extended by the developer,
738 | and prior to the public hearing at which the proposed change is
739 | to be considered, shall advise the local government in writing
740 | whether it objects to the proposed change, shall specify the
741 | reasons for its objection, if any, and shall provide a copy to
742 | the developer.

743 | 5. At the public hearing, the local government shall
744 | determine whether the proposed change requires further
745 | development-of-regional-impact review. The provisions of
746 | paragraphs (a) and (e), the thresholds set forth in paragraph

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747 (b), and the presumptions set forth in paragraphs (c) and (d)
748 and subparagraph (e)3. shall be applicable in determining
749 whether further development-of-regional-impact review is
750 required.

751 6. If the local government determines that the proposed
752 change does not require further development-of-regional-impact
753 review and is otherwise approved, or if the proposed change is
754 not subject to a hearing and determination pursuant to
755 subparagraphs 3. and 5. and is otherwise approved, the local
756 government shall issue an amendment to the development order
757 incorporating the approved change and conditions of approval
758 relating to the change. The decision of the local government to
759 approve, with or without conditions, or to deny the proposed
760 change that the developer asserts does not require further
761 review shall be subject to the appeal provisions of s. 380.07.
762 However, the state land planning agency may not appeal the local
763 government decision if it did not comply with subparagraph 4.
764 The state land planning agency may not appeal a change to a
765 development order made pursuant to subparagraph (e)1. or
766 subparagraph (e)2. for developments of regional impact approved
767 after January 1, 1980, unless the change would result in a
768 significant impact to a regionally significant archaeological,
769 historical, or natural resource not previously identified in the
770 original development-of-regional-impact review.

771 (g) If a proposed change requires further development-of-
772 regional-impact review pursuant to this section, the review
773 shall be conducted subject to the following additional
774 conditions:

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

779 | 2. The regional planning agency shall consider, and the
780 | local government shall determine whether to approve, approve
781 | with conditions, or deny the proposed change as it relates to
782 | the entire development. If the local government determines that
783 | the proposed change, as it relates to the entire development, is
784 | unacceptable, the local government shall deny the change.

785 | 3. If the local government determines that the proposed
786 | ~~change, as it relates to the entire development,~~ should be
787 | approved, any new conditions in the amendment to the development
788 | order issued by the local government shall address only those
789 | issues raised by the proposed change and require mitigation only
790 | for the individual and cumulative impacts of the proposed
791 | change.

792 | 4. Development within the previously approved development
793 | of regional impact may continue, as approved, during the
794 | development-of-regional-impact review in those portions of the
795 | development which are not directly affected by the proposed
796 | change.

797 | (h) When further development-of-regional-impact review is
798 | required because a substantial deviation has been determined or
799 | admitted by the developer, the amendment to the development
800 | order issued by the local government shall be consistent with
801 | the requirements of subsection (15) and shall be subject to the
802 | hearing and appeal provisions of s. 380.07. The state land

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803 | planning agency or the appropriate regional planning agency need
804 | not participate at the local hearing in order to appeal a local
805 | government development order issued pursuant to this paragraph.

806 | (i) An increase in the number of residential dwelling
807 | units shall not constitute a substantial deviation and shall not
808 | be subject to development-of-regional-impact review for
809 | additional impacts provided that all the residential dwelling
810 | units are dedicated to workforce housing. For purposes of this
811 | paragraph, the term "workforce housing" means housing that is
812 | affordable to a person who earns less than 150 percent of the
813 | area median income.

814 | (24) STATUTORY EXEMPTIONS.--

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

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

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

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

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

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

832
833 This exemption does not apply to any pari-mutuel facility.

834 (d) Any proposed addition or cumulative additions
835 subsequent to July 1, 1988, to an existing sports facility
836 complex owned by a state university is exempt if the increased
837 seating capacity of the complex is no more than 30 percent of
838 the capacity of the existing facility.

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

845 (f) Any increase in the seating capacity of an existing
846 sports facility having a permanent seating capacity of at least
847 50,000 spectators is exempt from the provisions of this section,
848 provided that such an increase does not increase permanent
849 seating capacity by more than 5 percent per year and not to
850 exceed a total of 10 percent in any 5-year period, and provided
851 that the sports facility notifies the appropriate local
852 government within which the facility is located of the increase
853 at least 6 months prior to the initial use of the increased
854 seating, in order to permit the appropriate local government to
855 develop a traffic management plan for the traffic generated by
856 the increase. Any traffic management plan shall be consistent

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857 with the local comprehensive plan, the regional policy plan, and
858 the state comprehensive plan.

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

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

865 b. The sum of such expansions in permanent seating
866 capacity does not exceed a total of 10 percent in any 5-year
867 period and does not exceed a cumulative total of 20 percent for
868 any such expansions; or

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

872 2. The local government having jurisdiction of the sports
873 facility includes in the development order or development permit
874 approving such expansion under this paragraph a finding of fact
875 that the proposed expansion is consistent with the
876 transportation, water, sewer and stormwater drainage provisions
877 of the approved local comprehensive plan and local land
878 development regulations relating to those provisions.

879

880 Any owner or developer who intends to rely on this statutory
881 exemption shall provide to the department a copy of the local
882 government application for a development permit. Within 45 days
883 of receipt of the application, the department shall render to
884 the local government an advisory and nonbinding opinion, in

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885 writing, stating whether, in the department's opinion, the
 886 prescribed conditions exist for an exemption under this
 887 paragraph. The local government shall render the development
 888 order approving each such expansion to the department. The
 889 owner, developer, or department may appeal the local government
 890 development order pursuant to s. 380.07, within 45 days after
 891 the order is rendered. The scope of review shall be limited to
 892 the determination of whether the conditions prescribed in this
 893 paragraph exist. If any sports facility expansion undergoes
 894 development of regional impact review, all previous expansions
 895 which were exempt under this paragraph shall be included in the
 896 development of regional impact review.

897 (h) Expansion to port harbors, spoil disposal sites,
 898 navigation channels, turning basins, harbor berths, and other
 899 related inwater harbor facilities of ports listed in s.
 900 403.021(9)(b), port transportation facilities and projects
 901 listed in s. 311.07(3)(b), and intermodal transportation
 902 facilities identified pursuant to s. 311.09(3) are exempt from
 903 the provisions of this section when such expansions, projects,
 904 or facilities are consistent with comprehensive master plans
 905 that are in compliance with the provisions of s. 163.3178.

906 (i) Any proposed facility for the storage of any petroleum
 907 product or any expansion of an existing facility is exempt from
 908 the provisions of this section, ~~if the facility is consistent~~
 909 ~~with a local comprehensive plan that is in compliance with s.~~
 910 ~~163.3177 or is consistent with a comprehensive port master plan~~
 911 ~~that is in compliance with s. 163.3178.~~

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912 (j) Any renovation or redevelopment within the same land
913 parcel which does not change land use or increase density or
914 intensity of use.

915 (k)~~1.~~ Waterport and marina development, including dry
916 storage facilities, are exempt from the provisions of this
917 section ~~Any waterport or marina development is exempt from the~~
918 ~~provisions of this section if the relevant county or~~
919 ~~municipality has adopted a boating facility siting plan or~~
920 ~~policy which includes applicable criteria, considering such~~
921 ~~factors as natural resources, manatee protection needs and~~
922 ~~recreation and economic demands as generally outlined in the~~
923 ~~Bureau of Protected Species Management Boat Facility Siting~~
924 ~~Guide, dated August 2000, into the coastal management or land~~
925 ~~use element of its comprehensive plan. The adoption of boating~~
926 ~~facility siting plans or policies into the comprehensive plan is~~
927 ~~exempt from the provisions of s. 163.3187(1). Any waterport or~~
928 ~~marina development within the municipalities or counties with~~
929 ~~boating facility siting plans or policies that meet the above~~
930 ~~criteria, adopted prior to April 1, 2002, are exempt from the~~
931 ~~provisions of this section, when their boating facility siting~~
932 ~~plan or policy is adopted as part of the relevant local~~
933 ~~government's comprehensive plan.~~

934 ~~2. Within 6 months of the effective date of this law, The~~
935 ~~Department of Community Affairs, in conjunction with the~~
936 ~~Department of Environmental Protection and the Florida Fish and~~
937 ~~Wildlife Conservation Commission, shall provide technical~~
938 ~~assistance and guidelines, including model plans, policies and~~

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939 ~~criteria to local governments for the development of their~~
940 ~~siting plans.~~

941 (l) Any proposed development within an urban service
942 boundary established under s. 163.3177(14) is exempt from the
943 provisions of this section if the local government having
944 jurisdiction over the area where the development is proposed has
945 adopted the urban service boundary, and has entered into a
946 binding agreement with ~~adjacent~~ jurisdictions that would be
947 impacted and with the Department of Transportation regarding the
948 mitigation of impacts on state and regional transportation
949 facilities, and has adopted a proportionate share methodology
950 pursuant to s. 163.3180(16).

951 (m) Any proposed development within a rural land
952 stewardship area created under s. 163.3177(11)(d) is exempt from
953 the provisions of this section if the local government that has
954 adopted the rural land stewardship area has entered into a
955 binding agreement with jurisdictions that would be impacted and
956 the Department of Transportation regarding the mitigation of
957 impacts on state and regional transportation facilities, and has
958 adopted a proportionate share methodology pursuant to s.
959 163.3180(16).

960 (n) Any proposed development or redevelopment within an
961 area designated as an urban infill and redevelopment area under
962 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
963 local government has entered into a binding agreement with
964 jurisdictions that would be impacted and the Department of
965 Transportation regarding the mitigation of impacts on state and

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966 regional transportation facilities, and has adopted a
967 proportionate share methodology pursuant to s. 163.3180(16).

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

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

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

975 (r) Any development identified in an airport master plan
976 and adopted into the comprehensive plan pursuant to s.
977 163.3177(6)(k) is exempt from this section.

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

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

983
984 If a use is exempt from review as a development of regional
985 impact under paragraphs (a)-(t) but will be part of a larger
986 project that is subject to review as a development of regional
987 impact, the impact of the exempt use must be included in the
988 review of the larger project.

989 (28) PARTIAL STATUTORY EXEMPTIONS.--

990 (a) If the binding agreement referenced under paragraph
991 (24)(1) for urban service boundaries is not entered into within
992 12 months after establishment of the urban service boundary, the

993 development-of-regional-impact review for projects within the
994 urban service boundary must address transportation impacts only.

995 (b) If the binding agreement referenced under paragraph
996 (24) (m) for rural land stewardship areas is not entered into
997 within 12 months after the designation of a rural land
998 stewardship area, the development-of-regional-impact review for
999 projects within the rural land stewardship area must address
1000 transportation impacts only.

1001 (c) If the binding agreement referenced under paragraph
1002 (24) (n) for designated urban infill and redevelopment areas is
1003 not entered into within 12 months after the designation of the
1004 area or July 1, 2007, whichever occurs later, the development-
1005 of-regional-impact review for projects within the urban infill
1006 and redevelopment area must address transportation impacts only.

1007 (d) A local government that does not wish to enter into a
1008 binding agreement or that is unable to agree on the terms of the
1009 agreement referenced under paragraph (24) (l), paragraph (24) (m),
1010 or paragraph (24) (n) shall provide written notification to the
1011 state land planning agency of the decision to not enter into a
1012 binding agreement or the failure to enter into a binding
1013 agreement within the 12-month period referenced in paragraphs
1014 (a), (b) and (c). Following the notification of the state land
1015 planning agency, development-of-regional-impact review for
1016 projects within an urban service boundary under paragraph
1017 (24) (l), a rural land stewardship area under paragraph (24) (m),
1018 or an urban infill and redevelopment area under paragraph
1019 (24) (n), must address transportation impacts only.

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1020 Section 7. Paragraphs (d) and (e) of subsection (3) of
1021 section 380.0651, Florida Statutes, are amended, paragraphs (f)
1022 through (j) are redesignated as (e) through (i), respectively,
1023 and a new paragraph (j) is added to that subsection, to read:

1024 380.0651 Statewide guidelines and standards.--

1025 (3) The following statewide guidelines and standards shall
1026 be applied in the manner described in s. 380.06(2) to determine
1027 whether the following developments shall be required to undergo
1028 development-of-regional-impact review:

1029 (d) Office development.--Any proposed office building or
1030 park operated under common ownership, development plan, or
1031 management that:

1032 1. Encompasses 300,000 or more square feet of gross floor
1033 area; or

1034 2. Encompasses more than 600,000 square feet of gross
1035 floor area in a county with a population greater than 500,000
1036 and only in a geographic area specifically designated as highly
1037 suitable for increased threshold intensity in the approved local
1038 comprehensive plan and in the strategic regional policy plan.

1039 ~~(e) Port facilities. The proposed construction of any~~
1040 ~~waterport or marina is required to undergo development of~~
1041 ~~regional impact review, except one designed for:~~

1042 ~~1.a. The wet storage or mooring of fewer than 150~~
1043 ~~watercraft used exclusively for sport, pleasure, or commercial~~
1044 ~~fishing, or~~

1045 ~~b. The dry storage of fewer than 200 watercraft used~~
1046 ~~exclusively for sport, pleasure, or commercial fishing, or~~

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1047 ~~e. The wet or dry storage or mooring of fewer than 150~~
 1048 ~~watercraft on or adjacent to an inland freshwater lake except~~
 1049 ~~Lake Okeechobee or any lake which has been designated an~~
 1050 ~~Outstanding Florida Water, or~~

1051 ~~d. The wet or dry storage or mooring of fewer than 50~~
 1052 ~~watercraft of 40 feet in length or less of any type or purpose.~~
 1053 ~~The exceptions to this paragraph's requirements for development~~
 1054 ~~of regional impact review shall not apply to any waterport or~~
 1055 ~~marina facility located within or which serves physical~~
 1056 ~~development located within a coastal barrier resource unit on an~~
 1057 ~~unbridged barrier island designated pursuant to 16 U.S.C. s.~~
 1058 ~~3501.~~

1059
 1060 ~~In addition to the foregoing, for projects for which no~~
 1061 ~~environmental resource permit or sovereign submerged land lease~~
 1062 ~~is required, the Department of Environmental Protection must~~
 1063 ~~determine in writing that a proposed marina in excess of 10~~
 1064 ~~slips or storage spaces or a combination of the two is located~~
 1065 ~~so that it will not adversely impact Outstanding Florida Waters~~
 1066 ~~or Class II waters and will not contribute boat traffic in a~~
 1067 ~~manner that will have an adverse impact on an area known to be,~~
 1068 ~~or likely to be, frequented by manatees. If the Department of~~
 1069 ~~Environmental Protection fails to issue its determination within~~
 1070 ~~45 days of receipt of a formal written request, it has waived~~
 1071 ~~its authority to make such determination. The Department of~~
 1072 ~~Environmental Protection determination shall constitute final~~
 1073 ~~agency action pursuant to chapter 120.~~

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1074 ~~2. The dry storage of fewer than 300 watercraft used~~
 1075 ~~exclusively for sport, pleasure, or commercial fishing at a~~
 1076 ~~marina constructed and in operation prior to July 1, 1985.~~

1077 ~~3. Any proposed marina development with both wet and dry~~
 1078 ~~mooring or storage used exclusively for sport, pleasure, or~~
 1079 ~~commercial fishing, where the sum of percentages of the~~
 1080 ~~applicable wet and dry mooring or storage thresholds equals 100~~
 1081 ~~percent. This threshold is in addition to, and does not~~
 1082 ~~preclude, a development from being required to undergo~~
 1083 ~~development of regional impact review under sub subparagraphs~~
 1084 ~~1.a. and b. and subparagraph 2.~~

1085 (j) Workforce housing.--The applicable guidelines for
 1086 residential development and the residential component for
 1087 multiuse development shall be increased by 50 percent where the
 1088 developer demonstrates that at least 15 percent of the
 1089 residential dwelling units will be dedicated to workforce
 1090 housing. For purposes of this paragraph, the term "workforce
 1091 housing" means housing that is affordable to a person who earns
 1092 less than 150 percent of the area median income.

1093 Section 8. Section 380.07, Florida Statutes, is amended to
 1094 read:

1095 380.07 Florida Land and Water Adjudicatory Commission.--

1096 (1) There is hereby created the Florida Land and Water
 1097 Adjudicatory Commission, which shall consist of the
 1098 Administration Commission. The commission may adopt rules
 1099 necessary to ensure compliance with the area of critical state
 1100 concern program and the requirements for developments of
 1101 regional impact as set forth in this chapter.

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1102 (2) Whenever any local government issues any development
 1103 order in any area of critical state concern, or in regard to any
 1104 development of regional impact, copies of such orders as
 1105 prescribed by rule by the state land planning agency shall be
 1106 transmitted to the state land planning agency, the regional
 1107 planning agency, and the owner or developer of the property
 1108 affected by such order. The state land planning agency shall
 1109 adopt rules describing development order rendition and
 1110 effectiveness in designated areas of critical state concern.
 1111 Within 45 days after the order is rendered, the owner, the
 1112 developer, or the state land planning agency may appeal the
 1113 order to the Florida Land and Water Adjudicatory Commission by
 1114 filing a petition alleging that the development order is not
 1115 consistent with the provisions of this part ~~notice of appeal~~
 1116 ~~with the commission~~. The appropriate regional planning agency by
 1117 vote at a regularly scheduled meeting may recommend that the
 1118 state land planning agency undertake an appeal of a development-
 1119 of-regional-impact development order. Upon the request of an
 1120 appropriate regional planning council, affected local
 1121 government, or any citizen, the state land planning agency shall
 1122 consider whether to appeal the order and shall respond to the
 1123 request within the 45-day appeal period. ~~Any appeal taken by a~~
 1124 ~~regional planning agency between March 1, 1993, and the~~
 1125 ~~effective date of this section may only be continued if the~~
 1126 ~~state land planning agency has also filed an appeal. Any appeal~~
 1127 ~~initiated by a regional planning agency on or before March 1,~~
 1128 ~~1993, shall continue until completion of the appeal process and~~

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1129 ~~any subsequent appellate review, as if the regional planning~~
1130 ~~agency were authorized to initiate the appeal.~~

1131 (3) Notwithstanding any other provision of law, an appeal
1132 of a development order by the state land planning agency under
1133 this section may include consistency of the development order
1134 with the local comprehensive plan. However, if a development
1135 order relating to a development of regional impact has been
1136 challenged in a proceeding under s. 163.3215 and a party to the
1137 proceeding serves notice to the state land planning agency of
1138 the pending proceeding under s. 163.3215, the state land
1139 planning agency shall:

1140 (a) Raise its consistency issues by intervening as a full
1141 party in the pending proceeding under s. 163.3215 within 30 days
1142 after service of the notice; and

1143 (b) Dismiss the consistency issues from the development
1144 order appeal.

1145 (4) The appellant shall furnish a copy of the petition to
1146 the opposing party, as the case may be, and to the local
1147 government that issued the order. The filing of the petition
1148 stays the effectiveness of the order until after the completion
1149 of the appeal process.

1150 (5)~~(3)~~ The 45-day appeal period for a development of
1151 regional impact within the jurisdiction of more than one local
1152 government shall not commence until after all the local
1153 governments having jurisdiction over the proposed development of
1154 regional impact have rendered their development orders. The
1155 appellant shall furnish a copy of the notice of appeal to the
1156 opposing party, as the case may be, and to the local government

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1157 | which issued the order. The filing of the notice of appeal shall
1158 | stay the effectiveness of the order until after the completion
1159 | of the appeal process.

1160 | (6)~~(4)~~ Prior to issuing an order, the Florida Land and
1161 | Water Adjudicatory Commission shall hold a hearing pursuant to
1162 | the provisions of chapter 120. The commission shall encourage
1163 | the submission of appeals on the record made below in cases in
1164 | which the development order was issued after a full and complete
1165 | hearing before the local government or an agency thereof.

1166 | (7)~~(5)~~ The Florida Land and Water Adjudicatory Commission
1167 | shall issue a decision granting or denying permission to develop
1168 | pursuant to the standards of this chapter and may attach
1169 | conditions and restrictions to its decisions.

1170 | ~~(6) If an appeal is filed with respect to any issues~~
1171 | ~~within the scope of a permitting program authorized by chapter~~
1172 | ~~161, chapter 373, or chapter 403 and for which a permit or~~
1173 | ~~conceptual review approval has been obtained prior to the~~
1174 | ~~issuance of a development order, any such issue shall be~~
1175 | ~~specifically identified in the notice of appeal which is filed~~
1176 | ~~pursuant to this section, together with other issues which~~
1177 | ~~constitute grounds for the appeal. The appeal may proceed with~~
1178 | ~~respect to issues within the scope of permitting programs for~~
1179 | ~~which a permit or conceptual review approval has been obtained~~
1180 | ~~prior to the issuance of a development order only after the~~
1181 | ~~commission determines by majority vote at a regularly scheduled~~
1182 | ~~commission meeting that statewide or regional interests may be~~
1183 | ~~adversely affected by the development. In making this~~
1184 | ~~determination, there shall be a rebuttable presumption that~~

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1185 ~~statewide and regional interests relating to issues within the~~
 1186 ~~scope of the permitting programs for which a permit or~~
 1187 ~~conceptual approval has been obtained are not adversely~~
 1188 ~~affected.~~

1189 Section 9. Section 380.115, Florida Statutes, is amended
 1190 to read:

1191 380.115 Vested rights and duties; effect of size
 1192 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
 1193 ~~2002-296.--~~

1194 (1) A change in a development-of-regional-impact guideline
 1195 and standard does not abridge ~~Nothing contained in this act~~
 1196 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
 1197 duty or obligation pursuant to any development order or
 1198 agreement that is applicable to a development of regional impact
 1199 ~~on the effective date of this act.~~ A development that has
 1200 received a development-of-regional-impact development order
 1201 pursuant to s. 380.06, but is no longer required to undergo
 1202 development-of-regional-impact review by operation of a change
 1203 in the guidelines and standards or has reduced its size below
 1204 the thresholds in s. 380.0651 ~~of this act,~~ shall be governed by
 1205 the following procedures:

1206 (a) The development shall continue to be governed by the
 1207 development-of-regional-impact development order and may be
 1208 completed in reliance upon and pursuant to the development order
 1209 unless the developer or landowner has followed the procedures
 1210 for rescission in paragraph (b). Any proposed changes to those
 1211 developments which continue to be governed by a development
 1212 order shall be approved pursuant to s. 380.06(19) as it existed

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1213 prior to a change in the development-of-regional-impact
1214 guidelines and standards except that all percentage criteria
1215 shall be doubled and all other criteria shall be increased by 10
1216 percent. The development-of-regional-impact development order
1217 may be enforced by the local government as provided by ss.
1218 380.06(17) and 380.11.

1219 (b) If requested by the developer or landowner, the
1220 development-of-regional-impact development order shall ~~may~~ be
1221 rescinded by the local government having jurisdiction upon a
1222 showing that all required mitigation related to the amount of
1223 development that existed on the date of rescission has been
1224 completed ~~abandoned pursuant to the process in s. 380.06(26).~~

1225 (2) A development with an application for development
1226 approval pending, ~~and determined sufficient~~ pursuant to s.
1227 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
1228 guidelines and standards ~~this act~~, or a notification of proposed
1229 change pending on the effective date of a change to the
1230 guidelines and standards ~~this act~~, may elect to continue such
1231 review pursuant to s. 380.06. At the conclusion of the pending
1232 review, including any appeals pursuant to s. 380.07, the
1233 resulting development order shall be governed by the provisions
1234 of subsection (1).

1235 (3) A landowner that has filed an application for a
1236 development-of-regional-impact review prior to the adoption of
1237 an optional sector plan pursuant to s. 163.3245 may elect to
1238 have the application reviewed pursuant to s. 380.06,
1239 comprehensive plan provisions in force prior to adoption of the

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1240 sector plan, and any requested comprehensive plan amendments
1241 that accompany the application.

1242 Section 10. Paragraph (i) of subsection (2) of section
1243 403.813, Florida Statutes, is amended to read:

1244 403.813 Permits issued at district centers; exceptions.--

1245 (2) A permit is not required under this chapter, chapter
1246 373, chapter 61-691, Laws of Florida, or chapter 25214 or
1247 chapter 25270, 1949, Laws of Florida, for activities associated
1248 with the following types of projects; however, except as
1249 otherwise provided in this subsection, nothing in this
1250 subsection relieves an applicant from any requirement to obtain
1251 permission to use or occupy lands owned by the Board of Trustees
1252 of the Internal Improvement Trust Fund or any water management
1253 district in its governmental or proprietary capacity or from
1254 complying with applicable local pollution control programs
1255 authorized under this chapter or other requirements of county
1256 and municipal governments:

1257 (i) The construction of private docks of 1,000 square feet
1258 or less of over-water surface area and seawalls in artificially
1259 created waterways where such construction will not violate
1260 existing water quality standards, impede navigation, or affect
1261 flood control. This exemption does not apply to the construction
1262 of vertical seawalls in estuaries or lagoons unless the proposed
1263 construction is within an existing manmade canal where the
1264 shoreline is currently occupied in whole or part by vertical
1265 seawalls.

1266 Section 11. This act shall take effect July 1, 2006.