

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Community Affairs Committee

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BILL: SB 856

INTRODUCER: Senator Bennett

SUBJECT: Coastal Management

DATE: February 25, 2009

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wolfgang</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>TR</u>	_____
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill exempts certain port-related projects from development-of-regional-impact (DRI) review provided they are located within 3 miles of a port and rely upon the utilization of port and intermodal transportation facilities or are in a port master plan area.

This bill amends section 163.3178 of the Florida Statutes.

**II. Present Situation:**

***Comprehensive Planning and Coastal Management***

The Local Government Comprehensive Planning and Land Development Regulation Act, contained in ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Section 163.3177, F.S., requires each comprehensive plan to include certain “elements” that address different aspects of growth management, including the following: a capital improvements; future land use plan; traffic circulation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; and intergovernmental coordination elements.

Those local governments in coastal areas of the state are also required to include a “coastal management element.”<sup>1</sup> The coastal management element must include policies to guide the local government’s decisions and implementation of the following objectives:

- Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.
- Continued existence of viable populations of all species of wildlife and marine life.
- The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.
- Avoidance of irreversible and irretrievable loss of coastal zone resources.
- Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.
- Proposed management and regulatory techniques.
- Limitation of public expenditures that subsidize development in high-hazard coastal areas.
- Protection of human life against the effects of natural disasters.
- The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.
- Preservation, including sensitive adaptive use of historic and archaeological resources.<sup>2</sup>

In addition, the coastal management element must outline principles to be used in eliminating inappropriate and unsafe development in coastal areas as the opportunity arises.<sup>3</sup> Further, it must identify public access to beach and shoreline areas and address the need for water-dependent and water-related facilities.<sup>4</sup> This element must identify regulatory and management techniques that a local government will use in order to mitigate the threat to human life and to control proposed development and redevelopment in order to protect the coastal environment, considering impacts cumulatively.<sup>5</sup> A coastal local government is also required to include, in its coastal element, the designation of “high-hazard coastal areas,” which consist of category 1 evacuation zones.<sup>6</sup> Under current growth management law, local governments are restricted from allowing development in these areas that would increase the density or intensity of the current land use.

Subsection (3) of s. 163.3178, F.S., removes from the development-of-regional-impact process certain port related projects which are otherwise consistent with a port master plan. A port master plan must be included in the coastal management element of the comprehensive plan for a local government that has responsibility for the port area. A deepwater port that does not submit its master plan to the local government that has responsibility for the area and is not a part of the local government is subject to sanctions under s. 163.3184, F.S. The port master plan should address the issues listed in s. 163.3178(2) for coastal management element.

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<sup>1</sup> Section 163.3177(6)(g), F.S.

<sup>2</sup> Section 163.3177(6)(g)1.-10., F.S.

<sup>3</sup> Section 163.3178(2)(f), F.S.

<sup>4</sup> Section 163.3178(2)(g), F.S.

<sup>5</sup> Section 163.3178(2)(j), F.S.

<sup>6</sup> Section 163.3178(2)(h), F.S.

***The Development-of-Regional-Impact (DRI) Process***

Section 380.06, F.S., provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.<sup>7</sup>

Regional planning councils assist the developer by coordinating multi-agency DRI review. The council's job is to assess the DRI project, incorporate input from various agencies, gather additional information and make recommendations on how the project should proceed. The DCA reviews developments of regional impact for compliance with state law and identifies the regional and state impacts of large-scale developments. The DCA makes recommendations to local governments for approving, suggesting mitigation conditions, or not approving proposed developments.

**III. Effect of Proposed Changes:**

Section 1 amends s. 163.3178, F.S., to add port-related industrial or commercial projects, as determined by the Department of Community Affairs and the applicable general purpose local government, are not developments-of-regional-impact if they are located within 3 miles of a port master plan area and rely upon the utilization of port and intermodal transportation facilities.

Section 2 provides that the act shall take effect July 1, 2009.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Port-related industrial or commercial projects that are located within or within 3 miles of a port master plan area may proceed more rapidly and with less government oversight.

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<sup>7</sup> Section 380.06(1), F.S.

C. Government Sector Impact:

Regional planning councils may become less involved in review of port-related industrial or commercial projects.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.