

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Workman offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove lines 7591-7633 and insert:

5 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

6 (g) A local government shall not issue permits for
7 development subsequent to the buildout date contained in the
8 development order unless:

9 1. The proposed development has been evaluated
10 cumulatively with existing development under the substantial
11 deviation provisions of subsection (19) subsequent to the
12 termination or expiration date;

13 2. The proposed development is consistent with an
14 abandonment of development order that has been issued in
15 accordance with the provisions of subsection (26);

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16 3. The development of regional impact is essentially built
17 out, in that all the mitigation requirements in the development
18 order have been satisfied, all developers are in compliance with
19 all applicable terms and conditions of the development order
20 except the buildout date, and the amount of proposed development
21 that remains to be built is less than 40 ~~20~~ percent of any
22 applicable development-of-regional-impact threshold; or

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

37 a. The developers are in compliance with all applicable
38 terms and conditions of the development order except the
39 buildout date; and

40 b.(I) The amount of development that remains to be built
41 is less than the substantial deviation threshold specified in
42 paragraph (19)(b) for each individual land use category, or, for
43 a multiuse development, the sum total of all unbuilt land uses
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44 as a percentage of the applicable substantial deviation
45 threshold is equal to or less than 100 percent; or

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

50
51 The single-family residential portions of a development may be
52 considered "essentially built out" if all of the workforce
53 housing obligations and all of the infrastructure and horizontal
54 development have been completed, at least 50 percent of the
55 dwelling units have been completed, and more than 80 percent of
56 the lots have been conveyed to third-party individual lot owners
57 or to individual builders who own no more than 40 lots at the
58 time of the determination. The mobile home park portions of a
59 development may be considered "essentially built out" if all the
60 infrastructure and horizontal development has been completed,
61 and at least 50 percent of the lots are leased to individual
62 mobile home owners.

63 (19) SUBSTANTIAL DEVIATIONS.—

64 (b) Any proposed change to a previously approved
65 development of regional impact or development order condition
66 which, either individually or cumulatively with other changes,
67 exceeds any of the following criteria shall constitute a
68 substantial deviation and shall cause the development to be
69 subject to further development-of-regional-impact review without
70 the necessity for a finding of same by the local government:

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71 1. An increase in the number of parking spaces at an
72 attraction or recreational facility by 15 ~~10~~ percent or 500 ~~330~~
73 spaces, whichever is greater, or an increase in the number of
74 spectators that may be accommodated at such a facility by 15 ~~10~~
75 percent or 1,500 ~~1,100~~ spectators, whichever is greater.

76 2. A new runway, a new terminal facility, a 25-percent
77 lengthening of an existing runway, or a 25-percent increase in
78 the number of gates of an existing terminal, but only if the
79 increase adds at least three additional gates.

80 ~~3. An increase in industrial development area by 10~~
81 ~~percent or 35 acres, whichever is greater.~~

82 ~~4. An increase in the average annual acreage mined by 10~~
83 ~~percent or 11 acres, whichever is greater, or an increase in the~~
84 ~~average daily water consumption by a mining operation by 10~~
85 ~~percent or 330,000 gallons, whichever is greater. A net increase~~
86 ~~in the size of the mine by 10 percent or 825 acres, whichever is~~
87 ~~less. For purposes of calculating any net increases in size,~~
88 ~~only additions and deletions of lands that have not been mined~~
89 ~~shall be considered. An increase in the size of a heavy mineral~~
90 ~~mine as defined in s. 378.403(7) will only constitute a~~
91 ~~substantial deviation if the average annual acreage mined is~~
92 ~~more than 550 acres and consumes more than 3.3 million gallons~~
93 ~~of water per day.~~

94 ~~3.5.~~ An increase in land area for office development by 15
95 ~~10~~ percent or an increase of gross floor area of office
96 development by 15 ~~10~~ percent or 100,000 ~~66,000~~ gross square
97 feet, whichever is greater.

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98 ~~4.6.~~ An increase in the number of dwelling units by 10
99 percent or 55 dwelling units, whichever is greater.

100 ~~5.7.~~ An increase in the number of dwelling units by 50
101 percent or 200 units, whichever is greater, provided that 15
102 percent of the proposed additional dwelling units are dedicated
103 to affordable workforce housing, subject to a recorded land use
104 restriction that shall be for a period of not less than 20 years
105 and that includes resale provisions to ensure long-term
106 affordability for income-eligible homeowners and renters and
107 provisions for the workforce housing to be commenced prior to
108 the completion of 50 percent of the market rate dwelling. For
109 purposes of this subparagraph, the term "affordable workforce
110 housing" means housing that is affordable to a person who earns
111 less than 120 percent of the area median income, or less than
112 140 percent of the area median income if located in a county in
113 which the median purchase price for a single-family existing
114 home exceeds the statewide median purchase price of a single-
115 family existing home. For purposes of this subparagraph, the
116 term "statewide median purchase price of a single-family
117 existing home" means the statewide purchase price as determined
118 in the Florida Sales Report, Single-Family Existing Homes,
119 released each January by the Florida Association of Realtors and
120 the University of Florida Real Estate Research Center.

121 ~~6.8.~~ An increase in commercial development by 60,000
122 ~~55,000~~ square feet of gross floor area or of parking spaces
123 provided for customers for 425 ~~330~~ cars or a 10-percent increase
124 ~~of either of these~~, whichever is greater.

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125 ~~9. An increase in hotel or motel rooms by 10 percent or 83~~
126 ~~rooms, whichever is greater.~~

127 7.10. An increase in a recreational vehicle park area by
128 10 percent or 110 vehicle spaces, whichever is less.

129 8.11. A decrease in the area set aside for open space of 5
130 percent or 20 acres, whichever is less.

131 9.12. A proposed increase to an approved multiuse
132 development of regional impact where the sum of the increases of
133 each land use as a percentage of the applicable substantial
134 deviation criteria is equal to or exceeds 110 percent. The
135 percentage of any decrease in the amount of open space shall be
136 treated as an increase for purposes of determining when 110
137 percent has been reached or exceeded.

138 10.13. A 15-percent increase in the number of external
139 vehicle trips generated by the development above that which was
140 projected during the original development-of-regional-impact
141 review.

142 11.14. Any change which would result in development of any
143 area which was specifically set aside in the application for
144 development approval or in the development order for
145 preservation or special protection of endangered or threatened
146 plants or animals designated as endangered, threatened, or
147 species of special concern and their habitat, any species
148 protected by 16 U.S.C. ss. 668a-668d, primary dunes, or
149 archaeological and historical sites designated as significant by
150 the Division of Historical Resources of the Department of State.
151 The refinement of the boundaries and configuration of such areas
152 shall be considered under sub-subparagraph (e)2.j.

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153
154 The substantial deviation numerical standards in subparagraphs
155 3., 6., and ~~5., 8., 9., and 12.~~, excluding residential uses, and
156 in subparagraph 10. ~~13.~~, are increased by 100 percent for a
157 project certified under s. 403.973 which creates jobs and meets
158 criteria established by the Office of Tourism, Trade, and
159 Economic Development as to its impact on an area's economy,
160 employment, and prevailing wage and skill levels. The
161 substantial deviation numerical standards in subparagraphs 3.,
162 4. ~~5.~~, 6., ~~7., 8., 9., 12.,~~ and 10. ~~13.~~ are increased by 50
163 percent for a project located wholly within an urban infill and
164 redevelopment area designated on the applicable adopted local
165 comprehensive plan future land use map and not located within
166 the coastal high hazard area.

167 (c) An extension of the date of buildout of a development,
168 or any phase thereof, by more than 7 years is presumed to create
169 a substantial deviation subject to further development-of-
170 regional-impact review.

171 1. An extension of the date of buildout, or any phase
172 thereof, of more than 5 years but not more than 7 years is
173 presumed not to create a substantial deviation. The extension of
174 the date of buildout of an areawide development of regional
175 impact by more than 5 years but less than 10 years is presumed
176 not to create a substantial deviation. These presumptions may be
177 rebutted by clear and convincing evidence at the public hearing
178 held by the local government. An extension of 5 years or less is
179 not a substantial deviation.

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180 2. In recognition of the 2011 real estate market
181 conditions, at the option of the developer, all commencement,
182 phase, buildout, and expiration dates for projects that are
183 currently valid developments of regional impact are extended for
184 4 years regardless of any previous extension. Associated
185 mitigation requirements are extended for the same period unless
186 a governmental entity notifies the developer by December 1,
187 2011, that it has entered into a contract for construction of a
188 facility with some or all of development's mitigation funds
189 specified in the development order or a written agreement with
190 the developer. The 4-year extension is not a substantial
191 deviation, is not subject to further development-of-regional-
192 impact review, and may not be considered when determining
193 whether a subsequent extension is a substantial deviation under
194 this subsection. The developer must notify the local government
195 in writing by December 31, 2011, in order to receive the 4-year
196 extension.

197
198 For the purpose of calculating when a buildout or phase date has
199 been exceeded, the time shall be tolled during the pendency of
200 administrative or judicial proceedings relating to development
201 permits. Any extension of the buildout date of a project or a
202 phase thereof shall automatically extend the commencement date
203 of the project, the termination date of the development order,
204 the expiration date of the development of regional impact, and
205 the phases thereof if applicable by a like period of time. ~~In~~
206 ~~recognition of the 2007 real estate market conditions, all~~
207 ~~phase, buildout, and expiration dates for projects that are~~

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208 ~~developments of regional impact and under active construction on~~
209 ~~July 1, 2007, are extended for 3 years regardless of any prior~~
210 ~~extension. The 3-year extension is not a substantial deviation,~~
211 ~~is not subject to further development of regional impact review,~~
212 ~~and may not be considered when determining whether a subsequent~~
213 ~~extension is a substantial deviation under this subsection.~~

214 (e)1. Except for a development order rendered pursuant to
215 subsection (22) or subsection (25), a proposed change to a
216 development order that individually or cumulatively with any
217 previous change is less than any numerical criterion contained
218 in subparagraphs (b)~~1.-10.1.-13.~~ and does not exceed any other
219 criterion, or that involves an extension of the buildout date of
220 a development, or any phase thereof, of less than 5 years is not
221 subject to the public hearing requirements of subparagraph
222 (f)3., and is not subject to a determination pursuant to
223 subparagraph (f)5. Notice of the proposed change shall be made
224 to the regional planning council and the state land planning
225 agency. Such notice shall include a description of previous
226 individual changes made to the development, including changes
227 previously approved by the local government, and shall include
228 appropriate amendments to the development order.

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

231 a. Changes in the name of the project, developer, owner,
232 or monitoring official.

233 b. Changes to a setback that do not affect noise buffers,
234 environmental protection or mitigation areas, or archaeological
235 or historical resources.

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- 236 c. Changes to minimum lot sizes.
- 237 d. Changes in the configuration of internal roads that do
238 not affect external access points.
- 239 e. Changes to the building design or orientation that stay
240 approximately within the approved area designated for such
241 building and parking lot, and which do not affect historical
242 buildings designated as significant by the Division of
243 Historical Resources of the Department of State.
- 244 f. Changes to increase the acreage in the development,
245 provided that no development is proposed on the acreage to be
246 added.
- 247 g. Changes to eliminate an approved land use, provided
248 that there are no additional regional impacts.
- 249 h. Changes required to conform to permits approved by any
250 federal, state, or regional permitting agency, provided that
251 these changes do not create additional regional impacts.
- 252 i. Any renovation or redevelopment of development within a
253 previously approved development of regional impact which does
254 not change land use or increase density or intensity of use.
- 255 j. Changes that modify boundaries and configuration of
256 areas described in subparagraph (b) ~~11.14~~ due to science-based
257 refinement of such areas by survey, by habitat evaluation, by
258 other recognized assessment methodology, or by an environmental
259 assessment. In order for changes to qualify under this sub-
260 subparagraph, the survey, habitat evaluation, or assessment must
261 occur prior to the time a conservation easement protecting such
262 lands is recorded and must not result in any net decrease in the

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263 total acreage of the lands specifically set aside for permanent
264 preservation in the final development order.

265 k. Any other change which the state land planning agency,
266 in consultation with the regional planning council, agrees in
267 writing is similar in nature, impact, or character to the
268 changes enumerated in sub-subparagraphs a.-j. and which does not
269 create the likelihood of any additional regional impact.

270
271 This subsection does not require the filing of a notice of
272 proposed change but shall require an application to the local
273 government to amend the development order in accordance with the
274 local government's procedures for amendment of a development
275 order. In accordance with the local government's procedures,
276 including requirements for notice to the applicant and the
277 public, the local government shall either deny the application
278 for amendment or adopt an amendment to the development order
279 which approves the application with or without conditions.
280 Following adoption, the local government shall render to the
281 state land planning agency the amendment to the development
282 order. The state land planning agency may appeal, pursuant to s.
283 380.07(3), the amendment to the development order if the
284 amendment involves sub-subparagraph g., sub-subparagraph h.,
285 sub-subparagraph j., or sub-subparagraph k., and it believes the
286 change creates a reasonable likelihood of new or additional
287 regional impacts.

288 3. Except for the change authorized by sub-subparagraph
289 2.f., any addition of land not previously reviewed or any change
290 not specified in paragraph (b) or paragraph (c) shall be

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291 presumed to create a substantial deviation. This presumption may
292 be rebutted by clear and convincing evidence.

293 4. Any submittal of a proposed change to a previously
294 approved development shall include a description of individual
295 changes previously made to the development, including changes
296 previously approved by the local government. The local
297 government shall consider the previous and current proposed
298 changes in deciding whether such changes cumulatively constitute
299 a substantial deviation requiring further development-of-
300 regional-impact review.

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

305 a. A change proposed for 15 percent or more of the acreage
306 to a land use not previously approved in the development order.
307 Changes of less than 15 percent shall be presumed not to create
308 a substantial deviation.

309 b. Notwithstanding any provision of paragraph (b) to the
310 contrary, a proposed change consisting of simultaneous increases
311 and decreases of at least two of the uses within an authorized
312 multiuse development of regional impact which was originally
313 approved with three or more uses specified in s. 380.0651(3)(c),
314 (d), (e), and (f) and residential use.

315 6. If a local government agrees to a proposed change, a
316 change in the transportation proportionate share calculation and
317 mitigation plan in an adopted development order as a result of
318 recalculation of the proportionate share contribution meeting

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319 the requirements of s. 163.3180(5)(h) in effect as of the date
320 of such change shall be presumed not to create a substantial
321 deviation. For purposes of this subsection, the proposed change
322 in the proportionate share calculation or mitigation plan shall
323 not be considered an additional regional transportation impact.
324
325

326 -----
327 **D I R E C T O R Y A M E N D M E N T**

328 Remove lines 7528-7529 and insert:

329 Section 52. Paragraph (b) of subsection (6), paragraph (g)
330 of subsection (15), paragraphs (b), (c), and (e) of subsection
331 (19), subsection (24), paragraph (e) of subsection
332
333

334 -----
335 **T I T L E A M E N D M E N T**

336 Remove line 116 and insert:

337 amending s. 380.06, F.S.; revising requirements relating to the
338 issuance of permits for development by local governments;
339 revising criteria for the determination of substantial
340 deviation; providing for extension of

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