



788434

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (2) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan



788434

13 pursuant to s. 163.3245; update a comprehensive plan based on an
14 evaluation and appraisal pursuant to s. 163.3191; propose a
15 development pursuant to s. 380.06(24)(x); or are new plans for
16 newly incorporated municipalities adopted pursuant to s.
17 163.3167 shall follow the state coordinated review process in
18 subsection (4).

19 Section 2. Paragraph (a) of subsection (7), subsection
20 (12), and paragraph (e) of subsection (19) of section 380.06,
21 Florida Statutes, are amended, and paragraph (x) is added to
22 subsection (24) of that section, to read:

23 380.06 Developments of regional impact.—

24 (7) PREAPPLICATION PROCEDURES.—

25 (a) Before filing an application for development approval,
26 the developer shall contact the regional planning agency having
27 ~~with~~ jurisdiction over the proposed development to arrange a
28 preapplication conference. Upon the request of the developer or
29 the regional planning agency, other affected state and regional
30 agencies shall participate in this conference and shall identify
31 the types of permits issued by the agencies, the level of
32 information required, and the permit issuance procedures as
33 applied to the proposed development. The levels of service
34 required in the transportation methodology shall be the same
35 levels of service used to evaluate concurrency in accordance
36 with s. 163.3180. The regional planning agency shall provide the
37 developer information about the development-of-regional-impact
38 process and the use of preapplication conferences to identify
39 issues, coordinate appropriate state and local agency
40 requirements, and otherwise promote a proper and efficient
41 review of the proposed development. If an agreement is reached



788434

42 regarding assumptions and methodology to be used in the
43 application for development approval, the reviewing agencies may
44 not subsequently object to those assumptions and methodologies
45 unless subsequent changes to the project or information obtained
46 during the review make those assumptions and methodologies
47 inappropriate. The reviewing agencies may make only
48 recommendations or comments regarding a proposed development
49 which are consistent with the statutes, rules, or adopted local
50 government ordinances that are applicable to developments in the
51 jurisdiction where the proposed development is located.

52 (12) REGIONAL REPORTS.—

53 (a) Within 50 days after receipt of the notice of public
54 hearing required in paragraph (11)(c), the regional planning
55 agency, if one has been designated for the area including the
56 local government, shall prepare and submit to the local
57 government a report and recommendations on the regional impact
58 of the proposed development. In preparing its report and
59 recommendations, the regional planning agency shall identify
60 regional issues based upon the following review criteria and
61 make recommendations to the local government on these regional
62 issues, specifically considering whether, and the extent to
63 which:

64 1. The development will have a favorable or unfavorable
65 impact on state or regional resources or facilities identified
66 in the applicable state or regional plans. As used in ~~For the~~
67 ~~purposes of~~ this subsection, the term "applicable state plan"
68 means the state comprehensive plan. As used in ~~For the purposes~~
69 ~~of~~ this subsection, the term "applicable regional plan" means an
70 ~~adopted comprehensive regional policy plan until the adoption of~~



788434

71 ~~a strategic regional policy plan pursuant to s. 186.508, and~~
72 ~~thereafter means an~~ adopted strategic regional policy plan.

73 2. The development will significantly impact adjacent
74 jurisdictions. At the request of the appropriate local
75 government, regional planning agencies may also review and
76 comment upon issues that affect only the requesting local
77 government.

78 3. As one of the issues considered in the review in
79 subparagraphs 1. and 2., the development will favorably or
80 adversely affect the ability of people to find adequate housing
81 reasonably accessible to their places of employment if the
82 regional planning agency has adopted an affordable housing
83 policy as part of its strategic regional policy plan. The
84 determination should take into account information on factors
85 that are relevant to the availability of reasonably accessible
86 adequate housing. Adequate housing means housing that is
87 available for occupancy and that is not substandard.

88 (b) The regional planning agency report must contain
89 recommendations that are consistent with the standards required
90 by the applicable state permitting agencies or the water
91 management district.

92 (c) ~~(b)~~ At the request of the regional planning agency,
93 other appropriate agencies shall review the proposed development
94 and shall prepare reports and recommendations on issues that are
95 clearly within the jurisdiction of those agencies. Such agency
96 reports shall become part of the regional planning agency
97 report; however, the regional planning agency may attach
98 dissenting views. When water management district and Department
99 of Environmental Protection permits have been issued pursuant to



788434

100 chapter 373 or chapter 403, the regional planning council may
101 comment on the regional implications of the permits but may not
102 offer conflicting recommendations.

103 (d)~~(e)~~ The regional planning agency shall afford the
104 developer or any substantially affected party reasonable
105 opportunity to present evidence to the regional planning agency
106 head relating to the proposed regional agency report and
107 recommendations.

108 (e)~~(d)~~ If ~~When~~ the location of a proposed development
109 involves land within the boundaries of multiple regional
110 planning councils, the state land planning agency shall
111 designate a lead regional planning council. The lead regional
112 planning council shall prepare the regional report.

113 (19) SUBSTANTIAL DEVIATIONS.—

114 (e)1. Except for a development order rendered pursuant to
115 subsection (22) or subsection (25), a proposed change to a
116 development order which ~~that~~ individually or cumulatively with
117 any previous change is less than any numerical criterion
118 contained in subparagraphs (b)1.-10. and does not exceed any
119 other criterion, or which ~~that~~ involves an extension of the
120 buildout date of a development, or any phase thereof, of less
121 than 5 years is not subject to the public hearing requirements
122 of subparagraph (f)3., and is not subject to a determination
123 pursuant to subparagraph (f)5. Notice of the proposed change
124 shall be made to the regional planning council and the state
125 land planning agency. Such notice must ~~shall~~ include a
126 description of previous individual changes made to the
127 development, including changes previously approved by the local
128 government, and must ~~shall~~ include appropriate amendments to the



788434

129 development order.

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

132 a. Changes in the name of the project, developer, owner, or
133 monitoring official.

134 b. Changes to a setback which ~~that~~ do not affect noise
135 buffers, environmental protection or mitigation areas, or
136 archaeological or historical resources.

137 c. Changes to minimum lot sizes.

138 d. Changes in the configuration of internal roads which
139 ~~that~~ do not affect external access points.

140 e. Changes to the building design or orientation which ~~that~~
141 stay approximately within the approved area designated for such
142 building and parking lot, and which do not affect historical
143 buildings designated as significant by the Division of
144 Historical Resources of the Department of State.

145 f. Changes to increase the acreage in the development, if
146 ~~provided that~~ no development is proposed on the acreage to be
147 added.

148 g. Changes to eliminate an approved land use, if ~~provided~~
149 ~~that~~ there are no additional regional impacts.

150 h. Changes required to conform to permits approved by any
151 federal, state, or regional permitting agency, if ~~provided that~~
152 these changes do not create additional regional impacts.

153 i. Any renovation or redevelopment of development within a
154 previously approved development of regional impact which does
155 not change land use or increase density or intensity of use.

156 j. Changes that modify boundaries and configuration of
157 areas described in subparagraph (b)11. due to science-based



788434

158 refinement of such areas by survey, by habitat evaluation, by
159 other recognized assessment methodology, or by an environmental
160 assessment. In order for changes to qualify under this sub-
161 subparagraph, the survey, habitat evaluation, or assessment must
162 occur before ~~prior to~~ the time that a conservation easement
163 protecting such lands is recorded and must not result in any net
164 decrease in the total acreage of the lands specifically set
165 aside for permanent preservation in the final development order.

166 k. Changes that do not increase the number of external peak
167 hour trips and do not reduce open space and conserved areas
168 within the project except as otherwise permitted by sub-
169 subparagraph j.

170 ~~l.k.~~ Any other change that ~~which~~ the state land planning
171 agency, in consultation with the regional planning council,
172 agrees in writing is similar in nature, impact, or character to
173 the changes enumerated in sub-subparagraphs a.-k. ~~a.-j.~~ and that
174 ~~which~~ does not create the likelihood of any additional regional
175 impact.

176
177 This subsection does not require the filing of a notice of
178 proposed change but requires ~~shall require~~ an application to the
179 local government to amend the development order in accordance
180 with the local government's procedures for amendment of a
181 development order. In accordance with the local government's
182 procedures, including requirements for notice to the applicant
183 and the public, the local government shall either deny the
184 application for amendment or adopt an amendment to the
185 development order which approves the application with or without
186 conditions. Following adoption, the local government shall



788434

187 render to the state land planning agency the amendment to the
188 development order. The state land planning agency may appeal,
189 pursuant to s. 380.07(3), the amendment to the development order
190 if the amendment involves sub-subparagraph g., sub-subparagraph
191 h., sub-subparagraph j., ~~or~~ sub-subparagraph k., or sub-
192 subparagraph l. and if the agency ~~it~~ believes that the change
193 creates a reasonable likelihood of new or additional regional
194 impacts.

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

200 4. Any submittal of a proposed change to a previously
201 approved development must ~~shall~~ include a description of
202 individual changes previously made to the development, including
203 changes previously approved by the local government. The local
204 government shall consider the previous and current proposed
205 changes in deciding whether such changes cumulatively constitute
206 a substantial deviation requiring further development-of-
207 regional-impact review.

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

212 a. A change proposed for 15 percent or more of the acreage
213 to a land use not previously approved in the development order.
214 Changes of less than 15 percent shall be presumed not to create
215 a substantial deviation.



788434

216 b. Notwithstanding any provision of paragraph (b) to the
217 contrary, a proposed change consisting of simultaneous increases
218 and decreases of at least two of the uses within an authorized
219 multiuse development of regional impact which was originally
220 approved with three or more uses specified in s. 380.0651(3)(c),
221 (d), and (e) and residential use.

222 6. If a local government agrees to a proposed change, a
223 change in the transportation proportionate share calculation and
224 mitigation plan in an adopted development order as a result of
225 recalculation of the proportionate share contribution meeting
226 the requirements of s. 163.3180(5)(h) in effect as of the date
227 of such change shall be presumed not to create a substantial
228 deviation. For purposes of this subsection, the proposed change
229 in the proportionate share calculation or mitigation plan may
230 ~~shall~~ not be considered an additional regional transportation
231 impact.

232 (24) STATUTORY EXEMPTIONS.—

233 (x) Any proposed development that is located in a local
234 government jurisdiction that does not qualify for an exemption
235 based on the population and density criteria in s.
236 380.06(29)(a), that is approved as a comprehensive plan
237 amendment adopted pursuant to s. 163.3184(4), that qualifies for
238 an incentive program pursuant to chapter 288, and for which the
239 developer, the local government, and the Department of Economic
240 Opportunity agree in writing that the development-of-regional-
241 impact review process does not apply is exempt from this
242 section. This exemption does not apply to areas within the
243 boundary of any area of critical state concern designated
244 pursuant to s. 380.05, within the boundary of the Wekiva Study



788434

245 Area as described in s. 369.316, or within 2 miles of the
246 boundary of the Everglades Protection Area as defined in s.
247 373.4592(2).

248
249 If a use is exempt from review as a development of regional
250 impact under paragraphs (a)-(u), but will be part of a larger
251 project that is subject to review as a development of regional
252 impact, the impact of the exempt use must be included in the
253 review of the larger project, unless such exempt use involves a
254 development of regional impact that includes a landowner,
255 tenant, or user that has entered into a funding agreement with
256 the Department of Economic Opportunity under the Innovation
257 Incentive Program and the agreement contemplates a state award
258 of at least \$50 million.

259 Section 3. Subsection (1) of section 380.115, Florida
260 Statutes, is amended to read:

261 380.115 Vested rights and duties; effect of size reduction,
262 changes in guidelines and standards.-

263 (1) A change in a development-of-regional-impact guideline
264 and standard does not abridge or modify any vested or other
265 right or any duty or obligation pursuant to any development
266 order or agreement that is applicable to a development of
267 regional impact. A development that has received a development-
268 of-regional-impact development order pursuant to s. 380.06, but
269 is no longer required to undergo development-of-regional-impact
270 review by operation of a change in the guidelines and standards
271 or has reduced its size below the thresholds in s. 380.0651, or
272 a development that is exempt pursuant to s. 380.06(24) or (29)
273 ~~380.06(29)~~ shall be governed by the following procedures:



788434

274 (a) The development shall continue to be governed by the
275 development-of-regional-impact development order and may be
276 completed in reliance upon and pursuant to the development order
277 unless the developer or landowner has followed the procedures
278 for rescission in paragraph (b). Any proposed changes to those
279 developments which continue to be governed by a development
280 order shall be approved pursuant to s. 380.06(19) as it existed
281 before ~~prior to~~ a change in the development-of-regional-impact
282 guidelines and standards, except that all percentage criteria
283 shall be doubled and all other criteria shall be increased by 10
284 percent. The development-of-regional-impact development order
285 may be enforced by the local government as provided by ss.
286 380.06(17) and 380.11.

287 (b) If requested by the developer or landowner, the
288 development-of-regional-impact development order shall be
289 rescinded by the local government having jurisdiction upon a
290 showing that all required mitigation related to the amount of
291 development that existed on the date of rescission has been
292 completed or will be completed under an existing permit or
293 equivalent authorization issued by a governmental agency as
294 defined in s. 380.031(6), provided such permit or authorization
295 is subject to enforcement through administrative or judicial
296 remedies.

297 Section 4. Section 163.3165, is created to read:

298 163.3165 Agricultural lands surrounded by other land uses.-

299 (1) Notwithstanding any provision of section 163.3162 and
300 section 163.3164 to the contrary, the owner of a parcel of land
301 that qualifies under this section may apply for an amendment to
302 the local government comprehensive plan pursuant to s. 163.3184.



788434

303 The amendment is presumed not to be urban sprawl as defined in
304 s.163.3164 if it proposes land uses and intensities of use which
305 are consistent with the existing uses and intensities of use of,
306 or consistent with the uses and intensities of use authorized
307 for, the industrial, commercial, or residential areas that
308 surround the parcel. If the parcel of land that is the subject
309 of an application for an amendment under this section is abutted
310 by land having only one land use designation, the same land use
311 designation shall be presumed by the County to be appropriate
312 for the parcel and the county shall grant the parcel the same
313 land use designation as the surrounding parcel which abuts the
314 parcel.

315 (2) In order to qualify as an agricultural enclave under
316 this section the parcel of land must be a parcel that:

317 (a) Is owned by a single person or entity;

318 (b) Has been in continuous use for bona fide agricultural
319 purposes, as defined by s. 193.461, for a period of 5 years
320 before the date of any comprehensive plan amendment application;

321 (c) And is either:

322 1. surrounded on at least 90 percent of its perimeter by
323 property that the local government has designated as land which
324 may be developed for industrial, commercial, or residential
325 purposes; or

326 2. is surrounded within a one (1) mile radius by existing
327 or authorized residential development that will result in a
328 density at build out of at least 1,000 residents per square
329 mile; and

330 (d) Does not exceed 640 acres.

331 Section 5. This act shall take effect upon becoming a law.



788434

332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to growth management; amending s.
163.3184, F.S.; requiring that comprehensive plan
amendments proposing certain developments follow the
state coordinated review process; amending s. 380.06,
F.S.; limiting the scope of certain recommendations
and comments by reviewing agencies regarding proposed
developments; revising certain review criteria for
reports and recommendations on the regional impact of
proposed developments; requiring regional planning
agency reports to contain recommendations consistent
with the standards of state permitting agencies and
water management districts; providing that specified
changes to a development order are not substantial
deviations; providing an exemption from development-
of-regional-impact review for proposed developments
that meet specified criteria and are located in
certain jurisdictions; providing applicability;
amending s. 380.115, F.S.; revising conditions under
which a local government is required to rescind a
development-of-regional-impact development order;
creating s. 163.3165, F.S.; providing for application
and approval of an amendment to the local
comprehensive plan by the owner of land that meets



788434

361
362

certain criteria as an agricultural enclave; providing
an effective date.