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.)

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/SB 7000
INTRODUCER:	Rules Committee; Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Community Affairs Committee
SUBJECT:	Growth Management
DATE:	February 25, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Stearns	Yeatman		**CA Submitted as Committee Bill**
1.	Gusky	Miller	ATD	**Recommend: Fav/CS**
2.	Jones	Hrdlicka	FP	**Fav/CS**
3.	Cochran	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7000 clarifies that certain proposed developments which are currently consistent with the local government comprehensive plan are not required to be reviewed pursuant to the State Coordinated Review Process for comprehensive plan amendments.

II. Present Situation:

Development of Regional Impact

A development of regional impact (DRI) is defined in s. 380.06, F.S., as "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. The DRI program provided a lengthy and complicated review process for proposed projects that was largely duplicated by the successor comprehensive planning review process.

Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed law that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992

recommended that the DRI program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) that is required to be included in local comprehensive plans.[1] After much controversy, this recommendation was not implemented, and the DRI program continued in its previous form.

However, over the years, the program was amended to include a number of exemptions. The following list of exemptions is not exhaustive, but illustrates the number and variety of the exemptions from the DRI program that have been enacted:

- Certain projects that created at least 100 jobs that met certain qualifications – 1997.
- Certain expansions to port harbors, certain port transportation facilities, and certain intermodal transportation facilities – 1999.
- The thresholds used to identify projects subject to the program were increased by 150 percent for development in areas designated as rural areas of critical economic concern (now known as rural areas of opportunity) – 2001.
- Certain proposed facilities for the storage of any petroleum product or certain expansions of existing petroleum product storage facilities – 2002.
- Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use – 2002.
- Certain waterport or marina developments – 2002.
- The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S. – 2005.

In 2009, the Legislature enacted the most significant exemption from the DRI program: the exemption for Dense Urban Land Areas (DULAs).[2] In 2015, 8 counties and 243 cities qualified as DULAs. This meant that all projects within those counties and cities were exempted from the DRI program. The areas qualifying as DULAs accounted for more than half of Florida's population.[3]

Comprehensive Plans and the Comprehensive Plan Amendment Process

The Growth Management Act of 1985 required every city and county to create and implement a comprehensive plan to guide future development.[4] A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first.

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.[5] The local commission (city or county) must then hold an

[1] *See* Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.
[2] Chapter 2009-96, L.O.F.
[3] Department of Economic Opportunity, Community Planning, Development, and Services, Community Planning, *Community Planning Table of Content: List of Local Governments Qualifying as Dense Urban Land Areas*, (June 11, 2015), available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/list-of-local-governments-qualifying-as-dense-urban-land-areas (last visited January 15, 2016).
[4] Chapter 1985-55, L.O.F.
[5] Section 163.3174(4)(a), F.S.

initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.[6]

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities.[7] Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.[8] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.[9]

The Expedited State Review Process vs. the State Coordinated Review Process

In 2011, the Florida Legislature bifurcated the process for approving comprehensive plan amendments.[10] Most plan amendments were placed into the Expedited State Review Process, while plan amendments related to large-scale developments were placed into the State Coordinated Review Process. The two processes operate in much the same way, however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the DEO, rather than communicated directly to the permitting local government by each individual reviewing agency.

2015 Changes to the DRI Law

In 2015, the Florida Legislature eliminated the requirement that new developments be reviewed pursuant to the DRI process. Instead, the Legislature directed that proposed developments only need to comply with the requirements of the State Coordinated Review Process.[11]

However, there has been some confusion regarding whether the new statutory language requires new DRI-sized projects that comply with the existing comprehensive plan to nevertheless be reviewed pursuant to the State Coordinated Review Process and to obtain a plan amendment.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3184, F.S., to remove an obsolete reference to "a development that qualifies as a development of regional impact." In 2015, the Legislature eliminated the requirement that new developments be reviewed pursuant to the DRI process.

[6] Section 163.3184, F.S.
[7] Section 163.3184(3)(b)3.a., F.S.
[8] Section 163.3184(3)(c) and (4)(e), F.S.
[9] *Id.*
[10] Chapter 2011-14, L.O.F. *See* s. 163.3184(3) and (4), F.S.
[11] Section 380.06(30), F.S. Chapter 2015-30, L.O.F.

Section 2 amends s. 380.06(30), F.S., to clarify that a proposed development that is consistent with the existing comprehensive plan is not required to undergo review pursuant to the State Coordinated Review Process for comprehensive plan amendments. The bill specifies that this subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 3 provides that the bill is effective on July 1, 2016.

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:

To the extent that developments are not subject to the State Coordinated Review Process, the regulatory compliance costs for those developments would be reduced for private sector developers. The bill has an indeterminate, but expected to be positive, fiscal impact to the private sector.

C. Government Sector Impact:

To the extent that developments are not subject to the State Coordinated Review Process, the regulatory compliance costs for review of those developments would be reduced for local and state governments. This portion of the bill has an indeterminate, but expected to be insignificant, positive fiscal impact to local and state governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3184 and 380.06.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Rules on February 24, 2016:
Removes the sections regarding tax increment financing and annexation of enclaves from the bill.

CS by Fiscal Policy on January 20, 2016:
As recommended by the Appropriation Subcommittee on General Government, the CS adds language to s. 380.06(30), F.S., to specify that the provisions of that subsection do not apply to amendments to a development order governing an existing development of regional impact.

The CS also:
- Allows a governing body of a county to employ tax increment financing to fund economic development activities within the tax increment area; and
- Increases the acreage for the annexation of enclaves from 10 acres to 150 acres.

B. Amendments:

None.