

Bill No. SB 1020

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Proposed Committee Substitute by the Committee on Community
Affairs

1 A bill to be entitled

2 An act relating to growth management; amending

3 s. 380.06, F.S.; providing for the state land

4 planning agency to determine the amount of

5 development that remains to be built in certain

6 circumstances; specifying certain requirements

7 for a development order; revising the

8 circumstances in which a local government may

9 issue permits for development subsequent to the

10 buildout date; revising the definition of an

11 essentially built-out development; revising the

12 criteria under which a proposed change

13 constitutes a substantial deviation; clarifying

14 the criteria under which the extension of a

15 buildout date is presumed to create a

16 substantial deviation; requiring notice of any

17 change to certain set-aside areas be submitted

18 to the local government; requiring that notice

19 of certain changes be given to the state land

20 planning agency, regional planning agency, and

21 local government; requiring 45 days' notice to

22 specified entities and publication of a public

23 notice for certain proposed changes; requiring

24 that a memorandum of notice of certain changes

25 be filed with the clerk of court; revising the

26 requirement for further

27 development-of-regional-impact review of a

28 proposed change; requiring the state land

29 planning agency to initiate rulemaking to

30 revise the development-of-regional-impact

31 application of development approval form;

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1 revising the statutory exemptions from
2 development-of-regional-impact review for
3 certain facilities; providing statutory
4 exemptions for the development of certain
5 facilities; providing that the impacts from an
6 exempt use that will be part of a larger
7 project be included in the
8 development-of-regional-impact review of the
9 larger project; amending s. 380.0651, F.S.;
10 revising the statewide guidelines and standards
11 for development-of-regional-impact review of
12 certain types of developments; allowing the
13 state land planning agency to consider the
14 impacts of independent developments of regional
15 impact cumulatively under certain
16 circumstances; amending s. 380.07, F.S.;
17 eliminating the appeal of development orders
18 within a development of regional impact to the
19 Florida Land and Water Adjudicatory Commission;
20 amending s. 380.115, F.S.; providing that a
21 change in a development-of-regional-impact
22 guideline and standard does not abridge or
23 modify any vested right or duty under a
24 development order; providing a process for the
25 rescission of a development order by the local
26 government in certain circumstances; providing
27 an exemption for certain applications for
28 development approval and notices of proposed
29 changes; amending s. 342.07, F.S.; adding
30 recreational activities as an important state
31 interest; including public lodging

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1 establishments within the definition of the
 2 term "recreational and commercial working
 3 waterfront"; amending s. 380.06, F.S.;
 4 prohibiting a local government from requiring
 5 transportation facilities to be in place within
 6 a shorter timeframe than otherwise required;
 7 prohibiting a local government from approving a
 8 rezoning except by a majority vote; providing
 9 an effective date.

10

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

12

13 Section 1. Paragraphs (a) and (i) of subsection (4)
 14 and subsections (15), (19), and (24) of section 380.06,
 15 Florida Statutes, are amended, and subsection (28) is added to
 16 that section, to read:

17

380.06 Developments of regional impact.--

18

(4) BINDING LETTER.--

19

(a) If any developer is in doubt whether his or her

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proposed development must undergo

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development-of-regional-impact review under the guidelines and

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standards, whether his or her rights have vested pursuant to

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subsection (20), or whether a proposed substantial change to a

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development of regional impact concerning which rights had

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previously vested pursuant to subsection (20) would divest

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such rights, the developer may request a determination from

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the state land planning agency. The developer or the

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appropriate local government having jurisdiction may request

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that the state land planning agency determine whether the

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amount of development that remains to be built in an approved

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development of regional impact meets the criteria of (15)(g)3.

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1 (i) In response to an inquiry from a developer or the
2 appropriate local government having jurisdiction, the state
3 land planning agency may issue an informal determination in
4 the form of a clearance letter as to whether a development is
5 required to undergo development-of-regional-impact review, or
6 whether the amount of development that remains to be built in
7 an approved development of regional impact meets the criteria
8 of (15)(g)3. A clearance letter may be based solely on the
9 information provided by the developer, and the state land
10 planning agency is not required to conduct an investigation of
11 that information. If any material information provided by the
12 developer is incomplete or inaccurate, the clearance letter is
13 not binding upon the state land planning agency. A clearance
14 letter does not constitute final agency action.

15 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

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

19 (b) When possible, local governments shall issue
20 development orders concurrently with any other local permits
21 or development approvals that may be applicable to the
22 proposed development.

23 (c) The development order shall include findings of
24 fact and conclusions of law consistent with subsections (13)
25 and (14). The development order:

26 1. Shall specify the monitoring procedures and the
27 local official responsible for assuring compliance by the
28 developer with the development order.

29 2. Shall establish compliance dates for the
30 development order, including a deadline for commencing
31 physical development and for compliance with conditions of

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1 approval or phasing requirements, and shall include a buildout
2 ~~termination~~ date that reasonably reflects the time anticipated
3 ~~required~~ to complete the development.

4 3. Shall establish a date until which the local
5 government agrees that the approved development of regional
6 impact shall not be subject to downzoning, unit density
7 reduction, or intensity reduction, unless the local government
8 can demonstrate that substantial changes in the conditions
9 underlying the approval of the development order have occurred
10 or the development order was based on substantially inaccurate
11 information provided by the developer or that the change is
12 clearly established by local government to be essential to the
13 public health, safety, or welfare. The date established
14 pursuant to this subparagraph shall be no sooner than the
15 buildout date of the project.

16 4. Shall specify the requirements for the biennial
17 report designated under subsection (18), including the date of
18 submission, parties to whom the report is submitted, and
19 contents of the report, based upon the rules adopted by the
20 state land planning agency. Such rules shall specify the
21 scope of any additional local requirements that may be
22 necessary for the report.

23 5. May specify the types of changes to the development
24 which shall require submission for a substantial deviation
25 determination or a notice of proposed change under subsection
26 (19).

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

28 (d) Conditions of a development order that require a
29 developer to contribute land for a public facility or
30 construct, expand, or pay for land acquisition or construction
31 or expansion of a public facility, or portion thereof, shall

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1 meet the following criteria:

2 1. The need to construct new facilities or add to the
3 present system of public facilities must be reasonably
4 attributable to the proposed development.

5 2. Any contribution of funds, land, or public
6 facilities required from the developer shall be comparable to
7 the amount of funds, land, or public facilities that the state
8 or the local government would reasonably expect to expend or
9 provide, based on projected costs of comparable projects, to
10 mitigate the impacts reasonably attributable to the proposed
11 development.

12 3. Any funds or lands contributed must be expressly
13 designated and used to mitigate impacts reasonably
14 attributable to the proposed development.

15 4. Construction or expansion of a public facility by a
16 nongovernmental developer as a condition of a development
17 order to mitigate the impacts reasonably attributable to the
18 proposed development is not subject to competitive bidding or
19 competitive negotiation for selection of a contractor or
20 design professional for any part of the construction or design
21 ~~unless required by the local government that issues the~~
22 ~~development order.~~

23 (e)1. ~~Effective July 1, 1986,~~ A local government shall
24 not include, as a development order condition for a
25 development of regional impact, any requirement that a
26 developer contribute or pay for land acquisition or
27 construction or expansion of public facilities or portions
28 thereof unless the local government has enacted a local
29 ordinance which requires other development not subject to this
30 section to contribute its proportionate share of the funds,
31 land, or public facilities necessary to accommodate any

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1 impacts having a rational nexus to the proposed development,
2 and the need to construct new facilities or add to the present
3 system of public facilities must be reasonably attributable to
4 the proposed development.

5 2. A local government shall not approve a development
6 of regional impact that does not make adequate provision for
7 the public facilities needed to accommodate the impacts of the
8 proposed development unless the local government includes in
9 the development order a commitment by the local government to
10 provide these facilities consistently with the development
11 schedule approved in the development order; however, a local
12 government's failure to meet the requirements of subparagraph
13 1. and this subparagraph shall not preclude the issuance of a
14 development order where adequate provision is made by the
15 developer for the public facilities needed to accommodate the
16 impacts of the proposed development. Any funds or lands
17 contributed by a developer must be expressly designated and
18 used to accommodate impacts reasonably attributable to the
19 proposed development.

20 3. The Department of Community Affairs and other state
21 and regional agencies involved in the administration and
22 implementation of this act shall cooperate and work with units
23 of local government in preparing and adopting local impact fee
24 and other contribution ordinances.

25 (f) Notice of the adoption of a development order or
26 the subsequent amendments to an adopted development order
27 shall be recorded by the developer, in accordance with s.
28 28.222, with the clerk of the circuit court for each county in
29 which the development is located. The notice shall include a
30 legal description of the property covered by the order and
31 shall state which unit of local government adopted the

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1 development order, the date of adoption, the date of adoption
 2 of any amendments to the development order, the location where
 3 the adopted order with any amendments may be examined, and
 4 that the development order constitutes a land development
 5 regulation applicable to the property. The recording of this
 6 notice shall not constitute a lien, cloud, or encumbrance on
 7 real property, or actual or constructive notice of any such
 8 lien, cloud, or encumbrance. This paragraph applies only to
 9 developments initially approved under this section after July
 10 1, 1980.

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

14 1. The proposed development has been evaluated
 15 cumulatively with existing development under the substantial
 16 deviation provisions of subsection (19) subsequent to the
 17 termination or expiration date;

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

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

29 ~~4.3-~~ The project has been determined to be an
 30 essentially built-out development of regional impact through
 31 an agreement executed by the developer, the state land

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1 planning agency, and the local government, in accordance with
 2 s. 380.032, which will establish the terms and conditions
 3 under which the development may be continued. If the project
 4 is determined to be essentially built out ~~built-out~~,
 5 development may proceed pursuant to the s. 380.032 agreement
 6 after the termination or expiration date contained in the
 7 development order without further
 8 development-of-regional-impact review subject to the local
 9 government comprehensive plan and land development regulations
 10 or subject to a modified development-of-regional-impact
 11 analysis. As used in this paragraph, an "essentially
 12 built-out" development of regional impact means:

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

16 b.(I) The amount of development that remains to be
 17 built is less than the substantial deviation threshold
 18 specified in paragraph (19)(b) for each individual land use
 19 category, or, for a multiuse development, the sum total of all
 20 unbuilt land uses as a percentage of the applicable
 21 substantial deviation threshold is equal to or less than 100
 22 percent; or

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

27
 28 In addition to the requirements of subparagraphs 3. and 4.,
 29 the single-family residential portions of a development may be
 30 considered "essentially built out" if all of the
 31 infrastructure and horizontal development have been completed,

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1 at least 50 percent of the dwelling units have been completed,
 2 and more than 80 percent of the lots have been conveyed to
 3 third-party individual lot owners or to individual builders
 4 who own no more than 40 lots at the time of the determination.

5 (h) If the property is annexed by another local
 6 jurisdiction, the annexing jurisdiction shall adopt a new
 7 development order that incorporates all previous rights and
 8 obligations specified in the prior development order.

9 (19) SUBSTANTIAL DEVIATIONS.--

10 (a) Any proposed change to a previously approved
 11 development which creates a reasonable likelihood of
 12 additional regional impact, or any type of regional impact
 13 created by the change not previously reviewed by the regional
 14 planning agency, shall constitute a substantial deviation and
 15 shall cause the proposed change ~~development~~ to be subject to
 16 further development-of-regional-impact review. There are a
 17 variety of reasons why a developer may wish to propose changes
 18 to an approved development of regional impact, including
 19 changed market conditions. The procedures set forth in this
 20 subsection are for that purpose.

21 (b) Any proposed change to a previously approved
 22 development of regional impact or development order condition
 23 which, either individually or cumulatively with other changes,
 24 exceeds any of the following criteria shall constitute a
 25 substantial deviation and shall cause the development to be
 26 subject to further development-of-regional-impact review
 27 without the necessity for a finding of same by the local
 28 government:

29 1. An increase in the number of parking spaces at an
 30 attraction or recreational facility by 10 5 percent or 330 ~~300~~
 31 spaces, whichever is greater, or an increase in the number of

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1 spectators that may be accommodated at such a facility by 10 5
 2 percent or 1,100 ~~1,000~~ spectators, whichever is greater.

3 2. A new runway, a new terminal facility, a 25-percent
 4 lengthening of an existing runway, or a 25-percent increase in
 5 the number of gates of an existing terminal, but only if the
 6 increase adds at least three additional gates.

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

9 ~~3.4.~~ An increase in industrial development area by 10
 10 5 percent or 35 ~~32~~ acres, whichever is greater.

11 ~~4.5.~~ An increase in the average annual acreage mined
 12 by 10 5 percent or 11 ~~10~~ acres, whichever is greater, or an
 13 increase in the average daily water consumption by a mining
 14 operation by 10 5 percent or 330,000 ~~300,000~~ gallons,
 15 whichever is greater. An increase in the size of the mine by
 16 10 5 percent or 825 ~~750~~ acres, whichever is less. An increase
 17 in the size of a heavy mineral mine as defined in s.

18 378.403(7) will only constitute a substantial deviation if the
 19 average annual acreage mined is more than 550 ~~500~~ acres and
 20 consumes more than 3.3 ~~3~~ million gallons of water per day.

21 ~~5.6.~~ An increase in land area for office development
 22 by 10 5 percent or an increase of gross floor area of office
 23 development by 10 5 percent or 66,000 ~~60,000~~ gross square
 24 feet, whichever is greater.

25 6. An increase of development at a marina of 10
 26 percent of wet storage or for 30 watercraft slips, whichever
 27 is greater, or 20 percent of wet storage or 60 watercraft
 28 slips in an area identified by a local government in a boat
 29 facility siting plan as an appropriate site for additional
 30 marina development, whichever is greater.

31 ~~7. An increase in the storage capacity for chemical or~~

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1 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or~~
 2 ~~7 million pounds, whichever is greater.~~

3 ~~8. An increase of development at a waterport of wet~~
 4 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
 5 ~~wet/dry storage for 60 watercraft in an area identified in the~~
 6 ~~state marina siting plan as an appropriate site for additional~~
 7 ~~waterport development or a 5-percent increase in watercraft~~
 8 ~~storage capacity, whichever is greater.~~

9 ~~7.9.~~ An increase in the number of dwelling units by 10
 10 5 percent or 55 ~~50~~ dwelling units, whichever is greater.

11 8. An increase in the number of dwelling units by 15
 12 percent or 100 units, whichever is greater, provided that 20
 13 percent of the increase in the number of dwelling units is
 14 dedicated to the construction of workforce housing. For
 15 purposes of this subparagraph, the term "workforce housing"
 16 means housing that is affordable to a person who earns less
 17 than 120 percent of the area median income.

18 ~~9.10.~~ An increase in commercial development by 55,000
 19 ~~50,000~~ square feet of gross floor area or of parking spaces
 20 provided for customers for 330 ~~300~~ cars or a 10-percent
 21 ~~5-percent~~ increase of either of these, whichever is greater.

22 ~~10.11.~~ An increase in hotel or motel rooms ~~facility~~
 23 ~~units~~ by 10 5 percent or 83 rooms ~~75 units~~, whichever is
 24 greater.

25 ~~11.12.~~ An increase in a recreational vehicle park area
 26 by 10 5 percent or 110 ~~100~~ vehicle spaces, whichever is less.

27 ~~12.13.~~ A decrease in the area set aside for open space
 28 of 5 percent or 20 acres, whichever is less.

29 ~~13.14.~~ A proposed increase to an approved multiuse
 30 development of regional impact where the sum of the increases
 31 of each land use as a percentage of the applicable substantial

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1 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
 2 percentage of any decrease in the amount of open space shall
 3 be treated as an increase for purposes of determining when 110
 4 ~~100~~ percent has been reached or exceeded.

5 ~~14.15.~~ A 15-percent increase in the number of external
 6 vehicle trips generated by the development above that which
 7 was projected during the original
 8 development-of-regional-impact review.

9 ~~15.16.~~ Any change which would result in development of
 10 any area which was specifically set aside in the application
 11 for development approval or in the development order for
 12 preservation or special protection of endangered or threatened
 13 plants or animals designated as endangered, threatened, or
 14 species of special concern and their habitat, primary dunes,
 15 or archaeological and historical sites designated as
 16 significant by the Division of Historical Resources of the
 17 Department of State. The ~~further~~ refinement of such areas ~~by~~
 18 ~~survey~~ shall be considered under sub-subparagraph (e)2.j.
 19 ~~(e)5.b.~~

20
 21 The substantial deviation numerical standards in subparagraphs
 22 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.,~~ excluding
 23 residential uses, and in subparagraph 14. ~~15.,~~ are increased
 24 by 100 percent for a project certified under s. 403.973 which
 25 creates jobs and meets criteria established by the Office of
 26 Tourism, Trade, and Economic Development as to its impact on
 27 an area's economy, employment, and prevailing wage and skill
 28 levels. The substantial deviation numerical standards in
 29 subparagraphs 3., 5., 7., 8., 9., 10., 13., and 14. ~~4., 6.,~~
 30 ~~9., 10., 11., and 14.~~ are increased by 50 percent for a
 31 project located wholly within an urban infill and

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1 redevelopment area designated on the applicable adopted local
2 comprehensive plan future land use map and not located within
3 the coastal high hazard area.

4 (c) An extension of the date of buildout of a
5 development, or any phase thereof, by more than 7 ~~or more~~
6 years shall be presumed to create a substantial deviation
7 subject to further development-of-regional-impact review. An
8 extension of the date of buildout, or any phase thereof, of
9 more than 5 years ~~or more~~ but less than 7 years shall be
10 presumed not to create a substantial deviation. The extension
11 of the date of buildout of an areawide development of regional
12 impact by more than 5 years but less than 10 years is presumed
13 not to create a substantial deviation. These presumptions may
14 be rebutted by clear and convincing evidence at the public
15 hearing held by the local government. An extension of 5 years
16 or less ~~than 5 years~~ is not a substantial deviation. For the
17 purpose of calculating when a buildout or phase, ~~or~~
18 ~~termination~~ date has been exceeded, the time shall be tolled
19 during the pendency of administrative or judicial proceedings
20 relating to development permits. Any extension of the buildout
21 date of a project or a phase thereof shall automatically
22 extend the commencement date of the project, the termination
23 date of the development order, the expiration date of the
24 development of regional impact, and the phases thereof if
25 applicable by a like period of time.

26 (d) A change in the plan of development of an approved
27 development of regional impact resulting from requirements
28 imposed by the Department of Environmental Protection or any
29 water management district created by s. 373.069 or any of
30 their successor agencies or by any appropriate federal
31 regulatory agency shall be submitted to the local government

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1 pursuant to this subsection. The change shall be presumed not
 2 to create a substantial deviation subject to further
 3 development-of-regional-impact review. The presumption may be
 4 rebutted by clear and convincing evidence at the public
 5 hearing held by the local government.

6 (e)1. Except for a development order rendered pursuant
 7 to subsection (22) or subsection (25), a proposed change to a
 8 development order that individually or cumulatively with any
 9 previous change is less than any numerical criterion contained
 10 in subparagraphs (b)1.-15. and does not exceed any other
 11 criterion, or that involves an extension of the buildout date
 12 of a development, or any phase thereof, of less than 5 years
 13 is not subject to the public hearing requirements of
 14 subparagraph (f)3., and is not subject to a determination
 15 pursuant to subparagraph (f)5. Notice of the proposed change
 16 shall be made to the regional planning council and the state
 17 land planning agency. Such notice shall include a description
 18 of previous individual changes made to the development,
 19 including changes previously approved by the local government,
 20 and shall include appropriate amendments to the development
 21 order.

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

24 a. Changes in the name of the project, developer,
 25 owner, or monitoring official.

26 b. Changes to a setback that do not affect noise
 27 buffers, environmental protection or mitigation areas, or
 28 archaeological or historical resources.

29 c. Changes to minimum lot sizes.

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

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1 e. Changes to the building design or orientation that
 2 stay approximately within the approved area designated for
 3 such building and parking lot, and which do not affect
 4 historical buildings designated as significant by the Division
 5 of Historical Resources of the Department of State.

6 f. Changes to increase the acreage in the development,
 7 provided that no development is proposed on the acreage to be
 8 added.

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

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

14 i. Any renovation or redevelopment of development
 15 within a previously approved development of regional impact
 16 which does not change land use or increase density or
 17 intensity of use.

18 j. Changes that modify boundaries described in
 19 subparagraph (b)15. due to science-based refinement of such
 20 areas by survey, by habitat evaluation, by other recognized
 21 assessment methodology, or by an environmental assessment.

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

27
 28 This subsection does not require a development order amendment
 29 for any change listed in sub-subparagraphs a.-k., but shall,
 30 prior to implementation of those changes, require 45 days'
 31 notice with the appropriate documentation to the state land

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1 planning agency, the regional planning agency, and the local
 2 government, and publication of a public notice that meets the
 3 local government's criteria for a notice of proposed change.
 4 If the state land planning agency, the regional planning
 5 agency, or the local government objects within 45 days after
 6 publication of the public notice, the change shall require a
 7 notice of proposed change and shall be presumed not to be a
 8 substantial deviation. In addition, a memorandum of the
 9 notification of the changed notice shall be filed with the
 10 clerk of the circuit court along with a legal description of
 11 the affected development of regional impact. If a subsequent
 12 change requiring a notice of proposed change is made to the
 13 development of regional impact, modifications to the
 14 development of regional impact made in all prior notices must
 15 be reflected as amendments to the development order memorandum
 16 ~~a. j. unless such issue is addressed either in the existing~~
 17 ~~development order or in the application for development~~
 18 ~~approval, but, in the case of the application, only if, and in~~
 19 ~~the manner in which, the application is incorporated in the~~
 20 ~~development order.~~

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

27 4. Any submittal of a proposed change to a previously
 28 approved development shall include a description of individual
 29 changes previously made to the development, including changes
 30 previously approved by the local government. The local
 31 government shall consider the previous and current proposed

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1 changes in deciding whether such changes cumulatively
2 constitute a substantial deviation requiring further
3 development-of-regional-impact review.

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

8 a. A change proposed for 15 percent or more of the
9 acreage to a land use not previously approved in the
10 development order. Changes of less than 15percent shall be
11 presumed not to create a substantial deviation.

12 ~~b. Except for the types of uses listed in subparagraph~~
13 ~~(b)16., any change which would result in the development of~~
14 ~~any area which was specifically set aside in the application~~
15 ~~for development approval or in the development order for~~
16 ~~preservation, buffers, or special protection, including~~
17 ~~habitat for plant and animal species, archaeological and~~
18 ~~historical sites, dunes, and other special areas.~~

19 ~~b.c.~~ Notwithstanding any provision of paragraph (b) to
20 the contrary, a proposed change consisting of simultaneous
21 increases and decreases of at least two of the uses within an
22 authorized multiuse development of regional impact which was
23 originally approved with three or more uses specified in s.
24 380.0651(3)(c), (d), (f), and (g) and residential use.

25 (f)1. The state land planning agency shall establish
26 by rule standard forms for submittal of proposed changes to a
27 previously approved development of regional impact which may
28 require further development-of-regional-impact review. At a
29 minimum, the standard form shall require the developer to
30 provide the precise language that the developer proposes to
31 delete or add as an amendment to the development order.

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1 2. The developer shall submit, simultaneously, to the
2 local government, the regional planning agency, and the state
3 land planning agency the request for approval of a proposed
4 change.

5 3. No sooner than 30 days but no later than 45 days
6 after submittal by the developer to the local government, the
7 state land planning agency, and the appropriate regional
8 planning agency, the local government shall give 15 days'
9 notice and schedule a public hearing to consider the change
10 that the developer asserts does not create a substantial
11 deviation. This public hearing shall be held within 60 ~~90~~ days
12 after submittal of the proposed changes, unless that time is
13 extended by the developer.

14 4. The appropriate regional planning agency or the
15 state land planning agency shall review the proposed change
16 and, no later than 45 days after submittal by the developer of
17 the proposed change, unless that time is extended by the
18 developer, and prior to the public hearing at which the
19 proposed change is to be considered, shall advise the local
20 government in writing whether it objects to the proposed
21 change, shall specify the reasons for its objection, if any,
22 and shall provide a copy to the developer.

23 5. At the public hearing, the local government shall
24 determine whether the proposed change requires further
25 development-of-regional-impact review. The provisions of
26 paragraphs (a) and (e), the thresholds set forth in paragraph
27 (b), and the presumptions set forth in paragraphs (c) and (d)
28 and subparagraph (e)3. shall be applicable in determining
29 whether further development-of-regional-impact review is
30 required.

31 6. If the local government determines that the

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1 proposed change does not require further
2 development-of-regional-impact review and is otherwise
3 approved, or if the proposed change is not subject to a
4 hearing and determination pursuant to subparagraphs 3. and 5.
5 and is otherwise approved, the local government shall issue an
6 amendment to the development order incorporating the approved
7 change and conditions of approval relating to the change. The
8 decision of the local government to approve, with or without
9 conditions, or to deny the proposed change that the developer
10 asserts does not require further review shall be subject to
11 the appeal provisions of s. 380.07. However, the state land
12 planning agency may not appeal the local government decision
13 if it did not comply with subparagraph 4. The state land
14 planning agency may not appeal a change to a development order
15 made pursuant to subparagraph (e)1. or subparagraph (e)2. for
16 developments of regional impact approved after January 1,
17 1980, unless the change would result in a significant impact
18 to a regionally significant archaeological, historical, or
19 natural resource not previously identified in the original
20 development-of-regional-impact review.

21 (g) If a proposed change requires further
22 development-of-regional-impact review pursuant to this
23 section, the review shall be conducted subject to the
24 following additional conditions:

25 1. The development-of-regional-impact review conducted
26 by the appropriate regional planning agency shall address only
27 those issues raised by the proposed change except as provided
28 in subparagraph 2.

29 2. The regional planning agency shall consider, and
30 the local government shall determine whether to approve,
31 approve with conditions, or deny the proposed change as it

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1 relates to the entire development. If the local government
2 determines that the proposed change, as it relates to the
3 entire development, is unacceptable, the local government
4 shall deny the change.

5 3. If the local government determines that the
6 proposed change, ~~as it relates to the entire development,~~
7 should be approved, any new conditions in the amendment to the
8 development order issued by the local government shall address
9 only those issues raised by the proposed change and require
10 mitigation only for the individual and cumulative impacts of
11 the proposed change.

12 4. Development within the previously approved
13 development of regional impact may continue, as approved,
14 during the development-of-regional-impact review in those
15 portions of the development which are not directly affected by
16 the proposed change.

17 (h) When further development-of-regional-impact review
18 is required because a substantial deviation has been
19 determined or admitted by the developer, the amendment to the
20 development order issued by the local government shall be
21 consistent with the requirements of subsection (15) and shall
22 be subject to the hearing and appeal provisions of s. 380.07.
23 The state land planning agency or the appropriate regional
24 planning agency need not participate at the local hearing in
25 order to appeal a local government development order issued
26 pursuant to this paragraph.

27 (24) STATUTORY EXEMPTIONS.--

28 (a) Any proposed hospital ~~which has a designed~~
29 ~~capacity of not more than 100 beds~~ is exempt from the
30 provisions of this section.

31 (b) Any proposed electrical transmission line or

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1 electrical power plant is exempt from the provisions of this
 2 section, ~~except any steam or solar electrical generating~~
 3 ~~facility of less than 50 megawatts in capacity attached to a~~
 4 ~~development of regional impact.~~

5 (c) Any proposed addition to an existing sports
 6 facility complex is exempt from the provisions of this section
 7 if the addition meets the following characteristics:

8 1. It would not operate concurrently with the
 9 scheduled hours of operation of the existing facility.

10 2. Its seating capacity would be no more than 75
 11 percent of the capacity of the existing facility.

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

14
 15 This exemption does not apply to any pari-mutuel facility.

16 (d) Any proposed addition or cumulative additions
 17 subsequent to July 1, 1988, to an existing sports facility
 18 complex owned by a state university is exempt if the increased
 19 seating capacity of the complex is no more than 30 percent of
 20 the capacity of the existing facility.

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

27 (f) Any increase in the seating capacity of an
 28 existing sports facility having a permanent seating capacity
 29 of at least 50,000 spectators is exempt from the provisions of
 30 this section, provided that such an increase does not increase
 31 permanent seating capacity by more than 5 percent per year and

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1 not to exceed a total of 10 percent in any 5-year period, and
 2 provided that the sports facility notifies the appropriate
 3 local government within which the facility is located of the
 4 increase at least 6 months prior to the initial use of the
 5 increased seating, in order to permit the appropriate local
 6 government to develop a traffic management plan for the
 7 traffic generated by the increase. Any traffic management
 8 plan shall be consistent with the local comprehensive plan,
 9 the regional policy plan, and the state comprehensive plan.

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

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

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

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

24 2. The local government having jurisdiction of the
 25 sports facility includes in the development order or
 26 development permit approving such expansion under this
 27 paragraph a finding of fact that the proposed expansion is
 28 consistent with the transportation, water, sewer and
 29 stormwater drainage provisions of the approved local
 30 comprehensive plan and local land development regulations
 31 relating to those provisions.

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Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

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

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section, if the facility is

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1 consistent with a local comprehensive plan that is in
 2 compliance with s. 163.3177 or is consistent with a
 3 comprehensive port master plan that is in compliance with s.
 4 163.3178.

5 (j) Any renovation or redevelopment within the same
 6 land parcel which does not change land use or increase density
 7 or intensity of use.

8 (k)1. Any waterport or marina development is exempt
 9 from the provisions of this section if the relevant county or
 10 municipality has adopted a boating facility siting plan or
 11 policy, which includes applicable criteria, considering such
 12 factors as natural resources, manatee protection needs, and
 13 recreation and economic demands ~~as generally outlined in the~~
 14 ~~Bureau of Protected Species Management Boat Facility Siting~~
 15 ~~Guide, dated August 2000,~~ into the coastal management or land
 16 use element of its comprehensive plan. The adoption of boating
 17 facility siting plans or policies into the comprehensive plan
 18 is exempt from the provisions of s. 163.3187(1). Any waterport
 19 or marina development within the municipalities or counties
 20 with boating facility siting plans or policies that meet the
 21 above criteria, ~~adopted prior to April 1, 2002,~~ are exempt
 22 from the provisions of this section, when their boating
 23 facility siting plan or policy is adopted as part of the
 24 relevant local government's comprehensive plan.

25 2. ~~Within 6 months of the effective date of this law,~~
 26 The Department of Community Affairs, in conjunction with the
 27 Department of Environmental Protection and the Florida Fish
 28 and Wildlife Conservation Commission, shall provide technical
 29 assistance and guidelines, including model plans, policies and
 30 criteria to local governments for the development of their
 31 siting plans.

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1 (1) Any proposed development within an urban service
2 boundary established under s. 163.3177(14) is exempt from the
3 provisions of this section if the local government having
4 jurisdiction over the area where the development is proposed
5 has adopted the urban service boundary, ~~and~~ and has entered into a
6 binding agreement with ~~adjacent~~ jurisdictions that would be
7 impacted and with the Department of Transportation regarding
8 the mitigation of impacts on state and regional transportation
9 facilities, and has adopted a proportionate share methodology
10 pursuant to s. 163.3180(16).

11 (m) Any proposed development within a rural land
12 stewardship area created under s. 163.3177(11)(d) is exempt
13 from the provisions of this section if the local government
14 that has adopted the rural land stewardship area has entered
15 into a binding agreement with jurisdictions that would be
16 impacted and the Department of Transportation regarding the
17 mitigation of impacts on state and regional transportation
18 facilities, and has adopted a proportionate share methodology
19 pursuant to s. 163.3180(16).

20 (n) Any proposed development or redevelopment within
21 an area designated as an urban infill and redevelopment area
22 under s. 163.2517 is exempt from ~~the provisions of this~~
23 section if the local government has entered into a binding
24 agreement with jurisdictions that would be impacted and the
25 Department of Transportation regarding the mitigation of
26 impacts on state and regional transportation facilities, and
27 has adopted a proportionate share methodology pursuant to s.
28 163.3180(16).

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

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

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

5 (r) Any development identified in an airport master
6 plan and adopted into the comprehensive plan pursuant to s.
7 163.3177(6)(k) is exempt from this section.

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

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

14
15 If a use is exempt from review as a development of regional
16 impact under paragraphs (a)-(t) but will be part of a larger
17 project that is subject to review as a development of regional
18 impact, the impact of the exempt use must be included in the
19 review of the larger project.

20 (28) PARTIAL STATUTORY EXEMPTIONS.--

21 (a) If the binding agreement referenced under
22 paragraph (24)(1) for urban service boundaries is not entered
23 into within 12 months after establishment of the urban service
24 boundary, the development-of-regional-impact review for
25 projects within the urban service boundary must address
26 transportation impacts only.

27 (b) If the binding agreement referenced under
28 paragraph (24)(n) for designated urban infill and
29 redevelopment areas is not entered into within 12 months after
30 the designation of the area or July 1, 2007, whichever occurs
31 later, the development-of-regional-impact review for projects

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1 within the urban infill and redevelopment area must address
2 transportation impacts only.

3 (c) A local government that does not wish to enter
4 into a binding agreement or that is unable to agree on the
5 terms of the agreement referenced under paragraph (24)(l) or
6 paragraph (24)(n) shall provide written notification to the
7 state land planning agency of the failure to enter into a
8 binding agreement within the 12-month period referenced in
9 paragraphs (a) and (b). Following the notification of the
10 state land planning agency, the development-of-regional-impact
11 review for projects within the urban service boundary under
12 paragraph (24)(l) or for an urban infill and redevelopment
13 area under paragraph (24)(n) must address transportation
14 impacts only.

15 Section 2. Paragraphs (d), (e), (k), and (l) of
16 subsection (3) and paragraph (c) of subsection (4) of section
17 380.0651, Florida Statutes, are amended to read:

18 380.0651 Statewide guidelines and standards.--

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

23 (d) Office development.--Any proposed office building
24 or park operated under common ownership, development plan, or
25 management that:

26 1. Encompasses 300,000 or more square feet of gross
27 floor area; or

28 2. Encompasses more than 600,000 square feet of gross
29 floor area in a county with a population greater than 500,000
30 and only in a geographic area specifically designated as
31 highly suitable for increased threshold intensity in the

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1 approved local comprehensive plan ~~and in the strategic~~
 2 ~~regional policy plan.~~

3 (e) Marinas and port facilities.--The proposed
 4 construction of any waterport or marina is required to undergo
 5 development-of-regional-impact review if it is, ~~except one~~
 6 designed for:

7 1.a. The wet storage or mooring of more ~~fewer~~ than 150
 8 watercraft used ~~exclusively~~ for sport, pleasure, or commercial
 9 fishing;~~7~~ or

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

12 ~~b.c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~
 13 than 150 watercraft on or adjacent to an inland freshwater
 14 lake except Lake Okeechobee or any lake that ~~which~~ has been
 15 designated an Outstanding Florida Water, ~~or~~

16 ~~d. The wet or dry storage or mooring of fewer than 50~~
 17 ~~watercraft of 40 feet in length or less of any type or~~
 18 ~~purpose.~~

19
 20 The numeric thresholds contained in this subparagraph shall be
 21 doubled for proposed marina developers who enter into a
 22 binding commitment with the local government to set aside at
 23 least 15 percent of the wet storage or moorings for public use
 24 or rental.

25 2. The subthreshold exceptions to this paragraph's
 26 requirements for development-of-regional-impact review do
 27 ~~shall~~ not apply to any waterport or marina facility located
 28 within or which serves physical development located within a
 29 coastal barrier resource unit on an unbridged barrier island
 30 designated pursuant to 16 U.S.C. s. 3501.

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1 In addition to the foregoing, for projects for which no
2 environmental resource permit or sovereign submerged land
3 lease is required, the Department of Environmental Protection
4 must determine in writing that a proposed marina in excess of
5 75 ~~10~~ slips or storage spaces or a combination of the two is
6 located so that it will not adversely impact Outstanding
7 Florida Waters or Class II waters and will not contribute boat
8 traffic in a manner that will have an adverse impact on an
9 area known to be, or likely to be, frequented by manatees. If
10 the Department of Environmental Protection fails to issue its
11 determination within 45 days after ~~of~~ receipt of a formal
12 written request, it has waived its authority to make such
13 determination. The Department of Environmental Protection
14 determination shall constitute final agency action pursuant to
15 chapter 120.

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

19 ~~3. Any proposed marina development with both wet and~~
20 ~~dry mooring or storage used exclusively for sport, pleasure,~~
21 ~~or commercial fishing, where the sum of percentages of the~~
22 ~~applicable wet and dry mooring or storage thresholds equals~~
23 ~~100 percent. This threshold is in addition to, and does not~~
24 ~~preclude, a development from being required to undergo~~
25 ~~development-of-regional-impact review under sub-subparagraphs~~
26 ~~1.a. and b. and subparagraph 2.~~

27 (k) The applicable guidelines for residential
28 development and the residential component for multiuse
29 development shall be increased by 20 percent where the
30 developer demonstrates that at least 15 percent of the
31 residential dwelling units will be dedicated to workforce

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1 housing. For purposes of this subparagraph, the term
 2 "workforce housing" means housing that is affordable to a
 3 person who earns less than 120 percent of the area median
 4 income.

5 ~~(1)(*)~~ Schools.--

6 1. The proposed construction of any public, private,
 7 or proprietary postsecondary educational campus which provides
 8 for a design population of more than 5,000 full-time
 9 equivalent students, or the proposed physical expansion of any
 10 public, private, or proprietary postsecondary educational
 11 campus having such a design population that would increase the
 12 population by at least 20 percent of the design population.

13 2. As used in this paragraph, "full-time equivalent
 14 student" means enrollment for 15 or more quarter hours during
 15 a single academic semester. In career centers or other
 16 institutions which do not employ semester hours or quarter
 17 hours in accounting for student participation, enrollment for
 18 18 contact hours shall be considered equivalent to one quarter
 19 hour, and enrollment for 27 contact hours shall be considered
 20 equivalent to one semester hour.

21 3. This paragraph does not apply to institutions which
 22 are the subject of a campus master plan adopted by the
 23 university board of trustees pursuant to s. 1013.30.

24 (4) Two or more developments, represented by their
 25 owners or developers to be separate developments, shall be
 26 aggregated and treated as a single development under this
 27 chapter when they are determined to be part of a unified plan
 28 of development and are physically proximate to one other.

29 (c) Aggregation is not applicable when the following
 30 circumstances and provisions of this chapter are applicable:

31 1. Developments which are otherwise subject to

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1 aggregation with a development of regional impact which has
 2 received approval through the issuance of a final development
 3 order shall not be aggregated with the approved development of
 4 regional impact. However, nothing contained in this
 5 subparagraph shall preclude the state land planning agency
 6 from evaluating an allegedly separate development as a
 7 substantial deviation pursuant to s. 380.06(19) or as an
 8 independent development of regional impact.

9 2. Two or more developments, each of which is
 10 independently a development of regional impact that has or
 11 will obtain a development order pursuant to s. 380.06.

12 3. Completion of any development that has been vested
 13 pursuant to s. 380.05 or s. 380.06, including vested rights
 14 arising out of agreements entered into with the state land
 15 planning agency for purposes of resolving vested rights
 16 issues. Development-of-regional-impact review of additions to
 17 vested developments of regional impact shall not include
 18 review of the impacts resulting from the vested portions of
 19 the development.

20 4. The developments sought to be aggregated were
 21 authorized to commence development prior to September 1, 1988,
 22 and could not have been required to be aggregated under the
 23 law existing prior to that date.

24 Section 3. Section 380.07, Florida Statutes, is
 25 amended to read:

26 380.07 Florida Land and Water Adjudicatory
 27 Commission.--

28 (1) There is hereby created the Florida Land and Water
 29 Adjudicatory Commission, which shall consist of the
 30 Administration Commission. The commission may adopt rules
 31 necessary to ensure compliance with the area of critical state

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1 concern program and the requirements for developments of
2 regional impact as set forth in this chapter.

3 (2) Whenever any local government issues any
4 development order in any area of critical state concern, or in
5 regard to any development of regional impact, copies of such
6 orders as prescribed by rule by the state land planning agency
7 shall be transmitted to the state land planning agency, the
8 regional planning agency, and the owner or developer of the
9 property affected by such order. The state land planning
10 agency shall adopt rules describing development order
11 rendition and effectiveness in designated areas of critical
12 state concern. Within 45 days after the order is rendered, the
13 owner, the developer, or the state land planning agency may
14 appeal the order to the Florida Land and Water Adjudicatory
15 Commission by filing a petition alleging that the development
16 order is not consistent with the provisions of this part
17 ~~notice of appeal with the commission~~. The appropriate regional
18 planning agency by vote at a regularly scheduled meeting may
19 recommend that the state land planning agency undertake an
20 appeal of a development-of-regional-impact development order.
21 Upon the request of an appropriate regional planning council,
22 affected local government, or any citizen, the state land
23 planning agency shall consider whether to appeal the order and
24 shall respond to the request within the 45-day appeal period.
25 ~~Any appeal taken by a regional planning agency between March~~
26 ~~1, 1993, and the effective date of this section may only be~~
27 ~~continued if the state land planning agency has also filed an~~
28 ~~appeal. Any appeal initiated by a regional planning agency on~~
29 ~~or before March 1, 1993, shall continue until completion of~~
30 ~~the appeal process and any subsequent appellate review, as if~~
31 ~~the regional planning agency were authorized to initiate the~~

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1 ~~appeal.~~

2 (3) Notwithstanding any other provision of law, an
 3 appeal of a development order by the state land planning
 4 agency under this section may include consistency of the
 5 development order with the local comprehensive plan. However,
 6 if a development order relating to a development of regional
 7 impact has been challenged in a proceeding under s. 163.3215
 8 and a party to the proceeding serves notice to the state land
 9 planning agency of the pending proceeding under s. 163.3215,
 10 the state land planning agency shall:

11 (a) Raise its consistency issues by intervening as a
 12 full party in the pending proceeding under s. 163.3215 within
 13 30 days after service of the notice; and

14 (b) Dismiss the consistency issues from the
 15 development order appeal.

16 (4) The appellant shall furnish a copy of the petition
 17 to the opposing party, as the case may be, and to the local
 18 government that issued the order. The filing of the petition
 19 stays the effectiveness of the order until after the
 20 completion of the appeal process.

21 ~~(5)~~ The 45-day appeal period for a development of
 22 regional impact within the jurisdiction of more than one local
 23 government shall not commence until after all the local
 24 governments having jurisdiction over the proposed development
 25 of regional impact have rendered their development orders.
 26 The appellant shall furnish a copy of the notice of appeal to
 27 the opposing party, as the case may be, and to the local
 28 government which issued the order. The filing of the notice
 29 of appeal shall stay the effectiveness of the order until
 30 after the completion of the appeal process.

31 ~~(6)~~ Prior to issuing an order, the Florida Land and

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1 Water Adjudicatory Commission shall hold a hearing pursuant to
2 the provisions of chapter 120. The commission shall encourage
3 the submission of appeals on the record made below in cases in
4 which the development order was issued after a full and
5 complete hearing before the local government or an agency
6 thereof.

7 ~~(7)(5)~~ The Florida Land and Water Adjudicatory
8 Commission shall issue a decision granting or denying
9 permission to develop pursuant to the standards of this
10 chapter and may attach conditions and restrictions to its
11 decisions.

12 ~~(6) If an appeal is filed with respect to any issues~~
13 ~~within the scope of a permitting program authorized by chapter~~
14 ~~161, chapter 373, or chapter 403 and for which a permit or~~
15 ~~conceptual review approval has been obtained prior to the~~
16 ~~issuance of a development order, any such issue shall be~~
17 ~~specifically identified in the notice of appeal which is filed~~
18 ~~pursuant to this section, together with other issues which~~
19 ~~constitute grounds for the appeal. The appeal may proceed with~~
20 ~~respect to issues within the scope of permitting programs for~~
21 ~~which a permit or conceptual review approval has been obtained~~
22 ~~prior to the issuance of a development order only after the~~
23 ~~commission determines by majority vote at a regularly~~
24 ~~scheduled commission meeting that statewide or regional~~
25 ~~interests may be adversely affected by the development. In~~
26 ~~making this determination, there shall be a rebuttable~~
27 ~~presumption that statewide and regional interests relating to~~
28 ~~issues within the scope of the permitting programs for which a~~
29 ~~permit or conceptual approval has been obtained are not~~
30 ~~adversely affected.~~

31 Section 4. Section 380.115, Florida Statutes, is

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1 amended to read:

2 380.115 Vested rights and duties; effect of size
3 reduction, changes in guidelines and standards ~~chs. 2002-20~~
4 ~~and 2002-296.--~~

5 (1) A change in a development-of-regional-impact
6 guideline and standard does not abridge ~~Nothing contained in~~
7 ~~this act abridges~~ or modify ~~modifies~~ any vested or other right
8 or any duty or obligation pursuant to any development order or
9 agreement that is applicable to a development of regional
10 impact ~~on the effective date of this act~~. A development that
11 has received a development-of-regional-impact development
12 order pursuant to s. 380.06, but is no longer required to
13 undergo development-of-regional-impact review by operation of
14 a change in the guidelines and standards or has reduced its
15 size below the thresholds in s. 380.0651 ~~of this act~~, shall be
16 governed by the following procedures:

17 (a) The development shall continue to be governed by
18 the development-of-regional-impact development order and may
19 be completed in reliance upon and pursuant to the development
20 order unless the developer or landowner has followed the
21 procedures for rescission in paragraph (b). The
22 development-of-regional-impact development order may be
23 enforced by the local government as provided by ss. 380.06(17)
24 and 380.11.

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

31 (2) A development with an application for development

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1 approval pending, ~~and determined sufficient~~ pursuant to s.
 2 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
 3 guidelines and standards ~~this act~~, or a notification of
 4 proposed change pending on the effective date of a change to
 5 the guidelines and standards ~~this act~~, may elect to continue
 6 such review pursuant to s. 380.06. At the conclusion of the
 7 pending review, including any appeals pursuant to s. 380.07,
 8 the resulting development order shall be governed by the
 9 provisions of subsection (1).

10 (3) A landowner that has filed an application for a
 11 development-of-regional-impact review prior to the adoption of
 12 an optional sector plan pursuant to s. 163.3245 may elect to
 13 have the application reviewed pursuant to s. 380.06,
 14 comprehensive plan provisions in force prior to adoption of
 15 the sector plan, and any requested comprehensive plan
 16 amendments that accompany the application.

17 Section 5. Section 342.07, Florida Statutes, is
 18 amended to read:

19 342.07 Recreational and commercial working
 20 waterfronts; legislative findings; definitions.--

21 (1) The Legislature recognizes that there is an
 22 important state interest in facilitating boating and other
 23 recreational access to the state's navigable waters. This
 24 access is vital to tourists and recreational users and the
 25 marine industry in the state, to maintaining or enhancing the
 26 \$57 billion economic impact of tourism and the \$14 billion
 27 economic impact of boating in the state annually, and to
 28 ensuring continued access to all residents and visitors to the
 29 navigable waters of the state. The Legislature recognizes that
 30 there is an important state interest in maintaining viable
 31 water-dependent support facilities, such as public lodging

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1 establishments and boat hauling and repairing and commercial
2 fishing facilities, and in maintaining the availability of
3 public access to the navigable waters of the state. The
4 Legislature further recognizes that the waterways of the state
5 are important for engaging in commerce and the transportation
6 of goods and people upon such waterways and that such commerce
7 and transportation is not feasible unless there is access to
8 and from the navigable waters of the state through
9 recreational and commercial working waterfronts.

10 (2) As used in this section, the term "recreational
11 and commercial working waterfront" means a parcel or parcels
12 of real property that provide access for water-dependent
13 commercial and recreational activities, including public
14 lodging establishments as defined in chapter 509, or provide
15 access for the public to the navigable waters of the state.
16 Recreational and commercial working waterfronts require direct
17 access to or a location on, over, or adjacent to a navigable
18 body of water. The term includes water-dependent facilities
19 that are open to the public and offer public access by vessels
20 to the waters of the state or that are support facilities for
21 recreational, commercial, research, or governmental vessels.
22 These facilities include docks, wharfs, lifts, wet and dry
23 marinas, boat ramps, boat hauling and repair facilities,
24 commercial fishing facilities, boat construction facilities,
25 and other support structures over the water. As used in this
26 section, the term "vessel" has the same meaning as in s.
27 327.02(37). Seaports are excluded from the definition.

28 Section 6. Paragraph (c) of subsection (2) of section
29 163.3180, Florida Statutes, is amended to read:

30 163.3180 Concurrency.--

31 (2)

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1 (c) Consistent with the public welfare, and except as
2 otherwise provided in this section, transportation facilities
3 needed to serve new development shall be in place or under
4 actual construction within 3 years after the local government
5 approves a building permit or its functional equivalent that
6 results in traffic generation. A local government may not
7 require these transportation facilities to be in place or
8 under actual construction within a shorter timeframe than the
9 3-year period.

10 Section 7. Notwithstanding any other provision of law,
11 charter, or ordinance, a local government may not approve an
12 application to rezone real property except by a majority vote
13 of the governing body of the local government.

14 Section 8. This act shall take effect July 1, 2006.
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