

1                                   A bill to be entitled  
 2       An act relating to developments of regional impact;  
 3       amending s. 163.3184, F.S.; requiring that  
 4       comprehensive plan amendments proposing certain  
 5       developments follow the state coordinated review  
 6       process; amending s. 380.06, F.S.; limiting the scope  
 7       of certain recommendations and comments by reviewing  
 8       agencies regarding proposed developments; revising  
 9       certain review criteria for reports and  
 10      recommendations on the regional impact of proposed  
 11      developments; requiring regional planning agency  
 12      reports to contain recommendations consistent with the  
 13      standards of state permitting agencies and water  
 14      management districts; providing that specified changes  
 15      to a development order are not substantial deviations;  
 16      providing an exemption from development-of-regional-  
 17      impact review for proposed developments that meet  
 18      specified criteria and are located in certain  
 19      jurisdictions; providing applicability; amending s.  
 20      380.115, F.S.; revising conditions under which a local  
 21      government is required to rescind a development-of-  
 22      regional-impact development order; providing an  
 23      effective date.

24  
 25    Be It Enacted by the Legislature of the State of Florida:

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 27           Section 1. Paragraph (c) of subsection (2) of section  
 28    163.3184, Florida Statutes, is amended to read:

29 | 163.3184 Process for adoption of comprehensive plan or  
 30 | plan amendment.—

31 | (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

32 | (c) Plan amendments that are in an area of critical state  
 33 | concern designated pursuant to s. 380.05; propose a rural land  
 34 | stewardship area pursuant to s. 163.3248; propose a sector plan  
 35 | pursuant to s. 163.3245; update a comprehensive plan based on an  
 36 | evaluation and appraisal pursuant to s. 163.3191; propose a  
 37 | development pursuant to s. 380.06(24)(x); or are new plans for  
 38 | newly incorporated municipalities adopted pursuant to s.  
 39 | 163.3167 shall follow the state coordinated review process in  
 40 | subsection (4).

41 | Section 2. Paragraph (a) of subsection (7), subsection  
 42 | (12), and paragraph (e) of subsection (19) of section 380.06,  
 43 | Florida Statutes, are amended, and paragraph (x) is added to  
 44 | subsection (24) of that section, to read:

45 | 380.06 Developments of regional impact.—

46 | (7) PREAPPLICATION PROCEDURES.—

47 | (a) Before filing an application for development approval,  
 48 | the developer shall contact the regional planning agency having  
 49 | ~~with~~ jurisdiction over the proposed development to arrange a  
 50 | preapplication conference. Upon the request of the developer or  
 51 | the regional planning agency, other affected state and regional  
 52 | agencies shall participate in this conference and shall identify  
 53 | the types of permits issued by the agencies, the level of  
 54 | information required, and the permit issuance procedures as  
 55 | applied to the proposed development. The levels of service  
 56 | required in the transportation methodology shall be the same

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57 | levels of service used to evaluate concurrency in accordance  
58 | with s. 163.3180. The regional planning agency shall provide the  
59 | developer information about the development-of-regional-impact  
60 | process and the use of preapplication conferences to identify  
61 | issues, coordinate appropriate state and local agency  
62 | requirements, and otherwise promote a proper and efficient  
63 | review of the proposed development. If an agreement is reached  
64 | regarding assumptions and methodology to be used in the  
65 | application for development approval, the reviewing agencies may  
66 | not subsequently object to those assumptions and methodologies  
67 | unless subsequent changes to the project or information obtained  
68 | during the review make those assumptions and methodologies  
69 | inappropriate. The reviewing agencies may make only  
70 | recommendations or comments regarding a proposed development  
71 | which are consistent with the statutes, rules, or adopted local  
72 | government ordinances that are applicable to developments in the  
73 | jurisdiction where the proposed development is located.

74 | (12) REGIONAL REPORTS.—

75 | (a) Within 50 days after receipt of the notice of public  
76 | hearing required in paragraph (11)(c), the regional planning  
77 | agency, if one has been designated for the area including the  
78 | local government, shall prepare and submit to the local  
79 | government a report and recommendations on the regional impact  
80 | of the proposed development. In preparing its report and  
81 | recommendations, the regional planning agency shall identify  
82 | regional issues based upon the following review criteria and  
83 | make recommendations to the local government on these regional  
84 | issues, specifically considering whether, and the extent to

85 which:

86 1. The development will have a favorable or unfavorable  
 87 impact on state or regional resources or facilities identified  
 88 in the applicable state or regional plans. As used in ~~For the~~  
 89 ~~purposes of~~ this subsection, the term "applicable state plan"  
 90 means the state comprehensive plan. As used in ~~For the purposes~~  
 91 ~~of~~ this subsection, the term "applicable regional plan" means an  
 92 ~~adopted comprehensive regional policy plan until the adoption of~~  
 93 ~~a strategic regional policy plan pursuant to s. 186.508, and~~  
 94 ~~thereafter~~ means an adopted strategic regional policy plan.

95 2. The development will significantly impact adjacent  
 96 jurisdictions. At the request of the appropriate local  
 97 government, regional planning agencies may also review and  
 98 comment upon issues that affect only the requesting local  
 99 government.

100 3. As one of the issues considered in the review in  
 101 subparagraphs 1. and 2., the development will favorably or  
 102 adversely affect the ability of people to find adequate housing  
 103 reasonably accessible to their places of employment if the  
 104 regional planning agency has adopted an affordable housing  
 105 policy as part of its strategic regional policy plan. The  
 106 determination should take into account information on factors  
 107 that are relevant to the availability of reasonably accessible  
 108 adequate housing. Adequate housing means housing that is  
 109 available for occupancy and that is not substandard.

110 (b) The regional planning agency report must contain  
 111 recommendations that are consistent with the standards required  
 112 by the applicable state permitting agencies or the water

113 management district.

114 (c)~~(b)~~ At the request of the regional planning agency,  
 115 other appropriate agencies shall review the proposed development  
 116 and shall prepare reports and recommendations on issues that are  
 117 clearly within the jurisdiction of those agencies. Such agency  
 118 reports shall become part of the regional planning agency  
 119 report; however, the regional planning agency may attach  
 120 dissenting views. When water management district and Department  
 121 of Environmental Protection permits have been issued pursuant to  
 122 chapter 373 or chapter 403, the regional planning council may  
 123 comment on the regional implications of the permits but may not  
 124 offer conflicting recommendations.

125 (d)~~(e)~~ The regional planning agency shall afford the  
 126 developer or any substantially affected party reasonable  
 127 opportunity to present evidence to the regional planning agency  
 128 head relating to the proposed regional agency report and  
 129 recommendations.

130 (e)~~(d)~~ If ~~When~~ the location of a proposed development  
 131 involves land within the boundaries of multiple regional  
 132 planning councils, the state land planning agency shall  
 133 designate a lead regional planning council. The lead regional  
 134 planning council shall prepare the regional report.

135 (19) SUBSTANTIAL DEVIATIONS.—

136 (e)1. Except for a development order rendered pursuant to  
 137 subsection (22) or subsection (25), a proposed change to a  
 138 development order which ~~that~~ individually or cumulatively with  
 139 any previous change is less than any numerical criterion  
 140 contained in subparagraphs (b)1.-10. and does not exceed any

141 other criterion, or which ~~that~~ involves an extension of the  
 142 buildout date of a development, or any phase thereof, of less  
 143 than 5 years is not subject to the public hearing requirements  
 144 of subparagraph (f)3., and is not subject to a determination  
 145 pursuant to subparagraph (f)5. Notice of the proposed change  
 146 shall be made to the regional planning council and the state  
 147 land planning agency. Such notice must ~~shall~~ include a  
 148 description of previous individual changes made to the  
 149 development, including changes previously approved by the local  
 150 government, and must ~~shall~~ include appropriate amendments to the  
 151 development order.

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

154 a. Changes in the name of the project, developer, owner,  
 155 or monitoring official.

156 b. Changes to a setback which ~~that~~ do not affect noise  
 157 buffers, environmental protection or mitigation areas, or  
 158 archaeological or historical resources.

159 c. Changes to minimum lot sizes.

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

162 e. Changes to the building design or orientation which  
 163 ~~that~~ stay approximately within the approved area designated for  
 164 such building and parking lot, and which do not affect  
 165 historical buildings designated as significant by the Division  
 166 of Historical Resources of the Department of State.

167 f. Changes to increase the acreage in the development, if  
 168 ~~provided that~~ no development is proposed on the acreage to be

169 added.

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

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

175 i. Any renovation or redevelopment of development within a  
 176 previously approved development of regional impact which does  
 177 not change land use or increase density or intensity of use.

178 j. Changes that modify boundaries and configuration of  
 179 areas described in subparagraph (b)11. due to science-based  
 180 refinement of such areas by survey, by habitat evaluation, by  
 181 other recognized assessment methodology, or by an environmental  
 182 assessment. In order for changes to qualify under this sub-  
 183 subparagraph, the survey, habitat evaluation, or assessment must  
 184 occur before ~~prior to~~ the time that a conservation easement  
 185 protecting such lands is recorded and must not result in any net  
 186 decrease in the total acreage of the lands specifically set  
 187 aside for permanent preservation in the final development order.

188 k. Changes that do not increase the number of external  
 189 peak hour trips and do not reduce open space and conserved areas  
 190 within the project except as otherwise permitted by sub-  
 191 subparagraph j.

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

197 impact.

198

199 This subsection does not require the filing of a notice of  
 200 proposed change but requires ~~shall require~~ an application to the  
 201 local government to amend the development order in accordance  
 202 with the local government's procedures for amendment of a  
 203 development order. In accordance with the local government's  
 204 procedures, including requirements for notice to the applicant  
 205 and the public, the local government shall either deny the  
 206 application for amendment or adopt an amendment to the  
 207 development order which approves the application with or without  
 208 conditions. Following adoption, the local government shall  
 209 render to the state land planning agency the amendment to the  
 210 development order. The state land planning agency may appeal,  
 211 pursuant to s. 380.07(3), the amendment to the development order  
 212 if the amendment involves sub-subparagraph g., sub-subparagraph  
 213 h., sub-subparagraph j., ~~or~~ sub-subparagraph k., or sub-  
 214 subparagraph l. and if the agency ~~it~~ believes that the change  
 215 creates a reasonable likelihood of new or additional regional  
 216 impacts.

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

222 4. Any submittal of a proposed change to a previously  
 223 approved development must ~~shall~~ include a description of  
 224 individual changes previously made to the development, including



225 | changes previously approved by the local government. The local  
 226 | government shall consider the previous and current proposed  
 227 | changes in deciding whether such changes cumulatively constitute  
 228 | a substantial deviation requiring further development-of-  
 229 | regional-impact review.

230 |         5. The following changes to an approved development of  
 231 | regional impact shall be presumed to create a substantial  
 232 | deviation. Such presumption may be rebutted by clear and  
 233 | convincing evidence.

234 |             a. A change proposed for 15 percent or more of the acreage  
 235 | to a land use not previously approved in the development order.  
 236 | Changes of less than 15 percent shall be presumed not to create  
 237 | a substantial deviation.

238 |             b. Notwithstanding any provision of paragraph (b) to the  
 239 | contrary, a proposed change consisting of simultaneous increases  
 240 | and decreases of at least two of the uses within an authorized  
 241 | multiuse development of regional impact which was originally  
 242 | approved with three or more uses specified in s. 380.0651(3)(c),  
 243 | (d), and (e) and residential use.

244 |         6. If a local government agrees to a proposed change, a  
 245 | change in the transportation proportionate share calculation and  
 246 | mitigation plan in an adopted development order as a result of  
 247 | recalculation of the proportionate share contribution meeting  
 248 | the requirements of s. 163.3180(5)(h) in effect as of the date  
 249 | of such change shall be presumed not to create a substantial  
 250 | deviation. For purposes of this subsection, the proposed change  
 251 | in the proportionate share calculation or mitigation plan may  
 252 | ~~shall~~ not be considered an additional regional transportation

253 impact.

254 (24) STATUTORY EXEMPTIONS.—

255 (x) Any proposed development that is located in a local

256 government jurisdiction that does not qualify for an exemption

257 based on the population and density criteria in s.

258 380.06(29) (a), that is approved as a comprehensive plan

259 amendment adopted pursuant to s. 163.3184(4), that qualifies for

260 an incentive program pursuant to chapter 288, and for which the

261 developer, the local government, and the Department of Economic

262 Opportunity agree in writing that the development-of-regional-

263 impact review process does not apply is exempt from this

264 section. This exemption does not apply to areas within the

265 boundary of any area of critical state concern designated

266 pursuant to s. 380.05, within the boundary of the Wekiva Study

267 Area as described in s. 369.316, or within 2 miles of the

268 boundary of the Everglades Protection Area as defined in s.

269 373.4592(2).

270

271 If a use is exempt from review as a development of regional

272 impact under paragraphs (a)-(u), but will be part of a larger

273 project that is subject to review as a development of regional

274 impact, the impact of the exempt use must be included in the

275 review of the larger project, unless such exempt use involves a

276 development of regional impact that includes a landowner,

277 tenant, or user that has entered into a funding agreement with

278 the Department of Economic Opportunity under the Innovation

279 Incentive Program and the agreement contemplates a state award

280 of at least \$50 million.

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

283 380.115 Vested rights and duties; effect of size  
 284 reduction, changes in guidelines and standards.—

285 (1) A change in a development-of-regional-impact guideline  
 286 and standard does not abridge or modify any vested or other  
 287 right or any duty or obligation pursuant to any development  
 288 order or agreement that is applicable to a development of  
 289 regional impact. A development that has received a development-  
 290 of-regional-impact development order pursuant to s. 380.06, but  
 291 is no longer required to undergo development-of-regional-impact  
 292 review by operation of a change in the guidelines and standards  
 293 or has reduced its size below the thresholds in s. 380.0651, or  
 294 a development that is exempt pursuant to s. 380.06(24) or (29)  
 295 ~~380.06(29)~~ shall be governed by the following procedures:

296 (a) The development shall continue to be governed by the  
 297 development-of-regional-impact development order and may be  
 298 completed in reliance upon and pursuant to the development order  
 299 unless the developer or landowner has followed the procedures  
 300 for rescission in paragraph (b). Any proposed changes to those  
 301 developments which continue to be governed by a development  
 302 order shall be approved pursuant to s. 380.06(19) as it existed  
 303 before ~~prior to~~ a change in the development-of-regional-impact  
 304 guidelines and standards, except that all percentage criteria  
 305 shall be doubled and all other criteria shall be increased by 10  
 306 percent. The development-of-regional-impact development order  
 307 may be enforced by the local government as provided by ss.  
 308 380.06(17) and 380.11.

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309 (b) If requested by the developer or landowner, the  
310 development-of-regional-impact development order shall be  
311 rescinded by the local government having jurisdiction upon a  
312 showing that all required mitigation related to the amount of  
313 development that existed on the date of rescission has been  
314 completed or will be completed under an existing permit or  
315 equivalent authorization issued by a governmental agency as  
316 defined in s. 380.031(6), provided such permit or authorization  
317 is subject to enforcement through administrative or judicial  
318 remedies.

319 Section 4. This act shall take effect July 1, 2012.