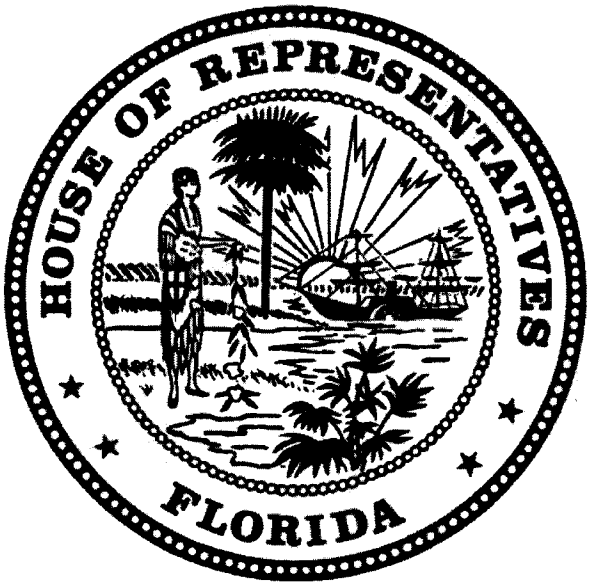

Commerce Committee

Thursday, February 8, 2018
10:00 AM – 12:00 PM
Webster Hall (212 Knott)

Meeting Packet

Richard Corcoran
Speaker

Jim Boyd
Chair

The Florida House of Representatives

Commerce Committee

Richard Corcoran
Speaker

Jim Boyd
Chair

Meeting Agenda

Thursday, February 8, 2018
10:00 am – 12:00 pm
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. **Consideration of the following bill(s):**

CS/HB 851 Lost or Abandoned Personal Property by Olszewski

CS/HB 1151 Developments of Regional Impact by La Rosa

HB 1285 Florida Business Corporation Act by Albritton

Consideration of the following proposed committee substitute:

PCS for CS/HB 1081 -- Essential Electric Utility Service

V. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 851 Lost or Abandoned Personal Property
SPONSOR(S): Agriculture & Property Rights Subcommittee; Olszewski
TIED BILLS: **IDEN./SIM. BILLS:** SB 1052

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	13 Y, 0 N, As CS	Thompson	Smith
2) Civil Justice & Claims Subcommittee	15 Y, 0 N	MacNamara	Bond
3) Commerce Committee		Thompson	Hamon K.W.H.

SUMMARY ANALYSIS

Current law governing the collection, storage and disposition of abandoned or lost tangible personal property located on public property sets forth procedures for persons and law enforcement to follow in order to locate the rightful owner. The law provides exceptions for personal property lost within certain facilities such as institutions of higher learning and public airports.

CS/HB 851 adds theme parks, entertainment complexes, zoos, museums, aquariums, public food service establishments, and public lodging establishments to the list of facilities that are exempt from the existing collection, storage and disposition guidelines if the operators comply with the proposed alternative disposition guidelines. Exempt facilities must hold their own found property for 30 days and if such property is unclaimed after 30 days, the property may be either disposed or donated to charity.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 705, F.S., governs the collection, storage and disposition of abandoned or lost tangible personal property located on public property. When a person finds lost or abandoned property they are required to report the finding to a law enforcement officer.[1] The officer must allow the finder of the property an opportunity to make a claim to recover the property if the rightful owner is not identified or located.[2] If a claim is made, current law directs the title of the unclaimed property to vest in the finder of the property after a 90-day custodial time period.[3] If a claim is not made, the title of the unclaimed property may vest in the law enforcement officer or agency, so long as specified notice requirements are met.[4] Failure to report a finding of lost or abandoned property to law enforcement is considered theft.[5]

The collection, storage and disposition provisions do not apply to the State University System or a public-use international airport.[6] The law provides separate disposal requirements for property found on the premises of the State University System,[7] Florida College System,[8] or public-use airports.[9] In addition, the law sets forth a procedure for handling the abandonment of animals by their owner.[10]

Effect of Proposed Changes

CS/HB 851 adds additional exceptions and disposition guidelines to the law governing the collection, storage and disposition of abandoned or lost tangible personal property. These guidelines are voluntary and contingent upon an election of compliance by the operator of the facility. The bill exempts the following facilities if the operator elects to comply with the proposed guidelines:

- Premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), F.S.;[11]
- Premises operated as a zoo, a museum, or an aquarium; and
- Premises of a public food service establishment or public lodging establishment licensed under part I of ch. 509, F.S.

The voluntary alternative disposition guidelines for these additional facilities requires persons controlling any premises located within the facility to deliver the lost or abandoned property to the facility operator, who must take charge of the property and make a record of the date it was found. If the property is not claimed by the owner within 30 days after it is found, or a longer period of time as deemed appropriate by the facility operator, the facility operator is required to either dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3)

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[1] s. 705.102(1), F.S.
[2] s. 705.102(2), F.S.
[3] *See* s. 705.103, F.S., providing specific procedural requirements for abandoned property and lost property before its disposition, donation, or sale.
[4] *Id.*
[5] s. 705.102(4), F.S.
[6] s. 705.17, F.S.
[7] s. 705.18, F.S.
[8] *Id.*
[9] ss. 705.182-184, F.S.
[10] s. 705.19, F.S.
[11] s. 509.013(9), F.S., defines "theme park or entertainment complex" as a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

of the Internal Revenue Code for sale or disposal as such institution deems appropriate. The rightful owner of the property is authorized to reclaim the property at any time before the disposition, sale, or donation of the property in accordance with these guidelines and the established policies and procedures of the facility operator.

B. SECTION DIRECTORY:

Section 1 Amends s. 705.17, F.S.; relating to exceptions.

Section 2 Creates s. 705.185, F.S.; relating to the disposal of personal property lost or abandoned on the premises of certain facilities.

Section 3 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Agriculture & Property Rights Subcommittee adopted one amendment to HB 851 and reported the bill favorably as a committee substitute. The amendment included public food service establishments and public lodging establishments to the list of facilities that may opt out of the provisions under ss. 705.101-106, F.S., relating to lost or abandoned property.

This analysis is drafted to the CS as reported favorably by the Agriculture & Property Rights Subcommittee.

A bill to be entitled

An act relating to lost or abandoned personal property; amending s. 705.17, F.S.; providing that certain provisions relating to lost or abandoned property do not apply to personal property lost or abandoned on the premises of certain complexes or facilities if certain conditions are met; creating s. 705.185, F.S.; providing for the disposal or donation of personal property lost or abandoned on the premises of certain complexes or facilities in certain circumstances; authorizing the rightful owner of such lost or abandoned personal property to reclaim such property before disposal or donation; providing an effective date.

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

Section 1. Section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—Sections ~~The provisions of ss.~~ 705.101-705.106 do not apply ~~of this chapter shall not be applied~~ to any personal property lost or abandoned on the campus of any institution in the State University System; ~~or~~ on premises owned or controlled by the operator of a public-use airport having regularly scheduled international passenger service; or, if the

owner or operator of the premises elects to comply with s. 705.185, on any premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), or operated as a zoo, a museum, or an aquarium or on any premises of a public food service establishment or public lodging establishment licensed under part I of chapter 509.

Section 2. Section 705.185, Florida Statutes, is created to read:

705.185 Disposal of personal property lost or abandoned on the premises of certain facilities.—Whenever any lost or abandoned personal property is found on any premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), or operated as a zoo, a museum, or an aquarium; or on any premises of a public food service establishment or public lodging establishment licensed under part I of chapter 509, if the owner or operator of the premises elects to comply with this section, any lost or abandoned property must be delivered to the owner or operator of the premises, who shall take charge of the property and make a record of the date such property was found. If the property is not claimed by the owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises must dispose of the property or donate it to a charitable institution that is exempt from federal income tax

under s. 501(c)(3) of the Internal Revenue Code for sale or disposal as that charitable institution deems appropriate. The rightful owner of the property may reclaim the property at any time before the disposition, sale, or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises.

Section 3. This act shall take effect July 1, 2018.

COMMERCE COMMITTEE

CS/HB 851 by Olszewski
Lost or Abandoned Personal Property

AMENDMENT SUMMARY
February 8, 2018

Amendment 1 by Rep. Olszewski (Strike-All): Clarifies that the definitions section applies to the new exceptions created in the bill and clarifies that the owner or operator of the premises may not sell the lost or abandoned property.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Committee/Subcommittee hearing bill: Commerce Committee

Representative Olszewski offered the following:

Amendment

Remove everything after the enacting clause and insert:

Section 1. Section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—

(1) The provisions of ss. 705.101-705.106 of this chapter shall not be applied to any personal property lost or abandoned on the campus of any institution in the State University System; ~~or~~ on premises owned or controlled by the operator of a public-use airport having regularly scheduled international passenger service.

(2) The provisions of ss. 705.1015-705.106 of this chapter shall not be applied if the owner or operator of the premises

elects to comply with s. 705.185, on any premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), or operated as a zoo, a museum, or an aquarium or on any premises of a public food service establishment or public lodging establishment licensed under part I of chapter 509.

Section 2. Section 705.185, Florida Statutes, is created to read:

705.185 Disposal of personal property lost or abandoned on the premises of certain facilities.—Whenever any lost or abandoned personal property is found on any premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), or operated as a zoo, a museum, or an aquarium; or on any premises of a public food service establishment or public lodging establishment licensed under part I of chapter 509, if the owner or operator of the premises elects to comply with this section, any lost or abandoned property must be delivered to the owner or operator of the premises, who shall take charge of the property and make a record of the date such property was found. If the property is not claimed by the owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or disposal as that charitable institution deems

appropriate. The rightful owner of the property may reclaim the property at any time before the disposition or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the premises.

Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1151 Developments of Regional Impact
SPONSOR(S): Agriculture & Property Rights Subcommittee; La Rosa
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1244

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	13 Y, 0 N, As CS	Smith	Smith
2) Local, Federal & Veterans Affairs Subcommittee	11 Y, 0 N	Darden	Miller
3) Commerce Committee		Smith	Hamon

SUMMARY ANALYSIS

Developments of Regional Impact (DRIs) are defined as "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county." Given their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan. The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs.

The bill eliminates state and regional review of existing Developments of Regional Impact (DRIs), eliminates the Florida Quality Development (FQD) program, and transfers the responsibility for implementation of, and amendments to, DRI and FQD development orders to the local governments in which the developments are located.

The bill preserves existing DRI letters, development orders, agreements, and vested rights.

The bill transfers the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review.

The bill deletes the criteria for determining when two or more developments must be "aggregated" and treated as a single development for the purposes of DRI review and deletes the substantial deviation criteria for development order changes.

The bill ends all DRI appeals to the Florida Land and Water Adjudicatory Commission except for decisions by local governments to abandon an approved DRI. However, no changes are made regarding the authority of the Commission to review development orders in areas of critical state concern.

The bill repeals the Department of Economic Opportunity's DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules related to DRI aggregation.

The bill has no fiscal impact on state or local funds.

The bill has an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Developments of Regional Impact (DRIs) are defined as "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county."[1] Given their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan.

The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs.[2] The program provided a process to identify regional impacts stemming from large developments and appropriate provisions to mitigate impacts on state and regional resources.

In 2015,[3] the Legislature amended the DRI law to provide that new proposed DRI-sized developments must be approved by comprehensive plan amendment in lieu of the review process in s. 380.06, F.S. The Legislature also amended the comprehensive plan law to require that such plan amendments to be reviewed under the state coordinated review process.[4]

Further changes were made to the DRI statutes in 2016 that, in part, specified a proposed development, or amendments thereto, otherwise requiring a DRI review, must follow the state coordinated review process if the development or amendment to the development requires an amendment to the comprehensive plan.[5]

Present Situation

Developments of Regional Impact Application and Review

Under current law, only existing DRIs that received local government development orders prior to July 1, 2015, and have not been abandoned or rescinded are subject to the provisions of s. 380.06, F.S., including the application and pre-application processes for reviewing proposed DRIs, binding letters, and clearance letters. Other DRI-sized projects must be reviewed and approved by the local government pursuant to a comprehensive plan amendment processed under the state coordinated review process.

Exemptions and Partial Exemptions

The DRI statute includes a number of exemptions and partial exemptions of projects from DRI review. The most recent and significant exemption was created in 2009 for Dense Urban Land Areas (DULAs) characterized by certain population densities.[6] The following list, although not comprehensive, illustrates the various statutory DRI program development exemptions:[7]

- Proposed hospital, electrical transmission line, or electrical power plant;

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[1] s. 380.06(1), F.S.
[2] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in Growth Management in Florida: Planning for Paradise, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins eds. 2005).
[3] Ch. 2015-30, Laws of Fla.
[4] s. 163.3184(2)(c), F.S.
[5] Ch. 2016-148, Laws of Fla.
[6] s. 380.06(29), F.S.
[7] s. 380.06(24), F.S.

- Proposed addition to existing sports facility complex meeting specific characteristics or conditions;
- Certain expansion to port harbors, port transportation facilities, and intermodal transportation facilities;
- Facilities for the storage of any petroleum product or any expansion of an existing facility;
- Renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use;
- Development within a rural land stewardship area created under s. 163.3248, F.S.; and
- Establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S.

Substantial Deviation

Any proposed change to a previously approved DRI development order that creates a reasonable likelihood of additional regional impact , or any type of regional impact created by the change not previously reviewed by the regional planning agency, constitutes a "substantial deviation" and requires such proposed change to be subject to further DRI review.[8] To determine whether a proposed change requires further DRI review, Florida law establishes the following:

- Certain threshold criteria beyond which a change constitutes a substantial deviation;[9]
- Certain changes in development that do not amount to a substantial deviation;[10]
- Scenarios in which a substantial deviation is presumed;[11] and
- Scenarios in which a change is presumed not to create a substantial deviation.[12]

In addition, Florida law directs the Department of Economic Opportunity (DEO) to establish by rule standard forms for submittal of proposed changes to a previously approved DRI development order.[13] At a minimum, the form must require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.[14] The developer must submit the form to the local government, the regional planning agency, and DEO.[15] Applicable review and notice deadlines are outlined in statute for regional planning agencies, DEO, and public hearings to consider the change. [16]

At the public hearing, the local government must determine whether the proposed change requires further DRI review based on the thresholds and standards set out in law.[17] The local government may also deny the proposed change based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the prosed change.[18]

If the local government determines that the proposed change does not require further DRI review and is otherwise approved, the local government must issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change.[19] If, however, the local government determines that the proposed change does require further DRI review, the local

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[8] s. 380.06(19)(a), F.S.
[9] s. 380.06(19)(b), F.S.
[10] s. 380.06(19)(e), F.S.
[11] s. 380.06(19)(c), F.S.
[12] s. 380.06(19)(d), F.S.
[13] s. 380.06(19)(f), F.S.
[14] *Id.*
[15] s. 380.06(19)(f)2., F.S.
[16] s. 380.06(19)(f)3-4., F.S.
[17] s. 380.06(19)(f)5., F.S.
[18] *Id.*
[19] s. 380.06(19)(f)6., F.S.

government must determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.[20]

The owner, developer, or state land planning agency are authorized to file an administrative challenge to the adopted development order or a development order amendment with the Florida Land and Water Adjudicatory Commission on the ground that it is not consistent with statutory requirements of ch. 380, F.S., and applicable rules governing DRIs.[21]

Aggregation of Developments

Section 380.0651, F.S., directs the Administration Commission[22] to adopt statewide guidelines and standards for developments to undergo DRI review. As part of such guidelines and standards, the law addresses when two or more developments must be "aggregated" and treated as a single development.[23]

Specifically, two or more developments must be aggregated when they are determined to be part of a unified plan of development and are physically proximate to one other.[24] Three of the following four criteria must be met to determine that a "unified plan of development" exists:

1. The same person has retained or shared control of the development, the same person has ownership or a significant legal interest in the developments, or the developments share common management controlling the form of physical development or disposition of parcels of the development;
2. There is reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort;
3. Master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to certain government bodies; and
4. There is a common advertising scheme or promotion plan in effect for the developments.[25]

However, despite the finding of physical proximity and the existence of a unified plan, Florida law also provides for circumstances in which aggregation is not applicable.[26]

Florida Quality Development Program

The Legislature created the Florida Quality Development (FQD) program to encourage development which has been thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire. The law intended for the developer to be provided, through a cooperative and coordinated effort, an expeditious and timely review by all agencies with jurisdiction over the proposed development.[27]

To be eligible for a designation under the Florida Quality Developments program the developer must comply with certain requirements if applicable to the site of qualified development, including, but not limited to:

- Donating or entering into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of certain types of lands such as wetlands, beaches, and lands with protected animals or plant species;

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[20] s. 380.06(19)(g), F.S.
[21] s. 380.07, F.S.
[22] The Administration Commission is part of the Executive Office and is composed of the Governor and Cabinet, s. 14.202, F.S.
[23] s. 380.0651(4), F.S.
[24] *Id.*
[25] s. 380.0651(4)(a), F.S.
[26] s. 380.0651(4)(c), F.S.
[27] s. 380.061(1), F.S.

- Downtown reuse or redevelopment program to rehabilitate a declining downtown area;
- Include open space, reaction areas, Florida-friendly landscaping and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project; and
- Design and construct the development in a manner consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.[28]

In 2002, DEO issued the last Florida Quality Development order. The department has not received any further development order requests since that time.[29]

Effect of Proposed Changes

The bill eliminates state and regional review of existing Developments of Regional Impact (DRIs) and transfers the responsibility for implementation of, and amendments to, DRI development orders to the local governments in which the developments are located.

The following existing letters, development orders, and agreements are preserved in the bill:
- Binding letters;
- Clearance letters issued by the state land planning agency as to whether a proposed development is subject to DRI review;
- Agreements with respect to an approved DRI previously classified as essentially built out;
- Capital contribution front-ending agreements between a local government and a developer as part of a DRI development order to reimburse the developer for voluntary contributions paid in excess of his or her fair share;
- Any previously granted extensions of time for DRI development orders;
- Agreements previously entered into by a developer, a regional planning agency, and a local government regarding a project that includes two or more DRIs; and
- Approvals of an authorized developer for an area wide DRI.

Upon request by the developer, the bill authorizes a local government to amend a binding letter of vested rights based on standards and procedures in the adopted local comprehensive plan or the adopted local land development code.

The bill provides that, notwithstanding any comprehensive plan or land development regulation, an amendment to a DRI development order may not alter the date until which the local government agrees that the DRI will not be subject to downsizing or density or intensity reductions.

If a local government rescinds a development order for a DRI, the bill authorizes the developer to record notice of the rescission.

The bill provides that, notwithstanding any comprehensive plan or land development regulation, the adoption of an amendment to a DRI development order does not diminish or otherwise alter any credits for a development order exaction or fee against impact fees, mobility fees, or exactions when based upon the developer's contribution of land or a public facility.

The bill removes the requirement for a developer to submit a report on the DRI to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies unless required to do so by the local government that has jurisdiction over the development.

Substantial deviation criteria for development order changes are deleted by the bill and replaced with the authorization for local governments to review proposed changes based on the standards and

[28] s. 380.061(3)(a), F.S.
[29] Department of Economic Opportunity, Agency Analysis of 2018 SB 1244, p. 3 (Dec. 22, 2017).

procedures in its adopted local comprehensive plan and local land development regulations including procedures for notice to the applicant and the public.

For the abandonment of a DRI, the bill provides that abandonment will be deemed to have occurred when the required notice is filed by the local government with the county clerk. If requested by the owner, developer, or local government, the DRI development order must be abandoned by the local government if all required mitigation related to the amount of development which existed on the date of abandonment has been or will be completed under an existing permit or authorization enforceable through an administrative or judicial remedy.

The bill transfers the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review.

The bill deletes the criteria for determining when two or more developments must be "aggregated" and treated as a single development for the purposes of DRI review.

The bill amends the DRI appeals process to the Florida Land and Water Adjudicatory Commission to include only appeals from decisions by local governments to abandon an approved DRI. However, no changes are made regarding the authority of the commission to review development orders in areas of critical state concern.

The Florida Quality Developments program of s. 380.061, F.S., is amended by the bill, ending the program and requiring local governments with a currently approved Florida Quality Development within its jurisdiction to set a public hearing and adopt a local development order to replace and supersede the development order adopted by the state land planning agency. Thereafter, the Florida Quality Development must follow the same procedures established for DRI-sized development projects.

The bill repeals the Department of Economic Opportunity's DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules related to DRI aggregation.

The bill makes various conforming and cross-reference changes.

The bill has an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1 Amends s. 380.06, F.S.; removing state and regional requirements relating to developments of regional impact.

Section 2 Amends s. 380.061, F.S.; deleting provisions relating to the Florida Quality Developments program; specifying the program only applies to previously approved developments in the program before the effective date; specifying a process for local governments to adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Developments.

Section 3 Amends s. 380.0651, F.S.; deleting provisions relating to the superseding of guidelines and standards adopted by the Administration Commission and the publishing of guidelines and standards; specifying exemptions and partial exemptions from development-of-regional-impact review; deleting provisions relating to circumstances where developments should be aggregated.

Section 4 Amends s. 380.07, F.S.; deleting Florida Land and Water Adjudicatory Commission requirements relating to developments of regional impact administrative challenges.

Section 5 Amends s. 380.115, F.S.; conforming provisions relating to vested rights and duties.

Section 6 Amends s. 125.68, F.S.; conforming a cross-reference relating to codification of ordinances.

Section 7 Amends s. 163.3245, F.S.; conforming cross-references and revising provisions relating to sector plans.

Section 8 Amends s. 163.3246, F.S.; conforming cross-references relating to local government comprehensive planning certification program.

Section 9 Amends s. 189.08, F.S.; conforming cross-references relating to special district public facilities report.

Section 10 Amends s. 190.005, F.S.; conforming cross-references relating to establishment of special district.

Section 11 Amends s. 190.012, F.S.; conforming cross-references relating to special district powers.

Section 12 Amends s. 252.363, F.S.; conforming cross-references relating to tolling and extension of permits and other authorizations.

Section 13 Amends s. 369.303, F.S.; conforming cross-references and the definition relating to "development of regional impact."

Section 14 Amends s. 369.307, F.S.; conforming cross-references relating to developments of regional impact in the Wekiva River Protection Area.

Section 15 Amends s. 373.236, F.S.; conforming a cross-reference relating to duration of water management district permits.

Section 16 Amends s. 373.414, F.S.; conforming cross-references relating to surface waters and wetlands.

Section 17 Amends s. 378.601, F.S.; making technical changes.

Section 18 Repeals s. 380.065, F.S.; relating to certification of local government review of development.

Section 19 Amends s. 380.11, F.S.; conforming cross-reference relating to enforcement provisions.

Section 20 Amends s. 403.524, F.S.; conforming cross-references relating to certification of transmission lines.

Section 21 Repeals Department DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules relating to DRI aggregation.

Section 22 Directs the Division of Law Revision and Information to replace the phrase "the effective date of this act" with the date the act takes effect.

Section 23 Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill eliminates the remaining responsibilities of DEO related to the review of DRI development order amendments and preparing FQD development order amendments. The time required for these functions has been minimal over the past few years according to the department.[30] Consequently, the bill should have a minimal fiscal impact on the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Agriculture & Property Rights Subcommittee adopted two amendments to HB 1151 and reported the bill favorably as a committee substitute. The amendments:

[30] Department of Economic Opportunity, Agency Analysis of 2018 SB 1244, p. 3 (Dec. 22, 2017).

- Transferred the DRI exemptions and partial exemptions from s. 380.06, F.S., to s. 380.0651, F.S., which contains the guidelines and standards for determining the size of a proposed development; and
- Retained the language in current law under which certain developments of regional impact proposed within a municipality designated as a rural area of opportunity and located within a county eligible to levy the Small County Surtax are exempt from DRI review.

This analysis is drafted to the CS as reported favorably by the Agriculture & Property Rights Subcommittee.

A bill to be entitled

An act relating to developments of regional impact; amending s. 380.06, F.S.; revising the statewide guidelines and standards for developments of regional impact; deleting criteria that the Administration Commission is required to consider in adopting its guidelines and standards; revising provisions relating to the application of guidelines and standards; revising provisions relating to variations and thresholds for such guidelines and standards; deleting provisions relating to the issuance of binding letters; specifying that previously issued letters remain valid unless previously expired; specifying the procedure for amending a binding letter of interpretation; specifying that previously issued clearance letters remain valid unless previously expired; deleting provisions relating to authorizations to develop, applications for approval of development, concurrent plan amendments, preapplication procedures, preliminary development agreements, conceptual agency review, application sufficiency, local notice, regional reports, and criteria for the approval of developments inside and outside areas of critical state concern; revising provisions relating to local government development

orders; specifying that amendments to a development order for an approved development may not alter the dates before which a development would be subject to downzoning, unit density reduction, or intensity reduction, except under certain conditions; removing a requirement that certain conditions of a development order meet specified criteria; specifying that construction of certain mitigation-of-impact facilities is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional; removing requirements relating to local government approval of developments of regional impact that do not meet certain requirements; removing a requirement that the Department of Economic Opportunity and other agencies cooperate in preparing certain ordinances; authorizing developers to record notice of certain rescinded development orders; specifying that certain agreements regarding developments that are essentially built out remain valid unless previously expired; deleting requirements for a local government to issue a permit for a development subsequent to the buildout date contained in the development order; specifying that amendments to development orders do not diminish or otherwise alter certain credits for a development order exaction

or fee against impact fees, mobility fees, or exactions; deleting a provision relating to the determination of certain credits for impact fees or extractions; deleting a provision exempting a nongovernmental developer from being required to competitively bid or negotiate construction or design of certain facilities except under certain circumstances; specifying that certain capital contribution front-ending agreements remain valid unless previously expired; deleting a provision relating to local monitoring; revising requirements for developers regarding reporting to local governments and specifying that such reports are not required unless required by a local government with jurisdiction over a development; revising the requirements and procedure for proposed changes to a previously approved development of regional impact and deleting rulemaking requirements relating to such procedure; revising provisions relating to the approval of such changes; specifying that certain extensions previously granted by statute are still valid and not subject to review or modification; deleting provisions relating to determinations as to whether a proposed change is a substantial deviation; deleting provisions relating to comprehensive

development-of-regional-impact applications and master plan development orders; specifying that certain agreements that include two or more developments of regional impact which were the subject of a comprehensive development-of-regional-impact application remain valid unless previously expired; deleting provisions relating to downtown development authorities; deleting provisions relating to adoption of rules by the state land planning agency; deleting statutory exemptions from development-of-regional-impact review; specifying that an approval of an authorized developer for an areawide development of regional impact remains valid unless previously expired; deleting provisions relating to areawide developments of regional impact; deleting an authorization for the state land planning agency to adopt rules relating to abandonment of developments of regional impact; requiring local governments to file a notice of abandonment under certain conditions; deleting an authorization for the state land planning agency to adopt a procedure for filing such notice; requiring a development-of-regional-impact development order to be abandoned by a local government under certain conditions; deleting a provision relating to abandonment of developments of regional impact in

certain high-hazard coastal areas; authorizing local governments to approve abandonment of development orders for an approved development under certain conditions; deleting a provision relating to rights, responsibilities, and obligations under a development order; deleting partial exemptions from development-of regional-impact review; deleting exemptions for dense urban land areas; specifying that proposed developments that exceed the statewide guidelines and standards and that are not otherwise exempt be approved by local governments instead of through specified development-of-regional-impact proceedings; amending s. 380.061, F.S.; specifying that the Florida Quality Developments program only applies to previously approved developments in the program before the effective date of the act; specifying a process for local governments to adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Developments; deleting program intent, eligibility requirements, rulemaking authorizations, and application and approval requirements and processes; deleting an appeals process and the Quality Developments Review Board; amending s. 380.0651, F.S.; deleting provisions relating to the superseding of

guidelines and standards adopted by the Administration Commission and the publishing of guidelines and standards by the Administration Commission; conforming a provision to changes made by the act; specifying exemptions and partial exemptions from development-of-regional-impact review; deleting provisions relating to determining whether there is a unified plan of development; deleting provisions relating to the circumstances where developments should be aggregated; deleting a provision relating to prospective application of certain provisions; deleting a provision authorizing state land planning agencies to enter into agreements for the joint planning, sharing, or use of specified public infrastructure, facilities, or services by developers; deleting an authorization for the state land planning agency to adopt rules; amending s. 380.07, F.S.; deleting an authorization for the Florida Land and Water Adjudicatory Commission to adopt rules regarding the requirements for developments of regional impact; revising when a local government must transmit a development order to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order; deleting a process for regional planning agencies to undertake appeals of

development-of-regional-impact development orders; revising a process for appealing development orders for consistency with a local comprehensive plan to be available only for developments in areas of critical state concern; deleting a procedure regarding certain challenges to development orders relating to developments of regional impact; amending s. 380.115, F.S.; deleting a provision relating to changes in development-of-regional-impact guidelines and standards and the impact of such changes on vested rights, duties, and obligations pursuant to any development order or agreement; requiring local governments to monitor and enforce development orders and prohibiting local governments from issuing permits, approvals, or extensions of services if a developer does not act in substantial compliance with an order; deleting provisions relating to changes in development of regional impact guidelines and standards and their impact on the development approval process; amending s. 125.68, F.S.; conforming a cross-reference; amending s. 163.3245, F.S.; conforming cross-references; conforming provisions to changes made by the act; revising the circumstances in which applicants who apply for master development approval for an entire planning area must remain subject to a

master development order; specifying an exception; deleting a provision relating to the level of review for applications for master development approval; amending s. 163.3246, F.S.; conforming provisions to changes made by the act; conforming cross-references; amending s. 189.08, F.S.; conforming a cross-reference; conforming a provision to changes made by the act; amending s. 190.005, F.S.; conforming cross-references; amending ss. 190.012 and 252.363, F.S.; conforming cross-references; amending s. 369.303, F.S.; conforming a provision to changes made by the act; amending ss. 369.307, 373.236, and 373.414, F.S.; conforming cross-references; amending s. 378.601, F.S.; conforming a provision to changes made by the act; repealing s. 380.065, F.S., relating to a process to allow local governments to request certification to review developments of regional impact that are located within their jurisdictions in lieu of the regional review requirements; amending ss. 380.11 and 403.524, F.S.; conforming cross-references; repealing specified rules regarding uniform review of developments of regional impact by the state land planning agency and regional planning agencies; repealing the rules adopted by the Administration Commission regarding whether two or more developments,

represented by their owners or developers to be separate developments, shall be aggregated; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(1) DEFINITION.—The term "development of regional impact," as used in this section, means any development that ~~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.

(2) STATEWIDE GUIDELINES AND STANDARDS.—

~~(a)~~ The statewide guidelines and standards and the exemptions specified in s. 380.0651 and the statewide guidelines and standards adopted by the Administration Commission and codified in chapter 28-24, Florida Administrative Code, must be ~~state land planning agency shall recommend to the Administration Commission specific statewide guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt statewide guidelines and standards to be~~ used in determining whether particular

developments are subject to the requirements of subsection (12) ~~shall undergo development-of-regional-impact review~~. The statewide guidelines and standards previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless ~~revised pursuant to this section or~~ superseded or repealed by statute ~~by other provisions of law~~.

~~(b) In adopting its guidelines and standards, the Administration Commission shall consider and shall be guided by:~~

~~1. The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.~~

~~2. The amount of pedestrian or vehicular traffic likely to be generated.~~

~~3. The number of persons likely to be residents, employees, or otherwise present.~~

~~4. The size of the site to be occupied.~~

~~5. The likelihood that additional or subsidiary development will be generated.~~

~~6. The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments.~~

~~7. The unique qualities of particular areas of the state.~~

~~(c) With regard to the changes in the guidelines and standards authorized pursuant to this act, in determining whether a proposed development must comply with the review~~

~~requirements of this section, the state land planning agency shall apply the guidelines and standards which were in effect when the developer received authorization to commence development from the local government. If a developer has not received authorization to commence development from the local government prior to the effective date of new or amended guidelines and standards, the new or amended guidelines and standards shall apply.~~

~~(d)~~ The statewide guidelines and standards shall be applied as follows:

(a)~~1. Fixed thresholds.~~

~~a.~~ A development that is below 100 percent of all numerical thresholds in the statewide guidelines and standards is not subject to subsection (12) ~~is not required to undergo development-of-regional-impact review~~.

(b)~~b.~~ A development that is at or above 100 ~~120~~ percent of any numerical threshold in the statewide guidelines and standards is subject to subsection (12) ~~shall be required to undergo development-of-regional-impact review~~.

~~c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Department of Economic Opportunity as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing or~~

~~wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(c) and (f) are not required to undergo development-of-regional-impact review.~~

~~2. Rebuttable presumption. It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.~~

~~(c) With respect to residential, hotel, motel, office, and retail developments, the applicable guidelines and standards shall be increased by 50 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163. With respect to multiuse developments, the applicable individual use guidelines and standards for residential, hotel, motel, office, and retail developments and multiuse guidelines and standards shall be increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163, if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. With respect to resort or convention hotel developments, the applicable guidelines and standards shall be increased by 150 percent in urban central business~~

~~districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163 and where the increase is specifically for a proposed resort or convention hotel located in a county with a population greater than 500,000 and the local government specifically designates that the proposed resort or convention hotel development will serve an existing convention center of more than 250,000 gross square feet built before July 1, 1992. The applicable guidelines and standards shall be increased by 150 percent for development in any area designated by the Governor as a rural area of opportunity pursuant to s. 288.0656 during the effectiveness of the designation.~~

~~(3) VARIATION OF THRESHOLDS IN STATEWIDE GUIDELINES AND STANDARDS.—The state land planning agency, a regional planning agency, or a local government may petition the Administration Commission to increase or decrease the numerical thresholds of any statewide guideline and standard. The state land planning agency or the regional planning agency may petition for an increase or decrease for a particular local government's jurisdiction or a part of a particular jurisdiction. A local government may petition for an increase or decrease within its jurisdiction or a part of its jurisdiction. A number of requests may be combined in a single petition.~~

~~(a) When a petition is filed, the state land planning agency shall have no more than 180 days to prepare and submit to~~

~~the Administration Commission a report and recommendations on the proposed variation. The report shall evaluate, and the Administration Commission shall consider, the following criteria:~~

~~1. Whether the local government has adopted and effectively implemented a comprehensive plan that reflects and implements the goals and objectives of an adopted state comprehensive plan.~~

~~2. Any applicable policies in an adopted strategic regional policy plan.~~

~~3. Whether the local government has adopted and effectively implemented both a comprehensive set of land development regulations, which regulations shall include a planned unit development ordinance, and a capital improvements plan that are consistent with the local government comprehensive plan.~~

~~4. Whether the local government has adopted and effectively implemented the authority and the fiscal mechanisms for requiring developers to meet development order conditions.~~

~~5. Whether the local government has adopted and effectively implemented and enforced satisfactory development review procedures.~~

~~(b) The affected regional planning agency, adjoining local governments, and the local government shall be given a reasonable opportunity to submit recommendations to the~~

~~Administration Commission regarding any such proposed variations.~~

~~(c) The Administration Commission shall have authority to increase or decrease a threshold in the statewide guidelines and standards up to 50 percent above or below the statewide presumptive threshold. The commission may from time to time reconsider changed thresholds and make additional variations as it deems necessary.~~

~~(d) The Administration Commission shall adopt rules setting forth the procedures for submission and review of petitions filed pursuant to this subsection.~~

~~(e) Variations to guidelines and standards adopted by the Administration Commission under this subsection shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved as submitted by general law, the revisions shall not become effective.~~

(3)~~(4)~~ BINDING LETTER.—

(a) Any binding letter previously issued to a developer by the state land planning agency as to ~~If any developer is in doubt~~ whether his or her proposed development must undergo development-of-regional-impact review ~~under the guidelines and standards~~, whether his or her rights have vested pursuant to subsection (8) ~~(20)~~, or whether a proposed substantial change to

a development of regional impact concerning which rights had previously vested pursuant to subsection (8) ~~(20)~~ would divest such rights, remains valid unless it expired on or before the effective date of this act ~~the developer may request a determination from the state land planning agency~~. ~~The developer or the appropriate local government having jurisdiction may request that the state land planning agency determine whether the amount of development that remains to be built in an approved development of regional impact meets the criteria of subparagraph (15)(g)3.~~

(b) Upon a request by the developer, a binding letter of interpretation regarding which rights had previously vested in a development of regional impact may be amended by the local government of jurisdiction, based on standards and procedures in the adopted local comprehensive plan or the adopted local land development code, to reflect a change to the plan of development and modification of vested rights, provided that any such amendment to a binding letter of vested rights must be consistent with s. 163.3167(5). Review of a request for an amendment to a binding letter of vested rights may not include a review of the impacts created by previously vested portions of the development ~~Unless a developer waives the requirements of this paragraph by agreeing to undergo development-of-regional-impact review pursuant to this section, the state land planning agency or local government with jurisdiction over the land on~~

~~which a development is proposed may require a developer to obtain a binding letter if the development is at a presumptive numerical threshold or up to 20 percent above a numerical threshold in the guidelines and standards.~~

~~(c) Any local government may petition the state land planning agency to require a developer of a development located in an adjacent jurisdiction to obtain a binding letter of interpretation. The petition shall contain facts to support a finding that the development as proposed is a development of regional impact. This paragraph shall not be construed to grant standing to the petitioning local government to initiate an administrative or judicial proceeding pursuant to this chapter.~~

~~(d) A request for a binding letter of interpretation shall be in writing and in such form and content as prescribed by the state land planning agency. Within 15 days of receiving an application for a binding letter of interpretation or a supplement to a pending application, the state land planning agency shall determine and notify the applicant whether the information in the application is sufficient to enable the agency to issue a binding letter or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the state land planning agency in writing that the information will not be supplied and the reasons therefor. If the applicant does not respond to the request for additional information within 120~~

~~days, the application for a binding letter of interpretation shall be deemed to be withdrawn. Within 35 days after acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development. A binding letter of interpretation issued by the state land planning agency shall bind all state, regional, and local agencies, as well as the developer.~~

~~(e) In determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (20) would divest such rights, the state land planning agency shall review the proposed change within the context of:~~

~~1. Criteria specified in paragraph (19)(b);~~

~~2. Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;~~

~~3. All rights and obligations arising out of the vested status of such development;~~

~~4. Permit conditions or requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and~~

~~5. Any regional impacts arising from the proposed change.~~

~~(f) If a proposed substantial change to a development of~~

~~regional impact concerning which rights had previously vested pursuant to subsection (20) would result in reduced regional impacts, the change shall not divest rights to complete the development pursuant to subsection (20). Furthermore, where all or a portion of the development of regional impact for which rights had previously vested pursuant to subsection (20) is demolished and reconstructed within the same approximate footprint of buildings and parking lots, so that any change in the size of the development does not exceed the criteria of paragraph (19)(b), such demolition and reconstruction shall not divest the rights which had vested.~~

(c) ~~(g)~~ Every binding letter determining that a proposed development is not a development of regional impact, but not including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:

1. Three years from October 1, 1985, for binding letters issued prior to the effective date of this act; or

2. Three years from the date of issuance of binding letters issued on or after October 1, 1985.

(d) ~~(h)~~ The expiration date of a binding letter begins~~, established pursuant to paragraph (g), shall begin~~ to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the state land planning agency, the local government of

jurisdiction, and the developer.

(e) ~~(i) In response to an inquiry from a developer or the appropriate local government having jurisdiction, the state land planning agency may issue~~ An informal determination by the state land planning agency, in the form of a clearance letter as to whether a development is required to undergo development-of-regional-impact review or whether the amount of development that remains to be built in an approved development of regional impact, remains valid unless it expired on or before the effective date of this act ~~meets the criteria of subparagraph (15)(g)3. A clearance letter may be based solely on the information provided by the developer, and the state land planning agency is not required to conduct an investigation of that information. If any material information provided by the developer is incomplete or inaccurate, the clearance letter is not binding upon the state land planning agency. A clearance letter does not constitute final agency action~~.

~~(5) AUTHORIZATION TO DEVELOP.~~

~~(a)1. A developer who is required to undergo development-of-regional-impact review may undertake a development of regional impact if the development has been approved under the requirements of this section.~~

~~2. If the land on which the development is proposed is within an area of critical state concern, the development must also be approved under the requirements of s. 380.05.~~

~~(b) State or regional agencies may inquire whether a proposed project is undergoing or will be required to undergo development-of-regional-impact review. If a project is undergoing or will be required to undergo development-of-regional-impact review, any state or regional permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, upon expiration of the time allowed for an administrative appeal of the development or upon final action following an administrative appeal or judicial review, whichever is later. However, if the application for development approval is not filed within 18 months after the issuance of the permit, the time of validity of the permit shall be considered to be from the date of issuance of the permit. If a project is required to obtain a binding letter under subsection (4), any state or regional agency permit necessary for the construction or operation of the project that is valid for 5 years or less shall take effect, and the period of time for which the permit is valid shall begin to run, only after the developer obtains a binding letter stating that the project is not required to undergo development-of-regional-impact review or after the developer obtains a development order pursuant to this section.~~

~~(c) Prior to the issuance of a final development order, the developer may elect to be bound by the rules adopted~~

~~pursuant to chapters 373 and 403 in effect when such development order is issued. The rules adopted pursuant to chapters 373 and 403 in effect at the time such development order is issued shall be applicable to all applications for permits pursuant to those chapters and which are necessary for and consistent with the development authorized in such development order, except that a later adopted rule shall be applicable to an application if:~~

~~1. The later adopted rule is determined by the rule-adopting agency to be essential to the public health, safety, or welfare;~~

~~2. The later adopted rule is adopted pursuant to s. 403.061(27);~~

~~3. The later adopted rule is being adopted pursuant to a subsequently enacted statutorily mandated program;~~

~~4. The later adopted rule is mandated in order for the state to maintain delegation of a federal program; or~~

~~5. The later adopted rule is required by state or federal law.~~

~~(d) The provision of day care service facilities in developments approved pursuant to this section is permissible but is not required.~~

~~Further, in order for any developer to apply for permits pursuant to this provision, the application must be filed within 5 years from the issuance of the final development order and the~~

~~permit shall not be effective for more than 8 years from the issuance of the final development order. Nothing in this paragraph shall be construed to alter or change any permitting agency's authority to approve permits or to determine applicable criteria for longer periods of time.~~

~~(6) APPLICATION FOR APPROVAL OF DEVELOPMENT; CONCURRENT PLAN AMENDMENTS.~~

~~(a) Prior to undertaking any development, a developer that is required to undergo development-of-regional-impact review shall file an application for development approval with the appropriate local government having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake a development of regional impact as required under this section.~~

~~(b) Any local government comprehensive plan amendments related to a proposed development of regional impact, including any changes proposed under subsection (19), may be initiated by a local planning agency or the developer and must be considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in s. 163.3184 and applicable local ordinances, without regard to local limits on the frequency of consideration of amendments to the local comprehensive plan. This paragraph does not require favorable consideration of a plan amendment~~

~~solely because it is related to a development of regional impact. The procedure for processing such comprehensive plan amendments is as follows:~~

~~1. If a developer seeks a comprehensive plan amendment related to a development of regional impact, the developer must so notify in writing the regional planning agency, the applicable local government, and the state land planning agency no later than the date of preapplication conference or the submission of the proposed change under subsection (19).~~

~~2. When filing the application for development approval or the proposed change, the developer must include a written request for comprehensive plan amendments that would be necessitated by the development-of-regional-impact approvals sought. That request must include data and analysis upon which the applicable local government can determine whether to transmit the comprehensive plan amendment pursuant to s. 163.3184.~~

~~3. The local government must advertise a public hearing on the transmittal within 30 days after filing the application for development approval or the proposed change and must make a determination on the transmittal within 60 days after the initial filing unless that time is extended by the developer.~~

~~4. If the local government approves the transmittal, procedures set forth in s. 163.3184 must be followed.~~

~~5. Notwithstanding subsection (11) or subsection (19), the~~

~~local government may not hold a public hearing on the application for development approval or the proposed change or on the comprehensive plan amendments sooner than 30 days after reviewing agency comments are due to the local government pursuant to s. 163.3184.~~

~~6. The local government must hear both the application for development approval or the proposed change and the comprehensive plan amendments at the same hearing. However, the local government must take action separately on the application for development approval or the proposed change and on the comprehensive plan amendments.~~

~~7. Thereafter, the appeal process for the local government development order must follow the provisions of s. 380.07, and the compliance process for the comprehensive plan amendments must follow the provisions of s. 163.3184.~~

~~(7) PREAPPLICATION PROCEDURES.~~

~~(a) Before filing an application for development approval, the developer shall contact the regional planning agency having jurisdiction over the proposed development to arrange a preapplication conference. Upon the request of the developer or the regional planning agency, other affected state and regional agencies shall participate in this conference and shall identify the types of permits issued by the agencies, the level of information required, and the permit issuance procedures as applied to the proposed development. The levels of service~~

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

~~(b) The regional planning agency shall establish by rule a procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage~~

~~unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.~~

~~(c) If the application for development approval is not submitted within 1 year after the date of the preapplication conference, the regional planning agency, the local government having jurisdiction, or the applicant may request that another preapplication conference be held.~~

~~(8) PRELIMINARY DEVELOPMENT AGREEMENTS.—~~

~~(a) A developer may enter into a written preliminary development agreement with the state land planning agency to allow a developer to proceed with a limited amount of the total proposed development, subject to all other governmental approvals and solely at the developer's own risk, prior to issuance of a final development order. All owners of the land in the total proposed development shall join the developer as parties to the agreement. Each agreement shall include and be subject to the following conditions:~~

~~1. The developer shall comply with the preapplication conference requirements pursuant to subsection (7) within 45 days after the execution of the agreement.~~

~~2. The developer shall file an application for development approval for the total proposed development within 3 months after execution of the agreement, unless the state land planning~~

~~agency agrees to a different time for good cause shown. Failure to timely file an application and to otherwise diligently proceed in good faith to obtain a final development order shall constitute a breach of the preliminary development agreement.~~

~~3. The agreement shall include maps and legal descriptions of both the preliminary development area and the total proposed development area and shall specifically describe the preliminary development in terms of magnitude and location. The area approved for preliminary development must be included in the application for development approval and shall be subject to the terms and conditions of the final development order.~~

~~4. The preliminary development shall be limited to lands that the state land planning agency agrees are suitable for development and shall only be allowed in areas where adequate public infrastructure exists to accommodate the preliminary development, when such development will utilize public infrastructure. The developer must also demonstrate that the preliminary development will not result in material adverse impacts to existing resources or existing or planned facilities.~~

~~5. The preliminary development agreement may allow development which is:~~

~~a. Less than 100 percent of any applicable threshold if the developer demonstrates that such development is consistent with subparagraph 4.; or~~

~~b. Less than 120 percent of any applicable threshold if~~

~~the developer demonstrates that such development is part of a proposed downtown development of regional impact specified in subsection (22) or part of any areawide development of regional impact specified in subsection (25) and that the development is consistent with subparagraph 4.~~

~~6. The developer and owners of the land may not claim vested rights, or assert equitable estoppel, arising from the agreement or any expenditures or actions taken in reliance on the agreement to continue with the total proposed development beyond the preliminary development. The agreement shall not entitle the developer to a final development order approving the total proposed development or to particular conditions in a final development order.~~

~~7. The agreement shall not prohibit the regional planning agency from reviewing or commenting on any regional issue that the regional agency determines should be included in the regional agency's report on the application for development approval.~~

~~8. The agreement shall include a disclosure by the developer and all the owners of the land in the total proposed development of all land or development within 5 miles of the total proposed development in which they have an interest and shall describe such interest.~~

~~9. In the event of a breach of the agreement or failure to comply with any condition of the agreement, or if the agreement~~

~~was based on materially inaccurate information, the state land planning agency may terminate the agreement or file suit to enforce the agreement as provided in this section and s. 380.11, including a suit to enjoin all development.~~

~~10. A notice of the preliminary development agreement shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement constitutes a land development regulation applicable to portions of the land covered by the agreement. The provisions of the agreement shall inure to the benefit of and be binding upon successors and assigns of the parties in the agreement.~~

~~11. Except for those agreements which authorize preliminary development for substantial deviations pursuant to subsection (19), a developer who no longer wishes to pursue a development of regional impact may propose to abandon any preliminary development agreement executed after January 1, 1985, including those pursuant to s. 380.032(3), provided at the time of abandonment:~~

~~a. A final development order under this section has been rendered that approves all of the development actually~~

~~constructed; or~~

~~b. The amount of development is less than 100 percent of all numerical thresholds of the guidelines and standards, and the state land planning agency determines in writing that the development to date is in compliance with all applicable local regulations and the terms and conditions of the preliminary development agreement and otherwise adequately mitigates for the impacts of the development to date.~~

~~In either event, when a developer proposes to abandon said agreement, the developer shall give written notice and state that he or she is no longer proposing a development of regional impact and provide adequate documentation that he or she has met the criteria for abandonment of the agreement to the state land planning agency. Within 30 days of receipt of adequate documentation of such notice, the state land planning agency shall make its determination as to whether or not the developer meets the criteria for abandonment. Once the state land planning agency determines that the developer meets the criteria for abandonment, the state land planning agency shall issue a notice of abandonment which shall be recorded by the developer in accordance with s. 28.222 with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located.~~

~~(b) The state land planning agency may enter into other~~

~~types of agreements to effectuate the provisions of this act as provided in s. 380.032.~~

~~(c) The provisions of this subsection shall also be available to a developer who chooses to seek development approval of a Florida Quality Development pursuant to s. 380.061.~~

~~(9) CONCEPTUAL AGENCY REVIEW.~~

~~(a)1. In order to facilitate the planning and preparation of permit applications for projects that undergo development-of-regional-impact review, and in order to coordinate the information required to issue such permits, a developer may elect to request conceptual agency review under this subsection either concurrently with development-of-regional-impact review and comprehensive plan amendments, if applicable, or subsequent to a preapplication conference held pursuant to subsection (7).~~

~~2. "Conceptual agency review" means general review of the proposed location, densities, intensity of use, character, and major design features of a proposed development required to undergo review under this section for the purpose of considering whether these aspects of the proposed development comply with the issuing agency's statutes and rules.~~

~~3. Conceptual agency review is a licensing action subject to chapter 120, and approval or denial constitutes final agency action, except that the 90-day time period specified in s. 120.60(1) shall be tolled for the agency when the affected~~

~~regional planning agency requests information from the developer pursuant to paragraph (10)(b). If proposed agency action on the conceptual approval is the subject of a proceeding under ss. 120.569 and 120.57, final agency action shall be conclusive as to any issues actually raised and adjudicated in the proceeding, and such issues may not be raised in any subsequent proceeding under ss. 120.569 and 120.57 on the proposed development by any parties to the prior proceeding.~~

~~4. A conceptual agency review approval shall be valid for up to 10 years, unless otherwise provided in a state or regional agency rule, and may be reviewed and reissued for additional periods of time under procedures established by the agency.~~

~~(b) The Department of Environmental Protection, each water management district, and each other state or regional agency that requires construction or operation permits shall establish by rule a set of procedures necessary for conceptual agency review for the following permitting activities within their respective regulatory jurisdictions:~~

~~1. The construction and operation of potential sources of water pollution, including industrial wastewater, domestic wastewater, and stormwater.~~

~~2. Dredging and filling activities.~~

~~3. The management and storage of surface waters.~~

~~4. The construction and operation of works of the district, only if a conceptual agency review approval is~~

~~requested under subparagraph 3.~~

~~Any state or regional agency may establish rules for conceptual agency review for any other permitting activities within its respective regulatory jurisdiction.~~

~~(c)1. Each agency participating in conceptual agency reviews shall determine and establish by rule its information and application requirements and furnish these requirements to the state land planning agency and to any developer seeking conceptual agency review under this subsection.~~

~~2. Each agency shall cooperate with the state land planning agency to standardize, to the extent possible, review procedures, data requirements, and data collection methodologies among all participating agencies, consistent with the requirements of the statutes that establish the permitting programs for each agency.~~

~~(d) At the conclusion of the conceptual agency review, the agency shall give notice of its proposed agency action as required by s. 120.60(3) and shall forward a copy of the notice to the appropriate regional planning council with a report setting out the agency's conclusions on potential development impacts and stating whether the agency intends to grant conceptual approval, with or without conditions, or to deny conceptual approval. If the agency intends to deny conceptual approval, the report shall state the reasons therefor. The~~

~~agency may require the developer to publish notice of proposed agency action in accordance with s. 403.815.~~

~~(e) An agency's decision to grant conceptual approval shall not relieve the developer of the requirement to obtain a permit and to meet the standards for issuance of a construction or operation permit or to meet the agency's information requirements for such a permit. Nevertheless, there shall be a rebuttable presumption that the developer is entitled to receive a construction or operation permit for an activity for which the agency granted conceptual review approval, to the extent that the project for which the applicant seeks a permit is in accordance with the conceptual approval and with the agency's standards and criteria for issuing a construction or operation permit. The agency may revoke or appropriately modify a valid conceptual approval if the agency shows:~~

~~1. That an applicant or his or her agent has submitted materially false or inaccurate information in the application for conceptual approval;~~

~~2. That the developer has violated a condition of the conceptual approval; or~~

~~3. That the development will cause a violation of the agency's applicable laws or rules.~~

~~(f) Nothing contained in this subsection shall modify or abridge the law of vested rights or estoppel.~~

~~(g) Nothing contained in this subsection shall be~~

~~construed to preclude an agency from adopting rules for conceptual review for developments which are not developments of regional impact.~~

~~(10) APPLICATION; SUFFICIENCY.~~

~~(a) When an application for development approval is filed with a local government, the developer shall also send copies of the application to the appropriate regional planning agency and the state land planning agency.~~

~~(b) If a regional planning agency determines that the application for development approval is insufficient for the agency to discharge its responsibilities under subsection (12), it shall provide in writing to the appropriate local government and the applicant a statement of any additional information desired within 30 days of the receipt of the application by the regional planning agency. The applicant may supply the information requested by the regional planning agency and shall communicate its intention to do so in writing to the appropriate local government and the regional planning agency within 5 working days of the receipt of the statement requesting such information, or the applicant shall notify the appropriate local government and the regional planning agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the regional planning agency shall review it and may request only that information needed to clarify the additional information or to answer new

~~questions raised by, or directly related to, the additional information. The regional planning agency may request additional information no more than twice, unless the developer waives this limitation. If an applicant does not provide the information requested by a regional planning agency within 120 days of its request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn.~~

~~(c) The regional planning agency shall notify the local government that a public hearing date may be set when the regional planning agency determines that the application is sufficient or when it receives notification from the developer that the additional requested information will not be supplied, as provided for in paragraph (b).~~

~~(11) LOCAL NOTICE.—Upon receipt of the sufficiency notification from the regional planning agency required by paragraph (10)(c), the appropriate local government shall give notice and hold a public hearing on the application in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such hearing proceedings shall be recorded by tape or a certified court reporter and made available for transcription at the expense of any interested party. When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the~~

~~developer, may hold a joint public hearing. The local government shall comply with the following additional requirements:~~

~~(a) The notice of public hearing shall state that the proposed development is undergoing a development-of-regional-impact review.~~

~~(b) The notice shall be published at least 60 days in advance of the hearing and shall specify where the information and reports on the development-of-regional-impact application may be reviewed.~~

~~(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, to any state or regional permitting agency participating in a conceptual agency review process under subsection (9), and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.~~

~~(d) A public hearing date shall be set by the appropriate local government at the next scheduled meeting. The public hearing shall be held no later than 90 days after issuance of notice by the regional planning agency that a public hearing may be set, unless an extension is requested by the applicant.~~

~~(12) REGIONAL REPORTS.~~

~~(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local~~

~~government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:~~

~~1. The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state or regional plans. As used in this subsection, the term "applicable state plan" means the state comprehensive plan. As used in this subsection, the term "applicable regional plan" means an adopted strategic regional policy plan.~~

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

~~3. As one of the issues considered in the review in subparagraphs 1. and 2., the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment if the regional planning agency has adopted an affordable housing policy as part of its strategic regional policy plan. The~~

~~determination should take into account information on factors that are relevant to the availability of reasonably accessible adequate housing. Adequate housing means housing that is available for occupancy and that is not substandard.~~

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

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

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

~~(e) If the location of a proposed development involves~~

~~land within the boundaries of multiple regional planning councils, the state land planning agency shall designate a lead regional planning council. The lead regional planning council shall prepare the regional report.~~

~~(13) CRITERIA IN AREAS OF CRITICAL STATE CONCERN.—If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under s. 380.05 and the provisions of this section. The provisions of this section shall not apply to developments in areas of critical state concern which had pending applications and had been noticed or agendaed by local government after September 1, 1985, and before October 1, 1985, for development order approval. In all such cases, the state land planning agency may consider and address applicable regional issues contained in subsection (12) as part of its area-of-critical-state-concern review pursuant to ss. 380.05, 380.07, and 380.11.~~

~~(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development is approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:~~

~~(a) The development is consistent with the local comprehensive plan and local land development regulations.~~

~~(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~

~~(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).~~

~~However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).~~

(4)~~(15)~~ LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(a) Notwithstanding any provision of any adopted local comprehensive plan or adopted local government land development regulation to the contrary, an amendment to a development order for an approved development of regional impact adopted pursuant to subsection (7) may not alter the ~~appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer~~.

~~(b) When possible, local governments shall issue development orders concurrently with any other local permits or~~

~~development approvals that may be applicable to the proposed development.~~

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

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

~~2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout date that reasonably reflects the time anticipated to complete the development.~~

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

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

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

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

~~(d) Conditions of a development order that require a developer to contribute land for a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:~~

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

~~2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the~~

~~impacts reasonably attributable to the proposed development.~~

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

~~4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design.~~

(b) ~~(c)~~1. A local government may ~~shall~~ not include~~,~~ as a development order condition for a development of regional impact~~,~~ any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Selection of a contractor or design professional for any aspect of construction or design related to the construction or expansion of a public facility by a nongovernmental developer

which is undertaken as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation ~~A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development~~.

~~3. The Department of Economic Opportunity and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.~~

(c) ~~(f)~~ Notice of the adoption of an amendment ~~a development order or the subsequent amendments~~ to an adopted

development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice does ~~shall~~ not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980. If the local government of jurisdiction rescinds a development order for an approved development of regional impact pursuant to s. 380.115, the developer may record notice of the rescission.

(d) ~~(g)~~ Any agreement entered into by the state land planning agency, the developer, and the ~~A~~ local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before the effective date of this act. ~~may not issue a permit~~

~~for a development subsequent to the buildout date contained in the development order unless:~~

~~1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after the termination or expiration date;~~

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

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

~~4. The project has been determined to be an essentially built-out development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-~~

~~impact review subject to the local government comprehensive plan and land development regulations. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of this paragraph, a development of regional impact is considered essentially built out, if:~~

~~a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date or reporting requirements; and~~

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

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

~~The single-family residential portions of a development may be considered essentially built out if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of~~

~~the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered essentially built out if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use as specified in the agreement. Before the issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, the local government shall consult with the Department of Transportation before approving the exchange.~~

~~(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and~~

~~obligations specified in the prior development order.~~

(5) ~~(16)~~ CREDITS AGAINST LOCAL IMPACT FEES.—

(a) Notwithstanding any provision of an adopted local comprehensive plan or adopted local government land development regulations to the contrary, the adoption of an amendment to a development order for an approved development of regional impact pursuant to subsection (7) does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions when such credits are based upon the developer's contribution of land or a public facility or the construction, expansion, or payment for land acquisition or construction or expansion of a public facility, or a portion thereof ~~If the development order requires the developer to contribute land or a public facility or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, and the developer is also subject by local ordinance to impact fees or exactions to meet the same needs, the local government shall establish and implement a procedure that credits a development order exaction or fee toward an impact fee or exaction imposed by local ordinance for the same need; however, if the Florida Land and Water Adjudicatory Commission imposes any additional requirement, the local government shall not be required to grant a credit toward the local exaction or impact fee unless the local government determines that such required contribution,~~

~~payment, or construction meets the same need that the local exaction or impact fee would address. The nongovernmental developer need not be required, by virtue of this credit, to competitively bid or negotiate any part of the construction or design of the facility, unless otherwise requested by the local government~~.

(b) If the local government imposes or increases an impact fee, mobility fee, or exaction by local ordinance after a development order has been issued, the developer may petition the local government, and the local government shall modify the affected provisions of the development order to give the developer credit for any contribution of land for a public facility, or construction, expansion, or contribution of funds for land acquisition or construction or expansion of a public facility, or a portion thereof, required by the development order toward an impact fee or exaction for the same need.

(c) Any ~~The local government and the developer may enter into~~ capital contribution front-ending agreement entered into by a local government and a developer which is still in effect as of the effective date of this act ~~agreements~~ as part of a development-of-regional-impact development order to reimburse the developer, or the developer's successor, for voluntary contributions paid in excess of his or her fair share remains valid.

(d) This subsection does not apply to internal, onsite

facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services to the development.

~~(17) LOCAL MONITORING.—The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.~~

(6)~~(18)~~ ~~BIENNIAL~~ REPORTS.—Notwithstanding any condition in a development order for an approved development of regional impact, the developer is not required to ~~shall~~ submit an annual or a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies ~~in alternate years on the date specified in the development order,~~ unless required to do so by the local government that has jurisdiction over the development. The penalty for failure to file such a required report is as prescribed by the local government ~~development order by its terms requires more frequent monitoring. If the report is not received, the state land planning agency shall notify the local government. If the local government does not receive the report or receives notification that the state land planning agency has not received the report,~~

~~the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred shall satisfy the requirement for a report. Development orders that require annual reports may be amended to require biennial reports at the option of the local government~~.

(7)~~(19)~~ CHANGES ~~SUBSTANTIAL DEVIATIONS~~.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, any proposed change to a previously approved development of regional impact shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. At least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within the previously approved

development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change ~~which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose~~.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5), the adopted comprehensive plan, and adopted land development regulations. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved ~~Any proposed change to a previously approved development of regional impact~~

~~or development order condition which, either individually or cumulatively with other changes, exceeds any of the criteria in subparagraphs 1.-11. constitutes a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change process under this section~~.

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

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

~~3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.~~

~~4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.~~

~~5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use~~

~~restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.~~

~~6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.~~

~~7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.~~

~~8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.~~

~~9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.~~

~~10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.~~

~~11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.~~

~~The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph~~

~~10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.~~

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations ~~An extension of the date of buildout of a development, or any phase thereof, by more than 7 years is presumed to create a substantial deviation subject to further development-of-regional-impact review~~.

~~1. An extension of the date of buildout, or any phase thereof, of more than 5 years but not more than 7 years is presumed not to create a substantial deviation. The extension of~~

~~the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 5 years or less is not a substantial deviation.~~

~~2. In recognition of the 2011 real estate market conditions, at the option of the developer, all commencement, phase, buildout, and expiration dates for projects that are currently valid developments of regional impact are extended for 4 years regardless of any previous extension. Associated mitigation requirements are extended for the same period unless, before December 1, 2011, a governmental entity notifies a developer that has commenced any construction within the phase for which the mitigation is required that the local government has entered into a contract for construction of a facility with funds to be provided from the development's mitigation funds for that phase as specified in the development order or written agreement with the developer. The 4-year extension is not a substantial deviation, is not subject to further development of regional impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under this subsection. The developer must notify the local government in writing by December 31, 2011, in order to receive the 4-year extension.~~

~~For the purpose of calculating when a buildout or phase date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof if applicable by a like period of time.~~

~~(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. The change shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.~~

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

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

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

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

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

~~c. Changes to minimum lot sizes.~~

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

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

~~f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.~~

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

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

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

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

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

~~l. A phase date extension, if the state land planning~~

~~agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.~~

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

~~This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m.~~

~~and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.~~

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

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

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

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

~~b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases~~

~~and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.~~

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

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

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

~~3. No sooner than 30 days but no later than 45 days after~~

~~submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 days after submittal of the proposed changes, unless that time is extended by the developer.~~

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

~~5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (c), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required. The local government may also deny the proposed change~~

~~based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the proposed change.~~

~~6. If the local government determines that the proposed change does not require further development of regional impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The requirement that a change be otherwise approved shall not be construed to require additional local review or approval if the change is allowed by applicable local ordinances without further local review or approval. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the~~

~~change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.~~

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

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

~~2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.~~

~~3. If the local government determines that the proposed change should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.~~

~~4. Development within the previously approved development~~

~~of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.~~

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

~~(i) An increase in the number of residential dwelling units shall not constitute a substantial deviation and shall not be subject to development-of-regional-impact review for additional impacts, provided that all the residential dwelling units are dedicated to affordable workforce housing and the total number of new residential units does not exceed 200 percent of the substantial deviation threshold. The affordable workforce housing shall be subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters. For purposes of this paragraph, the term "affordable workforce~~

~~housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this paragraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.~~

(8)~~(20)~~ VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined

under this subsection, provided such zoning change is actually granted by such government.

(9) ~~(21)~~ VALIDITY OF COMPREHENSIVE APPLICATION~~; MASTER PLAN DEVELOPMENT ORDER~~.—

~~(a)~~ Any agreement previously entered into by a developer, a regional planning agency, and a local government regarding ~~If~~ a development project that includes two or more developments of regional impact and was the subject of~~, a developer may file~~ a comprehensive development-of-regional-impact application remains valid unless it expired on or before the effective date of this act.

~~(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (9) do not apply to this subsection, except that a developer may elect to utilize the review process established in subsection (9) for review of the increments of a master plan.~~

~~1. Prior to adoption of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the development order to ensure that~~

~~anticipated regional impacts have been adequately addressed and that information requirements for subsequent incremental application review are clearly defined. The development order for a master application shall specify the information which must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.~~

~~2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.~~

~~(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.~~

~~(22) DOWNTOWN DEVELOPMENT AUTHORITIES.~~

~~(a) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to this section. The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in s. 380.031(5). For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown~~

~~development authority.~~

~~(b) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (15), the development order shall specify the amount of development approved within each land use category. Development undertaken in conformance with a development order issued under this section does not require further review.~~

~~(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).~~

~~(d) The provisions of subsection (9) do not apply to this subsection.~~

~~(23) ADOPTION OF RULES BY STATE LAND PLANNING AGENCY.~~

~~(a) The state land planning agency shall adopt rules to ensure uniform review of developments of regional impact by the state land planning agency and regional planning agencies under this section. These rules shall be adopted pursuant to chapter 120 and shall include all forms, application content, and review~~

~~guidelines necessary to implement development-of-regional-impact reviews. The state land planning agency, in consultation with the regional planning agencies, may also designate types of development or areas suitable for development in which reduced information requirements for development-of-regional-impact review shall apply.~~

~~(b) Regional planning agencies shall be subject to rules adopted by the state land planning agency. At the request of a regional planning council, the state land planning agency may adopt by rule different standards for a specific comprehensive planning district upon a finding that the statewide standard is inadequate to protect or promote the regional interest at issue. If such a regional standard is adopted by the state land planning agency, the regional standard shall be applied to all pertinent development-of-regional-impact reviews conducted in that region until rescinded.~~

~~(c) Within 6 months of the effective date of this section, the state land planning agency shall adopt rules which:~~

~~1. Establish uniform statewide standards for development-of-regional-impact review.~~

~~2. Establish a short application for development approval form which eliminates issues and questions for any project in a jurisdiction with an adopted local comprehensive plan that is in compliance.~~

~~(d) Regional planning agencies that perform development-~~

~~of regional impact and Florida Quality Development review are authorized to assess and collect fees to fund the costs, direct and indirect, of conducting the review process. The state land planning agency shall adopt rules to provide uniform criteria for the assessment and collection of such fees. The rules providing uniform criteria shall not be subject to rule challenge under s. 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2., but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3) by substantially affected persons. Until the state land planning agency adopts a rule implementing this paragraph, rules of the regional planning councils currently in effect regarding fees shall remain in effect. Fees may vary in relation to the type and size of a proposed project, but shall not exceed $75,000, unless the state land planning agency, after reviewing any disputed expenses charged by the regional planning agency, determines that said expenses were reasonable and necessary for an adequate regional review of the impacts of a project.~~

~~(24) STATUTORY EXEMPTIONS.~~

~~(a) Any proposed hospital is exempt from this section.~~

~~(b) Any proposed electrical transmission line or electrical power plant is exempt from this section.~~

~~(c) Any proposed addition to an existing sports facility complex is exempt from this section if the addition meets the following characteristics:~~

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

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

~~3. The sports facility complex property is owned by a public body before July 1, 1983.~~

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

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

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

~~(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports~~

~~facility notifies the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.~~

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

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

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

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

~~2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the~~

~~transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.~~

~~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 after 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 this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with s. 163.3178.~~

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

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

~~(k) Waterport and marina development, including dry storage facilities, are exempt from this section.~~

~~(l) Any proposed development within an urban service boundary established under s. 163.3177(14), Florida Statutes (2010), which is not otherwise exempt pursuant to subsection (29), is exempt from this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.~~

~~(m) Any proposed development within a rural land stewardship area created under s. 163.3248.~~

~~(n) The establishment, relocation, or expansion of any~~

~~military installation as defined in s. 163.3175, is exempt from this section.~~

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

~~(p) Any proposed nursing home or assisted living facility is exempt from this section.~~

~~(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4. is exempt from this section.~~

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

~~(s) Any development in a detailed specific area plan which is prepared and adopted pursuant to s. 163.3245 is exempt from this section.~~

~~(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine is exempt from this section. A mine owner will enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities pursuant to the transportation thresholds in subsection (19) or rule 9J-2.045(6), Florida Administrative Code. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are is not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change~~

~~review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which shall be governed by s. 380.115(2). Notwithstanding the foregoing, however, pursuant to s. 380.115(1), previously approved solid mineral mine development-of-regional-impact development orders shall continue to enjoy vested rights and continue to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines shall be applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.~~

~~(u) Notwithstanding any provisions in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under revised thresholds is not required to undergo such review.~~

~~(v) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.~~

~~(w) Any development in an energy economic zone designated pursuant to s. 377.809 is exempt from this section upon approval by its local governing body.~~

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

~~government jurisdiction that does not qualify for an exemption based on the population and density criteria in paragraph (29)(a), that is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4), and that is the subject of an agreement pursuant to s. 288.106(5) is exempt from this section. This exemption shall only be effective upon a written agreement executed by the applicant, the local government, and the state land planning agency. The state land planning agency shall only be a party to the agreement upon a determination that the development is the subject of an agreement pursuant to s. 288.106(5) and that the local government has the capacity to adequately assess the impacts of the proposed development. The local government shall only be a party to the agreement upon approval by the governing body of the local government and upon providing at least 21 days' notice to adjacent local governments that includes, at a minimum, information regarding the location, density and intensity of use, and timing of the proposed development. This exemption does not apply to areas within the boundary of any area of critical state concern designated pursuant to s. 380.05, within the boundary of the Wekiva Study Area as described in s. 369.316, or within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592(2).~~

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

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

(10) ~~(25)~~ AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—

~~(a)~~ Any approval of an authorized developer for ~~may submit~~ an areawide development of regional impact remains valid unless it expired on or before the effective date of this act. ~~to be reviewed pursuant to the procedures and standards set forth in this section. The areawide development-of-regional-impact review shall include an areawide development plan in addition to any other information required under this section. After review and approval of an areawide development of regional impact under this section, all development within the defined planning area shall conform to the approved areawide development plan and development order. Individual developments that conform to the approved areawide development plan shall not be required to undergo further development-of-regional-impact review, unless otherwise provided in the development order. As used in this subsection, the term:~~

~~1. "Areawide development plan" means a plan of development that, at a minimum:~~

~~a. Encompasses a defined planning area approved pursuant to this subsection that will include at least two or more developments;~~

~~b. Maps and defines the land uses proposed, including the amount of development by use and development phasing;~~

~~c. Integrates a capital improvements program for transportation and other public facilities to ensure development staging contingent on availability of facilities and services;~~

~~d. Incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of regional and state significance; and~~

~~e. Specifies responsibilities and identifies the mechanisms for carrying out all commitments in the areawide development plan and for compliance with all conditions of any areawide development order.~~

~~2. "Developer" means any person or association of persons, including a governmental agency as defined in s. 380.031(6), that petitions for authorization to file an application for development approval for an areawide development plan.~~

~~(b) A developer may petition for authorization to submit a proposed areawide development of regional impact for a defined planning area in accordance with the following requirements:~~

~~1. A petition shall be submitted to the local government,~~

~~the regional planning agency, and the state land planning agency.~~

~~2. A public hearing or joint public hearing shall be held if required by paragraph (c), with appropriate notice, before the affected local government.~~

~~3. The state land planning agency shall apply the following criteria for evaluating a petition:~~

~~a. Whether the developer is financially capable of processing the application for development approval through final approval pursuant to this section.~~

~~b. Whether the defined planning area and anticipated development therein appear to be of a character, magnitude, and location that a proposed areawide development plan would be in the public interest. Any public interest determination under this criterion is preliminary and not binding on the state land planning agency, regional planning agency, or local government.~~

~~4. The state land planning agency shall develop and make available standard forms for petitions and applications for development approval for use under this subsection.~~

~~(c) Any person may submit a petition to a local government having jurisdiction over an area to be developed, requesting that government to approve that person as a developer, whether or not any or all development will be undertaken by that person, and to approve the area as appropriate for an areawide development of regional impact.~~

~~(d) A general purpose local government with jurisdiction over an area to be considered in an areawide development of regional impact shall not have to petition itself for authorization to prepare and consider an application for development approval for an areawide development plan. However, such a local government shall initiate the preparation of an application only:~~

~~1. After scheduling and conducting a public hearing as specified in paragraph (c); and~~

~~2. After conducting such hearing, finding that the planning area meets the standards and criteria pursuant to subparagraph (b)3. for determining that an areawide development plan will be in the public interest.~~

~~(e) The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days prior to the hearing. In addition to the public hearing notice by the local government, the petitioner, except when the petitioner is a local government, shall provide actual notice to each person owning land within the proposed areawide development plan at least 30 days prior to the hearing. If the petitioner is a local government, or local governments pursuant to an interlocal agreement, notice of the public hearing shall be provided by the publication of an advertisement in a newspaper of general circulation that meets the requirements of this paragraph. The~~

~~advertisement must be no less than one-quarter page in a standard size or tabloid size newspaper, and the headline in the advertisement must be in type no smaller than 18 point. The advertisement shall not be published in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement must appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published less than 5 days a week. The advertisement must be in substantially the form used to advertise amendments to comprehensive plans pursuant to s. 163.3184. The local government shall specifically notify in writing the regional planning agency and the state land planning agency at least 30 days prior to the public hearing. At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications, the need for and benefits of an areawide development of regional impact, and such other issues relevant to a full consideration of the petition. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. Such hearing shall address, at a minimum, the need to resolve conflicting ordinances or~~

~~comprehensive plans, if any. The local government holding the joint hearing shall comply with the following additional requirements:~~

~~1. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.~~

~~2. The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.~~

~~3. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.~~

~~(f) Following the public hearing, the local government shall issue a written order, appealable under s. 380.07, which approves, approves with conditions, or denies the petition. It shall approve the petitioner as the developer if it finds that the petitioner and defined planning area meet the standards and criteria, consistent with applicable law, pursuant to subparagraph (b)3.~~

~~(g) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the regional planning agency, and to the state land planning agency within 30 days after the order becomes effective.~~

~~(h) The petitioner, an owner of property within the defined planning area, the appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in s. 380.07 shall be followed for such an appeal.~~

~~(i) After the time for appeal of the decision has run, an approved developer may submit an application for development approval for a proposed areawide development of regional impact for land within the defined planning area, pursuant to subsection (6). Development undertaken in conformance with an areawide development order issued under this section shall not require further development-of-regional-impact review.~~

~~(j) In reviewing an application for a proposed areawide development of regional impact, the regional planning agency shall evaluate, and the local government shall consider, the following criteria, in addition to any other criteria set forth in this section:~~

~~1. Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development of regional impact.~~

~~2. Whether the developer has demonstrated that all property owners within the defined planning area consent or do~~

~~not object to the proposed areawide development of regional impact.~~

~~3. Whether the area and the anticipated development are consistent with the applicable local, regional, and state comprehensive plans, except as provided for in paragraph (k).~~

~~(k) In addition to the requirements of subsection (14), a development order approving, or approving with conditions, a proposed areawide development of regional impact shall specify the approved land uses and the amount of development approved within each land use category in the defined planning area. The development order shall incorporate by reference the approved areawide development plan. The local government shall not approve an areawide development plan that is inconsistent with the local comprehensive plan, except that a local government may amend its comprehensive plan pursuant to paragraph (6)(b).~~

~~(l) Any owner of property within the defined planning area may withdraw his or her consent to the areawide development plan at any time prior to local government approval, with or without conditions, of the petition; and the plan, the areawide development order, and the exemption from development-of-regional-impact review of individual projects under this section shall not thereafter apply to the owner's property. After the areawide development order is issued, a landowner may withdraw his or her consent only with the approval of the local government.~~

~~(m) If the developer of an areawide development of regional impact is a general purpose local government with jurisdiction over the land area included within the areawide development proposal and if no interest in the land within the land area is owned, leased, or otherwise controlled by a person, corporate or natural, for the purpose of mining or beneficiation of minerals, then:~~

~~1. Demonstration of property owner consent or lack of objection to an areawide development plan shall not be required; and~~

~~2. The option to withdraw consent does not apply, and all property and development within the areawide development planning area shall be subject to the areawide plan and to the development order conditions.~~

~~(n) After a development order approving an areawide development plan is received, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).~~

(11)~~(26)~~ ABANDONMENT OF DEVELOPMENTS OF REGIONAL IMPACT.—

(a) There is hereby established a process to abandon a development of regional impact and its associated development orders. A development of regional impact and its associated development orders may be proposed to be abandoned by the owner or developer. The local government in whose jurisdiction ~~in~~

~~which~~ the development of regional impact is located also may propose to abandon the development of regional impact, provided that the local government gives individual written notice to each development-of-regional-impact owner and developer of record, and provided that no such owner or developer objects in writing to the local government before ~~prior to~~ or at the public hearing pertaining to abandonment of the development of regional impact. ~~The state land planning agency is authorized to promulgate rules that shall include, but not be limited to, criteria for determining whether to grant, grant with conditions, or deny a proposal to abandon, and provisions to ensure that the developer satisfies all applicable conditions of the development order and adequately mitigates for the impacts of the development.~~ If there is no existing development within the development of regional impact at the time of abandonment and no development within the development of regional impact is proposed by the owner or developer after such abandonment, an abandonment order may ~~shall~~ not require the owner or developer to contribute any land, funds, or public facilities as a condition of such abandonment order. The local government must file ~~rules shall also provide a procedure for filing~~ notice of the abandonment pursuant to s. 28.222 with the clerk of the circuit court for each county in which the development of regional impact is located. Abandonment will be deemed to have occurred upon the recording of the notice. Any decision by a

local government concerning the abandonment of a development of regional impact is ~~shall be~~ subject to an appeal pursuant to s. 380.07. The issues in any such appeal must ~~shall~~ be confined to whether the provisions of this subsection ~~or any rules promulgated thereunder~~ have been satisfied.

(b) If requested by the owner, developer, or local government, the development-of-regional-impact development order must be abandoned by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development which existed on the date of abandonment has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), provided such permit or authorization is subject to enforcement through administrative or judicial remedies ~~Upon receipt of written confirmation from the state land planning agency that any required mitigation applicable to completed development has occurred, an industrial development of regional impact located within the coastal high-hazard area of a rural area of opportunity which was approved before the adoption of the local government's comprehensive plan required under s. 163.3167 and which plan's future land use map and zoning designates the land use for the development of regional impact as commercial may be unilaterally abandoned without the need to proceed through the process described in paragraph (a) if the developer or owner provides a notice of abandonment to the local~~

~~government and records such notice with the applicable clerk of court. Abandonment shall be deemed to have occurred upon the recording of the notice~~. All development following abandonment must ~~shall~~ be fully consistent with the current comprehensive plan and applicable zoning.

(c) A development order for abandonment of an approved development of regional impact may be amended by a local government pursuant to subsection (7), provided that the amendment does not reduce any mitigation previously required as a condition of abandonment, unless the developer demonstrates that changes to the development no longer will result in impacts that necessitated the mitigation.

~~(27) RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS UNDER A DEVELOPMENT ORDER.—If a developer or owner is in doubt as to his or her rights, responsibilities, and obligations under a development order and the development order does not clearly define his or her rights, responsibilities, and obligations, the developer or owner may request participation in resolving the dispute through the dispute resolution process outlined in s. 186.509. The Department of Economic Opportunity shall be notified by certified mail of any meeting held under the process provided for by this subsection at least 5 days before the meeting.~~

~~(28) PARTIAL STATUTORY EXEMPTIONS.—~~

~~(a) If the binding agreement referenced under paragraph~~

~~(24)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service boundary, the development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.~~

~~(b) If the binding agreement referenced under paragraph (24)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.~~

~~(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.~~

~~(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24)(l) or paragraph (24)(m) shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects~~

~~within an urban service boundary under paragraph (24)(l), or a rural land stewardship area under paragraph (24)(m), must address transportation impacts only.~~

~~(c) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).~~

~~(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—~~

~~(a) The following are exempt from this section:~~

~~1. Any proposed development in a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;~~

~~2. Any proposed development within a county, including the municipalities located in the county, that has an average of at least 1,000 people per square mile of land area and is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan;~~

~~3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, that has an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; or~~

~~4. Any proposed development within a county, including the municipalities located therein, which has a population of at least 1 million and is located within an urban service area as~~

~~defined in s. 163.3164 which has been adopted into the comprehensive plan.~~

~~The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its Internet website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's Internet website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency shall maintain the municipality~~

~~on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until such time as the municipality as a whole meets the criteria. Any county that meets the criteria shall remain on the list in accordance with the provisions of this paragraph. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, shall remain on the list in accordance with the provisions of this paragraph.~~

~~(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:~~

~~1. Urban infill as defined in s. 163.3164;~~

~~2. Community redevelopment areas as defined in s. 163.340;~~

~~3. Downtown revitalization areas as defined in s. 163.3164;~~

~~4. Urban infill and redevelopment under s. 163.2517; or~~

~~5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14), Florida Statutes (2010).~~

~~(c) If a county that does not qualify as a dense urban~~

~~land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:~~

~~1. Urban infill as defined in s. 163.3164;~~

~~2. Urban infill and redevelopment under s. 163.2517; or~~

~~3. Urban service areas as defined in s. 163.3164.~~

~~(d) A development that is located partially outside an area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to this section. However, if the total acreage that is included within the area exempt from development-of-regional-impact review exceeds 85 percent of the total acreage and square footage of the approved development of regional impact, the development-of-regional-impact development order may be rescinded in both local governments pursuant to s. 380.115(1), unless the portion of the development outside the exempt area meets the threshold criteria of a development-of-regional-impact.~~

~~(e) In an area that is exempt under paragraphs (a)-(c), any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be governed by s. 380.115(1). A pending application for development approval shall be governed by s. 380.115(2).~~

~~(f) Local governments must submit by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of-regional-impact threshold and would require development-of-regional-impact review but for the exemption from the program under paragraphs (a)-(c). For such development orders, the state land planning agency may appeal the development order pursuant to s. 380.07 for inconsistency with the comprehensive plan adopted under chapter 163.~~

~~(g) If a local government that qualifies as a dense urban land area under this subsection is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved.~~

~~(h) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.~~

~~(i) This subsection does not apply to areas:~~

~~1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;~~

~~2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or~~

~~3. Within 2 miles of the boundary of the Everglades Protection Area as described in s. 373.4592(2).~~

(12)~~(30)~~ PROPOSED DEVELOPMENTS.—A proposed development that exceeds the statewide guidelines and standards specified in s. 380.0651 and is not otherwise exempt pursuant to s. 380.0651 must ~~otherwise subject to the review requirements of this section shall~~ be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 2. Section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(1) This section only applies to developments approved as Florida Quality Developments before the effective date of this act ~~There is hereby created the Florida Quality Developments program. The intent of this program is to encourage development which has been thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire. It is further intended~~

~~that the developer be provided, through a cooperative and coordinated effort, an expeditious and timely review by all agencies with jurisdiction over the project of his or her proposed development~~.

(2) Following written notification to the state land planning agency and the appropriate regional planning agency, a local government with an approved Florida Quality Development within its jurisdiction must set a public hearing pursuant to its local procedures and shall adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Development. Thereafter, the Florida Quality Development shall follow the procedures and requirements for developments of regional impact as specified in this chapter ~~Developments that may be designated as Florida Quality Developments are those developments which are above 80 percent of any numerical thresholds in the guidelines and standards for development-of-regional-impact review pursuant to s. 380.06~~.

~~(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements if applicable to the site of a qualified development:~~

~~1. Donate or enter into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In~~

~~lieu of this requirement, the developer may enter into a binding commitment that runs with the land to set aside such areas on the property, in perpetuity, as open space to be retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for passive recreation that is consistent with the purposes for which the land was preserved.~~

~~a. Those wetlands and water bodies throughout the state which would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities if such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created if the redesign or alteration is done so as to produce a more naturally functioning system.~~

~~b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.~~

~~c. Known archaeological sites determined to be of~~

~~significance by the Division of Historical Resources of the Department of State.~~

~~d. Areas known to be important to animal species designated as endangered or threatened by the United States Fish and Wildlife Service or by the Fish and Wildlife Conservation Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.~~

~~e. Areas known to contain plant species designated as endangered by the Department of Agriculture and Consumer Services.~~

~~2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency, the Department of Environmental Protection, or the Department of Agriculture and Consumer Services. This subparagraph does not apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.~~

~~3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.~~

~~4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as permitted pursuant to s. 403.813(1), and the developer demonstrates that those activities meet the standards under~~

~~Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.~~

~~5. Include open space, recreation areas, Florida-friendly landscaping as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.~~

~~6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts that the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, are available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.~~

~~7. Design and construct the development in a manner that is consistent with the adopted state plan, the applicable~~

~~strategic regional policy plan, and the applicable adopted local government comprehensive plan.~~

~~(b) In addition to the foregoing requirements, the developer shall plan and design his or her development in a manner which includes the needs of the people in this state as identified in the state comprehensive plan and the quality of life of the people who will live and work in or near the development. The developer is encouraged to plan and design his or her development in an innovative manner. These planning and design features may include, but are not limited to, such things as affordable housing, care for the elderly, urban renewal or redevelopment, mass transit, the protection and preservation of wetlands outside the jurisdiction of the Department of Environmental Protection or of uplands as wildlife habitat, provision for the recycling of solid waste, provision for onsite child care, enhancement of emergency management capabilities, the preservation of areas known to be primary habitat for significant populations of species of special concern designated by the Fish and Wildlife Conservation Commission, or community economic development. These additional amenities will be considered in determining whether the development qualifies for designation under this program.~~

~~(4) The department shall adopt an application for development designation consistent with the intent of this section.~~

~~(5)(a) Before filing an application for development designation, the developer shall contact the Department of Economic Opportunity to arrange one or more preapplication conferences with the other reviewing entities. Upon the request of the developer or any of the reviewing entities, other affected state or regional agencies shall participate in this conference. The department, in coordination with the local government with jurisdiction and the regional planning council, shall provide the developer information about the Florida Quality Developments designation process and the use of preapplication conferences to identify issues, coordinate appropriate state, regional, and local agency requirements, fully address any concerns of the local government, the regional planning council, and other reviewing agencies and the meeting of those concerns, if applicable, through development order conditions, and otherwise promote a proper, efficient, and timely review of the proposed Florida Quality Development. The department shall take the lead in coordinating the review process.~~

~~(b) The developer shall submit the application to the state land planning agency, the appropriate regional planning agency, and the appropriate local government for review. The review shall be conducted under the time limits and procedures set forth in s. 120.60, except that the 90-day time limit shall cease to run when the state land planning agency and the local~~

~~government have notified the applicant of their decision on whether the development should be designated under this program.~~

~~(c) At any time prior to the issuance of the Florida Quality Development development order, the developer of a proposed Florida Quality Development shall have the right to withdraw the proposed project from consideration as a Florida Quality Development. The developer may elect to convert the proposed project to a proposed development of regional impact. The conversion shall be in the form of a letter to the reviewing entities stating the developer's intent to seek authorization for the development as a development of regional impact under s. 380.06. If a proposed Florida Quality Development converts to a development of regional impact, the developer shall resubmit the appropriate application and the development shall be subject to all applicable procedures under s. 380.06, except that:~~

~~1. A preapplication conference held under paragraph (a) satisfies the preapplication procedures requirement under s. 380.06(7); and~~

~~2. If requested in the withdrawal letter, a finding of completeness of the application under paragraph (a) and s. 120.60 may be converted to a finding of sufficiency by the regional planning council if such a conversion is approved by the regional planning council.~~

~~The regional planning council shall have 30 days to notify the~~

~~developer if the request for conversion of completeness to sufficiency is granted or denied. If granted and the application is found sufficient, the regional planning council shall notify the local government that a public hearing date may be set to consider the development for approval as a development of regional impact, and the development shall be subject to all applicable rules, standards, and procedures of s. 380.06. If the request for conversion of completeness to sufficiency is denied, the developer shall resubmit the appropriate application for review and the development shall be subject to all applicable procedures under s. 380.06, except as otherwise provided in this paragraph.~~

~~(d) If the local government and state land planning agency agree that the project should be designated under this program, the state land planning agency shall issue a development order which incorporates the plan of development as set out in the application along with any agreed-upon modifications and conditions, based on recommendations by the local government and regional planning council, and a certification that the development is designated as one of Florida's Quality Developments. In the event of conflicting recommendations, the state land planning agency, after consultation with the local government and the regional planning agency, shall resolve such conflicts in the development order. Upon designation, the development, as approved, is exempt from development of~~

~~regional-impact review pursuant to s. 380.06.~~

~~(c) If the local government or state land planning agency, or both, recommends against designation, the development shall undergo development-of-regional-impact review pursuant to s. 380.06, except as provided in subsection (6) of this section.~~

~~(6)(a) In the event that the development is not designated under subsection (5), the developer may appeal that determination to the Quality Developments Review Board. The board shall consist of the secretary of the state land planning agency, the Secretary of Environmental Protection and a member designated by the secretary, the Secretary of Transportation, the executive director of the Fish and Wildlife Conservation Commission, the executive director of the appropriate water management district created pursuant to chapter 373, and the chief executive officer of the appropriate local government. When there is a significant historical or archaeological site within the boundaries of a development which is appealed to the board, the director of the Division of Historical Resources of the Department of State shall also sit on the board. The staff of the state land planning agency shall serve as staff to the board.~~

~~(b) The board shall meet once each quarter of the year. However, a meeting may be waived if no appeals are pending.~~

~~(c) On appeal, the sole issue shall be whether the development meets the statutory criteria for designation under~~

~~this program. An affirmative vote of at least five members of the board, including the affirmative vote of the chief executive officer of the appropriate local government, shall be necessary to designate the development by the board.~~

~~(d) The state land planning agency shall adopt procedural rules for consideration of appeals under this subsection.~~

~~(7)(a) The development order issued pursuant to this section is enforceable in the same manner as a development order issued pursuant to s. 380.06.~~

~~(b) Appeal of a development order issued pursuant to this section shall be available only pursuant to s. 380.07.~~

~~(8)(a) Any local government comprehensive plan amendments related to a Florida Quality Development may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval. Nothing in this subsection shall be construed to require favorable consideration of a Florida Quality Development solely because it is related to a development of regional impact.~~

~~(b) The department shall adopt, by rule, standards and procedures necessary to implement the Florida Quality Developments program. The rules must include, but need not be limited to, provisions governing annual reports and criteria for determining whether a proposed change to an approved Florida Quality Development is a substantial change requiring further review.~~

Section 3. Section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines, ~~and~~ standards, and exemptions.—

(1) STATEWIDE GUIDELINES AND STANDARDS.—~~The statewide guidelines and standards for developments required to undergo development-of-regional-impact review provided in this section supersede the statewide guidelines and standards previously adopted by the Administration Commission that address the same development. Other standards and guidelines previously adopted by the Administration Commission, including the residential standards and guidelines, shall not be superseded. The guidelines and standards shall be applied in the manner described in s. 380.06(2)(a).~~

~~(2) The Administration Commission shall publish the statewide guidelines and standards established in this section in its administrative rule in place of the guidelines and standards that are superseded by this act, without the proceedings required by s. 120.54 and notwithstanding the provisions of s. 120.545(1)(c). The Administration Commission shall initiate rulemaking proceedings pursuant to s. 120.54 to make all other technical revisions necessary to conform the rules to this act. Rule amendments made pursuant to this subsection shall not be subject to the requirement for legislative approval pursuant to s. 380.06(2).~~

~~(3)~~ Subject to the exemptions and partial exemptions specified in this section, the following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments are subject to the requirements of s. 380.06 ~~shall be required to undergo development of regional impact review~~:

(a) *Airports.*—

1. Any of the following airport construction projects is ~~shall be~~ a development of regional impact:

a. A new commercial service or general aviation airport with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport is ~~shall~~ not ~~be~~ a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact.

Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.

(b) *Attractions and recreation facilities.*—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:

1. For single performance facilities:

a. Provides parking spaces for more than 2,500 cars; or

b. Provides more than 10,000 permanent seats for spectators.

2. For serial performance facilities:

a. Provides parking spaces for more than 1,000 cars; or

b. Provides more than 4,000 permanent seats for spectators.

For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

(c) *Office development.*—Any proposed office building or park operated under common ownership, development plan, or

management that:

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

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

(d) *Retail and service development.*—Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. Provides parking spaces for more than 2,500 cars.

(e) *Recreational vehicle development.*—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(f) *Multiuse development.*—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which

is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(g) *Residential development.*—A rule may not be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 miles or less of the less populated adjacent county. The residential thresholds of adjacent counties with less population and a lower threshold may not be controlling on any development wholly located within areas designated as rural areas of opportunity.

(h) *Workforce housing.*—The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the total residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce housing, subject to a recorded land use restriction that shall

be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this paragraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For the purposes of this paragraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

(i) *Schools.*—

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

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

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

(2) STATUTORY EXEMPTIONS.—The following developments are exempt from s. 380.06:

(a) Any proposed hospital.

(b) Any proposed electrical transmission line or electrical power plant.

(c) Any proposed addition to an existing sports facility complex if the addition meets the following characteristics:

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

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

3. The sports facility complex property was owned by a public body before July 1, 1983.

This exemption does not apply to any pari-mutuel facility as defined in s. 550.002.

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

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body before July 1, 1973, if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and does not exceed a total of 10 percent in any 5-year period. The sports facility must notify the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan must be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility, if the following conditions exist:

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

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

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

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

Any owner or developer who intends to rely on this statutory exemption shall provide to the state land planning agency a copy of the local government application for a development permit. Within 45 days after receipt of the application, the state land planning agency shall render to the local government an advisory

and nonbinding opinion, in writing, stating whether, in the state land planning agency'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 state land planning agency. The owner, developer, or state land planning agency 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 that were exempt under this paragraph must 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 the ports specified 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) when such expansions, projects, or facilities are consistent with port master plans and are in compliance with s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility.

(j) Any renovation or redevelopment within the same parcel as the existing development if such renovation or redevelopment

does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities.

(l) Any proposed development within an urban service area boundary established under s. 163.3177(14), Florida Statutes 2010, that is not otherwise exempt pursuant to subsection (3), if the local government having jurisdiction over the area where the development is proposed has adopted the urban service area boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.

(m) Any proposed development within a rural land stewardship area created under s. 163.3248.

(n) The establishment, relocation, or expansion of any military installation as specified in s. 163.3175.

(o) Any self-storage warehousing that does not allow retail or other services.

(p) Any proposed nursing home or assisted living facility.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4.

(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30.

(s) Any development in a detailed specific area plan prepared and adopted pursuant to s. 163.3245.

(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine. A mine owner must, however, enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change review or approval pursuant to subsection (19), except for those applications pending as of July 1, 2011, which are governed by s. 380.115(2). Notwithstanding this requirement, pursuant to s. 380.115(1), a previously approved solid mineral mine development-of-regional-impact development order continues to have vested rights and continues to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines are applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.

(u) Notwithstanding any provision in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-

regional-impact review under the revised thresholds specified in s. 380.06(2)(b) and this section.

(v) Any development within a county that has a research and education authority created by special act and which is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159.

(w) Any development in an energy economic zone designated pursuant to s. 377.809 upon approval by its local governing body.

If a use is exempt from review pursuant to paragraphs (a)-(u), but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the state land planning agency under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(3) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(a) The following are exempt from the requirements of s. 380.06:

1. Any proposed development in a municipality having an average of at least 1,000 people per square mile of land area

and a minimum total population of at least 5,000;

2. Any proposed development within a county, including the municipalities located therein, having an average of at least 1,000 people per square mile of land area and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan as defined in s. 163.3164;

3. Any proposed development within a county, including the municipalities located therein, having a population of at least 900,000 and an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; and

4. Any proposed development within a county, including the municipalities located therein, having a population of at least 1 million and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to

s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency must maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until the municipality as a whole meets the criteria. Any county that meets the criteria must remain on the list. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, must remain on the list.

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the

following areas in its comprehensive plan, any proposed development within the designated area is exempt from s. 380.06 unless otherwise required by part II of chapter 163:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service area boundary pursuant to s. 163.3177(14), Florida Statutes 2010.

(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;

2. Urban infill and redevelopment pursuant to s. 163.2517; or

3. Urban service areas as defined in s. 163.3164.

(d) If any portion of the development is located in an area that is not exempt from review under s. 380.06, the development must undergo review pursuant to that section.

(e) In an area that is exempt under paragraphs (a), (b), and (c), any previously approved development-of-regional-impact

development orders shall continue to be effective. However, the developer has the option to be governed by s. 380.115(1).

(f) If a local government qualifies as a dense urban land area under this subsection and is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development shall maintain the exemption if the developer is continuing the application process in good faith or the development is approved.

(g) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.

(h) This subsection does not apply to areas:

1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;

2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or

3. Within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592.

(4) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (2)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service area boundary, the review pursuant to s. 380.06(12) for projects

within the urban service area boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (2)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the review pursuant to s. 380.06(12) for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the review pursuant to s. 380.06(12) for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (2)(l) or paragraph (2)(m) must provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b), and (c). Following the notification of the state land planning agency, a review pursuant to s. 380.06(12) for projects within an urban service area boundary under paragraph (2)(l), or a rural land stewardship area under paragraph (2)(m), must address

transportation impacts only.

(e) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from s. 380.06 under paragraphs (a)-(d) of this subsection.

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

~~(a) The criteria of three of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:~~

~~1.a. The same person has retained or shared control of the developments;~~

~~b. The same person has ownership or a significant legal or equitable interest in the developments; or~~

~~c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.~~

~~2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.~~

~~3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of Florida Condominiums, Timeshares, and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.~~

~~4. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.~~

~~(b) The following activities or circumstances shall not be considered in determining whether to aggregate two or more developments:~~

~~1. Activities undertaken leading to the adoption or amendment of any comprehensive plan element described in part II of chapter 163.~~

~~2. The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels.~~

~~3. The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which~~

~~it has an interest.~~

~~4. Drainage improvements that are not designed to accommodate the types of development listed in the guidelines and standards contained in or adopted pursuant to this chapter or which are not designed specifically to accommodate the developments sought to be aggregated.~~

~~(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply:~~

~~1. Developments that are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may not be aggregated with the approved development of regional impact. However, this subparagraph does not preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.~~

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

~~3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the~~

~~impacts resulting from the vested portions of the development.~~

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

~~5. Any development that qualifies for an exemption under s. 380.06(29).~~

~~6. Newly acquired lands intended for development in coordination with a developed and existing development of regional impact are not subject to aggregation if the newly acquired lands comprise an area that is equal to or less than 10 percent of the total acreage subject to an existing development of regional impact development order.~~

~~(d) The provisions of this subsection shall be applied prospectively from September 1, 1988. Written decisions, agreements, and binding letters of interpretation made or issued by the state land planning agency prior to July 1, 1988, shall not be affected by this subsection.~~

~~(e) In order to encourage developers to design, finance, donate, or build infrastructure, public facilities, or services, the state land planning agency may enter into binding agreements with two or more developers providing that the joint planning, sharing, or use of specified public infrastructure, facilities, or services by the developers shall not be considered in any subsequent determination of whether a unified plan of~~

~~development exists for their developments. Such binding agreements may authorize the developers to pool impact fees or impact-fee credits, or to enter into front-end agreements, or other financing arrangements by which they collectively agree to design, finance, donate, or build such public infrastructure, facilities, or services. Such agreements shall be conditioned upon a subsequent determination by the appropriate local government of consistency with the approved local government comprehensive plan and land development regulations. Additionally, the developers must demonstrate that the provision and sharing of public infrastructure, facilities, or services is in the public interest and not merely for the benefit of the developments which are the subject of the agreement. Developments that are the subject of an agreement pursuant to this paragraph shall be aggregated if the state land planning agency determines that sufficient aggregation factors are present to require aggregation without considering the design features, financial arrangements, donations, or construction that are specified in and required by the agreement.~~

~~(f) The state land planning agency has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.~~

Section 4. Section 380.07, Florida Statutes, is amended to read:

380.07 Florida Land and Water Adjudicatory Commission.—

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program ~~and the requirements for developments of regional impact as set forth in this chapter~~.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to the abandonment of any approved development of regional impact, copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with ~~the provisions of~~ this part. ~~The appropriate regional planning agency by vote at a regularly scheduled meeting may recommend that the state land planning agency undertake an appeal of a development-of-regional-impact development order. Upon the request of an appropriate regional planning council, affected local government, or any citizen, the~~

~~state land planning agency shall consider whether to appeal the order and shall respond to the request within the 45-day appeal period.~~

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

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

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

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

~~(5) The 45-day appeal period for a development of regional impact within the jurisdiction of more than one local government~~

~~shall not commence until after all the local governments having jurisdiction over the proposed development of regional impact have rendered their development orders.~~ The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government that ~~which~~ issued the order. The filing of the notice of appeal stays ~~shall stay~~ the effectiveness of the order until after the completion of the appeal process.

(5)~~(6)~~ Before ~~Prior to~~ issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to ~~the provisions of~~ chapter 120. The commission shall encourage the submission of appeals on the record made pursuant to subsection (7) ~~below~~ in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

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

(7)~~(8)~~ If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403 and for which a permit or conceptual review approval has been obtained before ~~prior to~~ the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed

pursuant to this section, together with other issues that ~~which~~ constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained before ~~prior to~~ the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there is ~~shall be~~ a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or conceptual approval has been obtained are not adversely affected.

Section 5. Section 380.115, Florida Statutes, is amended to read:

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

~~(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact.~~ A development that has received a development-of-regional-impact development order pursuant to s. 380.06 but is no longer required to undergo development-of-regional-impact review by operation of law may elect ~~a change in the guidelines~~

~~and standards, a development that has reduced its size below the thresholds as specified in s. 380.0651, a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects~~ to rescind the development order pursuant to ~~are governed by~~ the following procedures:

(1)~~(a)~~ The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in subsection (2) ~~paragraph (b)~~. Any proposed changes to developments which continue to be governed by a development-of-regional-impact development order must be approved pursuant to s. 380.06(7) ~~s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are doubled and all other criteria are increased by 10 percent~~. The local government issuing the development order must monitor the development and enforce the development order. Local governments may not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order. The development-of-regional-impact development order may be enforced ~~by the local government~~ as provided in s. 380.11 ~~ss. 380.06(17) and 380.11~~.

(2)~~(b)~~ If requested by the developer or landowner, the development-of-regional-impact development order shall be

rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if such permit or authorization is subject to enforcement through administrative or judicial remedies.

~~(2) A development with an application for development approval pending, pursuant to s. 380.06, on the effective date of a change to the guidelines and standards, or a notification of proposed change pending on the effective date of a change to the guidelines and standards, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).~~

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

Section 6. Paragraph (c) of subsection (1) of section

125.68, Florida Statutes, is amended to read:

125.68 Codification of ordinances; exceptions; public record.—

(1)

(c) The following ordinances are exempt from codification and annual publication requirements:

1. Any development agreement, or amendment to such agreement, adopted by ordinance pursuant to ss. 163.3220-163.3243.

2. Any development order, or amendment to such order, adopted by ordinance pursuant to s. 380.06(4) ~~s. 380.06(15)~~.

Section 7. Paragraph (e) of subsection (3), subsection (6), and subsection (12) of section 163.3245, Florida Statutes, are amended to read:

163.3245 Sector plans.—

(3) Sector planning encompasses two levels: adoption pursuant to s. 163.3184 of a long-term master plan for the entire planning area as part of the comprehensive plan, and adoption by local development order of two or more detailed specific area plans that implement the long-term master plan and within which s. 380.06 is waived.

(e) Whenever a local government issues a development order approving a detailed specific area plan, a copy of such order shall be rendered to the state land planning agency and the owner or developer of the property affected by such order, as

prescribed by rules of the state land planning agency for a development order for a development of regional impact. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the detailed specific area plan is not consistent with the comprehensive plan or with the long-term master plan adopted pursuant to this section. The appellant shall furnish a copy of the petition to the opposing party, as the case may be, and to the local government that issued the order. The filing of the petition stays the effectiveness of the order until after completion of the appeal process. However, if a development order approving a detailed specific area plan has been challenged by an aggrieved or adversely affected party in a judicial proceeding pursuant to s. 163.3215, and a party to such proceeding serves notice to the state land planning agency, the state land planning agency shall dismiss its appeal to the commission and shall have the right to intervene in the pending judicial proceeding pursuant to s. 163.3215. Proceedings for administrative review of an order approving a detailed specific area plan shall be conducted consistent with s. 380.07(5) ~~s. 380.07(6)~~. The commission shall issue a decision granting or denying permission to develop pursuant to the long-term master plan and the standards of this part and may attach conditions or restrictions to its decisions.

(6) An applicant who applied ~~Concurrent with or subsequent to review and adoption of a long-term master plan pursuant to paragraph (3)(a), an applicant may apply~~ for master development approval pursuant to s. 380.06 ~~s. 380.06(21)~~ for the entire planning area shall remain subject to the master development order ~~in order to establish a buildout date until which the approved uses and densities and intensities of use of the master plan are not subject to downzoning, unit density reduction, or intensity reduction,~~ unless the developer elects to rescind the development order pursuant to s. 380.115, the development order is abandoned pursuant to s. 380.06(11), or the local government can demonstrate that implementation of the master plan is not continuing in good faith based on standards established by plan policy, that substantial changes in the conditions underlying the approval of the master plan have occurred, that the master plan was based on substantially inaccurate information provided by the applicant, or that change is clearly established to be essential to the public health, safety, or welfare. ~~Review of the application for master development approval shall be at a level of detail appropriate for the long-term and conceptual nature of the long-term master plan and, to the maximum extent possible, may only consider information provided in the application for a long-term master plan.~~ Notwithstanding s. 380.06, an increment of development in such an approved master development plan must be approved by a detailed specific area

plan pursuant to paragraph (3)(b) and is exempt from review pursuant to s. 380.06.

(12) Notwithstanding s. 380.06, this part, or any planning agreement or plan policy, a landowner or developer who has received approval of a master development-of-regional-impact development order pursuant to s. 380.06(9) ~~s. 380.06(21)~~ may apply to implement this order by filing one or more applications to approve a detailed specific area plan pursuant to paragraph (3)(b).

Section 8. Subsections (11), (12), and (14) of section 163.3246, Florida Statutes, are amended to read:

163.3246 Local government comprehensive planning certification program.—

(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area is ~~shall be~~ exempt from ~~review under~~ s. 380.06.

(12) A local government's certification shall be reviewed by the local government and the state land planning agency as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year after the deadline for the local government to update its comprehensive plan based on the evaluation and appraisal, the state land planning agency must

~~shall~~ renew or revoke the certification. The local government's failure to timely adopt necessary amendments to update its comprehensive plan based on an evaluation and appraisal, which are found to be in compliance by the state land planning agency, is ~~shall be~~ cause for revoking the certification agreement. The state land planning agency's decision to renew or revoke is ~~shall be considered~~ agency action subject to challenge under s. 120.569.

(14) It is the intent of the Legislature to encourage the creation of connected-city corridors that facilitate the growth of high-technology industry and innovation through partnerships that support research, marketing, workforce, and entrepreneurship. It is the further intent of the Legislature to provide for a locally controlled, comprehensive plan amendment process for such projects that are designed to achieve a cleaner, healthier environment; limit urban sprawl by promoting diverse but interconnected communities; provide a range of intergenerational housing types; protect wildlife and natural areas; assure the efficient use of land and other resources; create quality communities of a design that promotes alternative transportation networks and travel by multiple transportation modes; and enhance the prospects for the creation of jobs. The Legislature finds and declares that this state's connected-city corridors require a reduced level of state and regional oversight because of their high degree of urbanization and the

planning capabilities and resources of the local government.

(a) Notwithstanding subsections (2), (4), (5), (6), and (7), Pasco County is named a pilot community and shall be considered certified for a period of 10 years for connected-city corridor plan amendments. The state land planning agency shall provide a written notice of certification to Pasco County by July 15, 2015, which shall be considered a final agency action subject to challenge under s. 120.569. The notice of certification must include:

1. The boundary of the connected-city corridor certification area; and

2. A requirement that Pasco County submit an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report must, at a minimum, include the number of amendments to the comprehensive plan adopted by Pasco County, the number of plan amendments challenged by an affected person, and the disposition of such challenges.

(b) A plan amendment adopted under this subsection may be based upon a planning period longer than the generally applicable planning period of the Pasco County local comprehensive plan, must specify the projected population within the planning area during the chosen planning period, may include a phasing or staging schedule that allocates a portion of Pasco County's future growth to the planning area through the planning

period, and may designate a priority zone or subarea within the connected-city corridor for initial implementation of the plan. A plan amendment adopted under this subsection is not required to demonstrate need based upon projected population growth or on any other basis.

(c) If Pasco County adopts a long-term transportation network plan and financial feasibility plan, and subject to compliance with the requirements of such a plan, the projects within the connected-city corridor are deemed to have satisfied all concurrency and other state agency or local government transportation mitigation requirements except for site-specific access management requirements.

(d) If Pasco County does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area is exempt from ~~review under~~ s. 380.06.

(e) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, a report and recommendations for implementing a statewide program that addresses the legislative findings in this subsection. In consultation with the state land planning agency, OPPAGA shall develop the report and recommendations with input from other

state and regional agencies, local governments, and interest groups. OPPAGA shall also solicit citizen input in the potentially affected areas and consult with the affected local government and stakeholder groups. Additionally, OPPAGA shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program. At a minimum, the report and recommendations must include:

1. Identification of local governments other than the local government participating in the pilot program which should be certified. The report may also recommend that a local government is no longer appropriate for certification; and

2. Changes to the certification pilot program.

Section 9. Subsection (4) of section 189.08, Florida Statutes, is amended to read:

189.08 Special district public facilities report.—

(4) Those special districts building, improving, or expanding public facilities addressed by a development order issued to the developer pursuant to s. 380.06 may use the most recent local government ~~annual~~ report required by s. 380.06(6) ~~s. 380.06(15) and (18)~~ and submitted by the developer, to the extent the annual report provides the information required by subsection (2).

Section 10. Subsection (2) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(2) The exclusive and uniform method for the establishment of a community development district of less than 2,500 acres in size or a community development district of up to 7,000 acres in size located within a connected-city corridor established pursuant to s. 163.3246(13) ~~s. 163.3246(14)~~ shall be pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located granting a petition for the establishment of a community development district as follows:

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the county commission. The petition shall contain the same information as required in paragraph (1)(a).

(b) A public hearing on the petition shall be conducted by the county commission in accordance with the requirements and procedures of paragraph (1)(d).

(c) The county commission shall consider the record of the public hearing and the factors set forth in paragraph (1)(e) in making its determination to grant or deny a petition for the establishment of a community development district.

(d) The county commission may ~~shall~~ not adopt any ordinance which would expand, modify, or delete any provision of the uniform community development district charter as set forth in ss. 190.006-190.041. An ordinance establishing a community

development district shall only include the matters provided for in paragraph (1)(f) unless the commission consents to any of the optional powers under s. 190.012(2) at the request of the petitioner.

(e) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipal corporation, then the petition requesting establishment of a community development district under this act shall be filed by the petitioner with that particular municipal corporation. In such event, the duties of the county, hereinabove described, in action upon the petition shall be the duties of the municipal corporation. If any of the land area of a proposed district is within the land area of a municipality, the county commission may not create the district without municipal approval. If all of the land in the area for the proposed district, even if less than 2,500 acres, is within the territorial jurisdiction of two or more municipalities or two or more counties, except for proposed districts within a connected-city corridor established pursuant to s. 163.3246(13) ~~s. 163.3246(14)~~, the petition shall be filed with the Florida Land and Water Adjudicatory Commission and proceed in accordance with subsection (1).

(f) Notwithstanding any other provision of this subsection, within 90 days after a petition for the establishment of a community development district has been filed pursuant to this subsection, the governing body of the county or

municipal corporation may transfer the petition to the Florida Land and Water Adjudicatory Commission, which shall make the determination to grant or deny the petition as provided in subsection (1). A county or municipal corporation shall have no right or power to grant or deny a petition that has been transferred to the Florida Land and Water Adjudicatory Commission.

Section 11. Paragraph (g) of subsection (1) of section 190.012, Florida Statutes, is amended to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(g) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 ~~or s. 380.061~~ approving or expressly requiring the construction or funding of the project by the

district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

Section 12. Paragraph (a) of subsection (1) of section 252.363, Florida Statutes, is amended to read:

252.363 Tolling and extension of permits and other authorizations.—

(1)(a) The declaration of a state of emergency by the Governor tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration. Further, the emergency declaration extends the period remaining to exercise the rights under a permit or other authorization for 6 months in addition to the tolled period. This paragraph applies to the following:

1. The expiration of a development order issued by a local government.

2. The expiration of a building permit.

3. The expiration of a permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373.

4. The buildout date of a development of regional impact, including any extension of a buildout date that was previously granted as specified in s. 380.06(7)(c) ~~pursuant to s. 380.06(19)(c)~~.

Section 13. Subsection (4) of section 369.303, Florida Statutes, is amended to read:

369.303 Definitions.—As used in this part:

(4) "Development of regional impact" means a development that ~~which~~ is subject to ~~the review procedures established by~~ s. 380.06 ~~or s. 380.065, and s. 380.07~~.

Section 14. Subsection (1) of section 369.307, Florida Statutes, is amended to read:

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.—

(1) Notwithstanding s. 380.06(4) ~~the provisions of s. 380.06(15)~~, the counties shall consider and issue the development permits applicable to a proposed development of regional impact which is located partially or wholly within the Wekiva River Protection Area at the same time as the development order approving, approving with conditions, or denying a development of regional impact.

Section 15. Subsection (8) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(8) A water management district may issue a permit to an applicant, as set forth in s. 163.3245(13), for the same period of time as the applicant's approved master development order if the master development order was issued under s. 380.06(9) ~~s. 380.06(21)~~ by a county which, at the time the order was issued,

was designated as a rural area of opportunity under s. 288.0656, was not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), and was not located within the basin management action plan of a first magnitude spring. In reviewing the permit application and determining the permit duration, the water management district shall apply s. 163.3245(4)(b).

Section 16. Subsection (13) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(13) Any declaratory statement issued by the department under s. 403.914, 1984 Supplement to the Florida Statutes 1983, as amended, or pursuant to rules adopted thereunder, or by a water management district under s. 373.421, in response to a petition filed on or before June 1, 1994, shall continue to be valid for the duration of such declaratory statement. Any such petition pending on June 1, 1994, shall be exempt from the methodology ratified in s. 373.4211, but the rules of the department or the relevant water management district, as applicable, in effect prior to the effective date of s. 373.4211, shall apply. Until May 1, 1998, activities within the boundaries of an area subject to a petition pending on June 1, 1994, and prior to final agency action on such petition, shall be reviewed under the rules adopted pursuant to ss. 403.91-

403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9). In the event that a jurisdictional declaratory statement pursuant to the vegetative index in effect prior to the effective date of chapter 84-79, Laws of Florida, has been obtained and is valid prior to the effective date of the rules adopted under subsection (9) or July 1, 1994, whichever is later, and the affected lands are part of a project for which a master development order has been issued pursuant to s. 380.06(9) ~~s. 380.06(21)~~, the declaratory statement shall remain valid for the duration of the buildout period of the project. Any jurisdictional determination validated by the department pursuant to rule 17-301.400(8), Florida Administrative Code, as it existed in rule 17-4.022, Florida Administrative Code, on April 1, 1985, shall remain in effect for a period of 5 years following the effective date of this act if proof of such validation is submitted to the department prior to January 1, 1995. In the event that a jurisdictional determination has been revalidated by the department pursuant to this subsection and the affected lands are part of a project for which a development order has been issued pursuant to s. 380.06(4) ~~s. 380.06(15)~~, a final development order to which s. 163.3167(5) applies has been

issued, or a vested rights determination has been issued pursuant to s. 380.06(8) ~~s. 380.06(20)~~, the jurisdictional determination shall remain valid until the completion of the project, provided proof of such validation and documentation establishing that the project meets the requirements of this sentence are submitted to the department prior to January 1, 1995. Activities proposed within the boundaries of a valid declaratory statement issued pursuant to a petition submitted to either the department or the relevant water management district on or before June 1, 1994, or a revalidated jurisdictional determination, prior to its expiration shall continue thereafter to be exempt from the methodology ratified in s. 373.4211 and to be reviewed under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, and this part, in existence prior to the effective date of the rules adopted under subsection (9), unless the applicant elects to have such activities reviewed under the rules adopted under this part, as amended in accordance with subsection (9).

Section 17. Subsection (5) of section 378.601, Florida Statutes, is amended to read:

378.601 Heavy minerals.—

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less may ~~shall~~ not be subject ~~required to undergo development of regional impact~~

~~review pursuant~~ to s. 380.06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s. 378.901, are issued.

Section 18. Section 380.065, Florida Statutes, is repealed.

Section 19. Paragraph (a) of subsection (2) of section 380.11, Florida Statutes, is amended to read:

380.11 Enforcement; procedures; remedies.—

(2) ADMINISTRATIVE REMEDIES.—

(a) If the state land planning agency has reason to believe a violation of this part or any rule, development order, or other order issued hereunder or of any agreement entered into under s. 380.032(3) ~~or s. 380.06(8)~~ has occurred or is about to occur, it may institute an administrative proceeding pursuant to this section to prevent, abate, or control the conditions or activity creating the violation.

Section 20. Paragraph (b) of subsection (2) of section 403.524, Florida Statutes, is amended to read:

403.524 Applicability; certification; exemptions.—

(2) Except as provided in subsection (1), construction of a transmission line may not be undertaken without first obtaining certification under this act, but this act does not apply to:

(b) Transmission lines that have been exempted by a binding letter of interpretation issued under s. 380.06(3) ~~s.~~

~~380.06(4)~~, or in which the Department of Economic Opportunity or its predecessor agency has determined the utility to have vested development rights within the meaning of s. 380.05(18) or s. 380.06(8) ~~s. 380.06(20)~~.

Section 21. (1) The rules adopted by the state land planning agency to ensure uniform review of developments of regional impact by the state land planning agency and regional planning agencies and codified in chapter 73C-40, Florida Administrative Code, are repealed.

(2) The rules adopted by the Administration Commission, as defined in s. 380.031, Florida Statutes, regarding whether two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under chapter 380, Florida Statutes, are repealed.

Section 22. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" where it occurs in this act with the date this act takes effect.

Section 23. This act shall take effect upon becoming a law.

COMMERCE COMMITTEE

CS/HB 1151 by La Rosa
Developments of Regional Impact

AMENDMENT SUMMARY
February 8, 2018

Amendment 1 by Rep. La Rosa (Line 1046): Clarifies that actions by a local government on a development order may not amend to an earlier date, the date agreed to by the local government not to impose downzoning, unit density reduction, or intensity reduction.

Amendment 2 by Rep. La Rosa (Line 1340): Authorizes a local government to approve a change to a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. This authorization is in current law in another location in law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee

Representative La Rosa offered the following:

Amendment

Remove lines 1046-1064 and insert:

to subsection (7) may not amend to an earlier date the ~~appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.~~

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

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

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

~~2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout date that reasonably reflects the time anticipated to complete the development.~~

~~3. Shall establish a~~ date until when ~~which~~ the local government

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1151 (2018)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee

Representative La Rosa offered the following:

Amendment

Remove lines 1340-1345 and insert:

approved development of regional impact must be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development

would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1285 Florida Business Corporation Act
SPONSOR(S): Albritton
TIED BILLS: **IDEN./SIM. BILLS:** SB 1028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	14 Y, 0 N	Wright	Anstead
2) Oversight, Transparency & Administration Subcommittee	9 Y, 0 N	Hoffman	Harrington
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

The Florida Office of Financial Regulation (OFR) has regulatory authority over state-chartered depository and non-depository financial institutions and financial service companies, including state-chartered banks and trust companies.

Social purpose and benefit corporations are those formed to use corporate assets to pursue public benefit goals in addition to the generally accepted corporate goal of profit maximization. The profit-making ability distinguishes social purpose and benefit corporations from charities and from not-for-profit corporations.

Currently, state banks and trust companies are not permitted to be formed as social purpose or benefit corporations.

The bill authorizes:

- state banks and trust companies to form as a social purpose or benefit corporation;
- social purpose or benefit corporations to omit confidential information from their annual benefit reports;
- state banks and trust companies to modify their form articles of incorporation with OFR to include provisions required for social purpose or benefit corporations; and
- state banks and trust companies to approve special stock offering plans.

The bill does not appear to have a fiscal impact on state or local government.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State-Chartered Banks or Trust Companies

The Florida Office of Financial Regulation (OFR) regulates state-chartered depository and non-depository financial institutions and financial service companies. One of OFR's primary goals is to provide for and promote the safety and soundness of financial institutions while preserving the integrity of Florida's markets and financial service industries.[1] OFR has regulatory authority over banks and trust companies, pursuant to ch. 658, F.S., of the Financial Institutions Codes (codes). These banks and trust companies operate pursuant to pt. I of ch. 607, F.S., relating to for-profit corporations, to the extent that ch. 607, F.S., does not conflict with, or is not expressly superseded by, the codes.[2]

A corporation that seeks to organize as a state-chartered bank or trust company in Florida must submit an application for authority to organize to OFR.[3] The application must include the financial, business, and reasonably required biographical information for each proposed director, executive officer, and, if applicable, each trust officer.[4] OFR is required to grant the corporation's request to organize if it meets certain criteria relating to local conditions, capitalization, paid-in capital-in surplus, qualifications of the proposed officer and directors, the corporate name of the proposed state bank or trust company, and provision of suitable quarters at the location.[5]

After OFR grants a corporation's approval to organize, the corporation must submit its articles of incorporation and filing fee to OFR to become chartered and begin its corporate existence as a banking corporation or trust company.[6] OFR must then provide the proposed directors with form articles of incorporation that reflect only those provisions that are required under s. 658.23, F.S., and pt. I of ch. 607, F.S., relating to for-profit corporations.[7]

Currently, state banks and trust companies are not permitted to be formed as social purpose or benefit corporations.[8]

Social Purpose and Benefit Corporations

In 2014, the Florida Legislature adopted legislation that governs social purpose corporations and benefit corporations. Generally, social purpose and benefit corporations protect directors and officers who use corporate assets to pursue public benefit goals in addition to the generally accepted corporate goal of profit maximization. Further, since there is a hybrid of goals in these new corporations, the profit-making ability distinguishes social purpose and benefit corporations from charities and from not-for-profit corporations.[9]

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[1] s. 655.001(2), F.S.
[2] s. 658.30(1), F.S.
[3] s. 658.19, F.S.
[4] *Id.*
[5] s. 658.21, F.S.
[6] s. 658.23(1), F.S.
[7] *See, e.g.*, Florida Office of Financial Regulation, *Model Articles of Incorporation Bank, Trust Company, or Association*, available at https://www.flofr.com/PDFs/model_articles_OFR.pdf (last visited Jan. 24, 2018).
[8] s. 658.23, F.S.
[9] *See generally* ch. 607, pts. II and III, F.S.

The primary difference between a social purpose corporation and a benefit corporation is the degree of public benefit purpose imposed upon each of the corporations.[10] A social purpose corporation may pursue or create one or more public benefits, which may be specific.[11] In contrast, a benefit corporation may pursue or create a "general public benefit," which is a broad purpose intended to encompass many societal and environmental factors that are affected by the business and operations of the corporation.[12]

For both types of corporations, the directors and officers are required to consider the effects of any corporate action or inaction upon the benefit goals of the corporation. Both of these corporations can be the subject of a benefit enforcement proceeding to compel them to pursue or create a general or specific public benefit. However, neither corporation, nor any of its directors and officers, may be found monetarily liable for a failure to create or pursue a public benefit. For-profit corporations and their officers and directors are not subject to a requirement to pursue a public benefit.[13]

As of May 2017, 32 states permitted benefit corporations.[14] Four states have legislation that allow social purpose corporations.[15] There are approximately 3,500 benefit corporations nationwide, including Kickstarter, Ben & Jerry's, Patagonia, Warby Parker, Etsy, and King Arthur Flour, all of which operate with a commitment to environmental and social factors, as well as to their shareholders' financial interests.[16] Virginia Community Capital was the first federally chartered bank to become a benefit corporation in April 2016.[17]

Annual Benefit Report

Benefit corporations must prepare an annual benefit report (report). The report must contain information such as:[18]

- A description of the ways the benefit corporation pursued the general and specific public benefit goal;
- An explanation of the third-party standard against which the benefit corporation's performance is assessed, if applicable;[19]
- The contact information of certain directors and officers; and
- If any benefit director resigned from, refused to stand for reelection to, or was removed from his or her position.

A social purpose corporation's report is substantially similar to a benefit corporation's report, but it need only describe how it pursued a particular rather than general public benefit.[20]

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[10] Stuart Cohn & Stuart Ames, *Now It's Easier Being Green: Florida's New Benefit and Social Purpose Corporations*, 88-9 FLA. BAR. J. 38, AT 2 (Nov. 2014) *available at* https://www.floridabar.org/news/tfb-journal/?durl=%2FDIVCOM%2FJN%2Fjnjournal01.nsf%2FArticles%2FC655F4F9D7D009B585257D7E004BCB18 (last visited Jan. 24, 2018).
[11] s. 607.506, F.S.
[12] s. 607.606, F.S.
[13] ss. 607.602, 607.511, and 607.611, F.S.
[14] BENEFIT CORPORATION GATEWAY, *State-by-State Guide*, http://www.benefitcorporationgateway.org/h/entrepreneurs-main/state-by-state-guide/ (last visited Jan. 19, 2018).
[15] Rob Esposito & Shawn Pelsinger, *Social Enterprise Law Tracker: Status Tool*, http://socentlawtracker.org/#/spcs (last visited Jan. 24, 2018).
[16] Carol Hazard, *Community Capital Bank becomes first B Corp bank in U.S.*, RICHMOND TIMES-DISPATCH (Apr. 4, 2016), http://www.richmond.com/business/community-capital-bank-becomes-first-b-corp-bank-in-u/article_f26a9996-3f21-5b87-b1fb-c1011730a8ba.html; *see also* B-LAB, *FAQ's*, http://benefitcorp.net/faq (last visited Jan. 24, 2018).
[17] CISION PRWEB, *For-Profit Bank Becomes First Benefit Corporation Bank in U.S.* (Apr. 4, 2016), http://www.prweb.com/releases/2016/03/prweb13301237.htm (last visited Jan. 24, 2018).
[18] s. 607.612, F.S.
[19] A recognized standard for defining, reporting, and assessing the societal and environmental performance of a business. ss. 607.502(10) and 607.602(10), F.S.
[20] s. 607.512(1)(a)1., F.S.

These annual benefit reports are not required to be audited or certified by a third-party standards provider, such as B-Lab, unless a corporation's articles of incorporation state otherwise.[21]

Additionally, a social purpose or benefit corporation must deliver their annual benefit report to each of its shareholders, and post the report publicly.[22] If a social purpose or benefit corporation fails to publicly furnish its annual benefit report, one of its shareholders may bring an action to compel its provision in circuit court. The court may award the suing shareholder costs and attorney's fees.[23]

Effect of Proposed Changes

The bill allows state banks and trust companies to form as a social purpose or benefit corporation. Specifically, the bill allows the social purpose and benefit corporations statutes to extend to state banks and trust companies, and permits stockholders, directors, and committees of such financial institutions to hold authorized meetings.

The bill allows social purpose corporations and benefit corporations to omit information required to be kept confidential under state or federal law from their annual benefit report. If the social purpose corporation or benefit corporation does omit such information, however, it must expressly state that it did so in its annual benefit report. This allows banks and trust companies that form as social purpose or benefit corporations to maintain the confidentiality of information that is required to be confidential under the Financial Institutions Codes.

The bill authorizes state banks and trust companies to modify their form articles of incorporation with OFR to include provisions required for social purpose or benefit corporations, and to approve special stock offering plans.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1 Amends s. 607.512, F.S., authorizing the omission of certain confidential information from an annual benefit report of a social purpose corporation.

Section 2 Amends s. 607.612, F.S., authorizing the omission of certain confidential information from an annual benefit report of a benefit corporation.

Section 3 Amends s. 658.23, F.S., authorizing the modification of form articles of incorporation to include provisions required for a social purpose or benefit corporation.

Section 4 Amends s. 658.30, F.S., allowing state banks and trust companies to form as a social purpose of benefit corporation, and stockholders, directors, and committees of financial institutions to hold authorized meetings.

Section 5 Amends s. 658.36, F.S., authorizing a social purpose or benefit financial institution to approve special stock offering plans.

Section 6 Provides an effective date.

[21] ss. 607.512(3) and 607.612(4), F.S.
[22] ss. 607.513 and 607.613, F.S.
[23] ss. 607.513(4) and 607.613, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow state banks and trust companies to form as social purpose or benefit corporations, which could allow for more innovation in the way banks function.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Florida Business Corporation Act; amending s. 607.512, F.S.; authorizing the omission of certain confidential information from an annual benefit report of a social purpose corporation; amending s. 607.612, F.S.; authorizing the omission of certain confidential information from an annual benefit report of a benefit corporation; amending s. 658.23, F.S.; authorizing the modification of form articles of incorporation to include provisions required for a social purpose or benefit corporation; amending s. 658.30, F.S.; providing that certain provisions of the act extend to financial institutions in certain circumstances; authorizing stockholders, directors, and committees of financial institutions to hold meetings as authorized by the act; amending s. 658.36, F.S.; authorizing a financial institution to approve special stock offering plans notwithstanding provisions of the act; providing an effective date.

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

Section 1. Subsection (4) is added to section 607.512, Florida Statutes, to read:

607.512 Preparation of annual benefit report.—

(4) Notwithstanding the requirements of this section, information that is required to be included in the annual benefit report but that is otherwise required by applicable regulatory state or federal law to be kept confidential may be omitted from the annual benefit report. If such information is omitted, the annual benefit report shall expressly state that information required by this section has been omitted in reliance on this subsection.

Section 2. Subsection (5) is added to section 607.612, Florida Statutes, to read:

607.612 Preparation of annual benefit report.—

(5) Notwithstanding the requirements of this section, information that is required to be included in the annual benefit report but that is otherwise required by applicable regulatory state or federal law to be kept confidential may be omitted from the annual benefit report. If such information is omitted, the annual benefit report shall expressly state that information required by this section has been omitted in reliance on this subsection.

Section 3. Subsection (2) of section 658.23, Florida Statutes, is amended to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(2) The articles of incorporation shall contain:

(a) The name of the proposed bank or trust company.

(b) The general nature of the business to be transacted or a statement that the corporation may engage in any activity or business permitted by law. Such statement shall authorize all such activities and business by the corporation.

(c) The amount of capital stock authorized, showing the maximum number of shares of par value common stock and of preferred stock, and of every kind, class, or series of each, together with the distinguishing characteristics and the par value of all shares.

(d) The amount of capital with which the corporation will begin business, which may not be less than the amount required by the office pursuant to s. 658.21.

(e) A provision that the corporation is to have perpetual existence unless existence is terminated pursuant to the financial institutions codes.

(f) The initial street address of the main office of the corporation, which shall be in this state.

(g) The number of directors, which shall be five or more, and the names and street addresses of the members of the initial board of directors.

(h) A provision for preemptive rights, if applicable.

(i) A provision authorizing the board of directors to appoint additional directors, pursuant to s. 658.33, if applicable.

The office shall provide to the proposed directors form articles of incorporation which must include only those provisions required under this section or under ~~part I of~~ chapter 607. The form articles may be modified by the applicant to include any of the additional provisions required by part II or part III of chapter 607 which are necessary for a corporation to be a social purpose or benefit corporation. The form articles shall be acknowledged by the proposed directors and returned to the office for filing with the Department of State.

Section 4. Section 658.30, Florida Statutes, is amended to read:

658.30 Application of the Florida Business Corporation Act.—

(1) When not in direct conflict with or superseded by specific provisions of the financial institutions codes, the provisions of the Florida Business Corporation Act, part I of chapter 607, and, if applicable, part II or part III of chapter 607, extend to state banks and trust companies formed under the financial institutions codes. This section shall be liberally construed to accomplish the purposes stated herein.

(2) Without limiting the generality of subsection (1), stockholders, directors, and committees of state banks and trust companies may hold meetings in any manner authorized by part I of chapter 607, and, if applicable, part II or part III of

chapter 607, and any action by stockholders, directors, or committees required or authorized to be taken at a meeting may be taken without a meeting in any manner authorized by part I of chapter 607.

Section 5. Subsection (3) of section 658.36, Florida Statutes, is amended to read:

658.36 Changes in capital.—

(3) If a bank or trust company's capital accounts have been diminished by losses to less than the minimum required pursuant to the financial institutions codes, the market value of its shares of capital stock is less than the present par value, and the bank or trust company cannot reasonably issue and sell new shares of stock to restore its capital accounts at a share price of par value or greater of the previously issued capital stock, the office, notwithstanding any other provisions of part I of chapter 607 and, if applicable, part II or part III of chapter 607, or the financial institutions codes, may approve special stock offering plans.

(a) Such plans may include, but are not limited to, mechanisms for stock splits including reverse splits; revaluations of par value of outstanding stock; changes in voting rights, dividends, or other preferences; and creation of new classes of stock.

(b) The plan must be approved by majority vote of the bank or trust company's entire board of directors and by holders of

two-thirds of the outstanding shares of stock.

(c) The office shall disapprove a plan that provides unfair or disproportionate benefits to existing shareholders, directors, executive officers, or their related interests. The office shall also disapprove any plan that is not likely to restore the capital accounts to sufficient levels to achieve a sustainable, safe, and sound financial institution.

(d) For any bank or trust company that the office determines to be a failing financial institution pursuant to s. 655.4185, the office may approve special stock offering plans without a vote of the shareholders.

Section 6. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 1081 Essential Electric Utility Service
SPONSOR(S): Commerce Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Commerce Committee		Keating	Hamon

SUMMARY ANALYSIS

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons ("medically essential" electric service).

The bill expands s. 366.15, F.S., to require that municipal electric utilities and rural electric cooperatives offer medically essential electric service programs on terms similar to IOUs. The bill also requires that all electric utilities provide additional consumer education about medically essential electric service programs, and it modifies the certification and notice requirements associated with these programs. In particular, the bill:

- Requires each electric utility to post on its website a written explanation of the certification process, including a standard certification form.
- Requires each electric utility to provide a written explanation of the certification process to each residential customer at the time the customer opens an account and semiannually thereafter.
- Requires licensed physicians, physician assistants, and advanced registered nurse practitioners to inform eligible patients of the right to participate in medically essential electric service programs and to provide such patients a copy of s. 366.15, F.S., and, if requested, a completed medical certification.
- Allows for medical certification by licensed physician assistants and advanced registered nurse practitioners in addition to licensed physicians.
- Requires the medical certification to specify the time period for which service is expected to remain medically essential, up to 60 months.
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer's certification, and allows the utility to send recertification materials to the customer by e-mail if the customer has provided an email address.
- Requires an electric utility to provide additional notice to a certified customer before any disconnection of service for nonpayment, including notice by electronic means.

Florida law does not explicitly address the process by which electric utility service is restored to all customers following outages caused by emergency or disaster. The bill adopts a recommendation of the House Select Committee on Hurricane Response and Preparedness by requiring counties, as part of their local emergency management plans: (1) to identify facilities to which the restoration of electric service is deemed by the counties to be critical to the public health, safety, welfare, or security; and (2) to regularly update and share this information with local electric utilities. The bill requires electric utilities, as part of their efforts to restore service in the most efficient manner, to emphasize the expeditious restoration of these facilities.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Medically Essential Electric Service

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility[1] (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons. This service is referred to as "medically essential"[2] electric service.

Under the law, each IOU must:

- Designate employees who are authorized to direct the continuation or restoration of medically essential electric service.
- Provide annually to all customers a written explanation of the certification process for medically essential electric service, which includes:
  - Submittal of completed forms supplied by the utility, including a certification form completed by a physician licensed under ch. 458 or ch. 459, F.S., which states in medical and nonmedical terms why the electric service is medically essential; and
  - Recertification by a physician every 12 months.
- Provide recertification materials to a certified customer by mail at least 30 days prior to expiration of the customer's certification, and allow the customer to submit completed recertification forms within 30 days after the expiration of certification.
- Provide notice to a certified customer before any disconnection of service for nonpayment:
  - By telephone at least 24 hours before the scheduled disconnection;
  - In person at the customer's residence no later than 4 p.m. of the day before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone; and
  - By leaving written notification at the residence, if the customer cannot be reached by telephone or in person.
- Provide notice of any scheduled service interruptions to certified customers.

If a certified customer notifies its IOU of a need for financial assistance, the law requires the IOU to provide the customer with information on sources of state or local agency funding that may provide financial assistance to such customers. In addition, if an IOU operates a program to receive voluntary contributions from its customers to provide financial assistance to persons unable to pay for service, the IOU must train its customer service representatives to assist certified customers in identifying the program and any agencies to which the IOU has distributed the contributed funds.

The law provides that each certified customer maintains the responsibility to make satisfactory arrangements with the IOU to ensure payment for service consistent with the requirements of the IOU's tariff. Further, the law provides that each certified customer is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service. The law specifies that an IOU may disconnect service to a residence whenever

[1] Florida's investor-owned electric utilities are Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Company. These utilities are referred to in statute as "public utilities" for purposes of regulation by the Public Service Commission. s. 366.02, F.S.

[2] The term "medically essential" is defined as "the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address." s. 366.15(1), F.S.

an emergency may threaten the health or safety of a person, the surrounding area, or the public utility's distribution system, provided that the IOU must promptly restore service as soon as feasible. The law states that it does not form the basis for any cause of action against an IOU.

The law does not apply to municipal electric utilities or rural electric cooperatives, but the majority of those utilities maintain programs for medically essential electric service, many under terms similar to the terms specified in law for IOUs.[3] The rates and service of municipal electric utilities and rural electric cooperatives are not regulated by the Public Service Commission (PSC).

Chapter 456, F.S., addresses the regulation of specified health care professions by the Department of Health. It does not address certification of patients for medically essential electric service.

Restoration of Electric Service

In the aftermath of Hurricane Irma, the Speaker of the Florida House of Representatives created the Select Committee on Hurricane Response and Preparedness (Select Committee) on September 19, 2017. The Select Committee was directed to gather information, solicit ideas for improvement, and make recommendations to the executive branch and suggest legislative options to address hurricane response and preparedness. Based on conversations with constituents and local emergency management officials, personal experiences, and hours of presentations and discussion with experts from numerous fields, the Select Committee agreed to a list of proposed recommendations for consideration and further development by the standing committees of the House. On January 16, 2018, the Select Committee issued its Final Report which listed those recommendations and identified primary recommendations.[4]

One of the topics identified in the Final Report is hardening and restoring the electric grid. In addressing this topic, the Select Committee noted, among other things, that it had received testimony indicating that there is not consistent communication and cooperation among local emergency management officials and electric utilities statewide in relation to identifying and restoring critical facilities. To address this concern, the Select Committee adopted a recommendation to improve these communications and emphasize the restoration of electric service to facilities deemed critical by local emergency management officials.[5]

The State Emergency Management Act (Act) is codified at ss. 252.31-252.60, F.S., and establishes the framework for state and local agencies in Florida to prepare for and respond to emergencies[6], including natural, technological, and manmade disasters.[7] The Act charges the Division of Emergency Management (DEM) with the responsibility of maintaining a comprehensive statewide program of emergency management and coordinating with the federal government, other departments or agencies of the state, and local governments.[8] The Act requires DEM to prepare a statewide comprehensive

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[3] As of December 31, 2016, IOUs served 75% of residential customers in the state (6,937,595), while municipal electric utilities served 14% (1,247,474) and rural electric cooperatives served 11% (1,012,056). *See* FLORIDA PUBLIC SERVICE COMMISSION, Statistics of the Florida Electric Utility Industry, October 2017, at 44, *available at* http://www.floridapsc.com/Files/PDF/Publications/Reports/Electricgas/Statistics/2016.pdf.

[4] FLORIDA HOUSE OF REPRESENTATIVES, *Final Report of the Select Committee on Hurricane Response and Preparedness*, January 16, 2018, available at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General Publications&FileName=SCHRP - Final Report online.pdf (last visited Feb. 6, 2018).

[5] *Id.* at p. 21.

[6] "Emergency" is defined as "any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property." s. 252.34(5), F.S.

[7] "Disaster" is defined as "any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States." Disasters are categorized as "catastrophic," "major," or "minor" depending on the degree to which state and/or federal assistance is required in response. s. 252.34(2), F.S.

[8] s. 252.35(1), F.S.

emergency management plan and requires that specific components be included in the plan.[9] DEM is authorized to adopt standards and requirements for local emergency management plans to ensure consistency and coordination with the state plan.[10]

The Act also requires each county, either individually or through agreement with one or more other counties, to establish and maintain an emergency management agency and an emergency management plan and program that is coordinated with the state plan.[11] Each county emergency management agency must perform emergency management functions within its territorial limits and conduct any activities outside its territorial limits as required by the Act and in accordance with state and county emergency management plans and mutual aid agreements.[12] Municipalities may develop emergency management programs in coordination with the county emergency management agency.[13]

Florida law does not explicitly address the process by which electric utility service is restored to customers following outages caused by emergency or disaster.

Effect of Proposed Changes

Medically Essential Electric Service

The bill requires additional consumer education about medically essential electric service programs and establishes additional protections for utility customers that are certified under such programs. In addition, the bill expands the law to include municipal electric utilities and rural electric cooperatives.

The bill amends s. 366.15, F.S., to replace most references to "public utility" – the term used in ch. 366, F.S., to describe investor-owned electric utilities – with the term "electric utility." The term "electric utility" is used in ch. 366, F.S., to refer to all types of electric utilities, including investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives. Thus, the bill expands the statutory requirements for medically essential electric service to all retail electric utilities in the state.[14]

The bill requires additional consumer education about medically essential electric service. In particular, the bill:

- Requires that each electric utility post on its website a written explanation of the certification process, including a standard certification form adopted by the utility.
- Requires that each electric utility provide a written explanation of the certification process to each residential customer at the time the customer opens an account with the utility and semiannually thereafter, either through a bill insert or by electronic means.
- Creates s. 456.45, F.S., to require certain health care practitioners – licensed physicians, physician assistants, and advanced registered nurse practitioners – to inform a patient of the right to participate in medically essential electric service programs and to provide the patient with a written copy of s. 366.15, F.S., if the patient may be at risk of loss of life or immediate hospitalization due to the loss of electric service at the patient's residence. At the request of such a patient, the practitioner must provide the patient a completed medical certification using the form adopted by the utility and document the certification in the patient's record.

[9] s. 252.35(2)(a), F.S.
[10] s. 252.35(2)(b), F.S.
[11] s. 252.38(1), F.S.
[12] *Id.*
[13] s. 252.38(2), F.S.
[14] The bill does not extend certain accounting and training requirements in s. 366.15(10)(b)2., F.S., to municipal electric utilities and rural electric cooperatives.

The bill also modifies the statutory requirements for medically essential electric service. With respect to the certification process, the bill:

- Allows for medical certification by licensed physician assistants and advanced registered nurse practitioners in addition to licensed physicians.
- Requires that each utility adopt a standard certification form and specifies the information to be included in the form, including: the customer's name, account number, service address, and contact information; the name of the permanent resident at the service address who is medically dependent on electric-powered equipment; and the name of that person's certifying health practitioner. The bill requires that the standard certification form include a separate section to be completed by the certifying health care practitioner, which must include: the name, business address, and medical license number of the certifying health care practitioner; a statement in medical and nonmedical terms that specifies why electric service is medically essential; and the time period for which the service is expected to remain medically essential.
- Provides that the medical certification may extend up to 60 months.
- Requires recertification upon expiration of the current certification period but no sooner than 12 months after issuance of the current certification.
- Provides that the electric utility may send recertification materials to the customer by e-mail if the customer has provided an email address to the utility.
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer's certification.
- Allows the electric utility, no more often than once every 12 months, to request verification from the customer that the person for whom service is certified continues to reside at the service address.

With respect to disconnection of service for nonpayment, the bill:

- Ensures that certified customers are provided no less time than other residential customers to make payment or payment arrangements (in any event, no less than 20 days from the date a bill is mailed or delivered by the electric utility) prior to the utility scheduling disconnection of service.
- Requires the electric utility to provide, in addition to any notice provided in its normal course of business, notice to certified customers:
    - By telephone and in writing – including by electronic means if the customer has provided contact information to receive electronic communications – no later than 15 days before, and again no later than 7 days before, the scheduled disconnection;
    - In person at the customer's residence no later than 2 business days before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone; and
    - In writing by electronic means, in addition to leaving written notification at the residence, if in-person contact is not made.

Restoration of Electric Service

The bill adopts a recommendation of the Select Committee by requiring that each emergency management plan developed by a county, either individually or through agreement with one or more other counties, must identify those facilities to which the restoration of electric service is deemed by the county or counties to be critical to the public health, safety, welfare, or security. The bill provides that these facilities may include, but are not limited to, emergency management and law enforcement facilities; health care facilities; public shelters; and critical utility, transportation, communications, government, and military infrastructure. The bill requires that each plan must provide for this information to be updated on a regular basis and shared with each utility that provides retail electricity service within the county.

The bill requires each electric utility, as part of its efforts to restore electric service in the most efficient manner, to emphasize the expeditious restoration of service to those facilities identified in the plan as critical. The bill does not appear to require the creation of a strict priority list for restoration of electric service.

The bill makes conforming changes, including cross-references.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1. Amends s. 252.38, F.S., related to emergency management powers of political subdivisions.

Section 2. Amends s. 252.373, F.S., to conform a cross-reference.

Section 3. Amends s. 366.11, F.S., related to certain exemptions from regulation under ch. 366, F.S.

Section 4. Amends s. 366.15, F.S., related to medically essential electric public utility service.

Section 5. Creates s. 456.45, F.S., related to certification of medically essential electric utility service.

Section 6. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Electric utilities that currently provide medically essential electric service programs may incur costs to modify those programs to comply with the bill. The small minority of electric utilities that do not currently provide such programs will incur costs to establish those programs in compliance with the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Commerce Committee published a proposed committee substitute (PCS) to CS/HB 1081. The PCS makes the following changes to CS/HB 1081:

- Requires each county, as part of its emergency management plan or in supporting documents to its plan, to identify critical facilities for purposes of restoration of electric service and to regularly update and communicate this information to utilities that provide retail electricity service within the county.
- Requires each electric utility, as part of its efforts to restore service in the most efficient manner, to emphasize the expeditious restoration of service to critical facilities identified by the county.
- Clarifies that municipal electric utilities and rural electric cooperatives are not exempt from the provisions of the bill related to medically essential electric service.
- Requires each utility, rather than the Public Service Commission, to adopt a standard certification form for medically essential electric service, and specifies the information to be included in each form.
- Provides that a utility, no more often than once every 12 months, may verify that a person whose service is certified as medically essential continues to reside at the service address.
- Conforms cross-references.

This analysis addresses the PCS.

A bill to be entitled

An act relating to essential electric utility service; amending s. 252.38, F.S.; establishing a required element for each emergency management plan developed by a county or counties to identify certain facilities deemed critical for restoration of electric services; amending s. 252.373, F.S.; correcting a cross-reference; amending s. 366.11, F.S.; specifying that certain utilities are not exempt from providing medically essential electric service; amending s. 366.15, F.S.; revising and defining terms; providing notification requirements for electric utilities relating to the certification process for obtaining medically essential electric service and service disconnection; providing certification requirements for customers; specifying duties for electric utilities providing such service; revising penalties for falsification of such certification; creating s. 456.45, F.S.; requiring certain health care practitioners to inform certain patients of such certification process; requiring such practitioners to complete certain medical certifications and document such certification; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section 252.38, Florida Statutes, is redesignated as paragraph (c), paragraph (a) of subsection (1) is amended, and a new paragraph (b) is added to subsection (3), to read:

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.90, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.90, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(c) ~~(3)(b)~~ which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered

into pursuant to paragraph (3)(c) ~~(3)(b)~~ which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—

(b) For each emergency management plan or supporting document to the plan developed pursuant to this section by a county or by two or more counties through an interjurisdictional arrangement, the county or counties must identify those facilities for which the restoration of electric services following an interruption of service due to emergency or disaster are deemed to be critical to the public health, safety, welfare, or security. Such facilities may include, but are not limited to: emergency management and law enforcement facilities; health care facilities; public shelters; and critical utility, transportation, communications, government, and military infrastructure. Plan information must be updated on a regular basis and conveyed to each utility that provides retail electricity service within the boundaries of the county. Each such utility, as part of its efforts to restore electric service in the most efficient manner, shall emphasize the expeditious restoration of service to those facilities identified in the plan as critical.

Section 2. Paragraph (a) of subsection (2) of section

252.373, Florida Statutes, is amended to read:

252.373 Allocation of funds; rules.—

(2) The division shall allocate funds from the Emergency Management, Preparedness, and Assistance Trust Fund to local emergency management agencies and programs pursuant to criteria specified in rule. Such rules shall include, but are not limited to:

(a) Requiring that, at a minimum, a local emergency management agency either:

1. Have a program director who works at least 40 hours a week in that capacity; or

2. If the county has fewer than 75,000 population or is party to an interjurisdictional emergency management agreement entered into pursuant to s. 252.38(3)(c) ~~s. 252.38(3)(b)~~, that is recognized by the Governor by executive order or rule, have an emergency management coordinator who works at least 20 hours a week in that capacity.

Section 3. Subsection (1) of section 366.11, Florida Statutes, is amended to read:

366.11 Certain exemptions.—

(1) No provision of this chapter shall apply in any manner, other than as specified in ss. 366.04, 366.05(7) and (8), 366.051, 366.055, 366.093, 366.095, 366.14, 366.15, 366.80-366.83, and 366.91, to utilities owned and operated by municipalities, whether within or without any municipality, or

by cooperatives organized and existing under the Rural Electric Cooperative Law of the state, or to the sale of electricity, manufactured gas, or natural gas at wholesale by any public utility to, and the purchase by, any municipality or cooperative under and pursuant to any contracts now in effect or which may be entered into in the future, when such municipality or cooperative is engaged in the sale and distribution of electricity or manufactured or natural gas, or to the rates provided for in such contracts.

Section 4. Section 366.15, Florida Statutes, is amended to read:

366.15 Medically essential electric ~~public~~ utility service.—

(1) As used in this section, the term:

(a) "Health care practitioner" means a physician or physician assistant licensed under chapter 458 or chapter 459 or an advanced registered nurse practitioner licensed under chapter 464.

(b) "Medically essential" means the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a health care practitioner ~~physician~~ to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address.

(2) Each electric ~~public~~ utility shall designate employees

who are authorized to direct an ordered continuation or restoration of medically essential electric service. An electric ~~A public~~ utility shall not impose upon any customer any additional deposit to continue or restore medically essential electric service.

(3)(a) Each electric ~~public~~ utility shall post on its website a written explanation of the certification process for obtaining medically essential electric service. The website must include the standard certification form adopted by the utility pursuant to paragraph (b). Each electric utility shall ~~annually~~ provide a written explanation of the certification process ~~for medically essential electric service~~ to each residential utility customer:

1. When the customer opens an account for electric service with the electric utility; and

2. At least semiannually, either by means of a written bill insert or, if the customer has provided contact information to receive electronic communications from the electric utility, by electronic means.

(b) Each electric utility shall adopt a standard certification form to be completed and signed by each residential customer who wishes to have his or her service certified as medically essential. The certification form must include: the customer's service address; the customer's name and the account number for the service address; the name of the

permanent resident at the service address who is medically dependent on electric-powered equipment and the name of that person's certifying health care practitioner; and the customer's contact information for purposes of receiving communications from the utility by telephone and, if available, by electronic means. The certification form shall include a separate section to be completed and signed by a health care practitioner to certify that electric service is medically essential for the customer or other permanent resident at that service address. This section of the certification form must include: the name, business address, and medical license number of the certifying health care practitioner; a statement by the health care practitioner, in medical and nonmedical terms, that specifies why the electric service is medically essential, as defined in subsection (1); and a specification of the time period for which service is expected to remain medically essential.

(c) Certification that ~~of~~ a customer's electricity needs are ~~as~~ medically essential requires the customer ~~to complete forms supplied by the public utility and~~ to submit to the utility a completed standard certification form which includes the health care practitioner's certification ~~a form completed by a physician licensed in this state pursuant to chapter 458 or chapter 459 which states in medical and nonmedical terms why the electric service is medically essential~~. The certification may not extend beyond 60 months. Falsification of the ~~False~~

certification ~~of medically essential service by a physician~~ is a violation of s. 458.331(1)(h), ~~or~~ s. 459.015(1)(i), or s. 464.018(1)(f).

(d) ~~(b)~~ Medically essential service must ~~shall~~ be recertified at the expiration of the time period specified in the certification or ~~once every~~ 12 months after certification, whichever is later. The electric ~~public~~ utility shall send the ~~certified~~ customer by regular mail, or by e-mail if the customer has provided the utility his or her e-mail address, a package of recertification materials, including recertification forms, at least 60 ~~30~~ days prior to the expiration of the customer's certification. The materials shall advise the ~~certified~~ customer that he or she must complete and submit the recertification forms within 30 days after the expiration of the customer's existing certification. If the recertification forms are not received within this 30-day period, the electric ~~public~~ utility may terminate the customer's certification. No more often than once every 12 months during the term of the certification, the electric utility may request verification from the customer that the person for whom electric service is certified continues to reside at the service address.

(4) Each electric ~~public~~ utility must ~~shall~~ certify a customer's electric service as medically essential if the customer completes the requirements of subsection (3).

(5) Notwithstanding any other provision of this section,

an electric ~~a public~~ utility may disconnect service to a residence whenever an emergency may threaten the health or safety of a person, the surrounding area, or the electric ~~public~~ utility's distribution system. The electric ~~public~~ utility shall act promptly to restore service as soon as feasible.

(6) A customer whose electric service is certified as medically essential under this section is entitled, at a minimum, to the same time period for payment of bills that applies to all other residential customers served by the electric utility but no fewer than 20 days after the date the bill is mailed or delivered by the utility. If payment or a satisfactory payment arrangement has not been made within the specified time period, the electric utility may schedule disconnection of service for nonpayment of the bill. Before a scheduled disconnection of service for nonpayment of a bill, the electric utility shall provide, in addition to any notice provided in the utility's normal course of business, the following notice to a customer whose electric service is certified as medically essential under this section:

(a) No later than 15 days, and again no later than 7 days, prior ~~24 hours before any scheduled disconnection of service for nonpayment of bills to a customer who requires medically essential service~~, the electric ~~a public~~ utility shall attempt to contact the customer by telephone ~~in order~~ to provide notice of the scheduled disconnection and shall provide such notice in

writing, including by electronic means if the customer has provided contact information to receive electronic communications from the utility.

(b) If ~~the customer does not have a telephone number listed on the account or if~~ the electric ~~public~~ utility cannot reach the customer or other adult resident of the premises by telephone by the specified time, the electric ~~public~~ utility shall send a representative to the customer's residence to attempt to contact the customer, no later than 2 ~~4 p.m. of the~~ business days ~~day~~ before the scheduled disconnection. If contact is not made, however, the electric ~~public~~ utility must ~~may~~ leave written notification at the residence advising the customer of the scheduled disconnection and shall provide such notice by electronic means if the customer has provided contact information to receive electronic communications from the utility.

Thereafter, the electric ~~public~~ utility may disconnect service on the scheduled disconnection ~~specified~~ date if payment to the electric utility or a satisfactory payment arrangement with the electric utility has not been made.

(7) Each electric ~~public~~ utility customer who requires medically essential service is responsible for making satisfactory arrangements with the electric ~~public~~ utility to ensure payment for such service, and such arrangements must be

consistent with the requirements of the utility's tariff.

(8) Each electric ~~public~~ utility customer who requires medically essential service is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service.

(9) Each electric ~~public~~ utility that provides electric service to any customer whose electric service is certified as medically essential pursuant to this section ~~who requires medically essential service~~ shall call, contact, or otherwise advise such customer of scheduled service interruptions.

(10)(a) Each electric ~~public~~ utility shall provide information on sources of state or local agency funding which may provide financial assistance to the ~~public~~ utility's customers who require medically essential service and who notify the ~~public~~ utility of their need for financial assistance.

(b)1. Each electric ~~public~~ utility that operates a program to receive voluntary financial contributions from the ~~public~~ utility's customers to provide assistance to persons who are unable to pay for the ~~public~~ utility's services shall maintain a list of all agencies to which the ~~public~~ utility distributes such funds for such purposes and shall make the list available to any such person who requests the list.

2. Each public utility that operates such a program shall:

a. Maintain a system of accounting for the specific amounts distributed to each such agency, and the ~~public~~ utility

and such agencies shall maintain a system of accounting for the specific amounts distributed to persons under such respective programs.

b. Train its customer service representatives to assist any person who possesses a medically essential certification as provided in this section in identifying such agencies and programs.

(11) Nothing in this act shall form the basis for any cause of action against an electric ~~a public~~ utility. Failure to comply with any obligation created by this act does not constitute evidence of negligence on the part of the electric ~~public~~ utility.

Section 5. Section 456.45, Florida Statutes, is created to read:

456.45 Certification of medically essential electric service.—

(1) As used in this section, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458 or chapter 459 or an advanced registered nurse practitioner licensed under chapter 464.

(2) A health care practitioner who determines that a patient may be at risk of loss of life or immediate hospitalization if the patient were to lose electric service at the patient's residential service address shall inform the patient of the right to obtain certification under the medically

essential electric service program provided by the patient's electric utility pursuant to s. 366.15, and provide the patient a written copy of the law.

(3) Upon the request of such a patient, the health care practitioner must provide the patient a completed medical certification using the standard form adopted by the patient's electric utility and made available on the utility's website pursuant to s. 366.15(3) and must document the certification in the patient's record.

Section 6. This act shall take effect July 1, 2018.