

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/ SB 1310

SPONSOR: Comprehensive Planning Committee and Senator Jones

SUBJECT: Developments of Regional Impact

DATE: February 16, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute (CS) increases the individual use and multiuse guidelines and standards by 100 percent for multiuse developments in urban central business districts and regional activity centers 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. It also provides that the extension of the date of buildout for an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation that is subject to further DRI review.

This CS amends section 380.06 of the Florida Statutes.

II. Present Situation:

Section 380.06, F.S., governs the Development of Regional Impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.¹ For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Chapter 28-24, Florida Administrative Code. Examples of the land uses for which guidelines are established include: airports; attractions and recreational facilities; industrial plants and industrial parks; office parks; port facilities, including marinas; hotel or motel development; retail and service development; recreational vehicle development; multi-use development; residential development; and schools.

¹ S. 380.06(1), F.S.

The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities.
- The development will significantly impact adjacent jurisdictions.
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.²

Percentage thresholds, as defined in 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review.³ If a development is at or above 120% of the guidelines, it is required to undergo DRI review.⁴ A rebuttable presumption is established whereby a development at 100% of a numerical threshold or between 100-120% of a numerical threshold is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the Department of Community Affairs (DCA).⁵ The DCA or the local government with jurisdiction over the land to be used for the proposed development may require a developer to obtain a binding letter of interpretation if the development is at a presumptive threshold or up to 20 percent above the established numerical threshold.⁶ Any other local government may petition DCA to require a binding letter of interpretation for a development located in an adjacent jurisdiction if the petition contains sufficient facts to find that the development as proposed constitutes a DRI.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a reasonable likelihood of additional regional impact or any type of regional impact, resulting from a change not previously reviewed by the regional planning council, constitutes a "substantial deviation" that subjects the development to further DRI review and entry of a new or amended local development order. Section 380.06(19), F.S., provides that a proposed change to a previously approved DRI which, either individually or cumulatively with other changes, exceeds specified criteria constitutes a substantial deviation and is subject to further DRI review.

The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. However, this presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.⁷ When calculating whether a buildout date has been

² S. 380.06(12)(a), F.S.

³ S. 380.06(2)(d)1.a., F.S.

⁴ S. 380.06(2)(d)1.b., F.S.

⁵ S. 380.06(4)(a), F. S. The developer may also request a determination with regard to vested rights under s. 380.06(20), F.S. If requested by the developer, DCA may also issue an informal determination as to whether the project is subject to DRI review.

⁶ S. 380.06(4)(b), F.S.

⁷ S. 380.06(19), F.S.

exceeded, time is tolled during the pendency of administrative or judicial proceedings relating to development permits.⁸

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 percent for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census.⁹ Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities. A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.¹⁰ Currently, the individual DRI threshold is increased 50 percent within an urban central business district or a regional activity center. However, the multi-use DRI threshold within such a district or center enjoys a 100 percent increase.

Areawide Development of Regional Impact

Section 380.06(25), F.S., provides that an areawide DRI is to be reviewed under the standards of s. 380.06, F.S., but the review must include an areawide development plan. An areawide development plan must, at a minimum:

- Encompass a defined planning area approved and include at least two or more developments;
- Map and define the land uses proposed, including the amount of development by use and development phasing;
- Integrate a capital improvements program to ensure the availability of facilities and services for the development;
- Incorporate land development regulations, covenants, and restrictions necessary to protect resources of statewide and regional significance.¹¹

The criteria for evaluating a petition for a proposed areawide DRI are:

- Whether the developer is financially capable of processing an application for development approval through the final approval stage.
- Whether the defined area and proposed development within that area appear to be of a character, magnitude, and location such that an areawide DRI is in the public interest.¹²

The local government must hold a public hearing and issue a written order.¹³

Following approval of an areawide development plan and development order, individual developments that conform to the approved areawide development plan are not required to

⁸ S. 380.06(19)(c), F.S.

⁹ Rule 28-24.014(10)(c)1., Fla. Admin. Code

¹⁰ Rule 28-24.014(10)(c)2., Fla. Admin. Code

¹¹ S. 380.06(25)(a)1., F.S.

¹² S. 380.06(25)(b)3., F.S.

¹³ S. 380.06(25)(b), F.S. and S. 380.06(25)(e), F.S.

undergo further DRI review unless otherwise provide in the development order.¹⁴ The percentage thresholds that determine whether a proposed change constitutes a substantial deviation are doubled for an areawide DRI.¹⁵ As to whether the proposed extension of a buildout date for an areawide DRI constitutes a substantial deviation, if the term of years for the extension is 7 or more years, the extension is presumed to create a substantial deviation under the current provisions of s. 380.06(19)(c), F.S., and is subject to further review.

III. Effect of Proposed Changes:

Section 1 amends s. 380.06(2)(e), F.S., to increase the individual use and multiuse guidelines and standards by 100 percent for multiuse developments in urban central business districts and regional activity centers 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. The jurisdiction's local comprehensive plan must also be in compliance with part II of chapter 163, F.S., to benefit from this increase.

The CS amends s. 380.06(19)(c), F.S., to provide that the extension of the date of buildout for an areawide DRI by more than 5 years but less than 10 years is presumed not to create a substantial deviation. This rebuttable presumption shifts the burden of proof. By extending the deadline by 3 years, a local government or DCA will have to demonstrate that there are additional regional impacts from the proposed change for years 5-10 instead of years 5-7 that require further DRI review.

Section 2 provides the act shall take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

¹⁴ S. 380.06(25)(a), F.S.

¹⁵ S. 380.06(25)(n), F.S.

B. Private Sector Impact:

This CS increases the individual use and multiuse guidelines and standards by 100 percent for multiuse developments in urban central business districts and regional activity centers under certain circumstances. This will benefit the private sector by increasing the density of some multi-use projects in designated areas.

This CS would allow developers to extend the buildout of a DRI up to ten years without the additional cost associated with possible further DRI review after the current 7-year period has elapsed.

C. Government Sector Impact:

This CS may result in some cost savings for DCA and local governments, by eliminating additional DRI reviews for projects that are presumed not to create a substantial deviation and exceed the current 7-year period but will be complete in less than 10 years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.