

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 539 w/CS    Developments of Regional Impact  
**SPONSOR(S):** Justice  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1310

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government &amp; Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

This bill relates to developments of regional impact.

This bill provides that *both* the applicable individual use guidelines and standards for residential, hotel, motel, office, and retail developments *and* the multiuse guidelines and standards will be increased by 100 percent for multiuse developments which have a qualifying residential land use and which are located in an urban central business district or a regional activity center of a jurisdiction whose local comprehensive plan is in compliance with the applicable statutes.

The bill also changes the provisions related to *areawide* developments of regional impact. It creates a presumption that the extension of the date of buildout of an areawide development of regional impact by more than five years but less than 10 years does not create a substantial deviation which would subject the development to additional review.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

The municipality/county mandates provision does not appear to be applicable because the bill does not appear to affect municipal or county governments.

This bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Any development that, because of its character, magnitude, or location, will have a substantial effect upon the health, safety, or welfare of citizens of more than one county is a development of regional impact or DRI.<sup>1</sup> DRIs are governed by section 380.06, Florida Statutes.

#### Statewide Guidelines and Standards

Among its provisions, section 380.06, Florida Statutes, sets forth statewide guidelines and standards for DRIs.<sup>2</sup> These statewide guidelines and standards set fixed, numerical “thresholds” that are used to determine whether or not a development must undergo DRI review.<sup>3</sup> For example, a development that is below 100 percent of all numerical thresholds *is not required* to undergo DRI review.<sup>4</sup> By contrast, a development that is at or above 120 percent of any numerical threshold *is required* to undergo DRI review.<sup>5</sup>

These are some of the current DRI thresholds:<sup>6</sup>

Residential:	3,000 dwelling units
Retail:	400,000 square feet
Office:	300,000/600,000 <sup>7</sup> square feet
Hotel:	350/750 <sup>8</sup> rooms
Multiuse:	145%/160% <sup>9</sup>

Thus, a development which has 2,999 residential dwelling units would not have to undergo review as a DRI since that is less than 100% of the residential threshold. Yet, a development would have to undergo DRI review if it had 480,000 square feet of retail development since that is more than 120% of the retail threshold.

<sup>1</sup> See Fla. Stat. § 380.06(25) (2003).

<sup>2</sup> See Fla. Stat. §380.06(2) (2003).

<sup>3</sup> See Fla. Stat. §380.06(2)(d) (2003).

<sup>4</sup> See Fla. Stat. §380.06(2)(d)1.a. (2003).

<sup>5</sup> See Fla. Stat. §380.06(2)(d)1.b. (2003).

<sup>6</sup> See Department of Community Affairs, *Proposed change to increase the individual DRI thresholds within a UCBD and RAC by 100% rather than 50% of the applicable DRI threshold* [hereinafter *DCA Analysis*] (2003)(on file with the Committee).

<sup>7</sup> See *id.* The higher threshold is for counties with a population greater than 500,000 and only in geographic areas specifically designated as highly suitable for increased threshold intensity in the local comprehensive plan and the regional policy plan.

<sup>8</sup> See *id.*

<sup>9</sup> See *id.*

In addition, residential, hotel, motel, office, and retail developments located in an urban central business district or regional activity center of a jurisdiction whose local comprehensive plan is in compliance with part II of chapter 163, Florida Statutes, have the applicable guidelines and standards increased by 50 percent.<sup>10</sup> Similarly, the applicable guidelines and standards are increased by 100 percent for similarly situated multiuse developments.<sup>11</sup>

As it relates to these multiuse developments,<sup>12</sup> there has been some confusion as it relates to the “applicable guidelines and standards.” The Department of Community Affairs has interpreted this language as applying the increase *only* to the multiuse percentage and not to any of the individual use thresholds such as residential, hotel, motel, office, and retail. This bill provides that *both* the applicable individual uses for residential, hotel, motel, office, and retail developments *and* the multiuse guidelines and standards will be increased by 100 percent for these multiuse developments.<sup>13</sup>

Residential:	6,000 dwelling units
Retail:	800,000 square feet
Office:	600,000/1,200,000 <sup>14</sup> square feet
Hotel:	700/1,500 <sup>15</sup> rooms
Multiuse:	290%/320% <sup>16</sup>

### Areawide Development of Regional Impact

Section 380.06, Florida Statutes, also provides for an areawide development of regional impact or ADRI.<sup>17</sup> An ADRI is a plan of development that meets the following minimum criteria:

- Encompasses a defined planning area approved pursuant to this subsection that will include at least two or more developments;
- Maps and defines the land uses proposed, including the amount of development by use and development phasing;
- Integrates a capital improvements program for transportation and other public facilities to ensure development staging contingent on availability of facilities and services;
- Incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of regional and state significance; and
- 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.<sup>18</sup>

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<sup>10</sup> See Fla. Stat. §380.06(2)(e) (2003).

<sup>11</sup> *Id.* The multiuse development must be (1) located in an urban central business district or a regional activity center of a jurisdiction whose local comprehensive plan is in compliance with part II of chapter 163, Florida Statutes; and (2) have one land use that is residential and which amounts to not less than 35 percent of the jurisdiction's applicable residential threshold.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.* The higher threshold is for counties with a population greater than 500,000 and only in geographic areas specifically designated as highly suitable for increased threshold intensity in the local comprehensive plan and the regional policy plan.

<sup>15</sup> See *id.*

<sup>16</sup> See *id.*

<sup>17</sup> See *id.*

<sup>18</sup> See Fla. Stat. § 380.06(25)(a)1.a.-e. (2003).

Developers are permitted to submit an ADRI to be reviewed pursuant to an ADRI review process that includes an areawide development plan in addition to the other information required for DRI review.<sup>19</sup> After review and approval of an ADRI, all development within the defined planning area must conform to the approved areawide development plan and development order.<sup>20</sup>

Once the development order approving the areawide development plan is received, changes to the plan may be considered "substantial deviations" and subject the development to further DRI review.<sup>21</sup> For example, an extension of the date of buildout of 5 years or more but less than 7 years is not presumed to create a substantial deviation requiring further DRI review.<sup>22</sup> Yet, an extension of the buildout date of a development by 7 or more years is presumed to create a substantial deviation subject to further DRI review.<sup>23</sup> This bill provides that an extension of the date of buildout of an ADRI by more than five years but less than 10 years is not presumed to create a substantial deviation, which would subject the development to additional DRI review.

The following have been put forth by proponents in support of the bill<sup>24</sup>:

- This bill affects only ADRI's, of which ten have been approved statewide (approximately seven are active). Thus, the effect of the bill on the overall DRI program is minimal while the positive impact for the ADRI's is significant.
- A number of corporations have invested in ADRI's; corporate support of ADRI's in the St. Petersburg area alone includes: Home Shopping Network, AEGON, Echelon, Franklin Templeton, Jabil, Catalina Marketing, ZOM, Muvico, Sembler, JMC, and Opus South.
- Recent economic slowdowns and the compounding effects of the events of September 11, 2001, have altered the development pace in ADRI's. Projects are being scaled back, delayed or abandoned. Vacancy rates have increased in existing commercial facilities.
- Approaching buildout and phase completion deadlines in existing development orders creates additional uncertainty that is devastating to investors in already uncertain economic conditions.
- Rebutting the substantial deviation presumption for extensions beyond the current 7 year maximum generally requires completion of an expensive traffic analysis (approximately \$80,000) that could result in additional costly mitigation measures.
- The bill provides limited relief from the buildout and phase deadlines.
- The bill is consistent with existing incentive based treatment of ADRI's in rule and the statutes.

#### C. SECTION DIRECTORY:

Section 1: Amends paragraph (e) of subsection (2) of section 380.06, Florida Statutes, to add language related to multiuse developments which provides that the applicable individual use guidelines and standards for residential, office, motel, and retail developments and multiuse guidelines are increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in

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<sup>19</sup> See Fla. Stat. § 380.06(25)(a) (2003).

<sup>20</sup> *Id.*

<sup>21</sup> See Fla. Stat. § 380.06(25)(n) (2003)(which also provides that the percentages and numerical criteria for determining the existence of a substantial deviation are doubled for ADRI's).

<sup>22</sup> See Fla. Stat. § 380.06(19)(c) (2003).

<sup>23</sup> *Id.*

<sup>24</sup> See e-mail from Laura E Boehmer, Legislative Assistant to Representative Charlie Justice, District 53 (Feb. 2, 2004, 09:48 EST)(transmitting information provided by the City of St. Petersburg)(on file with the Committee on Local Government & Veterans' Affairs).

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.

Amends paragraph (c) of subsection (19) of section 380.06, Florida Statutes, to create a presumption that the extension of the date of buildout of an ADRI by more than five years but less than 10 years does not create a substantial deviation.

Section 2: Provides that the bill will take effect July 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

#### 2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

#### 2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may have a positive, direct impact on the private sector as it provides an additional three years before ADRI's are subject to additional DRI review. This saves the costs of earlier preparation for this review and provides "limited relief from the buildout and phase deadlines."<sup>25</sup>

### 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 municipal or county governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

This bill does not appear to grant any rule-making authority.

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<sup>25</sup> *Id.*

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 17, 2004, the Committee on Local Government & Veterans' Affairs adopted one amendment, without objection. The amendment provides that *both* the applicable individual uses for residential, hotel, motel, office, and retail developments *and* the multiuse guidelines and standards will be increased by 100 percent for multiuse developments located in an urban central business district or regional activity center of a jurisdiction whose local comprehensive plan is in compliance with part II of chapter 163, Florida Statutes and which has one land use that is residential and which amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. The bill was then reported favorably as a Committee Substitute.