A bill to be entitled

An act relating to growth management; amending s. 163.01, F.S.; revising provisions for filing certain interlocal agreements and amendments; amending s. 163.3177, F.S.; encouraging local governments to adopt recreational surface water use policies; providing criteria and exemptions for such policies; authorizing assistance for the development of such policies; directing the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature; revising a provision relating to the amount of transferrable land use credits; amending s. 163.3180, F.S.; conforming a cross-reference; amending s. 197.303, F.S.; revising the criteria for ad valorem tax deferral waterfront properties; creating s. 336.68, F.S.; providing that a property owner having real property located within the boundaries of a community development district and a special road and bridge district may select the community development district to be the provider of the road and drainage improvements to the property of the owner; authorizing the owner of the property to withdraw the property from the special road and bridge district; specifying the procedures and criteria required in order to remove the real property from the special road and bridge district; authorizing the governing body of the special road and bridge district to file a written objection to the proposed withdrawal of the property; amending s. 342.07, F.S.; including hotels and

motels within the definition of the term "recreational and commercial working waterfront"; creating s. 373.4132, F.S.; directing water management district governing boards and the Department of Environmental Protection to require permits for certain activities relating to certain dry storage facilities; providing criteria for application of such permits; preserving regulatory authority for the department and governing boards; amending s. 380.06, F.S.; providing for the state land planning agency to determine the amount of development that remains to be built in certain circumstances; specifying certain requirements for a development order; revising the circumstances in which a local government may issue permits for development subsequent to the buildout date; revising the definition of an essentially built-out development; revising the criteria under which a proposed change constitutes a substantial deviation; providing criteria for calculating certain deviations; clarifying the criteria under which the extension of a buildout date is presumed to create a substantial deviation; requiring that notice of any change to certain set-aside areas be submitted to the local government; requiring that notice of certain changes be given to the state land planning agency, regional planning agency, and local government; revising the statutory exemptions from development-of-regional-impact review for certain facilities; removing waterport and marina developments from development-of-regional-impact review;

providing statutory exemptions and partial statutory exemptions for the development of certain facilities; providing that the impacts from an exempt use that will be part of a larger project be included in the development-of-regional-impact review of the larger project; providing an exception; providing that vesting provisions relating to authorized developments of regional impact are not applicable to certain projects; revising provisions for the abandonment of developments of regional impact; providing an exemption from such provisions for certain developments of regional impact; providing requirements for developments following abandonment; amending s. 380.0651, F.S.; revising the statewide guidelines and standards for development-of-regional-impact review of office developments; deleting such guidelines and standards for port facilities; revising such guidelines and standards for residential developments; providing such guidelines and standards for workforce housing; amending s. 380.07, F.S.; revising the appellate procedures for development orders within a development of regional impact to the Florida Land and Water Adjudicatory Commission; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; providing a process for the rescission of a development order by the local government in certain circumstances; providing an exemption for certain

applications for development approval and notices of proposed changes; amending s. 403.813, F.S.; revising permitting exceptions for the construction of private docks in certain waterways; providing an effective date.

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

Section 1. Subsection (11) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.--

(11) Prior to its effectiveness, an interlocal agreement and subsequent amendments thereto shall be filed with the clerk of the circuit court of each county where a party to the agreement is located. However, if the parties to the agreement are located in multiple counties and the agreement under subsection (7) provides for a separate legal entity or administrative entity to administer the agreement, the interlocal agreement and any amendments thereto may be filed with the clerk of the circuit court in the county where the legal or administrative entity maintains its principal place of business.

Section 2. Paragraph (g) of subsection (6) and paragraph (d) of subsection (11) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(g)1. For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

a.~~1.~~ Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

b.~~2.~~ Continued existence of viable populations of all species of wildlife and marine life.

c.~~3.~~ The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

d.~~4.~~ Avoidance of irreversible and irretrievable loss of coastal zone resources.

e.~~5.~~ Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.

f.~~6.~~ Proposed management and regulatory techniques.

g.~~7.~~ Limitation of public expenditures that subsidize development in high-hazard coastal areas.

h.~~8.~~ Protection of human life against the effects of natural disasters.

i.~~9.~~ The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.

j.~~10.~~ Preservation, including sensitive adaptive use of historic and archaeological resources.

2. As part of this element, a local government that has a coastal management element in its comprehensive plan is encouraged to adopt recreational surface water use policies that include applicable criteria for and consider such factors as natural resources, manatee protection needs, protection of working waterfronts and public access to the water, and recreation and economic demands. Criteria for manatee protection in the recreational surface water use policies should reflect applicable guidance outlined in the Boat Facility Siting Guide prepared by the Fish and Wildlife Conservation Commission. If the local government elects to adopt recreational surface water use policies by comprehensive plan amendment, such comprehensive plan amendment is exempt from the provisions of s. 163.3187(1). Local governments that wish to adopt recreational surface water use policies may be eligible for assistance with the development of such policies through the Florida Coastal Management Program. The Office of Program Policy Analysis and Government Accountability shall submit a report on the adoption of recreational surface water use policies under this subparagraph to the President of the Senate, the Speaker of the House of

Representatives, and the majority and minority leaders of the Senate and the House of Representatives no later than December 1, 2010.

(11)

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, water management districts, and regional planning councils, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained herein and in rule 9J-5.006(5)(l), Florida Administrative Code. Assistance may include, but is not limited to:

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The department shall encourage participation by local governments of different sizes and rural characteristics in establishing and implementing rural land stewardship areas. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

3. A local government, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify the department

in writing of its intent to designate a rural land stewardship area. The written notification shall describe the basis for the designation, including the extent to which the rural land stewardship area enhances rural land values, controls urban sprawl, provides necessary open space for agriculture and protection of the natural environment, promotes rural economic activity, and maintains rural character and the economic viability of agriculture.

4. A rural land stewardship area shall be not less than 10,000 acres and shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the

rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(l), Florida Administrative Code, which provide for a functional mix of land uses, including adequate available workforce housing, including low, very-low and moderate income housing for the development anticipated in the receiving area and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(l), Florida Administrative Code.

5. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to

review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government. At the time of designation of a stewardship receiving area, a listed species survey will be performed. If listed species occur on the receiving area site, the developer shall coordinate with each appropriate local, state, or federal agency to determine if adequate provisions have been made to protect those species in accordance with applicable regulations. In determining the adequacy of provisions for the protection of listed species and their habitats, the rural land stewardship area shall be considered as a whole, and the impacts to areas to be developed as receiving areas shall be considered together with the environmental benefits of areas protected as sending areas in fulfilling this criteria.

6. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, establish the methodology for the creation, conveyance, and use of transferable rural land use credits, otherwise referred to as stewardship credits, the application of which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits within the rural land stewardship area must enable the realization of the long-term vision and goals for the 25-year or greater projected population of the rural land stewardship area, which may take into consideration the anticipated effect of the proposed receiving

areas. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the natural resource or other beneficial use characteristics of the land and according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to the most environmentally valuable land or, in locations where the retention of open space and agricultural land is a priority, to such lands.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive

easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

7. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to public entities or private land conservation entities, in either fee or easement, upon achievement of conservation objectives.

8. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph.

Section 3. Paragraph (a) of subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

(12) When authorized by a local comprehensive plan, a multiuse development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

(a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3)(h) ~~(i)~~ and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential dwelling units or 15 percent of the applicable residential guideline and standard, whichever is greater;

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted

level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost" includes all associated costs of the improvement.

Section 4. Subsection (3) of section 197.303, Florida Statutes, is amended to read:

197.303 Ad valorem tax deferral for recreational and commercial working waterfront properties.--

(3) The ordinance shall designate the percentage or amount of the deferral and the type and location of working waterfront property, including the type of public lodging establishments, for which deferrals may be granted, which may include any property meeting the provisions of s. 342.07(2), which property may be further required to be located within a particular geographic area or areas of the county or municipality.

Section 5. Section 336.68, Florida Statutes, is created to read:

336.68 Special road and bridge district boundaries; property owner rights and options.--

(1) The owner of real property located within both the boundaries of a community development district created under chapter 190 and within the boundaries of a special road and bridge district created by the alternative method of establishing special road and bridge districts previously authorized under ss. 336.61-336.67 shall have the option to select the community development district to be the provider of

the road and drainage improvements to the property of the owner. Having made the selection, the property owner shall further have the right to withdraw the property from the boundaries of the special road and bridge district under the procedures set forth in this section.

(2) To be eligible for withdrawal, the subject property shall not have received improvements or benefits from the special road and bridge district; there shall be no outstanding bonded indebtedness of the special road and bridge district for which the property is subject to ad valorem tax levies; and the withdrawal of the property shall not create an enclave bounded on all sides by the other property within the boundaries of the district when the property owner withdraws the property from the boundaries of the district.

(3) The election by a property owner to withdraw property from the boundaries of a district as described in this section shall be accomplished by filing a certificate in the official records of the county in which the property is located. The certificate shall identify the name and mailing address of the owner, the legal description of the property, the name of the district from which the property is being withdrawn, and the general location of the property within district. The certificate shall further state that the property has not received benefits from the district from which the property is to be withdrawn; that there is no bonded indebtedness owed by the district; and that the property being withdrawn will not become an enclave within the district boundaries.

(4) The property owner shall provide copies of the recorded certificate to the governing body of the district from which the property is being withdrawn within days 10 days after the date that the certificate is recorded. If the district does not record an objection to the withdrawal of the property in the public records within 30 days after the recording of the certificate identifying the criteria in this section that has not been met, the withdrawal shall be final and the property shall be permanently withdrawn from the boundaries of the district.

Section 6. Section 342.07, Florida Statutes, is amended to read:

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

(1) The Legislature recognizes that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to tourists and recreational users and the marine industry in the state, to maintaining or enhancing the $57 billion economic impact of tourism and the $14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments and boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the

state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels as defined in s. 509.242(1), or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(37). Seaports are excluded from the definition.

Section 7. Section 373.4132, Florida Statutes, is created to read:

373.4132 Dry storage facility permitting.--The governing board or the department shall require a permit under this part, including s. 373.4145, for the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area. As part of an applicant's demonstration that such a facility will not be harmful to the water resources and will not be inconsistent with the overall objectives of the district, the governing board or department shall require the applicant to provide reasonable assurance that the secondary impacts from the facility will not cause adverse impacts to the functions of wetlands and surface waters, including violations of state water quality standards applicable to waters as defined in s. 403.031(13), and will meet the public interest test of s. 373.414(1)(a), including the potential adverse impacts to manatees. Nothing in this section shall affect the authority of the governing board or the department to regulate such secondary impacts under this part for other regulated activities.

Section 8. Paragraph (d) of subsection (2), paragraphs (a) and (i) of subsection (4), and subsections (15), (19), (24), and (26) of section 380.06, Florida Statutes, are amended, and subsection (28) is added to that section, to read:

380.06 Developments of regional impact.--

(2) STATEWIDE GUIDELINES AND STANDARDS.--

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

1. Fixed thresholds.--

a. A development that is below 100 percent of all numerical thresholds in the guidelines and standards shall not be required to undergo development-of-regional-impact review.

b. A development that is at or above 120 percent of any numerical threshold 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 Office of Tourism, Trade, and Economic Development 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), (d), and (h) ~~(i)~~, 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.

(4) BINDING LETTER.--

(a) 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 (20), or 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 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.

(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 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 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.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) 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 ~~termination~~ date that reasonably reflects the time anticipated ~~required~~ to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact 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 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 ~~unless required by the local government that issues the development order~~.

(e)1. ~~Effective July 1, 1986,~~ A local government 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. 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 Community Affairs 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.

(f) Notice of the adoption of 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 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.

(g) A local government shall not issue permits for development subsequent to the buildout ~~termination date or expiration~~ 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) subsequent to the termination or expiration date;

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

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 20 percent of any applicable development-of-regional-impact threshold; or

4.~~3.~~ 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 ~~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 or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:

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

(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.

(19) SUBSTANTIAL DEVIATIONS.--

(a) Any proposed change to a previously approved development 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 ~~development~~ 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) 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 following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~ spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 ~~5~~ percent or 1,100 ~~1,000~~ 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 the number of hospital beds by 5 percent or 60 beds, whichever is greater.~~

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

4.~~5.~~ An increase in the average annual acreage mined by 10 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater. A net ~~An~~ increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~ acres, whichever is less. For purposes of calculating any net increases in size, only additions and deletions of lands that have not been mined shall be considered. An increase in the size of a heavy mineral mine as defined in s. 378.403(7) will

only constitute a substantial deviation if the average annual acreage mined is more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million gallons of water per day.

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

~~7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.~~

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

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

7. 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 prior to 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.

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

9.~~11.~~ An increase in hotel or motel rooms ~~facility units~~ by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.

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

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

12.~~14.~~ 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 ~~100~~ percent. The percentage of any decrease in the amount of open space shall be

treated as an increase for purposes of determining when 110 ~~100~~ percent has been reached or exceeded.

13.~~15.~~ 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.

14.~~16.~~ Any change which 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. s. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The ~~further~~ refinement of the boundaries and configuration of such areas ~~by survey~~ shall be considered under sub-subparagraph (e)2.j. ~~(e)5.b.~~

The substantial deviation numerical standards in subparagraphs 3., 5., 8., 9., and 12. ~~4., 6., 10., 14.~~, excluding residential uses, and in subparagraph 13. ~~15.,~~ are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3.,

5., 6., 7., 8., 9., 12., and 13. ~~4., 6., 9., 10., 11., and 14.~~ 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) An extension of the date of buildout of a development, or any phase thereof, by more than 7 ~~or more~~ years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of more than 5 years ~~or more~~ but not more ~~less~~ than 7 years shall be 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 ~~than 5 years~~ is not a substantial deviation. For the purpose of calculating when a buildout or~~,~~ phase~~, or termination~~ 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 that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-13. ~~(b)1. 15.~~ and does not exceed any other criterion, or that 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 shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall 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 that 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 that do not affect external access points.

e. Changes to the building design or orientation that 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, provided that no development is proposed on the acreage to be added.

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

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that 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)14. 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 prior to the time 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.~~j.~~ Any other change which 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.-j. ~~a.-i.~~ and which does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but shall require 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., or sub-subparagraph k. and it believes the change creates a reasonable likelihood of new or additional regional impacts ~~a development order amendment for any change listed in sub subparagraphs a. j. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order~~.

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

b.~~c.~~ 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), (d), (e)~~(f)~~, and (f)~~(g)~~ and residential use.

(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 ~~90~~ 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 (e), 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.

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~~, as it relates to the entire development,~~ 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.

(24) STATUTORY EXEMPTIONS.--

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

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section~~, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact~~.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of 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 prior to 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 prior to July 1, 1973, is exempt from the provisions of 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 the provisions of 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 prior to 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 the provisions of 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 of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal the local government

development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

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

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section~~, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178~~.

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

(k)~~1.~~ Waterport and marina development, including dry storage facilities, are exempt from the provisions of this

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

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

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of 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 ~~adjacent~~ jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

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

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

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

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

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

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

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

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

(u) Any development within a county with a research and education authority created by special act and 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.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t), except for paragraph (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.

(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 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 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 shall not require the owner or developer to contribute any land, funds, or public facilities as a condition of such abandonment order. The 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. Any decision by a local government concerning the abandonment of a development of regional impact shall be subject to an appeal pursuant to s. 380.07. The issues

in any such appeal shall be confined to whether the provisions of this subsection or any rules promulgated thereunder have been satisfied.

(b) 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 county of economic concern which was approved prior to 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 shall be fully consistent with the current comprehensive plan and applicable zoning.

(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 referenced under paragraph (24)(n) 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), paragraph (24)(m), or paragraph (24)(n) 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), a rural land stewardship area under paragraph (24)(m), or an urban infill and redevelopment area under paragraph (24)(n), must address transportation impacts only.

(e) The vesting provision of s. 163.3167(8) relating to an authorized development of regional impact shall not apply to those projects partially exempt from the development-of-regional-impact review process under paragraphs (a)-(d).

Section 9. Paragraphs (d) and (e) of subsection (3) of section 380.0651, Florida Statutes, are amended, paragraphs (f) through (i) are redesignated as paragraphs (e) through (h), respectively, paragraph (j) is redesignated as paragraph (i) and amended, and a new paragraph (j) is added to that subsection, to read:

380.0651 Statewide guidelines and standards.--

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

(d) 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 ~~and in the strategic regional policy plan~~.

~~(e) Port facilities.--The proposed construction of any waterport or marina is required to undergo development of regional impact review, except one designed for:~~

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

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

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

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

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

~~In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 10 slips or storage spaces or a combination of the two is located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days of receipt of a formal written request, it has waived its authority to make such determination. The Department of~~

~~Environmental Protection determination shall constitute final agency action pursuant to chapter 120.~~

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

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

(i)~~(j)~~ Residential development.--No rule may 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 or less miles of the less populated adjacent county. The residential thresholds of adjacent counties with less population and a lower threshold shall not be controlling on any development wholly located within areas designated as rural areas of critical economic concern.

(j) 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.

Section 10. 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 any 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 ~~notice of appeal with the commission~~. 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. ~~Any appeal taken by a regional planning agency between March 1, 1993, and the effective date of this section may only be continued if the state land planning agency has also filed an appeal. Any appeal~~

~~initiated by a regional planning agency on or before March 1, 1993, shall continue until completion of the appeal process and any subsequent appellate review, as if the regional planning agency were authorized to initiate the appeal.~~

(3) Notwithstanding any other provision of law, an appeal of a development order 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)~~(3)~~ 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 which issued the order. The filing of the notice of appeal shall stay the effectiveness of the order until after the completion of the appeal process.

(6) ~~(4)~~ 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 below in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(7) ~~(5)~~ 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.

(8) ~~(6)~~ 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 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 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 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 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 11. Section 380.115, Florida Statutes, is amended to read:

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

(1) A change in a development-of-regional-impact guideline and standard does not abridge ~~Nothing contained in this act abridges~~ or modify ~~modifies~~ 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 ~~on the effective date of this act~~. 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 a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 ~~of this act~~, shall be governed by the following procedures:

(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 paragraph (b). Any proposed changes to those developments which continue to be governed by a development order shall be approved pursuant to s. 380.06(19) as it existed prior to a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall ~~may~~ 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 ~~abandoned pursuant to the process in s. 380.06(26)~~.

(2) A development with an application for development approval pending, ~~and determined sufficient~~ pursuant to s. 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the guidelines and standards ~~this act~~, or a notification of proposed change pending on the effective date of a change to the guidelines and standards ~~this act~~, 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 an optional 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 12. Paragraph (i) of subsection (2) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.--

(2) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(i) The construction of private docks <u>of 1,000 square feet or less of over-water surface area</u> and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This exemption does not apply to the construction

of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing manmade canal where the shoreline is currently occupied in whole or part by vertical seawalls.

Section 13. This act shall take effect July 1, 2006.