HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 CS Growth Management
SPONSOR(S): Traviesa
TIED BILLS: **IDEN./SIM. BILLS:** SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Strickland	Hamby
2) Growth Management Committee	9 Y, 0 N, w/CS	Strickland	Grayson
3) Transportation & Economic Development Appropriations Committee	16 Y, 1 N	McAuliffe	Gordon
4) State Infrastructure Council		Strickland	Havlicak
5)			

SUMMARY ANALYSIS

HB 683 w/CS makes several changes to existing law governing developments of regional impact (DRI). The bill:

- Makes revisions to current statutory law relating to a binding letter determination made by the Department of Community Affairs (DCA);
- Makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- Revises the definition of an “essentially built-out development;”
- Provides bonuses for a developer providing a certain level of affordable housing;
- Revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;
- Requires that notice of certain changes be given to DCA, the appropriate regional planning agency, and local government, and requires that a memorandum of notice of certain changes be filed with the clerk of court;
- Revises the period of time for notice and a public hearing after a change to a development order;
- Revises statutory exemptions to the DRI process;
- Expressly removes marina and port facilities from DRI review;
- Revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- Revises existing law pertaining to consistency challenges made to a DRI development order;
- Revises the vested rights and duties as they relate to provisions of this bill; and
- Amends the legislative findings and the definition of “recreational and commercial working waterfronts.”

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

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill streamlines aspects of the development of regional impact (DRI) process, thereby reducing responsibilities for governmental and private organizations.

Safeguard individual liberty - The bill reduces government oversight of some activities presently reviewed as DRIs, and thereby increases the options of individuals regarding the conduct of their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 380.06, F.S., governs the DRI program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical threshold guidelines are identified in s. 380.0651, F.S., and Chapter 28-24, F.A.C. Examples of the land uses for which guidelines are established include:

- airports;
- attractions and recreational facilities;
- industrial plants and industrial parks;
- office parks;
- port facilities, including marinas;
- hotel or motel development;
- retail and service development;
- recreational vehicle development;
- multi-use development;
- residential development; and
- schools.

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

- The development will have a favorable or unfavorable impact on state or regional resources or facilities;

- The development will significantly impact adjacent jurisdictions; and

- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

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

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

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

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

Marinas

In 2002, the Legislature created an exemption for marinas from DRI review. This exempting occurs if the local government has adopted a boating facility siting plan or policy within its comprehensive plan.

The DCA, in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, makes available a best practices guide to assist local governments in developing boating facility siting plans. A boating facility siting plan provides a framework for identifying locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources.

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 percent for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the mulituse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census.[1] Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities."[2] A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district. [3]

Currently, the individual DRI threshold is increased by 50 percent within an urban central business district or a regional activity center. However, the multiuse DRI threshold within such a district or center enjoys a 100 percent increase.

[1] Rule 28-24.014(10)(c)1., F.A.C.
[2] Id.
[3] Rule 28-24.014(10)(c)2, F.A.C.

Development Order Appeals

Currently there are two mechanisms by which an appeal may be sought on the grounds that a development order (DO) rendered for a DRI is inconsistent with the comprehensive plan adopted by the local government. The first is to appeal a development order under s.163.3215, F.S., within the circuit court with proper jurisdiction. The second is to appeal a development order under s. 380.06, F.S., to the Florida Land and Water Adjudicatory Commission (FLWAC).

Under existing law (s. 163.3215, F.S.), an "aggrieved or adversely affected party" may bring an appeal to challenge local government's issuance of a development order (an order of local government granting, denying, or granting with conditions, an application for a development permit) as not being consistent with the local comprehensive plan. Appeals of this type are filed in the local circuit court. Existing law also contains another opportunity to appeal the local government's issuance of a development order. Under another section of existing law (s. 380.07, F.S.) the owner, the developer, or the DCA may appeal a development order that relates to a DRI to FLWAC. Further, it is possible for the same development order to be challenged in both the circuit court and FLWAC. In such instances, the two challenge processes may lead to different results causing confusion for all the affected interests.

Effect of Proposed Change

HB 683 w/CS amends existing law and creates new law related to DRI. A DRI by definition is "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county."[4] Specifically, the bill establishes:

- A process for review of DRIs and for the issuance of a DO which details specifics regarding the scope and timing of the development and serves as the authority to commence and complete the development;
- What constitutes a "substantial deviation" of the DO which would necessitate additional review;
- Statutory exemptions that prevent DRI review;
- Statewide guidelines and standards for determining what activities require DRI review; and
- Vested rights and associated duties of the respective parties.

Details of the changes to existing law are outlined below.

Required and Optional Elements of the Comprehensive Plan

The bill provides encouragement for affected local governments to adopt a boating facility siting plan and provides possible eligibility for assistance with creation of the plan from the Florida Coastal Management Program.

Binding Letter and Development Order

The bill amends existing law to allow either a developer or the local government having jurisdiction over a DRI to ask DCA to determine whether the local government may issue permits for development subsequent to the buildout date. The determination may take the form of a formal binding letter or an informal clearance letter. Specifically, the determination is whether the DRI meets criteria newly created in s. 380.06(15)(g)3, F.S., which provides that:

- The developer has satisfied all mitigation required in the DO.

[4] s. 380.06(1), F.S.

- The development is in compliance with all applicable terms and conditions of the DO, except the buildout date; and

- The amount of remaining proposed development is less than 20 percent of any applicable DRI threshold.

This new feature provides for limited development beyond the DRI buildout date when the existing and remaining development meets the criteria.

The bill allows a single-family residential portion of a project to be considered "essentially built out" if:

- All the infrastructure and horizontal development has 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 buyers or to individual builders who own no more than 40 lots at the time of the determination.

The bill allows mobile home portions of a development to 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.

The bill amends the following statutory provisions relating to DOs:

- Termination date – Existing law provides that the local government's DO specify a "termination date" before which certain land use changes would not apply to the approved DRI unless a substantial deviation occurs. The bill amends existing law to provide that the DO may not specify that date as being earlier than the "buildout date." s. 380.06(15)(c)3., F.S.

- Notice of proposed change – Existing law provides that the DO may specify the types of changes which would require a substantial deviation determination. The bill amends existing law by extending that language to include a "notice of proposed change." s. 380.06(15)(c)5., F.S.

- Competitive bidding or competitive negotiation – Existing law provides that a local government may require competitive bidding or competitive negotiation where construction or expansion of a public facility is conducted by a nongovernmental developer as a condition of a DO or to mitigate impacts reasonably attributable to the development. The bill amends existing law by removing that discretion and thus disallows local government from requiring competitive bidding. s. 380.06(15)(d)4., F.S.

Substantial Deviations

The bill amends existing law pertaining to the percentage and unit thresholds and provides for a presumption that the activities trigger DRI review. Existing law strictly requires DRI review when percentage and unit thresholds are met or exceeded. The amended percentage and unit thresholds follow.

- Attraction or recreational facility - The bill amends the thresholds to the greater of an increase of 10 percent or 330 parking spaces (from 5 percent or 300 spaces), or an increase to the greater of 10 percent or 1,100 spectators (from 5 percent or 1000 spectators).

- Hospitals – The bill deletes the threshold for hospitals.

- Industrial – The bill amends the threshold to the greater of 10 percent or 35 acres (from 5 percent or 32 acres).

- Mines - The bill amends the threshold to the greater of an increase in the average annual acreage mined by 10 percent or 11acres (from 5 percent or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 percent or 330,000 gallons (from 5 percent or 300,000 gallons). It is further amended to the lesser of an increase of the size of the mine by 10 percent or 825 acres (from 5 percent or 750 acres).

- Office development – The bill amends the threshold to the greater of an increase in land area by 10 percent (from 5 percent) or an increase of gross floor area by 10 percent (from 5 percent) or 66,000 square feet (from 60,000).

- Storage capacity for chemical or petroleum storage facilities – The bill deletes the threshold for these facilities.

- Waterport or wet storage – The bill deletes the threshold for waterport or wet storage.

- Dwelling units – The bill amends the threshold to the greater of 10 percent or 55 dwelling units (from 5 percent or 50 dwelling units).

- Workforce housing dwelling units – The bill creates a threshold to the greater of 50 percent or 200 units, provided that 15 percent of the increase in the number of dwelling units is restricted to the construction of workforce housing (affordable to a person who earns less than 150 percent of the area median income).

- Commercial development – The bill amends the threshold to the greater of 55,000 square feet (from 50,000 square feet) of gross floor area; or of parking spaces for customers for 330 cars (from 300 cars); or a 10 percent increase (from 5 percent increase) of either of these.

- Hotel or motel rooms – The bill amends the threshold to the greater of an increase in hotel or motel rooms by 10 percent or 83 rooms (from 5 percent or 75 units).

- Recreational vehicle park area – The bill amends the threshold to the lesser of an increase in a recreational vehicle park area by 10 percent (from 5 percent) or 110 vehicle spaces (from 100 vehicle spaces).

- Approved multiuse DRI – The bill amends the threshold to 110 percent (from 100 percent) of the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria.

The bill amends existing law in the following ways relating to presumptions concerning substantial deviations:

- Presumption of a substantial deviation – A presumption of substantial deviation is created by an extension of the buildout date of more than 7 years (from 7 or more years).

- Presumption of no substantial deviation – A presumption of no substantial deviation is created by an extension of the buildout date of more than 5 years (from 5 or more years), but less than 7 years.

- No substantial deviation - An extension of the buildout date of 5 years or less (from less than 5 years) is not a substantial deviation.

The bill establishes that the following changes do not constitute substantial deviations:

- Protected lands -
    - The bill provides that changes that modify boundaries due to science-based refinement of such areas by survey, habitat evaluation, other recognized assessment methodology, or an environmental assessment.
    - The bill provides that this only applies to areas previously set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State.

The bill amends existing law to provide for notice prior to implementation of the types of non substantial deviation changes addressed above. The specific requirements are as follows:

- Notice – The bill does not require the filing of a notice of proposed change, but, requires the local government to follow the locally adopted procedures relating to amending a development order.
- Appellate procedure: After adopting the amended DO, the local government is required to submit the amendment to DCA. DCA may then appeal under certain conditions if it believes the change creates a reasonable likelihood of new or additional regional impacts.

The bill amends existing law as it pertains to proposed changes that require further DRI review as follows:

- Scope of mitigation – The bill amends existing law to limit the scope of mitigation required as a result of a proposed change to a DO. The amended language limits such new mitigation to the individual and cumulative impacts caused only by the proposed change.
- Continuance of development – The bill amends existing law by providing that development within the DRI may continue during the DRI review in those portions of the development which are not "directly" affected by the proposed change.

Statutory Exemptions

The bill amends current DRI exemptions providing that if a use is exempt from review as a DRI under s. 380.06(24), F.S., but is a part of a larger project that is subject to review as a DRI, the impact of the exempt use must be included in the review of the larger project.

- Hospitals – The bill removes the 100 bed capacity limitation; thus providing that all hospitals are exempt.
- Steam or solar electrical generating facility - The bill removes the exception from the statutory exemption of a steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a DRI from the exemption for proposed electrical transmission lines or electrical power plants.
- Adjacent jurisdictions – The bill amends existing law which allows a DRI exemption for certain proposed development within an urban service area. The amendment changes one of the criteria for the exemption that requires a binding agreement with adjacent jurisdictions and the Department of Transportation (DOT) regarding impacts on state and regional transportation

facilities. The amendment changes the requirement so that the binding agreement must be entered into with jurisdictions "that would be impacted" and DOT.

- Petroleum Storage Facility – The bill removes the requirement that a proposed facility for the storage of any petroleum product or expansion of an existing facility be consistent with the local comprehensive plan and with a comprehensive port master plan.

- Waterport and Marina Development – The bill provides an express exemption of waterport and marina development and all criteria pertaining to the current limited exemption is deleted to conform to these changes in the bill.

The bill creates five new exemptions to existing law as follows:

- Self storage warehousing – The bill provides an exemption for any self-storage warehousing that does not allow retail or other services.

- Nursing home or assisted living facility – The bill provides an exemption for any proposed nursing home or assisted living facility.

- Airport master plan – The bill provides an exemption for any development identified in an airport master plan and adopted into the comprehensive plan.

- Campus master plan – The bill provides an exemption for any development identified in a campus master plan and adopted pursuant to s. 1013.30, F.S. (related to campus master plans and campus DOs).

- Specific area plan – The bill provides an exemption for any development in a specific area plan which is prepared pursuant to s. 163.3245, F.S., (related to optional sector plans) and adopted into the comprehensive plan.

Partial Exemptions

The bill creates new law limiting the requirement that three exemptions only will apply if the local government has entered into a binding agreement with DOT and jurisdictions "that would be impacted."

- Urban service boundaries (USB) – The bill provides that if the binding agreement is not entered into within 12 months after establishment of the USB, then DRI review shall address transportation impacts only.

- Rural land stewardship – The bill provides that if the binding agreement is not entered into within 12 months after the designation of a rural land stewardship area, then DRI review shall address transportation impacts only.

- Urban infill and redevelopment area – The bill provides that if the binding agreement is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, then DRI review shall address transportation impacts only.

- Notification to DCA - The bill provides that notification must be submitted by the local government to DCA stating that the local government either does not wish, or has not been able, to enter into a binding agreement within the 12 month period, after which, the DRI within the USB, rural land stewardship areas, or urban infill and redevelopment area must address transportation impacts only.

Statewide Guidelines and Standards

The bill amends existing law addressing how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review.

- Waterport and Marina Development – The bill expressly provides that waterport and marina development, including dry storage facilities, are exempt from DRI review. All criteria pertaining to the current limited exemption is deleted to conform to these changes in the bill.

- Workforce housing – The bill creates an increased threshold (increased by 50 percent) for residential development and the residential component for multiuse development when the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to housing that is affordable to a person who earns less than 150 percent of the area median income, i.e., workforce housing.

Florida Land and Water Adjudicatory Commission (FLWAC)

The bill amends existing law related to challenges of a DO based on consistency to provide the following:

- Consistency challenges – The bill allows the appeal of a DO to FLWAC by DCA to include challenges that the DO is not consistent with the local comprehensive plan. If a challenge to the DO relating to the DRI has been filed under s. 163.3215, F.S., and notice is served on DCA, then the DCA must intervene in that pending proceeding and raise its consistency issues within 30 days after service. Further, DCA must dismiss the consistency issues from its DO appeal to the FLWAC. The filing of the petition stays the effectiveness of the DO until after completion of the appeal process.

Vested Rights and Duties

The bill amends existing law related to the vested rights of DRIs. The amendment makes changes as follows:

- The bill provides that vested rights are not abridged or modified by a change in the DRI guidelines and standards.

- The bill revises the procedures affecting a DRI which is no longer required to undergo DRI review because of a change in the guidelines or standards, or because of a reduction that lowers the development below the thresholds.

- The bill provides that the local government having jurisdiction shall rescind the DO upon a showing by the developer or the landowner that all required mitigation related to the amount that existed on the date of rescission has been completed.

- The bill provides that unless the developer follows this procedure, the DRI continues to be governed by, and may be completed in reliance upon, the DO.

- The bill provides that if an application for development approval, or a notification of proposed change, is pending on the effective date of a change to the guidelines and standards, then the development may elect to continue the DRI review which is governed by the vested rights provision.

Recreational and Commercial Working Waterfronts

The bill amends existing law relating to the legislative findings and the definition of “recreational and commercial working waterfront” in the following ways:

- Legislative findings – The bill amends the findings as follows:

    - The bill expands the statement of important state interest to include "other recreation access" to the state's navigable waters.

    - The bill adds tourism, with a $57 billion annual economic impact, as a vital industry to be protected.

    - The bill adds a statement that by expanding the importance of water access beyond recreational users to include "tourist."

    - The bill adds "public lodging establishments" to those water-dependent support facilities as important state interests to be maintained.

- Definition of "recreational and commercial working waterfront" – The bill adds water-dependent "recreational activities including public lodging establishments as defined in chapter 509" to the definition.

- Tax Deferral – The bill adds "public lodging establishments" to s. 197.303, F.S., to add greater specificity for a local ordinance designating the type of location of working waterfront properties that are eligible for tax deferrals.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3177, F.S., relating to required and optional elements of comprehensive plans.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 197.303 relating to ad valorem tax deferral for recreational and commercial working waterfront properties.

Section 4: Amends s. 342.07, F.S., relating to recreational and commercial waterfronts.

Section 5: Creates s. 373.4132, F.S., relating to permitting process for dry storage facilities.

Section 6: Amends s. 380.06, F.S., relating to developments of regional impact (DRI).

Section 7: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 8: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 9: Amends s. 380.115, F.S., relating to vested rights and duties of DRI projects as it relates to the provisions of this bill taking effect.

Section 10: Amends s. 403.813, F.S., relating to exceptions to the required permits at district centers.

Section 11: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The development community would benefit from increased thresholds and expanded exemptions from the DRI review process.

D. FISCAL COMMENTS:

No additional fiscal comments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006, the Local Government Council adopted a strike-all amendment. The strike-all amendment made changes to the original filed bill as outlined below.

- Biennial Reports:
  - Removes the requirement to submit biennial rather than annual reports.
  - Removes the penalty for failure to submit a biennial report.
- Rulemaking: Removes the requirement for DCA to initiate rulemaking by August 1, 2006 to revise the DRI review process.
- Substantial Deviations:
  - Thresholds: Lowers, across the board, the substantial deviation thresholds (which are still slightly higher than those in existing law).
    - Doubles the threshold for marinas under certain circumstances
  - Triggering Time Periods: Changes the time periods relative to triggering a substantial deviation:
    - More than 7 years creates a presumption of a substantial deviation.
    - More than 5 years, but less than 7 years, creates a presumption of no substantial deviation.
    - Five years or less does not constitute a substantial deviation.

- Activities That Do No Trigger: Removes "internal utility locations" and "internal location of public facilities" as activities that expressly do not constitute substantial deviations.
- Workforce Housing: Creates a substantial deviation threshold bonus for the provision of workforce housing.

- DRI Exemptions:
  - Restores the term "waterport" in conjunction with marinas as relates to certain exemptions.
  - Removes exceptions from transportation concurrency as a new exemption to DRI review.
- Urban Service Area Binding Agreement:
  - Substitutes language describing what constitutes a statutory exemption; replacing the phrase "jurisdictions that would be impacted" for the phrase "contiguous jurisdiction."
  - Establishes that if local government fails to enter into a binding agreement within 12 months, then the DRI review is limited to transportation issues only. Further, local government must report to DCA such failure to enter a binding agreement.
- Statewide Guidelines and Standards for Determining Whether a Particular Activity Undergoes DRI Review:
  - Restores to existing statutory language the guidelines and standards related to: airports; attractions & recreation facilities; schools; and aggregation.
  - Restores "port facility" in conjunction with marinas related to statewide guidelines and standards.
  - Reestablishes existing law related to spaceport launch facilities and concurrency.
  - Workforce Housing: Creates a bonus against the applicable guidelines for the provision of workforce housing.
- Consistency Challenges: Further revises procedures for consistency challenges to FLWAC.
- Binding Letter:
  - Authorizes local governments in addition to the developer to request a binding letter.
  - Expands DCA's authority to issue a clearance letter to determine whether the amount of development that remains to be built will constitute "essentially built- out."
- Working Waterfront: Adds tourism and its economic impact to the legislative findings; and adds "public lodging establishments" and "recreational activities"; to existing law relating to working waterfronts.

On March 21, 2006, the Growth Management Committee adopted a strike-all amendment. The strike-all amendment made changes to the bill as outlined below.

- "Essentially built out:" Provides additional criteria for a development to be considered "essentially built out."

- Substantial Deviation:
  - Notice: Provides that a notice for changes that do not rise to the level of substantial deviation do not require a "notice of proposed change," but do require an application to the local government to amend the DO in accordance with the local government's procedures.
  - Removal of Marinas: Conforms to the removal of marinas from the DRI process by deleting the language pertaining to a substantial deviation triggering further DRI review.
  - Science Based Refinements:
    - Provides that the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting the 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 DO.
    - Expands the criteria for which for which land is protected to include the DO for the protection of species protected by 16 U.S.C. ss. 668a-668d.

- DRI Exemptions:
  - Petroleum storage tanks: Removes the requirement that to be exempt from DRI review, any petroleum storage facility must be consistent with a local comprehensive plan or comprehensive port master plan.

- Waterports and Marina Development: Removes the criteria for the exemption of waterport and marina development from DRI Review to conform to an express exemption of waterport and marina development, including dry storage facilities (provided for in this act).
- Rural Land Stewardship: Provides for a DRI review of transportation impacts only if the required binding agreement with those jurisdictions impacted and DOT is not reached within the required 12 months (identical to the provisions for urban infill and redevelopment areas & urban service boundaries).

- Statewide Guidelines and Standards for Determining Whether a Particular Activity Undergoes DRI Review:
  - Port Facilities: Removes all standards and guidelines for determining whether port facilities should undergo DRI review to conform to an express exemption from DRI review for waterport and marina development, including dry storage facilities (provided for in this bill).

- Vested Rights and Duties: Provides that any proposed changes to developments that continue to be governed by a DO shall be evaluated by s. 380.06 (19), F.S., as it existed prior to the changes of the guidelines and standards provided for by this bill except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent.

- Permitting of Dry Storage: Provides criteria for the requirement of a permit for the construction, alteration, operation, maintenance, abandonment or removal of a dry storage facility with 10 or more vessels.

- Docks: Provides that private docks of 1,000 sq. ft. or less of over-water surface area in artificially created waterways do not require a permit.

- Adoption of a boating facility siting plan: Provides encouragement for affected local governments to adopt a boating facility siting plan and provides possible eligibility for assistance with creation of the plan from the Florida Coastal Management Program.

- Working Waterfront: Conforms language to reflect changes made by this act relating to working waterfronts.

- Workforce Housing:
  - Substantial Deviation: Provides for an increase in the thresholds for creating a substantial deviation of dwelling units that include affordable housing. Specifically, the amendment provides that the following does not constitute a substantial deviation:
    - To the greater of 50 percent (from 15 percent) or 200 units (from 100 units), provided that 15 percent (from 20 percent) of the increase in the number of dwelling units is restricted to the construction of workforce housing (affordable to a person who earns less than 150 percent (from 120 percent) of the area median income)
    - An increase in any number of residential units where all the residential dwelling units are dedicated to workforce housing (150 percent of area median income).
  - Statewide Guidelines and Standards: Provides that 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 residential dwelling units will be dedicated to workforce housing (150 percent of the area median income).