Growth Management Committee

Tuesday, March21, 2006
2:15 PM – 5:15 PM
212 Knott Building

REVISED

Allan G. Bense
Speaker

Randy Johnson
Chair

Florida House of Representatives
Growth Management Committee

Allan Bense
Speaker

Randy Johnson
Chair

AGENDA

GROWTH MANAGEMENT COMMITTEE
Tuesday, March 21, 2006
2:15 PM – 5:15 PM
212 Knott Building

I. Meeting Called to Order

II. Opening Remarks by Chairman

III. Consideration of the following bill(s):

HB 683 CS by Rep. Traviesa – Growth Management
HB 1309 by Rep. Jennings – Local Housing Assistance
HB 1363 by Rep. M. Davis, Affordable Housing

IV. Consideration of the following proposed committee bill:

PCB GM 06-01 – Growth Management

V. Workshop the following:

CS/CS/CS SB 360 Policy Refinements
CS/CS/CS SB 360 New Issues

VI. Meeting Adjourned

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		Strickland BS.	Grayson
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 683 w/CS makes several changes to existing law governing developments of regional impact (DRI) as outlined below:

- 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, regional planning agency, and local government, as well as 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;
- 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 taking effect; 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 development of regional impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds 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 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100% of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120% of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100% of a numerical threshold, or between 100-120% of a numerical threshold, is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the 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 % 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 % 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 % 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. Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities." A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.

Currently, the individual DRI threshold is increased by 50 % 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 % increase.

Development Order (DO) Appeals

Currently there are two mechanisms by which an appeal may be sought on the grounds that a 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 the Florida Land and Water Adjudicatory Commission (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." Specifically, the bill addresses law establishing:

- 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.

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.
- 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% 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 project to be considered "essentially built out" if:

- All of the infrastructure and horizontal development is complete; and
- More than 80% of the parcels have been conveyed to third-party buyers.

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% or 330 parking spaces (from 5% or 300 spaces), or an increase to the greater of 10% or 1,100 spectators.
- Runway or terminal facility - The bill does not amend the threshold concerning a "runway or terminal facility."
- Hospitals – The bill deletes the threshold for hospitals.
- Industrial – The bill amends the threshold to the greater of 10% or 35 acres (from 5% or 32 acres).
- Mines - The bill amends the threshold to the greater of an increase in the average annual acreage mined by 10 % or 11acres (from 5% or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 % or 330,000 gallons (from 5% or 300,000 gallons). It is further amended to the greater of an increase of the size of the mine by 10% or 825 acres (from 5% or 750 acres).

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

- Marina development – The bill creates a threshold to the greater of 10% of wet storage or 30 watercraft slips; or to the greater of 20% of wet storage or 60 watercraft slips in an area identified by a local government in a boat facility siting plan as an appropriate site for additional marina development.

- 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% or 55 dwelling units (from 5% or 50 dwelling units).

- Workforce housing dwelling units – The bill creates a threshold to the greater of 15% or 100 units, provided that 20% 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 120% 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% increase (from 5% 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% or 83 rooms (from 5% 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% (from 5%) or 110 vehicle spaces.

- Approved multiuse DRI – The bill amends the threshold to 110% 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 developer must give 45 days notice to DCA, the regional planning agency, and the local government.

- Objections - If any of these entities object within the provided period, the change shall require the developer to submit a "notice of proposed change" which shall be "presumed not to be a substantial deviation."

- Circuit Court Filing – A memorandum of the notice must be filed with the clerk of the circuit court along with a legal description of the affected DRI.

- Subsequent Changes - If a subsequent change requiring a substantial deviation determination is made to the DRI, then modifications to the DRI made in all prior notices must be reflected as amendments to the DO.

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 the following circumstances or any other paragraphs under this subsection, 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 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.

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.

Additional new language provides that if a use is exempt from DRI review but is part of a larger project that is subject to DRI review, then the exempt use must be included in review of the larger project.

Partial Exemptions

The bill creates new law limiting the requirement that two 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 impact 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 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.

- Port facilities – The bill adds "marina" to "port facilities" as a development to be required to undergo DRI review and provides criteria requiring DRI review rather than excepting certain activities as provided in existing law. Deletes all dry storage as a use requiring DRI review.

- Wet Storage – The criteria requiring DRI review are provided as follows:

- Wet storage or mooring of more than 150 watercraft used for sport, pleasure, or commercial fishing. Under existing law, wet storage or mooring must be used "exclusively" for wet storage or mooring.

- Wet storage or mooring of more than 150 watercraft on or adjacent to an inland freshwater lake (except Lake Okeechobee or any lake that has been designated as an Outstanding Florida Water).

- Workforce housing – The bill creates an increased threshold (increased by 20%) for residential development and the residential component for multiuse development when the developer demonstrates that at least 15 % of the residential dwelling units will be dedicated to housing that is affordable to a person who earns less than 120% of the area median income, i.e., workforce housing.

The bill creates an incentive allowing a doubling of numeric thresholds for proposed marina developers who enter into a binding agreement to set aside at least 15% of wet storage or moorings for public use or rental.

The bill excludes subthreshold exceptions from applying to marina facilities located within or which serve physical development located within a coastal barrier resource unit on an unbridged barrier island.

Additionally, the bill increases the exemption threshold for certain projects for which no environmental resource permit or sovereign submerged land lease is required. The threshold is increased to 75 slips or storage spaces or a combination of the two. Existing law contains a 10 slip or storage space or combination threshold.

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 consistency 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.

C. SECTION DIRECTORY:

Section 1: Amends ss. 380.06(2)(d), (7)(b), (15), (19), and (24), F.S., relating to developments of regional impact (DRI).

Section 2: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 3: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 4: 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 5: Amends s. 163.3180, F.S., relating to recreational and commercial working waterfronts; legislative findings; and definitions.

Section 6: 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:

There do not appear to be other constitutional issues with the bill.

B. RULE-MAKING AUTHORITY:

This bill does not include any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There do not appear to be any drafting issues.

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.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to growth management; 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; clarifying the criteria under which the extension of a buildout date is presumed to create a substantial deviation; requiring 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; requiring 45 days' notice to specified entities and publication of a public notice for certain proposed

24 changes; requiring that a memorandum of notice of certain
25 changes be filed with the clerk of court; revising the
26 requirement for further development-of-regional-impact
27 review of a proposed change; revising the statutory
28 exemptions from development-of-regional-impact review for
29 certain facilities; providing statutory exemptions for the
30 development of certain facilities; providing that the
31 impacts from an exempt use that will be part of a larger
32 project be included in the development-of-regional-impact
33 review of the larger project; amending s. 380.0651, F.S.;
34 revising the statewide guidelines and standards for
35 development-of-regional-impact review of certain types of
36 developments; allowing the state land planning agency to
37 consider the impacts of independent developments of
38 regional impact cumulatively under certain circumstances;
39 amending s. 380.07, F.S.; eliminating the appeal of
40 development orders within a development of regional impact
41 to the Florida Land and Water Adjudicatory Commission;
42 amending s. 380.115, F.S.; providing that a change in a
43 development-of-regional-impact guideline and standard does
44 not abridge or modify any vested right or duty under a
45 development order; providing a process for the rescission
46 of a development order by the local government in certain
47 circumstances; providing an exemption for certain
48 applications for development approval and notices of
49 proposed changes; amending s. 342.07, F.S.; adding
50 recreational activities as an important state interest;
51 including public lodging establishments within the

52 definition of the term "recreational and commercial
53 working waterfront"; providing an effective date.
54
55 Be It Enacted by the Legislature of the State of Florida:
56
57 Section 1. Paragraphs (a) and (i) of subsection (4) and
58 subsections (15), (19), and (24) of section 380.06, Florida
59 Statutes, are amended, and subsection (28) is added to that
60 section, to read:
61 380.06 Developments of regional impact.--
62 (4) BINDING LETTER.--
63 (a) If any developer is in doubt whether his or her
64 proposed development must undergo development-of-regional-impact
65 review under the guidelines and standards, whether his or her
66 rights have vested pursuant to subsection (20), or whether a
67 proposed substantial change to a development of regional impact
68 concerning which rights had previously vested pursuant to
69 subsection (20) would divest such rights, the developer may
70 request a determination from the state land planning agency. The
71 developer or the appropriate local government having
72 jurisdiction may request that the state land planning agency
73 determine whether the amount of development that remains to be
74 built in an approved development of regional impact meets the
75 criteria of subparagraph (15)(g)3.
76 (i) In response to an inquiry from a developer or the
77 appropriate local government having jurisdiction, the state land
78 planning agency may issue an informal determination in the form
79 of a clearance letter as to whether a development is required to

80 undergo development-of-regional-impact review, or whether the
81 amount of development that remains to be built in an approved
82 development of regional impact meets the criteria of
83 subparagraph (15)(g)3. A clearance letter may be based solely on
84 the information provided by the developer, and the state land
85 planning agency is not required to conduct an investigation of
86 that information. If any material information provided by the
87 developer is incomplete or inaccurate, the clearance letter is
88 not binding upon the state land planning agency. A clearance
89 letter does not constitute final agency action.
90 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--
91 (a) The appropriate local government shall render a
92 decision on the application within 30 days after the hearing
93 unless an extension is requested by the developer.
94 (b) When possible, local governments shall issue
95 development orders concurrently with any other local permits or
96 development approvals that may be applicable to the proposed
97 development.
98 (c) The development order shall include findings of fact
99 and conclusions of law consistent with subsections (13) and
100 (14). The development order:
101 1. Shall specify the monitoring procedures and the local
102 official responsible for assuring compliance by the developer
103 with the development order.
104 2. Shall establish compliance dates for the development
105 order, including a deadline for commencing physical development
106 and for compliance with conditions of approval or phasing
107 requirements, and shall include a buildout ~~termination~~ date that

108 reasonably reflects the time anticipated ~~required~~ to complete
109 the development.
110 3. Shall establish a date until which the local government
111 agrees that the approved development of regional impact shall
112 not be subject to downzoning, unit density reduction, or
113 intensity reduction, unless the local government can demonstrate
114 that substantial changes in the conditions underlying the
115 approval of the development order have occurred or the
116 development order was based on substantially inaccurate
117 information provided by the developer or that the change is
118 clearly established by local government to be essential to the
119 public health, safety, or welfare. The date established pursuant
120 to this subparagraph shall be no sooner than the buildout date
121 of the project.
122 4. Shall specify the requirements for the biennial report
123 designated under subsection (18), including the date of
124 submission, parties to whom the report is submitted, and
125 contents of the report, based upon the rules adopted by the
126 state land planning agency. Such rules shall specify the scope
127 of any additional local requirements that may be necessary for
128 the report.
129 5. May specify the types of changes to the development
130 which shall require submission for a substantial deviation
131 determination or a notice of proposed change under subsection
132 (19).
133 6. Shall include a legal description of the property.
134 (d) Conditions of a development order that require a
135 developer to contribute land for a public facility or construct,

136 expand, or pay for land acquisition or construction or expansion
137 of a public facility, or portion thereof, shall meet the
138 following criteria:
139 1. The need to construct new facilities or add to the
140 present system of public facilities must be reasonably
141 attributable to the proposed development.
142 2. Any contribution of funds, land, or public facilities
143 required from the developer shall be comparable to the amount of
144 funds, land, or public facilities that the state or the local
145 government would reasonably expect to expend or provide, based
146 on projected costs of comparable projects, to mitigate the
147 impacts reasonably attributable to the proposed development.
148 3. Any funds or lands contributed must be expressly
149 designated and used to mitigate impacts reasonably attributable
150 to the proposed development.
151 4. Construction or expansion of a public facility by a
152 nongovernmental developer as a condition of a development order
153 to mitigate the impacts reasonably attributable to the proposed
154 development is not subject to competitive bidding or competitive
155 negotiation for selection of a contractor or design professional
156 for any part of the construction or design ~~unless required by~~
157 ~~the local government that issues the development order~~.
158 (e)1. ~~Effective July 1, 1986,~~ A local government shall not
159 include, as a development order condition for a development of
160 regional impact, any requirement that a developer contribute or
161 pay for land acquisition or construction or expansion of public
162 facilities or portions thereof unless the local government has
163 enacted a local ordinance which requires other development not

164 subject to this section to contribute its proportionate share of
165 the funds, land, or public facilities necessary to accommodate
166 any impacts having a rational nexus to the proposed development,
167 and the need to construct new facilities or add to the present
168 system of public facilities must be reasonably attributable to
169 the proposed development.
170 2. A local government shall not approve a development of
171 regional impact that does not make adequate provision for the
172 public facilities needed to accommodate the impacts of the
173 proposed development unless the local government includes in the
174 development order a commitment by the local government to
175 provide these facilities consistently with the development
176 schedule approved in the development order; however, a local
177 government's failure to meet the requirements of subparagraph 1.
178 and this subparagraph shall not preclude the issuance of a
179 development order where adequate provision is made by the
180 developer for the public facilities needed to accommodate the
181 impacts of the proposed development. Any funds or lands
182 contributed by a developer must be expressly designated and used
183 to accommodate impacts reasonably attributable to the proposed
184 development.
185 3. The Department of Community Affairs and other state and
186 regional agencies involved in the administration and
187 implementation of this act shall cooperate and work with units
188 of local government in preparing and adopting local impact fee
189 and other contribution ordinances.
190 (f) Notice of the adoption of a development order or the
191 subsequent amendments to an adopted development order shall be

192 recorded by the developer, in accordance with s. 28.222, with
193 the clerk of the circuit court for each county in which the
194 development is located. The notice shall include a legal
195 description of the property covered by the order and shall state
196 which unit of local government adopted the development order,
197 the date of adoption, the date of adoption of any amendments to
198 the development order, the location where the adopted order with
199 any amendments may be examined, and that the development order
200 constitutes a land development regulation applicable to the
201 property. The recording of this notice shall not constitute a
202 lien, cloud, or encumbrance on real property, or actual or
203 constructive notice of any such lien, cloud, or encumbrance.
204 This paragraph applies only to developments initially approved
205 under this section after July 1, 1980.
206 (g) A local government shall not issue permits for
207 development subsequent to the buildout ~~termination date or~~
208 ~~expiration~~ date contained in the development order unless:
209 1. The proposed development has been evaluated
210 cumulatively with existing development under the substantial
211 deviation provisions of subsection (19) subsequent to the
212 termination or expiration date;
213 2. The proposed development is consistent with an
214 abandonment of development order that has been issued in
215 accordance with the provisions of subsection (26); ~~or~~
216 3. The development of regional impact is essentially built
217 out, in that all the mitigation requirements in the development
218 order have been satisfied, all developers are in compliance with
219 all applicable terms and conditions of the development order

220 except the buildout date, and the amount of proposed development
221 that remains to be built is less than 20 percent of any
222 applicable development-of-regional-impact threshold; or
223 4.~~3.~~ The project has been determined to be an essentially
224 built-out development of regional impact through an agreement
225 executed by the developer, the state land planning agency, and
226 the local government, in accordance with s. 380.032, which will
227 establish the terms and conditions under which the development
228 may be continued. If the project is determined to be essentially
229 built out ~~built-out~~, development may proceed pursuant to the s.
230 380.032 agreement after the termination or expiration date
231 contained in the development order without further development-
232 of-regional-impact review subject to the local government
233 comprehensive plan and land development regulations or subject
234 to a modified development-of-regional-impact analysis. As used
235 in this paragraph, an "essentially built-out" development of
236 regional impact means:
237 a. The developers are ~~development is~~ in compliance with
238 all applicable terms and conditions of the development order
239 except the buildout ~~built out~~ date; and
240 b.(I) The amount of development that remains to be built
241 is less than the substantial deviation threshold specified in
242 paragraph (19)(b) for each individual land use category, or, for
243 a multiuse development, the sum total of all unbuilt land uses
244 as a percentage of the applicable substantial deviation
245 threshold is equal to or less than 100 percent; or
246 (II) The state land planning agency and the local
247 government have agreed in writing that the amount of development

248 to be built does not create the likelihood of any additional
249 regional impact not previously reviewed.
250
251 In addition to the requirements of subparagraphs 3. and 4., the
252 single-family residential portions of a development may be
253 considered "essentially built out" if all of the infrastructure
254 and horizontal development have been completed, at least 50
255 percent of the dwelling units have been completed, and more than
256 80 percent of the lots have been conveyed to third-party
257 individual lot owners or to individual builders who own no more
258 than 40 lots at the time of the determination.
259 (h) If the property is annexed by another local
260 jurisdiction, the annexing jurisdiction shall adopt a new
261 development order that incorporates all previous rights and
262 obligations specified in the prior development order.
263 (19) SUBSTANTIAL DEVIATIONS.--
264 (a) Any proposed change to a previously approved
265 development which creates a reasonable likelihood of additional
266 regional impact, or any type of regional impact created by the
267 change not previously reviewed by the regional planning agency,
268 shall constitute a substantial deviation and shall cause the
269 proposed change ~~development~~ to be subject to further
270 development-of-regional-impact review. There are a variety of
271 reasons why a developer may wish to propose changes to an
272 approved development of regional impact, including changed
273 market conditions. The procedures set forth in this subsection
274 are for that purpose.

275 (b) Any proposed change to a previously approved
276 development of regional impact or development order condition
277 which, either individually or cumulatively with other changes,
278 exceeds any of the following criteria shall constitute a
279 substantial deviation and shall cause the development to be
280 subject to further development-of-regional-impact review without
281 the necessity for a finding of same by the local government:
282 1. An increase in the number of parking spaces at an
283 attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~
284 spaces, whichever is greater, or an increase in the number of
285 spectators that may be accommodated at such a facility by 10 ~~5~~
286 percent or 1,100 ~~1,000~~ spectators, whichever is greater.
287 2. A new runway, a new terminal facility, a 25-percent
288 lengthening of an existing runway, or a 25-percent increase in
289 the number of gates of an existing terminal, but only if the
290 increase adds at least three additional gates.
291 ~~3. An increase in the number of hospital beds by 5 percent~~
292 ~~or 60 beds, whichever is greater.~~
293 3.~~4.~~ An increase in industrial development area by 10 ~~5~~
294 percent or 35 ~~32~~ acres, whichever is greater.
295 4.~~5.~~ An increase in the average annual acreage mined by 10
296 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase
297 in the average daily water consumption by a mining operation by
298 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater.
299 An increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~
300 acres, whichever is less. An increase in the size of a heavy
301 mineral mine as defined in s. 378.403(7) will only constitute a
302 substantial deviation if the average annual acreage mined is

303 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million
304 gallons of water per day.
305 5.~~6.~~ An increase in land area for office development by 10
306 ~~5~~ percent or an increase of gross floor area of office
307 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet,
308 whichever is greater.
309 6. An increase of development at a marina of 10 percent of
310 wet storage or for 30 watercraft slips, whichever is greater, or
311 20 percent of wet storage or 60 watercraft slips in an area
312 identified by a local government in a boat facility siting plan
313 as an appropriate site for additional marina development,
314 whichever is greater.
315 ~~7. An increase in the storage capacity for chemical or~~
316 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or 7~~
317 ~~million pounds, whichever is greater.~~
318 ~~8. An increase of development at a waterport of wet~~
319 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
320 ~~wet/dry storage for 60 watercraft in an area identified in the~~
321 ~~state marina siting plan as an appropriate site for additional~~
322 ~~waterport development or a 5 percent increase in watercraft~~
323 ~~storage capacity, whichever is greater.~~
324 7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~
325 percent or 55 ~~50~~ dwelling units, whichever is greater.
326 8. An increase in the number of dwelling units by 15
327 percent or 100 units, whichever is greater, provided that 20
328 percent of the increase in the number of dwelling units is
329 dedicated to the construction of workforce housing. For purposes
330 of this subparagraph, the term "workforce housing" means housing

331 that is affordable to a person who earns less than 120 percent
332 of the area median income.
333 9.~~10.~~ An increase in commercial development by 55,000
334 ~~50,000~~ square feet of gross floor area or of parking spaces
335 provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-~~
336 ~~percent~~ increase of either of these, whichever is greater.
337 10.~~11.~~ An increase in hotel or motel rooms ~~facility units~~
338 by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.
339 11.~~12.~~ An increase in a recreational vehicle park area by
340 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.
341 12.~~13.~~ A decrease in the area set aside for open space of
342 5 percent or 20 acres, whichever is less.
343 13.~~14.~~ A proposed increase to an approved multiuse
344 development of regional impact where the sum of the increases of
345 each land use as a percentage of the applicable substantial
346 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
347 percentage of any decrease in the amount of open space shall be
348 treated as an increase for purposes of determining when 110 ~~100~~
349 percent has been reached or exceeded.
350 14.~~15.~~ A 15-percent increase in the number of external
351 vehicle trips generated by the development above that which was
352 projected during the original development-of-regional-impact
353 review.
354 15.~~16.~~ Any change which would result in development of any
355 area which was specifically set aside in the application for
356 development approval or in the development order for
357 preservation or special protection of endangered or threatened
358 plants or animals designated as endangered, threatened, or

359 species of special concern and their habitat, primary dunes, or
360 archaeological and historical sites designated as significant by
361 the Division of Historical Resources of the Department of State.
362 The ~~further~~ refinement of such areas ~~by survey~~ shall be
363 considered under sub-subparagraph (e)2.j. ~~(e)5.b.~~
364
365 The substantial deviation numerical standards in subparagraphs
366 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.~~, excluding residential
367 uses, and in subparagraph 14. ~~15.,~~ are increased by 100 percent
368 for a project certified under s. 403.973 which creates jobs and
369 meets criteria established by the Office of Tourism, Trade, and
370 Economic Development as to its impact on an area's economy,
371 employment, and prevailing wage and skill levels. The
372 substantial deviation numerical standards in subparagraphs 3.,
373 5., 7., 8., 9., 10., 13., and 14. ~~4., 6., 9., 10., 11., and 14.~~
374 are increased by 50 percent for a project located wholly within
375 an urban infill and redevelopment area designated on the
376 applicable adopted local comprehensive plan future land use map
377 and not located within the coastal high hazard area.
378 (c) An extension of the date of buildout of a development,
379 or any phase thereof, by more than 7 ~~or more~~ years shall be
380 presumed to create a substantial deviation subject to further
381 development-of-regional-impact review. An extension of the date
382 of buildout, or any phase thereof, of more than 5 years ~~or more~~
383 but less than 7 years shall be presumed not to create a
384 substantial deviation. The extension of the date of buildout of
385 an areawide development of regional impact by more than 5 years
386 but less than 10 years is presumed not to create a substantial

387 deviation. These presumptions may be rebutted by clear and
388 convincing evidence at the public hearing held by the local
389 government. An extension of 5 years or less ~~than 5 years~~ is not
390 a substantial deviation. For the purpose of calculating when a
391 buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the
392 time shall be tolled during the pendency of administrative or
393 judicial proceedings relating to development permits. Any
394 extension of the buildout date of a project or a phase thereof
395 shall automatically extend the commencement date of the project,
396 the termination date of the development order, the expiration
397 date of the development of regional impact, and the phases
398 thereof if applicable by a like period of time.
399 (d) A change in the plan of development of an approved
400 development of regional impact resulting from requirements
401 imposed by the Department of Environmental Protection or any
402 water management district created by s. 373.069 or any of their
403 successor agencies or by any appropriate federal regulatory
404 agency shall be submitted to the local government pursuant to
405 this subsection. The change shall be presumed not to create a
406 substantial deviation subject to further development-of-
407 regional-impact review. The presumption may be rebutted by clear
408 and convincing evidence at the public hearing held by the local
409 government.
410 (e)1. Except for a development order rendered pursuant to
411 subsection (22) or subsection (25), a proposed change to a
412 development order that individually or cumulatively with any
413 previous change is less than any numerical criterion contained
414 in subparagraphs (b)1.-15. and does not exceed any other

415 criterion, or that involves an extension of the buildout date of
416 a development, or any phase thereof, of less than 5 years is not
417 subject to the public hearing requirements of subparagraph
418 (f)3., and is not subject to a determination pursuant to
419 subparagraph (f)5. Notice of the proposed change shall be made
420 to the regional planning council and the state land planning
421 agency. Such notice shall include a description of previous
422 individual changes made to the development, including changes
423 previously approved by the local government, and shall include
424 appropriate amendments to the development order.
425 2. The following changes, individually or cumulatively
426 with any previous changes, are not substantial deviations:
427 a. Changes in the name of the project, developer, owner,
428 or monitoring official.
429 b. Changes to a setback that do not affect noise buffers,
430 environmental protection or mitigation areas, or archaeological
431 or historical resources.
432 c. Changes to minimum lot sizes.
433 d. Changes in the configuration of internal roads that do
434 not affect external access points.
435 e. Changes to the building design or orientation that stay
436 approximately within the approved area designated for such
437 building and parking lot, and which do not affect historical
438 buildings designated as significant by the Division of
439 Historical Resources of the Department of State.
440 f. Changes to increase the acreage in the development,
441 provided that no development is proposed on the acreage to be
442 added.

443 g. Changes to eliminate an approved land use, provided
444 that there are no additional regional impacts.
445 h. Changes required to conform to permits approved by any
446 federal, state, or regional permitting agency, provided that
447 these changes do not create additional regional impacts.
448 i. Any renovation or redevelopment of development within a
449 previously approved development of regional impact which does
450 not change land use or increase density or intensity of use.
451 j. Changes that modify boundaries described in
452 subparagraph (b)15. due to science-based refinement of such
453 areas by survey, by habitat evaluation, by other recognized
454 assessment methodology, or by an environmental assessment.
455 k.~~j.~~ Any other change which the state land planning agency
456 agrees in writing is similar in nature, impact, or character to
457 the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and
458 which does not create the likelihood of any additional regional
459 impact.
460
461 This subsection does not require a development order amendment
462 for any change listed in sub-subparagraphs a.-k., but shall,
463 prior to implementation of those changes, require 45 days'
464 notice with the appropriate documentation to the state land
465 planning agency, the regional planning agency, and the local
466 government, and publication of a public notice that meets the
467 local government's criteria for a notice of proposed change. If
468 the state land planning agency, the regional planning agency, or
469 the local government objects within 45 days after publication of
470 the public notice, the change shall require a notice of proposed

471 change and shall be presumed not to be a substantial deviation.
472 In addition, a memorandum of the notification of the changed
473 notice shall be filed with the clerk of the circuit court along
474 with a legal description of the affected development of regional
475 impact. If a subsequent change requiring a notice of proposed
476 change is made to the development of regional impact,
477 modifications to the development of regional impact made in all
478 prior notices must be reflected as amendments to the development
479 order memorandum ~~a. j. unless such issue is addressed either in~~
480 ~~the existing development order or in the application for~~
481 ~~development approval, but, in the case of the application, only~~
482 ~~if, and in the manner in which, the application is incorporated~~
483 ~~in the development order~~.
484 3. Except for the change authorized by sub-subparagraph
485 2.f., any addition of land not previously reviewed or any change
486 not specified in paragraph (b) or paragraph (c) shall be
487 presumed to create a substantial deviation. This presumption may
488 be rebutted by clear and convincing evidence.
489 4. Any submittal of a proposed change to a previously
490 approved development shall include a description of individual
491 changes previously made to the development, including changes
492 previously approved by the local government. The local
493 government shall consider the previous and current proposed
494 changes in deciding whether such changes cumulatively constitute
495 a substantial deviation requiring further development-of-
496 regional-impact review.
497 5. The following changes to an approved development of
498 regional impact shall be presumed to create a substantial

499 deviation. Such presumption may be rebutted by clear and
500 convincing evidence.
501 a. A change proposed for 15 percent or more of the acreage
502 to a land use not previously approved in the development order.
503 Changes of less than 15 percent shall be presumed not to create
504 a substantial deviation.
505 ~~b. Except for the types of uses listed in subparagraph~~
506 ~~(b)16., any change which would result in the development of any~~
507 ~~area which was specifically set aside in the application for~~
508 ~~development approval or in the development order for~~
509 ~~preservation, buffers, or special protection, including habitat~~
510 ~~for plant and animal species, archaeological and historical~~
511 ~~sites, dunes, and other special areas.~~
512 b.~~c.~~ Notwithstanding any provision of paragraph (b) to the
513 contrary, a proposed change consisting of simultaneous increases
514 and decreases of at least two of the uses within an authorized
515 multiuse development of regional impact which was originally
516 approved with three or more uses specified in s. 380.0651(3)(c),
517 (d), (f), and (g) and residential use.
518 (f)1. The state land planning agency shall establish by
519 rule standard forms for submittal of proposed changes to a
520 previously approved development of regional impact which may
521 require further development-of-regional-impact review. At a
522 minimum, the standard form shall require the developer to
523 provide the precise language that the developer proposes to
524 delete or add as an amendment to the development order.
525 2. The developer shall submit, simultaneously, to the
526 local government, the regional planning agency, and the state

527 land planning agency the request for approval of a proposed
528 change.
529 3. No sooner than 30 days but no later than 45 days after
530 submittal by the developer to the local government, the state
531 land planning agency, and the appropriate regional planning
532 agency, the local government shall give 15 days' notice and
533 schedule a public hearing to consider the change that the
534 developer asserts does not create a substantial deviation. This
535 public hearing shall be held within 60 ~~90~~ days after submittal
536 of the proposed changes, unless that time is extended by the
537 developer.
538 4. The appropriate regional planning agency or the state
539 land planning agency shall review the proposed change and, no
540 later than 45 days after submittal by the developer of the
541 proposed change, unless that time is extended by the developer,
542 and prior to the public hearing at which the proposed change is
543 to be considered, shall advise the local government in writing
544 whether it objects to the proposed change, shall specify the
545 reasons for its objection, if any, and shall provide a copy to
546 the developer.
547 5. At the public hearing, the local government shall
548 determine whether the proposed change requires further
549 development-of-regional-impact review. The provisions of
550 paragraphs (a) and (e), the thresholds set forth in paragraph
551 (b), and the presumptions set forth in paragraphs (c) and (d)
552 and subparagraph (e)3. shall be applicable in determining
553 whether further development-of-regional-impact review is
554 required.

555 6. If the local government determines that the proposed
556 change does not require further development-of-regional-impact
557 review and is otherwise approved, or if the proposed change is
558 not subject to a hearing and determination pursuant to
559 subparagraphs 3. and 5. and is otherwise approved, the local
560 government shall issue an amendment to the development order
561 incorporating the approved change and conditions of approval
562 relating to the change. The decision of the local government to
563 approve, with or without conditions, or to deny the proposed
564 change that the developer asserts does not require further
565 review shall be subject to the appeal provisions of s. 380.07.
566 However, the state land planning agency may not appeal the local
567 government decision if it did not comply with subparagraph 4.
568 The state land planning agency may not appeal a change to a
569 development order made pursuant to subparagraph (e)1. or
570 subparagraph (e)2. for developments of regional impact approved
571 after January 1, 1980, unless the change would result in a
572 significant impact to a regionally significant archaeological,
573 historical, or natural resource not previously identified in the
574 original development-of-regional-impact review.
575 (g) If a proposed change requires further development-of-
576 regional-impact review pursuant to this section, the review
577 shall be conducted subject to the following additional
578 conditions:
579 1. The development-of-regional-impact review conducted by
580 the appropriate regional planning agency shall address only
581 those issues raised by the proposed change except as provided in
582 subparagraph 2.

583 2. The regional planning agency shall consider, and the
584 local government shall determine whether to approve, approve
585 with conditions, or deny the proposed change as it relates to
586 the entire development. If the local government determines that
587 the proposed change, as it relates to the entire development, is
588 unacceptable, the local government shall deny the change.
589 3. If the local government determines that the proposed
590 change~~, as it relates to the entire development,~~ should be
591 approved, any new conditions in the amendment to the development
592 order issued by the local government shall address only those
593 issues raised by the proposed change <u>and require mitigation only</u>
594 <u>for the individual and cumulative impacts of the proposed</u>
595 <u>change</u>.
596 4. Development within the previously approved development
597 of regional impact may continue, as approved, during the
598 development-of-regional-impact review in those portions of the
599 development which are not <u>directly</u> affected by the proposed
600 change.
601 (h) When further development-of-regional-impact review is
602 required because a substantial deviation has been determined or
603 admitted by the developer, the amendment to the development
604 order issued by the local government shall be consistent with
605 the requirements of subsection (15) and shall be subject to the
606 hearing and appeal provisions of s. 380.07. The state land
607 planning agency or the appropriate regional planning agency need
608 not participate at the local hearing in order to appeal a local
609 government development order issued pursuant to this paragraph.
610 (24) STATUTORY EXEMPTIONS.--

611 (a) Any proposed hospital ~~which has a designed capacity of~~
612 ~~not more than 100 beds~~ is exempt from the provisions of this
613 section.
614 (b) Any proposed electrical transmission line or
615 electrical power plant is exempt from the provisions of this
616 section~~, except any steam or solar electrical generating~~
617 ~~facility of less than 50 megawatts in capacity attached to a~~
618 ~~development of regional impact~~.
619 (c) Any proposed addition to an existing sports facility
620 complex is exempt from the provisions of this section if the
621 addition meets the following characteristics:
622 1. It would not operate concurrently with the scheduled
623 hours of operation of the existing facility.
624 2. Its seating capacity would be no more than 75 percent
625 of the capacity of the existing facility.
626 3. The sports facility complex property is owned by a
627 public body prior to July 1, 1983.
628
629 This exemption does not apply to any pari-mutuel facility.
630 (d) Any proposed addition or cumulative additions
631 subsequent to July 1, 1988, to an existing sports facility
632 complex owned by a state university is exempt if the increased
633 seating capacity of the complex is no more than 30 percent of
634 the capacity of the existing facility.
635 (e) Any addition of permanent seats or parking spaces for
636 an existing sports facility located on property owned by a
637 public body prior to July 1, 1973, is exempt from the provisions
638 of this section if future additions do not expand existing

639 permanent seating or parking capacity more than 15 percent
640 annually in excess of the prior year's capacity.
641 (f) Any increase in the seating capacity of an existing
642 sports facility having a permanent seating capacity of at least
643 50,000 spectators is exempt from the provisions of this section,
644 provided that such an increase does not increase permanent
645 seating capacity by more than 5 percent per year and not to
646 exceed a total of 10 percent in any 5-year period, and provided
647 that the sports facility notifies the appropriate local
648 government within which the facility is located of the increase
649 at least 6 months prior to the initial use of the increased
650 seating, in order to permit the appropriate local government to
651 develop a traffic management plan for the traffic generated by
652 the increase. Any traffic management plan shall be consistent
653 with the local comprehensive plan, the regional policy plan, and
654 the state comprehensive plan.
655 (g) Any expansion in the permanent seating capacity or
656 additional improved parking facilities of an existing sports
657 facility is exempt from the provisions of this section, if the
658 following conditions exist:
659 1.a. The sports facility had a permanent seating capacity
660 on January 1, 1991, of at least 41,000 spectator seats;
661 b. The sum of such expansions in permanent seating
662 capacity does not exceed a total of 10 percent in any 5-year
663 period and does not exceed a cumulative total of 20 percent for
664 any such expansions; or

665 c. The increase in additional improved parking facilities
666 is a one-time addition and does not exceed 3,500 parking spaces
667 serving the sports facility; and
668 2. The local government having jurisdiction of the sports
669 facility includes in the development order or development permit
670 approving such expansion under this paragraph a finding of fact
671 that the proposed expansion is consistent with the
672 transportation, water, sewer and stormwater drainage provisions
673 of the approved local comprehensive plan and local land
674 development regulations relating to those provisions.
675
676 Any owner or developer who intends to rely on this statutory
677 exemption shall provide to the department a copy of the local
678 government application for a development permit. Within 45 days
679 of receipt of the application, the department shall render to
680 the local government an advisory and nonbinding opinion, in
681 writing, stating whether, in the department's opinion, the
682 prescribed conditions exist for an exemption under this
683 paragraph. The local government shall render the development
684 order approving each such expansion to the department. The
685 owner, developer, or department may appeal the local government
686 development order pursuant to s. 380.07, within 45 days after
687 the order is rendered. The scope of review shall be limited to
688 the determination of whether the conditions prescribed in this
689 paragraph exist. If any sports facility expansion undergoes
690 development of regional impact review, all previous expansions
691 which were exempt under this paragraph shall be included in the
692 development of regional impact review.

693 (h) Expansion to port harbors, spoil disposal sites,
694 navigation channels, turning basins, harbor berths, and other
695 related inwater harbor facilities of ports listed in s.
696 403.021(9)(b), port transportation facilities and projects
697 listed in s. 311.07(3)(b), and intermodal transportation
698 facilities identified pursuant to s. 311.09(3) are exempt from
699 the provisions of this section when such expansions, projects,
700 or facilities are consistent with comprehensive master plans
701 that are in compliance with the provisions of s. 163.3178.
702 (i) Any proposed facility for the storage of any petroleum
703 product or any expansion of an existing facility is exempt from
704 the provisions of this section, if the facility is consistent
705 with a local comprehensive plan that is in compliance with s.
706 163.3177 or is consistent with a comprehensive port master plan
707 that is in compliance with s. 163.3178.
708 (j) Any renovation or redevelopment within the same land
709 parcel which does not change land use or increase density or
710 intensity of use.
711 (k)1. Any waterport or marina development is exempt from
712 the provisions of this section if the relevant county or
713 municipality has adopted a boating facility siting plan or
714 policy, which includes applicable criteria, considering such
715 factors as natural resources, manatee protection needs, and
716 recreation and economic demands ~~as generally outlined in the~~
717 ~~Bureau of Protected Species Management Boat Facility Siting~~
718 ~~Guide, dated August 2000~~, into the coastal management or land
719 use element of its comprehensive plan. The adoption of boating
720 facility siting plans or policies into the comprehensive plan is

721 exempt from the provisions of s. 163.3187(1). Any waterport or
722 marina development within the municipalities or counties with
723 boating facility siting plans or policies that meet the above
724 criteria~~, adopted prior to April 1, 2002,~~ are exempt from the
725 provisions of this section, when their boating facility siting
726 plan or policy is adopted as part of the relevant local
727 government's comprehensive plan.
728 2. ~~Within 6 months of the effective date of this law,~~ The
729 Department of Community Affairs, in conjunction with the
730 Department of Environmental Protection and the Florida Fish and
731 Wildlife Conservation Commission, shall provide technical
732 assistance and guidelines, including model plans, policies and
733 criteria to local governments for the development of their
734 siting plans.
735 (l) Any proposed development within an urban service
736 boundary established under s. 163.3177(14) is exempt from the
737 provisions of this section if the local government having
738 jurisdiction over the area where the development is proposed has
739 adopted the urban service boundary, ~~and~~ has entered into a
740 binding agreement with ~~adjacent~~ jurisdictions that would be
741 impacted and with the Department of Transportation regarding the
742 mitigation of impacts on state and regional transportation
743 facilities, and has adopted a proportionate share methodology
744 pursuant to s. 163.3180(16).
745 (m) Any proposed development within a rural land
746 stewardship area created under s. 163.3177(11)(d) is exempt from
747 the provisions of this section if the local government that has
748 adopted the rural land stewardship area has entered into a

749 binding agreement with jurisdictions that would be impacted and
750 the Department of Transportation regarding the mitigation of
751 impacts on state and regional transportation facilities, and has
752 adopted a proportionate share methodology pursuant to s.
753 163.3180(16).
754 (n) Any proposed development or redevelopment within an
755 area designated as an urban infill and redevelopment area under
756 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
757 local government has entered into a binding agreement with
758 jurisdictions that would be impacted and the Department of
759 Transportation regarding the mitigation of impacts on state and
760 regional transportation facilities, and has adopted a
761 proportionate share methodology pursuant to s. 163.3180(16).
762 (o) The establishment, relocation, or expansion of any
763 military installation as defined in s. 163.3175, is exempt from
764 this section.
765 (p) Any self-storage warehousing that does not allow
766 retail or other services is exempt from this section.
767 (q) Any proposed nursing home or assisted living facility
768 is exempt from this section.
769 (r) Any development identified in an airport master plan
770 and adopted into the comprehensive plan pursuant to s.
771 163.3177(6)(k) is exempt from this section.
772 (s) Any development identified in a campus master plan and
773 adopted pursuant to s. 1013.30 is exempt from this section.
774 (t) Any development in a specific area plan which is
775 prepared pursuant to s. 163.3245 and adopted into the
776 comprehensive plan is exempt from this section.

777
778 If a use is exempt from review as a development of regional
779 impact under paragraphs (a)-(t) but will be part of a larger
780 project that is subject to review as a development of regional
781 impact, the impact of the exempt use must be included in the
782 review of the larger project.
783 (28) PARTIAL STATUTORY EXEMPTIONS.--
784 (a) If the binding agreement referenced under paragraph
785 (24)(l) for urban service boundaries is not entered into within
786 12 months after establishment of the urban service boundary, the
787 development-of-regional-impact review for projects within the
788 urban service boundary must address transportation impacts only.
789 (b) If the binding agreement referenced under paragraph
790 (24)(n) for designated urban infill and redevelopment areas is
791 not entered into within 12 months after the designation of the
792 area or July 1, 2007, whichever occurs later, the development-
793 of-regional-impact review for projects within the urban infill
794 and redevelopment area must address transportation impacts only.
795 (c) A local government that does not wish to enter into a
796 binding agreement or that is unable to agree on the terms of the
797 agreement referenced under paragraph (24)(l) or paragraph
798 (24)(n) shall provide written notification to the state land
799 planning agency of the failure to enter into a binding agreement
800 within the 12-month period referenced in paragraphs (a) and (b).
801 Following the notification of the state land planning agency,
802 the development-of-regional-impact review for projects within
803 the urban service boundary under paragraph (24)(l) or for an

804 urban infill and redevelopment area under paragraph (24)(n) must
805 address transportation impacts only.
806 Section 2. Paragraphs (d) and (e) of subsection (3) of
807 section 380.0651, Florida Statutes, are amended, paragraph (k)
808 of subsection (3) is redesignated as paragraph (l), and a new
809 paragraph (k) is added to that subsection, to read:
810 380.0651 Statewide guidelines and standards.--
811 (3) The following statewide guidelines and standards shall
812 be applied in the manner described in s. 380.06(2) to determine
813 whether the following developments shall be required to undergo
814 development-of-regional-impact review:
815 (d) Office development.--Any proposed office building or
816 park operated under common ownership, development plan, or
817 management that:
818 1. Encompasses 300,000 or more square feet of gross floor
819 area; or
820 2. Encompasses more than 600,000 square feet of gross
821 floor area in a county with a population greater than 500,000
822 and only in a geographic area specifically designated as highly
823 suitable for increased threshold intensity in the approved local
824 comprehensive plan ~~and in the strategic regional policy plan~~.
825 (e) Marinas and port facilities.--The proposed
826 construction of any waterport or marina is required to undergo
827 development-of-regional-impact review if it is~~, except one~~
828 designed for:
829 1.a. The wet storage or mooring of more ~~fewer~~ than 150
830 watercraft used ~~exclusively~~ for sport, pleasure, or commercial
831 fishing;~~,~~ or

832 ~~b. The dry storage of fewer than 200 watercraft used~~
833 ~~exclusively for sport, pleasure, or commercial fishing, or~~
834 b.~~c.~~ The wet ~~or dry~~ storage or mooring of more ~~fewer~~ than
835 150 watercraft on or adjacent to an inland freshwater lake
836 except Lake Okeechobee or any lake that ~~which~~ has been
837 designated an Outstanding Florida Water.~~, or~~
838 ~~d. The wet or dry storage or mooring of fewer than 50~~
839 ~~watercraft of 40 feet in length or less of any type or purpose.~~
840
841 The numeric thresholds contained in this subparagraph shall be
842 doubled for proposed marina developers who enter into a binding
843 commitment with the local government to set aside at least 15
844 percent of the wet storage or moorings for public use or rental.
845 2. The subthreshold exceptions to this paragraph's
846 requirements for development-of-regional-impact review do ~~shall~~
847 not apply to any waterport or marina facility located within or
848 which serves physical development located within a coastal
849 barrier resource unit on an unbridged barrier island designated
850 pursuant to 16 U.S.C. s. 3501.
851
852 In addition to the foregoing, for projects for which no
853 environmental resource permit or sovereign submerged land lease
854 is required, the Department of Environmental Protection must
855 determine in writing that a proposed marina in excess of 75 ~~10~~
856 slips or storage spaces or a combination of the two is located
857 so that it will not adversely impact Outstanding Florida Waters
858 or Class II waters and will not contribute boat traffic in a
859 manner that will have an adverse impact on an area known to be,

860 or likely to be, frequented by manatees. If the Department of
861 Environmental Protection fails to issue its determination within
862 45 days after ~~of~~ receipt of a formal written request, it has
863 waived its authority to make such determination. The Department
864 of Environmental Protection determination shall constitute final
865 agency action pursuant to chapter 120.
866 ~~2. The dry storage of fewer than 300 watercraft used~~
867 ~~exclusively for sport, pleasure, or commercial fishing at a~~
868 ~~marina constructed and in operation prior to July 1, 1985.~~
869 ~~3. Any proposed marina development with both wet and dry~~
870 ~~mooring or storage used exclusively for sport, pleasure, or~~
871 ~~commercial fishing, where the sum of percentages of the~~
872 ~~applicable wet and dry mooring or storage thresholds equals 100~~
873 ~~percent. This threshold is in addition to, and does not~~
874 ~~preclude, a development from being required to undergo~~
875 ~~development of regional impact review under sub-subparagraphs~~
876 ~~1.a. and b. and subparagraph 2.~~
877 (k) Workforce housing.--The applicable guidelines for
878 residential development and the residential component for
879 multiuse development shall be increased by 20 percent where the
880 developer demonstrates that at least 15 percent of the
881 residential dwelling units will be dedicated to workforce
882 housing. For purposes of this subparagraph, the term "workforce
883 housing" means housing that is affordable to a person who earns
884 less than 120 percent of the area median income.
885 (l) ~~(k)~~ Schools.--
886 1. The proposed construction of any public, private, or
887 proprietary postsecondary educational campus which provides for

888 a design population of more than 5,000 full-time equivalent
889 students, or the proposed physical expansion of any public,
890 private, or proprietary postsecondary educational campus having
891 such a design population that would increase the population by
892 at least 20 percent of the design population.
893 2. As used in this paragraph, "full-time equivalent
894 student" means enrollment for 15 or more quarter hours during a
895 single academic semester. In career centers or other
896 institutions which do not employ semester hours or quarter hours
897 in accounting for student participation, enrollment for 18
898 contact hours shall be considered equivalent to one quarter
899 hour, and enrollment for 27 contact hours shall be considered
900 equivalent to one semester hour.
901 3. This paragraph does not apply to institutions which are
902 the subject of a campus master plan adopted by the university
903 board of trustees pursuant to s. 1013.30.
904 Section 3. Section 380.07, Florida Statutes, is amended to
905 read:
906 380.07 Florida Land and Water Adjudicatory Commission.--
907 (1) There is hereby created the Florida Land and Water
908 Adjudicatory Commission, which shall consist of the
909 Administration Commission. The commission may adopt rules
910 necessary to ensure compliance with the area of critical state
911 concern program and the requirements for developments of
912 regional impact as set forth in this chapter.
913 (2) Whenever any local government issues any development
914 order in any area of critical state concern, or in regard to any
915 development of regional impact, copies of such orders as

916 prescribed by rule by the state land planning agency shall be
917 transmitted to the state land planning agency, the regional
918 planning agency, and the owner or developer of the property
919 affected by such order. The state land planning agency shall
920 adopt rules describing development order rendition and
921 effectiveness in designated areas of critical state concern.
922 Within 45 days after the order is rendered, the owner, the
923 developer, or the state land planning agency may appeal the
924 order to the Florida Land and Water Adjudicatory Commission by
925 filing a petition alleging that the development order is not
926 consistent with the provisions of this part ~~notice of appeal~~
927 ~~with the commission~~. The appropriate regional planning agency by
928 vote at a regularly scheduled meeting may recommend that the
929 state land planning agency undertake an appeal of a development-
930 of-regional-impact development order. Upon the request of an
931 appropriate regional planning council, affected local
932 government, or any citizen, the state land planning agency shall
933 consider whether to appeal the order and shall respond to the
934 request within the 45-day appeal period. ~~Any appeal taken by a~~
935 ~~regional planning agency between March 1, 1993, and the~~
936 ~~effective date of this section may only be continued if the~~
937 ~~state land planning agency has also filed an appeal. Any appeal~~
938 ~~initiated by a regional planning agency on or before March 1,~~
939 ~~1993, shall continue until completion of the appeal process and~~
940 ~~any subsequent appellate review, as if the regional planning~~
941 ~~agency were authorized to initiate the appeal.~~
942 (3) Notwithstanding any other provision of law, an appeal
943 of a development order by the state land planning agency under

944 this section may include consistency of the development order
945 with the local comprehensive plan. However, if a development
946 order relating to a development of regional impact has been
947 challenged in a proceeding under s. 163.3215 and a party to the
948 proceeding serves notice to the state land planning agency of
949 the pending proceeding under s. 163.3215, the state land
950 planning agency shall:
951 (a) Raise its consistency issues by intervening as a full
952 party in the pending proceeding under s. 163.3215 within 30 days
953 after service of the notice; and
954 (b) Dismiss the consistency issues from the development
955 order appeal.
956 (4) The appellant shall furnish a copy of the petition to
957 the opposing party, as the case may be, and to the local
958 government that issued the order. The filing of the petition
959 stays the effectiveness of the order until after the completion
960 of the appeal process.
961 (5) ~~(3)~~ The 45-day appeal period for a development of
962 regional impact within the jurisdiction of more than one local
963 government shall not commence until after all the local
964 governments having jurisdiction over the proposed development of
965 regional impact have rendered their development orders. The
966 appellant shall furnish a copy of the notice of appeal to the
967 opposing party, as the case may be, and to the local government
968 which issued the order. The filing of the notice of appeal shall
969 stay the effectiveness of the order until after the completion
970 of the appeal process.

971 (6) ~~(4)~~ Prior to issuing an order, the Florida Land and
972 Water Adjudicatory Commission shall hold a hearing pursuant to
973 the provisions of chapter 120. The commission shall encourage
974 the submission of appeals on the record made below in cases in
975 which the development order was issued after a full and complete
976 hearing before the local government or an agency thereof.
977 (7) ~~(5)~~ The Florida Land and Water Adjudicatory Commission
978 shall issue a decision granting or denying permission to develop
979 pursuant to the standards of this chapter and may attach
980 conditions and restrictions to its decisions.
981 ~~(6) If an appeal is filed with respect to any issues~~
982 ~~within the scope of a permitting program authorized by chapter~~
983 ~~161, chapter 373, or chapter 403 and for which a permit or~~
984 ~~conceptual review approval has been obtained prior to the~~
985 ~~issuance of a development order, any such issue shall be~~
986 ~~specifically identified in the notice of appeal which is filed~~
987 ~~pursuant to this section, together with other issues which~~
988 ~~constitute grounds for the appeal. The appeal may proceed with~~
989 ~~respect to issues within the scope of permitting programs for~~
990 ~~which a permit or conceptual review approval has been obtained~~
991 ~~prior to the issuance of a development order only after the~~
992 ~~commission determines by majority vote at a regularly scheduled~~
993 ~~commission meeting that statewide or regional interests may be~~
994 ~~adversely affected by the development. In making this~~
995 ~~determination, there shall be a rebuttable presumption that~~
996 ~~statewide and regional interests relating to issues within the~~
997 ~~scope of the permitting programs for which a permit or~~

998 ~~conceptual approval has been obtained are not adversely~~
999 ~~affected.~~
1000 Section 4. Section 380.115, Florida Statutes, is amended
1001 to read:
1002 380.115 Vested rights and duties; effect of size
1003 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
1004 ~~2002-296~~.--
1005 (1) A change in a development-of-regional-impact guideline
1006 and standard does not abridge ~~Nothing contained in this act~~
1007 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
1008 duty or obligation pursuant to any development order or
1009 agreement that is applicable to a development of regional impact
1010 ~~on the effective date of this act~~. A development that has
1011 received a development-of-regional-impact development order
1012 pursuant to s. 380.06, but is no longer required to undergo
1013 development-of-regional-impact review by operation of a change
1014 in the guidelines and standards or has reduced its size below
1015 the thresholds in s. 380.0651 ~~of this act~~, shall be governed by
1016 the following procedures:
1017 (a) The development shall continue to be governed by the
1018 development-of-regional-impact development order and may be
1019 completed in reliance upon and pursuant to the development order
1020 unless the developer or landowner has followed the procedures
1021 for rescission in paragraph (b). The development-of-regional-
1022 impact development order may be enforced by the local government
1023 as provided by ss. 380.06(17) and 380.11.
1024 (b) If requested by the developer or landowner, the
1025 development-of-regional-impact development order shall ~~may~~ be

1026 rescinded by the local government having jurisdiction upon a
1027 showing that all required mitigation related to the amount of
1028 development that existed on the date of rescission has been
1029 completed ~~abandoned pursuant to the process in s. 380.06(26)~~.
1030 (2) A development with an application for development
1031 approval pending, ~~and determined sufficient~~ pursuant to s.
1032 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
1033 guidelines and standards ~~this act~~, or a notification of proposed
1034 change pending on the effective date of a change to the
1035 guidelines and standards ~~this act~~, may elect to continue such
1036 review pursuant to s. 380.06. At the conclusion of the pending
1037 review, including any appeals pursuant to s. 380.07, the
1038 resulting development order shall be governed by the provisions
1039 of subsection (1).
1040 (3) A landowner that has filed an application for a
1041 development-of-regional-impact review prior to the adoption of
1042 an optional sector plan pursuant to s. 163.3245 may elect to
1043 have the application reviewed pursuant to s. 380.06,
1044 comprehensive plan provisions in force prior to adoption of the
1045 sector plan, and any requested comprehensive plan amendments
1046 that accompany the application.
1047 Section 5. Section 342.07, Florida Statutes, is amended to
1048 read:
1049 342.07 Recreational and commercial working waterfronts;
1050 legislative findings; definitions.--
1051 (1) The Legislature recognizes that there is an important
1052 state interest in facilitating boating and other recreational
1053 access to the state's navigable waters. This access is vital to

1054 tourists and recreational users and the marine industry in the
1055 state, to maintaining or enhancing the $57 billion economic
1056 impact of tourism and the $14 billion economic impact of boating
1057 in the state annually, and to ensuring continued access to all
1058 residents and visitors to the navigable waters of the state. The
1059 Legislature recognizes that there is an important state interest
1060 in maintaining viable water-dependent support facilities, such
1061 as public lodging establishments and boat hauling and repairing
1062 and commercial fishing facilities, and in maintaining the
1063 availability of public access to the navigable waters of the
1064 state. The Legislature further recognizes that the waterways of
1065 the state are important for engaging in commerce and the
1066 transportation of goods and people upon such waterways and that
1067 such commerce and transportation is not feasible unless there is
1068 access to and from the navigable waters of the state through
1069 recreational and commercial working waterfronts.
1070 (2) As used in this section, the term "recreational and
1071 commercial working waterfront" means a parcel or parcels of real
1072 property that provide access for water-dependent commercial and
1073 recreational activities, including public lodging establishments
1074 as defined in chapter 509, or provide access for the public to
1075 the navigable waters of the state. Recreational and commercial
1076 working waterfronts require direct access to or a location on,
1077 over, or adjacent to a navigable body of water. The term
1078 includes water-dependent facilities that are open to the public
1079 and offer public access by vessels to the waters of the state or
1080 that are support facilities for recreational, commercial,
1081 research, or governmental vessels. These facilities include

1082 docks, wharfs, lifts, wet and dry marinas, boat ramps, boat
1083 hauling and repair facilities, commercial fishing facilities,
1084 boat construction facilities, and other support structures over
1085 the water. As used in this section, the term "vessel" has the
1086 same meaning as in s. 327.02(37). Seaports are excluded from the
1087 definition.
1088 Section 6. This act shall take effect July 1, 2006.

Bill No. **HM 683**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Rep. Traviesa offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6
7 Section 1. Paragraphs (a) and (i) of subsection (4) and
8 subsections (15), (19), and (24) of section 380.06, Florida
9 Statutes, are amended, and subsection (28) is added to that
10 section, to read:
11 380.06 Developments of regional impact.--
12 (4) BINDING LETTER.--
13 (a) If any developer is in doubt whether his or her
14 proposed development must undergo development-of-regional-impact
15 review under the guidelines and standards, whether his or her
16 rights have vested pursuant to subsection (20), or whether a
17 proposed substantial change to a development of regional impact
18 concerning which rights had previously vested pursuant to
19 subsection (20) would divest such rights, the developer may
20 request a determination from the state land planning agency. The
21 developer or the appropriate local government having
22 jurisdiction may request that the state land planning agency

23 determine whether the amount of development that remains to be
24 built in an approved development of regional impact meets the
25 criteria of subparagraph (15)(g)3.
26 (i) In response to an inquiry from a developer or the
27 appropriate local government having jurisdiction, the state land
28 planning agency may issue an informal determination in the form
29 of a clearance letter as to whether a development is required to
30 undergo development-of-regional-impact review, or whether the
31 amount of development that remains to be built in an approved
32 development of regional impact meets the criteria of
33 subparagraph (15)(g)3. A clearance letter may be based solely on
34 the information provided by the developer, and the state land
35 planning agency is not required to conduct an investigation of
36 that information. If any material information provided by the
37 developer is incomplete or inaccurate, the clearance letter is
38 not binding upon the state land planning agency. A clearance
39 letter does not constitute final agency action.
40 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--
41 (a) The appropriate local government shall render a
42 decision on the application within 30 days after the hearing
43 unless an extension is requested by the developer.
44 (b) When possible, local governments shall issue
45 development orders concurrently with any other local permits or
46 development approvals that may be applicable to the proposed
47 development.
48 (c) The development order shall include findings of fact
49 and conclusions of law consistent with subsections (13) and
50 (14). The development order:
51 1. Shall specify the monitoring procedures and the local
52 official responsible for assuring compliance by the developer
53 with the development order.

54 2. Shall establish compliance dates for the development
55 order, including a deadline for commencing physical development
56 and for compliance with conditions of approval or phasing
57 requirements, and shall include a buildout ~~termination~~ date that
58 reasonably reflects the time anticipated ~~required~~ to complete
59 the development.
60 3. Shall establish a date until which the local government
61 agrees that the approved development of regional impact shall
62 not be subject to downzoning, unit density reduction, or
63 intensity reduction, unless the local government can demonstrate
64 that substantial changes in the conditions underlying the
65 approval of the development order have occurred or the
66 development order was based on substantially inaccurate
67 information provided by the developer or that the change is
68 clearly established by local government to be essential to the
69 public health, safety, or welfare. The date established pursuant
70 to this subparagraph shall be no sooner than the buildout date
71 of the project.
72 4. Shall specify the requirements for the biennial report
73 designated under subsection (18), including the date of
74 submission, parties to whom the report is submitted, and
75 contents of the report, based upon the rules adopted by the
76 state land planning agency. Such rules shall specify the scope
77 of any additional local requirements that may be necessary for
78 the report.
79 5. May specify the types of changes to the development
80 which shall require submission for a substantial deviation
81 determination or a notice of proposed change under subsection
82 (19).
83 6. Shall include a legal description of the property.

84 (d) Conditions of a development order that require a
85 developer to contribute land for a public facility or construct,
86 expand, or pay for land acquisition or construction or expansion
87 of a public facility, or portion thereof, shall meet the
88 following criteria:
89 1. The need to construct new facilities or add to the
90 present system of public facilities must be reasonably
91 attributable to the proposed development.
92 2. Any contribution of funds, land, or public facilities
93 required from the developer shall be comparable to the amount of
94 funds, land, or public facilities that the state or the local
95 government would reasonably expect to expend or provide, based
96 on projected costs of comparable projects, to mitigate the
97 impacts reasonably attributable to the proposed development.
98 3. Any funds or lands contributed must be expressly
99 designated and used to mitigate impacts reasonably attributable
100 to the proposed development.
101 4. Construction or expansion of a public facility by a
102 nongovernmental developer as a condition of a development order
103 to mitigate the impacts reasonably attributable to the proposed
104 development is not subject to competitive bidding or competitive
105 negotiation for selection of a contractor or design professional
106 for any part of the construction or design ~~unless required by~~
107 ~~the local government that issues the development order~~.
108 (e)1. ~~Effective July 1, 1986,~~ A local government shall not
109 include, as a development order condition for a development of
110 regional impact, any requirement that a developer contribute or
111 pay for land acquisition or construction or expansion of public
112 facilities or portions thereof unless the local government has
113 enacted a local ordinance which requires other development not
114 subject to this section to contribute its proportionate share of

115 the funds, land, or public facilities necessary to accommodate
116 any impacts having a rational nexus to the proposed development,
117 and the need to construct new facilities or add to the present
118 system of public facilities must be reasonably attributable to
119 the proposed development.
120 2. A local government shall not approve a development of
121 regional impact that does not make adequate provision for the
122 public facilities needed to accommodate the impacts of the
123 proposed development unless the local government includes in the
124 development order a commitment by the local government to
125 provide these facilities consistently with the development
126 schedule approved in the development order; however, a local
127 government's failure to meet the requirements of subparagraph 1.
128 and this subparagraph shall not preclude the issuance of a
129 development order where adequate provision is made by the
130 developer for the public facilities needed to accommodate the
131 impacts of the proposed development. Any funds or lands
132 contributed by a developer must be expressly designated and used
133 to accommodate impacts reasonably attributable to the proposed
134 development.
135 3. The Department of Community Affairs and other state and
136 regional agencies involved in the administration and
137 implementation of this act shall cooperate and work with units
138 of local government in preparing and adopting local impact fee
139 and other contribution ordinances.
140 (f) Notice of the adoption of a development order or the
141 subsequent amendments to an adopted development order shall be
142 recorded by the developer, in accordance with s. 28.222, with
143 the clerk of the circuit court for each county in which the
144 development is located. The notice shall include a legal
145 description of the property covered by the order and shall state

146 which unit of local government adopted the development order,
147 the date of adoption, the date of adoption of any amendments to
148 the development order, the location where the adopted order with
149 any amendments may be examined, and that the development order
150 constitutes a land development regulation applicable to the
151 property. The recording of this notice shall not constitute a
152 lien, cloud, or encumbrance on real property, or actual or
153 constructive notice of any such lien, cloud, or encumbrance.
154 This paragraph applies only to developments initially approved
155 under this section after July 1, 1980.
156 (g) A local government shall not issue permits for
157 development subsequent to the buildout ~~termination date or~~
158 ~~expiration~~ date contained in the development order unless:
159 1. The proposed development has been evaluated
160 cumulatively with existing development under the substantial
161 deviation provisions of subsection (19) subsequent to the
162 termination or expiration date;
163 2. The proposed development is consistent with an
164 abandonment of development order that has been issued in
165 accordance with the provisions of subsection (26); ~~or~~
166 3. The development of regional impact is essentially built
167 out, in that all the mitigation requirements in the development
168 order have been satisfied, all developers are in compliance with
169 all applicable terms and conditions of the development order
170 except the buildout date, and the amount of proposed development
171 that remains to be built is less than 20 percent of any
172 applicable development-of-regional-impact threshold; or
173 4.~~3.~~ The project has been determined to be an essentially
174 built-out development of regional impact through an agreement
175 executed by the developer, the state land planning agency, and
176 the local government, in accordance with s. 380.032, which will

177 establish the terms and conditions under which the development
178 may be continued. If the project is determined to be essentially
179 built out ~~built-out~~, development may proceed pursuant to the s.
180 380.032 agreement after the termination or expiration date
181 contained in the development order without further development-
182 of-regional-impact review subject to the local government
183 comprehensive plan and land development regulations or subject
184 to a modified development-of-regional-impact analysis. As used
185 in this paragraph, an "essentially built-out" development of
186 regional impact means:
187 a. The developers are ~~development is~~ in compliance with
188 all applicable terms and conditions of the development order
189 except the buildout ~~built-out~~ date; and
190 b.(I) The amount of development that remains to be built
191 is less than the substantial deviation threshold specified in
192 paragraph (19)(b) for each individual land use category, or, for
193 a multiuse development, the sum total of all unbuilt land uses
194 as a percentage of the applicable substantial deviation
195 threshold is equal to or less than 100 percent; or
196 (II) The state land planning agency and the local
197 government have agreed in writing that the amount of development
198 to be built does not create the likelihood of any additional
199 regional impact not previously reviewed.
200
201 5. In addition to the requirements of subparagraphs 3. and
202 4.
203 a. The single-family residential portions of a
204 development may be considered "essentially built out" if all of
205 the infrastructure and horizontal development has been
206 completed, at least 50 percent of the dwelling units have been
207 completed, and more than 80 percent of the lots have been

208 conveyed to third-party individual lot owners or to individual
209 builders who own no more than 40 lots at the time of the
210 determination; and
211 b. The mobile home park portions of a development may be
212 considered "essentially built out" if all the infrastructure and
213 horizontal development has been completed, and at least 50
214 percent of the lots are leased to individual mobile home owners.
215 (h) If the property is annexed by another local
216 jurisdiction, the annexing jurisdiction shall adopt a new
217 development order that incorporates all previous rights and
218 obligations specified in the prior development order.
219 (19) SUBSTANTIAL DEVIATIONS.--
220 (a) Any proposed change to a previously approved
221 development which creates a reasonable likelihood of additional
222 regional impact, or any type of regional impact created by the
223 change not previously reviewed by the regional planning agency,
224 shall constitute a substantial deviation and shall cause the
225 proposed change ~~development~~ to be subject to further
226 development-of-regional-impact review. There are a variety of
227 reasons why a developer may wish to propose changes to an
228 approved development of regional impact, including changed
229 market conditions. The procedures set forth in this subsection
230 are for that purpose.
231 (b) Any proposed change to a previously approved
232 development of regional impact or development order condition
233 which, either individually or cumulatively with other changes,
234 exceeds any of the following criteria shall constitute a
235 substantial deviation and shall cause the development to be
236 subject to further development-of-regional-impact review without
237 the necessity for a finding of same by the local government:

238 1. An increase in the number of parking spaces at an
239 attraction or recreational facility by 10 ~~5~~ percent or 330 ~~300~~
240 spaces, whichever is greater, or an increase in the number of
241 spectators that may be accommodated at such a facility by 10 ~~5~~
242 percent or 1,100 ~~1,000~~ spectators, whichever is greater.
243 2. A new runway, a new terminal facility, a 25-percent
244 lengthening of an existing runway, or a 25-percent increase in
245 the number of gates of an existing terminal, but only if the
246 increase adds at least three additional gates.
247 ~~3. An increase in the number of hospital beds by 5 percent~~
248 ~~or 60 beds, whichever is greater.~~
249 3.~~4.~~ An increase in industrial development area by 10 ~~5~~
250 percent or 35 ~~32~~ acres, whichever is greater.
251 4.~~5.~~ An increase in the average annual acreage mined by 10
252 ~~5~~ percent or 11 ~~10~~ acres, whichever is greater, or an increase
253 in the average daily water consumption by a mining operation by
254 10 ~~5~~ percent or 330,000 ~~300,000~~ gallons, whichever is greater.
255 An increase in the size of the mine by 10 ~~5~~ percent or 825 ~~750~~
256 acres, whichever is less. An increase in the size of a heavy
257 mineral mine as defined in s. 378.403(7) will only constitute a
258 substantial deviation if the average annual acreage mined is
259 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~ million
260 gallons of water per day.
261 5.~~6.~~ An increase in land area for office development by 10
262 ~~5~~ percent or an increase of gross floor area of office
263 development by 10 ~~5~~ percent or 66,000 ~~60,000~~ gross square feet,
264 whichever is greater.
265 ~~7. An increase in the storage capacity for chemical or~~
266 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or 7~~
267 ~~million pounds, whichever is greater.~~

268 ~~8. An increase of development at a waterport of wet~~
269 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
270 ~~wet/dry storage for 60 watercraft in an area identified in the~~
271 ~~state marina siting plan as an appropriate site for additional~~
272 ~~waterport development or a 5-percent increase in watercraft~~
273 ~~storage capacity, whichever is greater.~~
274 7.~~9.~~ An increase in the number of dwelling units by 10 ~~5~~
275 percent or 55 ~~50~~ dwelling units, whichever is greater.
276 8. An increase in the number of dwelling units by 15
277 percent or 100 units, whichever is greater, provided that 20
278 percent of the increase in the number of dwelling units is
279 dedicated to the construction of workforce housing. For purposes
280 of this subparagraph, the term "workforce housing" means housing
281 that is affordable to a person who earns less than 120 percent
282 of the area median income.
283 9.~~10.~~ An increase in commercial development by 55,000
284 ~~50,000~~ square feet of gross floor area or of parking spaces
285 provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-~~
286 ~~percent~~ increase of either of these, whichever is greater.
287 10.~~11.~~ An increase in hotel or motel rooms ~~facility units~~
288 by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.
289 11.~~12.~~ An increase in a recreational vehicle park area by
290 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.
291 12.~~13.~~ A decrease in the area set aside for open space of
292 5 percent or 20 acres, whichever is less.
293 13.~~14.~~ A proposed increase to an approved multiuse
294 development of regional impact where the sum of the increases of
295 each land use as a percentage of the applicable substantial
296 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
297 percentage of any decrease in the amount of open space shall be

298 treated as an increase for purposes of determining when 110 ~~100~~
299 percent has been reached or exceeded.
300 14.~~15.~~ A 15-percent increase in the number of external
301 vehicle trips generated by the development above that which was
302 projected during the original development-of-regional-impact
303 review.
304 15.~~16.~~ Any change which would result in development of any
305 area which was specifically set aside in the application for
306 development approval or in the development order for
307 preservation or special protection of endangered or threatened
308 plants or animals designated as endangered, threatened, or
309 species of special concern and their habitat, any species
310 protected by 16 U.S.C. §668a-668d, primary dunes, or
311 archaeological and historical sites designated as significant by
312 the Division of Historical Resources of the Department of State.
313 The ~~further~~ refinement of the boundaries and configuration of
314 such areas ~~by survey~~ shall be considered under sub-subparagraph
315 (e)2.j. ~~(e)5.b.~~
316
317 The substantial deviation numerical standards in subparagraphs
318 3., 5., 9., 10., and 13. ~~4., 6., 10., 14.~~, excluding residential
319 uses, and in subparagraph 14. ~~15.,~~ are increased by 100 percent
320 for a project certified under s. 403.973 which creates jobs and
321 meets criteria established by the Office of Tourism, Trade, and
322 Economic Development as to its impact on an area's economy,
323 employment, and prevailing wage and skill levels. The
324 substantial deviation numerical standards in subparagraphs 3.,
325 5., 7., 8., 9., 10., 13., and 14. ~~4., 6., 9., 10., 11., and 14.~~
326 are increased by 50 percent for a project located wholly within
327 an urban infill and redevelopment area designated on the

328 applicable adopted local comprehensive plan future land use map
329 and not located within the coastal high hazard area.
330 (c) An extension of the date of buildout of a development,
331 or any phase thereof, by more than 7 ~~or more~~ years shall be
332 presumed to create a substantial deviation subject to further
333 development-of-regional-impact review. An extension of the date
334 of buildout, or any phase thereof, of more than 5 years ~~or more~~
335 but less than 7 years shall be presumed not to create a
336 substantial deviation. The extension of the date of buildout of
337 an areawide development of regional impact by more than 5 years
338 but less than 10 years is presumed not to create a substantial
339 deviation. These presumptions may be rebutted by clear and
340 convincing evidence at the public hearing held by the local
341 government. An extension of 5 years or less ~~than 5 years~~ is not
342 a substantial deviation. For the purpose of calculating when a
343 buildout or~~,~~ phase~~, or termination~~ date has been exceeded, the
344 time shall be tolled during the pendency of administrative or
345 judicial proceedings relating to development permits. Any
346 extension of the buildout date of a project or a phase thereof
347 shall automatically extend the commencement date of the project,
348 the termination date of the development order, the expiration
349 date of the development of regional impact, and the phases
350 thereof if applicable by a like period of time.
351 (d) A change in the plan of development of an approved
352 development of regional impact resulting from requirements
353 imposed by the Department of Environmental Protection or any
354 water management district created by s. 373.069 or any of their
355 successor agencies or by any appropriate federal regulatory
356 agency shall be submitted to the local government pursuant to
357 this subsection. The change shall be presumed not to create a
358 substantial deviation subject to further development-of-

359 regional-impact review. The presumption may be rebutted by clear
360 and convincing evidence at the public hearing held by the local
361 government.
362 (e)1. Except for a development order rendered pursuant to
363 subsection (22) or subsection (25), a proposed change to a
364 development order that individually or cumulatively with any
365 previous change is less than any numerical criterion contained
366 in subparagraphs (b)1.-15. and does not exceed any other
367 criterion, or that involves an extension of the buildout date of
368 a development, or any phase thereof, of less than 5 years is not
369 subject to the public hearing requirements of subparagraph
370 (f)3., and is not subject to a determination pursuant to
371 subparagraph (f)5. Notice of the proposed change shall be made
372 to the regional planning council and the state land planning
373 agency. Such notice shall include a description of previous
374 individual changes made to the development, including changes
375 previously approved by the local government, and shall include
376 appropriate amendments to the development order.
377 2. The following changes, individually or cumulatively
378 with any previous changes, are not substantial deviations:
379 a. Changes in the name of the project, developer, owner,
380 or monitoring official.
381 b. Changes to a setback that do not affect noise buffers,
382 environmental protection or mitigation areas, or archaeological
383 or historical resources.
384 c. Changes to minimum lot sizes.
385 d. Changes in the configuration of internal roads that do
386 not affect external access points.
387 e. Changes to the building design or orientation that stay
388 approximately within the approved area designated for such
389 building and parking lot, and which do not affect historical

390 buildings designated as significant by the Division of
391 Historical Resources of the Department of State.
392 f. Changes to increase the acreage in the development,
393 provided that no development is proposed on the acreage to be
394 added.
395 g. Changes to eliminate an approved land use, provided
396 that there are no additional regional impacts.
397 h. Changes required to conform to permits approved by any
398 federal, state, or regional permitting agency, provided that
399 these changes do not create additional regional impacts.
400 i. Any renovation or redevelopment of development within a
401 previously approved development of regional impact which does
402 not change land use or increase density or intensity of use.
403 j. Changes that modify boundaries and configuration of
404 areas described in subparagraph (b)15. due to science-based
405 refinement of such areas by survey, by habitat evaluation, or by
406 other recognized assessment methodology, or by an environmental
407 assessment. In order for changes to qualify under this
408 subparagraph, the survey, habitat evaluation, or assessment must
409 occur prior to the time a conservation easement protecting such
410 lands is recorded and must not result in any net decrease in the
411 total acreage of the lands specifically set aside for permanent
412 preservation in the final development order.
413 k.~~j.~~ Any other change which the state land planning agency
414 agrees in writing is similar in nature, impact, or character to
415 the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and
416 which does not create the likelihood of any additional regional
417 impact.
418
419 This subsection does not require the filing of a notice of
420 proposed change but shall require an application to the local

421 government to amend the ~~a~~ development order in accordance with
422 the local government's procedures for amendment of a development
423 order. In accordance with the local government's procedures,
424 including requirements for notice to the applicant and the
425 public, the local government shall either deny the application
426 for amendment or adopt an amendment to the development order
427 which approves the application with or without conditions.
428 Following adoption, the local government shall render the
429 amendment to the development order to the state land planning
430 agency. The state land planning agency may appeal, pursuant to
431 s. 380.07(a), the amendment to development order if the
432 amendment involves subparagraphs g, h, j, or k above and it
433 believes the change creates a reasonable likelihood of new or
434 additional regional impacts. ~~amendment for any change listed in~~
435 ~~sub-subparagraphs a.-j. unless such issue is addressed either in~~
436 ~~the existing development order or in the application for~~
437 ~~development approval, but, in the case of the application, only~~
438 ~~if, and in the manner in which, the application is incorporated~~
439 ~~in the development order~~.
440 3. Except for the change authorized by sub-subparagraph
441 2.f., any addition of land not previously reviewed or any change
442 not specified in paragraph (b) or paragraph (c) shall be
443 presumed to create a substantial deviation. This presumption may
444 be rebutted by clear and convincing evidence.
445 4. Any submittal of a proposed change to a previously
446 approved development shall include a description of individual
447 changes previously made to the development, including changes
448 previously approved by the local government. The local
449 government shall consider the previous and current proposed
450 changes in deciding whether such changes cumulatively constitute

451 a substantial deviation requiring further development-of-
452 regional-impact review.
453 5. The following changes to an approved development of
454 regional impact shall be presumed to create a substantial
455 deviation. Such presumption may be rebutted by clear and
456 convincing evidence.
457 a. A change proposed for 15 percent or more of the acreage
458 to a land use not previously approved in the development order.
459 Changes of less than 15 percent shall be presumed not to create
460 a substantial deviation.
461 ~~b. Except for the types of uses listed in subparagraph~~
462 ~~(b)16., any change which would result in the development of any~~
463 ~~area which was specifically set aside in the application for~~
464 ~~development approval or in the development order for~~
465 ~~preservation, buffers, or special protection, including habitat~~
466 ~~for plant and animal species, archaeological and historical~~
467 ~~sites, dunes, and other special areas.~~
468 b.~~c.~~ Notwithstanding any provision of paragraph (b) to the
469 contrary, a proposed change consisting of simultaneous increases
470 and decreases of at least two of the uses within an authorized
471 multiuse development of regional impact which was originally
472 approved with three or more uses specified in s. 380.0651(3)(c),
473 (d), (f), and (g) and residential use.
474 (f)1. The state land planning agency shall establish by
475 rule standard forms for submittal of proposed changes to a
476 previously approved development of regional impact which may
477 require further development-of-regional-impact review. At a
478 minimum, the standard form shall require the developer to
479 provide the precise language that the developer proposes to
480 delete or add as an amendment to the development order.

481 2. The developer shall submit, simultaneously, to the
482 local government, the regional planning agency, and the state
483 land planning agency the request for approval of a proposed
484 change.
485 3. No sooner than 30 days but no later than 45 days after
486 submittal by the developer to the local government, the state
487 land planning agency, and the appropriate regional planning
488 agency, the local government shall give 15 days' notice and
489 schedule a public hearing to consider the change that the
490 developer asserts does not create a substantial deviation. This
491 public hearing shall be held within 60 ~~90~~ days after submittal
492 of the proposed changes, unless that time is extended by the
493 developer.
494 4. The appropriate regional planning agency or the state
495 land planning agency shall review the proposed change and, no
496 later than 45 days after submittal by the developer of the
497 proposed change, unless that time is extended by the developer,
498 and prior to the public hearing at which the proposed change is
499 to be considered, shall advise the local government in writing
500 whether it objects to the proposed change, shall specify the
501 reasons for its objection, if any, and shall provide a copy to
502 the developer.
503 5. At the public hearing, the local government shall
504 determine whether the proposed change requires further
505 development-of-regional-impact review. The provisions of
506 paragraphs (a) and (e), the thresholds set forth in paragraph
507 (b), and the presumptions set forth in paragraphs (c) and (d)
508 and subparagraph (e)3. shall be applicable in determining
509 whether further development-of-regional-impact review is
510 required.

511 6. If the local government determines that the proposed
512 change does not require further development-of-regional-impact
513 review and is otherwise approved, or if the proposed change is
514 not subject to a hearing and determination pursuant to
515 subparagraphs 3. and 5. and is otherwise approved, the local
516 government shall issue an amendment to the development order
517 incorporating the approved change and conditions of approval
518 relating to the change. The decision of the local government to
519 approve, with or without conditions, or to deny the proposed
520 change that the developer asserts does not require further
521 review shall be subject to the appeal provisions of s. 380.07.
522 However, the state land planning agency may not appeal the local
523 government decision if it did not comply with subparagraph 4.
524 The state land planning agency may not appeal a change to a
525 development order made pursuant to subparagraph (e)1. or
526 subparagraph (e)2. for developments of regional impact approved
527 after January 1, 1980, unless the change would result in a
528 significant impact to a regionally significant archaeological,
529 historical, or natural resource not previously identified in the
530 original development-of-regional-impact review.
531 (g) If a proposed change requires further development-of-
532 regional-impact review pursuant to this section, the review
533 shall be conducted subject to the following additional
534 conditions:
535 1. The development-of-regional-impact review conducted by
536 the appropriate regional planning agency shall address only
537 those issues raised by the proposed change except as provided in
538 subparagraph 2.
539 2. The regional planning agency shall consider, and the
540 local government shall determine whether to approve, approve
541 with conditions, or deny the proposed change as it relates to

542 the entire development. If the local government determines that
543 the proposed change, as it relates to the entire development, is
544 unacceptable, the local government shall deny the change.
545 3. If the local government determines that the proposed
546 change~~, as it relates to the entire development,~~ should be
547 approved, any new conditions in the amendment to the development
548 order issued by the local government shall address only those
549 issues raised by the proposed change and require mitigation only
550 for the individual and cumulative impacts of the proposed
551 change.
552 4. Development within the previously approved development
553 of regional impact may continue, as approved, during the
554 development-of-regional-impact review in those portions of the
555 development which are not directly affected by the proposed
556 change.
557 (h) When further development-of-regional-impact review is
558 required because a substantial deviation has been determined or
559 admitted by the developer, the amendment to the development
560 order issued by the local government shall be consistent with
561 the requirements of subsection (15) and shall be subject to the
562 hearing and appeal provisions of s. 380.07. The state land
563 planning agency or the appropriate regional planning agency need
564 not participate at the local hearing in order to appeal a local
565 government development order issued pursuant to this paragraph.
566 (24) STATUTORY EXEMPTIONS.--
567 (a) Any proposed hospital ~~which has a designed capacity of~~
568 ~~not more than 100 beds~~ is exempt from the provisions of this
569 section.
570 (b) Any proposed electrical transmission line or
571 electrical power plant is exempt from the provisions of this
572 section~~, except any steam or solar electrical generating~~

573 ~~facility of less than 50 megawatts in capacity attached to a~~
574 ~~development of regional impact~~.
575 (c) Any proposed addition to an existing sports facility
576 complex is exempt from the provisions of this section if the
577 addition meets the following characteristics:
578 1. It would not operate concurrently with the scheduled
579 hours of operation of the existing facility.
580 2. Its seating capacity would be no more than 75 percent
581 of the capacity of the existing facility.
582 3. The sports facility complex property is owned by a
583 public body prior to July 1, 1983.
584
585 This exemption does not apply to any pari-mutuel facility.
586 (d) Any proposed addition or cumulative additions
587 subsequent to July 1, 1988, to an existing sports facility
588 complex owned by a state university is exempt if the increased
589 seating capacity of the complex is no more than 30 percent of
590 the capacity of the existing facility.
591 (e) Any addition of permanent seats or parking spaces for
592 an existing sports facility located on property owned by a
593 public body prior to July 1, 1973, is exempt from the provisions
594 of this section if future additions do not expand existing
595 permanent seating or parking capacity more than 15 percent
596 annually in excess of the prior year's capacity.
597 (f) Any increase in the seating capacity of an existing
598 sports facility having a permanent seating capacity of at least
599 50,000 spectators is exempt from the provisions of this section,
600 provided that such an increase does not increase permanent
601 seating capacity by more than 5 percent per year and not to
602 exceed a total of 10 percent in any 5-year period, and provided
603 that the sports facility notifies the appropriate local

604 government within which the facility is located of the increase
605 at least 6 months prior to the initial use of the increased
606 seating, in order to permit the appropriate local government to
607 develop a traffic management plan for the traffic generated by
608 the increase. Any traffic management plan shall be consistent
609 with the local comprehensive plan, the regional policy plan, and
610 the state comprehensive plan.
611 (g) Any expansion in the permanent seating capacity or
612 additional improved parking facilities of an existing sports
613 facility is exempt from the provisions of this section, if the
614 following conditions exist:
615 1.a. The sports facility had a permanent seating capacity
616 on January 1, 1991, of at least 41,000 spectator seats;
617 b. The sum of such expansions in permanent seating
618 capacity does not exceed a total of 10 percent in any 5-year
619 period and does not exceed a cumulative total of 20 percent for
620 any such expansions; or
621 c. The increase in additional improved parking facilities
622 is a one-time addition and does not exceed 3,500 parking spaces
623 serving the sports facility; and
624 2. The local government having jurisdiction of the sports
625 facility includes in the development order or development permit
626 approving such expansion under this paragraph a finding of fact
627 that the proposed expansion is consistent with the
628 transportation, water, sewer and stormwater drainage provisions
629 of the approved local comprehensive plan and local land
630 development regulations relating to those provisions.
631
632 Any owner or developer who intends to rely on this statutory
633 exemption shall provide to the department a copy of the local
634 government application for a development permit. Within 45 days

635 of receipt of the application, the department shall render to
636 the local government an advisory and nonbinding opinion, in
637 writing, stating whether, in the department's opinion, the
638 prescribed conditions exist for an exemption under this
639 paragraph. The local government shall render the development
640 order approving each such expansion to the department. The
641 owner, developer, or department may appeal the local government
642 development order pursuant to s. 380.07, within 45 days after
643 the order is rendered. The scope of review shall be limited to
644 the determination of whether the conditions prescribed in this
645 paragraph exist. If any sports facility expansion undergoes
646 development of regional impact review, all previous expansions
647 which were exempt under this paragraph shall be included in the
648 development of regional impact review.
649 (h) Expansion to port harbors, spoil disposal sites,
650 navigation channels, turning basins, harbor berths, and other
651 related inwater harbor facilities of ports listed in s.
652 403.021(9)(b), port transportation facilities and projects
653 listed in s. 311.07(3)(b), and intermodal transportation
654 facilities identified pursuant to s. 311.09(3) are exempt from
655 the provisions of this section when such expansions, projects,
656 or facilities are consistent with comprehensive master plans
657 that are in compliance with the provisions of s. 163.3178.
658 (i) Any proposed facility for the storage of any petroleum
659 product or any expansion of an existing facility is exempt from
660 the provisions of this section.~~, if the facility is consistent~~
661 ~~with a local comprehensive plan that is in compliance with s.~~
662 ~~163.3177 or is consistent with a comprehensive port master plan~~
663 ~~that is in compliance with s. 163.3178.~~

664 (j) Any renovation or redevelopment within the same land
665 parcel which does not change land use or increase density or
666 intensity of use.
667 (k) Waterport and marina development, including dry
668 storage facilities, are exempt from the provisions of this
669 section. ~~(k)1. Any waterport or marina development is exempt~~
670 ~~from the provisions of this section if the relevant county or~~
671 ~~municipality has adopted a boating facility siting plan or~~
672 ~~policy, which includes applicable criteria, considering such~~
673 ~~factors as natural resources, manatee protection needs, and~~
674 ~~recreation and economic demands as generally outlined in the~~
675 ~~Bureau of Protected Species Management Boat Facility Siting~~
676 ~~Guide, dated August 2000, into the coastal management or land~~
677 ~~use element of its comprehensive plan. The adoption of boating~~
678 ~~facility siting plans or policies into the comprehensive plan is~~
679 ~~exempt from the provisions of s. 163.3187(1). Any waterport or~~
680 ~~marina development within the municipalities or counties with~~
681 ~~boating facility siting plans or policies that meet the above~~
682 ~~criteria, adopted prior to April 1, 2002, are exempt from the~~
683 ~~provisions of this section, when their boating facility siting~~
684 ~~plan or policy is adopted as part of the relevant local~~
685 ~~government's comprehensive plan.~~
686 ~~2. Within 6 months of the effective date of this law, The~~
687 ~~Department of Community Affairs, in conjunction with the~~
688 ~~Department of Environmental Protection and the Florida Fish and~~
689 ~~Wildlife Conservation Commission, shall provide technical~~
690 ~~assistance and guidelines, including model plans, policies and~~
691 ~~criteria to local governments for the development of their~~
692 ~~siting plans.~~
693 (l) Any proposed development within an urban service
694 boundary established under s. 163.3177(14) is exempt from the

695 provisions of this section if the local government having
696 jurisdiction over the area where the development is proposed has
697 adopted the urban service boundary, ~~and~~ has entered into a
698 binding agreement with ~~adjacent~~ jurisdictions that would be
699 impacted and with the Department of Transportation regarding the
700 mitigation of impacts on state and regional transportation
701 facilities, and has adopted a proportionate share methodology
702 pursuant to s. 163.3180(16).
703 (m) Any proposed development within a rural land
704 stewardship area created under s. 163.3177(11)(d) is exempt from
705 the provisions of this section if the local government that has
706 adopted the rural land stewardship area has entered into a
707 binding agreement with jurisdictions that would be impacted and
708 the Department of Transportation regarding the mitigation of
709 impacts on state and regional transportation facilities, and has
710 adopted a proportionate share methodology pursuant to s.
711 163.3180(16).
712 (n) Any proposed development or redevelopment within an
713 area designated as an urban infill and redevelopment area under
714 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
715 local government has entered into a binding agreement with
716 jurisdictions that would be impacted and the Department of
717 Transportation regarding the mitigation of impacts on state and
718 regional transportation facilities, and has adopted a
719 proportionate share methodology pursuant to s. 163.3180(16).
720 (o) The establishment, relocation, or expansion of any
721 military installation as defined in s. 163.3175, is exempt from
722 this section.
723 (p) Any self-storage warehousing that does not allow
724 retail or other services is exempt from this section.

725 (q) Any proposed nursing home or assisted living facility
726 is exempt from this section.
727 (r) Any development identified in an airport master plan
728 and adopted into the comprehensive plan pursuant to s.
729 163.3177(6)(k) is exempt from this section.
730 (s) Any development identified in a campus master plan and
731 adopted pursuant to s. 1013.30 is exempt from this section.
732 (t) Any development in a specific area plan which is
733 prepared pursuant to s. 163.3245 and adopted into the
734 comprehensive plan is exempt from this section.
735
736 If a use is exempt from review as a development of regional
737 impact under paragraphs (a)-(t) but will be part of a larger
738 project that is subject to review as a development of regional
739 impact, the impact of the exempt use must be included in the
740 review of the larger project.
741 (28) PARTIAL STATUTORY EXEMPTIONS.--
742 (a) If the binding agreement referenced under paragraph
743 (24)(l) for urban service boundaries is not entered into within
744 12 months after establishment of the urban service boundary, the
745 development-of-regional-impact review for projects within the
746 urban service boundary must address transportation impacts only.
747 (b) If the binding agreement referenced under paragraph
748 (24)(n) for designated urban infill and redevelopment areas is
749 not entered into within 12 months after the designation of the
750 area or July 1, 2007, whichever occurs later, the development-
751 of-regional-impact review for projects within the urban infill
752 and redevelopment area must address transportation impacts only.
753 (c) If the binding agreement referenced under paragraph
754 (24(m) for rural land stewardship areas is not entered into
755 within 12 months after the designation of a rural land

756 stewardship area, the development-of-regional-impact review for
757 projects within the rural land stewardship area must address
758 transportation impacts only.
759
760 (d) A local government that does not wish to enter into a
761 binding agreement or that is unable to agree on the terms of the
762 agreement referenced under paragraph (24)(l), paragraph (24)(m),
763 or paragraph (24)(n) shall provide written notification to the
764 state land planning agency of the desire not to enter into a
765 binding agreement or failure to enter into a bind agreement
766 within the 12-month period referenced in paragraphs (a), (b) and
767 (c). Following the notification of the state land planning
768 agency, the development-of-regional-impact review for projects
769 within the urban service boundary under paragraph (24)(l), a
770 rural land stewardship area under paragraph (24)(m), or for an
771 urban infill and redevelopment area under paragraph (24)(n) must
772 address transportation impacts only.
773 Section 2. Paragraphs (d) and (e) of subsection (3) of
774 section 380.0651, Florida Statutes, are amended, paragraph (k)
775 of subsection (3) is redesignated as paragraph (l), and a new
776 paragraph (k) is added to that subsection, to read:
777 380.0651 Statewide guidelines and standards.--
778 (3) The following statewide guidelines and standards shall
779 be applied in the manner described in s. 380.06(2) to determine
780 whether the following developments shall be required to undergo
781 development-of-regional-impact review:
782 (d) Office development.--Any proposed office building or
783 park operated under common ownership, development plan, or
784 management that:
785 1. Encompasses 300,000 or more square feet of gross floor
786 area; or

787 2. Encompasses more than 600,000 square feet of gross
788 floor area in a county with a population greater than 500,000
789 and only in a geographic area specifically designated as highly
790 suitable for increased threshold intensity in the approved local
791 comprehensive plan ~~and in the strategic regional policy plan~~.
792 ~~(e) Port facilities.--The proposed construction of any~~
793 ~~waterport or marina is required to undergo development-of-~~
794 ~~regional-impact review except one designed for:~~
795 ~~1.a. The wet storage or mooring of fewer than 150~~
796 ~~watercraft used exclusively for sport, pleasure, or commercial~~
797 ~~fishing;, or~~
798 ~~b. The dry storage of fewer than 200 watercraft used~~
799 ~~exclusively for sport, pleasure, or commercial fishing, or~~
800 ~~c. The wet or dry storage or mooring of fewer than 150~~
801 ~~watercraft on or adjacent to an inland freshwater lake except~~
802 ~~Lake Okeechobee or any lake which has been designated an~~
803 ~~Outstanding Florida Water, or~~
804 ~~d. The wet or dry storage or mooring of fewer than 50~~
805 ~~watercraft of 40 feet in length or less of any type or purpose.~~
806 ~~The exceptions to this paragraph's requirements for~~
807 ~~development-of-regional-impact review shall not apply to any~~
808 ~~waterport or marina facility located within or which serves~~
809 ~~physical development located within a coastal barrier resource~~
810 ~~unit on an unbridged barrier island designated pursuant to 16~~
811 ~~U.S.C. s. 3501.~~
812
813 ~~In addition to the foregoing, for projects for which no~~
814 ~~environmental resource permit or sovereign submerged land lease~~
815 ~~is required, the Department of Environmental Protection must~~
816 ~~determine in writing that a proposed marina in excess of 75 10~~
817 ~~slips or storage spaces or a combination of the two is located~~

818 ~~so that it will not adversely impact Outstanding Florida Waters~~
819 ~~or Class II waters and will not contribute boat traffic in a~~
820 ~~manner that will have an adverse impact on an area known to be,~~
821 ~~or likely to be, frequented by manatees. If the Department of~~
822 ~~Environmental Protection fails to issue its determination within~~
823 ~~45 days of receipt of a formal written request, it has waived~~
824 ~~its authority to make such determination. The Department of~~
825 ~~Environmental Protection determination shall constitute final~~
826 ~~agency action pursuant to chapter 120.~~
827 ~~2. The dry storage of fewer than 300 watercraft used~~
828 ~~exclusively for sport, pleasure, or commercial fishing at a~~
829 ~~marina constructed and in operation prior to July 1, 1985.~~
830 ~~3. Any proposed marina development with both wet and dry~~
831 ~~mooring or storage used exclusively for sport, pleasure, or~~
832 ~~commercial fishing, where the sum of percentages of the~~
833 ~~applicable wet and dry mooring or storage thresholds equals 100~~
834 ~~percent. This threshold is in addition to, and does not~~
835 ~~preclude, a development from being required to undergo~~
836 ~~development-of-regional-impact review under sub-subparagraphs~~
837 ~~1.a. and b. and subparagraph 2.~~
838 (k) Workforce housing.--The applicable guidelines for
839 residential development and the residential component for
840 multiuse development shall be increased by 20 percent where the
841 developer demonstrates that at least 15 percent of the
842 residential dwelling units will be dedicated to workforce
843 housing. For purposes of this subparagraph, the term "workforce
844 housing" means housing that is affordable to a person who earns
845 less than 120 percent of the area median income.
846 (l) ~~(k)~~ Schools.--
847 1. The proposed construction of any public, private, or
848 proprietary postsecondary educational campus which provides for

849 a design population of more than 5,000 full-time equivalent
850 students, or the proposed physical expansion of any public,
851 private, or proprietary postsecondary educational campus having
852 such a design population that would increase the population by
853 at least 20 percent of the design population.
854 2. As used in this paragraph, "full-time equivalent
855 student" means enrollment for 15 or more quarter hours during a
856 single academic semester. In career centers or other
857 institutions which do not employ semester hours or quarter hours
858 in accounting for student participation, enrollment for 18
859 contact hours shall be considered equivalent to one quarter
860 hour, and enrollment for 27 contact hours shall be considered
861 equivalent to one semester hour.
862 3. This paragraph does not apply to institutions which are
863 the subject of a campus master plan adopted by the university
864 board of trustees pursuant to s. 1013.30.
865 Section 3. Section 380.07, Florida Statutes, is amended to
866 read:
867 380.07 Florida Land and Water Adjudicatory Commission.--
868 (1) There is hereby created the Florida Land and Water
869 Adjudicatory Commission, which shall consist of the
870 Administration Commission. The commission may adopt rules
871 necessary to ensure compliance with the area of critical state
872 concern program and the requirements for developments of
873 regional impact as set forth in this chapter.
874 (2) Whenever any local government issues any development
875 order in any area of critical state concern, or in regard to any
876 development of regional impact, copies of such orders as
877 prescribed by rule by the state land planning agency shall be
878 transmitted to the state land planning agency, the regional
879 planning agency, and the owner or developer of the property

880 affected by such order. The state land planning agency shall
881 adopt rules describing development order rendition and
882 effectiveness in designated areas of critical state concern.
883 Within 45 days after the order is rendered, the owner, the
884 developer, or the state land planning agency may appeal the
885 order to the Florida Land and Water Adjudicatory Commission by
886 filing a petition alleging that the development order is not
887 consistent with the provisions of this part ~~notice of appeal~~
888 ~~with the commission~~. The appropriate regional planning agency by
889 vote at a regularly scheduled meeting may recommend that the
890 state land planning agency undertake an appeal of a development-
891 of-regional-impact development order. Upon the request of an
892 appropriate regional planning council, affected local
893 government, or any citizen, the state land planning agency shall
894 consider whether to appeal the order and shall respond to the
895 request within the 45-day appeal period. ~~Any appeal taken by a~~
896 ~~regional planning agency between March 1, 1993, and the~~
897 ~~effective date of this section may only be continued if the~~
898 ~~state land planning agency has also filed an appeal. Any appeal~~
899 ~~initiated by a regional planning agency on or before March 1,~~
900 ~~1993, shall continue until completion of the appeal process and~~
901 ~~any subsequent appellate review, as if the regional planning~~
902 ~~agency were authorized to initiate the appeal.~~
903 (3) Notwithstanding any other provision of law, an appeal
904 of a development order by the state land planning agency under
905 this section may include consistency of the development order
906 with the local comprehensive plan. However, if a development
907 order relating to a development of regional impact has been
908 challenged in a proceeding under s. 163.3215 and a party to the
909 proceeding serves notice to the state land planning agency of

910 the pending proceeding under s. 163.3215, the state land
911 planning agency shall:
912 (a) Raise its consistency issues by intervening as a full
913 party in the pending proceeding under s. 163.3215 within 30 days
914 after service of the notice; and
915 (b) Dismiss the consistency issues from the development
916 order appeal.
917 (4) The appellant shall furnish a copy of the petition to
918 the opposing party, as the case may be, and to the local
919 government that issued the order. The filing of the petition
920 stays the effectiveness of the order until after the completion
921 of the appeal process.
922 (5) ~~(3)~~ The 45-day appeal period for a development of
923 regional impact within the jurisdiction of more than one local
924 government shall not commence until after all the local
925 governments having jurisdiction over the proposed development of
926 regional impact have rendered their development orders. The
927 appellant shall furnish a copy of the notice of appeal to the
928 opposing party, as the case may be, and to the local government
929 which issued the order. The filing of the notice of appeal shall
930 stay the effectiveness of the order until after the completion
931 of the appeal process.
932 (6) ~~(4)~~ Prior to issuing an order, the Florida Land and
933 Water Adjudicatory Commission shall hold a hearing pursuant to
934 the provisions of chapter 120. The commission shall encourage
935 the submission of appeals on the record made below in cases in
936 which the development order was issued after a full and complete
937 hearing before the local government or an agency thereof.
938 (7) ~~(5)~~ The Florida Land and Water Adjudicatory Commission
939 shall issue a decision granting or denying permission to develop

940 pursuant to the standards of this chapter and may attach
941 conditions and restrictions to its decisions.
942 ~~(6) If an appeal is filed with respect to any issues~~
943 ~~within the scope of a permitting program authorized by chapter~~
944 ~~161, chapter 373, or chapter 403 and for which a permit or~~
945 ~~conceptual review approval has been obtained prior to the~~
946 ~~issuance of a development order, any such issue shall be~~
947 ~~specifically identified in the notice of appeal which is filed~~
948 ~~pursuant to this section, together with other issues which~~
949 ~~constitute grounds for the appeal. The appeal may proceed with~~
950 ~~respect to issues within the scope of permitting programs for~~
951 ~~which a permit or conceptual review approval has been obtained~~
952 ~~prior to the issuance of a development order only after the~~
953 ~~commission determines by majority vote at a regularly scheduled~~
954 ~~commission meeting that statewide or regional interests may be~~
955 ~~adversely affected by the development. In making this~~
956 ~~determination, there shall be a rebuttable presumption that~~
957 ~~statewide and regional interests relating to issues within the~~
958 ~~scope of the permitting programs for which a permit or~~
959 ~~conceptual approval has been obtained are not adversely~~
960 ~~affected.~~
961 Section 4. Section 380.115, Florida Statutes, is amended
962 to read:
963 380.115 Vested rights and duties; effect of size
964 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
965 ~~2002-296~~.--
966 (1) A change in a development-of-regional-impact guideline
967 and standard does not abridge ~~Nothing contained in this act~~
968 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
969 duty or obligation pursuant to any development order or
970 agreement that is applicable to a development of regional impact

971 ~~on the effective date of this act~~. A development that has
972 received a development-of-regional-impact development order
973 pursuant to s. 380.06, but is no longer required to undergo
974 development-of-regional-impact review by operation of a change
975 in the guidelines and standards or has reduced its size below
976 the thresholds in s. 380.0651 ~~of this act~~, shall be governed by
977 the following procedures:
978 (a) The development shall continue to be governed by the
979 development-of-regional-impact development order and may be
980 completed in reliance upon and pursuant to the development order
981 unless the developer or landowner has followed the procedures
982 for rescission in paragraph (b). Any proposed changes to those
983 developments which continue to be governed by a development
984 order shall be approved pursuant to s. 380.06(19) as it existed
985 prior to a change in the development-of-regional-impact
986 guidelines and standards except that all percentage criteria
987 shall be doubled and all other criteria shall be increased by 10
988 percent. The development-of-regional-impact development order
989 may be enforced by the local government as provided by ss.
990 380.06(17) and 380.11.
991 (b) If requested by the developer or landowner, the
992 development-of-regional-impact development order shall ~~may~~ be
993 rescinded by the local government having jurisdiction upon a
994 showing that all required mitigation related to the amount of
995 development that existed on the date of rescission has been
996 completed ~~abandoned pursuant to the process in s. 380.06(26)~~.
997 (2) A development with an application for development
998 approval pending, ~~and determined sufficient~~ pursuant to s.
999 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
1000 guidelines and standards ~~this act~~, or a notification of proposed
1001 change pending on the effective date of a change to the

1002 guidelines and standards ~~this act~~, may elect to continue such
1003 review pursuant to s. 380.06. At the conclusion of the pending
1004 review, including any appeals pursuant to s. 380.07, the
1005 resulting development order shall be governed by the provisions
1006 of subsection (1).
1007 (3) A landowner that has filed an application for a
1008 development-of-regional-impact review prior to the adoption of
1009 an optional sector plan pursuant to s. 163.3245 may elect to
1010 have the application reviewed pursuant to s. 380.06,
1011 comprehensive plan provisions in force prior to adoption of the
1012 sector plan, and any requested comprehensive plan amendments
1013 that accompany the application.
1014 Section 5. Section 342.07, Florida Statutes, is amended to
1015 read:
1016 342.07 Recreational and commercial working waterfronts;
1017 legislative findings; definitions.--
1018 (1) The Legislature recognizes that there is an important
1019 state interest in facilitating boating and other recreational
1020 access to the state's navigable waters. This access is vital to
1021 tourists and recreational users and the marine industry in the
1022 state, to maintaining or enhancing the $57 billion economic
1023 impact of tourism and the $14 billion economic impact of boating
1024 in the state annually, and to ensuring continued access to all
1025 residents and visitors to the navigable waters of the state. The
1026 Legislature recognizes that there is an important state interest
1027 in maintaining viable water-dependent support facilities, such
1028 as public lodging establishments and boat hauling and repairing
1029 and commercial fishing facilities, and in maintaining the
1030 availability of public access to the navigable waters of the
1031 state. The Legislature further recognizes that the waterways of
1032 the state are important for engaging in commerce and the

1033 transportation of goods and people upon such waterways and that
1034 such commerce and transportation is not feasible unless there is
1035 access to and from the navigable waters of the state through
1036 recreational and commercial working waterfronts.
1037 (2) As used in this section, the term "recreational and
1038 commercial working waterfront" means a parcel or parcels of real
1039 property that provide access for water-dependent commercial and
1040 recreational activities, including public lodging establishments
1041 as defined in chapter 509, or provide access for the public to
1042 the navigable waters of the state. Recreational and commercial
1043 working waterfronts require direct access to or a location on,
1044 over, or adjacent to a navigable body of water. The term
1045 includes water-dependent facilities that are open to the public
1046 and offer public access by vessels to the waters of the state or
1047 that are support facilities for recreational, commercial,
1048 research, or governmental vessels. These facilities include
1049 docks, wharfs, lifts, wet and dry marinas, boat ramps, boat
1050 hauling and repair facilities, commercial fishing facilities,
1051 boat construction facilities, and other support structures over
1052 the water. As used in this section, the term "vessel" has the
1053 same meaning as in s. 327.02(37). Seaports are excluded from the
1054 definition.
1055 Section 6. Section 373.4132, Florida Statutes is created
1056 to read:
1057 The governing board or the department shall require a permit
1058 under this part, including s.373.4145, for the construction,
1059 alteration, operation, maintenance, abandonment or removal of a
1060 dry storage facility for 10 or more vessels, which is
1061 functionally associated with a boat launching area. As part of
1062 an applicant's demonstration that such a facility will not be
1063 harmful to the water resources and will not be inconsistent with

1064 the overall objectives of the district, the governing board or
1065 department shall require the applicant to provide reasonable
1066 assurance that the secondary impacts from the facility will not
1067 cause adverse impacts to the functions of wetlands and surface
1068 waters, including violations of state water quality standards
1069 applicable to water as defined in s. 403.031(1), and will meet
1070 the public interest test of s. 373.414(1)(a), including the
1071 potentials of adverse impacts to manatees. Nothing in this
1072 section shall affect the authority of the governing board or the
1073 department to regulate such secondary impacts under this part
1074 for other regulated activities.
1075 Section 7. 403.813, Florida Statutes paragraph (2)(i) of
1076 subsection 403.813, Florida Statutes is amended to read:
1077 403.813 Permits issued at district centers; exceptions.-
1078 (2) A permit is not required under this chapter, chapter
1079 373, chapter 61-691, Laws of Florida, or chapter 25214 or
1080 chapter 25270, 1949, Laws of Florida, for activities associated
1081 with the following types of projects; however, except as
1082 otherwise provided in this subsection, nothing in this
1083 subsection relieves an applicant from any requirement to obtain
1084 permission to use or occupy lands owned by the Board of Trustees
1085 of the internal Improvement Trust Fund or any water management
1086 district in its governmental or proprietary capacity or from
1087 complying with applicable local pollution control programs
1088 authorized under this chapter or other requirements of county
1089 and municipal governments:
1090 (i) The construction of private docks and seawalls of
1091 1,000 square feet or less of over-water surface area in
1092 artificially created waterways where such construction will not
1093 violate existing water quality standards, impede navigation, or
1094 affect flood control. This exemption does not apply to the

1095 construction of vertical seawalls in estuaries or lagoons unless
1096 the proposed construction is within an existing manmade canal
1097 where the shoreline is currently occupied in whole or part by
1098 vertical seawalls.
1099 Section 8. Section 163.3177(6)(g) is added to read:
1100 As part of this element, affected local governments are
1101 encouraged to adopt a boating facility siting plan or policy
1102 that includes applicable criteria, considering such factors as
1103 natural resources, manatee protection needs, and recreation and
1104 economic demands as generally outlined in the Boat Facility
1105 Siting Guide dated August 2000 and prepared by the Bureau of
1106 Protected Species Management of the Florida Fish and Wildlife
1107 Conservation Commission. The adoption of a boating facility
1108 siting plan or policy into the comprehensive plan is exempt from
1109 the provisions of s. 163.3187(1). Local governments that wish
1110 to adopt a boating facility siting plan or policy may be
1111 eligible for assistance with the development of a plan or policy
1112 through the Florida Coastal Management Program.
1113 Section 9. 197.303 Ad valorem tax deferral for
1114 recreational and commercial working waterfront properties is
1115 amended to read
1116 (3) The ordinance shall designate the percentage or amount
1117 of the deferral and the type and location of working, waterfront
1118 property, including the type of public lodging establishments,
1119 for which deferrals may be granted, which may include any
1120 property meeting the provisions, of s. 342.07(2), which property
1121 may be further required to be located within a particular
1122 geographic area or areas of the county or municipality.
1123 Section 10. This act shall take effect July 1, 2006.
1124
1125

1126 ========== T I T L E A M E N D M E N T ==========
1127 Remove the entire title and insert:
1128 An act relating to growth management; amending s. 380.06,
1129 F.S.; providing for the state land planning agency to
1130 determine the amount of development that remains to be
1131 built in certain circumstances; specifying certain
1132 requirements for a development order; revising the
1133 circumstances in which a local government may issue
1134 permits for development subsequent to the buildout date;
1135 revising the definition of an essentially built-out
1136 development; revising the criteria under which a proposed
1137 change constitutes a substantial deviation; clarifying the
1138 criteria under which the extension of a buildout date is
1139 presumed to create a substantial deviation; requiring
1140 notice of any change to certain set-aside areas be
1141 submitted to the local government; requiring that notice
1142 of certain changes be given to the state land planning
1143 agency, regional planning agency, and local government;
1144 requiring 45 days' notice to specified entities and
1145 publication of a public notice for certain proposed
1146 changes; requiring that a memorandum of notice of certain
1147 changes be filed with the clerk of court; revising the
1148 requirement for further development-of-regional-impact
1149 review of a proposed change; revising the statutory
1150 exemptions from development-of-regional-impact review for
1151 certain facilities; providing statutory exemptions for the
1152 development of certain facilities; providing that the
1153 impacts from an exempt use that will be part of a larger
1154 project be included in the development-of-regional-impact
1155 review of the larger project; amending s. 380.0651, F.S.;
1156 revising the statewide guidelines and standards for

1157 development-of-regional-impact review of certain types of
1158 developments; allowing the state land planning agency to
1159 consider the impacts of independent developments of
1160 regional impact cumulatively under certain circumstances;
1161 amending s. 380.07, F.S.; eliminating the appeal of
1162 development orders within a development of regional impact
1163 to the Florida Land and Water Adjudicatory Commission;
1164 amending s. 380.115, F.S.; providing that a change in a
1165 development-of-regional-impact guideline and standard does
1166 not abridge or modify any vested right or duty under a
1167 development order; providing a process for the rescission
1168 of a development order by the local government in certain
1169 circumstances; providing an exemption for certain
1170 applications for development approval and notices of
1171 proposed changes; amending s. 342.07, F.S.; adding
1172 recreational activities as an important state interest;
1173 including public lodging establishments within the
1174 definition of the term "recreational and commercial
1175 working waterfront"; providing an effective date.
1176

HB 1309

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1309 Local Housing Assistance
SPONSOR(S): Jennings
TIED BILLS: **IDEN./SIM. BILLS:** SB 2408

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee		Strickland	Grayson
2) Local Government Council			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 1309 amends existing law relating to local housing assistance plans by providing homeownership down payment assistance to "essential service personnel" and "building trades personnel." The bill accomplishes this by:

- Providing homeownership down payment assistance eligibility criteria, including a 5-year commitment; an assistance limit of 25% of the purchase price; and verification of compliance.
- Providing for removal of security lien upon completion of the 5-year commitment by the eligible employee.
- Encouraging local governments to incorporate provisions within the local housing assistance plan to better recruit and retain "essential service personnel" and "skilled trades personnel."
- Providing for the allocation of funds.
- Providing the Florida Housing Finance Corporation (Corporation) with rulemaking authority to implement the provisions of this bill.
- Providing an appropriation to the Corporation from the Local Government Housing Trust Fund in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of "essential service personnel" and "persons skilled in the building trades."

The fiscal impacts to the state and local governments are indeterminate.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill increases the options of individuals in the conduct of their own affairs.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability, self support, and management.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

HB 1309 amends existing law relating to local housing assistance plans by providing homeownership down payment assistance to "essential service personnel" and "building trades personnel." The bill accomplishes this by:

- Providing homeownership down payment assistance eligibility criteria, including a 5-year commitment; an assistance limit of 25% of the purchase price; and verification of compliance.
- Providing for removal of security lien upon completion of the 5-year commitment by the eligible employee.
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- Providing for the allocation of funds.
- Providing the Florida Housing Finance Corporation (Corporation) with rulemaking authority to implement the provisions of this bill.
- Providing an appropriation to the Corporation from the Local Government Housing Trust Fund in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of "essential service personnel" and "persons skilled in the building trades."

The bill requires that certain provisions be included within the local housing assistance plan in order to provide "essential service personnel" and "skilled building trades personnel" with homeownership down payment assistance. In addition to the features outlined below, the bill make conforming cross-reference changes.

Local Housing Assistance Plan

The bill encourages inclusion of provisions into the local housing assistance plan relating to the recruitment and retention of service personnel and skilled trades personnel by providing for homeownership down payment assistance.

Eligibility Criteria: The bill requires that in addition to meeting other conditions within the local housing assistance plan, the employee must:

- Be a full time employee in an "essential service occupation" or "skilled building trade."
- Declare homestead on the home and maintain residency at the residence.
- Demonstrate a 5-year minimum commitment to continued employment in an essential service occupation or skilled building trade within the county of current employment.

Employee Compliance: The bill requires the county or eligible municipality to verify the eligibility criteria set forth above during the life of the loan.

Amount of Down Payment Assistance: The bill provides that the amount of down payment assistance shall be determined by rule, but cannot exceed 25% of the purchase price of the home. This assistance may only be provided if the county, or eligible city in which the employee is employed, provides this funding assistance to the eligible employee, solely or in conjunction with a local housing finance agency or a private sector partner, through its State Housing Initiatives Partnership Program (SHIP).

Security Lien Removal: The bill provides that any lien on the recipient's property securing the assistance addressed in this bill shall be released when the employee's 5-year commitment is fulfilled.

Creation of an element within the local housing assistance plan: The bill encourages each county and eligible municipality to develop an element within its local housing assistance plan that emphasizes the recruitment and retention of essential service personnel and persons skilled in the building trades.

Allocation of funds: The bill provides authority to the Corporation to allocate funds to implement this assistance provided for in this subsection and allocate funds to projects that are regional or statewide in scope.

Rulemaking: The bill authorizes the Corporation to initiate rulemaking to implement the provisions of this bill, including, but not limited to, the allocation of funds and selection of projects for funding under this subsection.

Appropriation: The bill provides for an appropriation from the Local Government Housing Trust Fund, for distribution through SHIP to the Corporation, in an amount to be sufficient for the purpose of providing funds for affordable housing to assist in the retention and recruitment of essential service personnel and person skilled in the building trades.

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. Much of this effort is focused through programs of the Florida Housing Finance Corporation (Corporation). The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60% or less of the area median income (AMI) in the rental programs, and those making 80% or less of AMI in the home ownership programs.

The Corporation allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs. Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable single family housing.

In addition to the needs of the very low and low income families, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing

programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The Florida Housing Finance Corporation (Corporation)

The Corporation was created by the Legislature as a public corporation that administers the governmental function of financing or refinancing housing and related facilities in Florida. The Corporation administers various programs which facilitate the development and purchase of affordable housing for Floridians. These programs are financed through a variety of state, federal and local sources.

State Housing Initiatives Partnership Program (SHIP)

The Corporation administers the SHIP, which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families. Depending on an individual's income, a person could be eligible for home repair or replacement, down payment assistance, rental housing assistance and other affordable housing assistance.

Local Housing Assistance Plan

A local housing assistance plan is statutorily defined in s. 420.9071, F.S., as a "concise description of the local housing assistance strategies and local housing incentive strategies adopted by local government resolution with an explanation of the way in which the program meets the requirements of ss. 420.907-420.9079, F.S. and [Corporation] rule."

C. SECTION DIRECTORY:

Section 1: Amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships.

Section 2: Amends s. 420.9072, F.S., relating to the State Housing Initiatives Partnership by conforming language to changes provided for in this bill.

Section 3: Amends s. 420.9079, F.S., relating to the Local Government Housing Trust Fund by conforming language to changes provided for in this bill.

Section 4: Creates an appropriation from the Local Government Housing Trust Fund.

Section 5: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. The state may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The level of funding to support the local housing financial assistance provided for this bill is not established.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Local governments may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advance by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

None.

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:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Florida Housing Finance Corporation to initiate rulemaking to implement the provisions of this bill, including, but not limited to, the allocation of funds and selection of projects for funding.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill applies to "essential service personnel" and "skilled building codes personnel." Consistent use of these terms when referring to these occupations would provide more clarity.

- "essential service personnel" and "skilled building codes personnel" [Section 1 - (5)]
- "essential service occupation or skilled building trade." [Section 1 - (5)(a) 1]
- "persons skilled in the building trades." [Section 1 - (5)(f)]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to local housing assistance; amending s.
3 420.9075, F.S.; providing down payment assistance to
4 essential service and skilled building trades personnel;
5 providing criteria for such assistance; requiring
6 compliance with the eligibility criteria to be verified by
7 the county or eligible municipality; providing that the
8 program shall provide down payment assistance in an amount
9 to be determined by rule; providing that liens on the
10 recipient's property securing the assistance shall be
11 released under certain conditions; encouraging counties
12 and municipalities to develop an element within their
13 local housing assistance plans emphasizing the recruitment
14 and retention of such personnel; authorizing the Florida
15 Housing Finance Corporation to allocate certain funds;
16 providing the corporation with rulemaking authority;
17 amending ss. 420.9072 and 420.9079, F.S.; conforming
18 cross-references to changes made by the act; providing an
19 appropriation; providing an effective date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. Subsections (5) through (12) of section
24 420.9075, Florida Statutes, are renumbered as subsections (6)
25 through (13), respectively, and a new subsection (5) is added to
26 that section to read:
27 420.9075 Local housing assistance plans; partnerships.--

28 (5) In order to assist in the recruitment and retention of
29 essential service personnel and skilled building trades
30 personnel, the following shall be included in the local housing
31 assistance plan:
32 (a) Down payment assistance shall be provided to an
33 eligible person who meets the following criteria, in addition to
34 other requirements of the plan. The person:
35 1. Shall be employed full time in an essential service
36 occupation or skilled building trade.
37 2. Shall declare his or her homestead and maintain
38 residency at his or her homestead.
39 3. Shall demonstrate a 5-year minimum commitment to
40 continued employment in an essential service occupation or
41 skilled building trade within the county of current employment.
42 (b) Compliance with the eligibility criteria established
43 under this subsection shall be verified during the life of the
44 loan by the county or eligible municipality.
45 (c) The program shall provide down payment assistance in
46 an amount to be determined by rule, not to exceed 25 percent of
47 purchase price, if the county or eligible municipality within
48 which an eligible recipient is employed provides funding through
49 the State Housing Initiatives Partnership Program to the
50 eligible recipient under ss. 420.907-420.9079, whether solely or
51 in conjunction with a local housing finance agency or a private
52 sector partner.
53 (d) Any lien on the recipient's property securing the
54 assistance provided under this subsection shall be released if

55 the recipient fulfills the 5-year commitment specified in
56 subparagraph (a)3.
57 (e) Each county and each eligible municipality is
58 encouraged to develop an element within its local housing
59 assistance plan that emphasizes the recruitment and retention of
60 essential service personnel and persons skilled in the building
61 trades.
62 (f) Notwithstanding the distribution formula in s.
63 420.9073, the corporation is authorized to allocate funds to
64 implement this subsection and may allocate funds to projects
65 that are regional or statewide in scope.
66 (g) The corporation is authorized to make rules to
67 implement this subsection, including, but not limited to, the
68 allocation of funds and selection of projects for funding under
69 this subsection.
70 Section 2. Subsection (2) of section 420.9072, Florida
71 Statutes, is amended to read:
72 420.9072 State Housing Initiatives Partnership
73 Program.--The State Housing Initiatives Partnership Program is
74 created for the purpose of providing funds to counties and
75 eligible municipalities as an incentive for the creation of
76 local housing partnerships, to expand production of and preserve
77 affordable housing, to further the housing element of the local
78 government comprehensive plan specific to affordable housing,
79 and to increase housing-related employment.
80 (2)(a) To be eligible to receive funds under the program,
81 a county or eligible municipality must:

82 1. Submit to the corporation its local housing assistance
83 plan describing the local housing assistance strategies
84 established pursuant to s. 420.9075;
85 2. Within 12 months after adopting the local housing
86 assistance plan, amend the plan to incorporate the local housing
87 incentive strategies defined in s. 420.9071(16) and described in
88 s. 420.9076; and
89 3. Within 24 months after adopting the amended local
90 housing assistance plan to incorporate the local housing
91 incentive strategies, amend its land development regulations or
92 establish local policies and procedures, as necessary, to
93 implement the local housing incentive strategies adopted by the
94 local governing body. A county or an eligible municipality that
95 has adopted a housing incentive strategy pursuant to s. 420.9076
96 before the effective date of this act shall review the status of
97 implementation of the plan according to its adopted schedule for
98 implementation and report its findings in the annual report
99 required by s. 420.9075(10) ~~(9)~~. If as a result of the review, a
100 county or an eligible municipality determines that the
101 implementation is complete and in accordance with its schedule,
102 no further action is necessary. If a county or an eligible
103 municipality determines that implementation according to its
104 schedule is not complete, it must amend its land development
105 regulations or establish local policies and procedures, as
106 necessary, to implement the housing incentive plan within 12
107 months after the effective date of this act, or if extenuating
108 circumstances prevent implementation within 12 months, pursuant

109 to s. 420.9075(13) ~~(12)~~, enter into an extension agreement with
110 the corporation.
111 (b) A county or an eligible municipality seeking approval
112 to receive its share of the local housing distribution must
113 adopt an ordinance containing the following provisions:
114 1. Creation of a local housing assistance trust fund as
115 described in s. 420.9075(6) ~~(5)~~.
116 2. Adoption by resolution of a local housing assistance
117 plan as defined in s. 420.9071(14) to be implemented through a
118 local housing partnership as defined in s. 420.9071(18).
119 3. Designation of the responsibility for the
120 administration of the local housing assistance plan. Such
121 ordinance may also provide for the contracting of all or part of
122 the administrative or other functions of the program to a third
123 person or entity.
124 4. Creation of the affordable housing advisory committee
125 as provided in s. 420.9076.
126
127 The ordinance must not take effect until at least 30 days after
128 the date of formal adoption. Ordinances in effect prior to the
129 effective date of amendments to this section shall be amended as
130 needed to conform to new provisions.
131 Section 3. Subsection (2) of section 420.9079, Florida
132 Statutes, is amended to read:
133 420.9079 Local Government Housing Trust Fund.--
134 (2) The corporation shall administer the fund exclusively
135 for the purpose of implementing the programs described in ss.
136 420.907-420.9078 and this section. With the exception of

137 monitoring the activities of counties and eligible
138 municipalities to determine local compliance with program
139 requirements, the corporation shall not receive appropriations
140 from the fund for administrative or personnel costs. For the
141 purpose of implementing the compliance monitoring provisions of
142 s. 420.9075(9) ~~(8)~~, the corporation may request a maximum of
143 $200,000 per state fiscal year. When such funding is
144 appropriated, the corporation shall deduct the amount
145 appropriated prior to calculating the local housing distribution
146 pursuant to ss. 420.9072 and 420.9073.
147 Section 4. Effective July 1, 2006, there is appropriated
148 from the Local Government Housing Trust Fund, for distribution
149 through the State Housing Initiative Partnership Program as
150 provided in s. 420.9075(5), Florida Statutes, to the Florida
151 Housing Finance Corporation an amount sufficient for the purpose
152 of providing funds for affordable housing to assist in retention
153 and recruitment of essential service personnel and persons
154 skilled in the building trades.
155 Section 5. This act shall take effect July 1, 2006.

HB 1363

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee		Grayson	Grayson
2) Local Government Council			
3) Fiscal Council			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing by:

- Creating the Community Workforce Housing Innovation Program (CWHIP), a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.
- Providing CWHIP grant eligibility.
- Authorizing special districts to provide housing assistance to their employees.
- Providing guidance for the assessment of just valuation of affordable housing when a cap rate is used.
- Providing a property exemption for affordable housing property owned by a nonprofit entity.
- Providing guidance for assessment of just valuation of affordable housing.
- Removing the cap on the distribution of documentary stamp revenues to the State Housing Trust Fund, which cap is scheduled to be implemented in FY 2006-2007.
- Lowering the mortgage loan rate for Corporation loans under the State Apartment Incentive Loan Program when the project targets certain populations.
- Providing authority for school boards to provide affordable housing for teachers and other instructional personnel.

The impacts to state and local governments are indeterminate.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – The bill increases the options of individuals and certain private organizations in the conduct of their own affairs.

Empower families – The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need; and increases family stability, self support, and management.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the Community Workforce Housing Innovation Program (CWHIP), a program which incents public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

Florida Housing Finance Corporation (Corporation): The bill establishes the Corporation as the entity responsible for the implementation of this program. Corporation is directed to implement this program by providing financial and regulatory incentives to both the public and private sectors for the purpose of developing and financing innovative rental and home-ownership housing solutions for eligible persons. The bill also directs the Corporation to develop selection criteria for selecting housing innovation projects in certain areas; and to provide incentives for the use of State Housing Initiative Partnership Program (SHIP) funds.[1]

Definitions: The bill directly or indirectly defines several terms as follows:

- "Counties in high-cost areas of the state"[2] is directly defined as "those counties in which the average median purchase price of a single-family home is above the state median purchase price of a single-family home.
- "Areas of critical state concern"[3] is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.[4] One of the five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).
- "Project partnerships"[5] is indirectly defined to include substantial involvement of public sector entities (examples given are: local municipalities, counties, school districts, special districts, and other units of local government) and private sectors entities, "that donate land or other tangible value worth at least 15 percent of the project value."

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[1] See DRAFTING ISSUES OR OTHER COMMENTS for a discussion of two phrases contained in s. 1(3) of the bill that may benefit from amendment.
[2] See bill s. 1(3).
[3] See bill s. 1(3).
[4] Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.
[5] See bill s. 1(4)(b).

- "Essential services personnel"[6] is indirectly defined to include teachers and educators, police and fire personnel, health care personnel, and other job categories in which the personnel are defined as essential services personnel within the annual local SHIP program.
- "Innovative projects"[7] is indirectly defined to include "new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements."

Targets[8]: The bill mandates that the Corporation target the following:

- Counties in high cost areas of the state.
- Project partnerships, as defined in the bill.
- Persons in households with income levels up to 150 percent of the adjusted median income (AMI) in prioritized areas, or a higher AMI in areas of critical state concern.
- Essential services personnel in need of affordable housing; Innovative projects, as defined in the bill.

Supplemental Program[9]: The bill provides that the CWHIP shall supplement and not supplant existing affordable housing programs funded under ch. 420, F.S., relating to housing.

Annual Review and Report[10]: The bill requires the Corporation to conduct an annual review of the success of the CWHIP. Additionally, the bill requires the Corporation to annually review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1 each year. The bill authorizes the Corporation to request assistance in these matters from the DCA or the Affordable Housing Study Commission[11]. The review will include:

- Determination of how the program supports traditional affordable housing programs defined in ch. 420, F.S.
- Determination of whether the program is meeting housing needs of high-cost counties.

Approved Applicant Benefits[12]: Approved applicants are eligible for the following to ensure the financial viability, successful development, and ongoing maintenance of the housing developments:

- Expedited approval of development orders and development permits.
- Reduction of impact fees by 50%, waiver of impact fees, or alternative method of fee payment.
- Increased density up to 16 units per acre or higher, except in coastal high hazard areas.
- Reserved infrastructure capacity in the local comprehensive plan.
- Allowance of additional housing units in residential zoning districts.
- Reduction of open space and set back requirements.
- Allowance of zero-lot-line configurations.
- Reduction of traffic concurrency requirements by up to 25%.
- Priority eligibility for local transportation infrastructure funding by metropolitan planning organizations.

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[6] See bill s. 1(4)(d).
[7] See bill s. 1(4)(e).
[8] See bill s. 1(4).
[9] See bill s. 1(5).
[10] See bill s. 1(6).
[11] The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.
[12] See bill s. 1(8)(a).

Local government acceptance of these incentives is conditioned upon:

- The applicant's receipt of a letter of support from the local government; or
- Failure of a local government vote to object to the applicant's plan within 60 days after local government's receipt of applicant's plan.

If the local government votes not to accept the project in the county, then the Corporation shall remove the application from its approved funding list.

Program Funding[13]

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80% of the units for eligible persons with a household income not exceeding 150% of AMI.
- Sets aside up to 60% of the units prioritized for essential public service personnel; which projects identify sales and leasing strategies to accomplish this set aside and to sell or lease units to other qualified individuals if essential service personnel are immediately available of qualified.
- Limits rentals to no more than 30% of the maximum household income adjusted to unit size.
- Limits the sales price of a house to the price for which an eligible applicant at 150% of AMI may qualify.

Requests for Proposal (RFP): The bill requires the Corporation to issue a RFP to solicit applications and to develop a funding distribution process. Grants are to be based upon financial need. The priority of grants shall be for high-cost counties with the highest real estate cost burdens for housing, including ACSCs, and counties with the highest average median price of a single-family home. The Corporation is authorized to approve a project that does not require funding.

Application Criteria: Eligible applications shall:

- Demonstrate a public-private partnership of at least one local government or special district and one private partner.
- Demonstrate how the regulatory incentives will be used, and include any letters of support from local government partner regarding the regulatory incentives.
- Demonstrate that the applicant possesses title to, or "firm control" of, land; and availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15%, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a viable pro forma financial statement for the development.

Review Committee: The bill requires the Corporation to establish a staff review committee and scoring system.

[13] See DRAFTING ISSUES.

Evaluation and Ranking Criteria: The bill requires the Corporation to develop evaluation and ranking criteria that utilize the application criteria listed above and emphasize the following:

- Innovative planning concepts
- Innovative building design.
- Local government participation.
- Public-private partnerships.
- Ability to proceed with construction.
- The feasibility and economic viability of the project
- The applicant's affordable housing development and management experience.
- The ability to meet essential service personnel needs.
- A management plan to attract, serve, and keep eligible workforce tenants and ensure the long-term affordability of the rental or ownership units.
- The quality of project design.[14]

Grant Award and Accountability: The bill requires the Corporation to develop rules and procedures for awarding of, and accounting for, grants.[15]

Default: If a grantee defaults on the grant, the Corporation may foreclose or take necessary legal action to protect its interests and to recover the amount of the grant principal, accrued interest and fees. Additionally, the Corporation may acquire real or personal property or interest therein, when necessary to protect grant; or to sell, transfer, and convey such property to a buyer without regard to ch. 253 or ch. 270, F.S. (both relating to state lands).[16]

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a down payment assistance program to meet the needs of eligible individuals to purchase workforce housing. Additionally, Corporation is to encourage local governments to meet the same needs through their State Housing Initiatives Partnership plans (s. 420.9075, F.S.).[17]

Conversion of Existing Multifamily Rental to Ownership: The bill requires the Corporation to develop rules and guidelines for the conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas. Project eligibility requires are:

- Being in operation and compliance with the Corporation's rules for at least 5 years.
- Demonstrating the guarantee of a term of affordability for home ownership in the deed restrictions or financing restrictions equal to the term of affordability provided under the rental agreement.
- Demonstrating an affordable home ownership purchase price, approved by the Corporation, based on the average median purchase price of a home in the county for persons whose incomes do not exceed 150% of the county area median income (AMI).
- Provide current apartment renters the first opportunity to purchase converted units.

The Corporation may approve only 15% of available affordable rental projects as eligible for conversion in any high-cost county in any single year. Priority in the Corporation's annual funding cycle must be given to replacing rental unit stock converted to ownership.[18]

Local Public Input: The Corporation shall require, and develop criteria for obtaining and documenting, public input.[19]

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[14] See bill s. 1(5).
[15] See bill s. 1(6).
[16] See bill s. 1(7).
[17] See bill s. 1(8).
[18] See bill s. 1(9).
[19] See bill s. 1(10).

Special Districts – Authority to Provide Housing and Housing Assistance to Employees

The bill provides authority for independent special districts, created for the purpose of providing urban infrastructure of services, to provide housing and housing assistance for its employees.[20]

Low-Income Housing Tax Credit

The bill provides guidance for the assessment of just valuation of affordable housing when a cap rate is used.[21]

Nonprofit Entity Ownership and Affordable Housing Property Exemption

The bill provides a property exemption for affordable housing property owned by a nonprofit entity.[22]

Just Valuation of Affordable Housing Properties

The bill provides guidance for assessment of just valuation of affordable housing. Certain properties used by persons with income limits defined as low, moderate, and very low, shall be assessed according to the actual income from rent-restricted units, and the income shall be used.[23]

Cap on State Housing Trust Fund

The bill removes the cap on distribution of documentary stamp tax revenues to the State Housing Trust Fund, which cap is set to take effect on July 1, 2006.[24]

Corporation Mortgage Rates

The bill lowers the mortgage loan rate for Corporation loans under the State Apartment Incentive Loan Program when the project targets the populations addressed in this bill.[25]

School Boards

The bill authorizes school boards to provide affordable housing for teachers and other instructional personnel.[26]

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing very low and low income residents of this state. Florida Housing Finance Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60%or less in the rental programs, and those making 80% or less of AMI in the home ownership programs.

Multifamily rental projects are funded by Florida Housing through the State Apartment Incentive Loan (SAIL) gap loan program, the Multifamily Mortgage Revenue Bond (MMRB) program, which provides funding by issuing revenue bonds, and through allocation of federal Low Income Housing Tax Credits

[20] See ss. bill 3 and 4.
[21] See bill s. 5.
[22] See bill s. 6.
[23] See bill s. 7.
[24] See bill s. 8.
[25] See bill s. 9.
[26] See bill s. 10.

(LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60% or less of the area median income (AMI). Home ownership programs consist of down payment assistance, funded by doc stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, Florida Housing allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120% AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families can no longer afford safe, decent and affordable rental and single family housing,

In addition to the needs of the very low and low income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80% to 150% AMI typically make them ineligible for existing housing programs, has recently become increasingly evident.

C. SECTION DIRECTORY:

Section 1 - Creates law creating the Community Workforce Housing Innovation Program.

Section 2 - Creates law to provide for program funding.

Section 3:- Creates s. 189.4155(6), F.S., authorizing independent districts to provide housing and housing assistance for its employed personnel.

Section 4 – Creates s. 191.006(19), F.S., expanding the powers which a special district may exercise by majority vote to include the power to provide housing or housing assistance for its employed personnel.

Section 5 – Creates s. 193.017(5), F.S., relating to the use of a cap rate for assessing just valuation of affordable housing properties.

Section 6 – Amends s. 196.1978, F.S., relating to the affordable housing property exemption from ad valorem taxation.

Section 7 – Creates s. 196.1980, F.S., providing for the use of actual rental income as the basis for assessing just valuation of certain affordable housing properties.

Section 8 – Amends ss. 201.15(9) and (10), F.S., effective July 1, 2007, removing the caps related to distribution of certain tax revenues for the State Housing Trust Fund.

Section 9 – Amends s. 420.507(22)(a), F.S., lowering the interest rate paid for certain loans from the Florida Housing Finance Corporation by sponsors of projects targeted at certain

Section 10 – Amends s. 1001.42(9)(b), F.S., authorizing school boards to provide affordable housing for teachers and other instructional personnel independently or in conjunction with certain other agencies.

Section 11 - Provides an effective date of July 1, 2006, or as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. The state may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The level of funding to support the CWHIP is not established in this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Indeterminate. Local governments may be benefited by the provision of essential workforce housing in support of commerce which may result in increased state revenues.

2. Expenditures:

   Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a beneficial impact on the private sector in the following manner:

- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

None.

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:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does contain rulemaking authority as follows:

- For the development of certain selection criteria [s. 1(3)].
- For awarding and accountability of grants [s. 1(6)].
- For providing conversion of existing affordable multifamily rental apartments to affordable home ownership units within the target areas [s. 1(9)].

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 1(3) of the bill - Requires the Corporation to develop certain selection criteria either by rule or by requests for proposals. The bill does not make clear how such criteria would be developed through an RFP process; and may benefit from some further clarification. Perhaps the language should read: "The corporation shall develop selection criteria by rule for requests for proposal to..."

Section 1(3) of the bill - Contains a phrase "critical concerns areas of the state" (lines 63-64) which appears to relate to "areas of critical state concern." The former has no definition, the latter is an area designated pursuant to s. 380.05, F.S. The phrase should be changed to "an area of critical state concern."

Section 1(7) of the bill - The term "community workforce housing" (lines 114 and 137) is undefined.

Section 2 of the bill – The section is named "Program funding." The section more specifically addresses program funding eligibility and should be renamed for clarity.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to affordable housing; creating the
3 Community Workforce Housing Innovation Program; providing
4 the Florida Housing Finance Corporation with certain
5 powers and responsibilities relating to the program;
6 requiring the program to target certain entities;
7 requiring the program to supplement existing affordable
8 housing programs; providing incentives for program
9 applicants; providing for funding and conditions for
10 funding; providing requirements for applicants; requiring
11 the corporation to establish a review committee for the
12 application process; requiring the committee to establish
13 certain criteria for applicants; requiring the corporation
14 to develop certain guidelines and rules; authorizing the
15 corporation to foreclose on certain mortgages and security
16 interests or to commence certain legal actions; requiring
17 the corporation to create a down payment assistance
18 program; amending s. 189.4155, F.S.; authorizing special
19 districts to provide housing and housing assistance for
20 their employed personnel; amending s. 191.006, F.S.;
21 authorizing an independent special fire control district
22 to provide housing or housing assistance for its employed
23 personnel; amending s. 193.017, F.S.; providing
24 requirements for using a cap rate for assessing certain
25 affordable housing properties; amending s. 196.1978, F.S.;
26 specifying what constitutes a nonprofit entity for
27 purposes of affordable housing property tax exemption;
28 creating s. 196.1980, F.S.; providing that the actual

29 rental income from certain rent-restricted units be
30 recognized by property appraisers as the rents for
31 assessment purposes; amending s. 201.15, F.S.; revising
32 the distributions of portions of the excise tax on
33 documents to the State Housing Trust Fund and the Local
34 Government Housing Trust Fund for purposes of preserving
35 the rights of holders of affordable housing guarantees;
36 amending s. 420.507, F.S.; revising the rate of interest
37 at which certain mortgage loans must be made available;
38 amending s. 1001.42, F.S.; authorizing district school
39 boards to provide affordable housing for certain teachers
40 and other instructional personnel; providing effective
41 dates.
42
43 Be It Enacted by the Legislature of the State of Florida:
44
45 Section 1. Community Workforce Housing Innovation
46 Program.--
47 (1) The Community Workforce Housing Innovation Program is
48 created for the purpose of providing regulatory incentives and
49 state and local funds to promote local public-private
50 partnerships and leverage government and private resources to
51 provide affordable rental and single-family housing for persons
52 with medium incomes in high-cost counties in this state.
53 (2) The Florida Housing Finance Corporation shall be
54 responsible for implementing and creating an incentive program
55 for the Community Workforce Housing Innovation Program by
56 providing financial and regulatory incentives to the public and

57 private sectors to develop and finance innovative rental and
58 home-ownership housing solutions to meet the needs of eligible
59 Floridians.
60 (3) The corporation shall develop selection criteria by
61 rule or by requests for proposal to provide funding for
62 multifamily rental or single-family community workforce housing
63 innovation projects in targeted high-cost counties or critical-
64 concern areas of the state. The corporation shall provide
65 incentives for local governments in high-cost counties to use
66 local affordable housing State Housing Initiatives Partnership
67 Program funds under s. 420.9072, Florida Statutes, for meeting
68 the affordable housing needs of persons eligible under this
69 program.
70 (4) The Community Workforce Housing Innovation Program
71 projects shall target:
72 (a) Counties in high-cost areas of the state, which are
73 defined as those counties in which the average median purchase
74 price of a single-family home is above the state median purchase
75 price of a single-family home, and areas of critical state
76 concern designated under s. 380.05, Florida Statutes, for which
77 the Legislature has declared its intent to provide affordable
78 housing.
79 (b) Project partnerships that include substantial
80 involvement of public sector entities, such as local
81 municipalities, counties, school districts, special districts,
82 and other units of local government, and private sector entities
83 that donate land or other tangible value worth at least 15
84 percent of the project value.

85 (c) Persons in households with income levels of up to 150
86 percent of the adjusted median income in prioritized areas
87 included in this subsection or a higher adjusted median income
88 percentage in areas of critical state concern.
89 (d) Persons in need of affordable housing who are employed
90 in areas in which they are considered essential services
91 personnel, such as teachers and educators, police and fire
92 personnel, and health care personnel, and in other job
93 categories in which the personnel are defined as essential
94 services personnel within the annual local State Housing
95 Initiatives Partnership Program under s. 420.9072, Florida
96 Statutes.
97 (e) Innovative projects that include new construction or
98 rehabilitation of existing housing, mixed-income housing, or
99 commercial and housing mixed-use elements.
100 (5) The Community Workforce Housing Innovation Program
101 shall supplement and not supplant the existing affordable
102 housing programs funded under chapter 420, Florida Statutes.
103 (6) On an annual basis, the corporation shall review the
104 success of the Community Workforce Housing Innovation Program to
105 determine how the program supports traditional affordable
106 housing programs as defined in chapter 420, Florida Statutes,
107 and to ascertain whether the program is meeting the housing
108 needs of high-cost counties. The corporation shall submit any
109 recommendations for strengthening the program to the Governor,
110 the Speaker of the House of Representatives, and the President
111 of the Senate by January 1 of each year.

112 (7) On an annual basis, the corporation shall review ways
113 to improve public and private sector incentives and barriers to
114 affordable and community workforce housing and make any
115 recommendations necessary to improve these incentives in a
116 report to the Governor, the Speaker of the House of
117 Representatives, and the President of the Senate by January 1 of
118 each year. The corporation may request the assistance of the
119 Department of Community Affairs or the Affordable Housing Study
120 Commission in these efforts.
121 (8)(a) Applicants whose projects are approved or funded by
122 the Community Workforce Housing Innovation Program as Community
123 Workforce Housing Innovation Program projects shall be eligible
124 for the following workforce housing incentives to ensure the
125 financial viability, successful development, and ongoing
126 maintenance of these housing developments:
127 1. The processing of approvals of development orders or
128 development permits, as defined in s. 163.3164(7) and (8),
129 Florida Statutes, for affordable housing projects shall be
130 expedited to a greater degree than other projects.
131 2. Impact fees shall be reduced by 50 percent or may be
132 waived entirely by the local governments, or applicants shall be
133 provided with an alternative method of fee payment.
134 3. Increased density levels of up to 16 units or higher
135 density per acre shall be allowed, except in coastal high-hazard
136 areas, if approved by the local government, for community
137 workforce housing.

138 4. The infrastructure capacity in the local comprehensive
139 plan for affordable housing shall be reserved for these
140 communities.
141 5. Additional affordable residential units in residential
142 zoning districts shall be allowed.
143 6. Open space and setback requirements for affordable
144 housing shall be reduced by 50 percent.
145 7. Zero-lot-line configurations shall be allowed.
146 8. Traffic concurrency requirements shall be modified or
147 reduced by up to 25 percent.
148 9. Local transportation infrastructure funding shall have
149 priority eligibility from metropolitan planning organizations.
150 (b) The regulatory incentives for approved Community
151 Workforce Housing Innovation Program projects shall be
152 considered acceptable by the respective local government
153 maintaining jurisdiction over the site of the project, if:
154 1. The applicant receives a letter of support from the
155 local government for the project application submitted to the
156 corporation; or
157 2. Within 60 days after receipt of the applicant's plan by
158 the local government, no formal vote is taken by that body to
159 object to the project.
160
161 However, if that local government entity votes not to accept the
162 Community Workforce Housing Innovation Program project in its
163 county, the corporation shall remove the application from the
164 project approval list.
165 Section 2. Program funding.--

166 (1) Subject to the availability of funds appropriated by
167 the Legislature to fund the Community Workforce Housing
168 Innovation Program, the Florida Housing Finance Corporation
169 shall have the authority to provide Community Workforce Housing
170 Innovation Program grants to an applicant for construction or
171 rehabilitation of rental or single-family community workforce
172 housing, provided the sponsor of such appropriation:
173 (a) Sets aside at least 80 percent of the units for
174 eligible persons whose household income does not exceed 150
175 percent of the adjusted local median income;
176 (b) Sets aside up to 60 percent of the units as
177 prioritized for households whose family members are employed in
178 areas deemed essential public service, such as education, health
179 care, and other areas defined by the local community in its
180 State Housing Initiatives Partnership Program plan. Such
181 projects shall identify sales and leasing strategies to
182 accomplish this set-aside priority for essential services
183 personnel as well as alternative strategies to sell or lease
184 units to other qualified individuals if essential services
185 personnel are not immediately available or qualified for the
186 units;
187 (c) For rental projects, limits rents to no more than 30
188 percent of the maximum household income adjusted to unit size;
189 or
190 (d) For home ownership, limits the sales price to the
191 price for which an eligible applicant at 150 percent of the
192 average median income may qualify.

193 (2) The corporation shall issue a request for proposals to
194 solicit applications for program approval and grants offered
195 under this section and shall establish a funding process to
196 distribute funds under this section. The corporation may approve
197 a project under this program that does not require grant
198 funding. Grant funding shall be based on demonstrated financial
199 need of the project. The corporation shall prioritize projects
200 in those high-cost counties with the highest real estate cost
201 burdens for housing, including those counties with designated
202 areas of critical state concern and those counties with the
203 highest average median price of single-family homes.
204 (3) All eligible applications shall:
205 (a) Demonstrate that the program applicant consists of a
206 public-private partnership of at least one local government or
207 special district public entity and one private not-for-profit or
208 for-profit development partner.
209 (b) Demonstrate how the applicant will use the regulatory
210 incentives outlined in subsection (8) of section 1 and include,
211 if available, any letters of support from the local government
212 partner for the incentives.
213 (c) Demonstrate that the applicant possesses title to or
214 firm site control of land and evidences availability of required
215 infrastructure.
216 (d) Provide any research or facts available supporting the
217 demand and need for rental or home ownership workforce housing
218 for qualified workforce residents in the county in which the
219 project is proposed.

220 (e) Have grants, donations of land, or contributions from
221 other sources collectively totaling at least 15 percent of the
222 total development cost. Such grants, donations of land, or
223 contributions must only be evidenced by a letter of commitment
224 at the time of application.
225 (f) Demonstrate accessibility to commercial businesses,
226 services, and employment opportunities needed to serve the needs
227 of the residents or include a viable plan to provide
228 transportation access to those commercial businesses, services,
229 and jobs.
230 (g) Demonstrate a marketing and sales plan to ensure that
231 residents fit the income requirements and workforce employment
232 demand for essential services.
233 (h) Provide a viable pro forma financial statement for the
234 development costs and revenues for the project.
235 (4) The corporation shall establish a review committee
236 composed of staff of the corporation and shall establish a
237 scoring system for evaluation and competitive ranking of
238 applications submitted to the program.
239 (5) The corporation shall develop evaluation and ranking
240 criteria that use the eligibility criteria of subsection (3) and
241 emphasize the following: innovative planning concepts,
242 innovative building design, local government participation,
243 public-private partnerships, the ability to proceed with
244 construction, the feasibility and economic viability of the
245 project, the applicant's affordable housing development and
246 management experience, the ability to meet essential service
247 personnel needs, a management plan to attract, serve, and keep

248 eligible workforce tenants and ensure the long-term
249 affordability of the rental or ownership units, and the quality
250 of project design.
251 (6) The corporation shall develop rules and procedures for
252 the awarding and accountability of Community Workforce Housing
253 Innovation Program grants to selected applicants. Grants may be
254 used with other corporation and private-sector resources. The
255 proceeds of all grants shall be used for new construction or
256 substantial rehabilitation that creates affordable, safe, and
257 sanitary rental or ownership workforce housing units. The
258 corporation shall expedite the review, evaluation, and awarding
259 of program grants.
260 (7) If a default on a grant occurs, the corporation may
261 foreclose on any mortgage or security interest or commence any
262 legal action to protect the interest of the corporation and
263 recover the amount of the grant principal, accrued interest, and
264 fees. The corporation may acquire real or personal property or
265 any interest in such property when that acquisition is necessary
266 or appropriate to protect any grant or sell, transfer, and
267 convey any such property to a buyer without regard to the
268 provisions of chapters 253 and 270, Florida Statutes.
269 (8) The corporation shall develop and implement a
270 Community Workforce Housing Innovation Program down payment
271 assistance program with available funds consistent with all the
272 requisite financial guidelines to meet the needs of eligible
273 individuals to purchase workforce housing. The corporation shall
274 encourage local governments to accomplish the same goals through

275 their housing assistance plans provided in s. 420.9075, Florida
276 Statutes.
277 (9)(a) The corporation shall develop guidelines and rules
278 for providing for the conversion of existing affordable
279 multifamily rental apartments to affordable home ownership units
280 for projects in high-cost counties and counties with areas
281 designated as areas of critical state concern. Eligible
282 conversion projects must:
283 1. Have been in operation and in compliance with the
284 corporation's rules for at least 5 years.
285 2. Demonstrate the guarantee of a term of affordability
286 for home ownership in the deed restrictions or financing
287 restrictions equal to the term of affordability provided under
288 the rental agreement.
289 3. Demonstrate an affordable home ownership purchase price
290 approved by the corporation based on the average median purchase
291 price of a home in the counties for persons whose incomes do not
292 exceed 150 percent of the average median income in the county.
293 4. Provide current renters of apartments the first
294 opportunity to purchase converted home ownership units.
295 (b) The corporation may approve only 15 percent of the
296 available affordable rental projects as eligible for conversion
297 to affordable home ownership in any eligible high-cost county in
298 any one year. Priority must be given to replacing the stock of
299 rental units converted to affordable home ownership within these
300 counties with new rental units in the corporation's annual
301 funding cycle.

302 (10) The corporation shall require all program applicants
303 to obtain and document local public input on the proposed
304 project. The corporation shall establish criteria for what local
305 public input the applicants shall be required to obtain.
306 Section 3. Subsection (6) is added to section 189.4155,
307 Florida Statutes, to read:
308 189.4155 Activities of special districts; local government
309 comprehensive planning.--
310 (6) Any independent district created pursuant to special
311 act or general law, including, but not limited to, chapters 189,
312 190, 191, and 298, for the purpose of providing urban
313 infrastructure of services, is authorized to provide housing and
314 housing assistance for its employed personnel.
315 Section 4. Subsection (19) is added to section 191.006,
316 Florida Statutes, to read:
317 191.006 General powers.--The district shall have, and the
318 board may exercise by majority vote, the following powers:
319 (19) To provide housing or housing assistance for its
320 employed personnel.
321 Section 5. Subsection (5) is added to section 193.017,
322 Florida Statutes, to read:
323 193.017 Low-income housing tax credit.--Property used for
324 affordable housing which has received a low-income housing tax
325 credit from the Florida Housing Finance Corporation, as
326 authorized by s. 420.5099, shall be assessed under s. 193.011
327 and, consistent with s. 420.5099(5) and (6), pursuant to this
328 section.

329 (5) If a cap rate is used to assess just valuation for the
330 property, the appraiser shall use a cap rate calculated annually
331 for affordable housing properties authorized by the Florida
332 Housing Finance Corporation and approved by the Department of
333 Revenue.
334 Section 6. Section 196.1978, Florida Statutes, is amended
335 to read:
336 196.1978 Affordable housing property exemption.--Property
337 used to provide affordable housing serving eligible persons as
338 defined by s. 159.603(7) and persons meeting income limits
339 specified in s. 420.0004(9), (10), and (14), which property is
340 owned entirely by a nonprofit entity which is qualified as
341 charitable under s. 501(c)(3) of the Internal Revenue Code and
342 which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be
343 considered property owned by an exempt entity and used for a
344 charitable purpose, and those portions of the affordable housing
345 property which provide housing to individuals with incomes as
346 defined in s. 420.0004(9) and (14) shall be exempt from ad
347 valorem taxation to the extent authorized in s. 196.196. For the
348 purposes of this section, ownership by a nonprofit entity is
349 classified as ownership by a corporation not for profit, a
350 Florida limited partnership the sole general partner of which is
351 a corporation not for profit, or a Florida limited liability
352 corporation the sole member of which is a corporation not for
353 profit. All property identified in this section shall comply
354 with the criteria for determination of exempt status to be
355 applied by property appraisers on an annual basis as defined in
356 s. 196.195. The Legislature intends that any property owned by a

357 limited liability company which is disregarded as an entity for
358 federal income tax purposes pursuant to Treasury Regulation
359 301.7701-3(b)(1)(ii) shall be treated as owned by its sole
360 member.
361 Section 7. Section 196.1980, Florida Statutes, is created
362 to read:
363 196.1980 Affordable housing property exemption.--For the
364 purpose of assessing just valuation of affordable housing
365 properties used by persons with income limits defined as low,
366 moderate, and very low, as specified in s. 420.0004(9), (10),
367 and (14), the actual rental income from rent-restricted units in
368 such a property shall be recognized by the property appraiser
369 for assessment purposes, and an income approach shall be used
370 for assessment of the rents for the following properties:
371 (1) Property that is funded by the United States
372 Department of Housing and Urban Development under s. 8 of the
373 United States Housing Act of 1937, that is used to provide
374 affordable housing serving eligible persons as defined by s.
375 159.603(7), and elderly and very-low-income persons as defined
376 by s. 420.0004(7) and (14), and that has undergone financial
377 restructuring as provided in s. 501, Title V, Subtitle A of the
378 Multifamily Assisted Housing Reform and Affordability Act of
379 1997.
380 (2) Multifamily, farmworker, or elderly rental properties
381 that are funded by the Florida Housing Finance Corporation under
382 ss. 420.5087 and 420.5089 and the State Housing Incentives
383 Partnership Program under ss. 420.9072 and 420.9075.

384 Section 8. Effective July 1, 2007, subsections (9) and
385 (10) of section 201.15, Florida Statutes, as amended by chapter
386 2005-92, Laws of Florida, are amended to read:
387 201.15 Distribution of taxes collected.--All taxes
388 collected under this chapter shall be distributed as follows and
389 shall be subject to the service charge imposed in s. 215.20(1),
390 except that such service charge shall not be levied against any
391 portion of taxes pledged to debt service on bonds to the extent
392 that the amount of the service charge is required to pay any
393 amounts relating to the bonds:
394 (9) ~~The lesser of~~ Seven and fifty-three hundredths percent
395 of the remaining taxes collected under this chapter ~~or $107~~
396 ~~million in each fiscal year~~ shall be paid into the State
397 Treasury to the credit of the State Housing Trust Fund and shall
398 be used as follows:
399 (a) Half of that amount shall be used for the purposes for
400 which the State Housing Trust Fund was created and exists by
401 law.
402 (b) Half of that amount shall be paid into the State
403 Treasury to the credit of the Local Government Housing Trust
404 Fund and shall be used for the purposes for which the Local
405 Government Housing Trust Fund was created and exists by law.
406 (10) ~~The lesser of~~ Eight and sixty-six hundredths percent
407 of the remaining taxes collected under this chapter ~~or $136~~
408 ~~million in each fiscal year~~ shall be paid into the State
409 Treasury to the credit of the State Housing Trust Fund and shall
410 be used as follows:

411 (a) Twelve and one-half percent of that amount shall be
412 deposited into the State Housing Trust Fund and be expended by
413 the Department of Community Affairs and by the Florida Housing
414 Finance Corporation for the purposes for which the State Housing
415 Trust Fund was created and exists by law.
416 (b) Eighty-seven and one-half percent of that amount shall
417 be distributed to the Local Government Housing Trust Fund and
418 shall be used for the purposes for which the Local Government
419 Housing Trust Fund was created and exists by law. Funds from
420 this category may also be used to provide for state and local
421 services to assist the homeless.
422 Section 9. Paragraph (a) of subsection (22) of section
423 420.507, Florida Statutes, is amended to read:
424 420.507 Powers of the corporation.--The corporation shall
425 have all the powers necessary or convenient to carry out and
426 effectuate the purposes and provisions of this part, including
427 the following powers which are in addition to all other powers
428 granted by other provisions of this part:
429 (22) To develop and administer the State Apartment
430 Incentive Loan Program. In developing and administering that
431 program, the corporation may:
432 (a) Make first, second, and other subordinated mortgage
433 loans including variable or fixed rate loans subject to
434 contingent interest for all State Apartment Incentive Loans
435 provided for in this chapter based upon available cash flow of
436 the projects. The corporation shall make loans exceeding 25
437 percent of project cost available only to nonprofit
438 organizations and public bodies which are able to secure grants,

439 donations of land, or contributions from other sources and to
440 projects meeting the criteria of subparagraph 1. Mortgage loans
441 shall be made available at the following rates of interest:
442 1. Zero to 3 percent interest for sponsors of projects
443 that maintain an 80 percent occupancy of residents qualifying as
444 farmworkers as defined in s. 420.503(18), commercial fishing
445 workers as defined in s. 420.503(5), or the homeless as defined
446 in s. 420.621(4) over the life of the loan.
447 2. One ~~Three to 9~~ percent interest for sponsors of
448 projects targeted at populations other than farmworkers,
449 commercial fishing workers, and the homeless.
450 Section 10. Paragraph (b) of subsection (9) of section
451 1001.42, Florida Statutes, is amended to read:
452 1001.42 Powers and duties of district school board.--The
453 district school board, acting as a board, shall exercise all
454 powers and perform all duties listed below:
455 (9) SCHOOL PLANT.--Approve plans for locating, planning,
456 constructing, sanitating, insuring, maintaining, protecting, and
457 condemning school property as prescribed in chapter 1013 and as
458 follows:
459 (b) Sites, buildings, and equipment.--
460 1. Select and purchase school sites, playgrounds, and
461 recreational areas located at centers at which schools are to be
462 constructed, of adequate size to meet the needs of projected
463 students to be accommodated.
464 2. Approve the proposed purchase of any site, playground,
465 or recreational area for which district funds are to be used.
466 3. Expand existing sites.

467 4. Rent buildings when necessary.
468 5. Enter into leases or lease-purchase arrangements, in
469 accordance with the requirements and conditions provided in s.
470 1013.15(2), with private individuals or corporations for the
471 rental of necessary grounds and educational facilities for
472 school purposes or of educational facilities to be erected for
473 school purposes. Current or other funds authorized by law may be
474 used to make payments under a lease-purchase agreement.
475 Notwithstanding any other statutes, if the rental is to be paid
476 from funds received from ad valorem taxation and the agreement
477 is for a period greater than 12 months, an approving referendum
478 must be held. The provisions of such contracts, including
479 building plans, shall be subject to approval by the Department
480 of Education, and no such contract shall be entered into without
481 such approval. As used in this section, "educational facilities"
482 means the buildings and equipment that are built, installed, or
483 established to serve educational purposes and that may lawfully
484 be used. The State Board of Education may adopt such rules as
485 are necessary to implement these provisions.
486 6. Provide for the proper supervision of construction.
487 7. Make or contract for additions, alterations, and
488 repairs on buildings and other school properties.
489 8. Ensure that all plans and specifications for buildings
490 provide adequately for the safety and well-being of students, as
491 well as for economy of construction.
492 9. Provide affordable housing for teachers and other
493 instructional personnel independently or in conjunction with
494 other agencies as described in s. 1001.43(5).

495 Section 11. Except as otherwise expressly provided in this
496 act, this act shall take effect July 1, 2006.

Bill No. **1363**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Section 125.379, Florida Statutes, is created
7 to read:
8 125.379 Disposition of county property for affordable
9 housing.--
10 (1) By January 1, 2007, and every 3 years thereafter, each
11 county shall prepare an inventory list of all real property
12 within its jurisdiction to which the county holds fee simple
13 title. The inventory list must include the address and legal
14 description of each real property and specify whether the
15 property is vacant or improved. County planning staff shall
16 review the inventory list and identify each property that is
17 appropriate for use as affordable housing. The time for
18 preparing the inventory list and its review by county planning
19 staff may not exceed 6 months. The properties identified as
20 appropriate for use as affordable housing may be offered for
21 sale and the proceeds used to purchase land for the development
22 of affordable housing or donated to the Local Government Housing

23 Trust Fund, sold with a restriction that requires any
24 development on the property to include a specified percentage of
25 permanently affordable housing, or donated to a nonprofit
26 housing organization for the construction of permanent
27 affordable housing.
28 (2) After completing an inventory list, the board of
29 county commissioners shall hold at least two public hearings to
30 discuss the inventory list and staff's recommendation concerning
31 which properties are appropriate for use as affordable housing.
32 The board shall comply with the provisions of s. 125.66(4)b)1.
33 regarding the advertisement of the public hearings and shall
34 hold the first hearing no later than 30 days after completing
35 the inventory list. The board shall approve the inventory list
36 through the adoption of a resolution at the second hearing no
37 later than 6 months after completing the inventory list.
38 (3) After the inventory list has been approved by
39 resolution, the board of county commissioners shall immediately
40 make available any real property that has been identified in the
41 inventory list as appropriate for use as affordable housing.
42 The county shall make the surplus real property available to:
43 (a) A private developer if the purchase price paid by the
44 developer is not less than the appraised value of the property
45 based on its highest and best use and the real property is sold
46 with deed restriction s that require a specified percentage of
47 any project developed on the real property to provide affordable
48 housing for low-income and moderate-income persons, with a
49 minimum of 10 percent of the units in the project available for
50 low-income persons and another 10 percent of the units for
51 moderate-income persons for a total minimum of 20 percent, or,
52 if providing rental housing or a combination of rental housing

53 and homeownership, an additional 5 percent of the units for
54 very-low-income persons for a total minimum of 25 percent;
55 (b) A private developer without any requirement that a
56 percentage of the units built on the real property be affordable
57 if the purchase price paid by the developer is not less than the
58 appraised value of the property based on its highest and best
59 use, in which case the county must use the funds received from
60 the developer to acquire real property on which affordable
61 housing will be built or donate the funds to the Local
62 Government Housing Trust Fund for the purpose of implementing
63 the programs described in ss. 420.907-420.9079; or
64 (c) A nonprofit housing organization, such as a community
65 land trust, housing authority, or community redevelopment
66 agency to be used for the production and preservation of
67 permanently affordable housing.
68 (4) The deed restrictions required under paragraph (3) (a)
69 for an affordable housing unit must also prohibit the unit from
70 being sold at a price that exceeds the threshold for housing
71 that is affordable for low-income or moderate - income persons
72 or to a buyer who is not eligible due to his or her income under
73 chapter 420. The deed restrictions may allow the affordable
74 housing units created under paragraph (3) (a) to be rented to
75 very-low-income, low-income, or moderate-income persons.
76 (5) For purposes of this section, the terms "affordable,"
77 "low-income persons," "moderate-income persons," and "very-low-
78 income person: have the same meaning as in s. 420.0004.
79 Section 2. Paragraph (c) of subsection (1) of section
80 163.3187, Florida Statutes, is amended to read:
81 163.3187 Amendment of adopted comprehensive plan.--

82 (1) Amendments to comprehensive plans adopted pursuant to
83 this part may be made not more than two times during any
84 calendar year, except:
85 (c) Any local government comprehensive plan amendments
86 directly related to proposed small scale development activities
87 may be approved without regard to statutory limits on the
88 frequency of consideration of amendments to the local
89 comprehensive plan. A small scale development amendment may be
90 adopted only under the following conditions:
91 1. The proposed amendment involves a use of 10 acres or
92 fewer and:
93 a. The cumulative annual effect of the acreage for all
94 small scale development amendments adopted by the local
95 government shall not exceed:
96 (I) A maximum of 120 acres in a local government that
97 contains areas specifically designated in the local
98 comprehensive plan for urban infill, urban redevelopment, or
99 downtown revitalization as defined in s. 163.3164, urban infill
100 and redevelopment areas designated under s. 163.2517,
101 transportation concurrency exception areas approved pursuant to
102 s. 163.3180(5), or regional activity centers and urban central
103 business districts approved pursuant to s. 380.06(2)(e);
104 however, amendments under this paragraph may be applied to no
105 more than 60 acres annually of property outside the designated
106 areas listed in this sub-sub-subparagraph. Amendments adopted
107 pursuant to paragraph (k) shall not be counted toward the
108 acreage limitations for small scale amendments under this
109 paragraph.
110 (II) A maximum of 80 acres in a local government that does
111 not contain any of the designated areas set forth in sub-sub-
112 subparagraph (I).

113 (III) A maximum of 120 acres in a county established
114 pursuant to s. 9, Art. VIII of the State Constitution.
115 b. The proposed amendment does not involve the same
116 property granted a change within the prior 12 months.
117 c. The proposed amendment does not involve the same
118 owner's property within 200 feet of property granted a change
119 within the prior 12 months.
120 d. The proposed amendment does not involve a text change
121 to the goals, policies, and objectives of the local government's
122 comprehensive plan, but only proposes a land use change to the
123 future land use map for a site-specific small scale development
124 activity.
125 e. The property that is the subject of the proposed
126 amendment is not located within an area of critical state
127 concern, unless the project subject to the proposed amendment
128 involves the construction of affordable housing units meeting
129 the criteria of s. 420.0004(3), and is located within an area of
130 critical state concern designated by s. 380.0552 or by the
131 Administration Commission pursuant to s. 380.05(1). Such
132 amendment is not subject to the density limitations of sub-
133 subparagraph f., and shall be reviewed by the state land
134 planning agency for consistency with the principles for guiding
135 development applicable to the area of critical state concern
136 where the amendment is located and shall not become effective
137 until a final order is issued under s. 380.05(6).
138 f. If the proposed amendment involves a residential land
139 use, the residential land use has a density of 10 units or less
140 per acre or the proposed future land use category allows a
141 maximum residential density of the same or less than the maximum
142 residential density allowable under the existing future land use
143 category, except that this limitation does not apply to small

144 scale amendments involving the construction of affordable
145 housing units meeting the criteria of s. 420.0004(3) on property
146 which will be the subject of a land use restriction agreement ~~or~~
147 ~~extended use agreement recorded in conjunction with the issuance~~
148 ~~of tax exempt bond financing or an allocation of federal tax~~
149 ~~credits issued through the Florida Housing Finance Corporation~~
150 ~~or a local housing finance authority authorized by the Division~~
151 ~~of Bond Finance of the State Board of Administration~~, or small
152 scale amendments described in sub-sub-subparagraph a.(I) that
153 are designated in the local comprehensive plan for urban infill,
154 urban redevelopment, or downtown revitalization as defined in s.
155 163.3164, urban infill and redevelopment areas designated under
156 s. 163.2517, transportation concurrency exception areas approved
157 pursuant to s. 163.3180(5), or regional activity centers and
158 urban central business districts approved pursuant to s.
159 380.06(2)(e).
160 2.a. A local government that proposes to consider a plan
161 amendment pursuant to this paragraph is not required to comply
162 with the procedures and public notice requirements of s.
163 163.3184(15)(c) for such plan amendments if the local government
164 complies with the provisions in s. 125.66(4)(a) for a county or
165 in s. 166.041(3)(c) for a municipality. If a request for a plan
166 amendment under this paragraph is initiated by other than the
167 local government, public notice is required.
168 b. The local government shall send copies of the notice
169 and amendment to the state land planning agency, the regional
170 planning council, and any other person or entity requesting a
171 copy. This information shall also include a statement
172 identifying any property subject to the amendment that is
173 located within a coastal high-hazard area as identified in the
174 local comprehensive plan.

175 3. Small scale development amendments adopted pursuant to
176 this paragraph require only one public hearing before the
177 governing board, which shall be an adoption hearing as described
178 in s. 163.3184(7), and are not subject to the requirements of s.
179 163.3184(3)-(6) unless the local government elects to have them
180 subject to those requirements.
181 4. If the small scale development amendment involves a
182 site within an area that is designated by the Governor as a
183 rural area of critical economic concern under s. 288.0656(7) for
184 the duration of such designation, the 10-acre limit listed in
185 subparagraph 1. shall be increased by 100 percent to 20 acres.
186 The local government approving the small scale plan amendment
187 shall certify to the Office of Tourism, Trade, and Economic
188 Development that the plan amendment furthers the economic
189 objectives set forth in the executive order issued under s.
190 288.0656(7), and the property subject to the plan amendment
191 shall undergo public review to ensure that all concurrency
192 requirements and federal, state, and local environmental permit
193 requirements are met.
194 Section 3. Section 166.0451, Florida Statutes, is created
195 to read:
196 166.0451 Disposition of municipal property for affordable
197 housing.--
198 (1) By January 1, 2007, and every 3 year thereafter, each
199 municipality shall prepare an inventory list of all real
200 property within its jurisdiction to which the municipality holds
201 fee simple title. The inventory list must include the address
202 and legal description of each property and specify whether the
203 property is vacant or improved. Municipal planning staff shall
204 review the inventory list and identify each real property that
205 is appropriate for use as affordable housing. The time for

206 preparing the inventory list and its review by municipal
207 planning staff may not exceed 6 months. The properties
208 identified as appropriate for use as affordable housing may be
209 offered for sale and the proceeds used to purchase land for the
210 development of affordable housing or donated to the Local
211 Government Housing Trust Fund, sold with a restriction that
212 requires any development on the property to include a specified
213 percentage of permanently affordable housing, or donated to a
214 nonprofit housing organization for the construction of permanent
215 affordable housing.
216 (2) Upon completing an inventory list in compliance with
217 this section, the governing body of the municipality shall hold
218 at least two public hearings to discuss the inventory list and
219 the recommendation of the staff concerning which properties are
220 appropriate for use as affordable housing. The governing body
221 shall comply with s. 166.041 (3) (c) 2a. regarding the
222 advertisement of the public hearings and shall hold the first
223 hearing no later than 30 days after completing the inventory
224 list. The governing body shall approve the inventory list
225 through the adoption f a resolution at the second hearing no
226 later than 6 months after completing the inventory list.
227 (3) After the inventory list has been approved by
228 resolution, the governing body of the municipality shall
229 immediately make available any real property that has been
230 identified in the inventory list as appropriate for use as
231 affordable housing. The municipality shall make the surplus
232 real property available to:
233 (a) A private developer if the purchase price paid by the
234 developer is not less than the appraised value of the property
235 based on its highest and best use and the real property is sold
236 with deed restrictions that require a specified percentage of

237 any project developed on the real property to provide affordable
238 housing for low-income and moderate-income persons, with a
239 minimum of 10 percent of the units in the project available for
240 low-income persons and another 10 percent of the units for
241 moderate-income persons for a total minimum of 20 percent, or,
242 if providing rental housing or a combination of rental housing
243 and homeownership, an additional 5 percent of the units for
244 very-low-income persons for a total minimum of 25 percent;
245 (b) A private developer without any requirement that a
246 percentage of the units built on the real property be affordable
247 if the purchase price paid by the developer is not less than the
248 appraised value of the property based on its highest and best
249 use, in which case the municipality must use the funds received
250 from the developer to acquire real property on which affordable
251 housing will be built or donate the funds to the Local
252 Government Housing Trust Fund for the purpose of implementing
253 the programs described in ss. 420.907-420.9079; or
254 (c) A nonprofit housing organization, such as a community
255 land trust, housing authority, or community land trust, housing
256 authority, or community redevelopment agency to be used for the
257 production and preservation of permanently affordable housing.
258 (4) The deed restrictions required under paragraph (3) (a)
259 for an affordable housing unit must also prohibit the unit from
260 being sold at a price that exceeds the threshold for housing
261 that is affordable for low-income for moderate-income persons or
262 to a buyer who is not eligible due to his or her income under
263 chapter 420. The deed restrictions may allow the affordable
264 housing units created under paragraph (3) (a) to be rented to
265 very-low-income, low-income, or moderate-income persons.

266 (5) For purposes of this section the terms "affordable,"
267 "low-income persons," "moderate-income persons," and "very-low-
268 income persons" have the same meaning as in s. 420.0004.
269
270 Section 4. Subsection (6) is added to section 189.4155,
271 Florida Statutes, to read:
272 189.4155 Activities of special districts; local government
273 comprehensive planning.--
274 (6) Any independent district created pursuant to special
275 act or general law, including, but not limited to, chapters 189,
276 190, 191, and 298, for the purpose of providing urban
277 infrastructure of services, is authorized to provide housing and
278 housing assistance for its employed personnel.
279 Section 5. Subsection (19) is added to section 191.006,
280 Florida Statutes, to read:
281 191.006 General powers.--The district shall have, and the
282 board may exercise by majority vote, the following powers:
283 (19) To provide housing or housing assistance for its
284 employed personnel.
285 Section 6. Subsection (5) is added to section 193.017,
286 Florida Statutes, to read:
287 193.017 Low-income housing tax credit.--Property used for
288 affordable housing which has received a low-income housing tax
289 credit from the Florida Housing Finance Corporation, as
290 authorized by s. 420.5099, shall be assessed under s. 193.011
291 and, consistent with s. 420.5099(5) and (6), pursuant to this
292 section.
293 (5) If a cap rate is used to assess just valuation for the
294 property, the appraiser shall use a cap rate calculated annually
295 for affordable housing properties authorized by the Florida

296 Housing Finance Corporation and approved by the Department of
297 Revenue.
298 Section 7. Section 196.1978, Florida Statutes, is amended
299 to read:
300 196.1978 Affordable housing property exemption.--Property
301 used to provide affordable housing serving eligible persons as
302 defined by s. 159.603(7) and persons meeting income limits
303 specified in s. 420.0004(9), (10), and (14), which property is
304 owned entirely by a nonprofit entity which is qualified as
305 charitable under s. 501(c)(3) of the Internal Revenue Code and
306 which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be
307 considered property owned by an exempt entity and used for a
308 charitable purpose, and those portions of the affordable housing
309 property which provide housing to individuals with incomes as
310 defined in s. 420.0004(9) and (14) shall be exempt from ad
311 valorem taxation to the extent authorized in s. 196.196. For the
312 purposes of this section, ownership entirely by a nonprofit
313 entity is classified as ownership by either: (i) a corporation
314 not for profit, or (ii) a Florida limited partnership the sole
315 general partner of which is either a corporation not for profit,
316 or a Florida limited liability company the sole member of which
317 is a corporation not for profit. All property identified in this
318 section shall comply with the criteria for determination of
319 exempt status to be applied by property appraisers on an annual
320 basis as defined in s. 196.195. The Legislature intends that any
321 property owned by a limited liability company which is
322 disregarded as an entity for federal income tax purposes
323 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
324 treated as owned by its sole member.
325 Section 8. Section 196.1980, Florida Statutes, is created
326 to read:

327 196.1980 Affordable housing property exemption.--For the
328 purpose of assessing just valuation of affordable housing
329 properties serving persons with income limits defined as low,
330 moderate, and very low, as specified in s. 420.0004(9), (10),
331 and (14), the actual rental income from rent-restricted units in
332 such a property shall be recognized by the property appraiser
333 for assessment purposes, and an income approach shall be used
334 for assessment of the rents for the following properties:
335 (1) property that is funded by the United States
336 Department of Housing and Urban Development under s. 8 of the
337 United States Housing Act of 1937, that is used to provide
338 affordable housing serving eligible persons as defined by s.
339 159.603(7), and elderly and very-low-income persons as defined
340 by s. 420.0004(7) and (14), and that has undergone financial
341 restructuring as provided in s. 501, Title V, Subtitle A of the
342 Multifamily Assisted Housing Reform and Affordability Act of
343 1997;
344 (2) multifamily, farmworker, or elderly rental properties
345 that are funded by the Florida Housing Finance Corporation under
346 ss. 420.5087 and 420.5089 and the State Housing Initiatives
347 Partnership Program under ss. 420.9072 and 420.9075, s. 42 of
348 the Internal Revenue Code; the HOME Investment Partnership
349 Program under the Cranston-Gonzalez National Affordable Housing
350 Act, 42 U.S.C. s.12741 et seq.; or the Federal Home Loan Banks
351 Affordable Housing Program established pursuant to the Financial
352 Institutions Reform, Recovery and Enforcement Act of 1989,
353 Public Law 101-73; or
354 (3) multi-family residential rental properties of ten (10)
355 or more units that are certified by the local housing agency or
356 municipal government as providing affordable housing serving

357 eligible persons as defined by s. 159.603(7), and elderly and
358 very-low-income persons as defined by s. 420.0004(7) and (14).
359 Section 9. Effective July 1, 2007, subsections (9) and
360 (10) of section 201.15, Florida Statutes, as amended by chapter
361 2005-92, Laws of Florida, are amended to read:
362 201.15 Distribution of taxes collected.--All taxes
363 collected under this chapter shall be distributed as follows and
364 shall be subject to the service charge imposed in s. 215.20(1),
365 except that such service charge shall not be levied against any
366 portion of taxes pledged to debt service on bonds to the extent
367 that the amount of the service charge is required to pay any
368 amounts relating to the bonds:
369 (9) ~~The lesser of~~ Seven and fifty-three hundredths percent
370 of the remaining taxes collected under this chapter ~~or $107~~
371 ~~million in each fiscal year~~ shall be paid into the State
372 Treasury to the credit of the State Housing Trust Fund and shall
373 be used as follows:
374 (a) Half of that amount shall be used for the purposes for
375 which the State Housing Trust Fund was created and exists by
376 law.
377 (b) Half of that amount shall be paid into the State
378 Treasury to the credit of the Local Government Housing Trust
379 Fund and shall be used for the purposes for which the Local
380 Government Housing Trust Fund was created and exists by law.
381 (10) ~~The lesser of~~ Eight and sixty-six hundredths percent
382 of the remaining taxes collected under this chapter ~~or $136~~
383 ~~million in each fiscal year~~ shall be paid into the State
384 Treasury to the credit of the State Housing Trust Fund and shall
385 be used as follows:
386 (a) Twelve and one-half percent of that amount shall be
387 deposited into the State Housing Trust Fund and be expended by

388 the Department of Community Affairs and by the Florida Housing
389 Finance Corporation for the purposes for which the State Housing
390 Trust Fund was created and exists by law.
391 (b) Eighty-seven and one-half percent of that amount shall
392 be distributed to the Local Government Housing Trust Fund and
393 shall be used for the purposes for which the Local Government
394 Housing Trust Fund was created and exists by law. Funds from
395 this category may also be used to provide for state and local
396 services to assist the homeless.
397 Section 10. Paragraph (q) of subsection (5) of section
398 212.08, Florida Statutes, is amended to read:
399 212.08 Sales, rental, use, consumption, distribution, and
400 storage tax; specified exemptions.--The sale at retail, the
401 rental, the use, the consumption, the distribution, and the
402 storage to be used or consumed in this state of the following
403 are hereby specifically exempt from the tax imposed by this
404 chapter.
405 (5) EXEMPTIONS; ACCOUNT OF USE.--
406 (q) Community contribution tax credit for donations.--
407 1. Authorization.--~~Beginning July 1, 2001,~~ Persons who are
408 registered with the department under s. 212.18 to collect or
409 remit sales or use tax and who make donations to eligible
410 sponsors are eligible for tax credits against their state sales
411 and use tax liabilities as provided in this paragraph:
412 a. The credit shall be computed as 50 percent of the
413 person's approved annual community contribution.~~;~~
414 b. The credit shall be granted as a refund against state
415 sales and use taxes reported on returns and remitted in the 12
416 months preceding the date of application to the department for
417 the credit as required in sub-subparagraph 3.c. If the annual
418 credit is not fully used through such refund because of

419 insufficient tax payments during the applicable 12-month period,
420 the unused amount may be included in an application for a refund
421 made pursuant to sub-subparagraph 3.c. in subsequent years
422 against the total tax payments made for such year. Carryover
423 credits may be applied for a 3-year period without regard to any
424 time limitation that would otherwise apply under s. 215.26.~~;~~
425 c. A person may not receive more than $200,000 in annual
426 tax credits for all approved community contributions made in any
427 one year.~~;~~
428 d. All proposals for the granting of the tax credit
429 require the prior approval of the Office of Tourism, Trade, and
430 Economic Development.~~;~~
431 e. The total amount of tax credits which may be granted
432 for all programs approved under this paragraph, s. 220.183, and
433 s. 624.5105 is $10 ~~$12~~ million annually for projects that
434 provide homeownership opportunities for low-income or very-low-
435 income households as defined in s. 420.9071(19) and (28) and $3
436 million annually for all other projects.~~; and~~
437 f. A person who is eligible to receive the credit provided
438 for in this paragraph, s. 220.183, or s. 624.5105 may receive
439 the credit only under the one section of the person's choice.
440 2. Eligibility requirements.--
441 a. A community contribution by a person must be in the
442 following form:
443 (I) Cash or other liquid assets;
444 (II) Real property;
445 (III) Goods or inventory; or
446 (IV) Other physical resources as identified by the Office
447 of Tourism, Trade, and Economic Development.
448 b. All community contributions must be reserved
449 exclusively for use in a project. As used in this sub-

450 subparagraph, the term "project" means any activity undertaken
451 by an eligible sponsor which is designed to construct, improve,
452 or substantially rehabilitate housing that is affordable to low-
453 income or very-low-income households as defined in s.
454 420.9071(19) and (28); designed to provide commercial,
455 industrial, or public resources and facilities; or designed to
456 improve entrepreneurial and job-development opportunities for
457 low-income persons. A project may be the investment necessary to
458 increase access to high-speed broadband capability in rural
459 communities with enterprise zones, including projects that
460 result in improvements to communications assets that are owned
461 by a business. A project may include the provision of museum
462 educational programs and materials that are directly related to
463 any project approved between January 1, 1996, and December 31,
464 1999, and located in an enterprise zone designated pursuant to
465 s. 290.0065. This paragraph does not preclude projects that
466 propose to construct or rehabilitate housing for low-income or
467 very-low-income households on scattered sites. With respect to
468 housing, contributions may be used to pay the following eligible
469 low-income and very-low-income housing-related activities:
470 (I) Project development impact and management fees for
471 low-income or very-low-income housing projects;
472 (II) Down payment and closing costs for eligible persons,
473 as defined in s. 420.9071(19) and (28);
474 (III) Administrative costs, including housing counseling
475 and marketing fees, not to exceed 10 percent of the community
476 contribution, directly related to low-income or very-low-income
477 projects; and
478 (IV) Removal of liens recorded against residential
479 property by municipal, county, or special district local
480 governments when satisfaction of the lien is a necessary

481 precedent to the transfer of the property to an eligible person,
482 as defined in s. 420.9071(19) and (28), for the purpose of
483 promoting home ownership. Contributions for lien removal must be
484 received from a nonrelated third party.
485 c. The project must be undertaken by an "eligible
486 sponsor," which includes:
487 (I) A community action program;
488 (II) A nonprofit community-based development organization
489 whose mission is the provision of housing for low-income or
490 very-low-income households or increasing entrepreneurial and
491 job-development opportunities for low-income persons;
492 (III) A neighborhood housing services corporation;
493 (IV) A local housing authority created under chapter 421;
494 (V) A community redevelopment agency created under s.
495 163.356;
496 (VI) The Florida Industrial Development Corporation;
497 (VII) A historic preservation district agency or
498 organization;
499 (VIII) A regional workforce board;
500 (IX) A direct-support organization as provided in s.
501 1009.983;
502 (X) An enterprise zone development agency created under s.
503 290.0056;
504 (XI) A community-based organization incorporated under
505 chapter 617 which is recognized as educational, charitable, or
506 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
507 and whose bylaws and articles of incorporation include
508 affordable housing, economic development~~,~~ or community
509 development as the primary mission of the corporation;
510 (XII) Units of local government;
511 (XIII) Units of state government; or

512 (XIV) Any other agency that the Office of Tourism, Trade,
513 and Economic Development designates by rule.
514
515 In no event may a contributing person have a financial interest
516 in the eligible sponsor.
517 d. The project must be located in an area designated an
518 enterprise zone or a Front Porch Florida Community pursuant to
519 s. 20.18(6), unless the project increases access to high-speed
520 broadband capability for rural communities with enterprise zones
521 but is physically located outside the designated rural zone
522 boundaries. Any project designed to construct or rehabilitate
523 housing for low-income or very-low-income households as defined
524 in s. 420.0971(19) and (28) is exempt from the area requirement
525 of this sub-subparagraph.
526 e.~~(I) For the first 6 months of the fiscal year, the~~
527 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
528 ~~80 percent of the first $10 million in available annual tax~~
529 ~~credits and 70 percent of any available annual tax credits in~~
530 ~~excess of $10 million for donations made to eligible sponsors~~
531 ~~for projects that provide homeownership opportunities for low-~~
532 ~~income or very-low-income households as defined in s.~~
533 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
534 ~~remain after the first 6 months of the fiscal year, the office~~
535 ~~may approve the balance of these available credits for donations~~
536 ~~made to eligible sponsors for projects other than those that~~
537 ~~provide homeownership opportunities for low-income or very-low-~~
538 ~~income households.~~
539 ~~(II) For the first 6 months of the fiscal year, the office~~
540 ~~shall reserve 20 percent of the first $10 million in available~~
541 ~~annual tax credits and 30 percent of any available annual tax~~
542 ~~credits in excess of $10 million for donations made to eligible~~

543 ~~sponsors for projects other than those that provide~~
544 ~~homeownership opportunities for low-income or very-low-income~~
545 ~~households as defined in s. 420.9071(19) and (28). If any~~
546 ~~reserved annual tax credits remain after the first 6 months of~~
547 ~~the fiscal year, the office may approve the balance of these~~
548 ~~available credits for donations made to eligible sponsors for~~
549 ~~projects that provide homeownership opportunities for low-income~~
550 ~~or very-low-income households.~~

551 (I) ~~(III)~~ If, during the first 10 business days of the
552 state fiscal year, eligible tax credit applications for projects
553 that provide homeownership opportunities for low-income or very-
554 low-income households as defined in s. 420.9071(19) and (28) are
555 received for less than the ~~available~~ annual tax credits
556 available for those projects ~~reserved under sub-sub-subparagraph~~
557 ~~(I)~~, the office shall grant tax credits for those applications
558 and shall grant remaining tax credits on a first-come, first-
559 served basis for any subsequent eligible applications received
560 before the end of the ~~first 6 months of the~~ state fiscal year.
561 If, during the first 10 business days of the state fiscal year,
562 eligible tax credit applications for projects that provide
563 homeownership opportunities for low-income or very-low-income
564 households as defined in s. 420.9071(19) and (28) are received
565 for more than the ~~available~~ annual tax credits available for
566 those projects ~~reserved under sub-sub-subparagraph (I)~~, the
567 office shall grant the tax credits for those ~~the~~ applications as
568 follows:

569 (A) If tax credit applications submitted for approved
570 projects of an eligible sponsor do not exceed $200,000 in total,
571 the credits shall be granted in full if the tax credit
572 applications are approved~~, subject to sub-sub-subparagraph (I)~~.

573 (B) If tax credit applications submitted for approved
574 projects of an eligible sponsor exceed $200,000 in total, the
575 amount of tax credits granted pursuant to sub-sub-sub-
576 subparagraph (A) shall be subtracted from the amount of
577 available tax credits ~~under sub-sub-subparagraph (I)~~, and the
578 remaining credits shall be granted to each approved tax credit
579 application on a pro rata basis.
580 ~~(C) If, after the first 6 months of the fiscal year,~~
581 ~~additional credits become available under sub-sub-subparagraph~~
582 ~~(II), the office shall grant the tax credits by first granting~~
583 ~~to those who received a pro rata reduction up to the full amount~~
584 ~~of their request and, if there are remaining credits, granting~~
585 ~~credits to those who applied on or after the 11th business day~~
586 ~~of the state fiscal year on a first-come, first-served basis.~~
587 (II)~~(IV)~~ If, during the first 10 business days of the
588 state fiscal year, eligible tax credit applications for projects
589 other than those that provide homeownership opportunities for
590 low-income or very-low-income households as defined in s.
591 420.9071(19) and (28) are received for less than the ~~available~~
592 annual tax credits available for those projects ~~reserved under~~
593 ~~sub-sub-subparagraph (II)~~, the office shall grant tax credits
594 for those applications and shall grant remaining tax credits on
595 a first-come, first-served basis for any subsequent eligible
596 applications received before the end of ~~the first 6 months of~~
597 the state fiscal year. If, during the first 10 business days of
598 the state fiscal year, eligible tax credit applications for
599 projects other than those that provide homeownership
600 opportunities for low-income or very-low-income households as
601 defined in s. 420.9071(19) and (28) are received for more than
602 the ~~available~~ annual tax credits available for those projects
603 ~~reserved under sub-sub-subparagraph (II)~~, the office shall grant

604 the tax credits for those ~~the~~ applications on a pro rata basis.
605 ~~If, after the first 6 months of the fiscal year, additional~~
606 ~~credits become available under sub-sub-subparagraph (I), the~~
607 ~~office shall grant the tax credits by first granting to those~~
608 ~~who received a pro rata reduction up to the full amount of their~~
609 ~~request and, if there are remaining credits, granting credits to~~
610 ~~those who applied on or after the 11th business day of the state~~
611 ~~fiscal year on a first-come, first-served basis.~~
612 3. Application requirements.--
613 a. Any eligible sponsor seeking to participate in this
614 program must submit a proposal to the Office of Tourism, Trade,
615 and Economic Development which sets forth the name of the
616 sponsor, a description of the project, and the area in which the
617 project is located, together with such supporting information as
618 is prescribed by rule. The proposal must also contain a
619 resolution from the local governmental unit in which the project
620 is located certifying that the project is consistent with local
621 plans and regulations.
622 b. Any person seeking to participate in this program must
623 submit an application for tax credit to the office ~~of Tourism,~~
624 ~~Trade, and Economic Development~~ which sets forth the name of the
625 sponsor, a description of the project, and the type, value, and
626 purpose of the contribution. The sponsor shall verify the terms
627 of the application and indicate its receipt of the contribution,
628 which verification must be in writing and accompany the
629 application for tax credit. The person must submit a separate
630 tax credit application to the office for each individual
631 contribution that it makes to each individual project.
632 c. Any person who has received notification from the
633 office ~~of Tourism, Trade, and Economic Development~~ that a tax
634 credit has been approved must apply to the department to receive

635 the refund. Application must be made on the form prescribed for
636 claiming refunds of sales and use taxes and be accompanied by a
637 copy of the notification. A person may submit only one
638 application for refund to the department within any 12-month
639 period.
640 4. Administration.--
641 a. The Office of Tourism, Trade, and Economic Development
642 may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary
643 to administer this paragraph, including rules for the approval
644 or disapproval of proposals by a person.
645 b. The decision of the office ~~of Tourism, Trade, and~~
646 ~~Economic Development~~ must be in writing, and, if approved, the
647 notification shall state the maximum credit allowable to the
648 person. Upon approval, the office shall transmit a copy of the
649 decision to the Department of Revenue.
650 c. The office ~~of Tourism, Trade, and Economic Development~~
651 shall periodically monitor all projects in a manner consistent
652 with available resources to ensure that resources are used in
653 accordance with this paragraph; however, each project must be
654 reviewed at least once every 2 years.
655 d. The office ~~of Tourism, Trade, and Economic Development~~
656 shall, in consultation with the Department of Community Affairs~~,~~
657 ~~the Florida Housing Finance Corporation,~~ and the statewide and
658 regional housing and financial intermediaries, market the
659 availability of the community contribution tax credit program to
660 community-based organizations.
661 5. Expiration.--This paragraph expires June 30, 2015;
662 however, any accrued credit carryover that is unused on that
663 date may be used until the expiration of the 3-year carryover
664 period for such credit.
665

666 Section 11. Paragraph (c) of subsection (1) and paragraph
667 (b) of subsection (2) and of section 220.183, Florida Statutes,
668 are amended to read:
669 220.183 Community contribution tax credit.--
670 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
671 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
672 SPENDING.--
673 (c) The total amount of tax credit which may be granted
674 for all programs approved under this section, s. 212.08(5)(q),
675 and s. 624.5105 is $10 ~~$12~~ million annually for projects that
676 provide homeownership opportunities for low-income or very-low-
677 income households as defined in s. 420.9071(19) and (28) and $3
678 million annually for all other projects.
679 (2) ELIGIBILITY REQUIREMENTS.--
680 (b)1. All community contributions must be reserved
681 exclusively for use in projects as defined in s. 220.03(1)(t).
682 ~~2. For the first 6 months of the fiscal year, the Office~~
683 ~~of Tourism, Trade, and Economic Development shall reserve 80~~
684 ~~percent of the first $10 million in available annual tax~~
685 ~~credits, and 70 percent of any available annual tax credits in~~
686 ~~excess of $10 million, for donations made to eligible sponsors~~
687 ~~for projects that provide homeownership opportunities for low-~~
688 ~~income or very-low-income households as defined in s.~~
689 ~~420.9071(19) and (28). If any reserved annual tax credits remain~~
690 ~~after the first 6 months of the fiscal year, the office may~~
691 ~~approve the balance of these available credits for donations~~
692 ~~made to eligible sponsors for projects other than those that~~
693 ~~provide homeownership opportunities for low-income or very-low-~~
694 ~~income households.~~
695 ~~3. For the first 6 months of the fiscal year, the office~~
696 ~~shall reserve 20 percent of the first $10 million in available~~

697 ~~annual tax credits, and 30 percent of any available annual tax~~
698 ~~credits in excess of $10 million, for donations made to eligible~~
699 ~~sponsors for projects other than those that provide~~
700 ~~homeownership opportunities for low-income or very-low-income~~
701 ~~households as defined in s. 420.9071(19) and (28). If any~~
702 ~~reserved annual tax credits remain after the first 6 months of~~
703 ~~the fiscal year, the office may approve the balance of these~~
704 ~~available credits for donations made to eligible sponsors for~~
705 ~~projects that provide homeownership opportunities for low-income~~
706 ~~or very-low-income households.~~
707 2.~~4.~~ If, during the first 10 business days of the state
708 fiscal year, eligible tax credit applications for projects that
709 provide homeownership opportunities for low-income or very-low-
710 income households as defined in s. 420.9071(19) and (28) are
711 received for less than the ~~available~~ annual tax credits
712 available for those projects ~~reserved under subparagraph 2.~~, the
713 office shall grant tax credits for those applications and shall
714 grant remaining tax credits on a first-come, first-served basis
715 for any subsequent eligible applications received before the end
716 of the ~~first 6 months of the~~ state fiscal year. If, during the
717 first 10 business days of the state fiscal year, eligible tax
718 credit applications for projects that provide homeownership
719 opportunities for low-income or very-low-income households as
720 defined in s. 420.9071(19) and (28) are received for more than
721 the ~~available~~ annual tax credits available for those projects
722 ~~reserved under subparagraph 2.~~, the office shall grant the tax
723 credits for those ~~such~~ applications as follows:
724 a. If tax credit applications submitted for approved
725 projects of an eligible sponsor do not exceed $200,000 in total,
726 the credit shall be granted in full if the tax credit

727 applications are approved~~, subject to the provisions of~~
728 ~~subparagraph 2~~.
729 b. If tax credit applications submitted for approved
730 projects of an eligible sponsor exceed $200,000 in total, the
731 amount of tax credits granted under sub-subparagraph a. shall be
732 subtracted from the amount of available tax credits ~~under~~
733 ~~subparagraph 2.~~, and the remaining credits shall be granted to
734 each approved tax credit application on a pro rata basis.
735 ~~c. If, after the first 6 months of the fiscal year,~~
736 ~~additional credits become available pursuant to subparagraph 3.,~~
737 ~~the office shall grant the tax credits by first granting to~~
738 ~~those who received a pro rata reduction up to the full amount of~~
739 ~~their request and, if there are remaining credits, granting~~
740 ~~credits to those who applied on or after the 11th business day~~
741 ~~of the state fiscal year on a first-come, first-served basis.~~
742 3.~~5.~~ If, during the first 10 business days of the state
743 fiscal year, eligible tax credit applications for projects other
744 than those that provide homeownership opportunities for low-
745 income or very-low-income households as defined in s.
746 420.9071(19) and (28) are received for less than the ~~available~~
747 annual tax credits available for those projects ~~reserved under~~
748 ~~subparagraph 3.~~, the office shall grant tax credits for those
749 applications and shall grant remaining tax credits on a first-
750 come, first-served basis for any subsequent eligible
751 applications received before the end of the ~~first 6 months of~~
752 ~~the~~ state fiscal year. If, during the first 10 business days of
753 the state fiscal year, eligible tax credit applications for
754 projects other than those that provide homeownership
755 opportunities for low-income or very-low-income households as
756 defined in s. 420.9071(19) and (28) are received for more than
757 the ~~available~~ annual tax credits available for those projects

758 ~~reserved under subparagraph 3.~~, the office shall grant the tax
759 credits for those ~~such~~ applications on a pro rata basis. ~~If,~~
760 ~~after the first 6 months of the fiscal year, additional credits~~
761 ~~become available under subparagraph 2., the office shall grant~~
762 ~~the tax credits by first granting to those who received a pro~~
763 ~~rata reduction up to the full amount of their request and, if~~
764 ~~there are remaining credits, granting credits to those who~~
765 ~~applied on or after the 11th business day of the state fiscal~~
766 ~~year on a first-come, first-served basis.~~
767 Section 12. Paragraph (f) of subsection (6) of section
768 253.034, Florida Statutes, is amended to read:
769 253.034 State-owned lands; uses.--
770 (6) The Board of Trustees of the Internal Improvement
771 Trust Fund shall determine which lands, the title to which is
772 vested in the board, may be surplused. For conservation lands,
773 the board shall make a determination that the lands are no
774 longer needed for conservation purposes and may dispose of them
775 by an affirmative vote of at least three members. In the case of
776 a land exchange involving the disposition of conservation lands,
777 the board must determine by an affirmative vote of at least
778 three members that the exchange will result in a net positive
779 conservation benefit. For all other lands, the board shall make
780 a determination that the lands are no longer needed and may
781 dispose of them by an affirmative vote of at least three
782 members.
783 (f)~~1.~~ In reviewing lands owned by the board, the council
784 shall consider whether such lands would be more appropriately
785 owned or managed by the county or other unit of local government
786 in which the land is located. A local government may request
787 that state lands be specifically declared to be surplus lands
788 for the purpose of providing affordable housing. The council

789 shall recommend to the board whether a sale, lease, or other
790 conveyance to a local government would be in the best interests
791 of the state and local government. The provisions of this
792 paragraph in no way limit the provisions of ss. 253.111 and
793 253.115. Such lands shall be offered to the state, county, or
794 local government for a period of 30 days. Permittable uses for
795 such surplus lands may include public schools; public libraries;
796 fire or law enforcement substations; and governmental, judicial,
797 or recreational centers; and affordable housing. County or local
798 government requests for surplus lands shall be expedited
799 throughout the surplusing process. Surplus lands that are
800 conveyed to a local government for affordable housing shall be
801 disposed of under the provisions of s. 125.379 or s. 166.0451.
802 If the county or local government does not elect to purchase
803 such lands in accordance with s. 253.111, then any surplusing
804 determination involving other governmental agencies shall be
805 made upon the board deciding the best public use of the lands.
806 Surplus properties in which governmental agencies have expressed
807 no interest shall then be available for sale on the private
808 market.
809 2. Notwithstanding subparagraph 1., any surplus lands that
810 were acquired by the state prior to 1958 by a gift or other
811 conveyance for no consideration from a municipality, and which
812 the department has filed by July 1, 2006, a notice of its intent
813 to surplus, shall be first offered for reconveyance to such
814 municipality at no cost, but for the fair market value of any
815 building or other improvements to the land, unless otherwise
816 provided in a deed restriction of record. This subparagraph
817 expires July 1, 2006.
818
819

820 Section 13. Section 295.16, Florida Statutes, is amended
821 to read:
822 295.16 Disabled veterans exempt from certain license or
823 permit fee.--No totally and permanently disabled veteran who is
824 a resident of Florida and honorably discharged from the Armed
825 Forces, who has been issued a valid identification card by the
826 Department of Veterans' Affairs in accordance with s. 295.17 or
827 has been determined by the United States Department of Veterans
828 Affairs or its predecessor to have a service-connected 100-
829 percent disability rating for compensation, or who has been
830 determined to have a service-connected disability rating of 100
831 percent and is in receipt of disability retirement pay from any
832 branch of the uniformed armed services, shall be required to pay
833 any license or permit fee, by whatever name known, to any county
834 or municipality in order to make improvements upon a dwelling
835 ~~mobile home~~ owned by the veteran which is used as the veteran's
836 residence, provided such improvements are limited to ramps,
837 widening of doors, and similar improvements for the purpose of
838 making the dwelling ~~mobile home~~ habitable for veterans confined
839 to wheelchairs.
840 Section 14. Paragraph (b) of subsection (19) of section
841 380.06, Florida Statutes, is amended to read:
842 380.06 Developments of regional impact.--
843 (19) SUBSTANTIAL DEVIATIONS.--
844 (b) Any proposed change to a previously approved
845 development of regional impact or development order condition
846 which, either individually or cumulatively with other changes,
847 exceeds any of the following criteria shall constitute a
848 substantial deviation and shall cause the development to be
849 subject to further development-of-regional-impact review without
850 the necessity for a finding of same by the local government:

851 1. An increase in the number of parking spaces at an
852 attraction or recreational facility by 5 percent or 300 spaces,
853 whichever is greater, or an increase in the number of spectators
854 that may be accommodated at such a facility by 5 percent or
855 1,000 spectators, whichever is greater.
856 2. A new runway, a new terminal facility, a 25-percent
857 lengthening of an existing runway, or a 25-percent increase in
858 the number of gates of an existing terminal, but only if the
859 increase adds at least three additional gates.
860 3. An increase in the number of hospital beds by 5 percent
861 or 60 beds, whichever is greater.
862 4. An increase in industrial development area by 5 percent
863 or 32 acres, whichever is greater.
864 5. An increase in the average annual acreage mined by 5
865 percent or 10 acres, whichever is greater, or an increase in the
866 average daily water consumption by a mining operation by 5
867 percent or 300,000 gallons, whichever is greater. An increase in
868 the size of the mine by 5 percent or 750 acres, whichever is
869 less. An increase in the size of a heavy mineral mine as defined
870 in s. 378.403(7) will only constitute a substantial deviation if
871 the average annual acreage mined is more than 500 acres and
872 consumes more than 3 million gallons of water per day.
873 6. An increase in land area for office development by 5
874 percent or an increase of gross floor area of office development
875 by 5 percent or 60,000 gross square feet, whichever is greater.
876 7. An increase in the storage capacity for chemical or
877 petroleum storage facilities by 5 percent, 20,000 barrels, or 7
878 million pounds, whichever is greater.
879 8. An increase of development at a waterport of wet
880 storage for 20 watercraft, dry storage for 30 watercraft, or
881 wet/dry storage for 60 watercraft in an area identified in the

882 state marina siting plan as an appropriate site for additional
883 waterport development or a 5-percent increase in watercraft
884 storage capacity, whichever is greater.
885 9. An increase in the number of dwelling units by 5
886 percent or 50 dwelling units, whichever is greater.
887 10. An increase in the number of dwelling units by 15
888 percent or 100 units, whichever is greater, provided that 20
889 percent of the increase in the number of dwelling units is
890 dedicated to the construction of workforce housing. For purposes
891 of this subparagraph, the term "workforce housing" means housing
892 that is affordable to a person who earns less than 120 percent
893 of the area median income.
894 11 ~~10~~. An increase in commercial development by 50,000
895 square feet of gross floor area or of parking spaces provided
896 for customers for 300 cars or a 5-percent increase of either of
897 these, whichever is greater.
898 12 ~~11~~. An increase in hotel or motel facility units by 5
899 percent or 75 units, whichever is greater.
900 13 ~~12~~. An increase in a recreational vehicle park area by
901 5 percent or 100 vehicle spaces, whichever is less.
902 14 ~~13~~. A decrease in the area set aside for open space of
903 5 percent or 20 acres, whichever is less.
904 15 ~~14~~. A proposed increase to an approved multiuse
905 development of regional impact where the sum of the increases of
906 each land use as a percentage of the applicable substantial
907 deviation criteria is equal to or exceeds 100 percent. The
908 percentage of any decrease in the amount of open space shall be
909 treated as an increase for purposes of determining when 100
910 percent has been reached or exceeded.
911 16 ~~15~~. A 15-percent increase in the number of external
912 vehicle trips generated by the development above that which was

913 projected during the original development-of-regional-impact
914 review.
915 17 ~~16~~. Any change which would result in development of any
916 area which was specifically set aside in the application for
917 development approval or in the development order for
918 preservation or special protection of endangered or threatened
919 plants or animals designated as endangered, threatened, or
920 species of special concern and their habitat, primary dunes, or
921 archaeological and historical sites designated as significant by
922 the Division of Historical Resources of the Department of State.
923 The further refinement of such areas by survey shall be
924 considered under sub-subparagraph (e)5.b.
925
926 The substantial deviation numerical standards in subparagraphs
927 4., 6., 10., 14., excluding residential uses, and 15., are
928 increased by 100 percent for a project certified under s.
929 403.973 which creates jobs and meets criteria established by the
930 Office of Tourism, Trade, and Economic Development as to its
931 impact on an area's economy, employment, and prevailing wage and
932 skill levels. The substantial deviation numerical standards in
933 subparagraphs 4., 6., 9., 10., 11., and 14. are increased by 50
934 percent for a project located wholly within an urban infill and
935 redevelopment area designated on the applicable adopted local
936 comprehensive plan future land use map and not located within
937 the coastal high hazard area.
938 Section 15. Paragraph (k) of subsection (3) of section
939 380.0651, Florida Statutes, is amended to read:
940 380.0651 Statewide guidelines and standards.--
941 (3) The following statewide guidelines and standards shall
942 be applied in the manner described in s. 380.06(2) to determine

943 whether the following developments shall be required to undergo
944 development-of-regional-impact review:
945 (k) Workforce housing.-- The applicable guidelines for
946 residential development and the residential component for
947 multiuse development shall be increased by 20 percent where the
948 developer demonstrates that at least 15 percent of the
949 residential dwelling units will be dedicated to workforce
950 housing. For purposes of this subparagraph, the term "workforce
951 housing" means housing that is affordable to a person who earns
952 less than 120 percent of the area median income.
953 (l) ~~(k)~~ Schools.--
954 1. The proposed construction of any public, private, or
955 proprietary postsecondary educational campus which provides for
956 a design population of more than 5,000 full-time equivalent
957 students, or the proposed physical expansion of any public,
958 private, or proprietary postsecondary educational campus having
959 such a design population that would increase the population by
960 at least 20 percent of the design population.
961 2. As used in this paragraph, "full-time equivalent
962 student" means enrollment for 15 or more quarter hours during a
963 single academic semester. In career centers or other
964 institutions which do not employ semester hours or quarter hours
965 in accounting for student participation, enrollment for 18
966 contact hours shall be considered equivalent to one quarter
967 hour, and enrollment for 27 contact hours shall be considered
968 equivalent to one semester hour.
969 3. This paragraph does not apply to institutions which are
970 the subject of a campus master plan adopted by the university
971 board of trustees pursuant to s. 1013.30.
972 Section 16. Subsection (8), subsection (9), subsection
973 (10), subsection (11), subsection (12), subsection (13), and

974 subsection (14) of section 420.0004, Florida Statutes, are
975 amended to read:
976 420.0004 Definitions.--As used in this part, unless the
977 context otherwise indicates:
978 (8) "Extremely low income persons" means one or more
979 natural persons or a family whose total annual household income
980 does not exceed 30% of the median annual adjusted gross income
981 for households within the state. Florida Housing Finance
982 Corporation may adjust this amount annually by rule to provide
983 that in lower income counties extremely low income may exceed
984 30% of area median income, and that in higher income counties
985 extremely low income may be less than 30% of area median income.
986 (9) ~~(8)~~ "Local public body" means any county,
987 municipality, or other political subdivision, or any housing
988 authority as provided by chapter 421, which is eligible to
989 sponsor or develop housing for farmworkers and very-low-income
990 and low-income persons within its jurisdiction.
991 (10) ~~(9)~~ "Low-income persons" means one or more natural
992 persons or a family, the total annual adjusted gross household
993 income of which does not exceed 80 percent of the median annual
994 adjusted gross income for households within the state, or 80
995 percent of the median annual adjusted gross income for
996 households within the metropolitan statistical area (MSA) or, if
997 not within an MSA, within the county in which the person or
998 family resides, whichever is greater.
999 (11) ~~(10)~~ "Moderate-income persons" means one or more
1000 natural persons or a family, the total annual adjusted gross
1001 household income of which is less than 120 percent of the median
1002 annual adjusted gross income for households within the state, or
1003 120 percent of the median annual adjusted gross income for
1004 households within the metropolitan statistical area (MSA) or, if

1005 not within an MSA, within the county in which the person or
1006 family resides, whichever is greater.
1007 (12) ~~(11)~~ "Student" means any person not living with his
1008 or her parent or guardian who is eligible to be claimed by his
1009 or her parent or guardian as a dependent under the federal
1010 income tax code and who is enrolled on at least a half-time
1011 basis in a secondary school, career center, community college,
1012 college, or university.
1013 (13) ~~(12)~~ "Substandard" means:
1014 (a) Any unit lacking complete plumbing or sanitary
1015 facilities for the exclusive use of the occupants;
1016 (b) A unit which is in violation of one or more major
1017 sections of an applicable housing code and where such violation
1018 poses a serious threat to the health of the occupant; or
1019 (c) A unit that has been declared unfit for human
1020 habitation but that could be rehabilitated for less than 50
1021 percent of the property value.
1022 (14) ~~(13)~~ "Substantial rehabilitation" means repair or
1023 restoration of a dwelling unit where the value of such repair or
1024 restoration exceeds 40 percent of the value of the dwelling.
1025 (15) ~~(14)~~ "Very-low-income persons" means one or more
1026 natural persons or a family, not including students, the total
1027 annual adjusted gross household income of which does not exceed
1028 50 percent of the median annual adjusted gross income for
1029 households within the state, or 50 percent of the median annual
1030 adjusted gross income for households within the metropolitan
1031 statistical area (MSA) or, if not within an MSA, within the
1032 county in which the person or family resides, whichever is
1033 greater.
1034 Section 17. Section 420.37, Florida Statutes, is repealed.

1035 Section 18. Subsection (18) of section 420.503, Florida
1036 Statutes, is amended to read:
1037 420.503 Definitions.--As used in this part, the term:
1038 (18)(a) "Farmworker" means a laborer who is employed on a
1039 seasonal, temporary, or permanent basis in the planting,
1040 cultivating, harvesting, or processing of agricultural or
1041 aquacultural products and who derived at least 50 percent of her
1042 or his income in the immediately preceding 12 months from such
1043 employment.
1044 (b) "Farmworker" ~~also~~ includes a person who has retired as
1045 a laborer due to age, disability, or illness. In order to be
1046 considered retired as a farmworker due to age under this part, a
1047 person must be 50 years of age or older and must have been
1048 employed for a minimum of 5 years as a farmworker before
1049 retirement. In order to be considered retired as a farmworker
1050 due to disability or illness, a person must:
1051 1. ~~(a)~~ Establish medically that she or he is unable to be
1052 employed as a farmworker due to that disability or illness.
1053 2. ~~(b)~~ Establish that she or he was previously employed as
1054 a farmworker.
1055 (c) Notwithstanding paragraphs (a) and (b), when
1056 corporation-administered funds are used in conjunction with
1057 United States Department of Agriculture Rural Development funds,
1058 the term "farmworker" may mean a laborer who meets, at a
1059 minimum, the definition of "domestic farm laborer" as found in 7
1060 C.F.R. s. 3560.11, as amended. The corporation may establish
1061 additional criteria by rule.
1062 Section 19. Subsection (22), subsection (23), and
1063 subsection (40) of section 420.507, Florida Statutes are
1064 amended; and subsection (44), subsection (45), and subsection
1065 (46) of section 420.507, Florida Statutes, are created to read:

1066 420.507 Powers of the corporation.--The corporation shall
1067 have all the powers necessary or convenient to carry out and
1068 effectuate the purposes and provisions of this part, including
1069 the following powers which are in addition to all other powers
1070 granted by other provisions of this part:
1071 (22) To develop and administer the State Apartment
1072 Incentive Loan Program. In developing and administering that
1073 program, the corporation may:
1074 (a) Make first, second, and other subordinated mortgage
1075 loans including variable or fixed rate loans subject to
1076 contingent interest for all State Apartment Incentive Loans
1077 provided for in this chapter based upon available cash flow of
1078 the projects. The corporation shall make loans exceeding 25
1079 percent of project cost available only to nonprofit
1080 organizations and public bodies which are able to secure grants,
1081 donations of land, or contributions from other sources and to
1082 projects meeting the criteria of subparagraph 1. Mortgage loans
1083 shall be made available at the following rates of interest:
1084 1. Zero to three percent interest for sponsors of projects
1085 that set aside at least ~~maintain an~~ 80 percent ~~occupancy~~ of
1086 their total units for residents qualifying as farm workers as
1087 defined in this part, ~~s.420.503 (18)~~ or commercial fishing
1088 workers as defined in this part, ~~s.420.503 (5)~~ or the homeless
1089 as defined in s. 420.621(4) over the life of the loan.
1090 2. The board may set the interest rate based on the pro
1091 rata share of units set aside for homeless residents if the
1092 total of such units is less than 80 percent of the units in the
1093 borrower's project.
1094 3. ~~2.~~ One ~~Three~~ to 9 percent interest for sponsors of
1095 projects targeted at populations other than farmworkers,
1096 commercial fishing workers, and the homeless.

1097 (b) The corporation may make loans exceeding 25% of
1098 project cost where the project serves extremely low income
1099 families.
1100 (c) The corporation may forgive indebtedness for a pro
1101 rata share of the loan based on the number of units in a project
1102 reserved for extremely low income families.
1103 ~~(b)~~ (d) Geographically and demographically target the
1104 utilization of loans.
1105 ~~(c)~~ (e) Underwrite credit, and reject projects which do not
1106 meet the established standards of the corporation.
1107 ~~(d)~~ (f) Negotiate with governing bodies within the state
1108 after a loan has been awarded to obtain local government
1109 contributions.
1110 ~~(e)~~ (g) Inspect any records of a sponsor at any time during
1111 the life of the loan or the agreed period for maintaining the
1112 provisions of s. 420.5087.
1113 ~~(f)~~ (h) Establish, by rule, the procedure for evaluating,
1114 scoring, and competitively ranking all applications based on the
1115 criteria set forth in s. 420.5087(6)(c); determining actual loan
1116 amounts; making and servicing loans; and exercising the powers
1117 authorized in this subsection.
1118 ~~(g)~~ (i) Establish a loan loss insurance reserve to be used
1119 to protect the outstanding program investment in case of a
1120 default, deed in lieu of foreclosure, or foreclosure of a
1121 program loan.
1122 (23) To develop and administer the Florida Homeownership
1123 Assistance Program. In developing and administering the program,
1124 the corporation may:
1125 (a)1. Make subordinated loans to eligible borrowers for
1126 down payments or closing costs related to the purchase of the
1127 borrower's primary residence.

1128 2. Make permanent loans to eligible borrowers related to
1129 the purchase of the borrower's primary residence.
1130 3. Make subordinated loans to nonprofit sponsors or
1131 developers of housing for purchase of property, for
1132 construction, or for financing of housing to be offered for sale
1133 to eligible borrowers as a primary residence at an affordable
1134 price.
1135 (b) Establish a loan loss insurance reserve to supplement
1136 existing sources of mortgage insurance with appropriated funds.
1137 (c) Geographically and demographically target the
1138 utilization of loans.
1139 (d) Defer repayment of loans for the term of the first
1140 mortgage.
1141 (e) Establish flexible terms for loans with an interest
1142 rate not to exceed 3 percent per annum and which are
1143 nonamortizing for the term of the first mortgage.
1144 (f) Require repayment of loans upon sale, transfer,
1145 refinancing, or rental of secured property.
1146 (g) Accelerate a loan for monetary default, for failure to
1147 provide the benefits of the loans to eligible borrowers, or for
1148 violation of any other restriction placed upon the loan.
1149 (h) Adopt rules for the program and exercise the powers
1150 authorized in this subsection.
1151 (40) To establish subsidiary business entities
1152 ~~corporations~~ for the purpose of taking title to and managing and
1153 disposing of property acquired by the corporation. Such
1154 subsidiary business entities ~~corporations~~ shall be public
1155 business entities ~~corporations~~ wholly owned by the corporation;
1156 shall be entitled to own, mortgage, and sell property on the
1157 same basis as the corporation; and shall be deemed business
1158 entities ~~corporations~~ primarily acting as an agent of the state,

1159 within the meaning of s. 768.28, on the same basis as the
1160 corporation. Any subsidiary business entity created by the
1161 corporation shall be subject to chapters 119, 120, and 286 to
1162 the same extent as the corporation. The subsidiary business
1163 entities shall have authority to make rules necessary to conduct
1164 business and to carry out the purposes of this subsection.
1165 (44) To adopt rules whereby the corporation may
1166 intervene, negotiate terms, or undertake other actions which the
1167 corporation deems necessary to further program goals or avoid
1168 default of a program loan. Such rules must consider fiscal
1169 program goals and the preservation or advancement of affordable
1170 housing for the state.
1171 (45) To establish by rule requirements for periodic
1172 reporting of data, including, but not limited to, financial
1173 data, housing market data, detailed economic and physical
1174 occupancy on multifamily projects, and demographic data on all
1175 housing financed through corporation programs.
1176 (46) In order to administer funds appropriated for
1177 disaster recovery and reconstruction following a declaration of
1178 emergency pursuant to s. 252.36, the corporation may create
1179 programs to repair, rehabilitate, and construct multifamily and
1180 single family dwellings. To administer this subsection, the
1181 corporation may adopt emergency rules pursuant to s. 120.54. The
1182 Legislature finds that emergency rules adopted pursuant to this
1183 section meet the health, safety, and welfare requirement of s.
1184 120.54(4). The Legislature finds that such emergency rulemaking
1185 power is necessary for the preservation of the rights and
1186 welfare of the people in order to provide additional funds to
1187 assist those areas of the state which sustained housing damage
1188 due to the occurrence of a disaster, as defined in s.

1189 252.34(1). Emergency rules adopted under this section are
1190 exempt from s. 120.54(4)(a) and (c).
1191 Section 20. Subsection (1), subsection (3), subsection (5)
1192 and subsection (6) of section 420.5087, Florida Statutes, are
1193 amended to read:
1194 420.5087 State Apartment Incentive Loan Program.--There is
1195 hereby created the State Apartment Incentive Loan Program for
1196 the purpose of providing first, second, or other subordinated
1197 mortgage loans or loan guarantees to sponsors, including for-
1198 profit, nonprofit, and public entities, to provide housing
1199 affordable to very-low-income persons.
1200 (1) Program funds shall be distributed over successive 3-
1201 year periods in a manner that meets the need and demand for
1202 very-low-income housing throughout the state. That need and
1203 demand must be determined by using the most recent statewide
1204 low-income rental housing market studies available at the
1205 beginning of each 3-year period. However, at least 10 percent of
1206 the program funds distributed during a 3-year period must be
1207 allocated to each of the following categories of counties, as
1208 determined by using the population statistics published in the
1209 most recent edition of the Florida Statistical Abstract:
1210 (a) Counties that have a population of 825,000 or more.
1211 ~~than 500,000 people;~~
1212 (b) Counties that have a population of more than ~~between~~
1213 100,000 but less than, 825,000. ~~and 500,000 people; and~~
1214 (c) Counties that have a population of 100,000 or less.
1215
1216 Any increase in funding required to reach the 10-percent minimum
1217 shall be taken from the county category that has the largest
1218 allocation. The corporation shall adopt rules which establish an
1219 equitable process for distributing any portion of the 10 percent

1220 of program funds allocated to the county categories specified in
1221 this subsection which remains unallocated at the end of a 3-year
1222 period. Counties that have a population of 100,000 or less shall
1223 be given preference under these rules.
1224 (3) During the first 6 months of loan or loan guarantee
1225 availability, program funds shall be reserved for use by
1226 sponsors who provide the housing set-aside required in
1227 subsection (2) for the tenant groups designated in this
1228 subsection. The reservation of funds to each of these groups
1229 shall be determined using the most recent statewide very-low-
1230 income rental housing market study available at the time of
1231 publication of each notice of fund availability required by
1232 paragraph (6)(b). The reservation of funds within each notice of
1233 fund availability to the tenant groups in paragraphs (a), (b),
1234 and (d) may not be less than 10 percent of the funds available
1235 at that time. Any increase in funding required to reach the 10-
1236 percent minimum shall be taken from the tenant group that has
1237 the largest reservation. The reservation of funds within each
1238 notice of fund availability to the tenant group in paragraph (c)
1239 may not be less than 5 percent of the funds available at that
1240 time. The tenant groups are:
1241 (a) Commercial fishing workers and farmworkers;
1242 (b) Families;
1243 (c) Persons who are homeless; and
1244 (d) Elderly persons. Ten percent of the amount reserved
1245 for the elderly shall be reserved to provide loans to sponsors
1246 of housing for the elderly for the purpose of making building
1247 preservation, health, or sanitation repairs or improvements
1248 which are required by federal, state, or local regulation or
1249 code, or life safety or security-related repairs or improvements
1250 to such housing. Such a loan may not exceed $750,000 per housing

1251 community for the elderly. In order to receive the loan, the
1252 sponsor of the housing community must make a commitment to match
1253 at least 5 ~~15~~ percent of the loan amount to pay the cost of such
1254 repair or improvement. The corporation shall establish the rate
1255 of interest on the loan, which may not exceed 3 percent, and the
1256 term of the loan, which may not exceed 15 years, however, if the
1257 lien of the corporation's encumbrance is subordinate to the lien
1258 of another mortgagee, then the term may be made coterminous with
1259 the longest term of the superior lien. The term of the loan
1260 shall be established on the basis of a credit analysis of the
1261 applicant. The corporation shall establish, by rule, the
1262 procedure and criteria for receiving, evaluating, and
1263 competitively ranking all applications for loans under this
1264 paragraph. A loan application must include evidence of the
1265 first mortgagee's having reviewed and approved the sponsor's
1266 intent to apply for a loan. A nonprofit organization or sponsor
1267 may not use the proceeds of the loan to pay for administrative
1268 costs, routine maintenance, or new construction.
1269 (5) The amount of the mortgage provided under this
1270 program combined with any other mortgage in a superior position
1271 shall be less than the value of the project without the housing
1272 set-aside required by subsection (2). However, the corporation
1273 may waive this requirement for projects in rural areas or urban
1274 infill areas which have market rate rents that are less than the
1275 allowable rents pursuant to applicable state and federal
1276 guidelines, and for projects which reserve units for extremely
1277 low income families. In no event shall the mortgage provided
1278 under this program combined with any other mortgage in a
1279 superior position exceed total project cost.
1280 (6) On all state apartment incentive loans, except loans
1281 made to housing communities for the elderly to provide for

1282 lifesafety, building preservation, health, sanitation, or
1283 security-related repairs or improvements, the following
1284 provisions shall apply:
1285 (a) The corporation shall establish two interest rates in
1286 accordance with s. 420.507(22)(a)1. and 2.
1287 (b) The corporation shall publish a notice of fund
1288 availability in a publication of general circulation throughout
1289 the state. Such notice shall be published at least 60 days prior
1290 to the application deadline and shall provide notice of the
1291 temporary reservations of funds established in subsection (3).
1292 (c) The corporation shall provide by rule for the
1293 establishment of a review committee composed of the department
1294 and corporation staff and shall establish by rule a scoring
1295 system for evaluation and competitive ranking of applications
1296 submitted in this program, including, but not limited to, the
1297 following criteria:
1298 1. Tenant income and demographic targeting objectives of
1299 the corporation.
1300 2. Targeting objectives of the corporation which will
1301 ensure an equitable distribution of loans between rural and
1302 urban areas.
1303 3. Sponsor's agreement to reserve the units for persons or
1304 families who have incomes below 50 percent of the state or local
1305 median income, whichever is higher, for a time period to exceed
1306 the minimum required by federal law or the provisions of this
1307 part.
1308 4. Sponsor's agreement to reserve more than:
1309 a. Twenty percent of the units in the project for persons
1310 or families who have incomes that do not exceed 50 percent of
1311 the state or local median income, whichever is higher; or

1312 b. Forty percent of the units in the project for persons
1313 or families who have incomes that do not exceed 60 percent of
1314 the state or local median income, whichever is higher, without
1315 requiring a greater amount of the loans as provided in this
1316 section.
1317 5. Provision for tenant counseling.
1318 ~~6. Sponsor's agreement to accept rental assistance~~
1319 ~~certificates or vouchers as payment for rent; however, when~~
1320 ~~certificates or vouchers are accepted as payment for rent on~~
1321 ~~units set aside pursuant to subsection (2), the benefit must be~~
1322 ~~divided between the corporation and the sponsor, as provided by~~
1323 ~~corporation rule.~~
1324 6 ~~7~~. Projects requiring the least amount of a state
1325 apartment incentive loan compared to overall project cost except
1326 that the share of the loan attributable to the extremely low
1327 income units shall be excluded from this requirement.
1328 7 ~~8~~. Local government contributions and local government
1329 comprehensive planning and activities that promote affordable
1330 housing.
1331 8 ~~9~~. Project feasibility.
1332 9 ~~10~~. Economic viability of the project.
1333 10 ~~11~~. Commitment of first mortgage financing.
1334 11 ~~12~~. Sponsor's prior experience.
1335 12 ~~13~~. Sponsor's ability to proceed with construction.
1336 13 ~~14~~. Projects that directly implement or assist welfare-
1337 to-work transitioning.
1338 14. Projects which reserve units for extremely low income
1339 families.
1340 (d) The corporation may reject any and all applications.
1341 (e) The corporation may approve and reject applications
1342 for the purpose of achieving geographic targeting.

1343 (f) The review committee established by corporation rule
1344 pursuant to this subsection shall make recommendations to the
1345 board of directors of the corporation regarding program
1346 participation under the State Apartment Incentive Loan Program.
1347 The corporation board shall make the final ranking and the
1348 decisions regarding which applicants shall become program
1349 participants based on the scores received in the competitive
1350 ranking, further review of applications, and the recommendations
1351 of the review committee. The corporation board shall approve or
1352 reject applications for loans and shall determine the tentative
1353 loan amount available to each applicant selected for
1354 participation in the program. The actual loan amount shall be
1355 determined pursuant to rule adopted pursuant to s.
1356 420.507(22)(f).
1357 (g) The loan term shall be for a period of not more than
1358 15 years; however, if both a program loan and federal low-income
1359 housing tax credits are to be used to assist a project, the
1360 corporation may set the loan term for a period commensurate with
1361 the investment requirements associated with the tax credit
1362 syndication. The term of the loan may also exceed 15 years if
1363 necessary to conform to requirements of the Federal National
1364 Mortgage Association. The corporation may renegotiate and extend
1365 the loan in order to extend the availability of housing for the
1366 targeted population. The term of a loan may not extend beyond
1367 the period for which the sponsor agrees to provide the housing
1368 set-aside required by subsection (2).
1369 (h) The loan shall be subject to sale, transfer, or
1370 refinancing. ~~However, all requirements and conditions of the~~
1371 ~~loan shall remain following sale, transfer, or refinancing.~~ The
1372 sale, transfer, or refinancing of the loan shall be consistent

1373 with fiscal program goals and the preservation or advancement of
1374 affordable housing for the state.
1375 (i) The discrimination provisions of s. 420.516 shall
1376 apply to all loans.
1377 (j) The corporation may require units dedicated for the
1378 elderly.
1379 (k) Rent controls shall not be allowed on any project
1380 except as required in conjunction with the issuance of tax-
1381 exempt bonds or federal low-income housing tax credits.
1382 (l) The proceeds of all loans shall be used for new
1383 construction or substantial rehabilitation which creates
1384 affordable, safe, and sanitary housing units.
1385 (m) Sponsors shall annually certify the adjusted gross
1386 income of all persons or families qualified under subsection (2)
1387 at the time of initial occupancy, who are residing in a project
1388 funded by this program. All persons or families qualified under
1389 subsection (2) may continue to qualify under subsection (2) in a
1390 project funded by this program if the adjusted gross income of
1391 those persons or families at the time of annual recertification
1392 meets the requirements established in s. 142(d)(3)(B) of the
1393 Internal Revenue Code of 1986, as amended. If the annual
1394 recertification of persons or families qualifying under
1395 subsection (2) results in noncompliance with income occupancy
1396 requirements, the next available unit must be rented to a person
1397 or family qualifying under subsection (2) in order to ensure
1398 continuing compliance of the project. The corporation may waive
1399 the annual recertification if 100 percent of the units are set
1400 aside as affordable.
1401 (n) Upon submission and approval of a marketing plan which
1402 demonstrates a good faith effort of a sponsor to rent a unit or
1403 units to persons or families reserved under subsection (3) and

1404 qualified under subsection (2), the sponsor may rent such unit
1405 or units to any person or family qualified under subsection (2)
1406 notwithstanding the reservation.
1407 (o) Sponsors may participate in federal mortgage insurance
1408 programs and must abide by the requirements of those programs.
1409 If a conflict occurs between the requirements of federal
1410 mortgage insurance programs and the requirements of this
1411 section, the requirements of federal mortgage insurance programs
1412 shall take precedence.
1413 Section 21. Subsection (1), subsection (2), subsection
1414 (3), and subsection (4) of section 420.5088, Florida Statutes,
1415 are amended to read:
1416 420.5088 Florida Homeownership Assistance Program.--There
1417 is created the Florida Homeownership Assistance Program for the
1418 purpose of assisting low and moderate-income persons in
1419 purchasing a home as their primary residence by reducing the
1420 cost of the home with below-market construction financing, by
1421 reducing the amount of down payment and closing costs paid by
1422 the borrower to a maximum of 5 percent of the purchase price, or
1423 by reducing the monthly payment to an affordable amount for the
1424 purchaser. Loans shall be made available at an interest rate
1425 that does not exceed 3 percent. The balance of any loan is due
1426 at closing if the property is sold, refinanced or transferred,
1427 unless otherwise approved by the corporation.
1428 (1) For loans made available pursuant to s.
1429 420.507(23)(a)1. or 2.:
1430 (a) The corporation may underwrite and make those mortgage
1431 loans through the program to persons or families who have
1432 incomes that do not exceed 120 ~~80~~ percent of the state or local
1433 median income, whichever is greater, adjusted for family size.

1434 (b) Loans shall be made available for the term of the
1435 first mortgage.
1436 (c) Loans may not exceed ~~are limited to~~ the lesser of 35
1437 ~~25~~ percent of the purchase price of the home or the amount
1438 necessary to enable the purchaser to meet credit underwriting
1439 criteria.
1440 (2) For loans made pursuant to s. 420.507(23)(a)3.:
1441 (a) Availability is limited to nonprofit sponsors or
1442 developers who are selected for program participation pursuant
1443 to this subsection.
1444 (b) Preference must be given ~~to community development~~
1445 ~~corporations as defined in s. 290.033 and~~ to community-based
1446 organizations as defined in s. 420.503.
1447 (c) Priority must be given to projects that have received
1448 state assistance in funding project predevelopment costs.
1449 (d) The benefits of making such loans shall be
1450 contractually provided to the persons or families purchasing
1451 homes financed under this subsection.
1452 (e) At least 30 percent of the units in a project financed
1453 pursuant to this subsection must be sold to persons or families
1454 who have incomes that do not exceed 80 percent of the state or
1455 local median income, whichever amount is greater, adjusted for
1456 family size; and at least another 30 percent of the units in a
1457 project financed pursuant to this subsection must be sold to
1458 persons or families who have incomes that do not exceed 65 ~~50~~
1459 percent of the state or local median income, whichever amount is
1460 greater, adjusted for family size.
1461 (f) The maximum loan amount may not exceed 33 percent of
1462 the total project cost.
1463 (g) A person who purchases a home in a project financed
1464 under this subsection is eligible for a loan authorized by s.

1465 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the
1466 construction loan made pursuant to this subsection. The home
1467 purchaser must meet all the requirements for loan recipients
1468 established pursuant to the applicable loan program.
1469 (h) The corporation shall provide, by rule, for the
1470 establishment of a review committee composed of corporation
1471 staff and shall establish, by rule, a scoring system for
1472 evaluating and ranking applications submitted for construction
1473 loans under this subsection, including, but not limited to, the
1474 following criteria:
1475 1. The affordability of the housing proposed to be built.
1476 2. The direct benefits of the assistance to the persons
1477 who will reside in the proposed housing.
1478 3. The demonstrated capacity of the applicant to carry out
1479 the proposal, including the experience of the development team.
1480 4. The economic feasibility of the proposal.
1481 5. The extent to which the applicant demonstrates
1482 potential cost savings by combining the benefits of different
1483 governmental programs and private initiatives, including the
1484 local government contributions and local government
1485 comprehensive planning and activities that promote affordable
1486 housing.
1487 6. The use of the least amount of program loan funds
1488 compared to overall project cost.
1489 7. The provision of homeownership counseling.
1490 8. The applicant's agreement to exceed the requirements of
1491 paragraph (e).
1492 9. The commitment of first mortgage financing for the
1493 balance of the construction loan and for the permanent loans to
1494 the purchasers of the housing.
1495 10. The applicant's ability to proceed with construction.

1496 11. The targeting objectives of the corporation which will
1497 ensure an equitable distribution of loans between rural and
1498 urban areas.
1499 12. The extent to which the proposal will further the
1500 purposes of this program.
1501 (i) The corporation may reject any and all applications.
1502 (j) The review committee established by corporation rule
1503 pursuant to this subsection shall make recommendations to the
1504 corporation board regarding program participation under this
1505 subsection. The corporation board shall make the final ranking
1506 for participation based on the scores received in the ranking,
1507 further review of the applications, and the recommendations of
1508 the review committee. The corporation board shall approve or
1509 reject applicants for loans and shall determine the tentative
1510 loan amount available to each program participant. The final
1511 loan amount shall be determined pursuant to rule adopted under
1512 s. 420.507(23)(h).
1513 (3) The corporation shall publish a notice of fund
1514 availability in a publication of general circulation throughout
1515 the state at least 60 days prior to the anticipated availability
1516 of funds.
1517 ~~(4) During the first 9 months of fund availability:~~
1518 ~~(a) Sixty percent of the program funds shall be reserved~~
1519 ~~for use by borrowers pursuant to s. 420.507(23)(a)1.;~~
1520 ~~(b) Twenty percent of the program funds shall be reserved~~
1521 ~~for use by borrowers pursuant to s. 420.507(23)(a)2.; and~~
1522 ~~(c) Twenty percent of the program funds shall be reserved~~
1523 ~~for use by borrowers pursuant to s. 420.507(23)(a)3.~~
1524 ~~If the application of these percentages would cause the~~
1525 ~~reservation of program funds under paragraph (a) to be less than~~
1526 ~~$1 million, the reservation for paragraph (a) shall be increased~~

1527 ~~to $1 million or all available funds, whichever amount is less,~~
1528 ~~with the increase to be accomplished by reducing the reservation~~
1529 ~~for paragraph (b) and, if necessary, paragraph (c).~~
1530 Section 22. Florida Statutes s. 420.5095, Florida
1531 Statutes, is created to read:
1532 420.5095 Community Workforce Housing Innovation Program.--
1533 (1) The Community Workforce Housing Innovation Program is
1534 created for the purpose of providing regulatory incentives and
1535 state and local funds to promote local public-private
1536 partnerships and leverage government and private resources to
1537 provide affordable rental and single-family community workforce
1538 housing for essential services personnel with medium incomes in
1539 high-cost and high-growth counties in this state.
1540 (2) The Florida Housing Finance Corporation shall be
1541 responsible for implementing and creating an incentive program
1542 for the Community Workforce Housing Innovation Program by
1543 providing financial and regulatory incentives to the public and
1544 private sectors to develop and finance innovative rental and
1545 home-ownership housing solutions to meet the needs of eligible
1546 Floridians. The corporation shall utilize the State Housing
1547 Initiatives Partnership, governed by ss. 420.907-420.9079 for
1548 assistance with administration of this program.
1549 (3) The corporation shall develop selection criteria by
1550 rule for requests for proposal to provide funding for
1551 multifamily rental or single-family community workforce housing
1552 innovation projects in targeted high-cost and high-growth
1553 counties or areas of critical state concern. The corporation
1554 shall provide incentives for local governments in these counties
1555 to use local affordable housing State Housing Initiatives
1556 Partnership Program funds under s. 420.9072, Florida Statutes,

1557 for meeting the affordable housing needs of persons eligible
1558 under this program.
1559 (4) The Community Workforce Housing Innovation Program
1560 projects shall target:
1561 (a) "High-cost counties" are defined as those counties in
1562 which the median purchase price of a single-family home is above
1563 the state median purchase price of a single-family home, and
1564 areas of critical state concern designated under s. 380.05,
1565 Florida Statutes, for which the Legislature has declared its
1566 intent to provide affordable housing. The Florida Housing
1567 Finance Corporation shall develop the list of high-cost counties
1568 on an annual basis.
1569 (b) "High-growth counties" are those that demonstrate
1570 significantly high rates of growth in K - 12 public school
1571 students and a substantial number of open teaching positions
1572 currently and projected for the next school year. To qualify
1573 under these criteria of high-growth and need to fill public
1574 school teaching positions, a county's school district must have
1575 been in the top 10 school districts in the state for the
1576 fastest student population growth as a percentage rate of
1577 increase for the previous five years, as defined by the
1578 Department of Education. Counties whose school district have the
1579 greatest number of teaching position vacancies shall be
1580 prioritized.
1581 (b) Project partnerships that include substantial
1582 involvement of public sector entities, such as local
1583 municipalities, counties, school districts, special districts,
1584 and other units of local government, and private sector entities
1585 that donate land or other tangible value worth at least 15
1586 percent of the project value.

1587 (c) Persons in households with income levels of up to 150
1588 percent of the area median income, adjusted for household size
1589 in prioritized areas included in this subsection or a higher
1590 adjusted median income percentage in areas of critical state
1591 concern.
1592 (d) Persons in need of affordable housing who are employed
1593 in areas in which they are considered essential services
1594 personnel, such as teachers and educators, police and fire
1595 personnel, and health care personnel, and in other job
1596 categories in which the personnel are defined as essential
1597 services personnel within the annual local State Housing
1598 Initiatives Partnership Program under s. 420.9072, Florida
1599 Statutes.
1600 (e) Innovative projects that include new construction or
1601 rehabilitation of existing housing, mixed-income housing, or
1602 commercial and housing mixed-use elements.
1603 (5) The Community Workforce Housing Innovation Program
1604 shall supplement and not supplant the existing affordable
1605 housing programs funded under chapter 420, Florida Statutes.
1606 (6) On an annual basis, the corporation shall review the
1607 success of the Community Workforce Housing Innovation Program to
1608 determine how the program supports traditional affordable
1609 housing programs as defined in chapter 420, Florida Statutes,
1610 and to ascertain whether the program is meeting the housing
1611 needs of high-cost and high-growth counties. The corporation
1612 shall submit any recommendations for strengthening the program
1613 to the Governor, the Speaker of the House of Representatives,
1614 and the President of the Senate by January 1 of each year.
1615 (7) On an annual basis, the corporation shall review ways
1616 to improve public and private sector incentives and barriers to
1617 affordable and community workforce housing and make any

1618 recommendations necessary to improve these incentives in a
1619 report to the Governor, the Speaker of the House of
1620 Representatives, and the President of the Senate by January 1 of
1621 each year. The corporation may request the assistance of the
1622 Department of Community Affairs or the Affordable Housing Study
1623 Commission in these efforts.
1624 (8)(a) Applicants whose projects are approved or funded by
1625 the Community Workforce Housing Innovation Program as Community
1626 Workforce Housing Innovation Program projects shall be eligible
1627 for the following workforce housing incentives to ensure the
1628 financial viability, successful development, and ongoing
1629 maintenance of these housing developments:
1630 1. The processing of approvals of development orders or
1631 development permits, as defined in s. 163.3164(7) and (8),
1632 Florida Statutes, for affordable housing projects shall be
1633 expedited to a greater degree than other projects.
1634 2. Impact fees shall be reduced by 50 percent or may be
1635 waived entirely by the local governments, or applicants shall be
1636 provided with an alternative method of fee payment.
1637 3. Increased density levels of up to 16 units or higher
1638 density per acre shall be allowed, except in coastal high-hazard
1639 areas, if approved by the local government, for community
1640 workforce housing.
1641 4. The infrastructure capacity in the local comprehensive
1642 plan for affordable housing shall be reserved for these
1643 communities.
1644 5. Additional affordable residential units in residential
1645 zoning districts shall be allowed.
1646 6. Open space and setback requirements for affordable
1647 housing shall be reduced by 50 percent.
1648 7. Zero-lot-line configurations shall be allowed.

1649 8. Traffic concurrency requirements shall be modified or
1650 reduced by up to 25 percent.
1651 9. Local transportation infrastructure funding shall have
1652 priority eligibility from metropolitan planning organizations.
1653 (b) The regulatory incentives for approved Community
1654 Workforce Housing Innovation Program projects shall be
1655 considered acceptable by the respective local government
1656 maintaining jurisdiction over the site of the project, if:
1657 1. The applicant receives a letter of support from the
1658 local government for the project application submitted to the
1659 corporation; or
1660 2. Within 60 days after receipt of the applicant's plan by
1661 the local government, no formal vote is taken by that body to
1662 object to the project.
1663
1664 However, if that local government entity votes not to accept the
1665 Community Workforce Housing Innovation Program project in its
1666 county, the corporation shall remove the application from the
1667 project approval list.
1668 (9) Subject to the availability of funds appropriated by
1669 the Legislature to fund the Community Workforce Housing
1670 Innovation Program, the Florida Housing Finance Corporation
1671 shall have the authority to provide Community Workforce Housing
1672 Innovation Program grants to an applicant for construction or
1673 rehabilitation of rental or single-family community workforce
1674 housing, provided the sponsor of such appropriation:
1675 (a) Sets aside at least 80 percent of the units for
1676 eligible persons whose household income does not exceed 150
1677 percent of the adjusted local median income;
1678 (b) Sets aside at least 50 percent of the units as
1679 prioritized for households whose family members are employed in

1680 areas deemed essential public service, such as education, health
1681 care, and other areas defined by the local community in its
1682 State Housing Initiatives Partnership Program plan. Such
1683 projects shall identify sales and leasing strategies to
1684 accomplish this set-aside priority for essential services
1685 personnel as well as alternative strategies to sell or lease
1686 units to other qualified individuals if essential services
1687 personnel are not immediately available or qualified for the
1688 units;
1689 (c) For rental projects, limits rents to no more than 40
1690 percent of the maximum household income adjusted to unit size;
1691 or
1692 (d) For home ownership, limits the sales price to the
1693 price for which an eligible applicant at 150 percent of the
1694 median income may qualify.
1695 (10) The corporation shall issue a request for proposals
1696 to solicit applications for program approval and grants offered
1697 under this section and shall establish a funding process to
1698 distribute annually appropriated funds under this section. The
1699 corporation may approve a project under this program that does
1700 not require grant funding as long as the project proves it
1701 financial viability. Grant funding shall be based on
1702 demonstrated financial need of the project. The corporation
1703 shall prioritize projects in those high-cost counties with the
1704 highest real estate cost burdens for housing, including those
1705 counties with designated areas of critical state concern and
1706 those counties with the highest median price of single-family
1707 homes. The Corporation shall also approve and fund projects in
1708 one high-growth county. As an annual goal, the Corporation shall
1709 seek to achieve a 70 percent high-cost, 30 percent high-growth
1710 ratio in its approval and funding of projects.

1711 (11) All eligible applications shall:
1712 (a) Demonstrate that the program applicant consists of a
1713 public-private partnership of at least one local government or
1714 special district public entity and one private not-for-profit or
1715 for-profit development partner.
1716 (b) Demonstrate how the applicant will use the regulatory
1717 incentives outlined in subsection (8) of section 1 and include,
1718 if available, any letters of support from the local government
1719 partner for the incentives.
1720 (c) Demonstrate that the applicant possesses title to or
1721 firm site control of land and evidences availability of required
1722 infrastructure.
1723 (d) Provide any research or facts available supporting the
1724 demand and need for rental or home ownership workforce housing
1725 for qualified workforce residents in the county in which the
1726 project is proposed.
1727 (e) Have grants, donations of land, or contributions from
1728 other sources collectively totaling at least 15 percent of the
1729 total development cost. Such grants, donations of land, or
1730 contributions must only be evidenced by a letter of commitment
1731 at the time of application.
1732 (f) Demonstrate accessibility to commercial businesses,
1733 services, and employment opportunities needed to serve the needs
1734 of the residents or include a viable plan to provide
1735 transportation access to those commercial businesses, services,
1736 and jobs.
1737 (g) Demonstrate a marketing and sales plan to ensure that
1738 residents fit the income requirements and workforce employment
1739 demand for essential services.
1740 (h) Provide a viable pro forma financial statement for the
1741 development costs and revenues for the project.

1742 (12) The corporation shall establish a review committee
1743 composed of staff of the corporation and shall establish a
1744 scoring system for evaluation and competitive ranking of
1745 applications submitted to the program.
1746 (13) The corporation shall develop evaluation and ranking
1747 criteria that use the eligibility criteria of subsection (3) and
1748 emphasize the following: innovative planning concepts,
1749 innovative building design, local government participation,
1750 public-private partnerships, the ability to proceed with
1751 construction, the feasibility and economic viability of the
1752 project, the applicant's affordable housing development and
1753 management experience, the ability to meet essential service
1754 personnel needs, a management plan to attract, serve, and keep
1755 eligible workforce tenants and ensure the long-term
1756 affordability of the rental or ownership units, and the quality
1757 of project design.
1758 (14) The corporation shall develop rules and procedures
1759 for the awarding and accountability of Community Workforce
1760 Housing Innovation Program grants and approvals to selected
1761 applicants. Grants may be used with other corporation and
1762 private-sector resources. The proceeds of all grants shall be
1763 used for new construction or substantial rehabilitation that
1764 creates affordable, safe, and sanitary rental or ownership
1765 workforce housing units. The corporation shall expedite the
1766 review, evaluation, and awarding of program grants.
1767 (15) If a default on a grant occurs, the corporation may
1768 foreclose on any mortgage or security interest or commence any
1769 legal action to protect the interest of the corporation and
1770 recover the amount of the grant principal, accrued interest, and
1771 fees. The corporation may acquire real or personal property or
1772 any interest in such property when that acquisition is necessary

1773 or appropriate to protect any grant or sell, transfer, and
1774 convey any such property to a buyer without regard to the
1775 provisions of chapters 253 and 270, Florida Statutes.
1776 (16) The corporation shall develop and implement a
1777 Community Workforce Housing Innovation Program down payment
1778 assistance program with available funds consistent with all the
1779 requisite financial guidelines to meet the needs of eligible
1780 individuals to purchase workforce housing. The corporation shall
1781 encourage local governments to accomplish the same goals through
1782 their housing assistance plans provided in s. 420.9075, Florida
1783 Statutes.
1784 (17)(a) The corporation shall develop recommendations for
1785 increasing the development of innovative affordable home
1786 ownership projects serving very low, low, and moderate income
1787 residents in Florida, which may including expansion of support
1788 for non-profit home builders, such as Habitat for Humanity and
1789 other charitable housing organizations, Public Housing
1790 Authorities, and for profit housing developers. Recommendations
1791 shall assess the value of public-private partnerships, increased
1792 local and state funding for non-profit housing organizations,
1793 and the possible conversion of existing affordable multifamily
1794 rental apartments to affordable home ownership units for
1795 projects in high-cost counties and counties with areas
1796 designated as areas of critical state concern. Recommendations
1797 shall examine how to guarantee long term affordability for home
1798 ownership and an affordable home ownership purchase price
1799 (18) The corporation shall require all program applicants
1800 to obtain and document local public input on the proposed
1801 project. The corporation shall establish criteria for what local
1802 public input the applicants shall be required to obtain.

1803 Section 23. Paragraph (a) of subsection (4) of section
1804 420.9075, Florida Statutes, is amended to read:
1805 420.9075 Local housing assistance plans; partnerships.--
1806 (4) The following criteria apply to awards made to
1807 eligible sponsors or eligible persons for the purpose of
1808 providing eligible housing:
1809 (a) At least 65 percent of the funds made available in
1810 each county and eligible municipality from the local housing
1811 distribution must be reserved for home ownership for eligible
1812 persons <u>with at least one third of those funds going to home</u>
1813 <u>ownership for very low income persons</u>.
1814
1815 If both an award under the local housing assistance plan and
1816 federal low-income housing tax credits are used to assist a
1817 project and there is a conflict between the criteria prescribed
1818 in this subsection and the requirements of s. 42 of the Internal
1819 Revenue Code of 1986, as amended, the county or eligible
1820 municipality may resolve the conflict by giving precedence to
1821 the requirements of s. 42 of the Internal Revenue Code of 1986,
1822 as amended, in lieu of following the criteria prescribed in this
1823 subsection with the exception of paragraphs (a) and (d) of this
1824 subsection.
1825 Section 24. Subsection (4), subsection (5), subsection
1826 (6), subsection (7), subsection (8), subsection (9), subsection
1827 (10), subsection (11), and subsection (12) of section 420.9075,
1828 Florida Statutes, are amended to read:
1829 420.9075 Local housing assistance plans; partnerships.--
1830 (4) The following criteria apply to awards made to eligible
1831 sponsors or eligible persons for the purpose of providing
1832 eligible housing:

1833 (a) At least 65 percent of the funds made available in
1834 each county and eligible municipality from the local housing
1835 distribution must be reserved for home ownership for eligible
1836 persons with at least one third of those funds going to home
1837 ownership for very low income persons.
1838
1839 If both an award under the local housing assistance plan and
1840 federal low-income housing tax credits are used to assist a
1841 project and there is a conflict between the criteria prescribed
1842 in this subsection and the requirements of s. 42 of the Internal
1843 Revenue Code of 1986, as amended, the county or eligible
1844 municipality may resolve the conflict by giving precedence to
1845 the requirements of s. 42 of the Internal Revenue Code of 1986,
1846 as amended, in lieu of following the criteria prescribed in this
1847 subsection with the exception of paragraphs (a) and (d) of this
1848 subsection.
1849 (5) In order to assist in the recruitment and retention of
1850 essential service personnel such as teachers and educators,
1851 police and fire personnel, health care personnel, skilled
1852 building trades personnel and other job categories in which the
1853 personnel are defined as essential services personnel within the
1854 annual local State Housing Initiatives Partnership Program under
1855 s. 420.9072, Florida Statutes as defined in s. 420.5059(4)(d),
1856 the following shall be included in the local housing assistance
1857 plan:
1858 (a) Down payment assistance shall be provided to an
1859 eligible person who meets the following criteria, in addition to
1860 other requirements of the plan. The person:
1861 1. Shall be employed full time in an essential service
1862 occupation or skilled building trade.

1863 2. Shall declare his or her homestead and maintain
1864 residency at his or her homestead.
1865 3. Shall demonstrate a 5-year minimum commitment to
1866 continued employment in an essential service occupation or
1867 skilled building trade within the county of current employment.
1868 (b) Compliance with the eligibility criteria established
1869 under this subsection shall be verified during the life of the
1870 loan by the county or eligible municipality.
1871 (c) The program shall provide down payment assistance in
1872 an amount to be determined by rule, not to exceed 25 percent of
1873 purchase price, if the county or eligible municipality within
1874 which an eligible recipient is employed provides funding through
1875 the State Housing Initiatives Partnership Program to the
1876 eligible recipient under ss. 420.907-420.9079, whether solely or
1877 in conjunction with a local housing finance agency or a private
1878 sector partner.
1879 (d) Any lien on the recipient's property securing the
1880 assistance provided under this subsection shall be released if
1881 the recipient fulfills the 5-year commitment specified in
1882 subparagraph (a)3.
1883 (e) Each county and each eligible municipality is
1884 encouraged to develop an element within its local housing
1885 assistance plan that emphasizes the recruitment and retention of
1886 essential service personnel and persons skilled in the building
1887 trades.
1888 (f) Notwithstanding the distribution formula in s.
1889 420.9073, the corporation is authorized to allocate funds to
1890 implement this subsection and may allocate funds to projects
1891 that are regional or statewide in scope.
1892 (g) The corporation is authorized to make rules to
1893 implement this subsection, including, but not limited to, the

1894 allocation of funds and selection of projects for funding under
1895 this subsection.
1896 (6) ~~(5)~~ Each county or eligible municipality receiving
1897 local housing distribution moneys shall establish and maintain a
1898 local housing assistance trust fund. All moneys of a county or
1899 an eligible municipality received from its share of the local
1900 housing distribution, program income, recaptured funds, and
1901 other funds received or budgeted to implement the local housing
1902 assistance plan shall be deposited into the trust fund; however,
1903 local housing distribution moneys used to match federal HOME
1904 program moneys may be repaid to the HOME program fund if
1905 required by federal law or regulations. Expenditures other than
1906 for the administration and implementation of the local housing
1907 assistance plan may not be made from the fund.
1908 (7) ~~(6)~~ The moneys deposited in the local housing
1909 assistance trust fund shall be used to administer and implement
1910 the local housing assistance plan. The cost of administering the
1911 plan may not exceed 5 percent of the local housing distribution
1912 moneys and program income deposited into the trust fund. A
1913 county or an eligible municipality may not exceed the 5-percent
1914 limitation on administrative costs, unless its governing body
1915 finds, by resolution, that 5 percent of the local housing
1916 distribution plus 5 percent of program income is insufficient to
1917 adequately pay the necessary costs of administering the local
1918 housing assistance plan. The cost of administering the program
1919 may not exceed 10 percent of the local housing distribution plus
1920 5 percent of program income deposited into the trust fund,
1921 except that small counties, as defined in s. 120.52(17), and
1922 eligible municipalities receiving a local housing distribution
1923 of up to $350,000 may use up to 10 percent of program income for
1924 administrative costs.

1925 (8) ~~(7)~~ Pursuant to s. 420.531, the corporation shall
1926 provide technical assistance to local governments regarding the
1927 creation of partnerships, the design of local housing assistance
1928 strategies, the implementation of local housing incentive
1929 strategies, and the provision of support services.
1930 (9) ~~(8)~~ The corporation shall monitor the activities of
1931 local governments to determine compliance with program
1932 requirements and shall collect data on the operation and
1933 achievements of housing partnerships.
1934 (10) ~~(9)~~ Each county or eligible municipality shall submit
1935 to the corporation by September 15 of each year a report of its
1936 affordable housing programs and accomplishments through June 30
1937 immediately preceding submittal of the report. The report shall
1938 be certified as accurate and complete by the local government's
1939 chief elected official or his or her designee. Transmittal of
1940 the annual report by a county's or eligible municipality's chief
1941 elected official, or his or her designee, certifies that the
1942 local housing incentive strategies, or, if applicable, the local
1943 housing incentive plan, have been implemented or are in the
1944 process of being implemented pursuant to the adopted schedule
1945 for implementation. The report must include, but is not limited
1946 to:
1947 (a) The number of households served by income category,
1948 age, family size, and race, and data regarding any special needs
1949 populations such as farmworkers, homeless persons, and the
1950 elderly. Counties shall report this information separately for
1951 households served in the unincorporated area and each
1952 municipality within the county.
1953 (b) The number of units and the average cost of producing
1954 units under each local housing assistance strategy.

1955 (c) The average area purchase price of single-family units
1956 and the amount of rent charged for a rental unit based on unit
1957 size.
1958 (d) By income category, the number of mortgages made, the
1959 average mortgage amount, and the rate of default.
1960 (e) A description of the status of implementation of each
1961 local housing incentive strategy, or if applicable, the local
1962 housing incentive plan as set forth in the local government's
1963 adopted schedule for implementation.
1964 (f) A concise description of the support services that are
1965 available to the residents of affordable housing provided by
1966 local programs.
1967 (g) The sales price or value of housing produced and an
1968 accounting of what percentage was financed by the local housing
1969 distribution, other public moneys, and private resources.
1970 (h) Such other data or affordable housing accomplishments
1971 considered significant by the reporting county or eligible
1972 municipality.
1973 (11) ~~(10)~~ The report shall be made available by the county
1974 or eligible municipality for public inspection and comment prior
1975 to certifying the report and transmitting it to the corporation.
1976 The county or eligible municipality shall provide notice of the
1977 availability of the proposed report and solicit public comment.
1978 The notice must state the public place where a copy of the
1979 proposed report can be obtained by interested persons. Members
1980 of the public may submit written comments on the report to the
1981 county or eligible municipality and the corporation. Written
1982 public comments shall identify the author by name, address, and
1983 interest affected. The county or eligible municipality shall
1984 attach a copy of all such written comments and its responses to
1985 the annual report submitted to the corporation.

1986 (12) ~~(11)~~ The corporation shall review the report of each
1987 county or eligible municipality and any written comments from
1988 the public and include any comments concerning the effectiveness
1989 of local programs in the report required by s. 420.511.
1990 (13) ~~(12)~~(a) If, as a result of the review of the annual
1991 report or public comment and written response from the county or
1992 eligible municipality, or at any other time, the corporation
1993 determines that a county or eligible municipality may have
1994 established a pattern of violation of the criteria for a local
1995 housing assistance plan established under ss. 420.907-420.9079
1996 or that an eligible sponsor or eligible person has violated the
1997 applicable award conditions, the corporation shall report such
1998 pattern of violation of criteria or violation of award
1999 conditions to its compliance monitoring agent and the Executive
2000 Office of the Governor. The corporation's compliance monitoring
2001 agent must determine within 60 days whether the county or
2002 eligible municipality has violated program criteria and shall
2003 issue a written report thereon. If a violation has occurred, the
2004 distribution of program funds to the county or eligible
2005 municipality must be suspended until the violation is corrected.
2006 (b) If, as a result of its review of the annual report,
2007 the corporation determines that a county or eligible
2008 municipality has failed to implement a local housing incentive
2009 strategy, or, if applicable, a local housing incentive plan, it
2010 shall send a notice of termination of the local government's
2011 share of the local housing distribution by certified mail to the
2012 affected county or eligible municipality.
2013 1. The notice must specify a date of termination of the
2014 funding if the affected county or eligible municipality does not
2015 implement the plan or strategy and provide for a local response.
2016 A county or eligible municipality shall respond to the

2017 corporation within 30 days after receipt of the notice of
2018 termination.
2019 2. The corporation shall consider the local response that
2020 extenuating circumstances precluded implementation and grant an
2021 extension to the timeframe for implementation. Such an extension
2022 shall be made in the form of an extension agreement that
2023 provides a timeframe for implementation. The chief elected
2024 official of a county or eligible municipality or his or her
2025 designee shall have the authority to enter into the agreement on
2026 behalf of the local government.
2027 3. If the county or the eligible municipality has not
2028 implemented the incentive strategy or entered into an extension
2029 agreement by the termination date specified in the notice, the
2030 local housing distribution share terminates, and any uncommitted
2031 local housing distribution funds held by the affected county or
2032 eligible municipality in its local housing assistance trust fund
2033 shall be transferred to the Local Government Housing Trust Fund
2034 to the credit of the corporation to administer pursuant to s.
2035 420.9078.
2036 4.a. If the affected local government fails to meet the
2037 timeframes specified in the agreement, the corporation shall
2038 terminate funds. The corporation shall send a notice of
2039 termination of the local government's share of the local housing
2040 distribution by certified mail to the affected local government.
2041 The notice shall specify the termination date, and any
2042 uncommitted funds held by the affected local government shall be
2043 transferred to the Local Government Housing Trust Fund to the
2044 credit of the corporation to administer pursuant to s. 420.9078.
2045 b. If the corporation terminates funds to a county, but an
2046 eligible municipality receiving a local housing distribution
2047 pursuant to an interlocal agreement maintains compliance with

2048 program requirements, the corporation shall thereafter
2049 distribute directly to the participating eligible municipality
2050 its share calculated in the manner provided in s. 420.9072.
2051 c. Any county or eligible municipality whose local
2052 distribution share has been terminated may subsequently elect to
2053 receive directly its local distribution share by adopting the
2054 ordinance, resolution, and local housing assistance plan in the
2055 manner and according to the procedures provided in ss. 420.907-
2056 420.9079.
2057 Section 25. Subsection (6) of section 420.9076, Florida
2058 Statutes, is amended to read:
2059 420.9076 Adoption of affordable housing incentive
2060 strategies; committees.--
2061 (6) Within 90 days after the date of receipt of the local
2062 housing incentive strategies recommendations from the advisory
2063 committee, the governing body of the appointing local government
2064 shall adopt an amendment to its local housing assistance plan to
2065 incorporate the local housing incentive strategies it will
2066 implement within its jurisdiction. The amendment must include,
2067 at a minimum, the local housing incentive strategies as defined
2068 in s. **420.9076(4)(a) through (j)** ~~420.9071(16)~~.
2069 Section 26. Subsection (2) of section 420.9079, Florida
2070 Statutes, is amended to read:
2071 420.9079 Local Government Housing Trust Fund.--
2072 (2) The corporation shall administer the fund exclusively
2073 for the purpose of implementing the programs described in ss.
2074 420.907-420.9078 and this section. With the exception of
2075 monitoring the activities of counties and eligible
2076 municipalities to determine local compliance with program
2077 requirements, the corporation shall not receive appropriations
2078 from the fund for administrative or personnel costs. For the

2079 purpose of implementing the compliance monitoring provisions of
2080 s. 420.9075(8), the corporation may request a maximum of one
2081 quarter of one percent of the annual appropriation ~~$200,000~~ per
2082 state fiscal year. When such funding is appropriated, the
2083 corporation shall deduct the amount appropriated prior to
2084 calculating the local housing distribution pursuant to ss.
2085 420.9072 and 420.9073.
2086 Section 27. Paragraph (c) of subsection (1) and paragraph
2087 (e) of subsection (2) and of section 624.5105, Florida Statutes,
2088 are amended to read:
2089 624.5105 Community contribution tax credit; authorization;
2090 limitations; eligibility and application requirements;
2091 administration; definitions; expiration.--
2092 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--
2093 (c) The total amount of tax credit which may be granted
2094 for all programs approved under this section and ss.
2095 212.08(5)(q) and 220.183 is $10 ~~$12~~ million annually for
2096 projects that provide homeownership opportunities for low-income
2097 or very-low-income households as defined in s. 420.9071(19) and
2098 (28) and $3 million annually for all other projects.
2099 (2) ELIGIBILITY REQUIREMENTS.--
2100 (e)~~1. For the first 6 months of the fiscal year, the~~
2101 ~~Office of Tourism, Trade, and Economic Development shall reserve~~
2102 ~~80 percent of the first $10 million in available annual tax~~
2103 ~~credits, and 70 percent of any available annual tax credits in~~
2104 ~~excess of $10 million, for donations made to eligible sponsors~~
2105 ~~for projects that provide homeownership opportunities for low-~~
2106 ~~income or very-low-income households as defined in s.~~
2107 ~~420.9071(19) and (28). If any such reserved annual tax credits~~
2108 ~~remain after the first 6 months of the fiscal year, the office~~
2109 ~~may approve the balance of these available credits for donations~~

2110 ~~made to eligible sponsors for projects other than those that~~
2111 ~~provide homeownership opportunities for low-income or very-low-~~
2112 ~~income households.~~
2113 ~~2. For the first 6 months of the fiscal year, the office~~
2114 ~~shall reserve 20 percent of the first $10 million in available~~
2115 ~~annual tax credits, and 30 percent of any available annual tax~~
2116 ~~credits in excess of $10 million, for donations made to eligible~~
2117 ~~sponsors for projects other than those that provide~~
2118 ~~homeownership opportunities for low-income or very-low-income~~
2119 ~~households as defined in s. 420.9071(19) and (28). If any~~
2120 ~~reserved annual tax credits remain after the first 6 months of~~
2121 ~~the fiscal year, the office may approve the balance of these~~
2122 ~~available credits for donations made to eligible sponsors for~~
2123 ~~projects that provide homeownership opportunities for low-income~~
2124 ~~or very-low-income households.~~
2125 1.~~3.~~ If, during the first 10 business days of the state
2126 fiscal year, eligible tax credit applications for projects that
2127 provide homeownership opportunities for low-income or very-low-
2128 income households as defined in s. 420.9071(19) and (28) are
2129 received for less than the ~~available~~ annual tax credits
2130 available for those projects ~~reserved under subparagraph 1.~~, the
2131 office shall grant tax credits for those applications and shall
2132 grant remaining tax credits on a first-come, first-served basis
2133 for any subsequent eligible applications received before the end
2134 of the ~~first 6 months of the~~ state fiscal year. If, during the
2135 first 10 business days of the state fiscal year, eligible tax
2136 credit applications for projects that provide homeownership
2137 opportunities for low-income or very-low-income households as
2138 defined in s. 420.9071(19) and (28) are received for more than
2139 the ~~available~~ annual tax credits available for those projects

2140 ~~reserved under subparagraph 1.~~, the office shall grant the tax
2141 credits for those ~~the~~ applications as follows:
2142 a. If tax credit applications submitted for approved
2143 projects of an eligible sponsor do not exceed $200,000 in total,
2144 the credits shall be granted in full if the tax credit
2145 applications are approved~~, subject to subparagraph 1~~.
2146 b. If tax credit applications submitted for approved
2147 projects of an eligible sponsor exceed $200,000 in total, the
2148 amount of tax credits granted under sub-subparagraph a. shall be
2149 subtracted from the amount of available tax credits ~~under~~
2150 ~~subparagraph 1.~~, and the remaining credits shall be granted to
2151 each approved tax credit application on a pro rata basis.
2152 ~~c. If, after the first 6 months of the fiscal year,~~
2153 ~~additional credits become available under subparagraph 2., the~~
2154 ~~office shall grant the tax credits by first granting to those~~
2155 ~~who received a pro rata reduction up to the full amount of their~~
2156 ~~request and, if there are remaining credits, granting credits to~~
2157 ~~those who applied on or after the 11th business day of the state~~
2158 ~~fiscal year on a first-come, first-served basis.~~
2159 2.~~4.~~ If, during the first 10 business days of the state
2160 fiscal year, eligible tax credit applications for projects other
2161 than those that provide homeownership opportunities for low-
2162 income or very-low-income households as defined in s.
2163 420.9071(19) and (28) are received for less than the ~~available~~
2164 annual tax credits available for those projects ~~reserved under~~
2165 ~~subparagraph 2.~~, the office shall grant tax credits for those
2166 applications and shall grant remaining tax credits on a first-
2167 come, first-served basis for any subsequent eligible
2168 applications received before the end of the ~~first 6 months of~~
2169 ~~the~~ state fiscal year. If, during the first 10 business days of
2170 the state fiscal year, eligible tax credit applications for

2171 projects other than those that provide homeownership
2172 opportunities for low-income or very-low-income households as
2173 defined in s. 420.9071(19) and (28) are received for more than
2174 the ~~available~~ annual tax credits available for those projects
2175 ~~reserved under subparagraph 2.~~, the office shall grant the tax
2176 credits for those ~~the~~ applications on a pro rata basis. ~~If,~~
2177 ~~after the first 6 months of the fiscal year, additional credits~~
2178 ~~become available under subparagraph 1., the office shall grant~~
2179 ~~the tax credits by first granting to those who received a pro~~
2180 ~~rata reduction up to the full amount of their request and, if~~
2181 ~~there are remaining credits, granting credits to those who~~
2182 ~~applied on or after the 11th business day of the state fiscal~~
2183 ~~year on a first-come, first-served basis.~~
2184 Section 28. Paragraph (b) of subsection (9) of section
2185 1001.42, Florida Statutes, is amended to read:
2186 1001.42 Powers and duties of district school board.--The
2187 district school board, acting as a board, shall exercise all
2188 powers and perform all duties listed below:
2189 (9) SCHOOL PLANT.--Approve plans for locating, planning,
2190 constructing, sanitating, insuring, maintaining, protecting, and
2191 condemning school property as prescribed in chapter 1013 and as
2192 follows:
2193 (b) Sites, buildings, and equipment.--
2194 1. Select and purchase school sites, playgrounds, and
2195 recreational areas located at centers at which schools are to be
2196 constructed, of adequate size to meet the needs of projected
2197 students to be accommodated.
2198 2. Approve the proposed purchase of any site, playground,
2199 or recreational area for which district funds are to be used.
2200 3. Expand existing sites.
2201 4. Rent buildings when necessary.

2202 5. Enter into leases or lease-purchase arrangements, in
2203 accordance with the requirements and conditions provided in s.
2204 1013.15(2), with private individuals or corporations for the
2205 rental of necessary grounds and educational facilities for
2206 school purposes or of educational facilities to be erected for
2207 school purposes. Current or other funds authorized by law may be
2208 used to make payments under a lease-purchase agreement.
2209 Notwithstanding any other statutes, if the rental is to be paid
2210 from funds received from ad valorem taxation and the agreement
2211 is for a period greater than 12 months, an approving referendum
2212 must be held. The provisions of such contracts, including
2213 building plans, shall be subject to approval by the Department
2214 of Education, and no such contract shall be entered into without
2215 such approval. As used in this section, "educational facilities"
2216 means the buildings and equipment that are built, installed, or
2217 established to serve educational purposes and that may lawfully
2218 be used. The State Board of Education may adopt such rules as
2219 are necessary to implement these provisions.
2220 6. Provide for the proper supervision of construction.
2221 7. Make or contract for additions, alterations, and
2222 repairs on buildings and other school properties.
2223 8. Ensure that all plans and specifications for buildings
2224 provide adequately for the safety and well-being of students, as
2225 well as for economy of construction.
2226 9. Provide affordable housing for teachers an other
2227 instructional personnel independently or in conjunction with
2228 other agencies as described in s. 1001.43(5).
2229 Section 29. The sum of $20 million is appropriated from
2230 the State Housing Trust Fund to the Florida Housing Finance
2231 Corporation for the 2006-2007 fiscal year to provide funds to
2232 teachers eligible for affordable housing pursuant to s. 420.5088

2233 or s. 420.5089, Florida Statutes, and to assist in teacher
2234 retention and recruitment as a response to the state's teacher
2235 shortage.
2236 Section 30. The Florida Housing Finance Corporation may
2237 adopt rules pursuant to ss. 120.536(1) and 120.54, Florida
2238 Statutes, as necessary to implement the provisions of ~~section 6~~
2239 ~~of~~ this act.
2240 Section 31. There is hereby appropriated from the Local
2241 Government Housing Trust Fund the sum of thirty-two million
2242 dollars, the the Florida Housing Finance Corporation, to assist
2243 in production of housing units for extremely low income persons.
2244 Section 32. Except as otherwise expressly provided in this
2245 act, this act shall take effect July 1, 2006.
2246
2247
2248 ========== T I T L E A M E N D M E N T ==========
2249 Remove the entire title and insert:
2250 An act relating to affordable housing; creating s.
2251 125.379, F.S.; providing for disposition of county
2252 property for affordable housing; amending s.
2253 163.3187(1)(c), F.S.; deleting a requirement; creating s.
2254 166.0451, F.S.; providing for disposition of municipal
2255 property for affordable housing; amending s. 189.4155,
2256 F.S.; authorizing independent special districts to provide
2257 for employee housing assistance; amending 191.006, F.S.;
2258 amends powers of independent special districts; amends
2259 193.017, F.S.; authorizes the Florida Housing Finance
2260 Corporation and the Department of Revenue to annually set
2261 the cap rate used for assessing just valuation of
2262 affordable housing properties; amending s. 196.1978, F.S.;
2263 providing for an affordable housing ad valorem property

2264 exemption; creating s. 196.1980, F.S.; creates an
2265 affordable housing ad valorem property exemption; amending
2266 s. 201.15, F.S.; removing a cap on the State Housing Trust
2267 Fund; amending s. 212.08, F.S.; lowering the amount of
2268 total tax credits available for the provision of housing
2269 for low and very low income individuals; amending s.
2270 220.183, F.S.; providing authorization to grant community
2271 contribution tax credits; amending s. 253.034, F.S.;
2272 providing for the disposition of state lands for
2273 affordable housing; amending s. 295.16, F.S.; expanding
2274 the disabled veteran exemption from certain license and
2275 permit fees; amending s. 380.06, F.S.; providing a greater
2276 substantial deviation threshold for the provision of
2277 affordable housing in a development of regional impact;
2278 amending s. 380.0651, F.S.; providing a statewide
2279 guidelines and standards bonus for the provision of
2280 affordable housing; amending s. 420.0004, F.S.; providing
2281 definition; repealing s. 420.37, F.S.; amending s.
2282 420.503, F.S.; expanding the definition of "farmworker"
2283 and authorizing the Florida Housing Finance Corporation
2284 rulemaking; amending s. 420.507, F.S.; expanding the
2285 powers fo the Florida Housing Finance Corporation;
2286 amending s. 420.5087, F.S.; increasing the population
2287 criteria for the State Apartment Incentive Loan Program;
2288 revising criteria for loans; amending s. 420.5088, F.S.;
2289 expands the scope of the Florida Homeownership Assistance
2290 Program; creating s. 420.5095, F.S.; creating the
2291 Community Workforce Housing Innovation Program; amending
2292 s. 420.9075, F.S.; providing a percentage of funds for
2293 homeownership for very low income individuals; providing
2294 components to be included in the local housing assistance

2295 plan; amending 420.9076, F.S.; adding a cross-reference;
2296 adjusting the maximum appropriation applicable to the
2297 Florida Housing Finance Corporation; amending s. 624.5105,
2298 F.S.; increasing the amount of available tax credits
2299 against the sales tax, corporate income tax, and insurance
2300 premium tax, respectively, for projects under the
2301 community contribution tax credit program and providing
2302 separate annual limitations for certain projects; revising
2303 requirements and procedures for the Office of Tourism,
2304 Trade, and Economic Development in granting tax credits
2305 under the program; amending s. 1001.42, F.S.; providing
2306 authority for school boards to provide affordable housing
2307 for teachers and instructional personnel; providing
2308 appropriations; providing for effective dates.

Bill No. **HB** 1363

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment 1 to Strike-all Amendment by Representative Davis**
5 **(with directory and title amendments)**
6 Remove line(s) 1732-1736 and insert:
7 (f) When ownership of the land or property utilized for
8 development in conjunction with the Community Workforce Housing
9 Innovation Program grant is to be held by any public sector
10 entity, as described in this section, the applicant may choose
11 to use a nonprofit or public entity to manage the resulting
12 housing program. The applicant must demonstrate that the
13 management entity:
14 1. Have experience and proficiency in the management of
15 affordable housing programs; and
16 2. Have regularly conducted independent audits; and
17 3. Have a publicly appointed oversight board of directors
18 or commissioners; and
19 4. Have experience in the provision of resident programs
20 and services, such as child care, transportation, and job
21 training.
22
23

Bill No. **HB** 1363

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment 2 to Strike-all Amendment by Representative Davis**
5 Remove line(s) 327-358 and insert:
6 196.1980 "The Manny Diaz Affordable Housing Property Tax
7 Relief Initiative" .--For the purpose of assessing just
8 valuation of affordable housing properties serving persons with
9 income limits defined as low, moderate, and very low, as
10 specified in s. 420.0004(9), (10), and (14), the actual rental
11 income from rent-restricted units in such a property shall be
12 recognized by the property appraiser for assessment purposes,
13 and an income approach shall be used for assessment of the rents
14 for the following properties:
15 (1) property that is funded by the United States
16 Department of Housing and Urban Development under s. 8 of the
17 United States Housing Act of 1937, that is used to provide
18 affordable housing serving eligible persons as defined by s.
19 159.603(7), and elderly and very-low-income persons as defined
20 by s. 420.0004(7) and (14), and that has undergone financial
21 restructuring as provided in s. 501, Title V, Subtitle A of the
22 Multifamily Assisted Housing Reform and Affordability Act of
23 1997;

24 (2) multifamily, farmworker, or elderly rental properties
25 that are funded by the Florida Housing Finance Corporation under
26 ss. 420.5087 and 420.5089 and the State Housing Initatives
27 Partnership Program under ss. 420.9072 and 420.9075, s. 42 of
28 the Internal Revenue Code; the HOME Investment Partnership
29 Program under the Cranston-Gonzalez National Affordable Housing
30 Act, 42 U.S.C. s.12741 et seq.; or the Federal Home Loan Banks
31 Affordable Housing Program established pursuant to the Financial
32 Institutions Reform, Recovery and Enforcement Act of 1989,
33 Public Law 101-73; or
34 (3) multi-family residential rental properties of ten (10)
35 or more units that is certified by the local housing agency as
36 having at least ninety-five percent (95%) of it's units
37 providing affordable housing to very-low, low, and moderate
38 income persons as defined by s. 420.0004(9), (0) and (14).
39
40
41

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GM 06-01 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee		Grayson	Grayson
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB GM-06-01 is the glitch bill for CS/CS/CS SB 360 (2005), ch. 2005-290, L.O.F., the Act, relating to infrastructure planning and funding. The PCB:

- Conforms terminology to the phrase "proportionate fair-share mitigation."
- Corrects cross-references.
- Corrects, adjusts, or readdresses a number of funding issues as follows:
  - Non-recurring Strategic Intermodal System (SIS) Appropriation.
  - State Infrastructure Bank non-recurring transfer.
  - Classrooms for Kids appropriations recurring and non-recurring appropriations.
  - High Growth District Capital Outlay Assistance Grant Program recurring appropriation.
  - Century Commission for a Sustainable Florida recurring appropriation.
- Merges language into one provision relating to the public schools interlocal agreement.
- Provides that the "under actual-construction" requirement of transportation facility concurrency is met when construction funding needed is provided in the first 3 years of the Department of Transportation's (DOT) work plan.
- Requires DOT to publish and distribute, after public workshops, policy guidelines to assist local governments in planning to assess and mitigate impacts of proposed concurrency management areas.
- Provides a consequence for failure to timely adopt the local government proportionate fair-share mitigation methodology and to include it into its transportation concurrency management plan.
- Requires DOT to concur or withhold its concurrence, within 30 days, with the local government's plan for mitigation of impacts to the SIS from proposed transportation exception areas.
- Creates appropriations.

The PCB corrects and creates appropriations.

The PCB has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

PCB GM-06-01 addresses inadvertent errors and other glitches contained in ch. 2005-290, L.O.F., the growth management act of the 2005 Legislative Session.

Background

Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (CS/CS/CS SB 360), the Act, relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session. As a result, the Act contains a number of matters that may require correction or clarification.

Effect of Proposed Changes

Terminology for Proportionate Share

As outlined in the table below, the Act utilizes seven difference terms to refer to the concept of "proportionate fair-share mitigation." The Florida Department of Transportation utilized the phrase "proportionate fair-share mitigation" in their development of the model ordinance required in s. 163.3180(16(a), F.S., as a result of the Act. That phrase appears to best represent the concepts embodied in the Act.

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Cross-references

The Act contains a number of cross-references that are inaccurate and should be corrected as outlined below.

- Correction: In s. 163.3177(13)(c)4, F.S., the cross-reference to "subsection (2)" should be "subsection (14)".

  Explanation: The section addresses the topics which a local government must discuss as part of the workshops and public meetings for the development of a community vision. Specifically, this reference is to the designation of an urban service boundary, which is referred to in subsection (14), and not subsection (2).

- Correction: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6) should be "163.31777."

  Explanation: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements; and should rather refer to the entire section itself, s. 163.31777, F.S.

- Correction: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32) should be "s. 163.3164(32)."

  Explanation: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of "financially feasible" which is found at s. 163.3164(32), F.S.

- Correction: In s. 163.3184(17), F.S., the citation to s. 163.31773(13) should be "s. 163.3177(13)."

  Explanation: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

- Correction: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) should be "s. 163.3180(9)."

  Explanation: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9) relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), relates to long-term transportation and school concurrency management systems.

Funding Issues

The Act contains a number of appropriations and other funding matters that either do not represent the intent of the House of Representatives or otherwise need to be corrected, adjusted, or readdressed, as outlined below.

- Transportation Funding

  - Non-recurring Strategic Intermodal System (SIS) Appropriation - The Act appropriates $200 million for the 2005-2006 fiscal year to fund projects on the Strategic Intermodal System. The intended funding level was $175 million non-recurring to correspond with a one-time $175 million transfer. The bill makes this correction.

- SIB non-recurring transfer – The Act contains language relating to a recurring appropriation for State Infrastructure Bank (SIB) in addition to $100M non-recurring for SIB appropriated correctly for FY 2005-2006. The bill deletes that language found at s. 339.55(10), F.S.

- Education Funding
  - Classrooms for Kids appropriations – The Act contains a recurring appropriation for the Classrooms for Kids Program in the amount of $41.75 million. The Act also contains a $75 million dollar recurring transfer. The bill corrects the recurring appropriation to the intended level of $75 million. Additionally, the bill appropriates the nonrecurring sum of $33.35 million to account for the error in the FY 2005-2006 appropriation.

  - High Growth District Capital Outlay Assistance Grant Program - The Act contains a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program. The Governor vetoed this appropriation. The bill reappropriates the amount to support the grant program.

- Century Commission for a Sustainable Florida

  - Recurring appropriation - The Act contains both a non-recurring appropriation for FY 2005-2006 and a recurring transfer and appropriation of $250,000 for the Century Commission for a Sustainable Florida. The Governor vetoed the recurring appropriation. The bill reappropriates the recurring funding for this commission.

Public Schools Interlocal Agreement

The bill amends several sections of existing law to merge the requirements for the public schools interlocal agreement into s. 163.31777, F.S. This was undertaken in an effort to provide a single statutory source for these requirements. Specifically, requirements currently existing in ss. 163.3180(13)(g), 1013.33(2) and (3), F.S., are combined and revised into the s. 163.31777, F.S.

Concurrency

Transportation Facilities: The bill provides that if the construction funding needed for transportation facilities is provided in the first 3 years of the Department of Transportation's (DOT) work program, then the "under-actual-construction" requirement of s. 163.3180(2)(c), F.S., is satisfied.

Impacts to the Strategic Intermodal System

Transportation Concurrency Exception Areas: The bill provides that DOT must publish and distribute, after publicly noticed workshops, policy guidelines containing criteria and options to assist local government in planning to assess and mitigate impacts of a proposed concurrency exception area as described in ss. 163.3180(5)(f) and (7), F.S.

Required Adoption of a Proportionate Fair-Share Mitigation Methodology and Transportation Concurrency Management System

The bill provides a consequence for the failure of local government to timely adopt a methodology for assessing proportionate fair-share mitigation; and for failure to timely include its methodology into its transportation concurrency management system. The consequence provided is the inability to impose a transportation impact fee.

FDOT Comments on Proposed Transportation Concurrency Exception Areas

The Act provides that a local government proposing a transportation concurrency exception area must confer with the DOT regarding impacts to, and mitigation of impacts to, Strategic Intermodal System

(SIS) facilities. The bill provides that the DOT must concur or withhold its concurrence with the mitigation of development impacts to facilities on the SIS within 30 days of the date of submission.

C. SECTION DIRECTORY:

Section 1 - Amends s. 163.3164(32), F.S., correcting terminology.

Section 2 – Amends s. 163.31777(13)(c), F.S., correcting cross-reference.

Section 3 – Amends ss. 163.31777(1) – (4), F.S., relating to public schools interlocal agreements.

Section 4 – Amends ss. 163.3180(2)(f); (5); (7); (13)(e), (f), (g) and (h); (16)((a), (b), (c), (e), and (f), F.S., relating to concurrency.

Section 5 – Amends s. 163.3184(17), F.S., relating to adoption and amendment of comprehensive plans.

Section 6 – Amends s. 339.2819(4)(a), F.S., relating to the Transportation Regional Incentive Program.

Section 7 – Amends s. 339.55, F.S., relating to the state-funded infrastructure bank; and correcting an appropriations error.

Section 8 – Amends ss. 380.06(24)(l), (m) and (n), F.S., relating developments of regional impact; correcting terminology.

Section 9 – Amends ss. 1013.33(2), (3), and (12), F.S., relating to the coordination of school planning with local governments.

Section 10 – Amends s. 1013.65(2)(a), F.S., relating to the Public Education Capital Outlay and Debt Service Trust Fund; correcting an appropriation for the Classrooms for Kids Program.

Section 11 – Amends s. (2)(a) of s. 27 of ch. 2005-290, L.O.F., relating to appropriations.

Section 12 – Creates appropriations.

Section 13 - 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 an impact on state revenues.

2. Expenditures:

   The bill contains appropriations as follows

   - Corrects non-recurring SIS appropriation from $200 million to $175 million.
   - Deletes s. 339.55(10), F.S., re recurring SIB appropriation.
   - Corrects the recurring Classroom for Kids appropriation from $41.75 to $75 million.
   - Creates a nonrecurring $33.35 million appropriation for Classrooms for Kids.
   - Creates a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program.

- Creates a recurring $250,000 appropriation for the Century Commission for a Sustainable Florida.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill provides the potential for some local governments to benefit from appropriations to both the Classrooms for Kids Program and the High Growth County District Capital Outlay Assistance Program.

2. Expenditures:

Indeterminate. While the bill strengthens certain timing requirements for local government planning related activities, the requirement to undertake those activities exists in current law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill both strengthens the timing requirements for certain local government actions and appropriates funding which provides the potential for some local government benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

D. FISCAL COMMENTS:

Indeterminate at this time.

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:

The bill does not appear to raise any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill contains no rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3164, F.S.; revising a definition; amending s.
4 163.3177, F.S.; correcting a cross reference; amending s.
5 163.31777, F.S.; revising requirements and procedures for
6 public schools interlocal agreements; amending s.
7 163.3180, F.S.; revising concurrency requirements and
8 procedures; amending ss. 163.3184, and 339.2819, F.S.;
9 correcting cross-references; amending s. 339.55, F.S.;
10 deleting an annual appropriation from the State
11 Transportation Trust Fund for State Infrastructure Bank
12 purposes; amending s. 380.06, F.S.; revising certain
13 statutory exemption provisions for developments of
14 regional impact; amending s. 1013.33, F.S.; revising
15 requirement and procedures for coordination of planning
16 with local governing bodies; amending s. 1013.65, F.S.;
17 revising an appropriation from the Public Education
18 Capital Outlay and Debt Service Trust Fund to the
19 Classroom for Kids Program; amending s. 27, ch. 2005-290,
20 Laws of Florida; revising an appropriation from the State
21 Transportation Trust Fund for Florida Strategic Intermodal
22 System purposes; providing appropriations; providing an
23 effective date.
24
25 Be It Enacted by the Legislature of the State of Florida:
26
27 Section 1. Subsection (32) of section 163.3164, Florida
28 Statutes, is amended to read:

29 163.3164 Local Government Comprehensive Planning and Land
30 Development Regulation Act; definitions.--As used in this act:
31 (32) "Financial feasibility" means that sufficient revenues
32 are currently available or will be available from committed
33 funding sources for the first 3 years, or will be available from
34 committed or planned funding sources for years 4 and 5, of a 5-
35 year capital improvement schedule for financing capital
36 improvements, such as ad valorem taxes, bonds, state and federal
37 funds, tax revenues, impact fees, and developer contributions,
38 which are adequate to fund the projected costs of the capital
39 improvements identified in the comprehensive plan necessary to
40 ensure that adopted level-of-service standards are achieved and
41 maintained within the period covered by the 5-year schedule of
42 capital improvements. The requirement that level-of-service
43 standards be achieved and maintained shall not apply if the
44 proportionate fair-share mitigation ~~proportionate-share~~ process
45 set forth in s. 163.3180(12) and (16) is used.
46 Section 2. Paragraph (c) of subsection (13) of section
47 163.3177, Florida Statutes, is amended to read:
48 163.3177 Required and optional elements of comprehensive
49 plan; studies and surveys.--
50 (13) Local governments are encouraged to develop a
51 community vision that provides for sustainable growth, recognizes
52 its fiscal constraints, and protects its natural resources. At
53 the request of a local government, the applicable regional
54 planning council shall provide assistance in the development of a
55 community vision.

56 (c) As part of the workshops and public meetings, the local
57 government must discuss strategies for addressing the topics
58 discussed under paragraph (b), including:
59 1. Strategies to preserve open space and environmentally
60 sensitive lands, and to encourage a healthy agricultural economy,
61 including innovative planning and development strategies, such as
62 the transfer of development rights;
63 2. Incentives for mixed-use development, including
64 increased height and intensity standards for buildings that
65 provide residential use in combination with office or commercial
66 space;
67 3. Incentives for workforce housing;
68 4. Designation of an urban service boundary pursuant to
69 subsection (14) ~~(2)~~; and
70 5. Strategies to provide mobility within the community and
71 to protect the Strategic Intermodal System, including the
72 development of a transportation corridor management plan under s.
73 337.273.
74 Section 3. Subsections (1) through (4) of section
75 163.31777, Florida Statutes, are amended to read:
76 163.31777 Public schools interlocal agreement.--
77 (1)(a) The district school board, county, and nonexempt
78 municipalities located within the geographic area of a school
79 district shall enter into an interlocal agreement ~~with the~~
80 ~~district school board~~ which jointly establishes the specific ways
81 in which the plans and processes of the district school board and
82 the local governments are to be coordinated. ~~The interlocal~~
83 ~~agreements shall be submitted to the state land planning agency~~
84 ~~and the Office of Educational Facilities and the SMART Schools~~

85 ~~Clearinghouse in accordance with a schedule published by the~~
86 ~~state land planning agency.~~
87 ~~(b) The schedule must establish staggered due dates for~~
88 ~~submission of interlocal agreements that are executed by both the~~
89 ~~local government and the district school board, commencing on~~
90 ~~March 1, 2003, and concluding by December 1, 2004, and must set~~
91 ~~the same date for all governmental entities within a school~~
92 ~~district. However, if the county where the school district is~~
93 ~~located contains more than 20 municipalities, the state land~~
94 ~~planning agency may establish staggered due dates for the~~
95 ~~submission of interlocal agreements by these municipalities. The~~
96 ~~schedule must begin with those areas where both the number of~~
97 ~~districtwide capital-outlay full-time-equivalent students equals~~
98 ~~80 percent or more of the current year's school capacity and the~~
99 ~~projected 5-year student growth is 1,000 or greater, or where the~~
100 ~~projected 5-year student growth rate is 10 percent or greater.~~
101 (b) ~~(c)~~ If the student population has declined over the 5-
102 year period preceding the due date for submittal of an interlocal
103 agreement by the local government and the district school board,
104 the local government and the district school board may petition
105 the state land planning agency for a waiver of one or more
106 requirements of subsection (2). The waiver must be granted if the
107 procedures called for in subsection (2) are unnecessary because
108 of the school district's declining school age population,
109 considering the district's 5-year facilities work program
110 prepared pursuant to s. 1013.35. The state land planning agency
111 may modify or revoke the waiver upon a finding that the
112 conditions upon which the waiver was granted no longer exist. The
113 district school board and local governments must submit an

114 interlocal agreement within 1 year after notification by the
115 state land planning agency that the conditions for a waiver no
116 longer exist.
117 (c) ~~(d) Interlocal agreements between local governments and~~
118 ~~district school boards adopted pursuant to s. 163.3177 before the~~
119 ~~effective date of this section must be updated and executed~~
120 ~~pursuant to the requirements of this section, if necessary.~~
121 ~~Amendments to interlocal agreements adopted pursuant to this~~
122 ~~section must be submitted to the state land planning agency~~
123 ~~within 30 days after execution by the parties for review~~
124 ~~consistent with this section.~~ Local governments and the district
125 school board in each school district are encouraged to adopt a
126 single updated interlocal agreement to which all join as parties.
127 The state land planning agency shall assemble and make available
128 model interlocal agreements meeting the requirements of this
129 section and notify local governments and, jointly with the
130 Department of Education, the district school boards of the
131 requirements of this section, the dates for compliance, and the
132 sanctions for noncompliance. The state land planning agency shall
133 be available to informally review proposed interlocal agreements.
134 If the state land planning agency has not received a proposed
135 interlocal agreement for informal review, the state land planning
136 agency shall, at least 60 days before the deadline for submission
137 of the executed agreement, renotify the local government and the
138 district school board of the upcoming deadline and the potential
139 for sanctions.
140 (2) The interlocal agreement must acknowledge the school
141 board's constitutional and statutory obligations to provide a
142 uniform system of free public schools on a countywide basis and

143 the land use authority of local governments, including the
144 authority to approve or deny comprehensive plan amendments and
145 development orders. ~~At a minimum,~~ The interlocal agreement must
146 ~~address interlocal-agreement requirements in s. 163.3180(13)(g),~~
147 ~~except for exempt local governments as provided in s.~~
148 ~~163.3177(12), and must~~ address the following issues:
149 (a) Mechanisms for coordinating the development, adoption,
150 and amendment of each local government's public school facilities
151 element with each other local government that is a party to the
152 agreements and the plans of the school board to ensure a uniform
153 districtwide school concurrency system.
154 (b) A process for developing siting criteria that
155 encourages the location of public schools proximate to urban
156 residential areas to the extent possible and seeks to collocate
157 schools with other public facilities, including, but not limited
158 to, parks, libraries, and community centers to the extent
159 possible.
160 (c) Uniform, districtwide, level-of-service standards for
161 public schools of the same type and a process for modifying
162 adopted levels-of-service standards.
163 (d) A process for establishing a financially feasible
164 public school capital facilities program and a process and
165 schedule for incorporation of the public school capital
166 facilities program into the local government comprehensive plans
167 on an annual basis.
168 (e) If school concurrency is to be applied on a less than
169 districtwide basis in the form of concurrency service areas,
170 criteria and standards for the establishment and modification of
171 school concurrency service areas. The agreement must also

172 establish a process and schedule for the mandatory incorporation
173 of the school concurrency service areas and the criteria and
174 standards for establishment of the service areas into the local
175 government comprehensive plans. The agreement must ensure maximum
176 use of school capacity, taking into account transportation costs
177 and court-approved desegregation plans, and other applicable
178 factors.
179 (f) A uniform districtwide procedure for implementing
180 school concurrency that provides for:
181 1. Evaluation of development applications for compliance
182 with school concurrency requirements, including, but not limited
183 to, information provided by the school board on affected schools.
184 2. Monitoring and evaluation of the school concurrency
185 system.
186 (g) A process and uniform methodology for determining
187 proportionate fair-share mitigation pursuant to s. 380.06.
188 (h) ~~(a)~~ A process by which each local government and the
189 district school board agree and base their plans on consistent
190 projections of the amount, type, and distribution of population
191 growth and student enrollment. The geographic distribution of
192 jurisdiction-wide growth forecasts is a major objective of the
193 process.
194 (i) ~~(b)~~ A process to coordinate and share information
195 relating to existing and planned public school facilities,
196 including school renovations and closures, and local government
197 plans for development and redevelopment.
198 (j) ~~(c)~~ Participation by affected local governments with the
199 district school board in the process of evaluating potential
200 school closures, significant renovations to existing schools, and

201 new school site selection before land acquisition. Local
202 governments shall advise the district school board as to the
203 consistency of the proposed closure, renovation, or new site with
204 the local comprehensive plan, including appropriate circumstances
205 and criteria under which a district school board may request an
206 amendment to the comprehensive plan for school siting.
207 (k) ~~(d)~~ A process for determining the need for and timing of
208 onsite and offsite improvements to support new, proposed
209 expansion, or redevelopment of existing schools. The process must
210 address identification of the party or parties responsible for
211 the improvements.
212 ~~(e) A process for the school board to inform the local~~
213 ~~government regarding the effect of comprehensive plan amendments~~
214 ~~on school capacity. The capacity reporting must be consistent~~
215 ~~with laws and rules relating to measurement of school facility~~
216 ~~capacity and must also identify how the district school board~~
217 ~~will meet the public school demand based on the facilities work~~
218 ~~program adopted pursuant to s. 1013.35.~~
219 (l) ~~(f)~~ Participation of the local governments in the
220 preparation of the annual update to the district school board's
221 5-year district facilities work program and educational plant
222 survey prepared pursuant to s. 1013.35.
223 (m) ~~(g)~~ A process for determining where and how joint use of
224 either school board or local government facilities can be shared
225 for mutual benefit and efficiency.
226 (n) ~~(h)~~ A procedure for the resolution of disputes between
227 the district school board and local governments, which may
228 include the dispute resolution processes contained in chapters
229 164 and 186.

230 (o) ~~(i)~~ An oversight process, including an opportunity for
231 public participation, for the implementation of the interlocal
232 agreement.
233 (p) A process for development of a public school facilities
234 element pursuant to s. 163.3177(12).
235 (q) Provisions for siting and modification or enhancements
236 to existing school facilities so as to encourage urban infill and
237 redevelopment.
238 (r) A process for the use and conversion of historic school
239 facilities that are no longer suitable for educational purposes,
240 as determined by the district school board.
241 (s) A process for informing the local government regarding
242 the effect of comprehensive plan amendments and rezonings on
243 school capacity. The capacity reporting must be consistent with
244 laws and rules relating to measurement of school facility
245 capacity and must also identify how the district school board
246 will meet the public school demand based on the facilities work
247 program adopted pursuant to s. 1013.35.
248 (t) A process to ensure an opportunity for the school board
249 to review and comment on the effect of comprehensive plan
250 amendments and rezonings on the public school facilities plan.
251
252 For those local governments that receive a waiver pursuant to s.
253 163.3177(1), the interlocal agreement shall not include the
254 issues provided for in paragraphs (a), (c), (d), (e), (f), (g),
255 and (p). For counties or municipalities that do not have a public
256 school interlocal agreement or public school facility element,
257 the assessment shall determine whether the local government
258 continues to meet the criteria of s. 163.3177(12). If a county or

259 municipality determines that it no longer meets the criteria, the
260 county or municipality must adopt appropriate school concurrency
261 goals, objectives, and policies in its plan amendments pursuant
262 to the requirements of the public school facility element and
263 enter into the existing interlocal agreement required by this
264 section and s. 173.3177(6)(h)2. in order to fully participate in
265 the school concurrency system.
266 (3)~~(a)~~ The updated interlocal agreement adopted pursuant to
267 the schedule adopted in accordance with s. 163.3177(12)(i) and
268 any subsequent amendments must be submitted to the state land
269 planning agency and the Office of Educational Facilities within
270 30 days after execution by the parties to the agreement for
271 review consistent with this section. The office ~~and SMART Schools~~
272 ~~Clearinghouse~~ shall submit any comments or concerns regarding the
273 executed interlocal agreement or agreement amendments to the
274 state land planning agency within 30 days after receipt of the
275 executed interlocal agreement or agreement amendments. The state
276 land planning agency shall review the updated executed interlocal
277 agreement or agreement amendments to determine whether it is
278 consistent with the requirements of subsection (2), the adopted
279 local government comprehensive plan, and other requirements of
280 law. Within 60 days after receipt of an updated executed
281 interlocal agreement or agreement amendments, the state land
282 planning agency shall publish a notice on the agency's Internet
283 website that states ~~of intent in the Florida Administrative~~
284 ~~Weekly and shall post a copy of the notice on the agency's~~
285 ~~Internet site. The notice of intent must state~~ whether the
286 interlocal agreement is consistent or inconsistent with the

287 requirements of subsection (2) and this subsection, as
288 appropriate.
289 ~~(b) The state land planning agency's notice is subject to~~
290 ~~challenge under chapter 120; however, an affected person, as~~
291 ~~defined in s. 163.3184(1)(a), has standing to initiate the~~
292 ~~administrative proceeding, and this proceeding is the sole means~~
293 ~~available to challenge the consistency of an interlocal agreement~~
294 ~~required by this section with the criteria contained in~~
295 ~~subsection (2) and this subsection. In order to have standing,~~
296 ~~each person must have submitted oral or written comments,~~
297 ~~recommendations, or objections to the local government or the~~
298 ~~school board before the adoption of the interlocal agreement by~~
299 ~~the school board and local government. The district school board~~
300 ~~and local governments are parties to any such proceeding. In this~~
301 ~~proceeding, when the state land planning agency finds the~~
302 ~~interlocal agreement to be consistent with the criteria in~~
303 ~~subsection (2) and this subsection, the interlocal agreement~~
304 ~~shall be determined to be consistent with subsection (2) and this~~
305 ~~subsection if the local government's and school board's~~
306 ~~determination of consistency is fairly debatable. When the state~~
307 ~~planning agency finds the interlocal agreement to be inconsistent~~
308 ~~with the requirements of subsection (2) and this subsection, the~~
309 ~~local government's and school board's determination of~~
310 ~~consistency shall be sustained unless it is shown by a~~
311 ~~preponderance of the evidence that the interlocal agreement is~~
312 ~~inconsistent.~~
313 ~~(c) If the state land planning agency enters a final order~~
314 ~~that finds that the interlocal agreement is inconsistent with the~~
315 ~~requirements of subsection (2) or this subsection, it shall~~

316 ~~forward it to the Administration Commission, which may impose~~
317 ~~sanctions against the local government pursuant to s.~~
318 ~~163.3184(11) and may impose sanctions against the district school~~
319 ~~board by directing the Department of Education to withhold from~~
320 ~~the district school board an equivalent amount of funds for~~
321 ~~school construction available pursuant to ss. 1013.65, 1013.68,~~
322 ~~1013.70, and 1013.72.~~
323 (4) If an updated executed interlocal agreement is not
324 timely submitted to the state land planning agency for review,
325 the state land planning agency shall, within 15 working days
326 after the deadline for submittal, issue to the local government
327 and the district school board a Notice to Show Cause why
328 sanctions should not be imposed for failure to submit an executed
329 interlocal agreement by the deadline established by the agency.
330 The agency shall forward the notice and the responses to the
331 Administration Commission, which may enter a final order citing
332 the failure to comply and imposing sanctions against the local
333 government and district school board by directing the appropriate
334 agencies to withhold at least 5 percent of state funds pursuant
335 to s. 163.3184(11) and by directing the Department of Education
336 to withhold from the district school board at least 5 percent of
337 funds for school construction available pursuant to ss. 1013.65,
338 1013.68, 1013.70, and 1013.72.
339 Section 4. Paragraph (c) of subsection (2), paragraph (f)
340 of subsection (5), subsection (7), paragraphs (e), (f), (g), and
341 (h) of subsection (13), and paragraphs (a), (b), (c), (e) and (f)
342 of subsection (16) of section 163.3180, Florida Statutes, are
343 amended to read:
344 163.3180 Concurrency.--

345 (2)
346 (c) Consistent with the public welfare, and except as
347 otherwise provided in this section, transportation facilities
348 needed to serve new development shall be in place or under actual
349 construction within 3 years after the local government approves a
350 building permit or its functional equivalent that results in
351 traffic generation. For purposes of this paragraph and all
352 provisions relating to transportation concurrency, if the
353 construction funding needed for facilities is provided in the
354 first 3 years of the Department of Transportation's work program
355 or the local government's schedule of capital improvements, the
356 under-actual-construction requirements of this paragraph shall be
357 deemed to have been met.
358 (5)
359 (f) Prior to the designation of a concurrency exception
360 area, the Department of Transportation shall be consulted by the
361 local government to assess the impact that the proposed exception
362 area is expected to have on the adopted level-of-service
363 standards established for Strategic Intermodal System facilities,
364 as defined in s. 339.64, and roadway facilities funded in
365 accordance with s. 339.2819. Further, the local government shall,
366 in cooperation with the Department of Transportation, develop a
367 plan to mitigate ~~any~~ impacts to the Strategic Intermodal System,
368 including, if appropriate, the development of a long-term
369 concurrency management system pursuant to subsection (9) and s.
370 163.3177(3)(d). The exceptions may be available only within the
371 specific geographic area of the jurisdiction designated in the
372 plan. Pursuant to s. 163.3184, any affected person may challenge
373 a plan amendment establishing these guidelines and the areas

374 within which an exception could be granted. By October 1, 2006,
375 the Department of Transportation, after publicly noticed
376 workshops, shall publish and distribute to local governments a
377 policy guideline containing criteria and options to assist local
378 governments in planning to assess and mitigate the impacts of a
379 proposed concurrency exception area as described in this
380 paragraph.
381 (7) In order to promote infill development and
382 redevelopment, one or more transportation concurrency management
383 areas may be designated in a local government comprehensive plan.
384 A transportation concurrency management area must be a compact
385 geographic area with an existing network of roads where multiple,
386 viable alternative travel paths or modes are available for common
387 trips. A local government may establish an areawide level-of-
388 service standard for such a transportation concurrency management
389 area based upon an analysis that provides for a justification for
390 the areawide level of service, how urban infill development or
391 redevelopment will be promoted, and how mobility will be
392 accomplished within the transportation concurrency management
393 area. Prior to the designation of a concurrency management area,
394 the Department of Transportation shall be consulted by the local
395 government to assess the impact that the proposed concurrency
396 management area is expected to have on the adopted level-of-
397 service standards established for Strategic Intermodal System
398 facilities, as defined in s. 339.64, and roadway facilities
399 funded in accordance with s. 339.2819. Further, the local
400 government shall, in cooperation with the Department of
401 Transportation, develop a plan to mitigate any impacts to the
402 Strategic Intermodal System, including, if appropriate, the

403 development of a long-term concurrency management system pursuant
404 to subsection (9) and s. 163.3177(3)(d). Transportation
405 concurrency management areas existing prior to July 1, 2005,
406 shall meet, at a minimum, the provisions of this section by July
407 1, 2006, or at the time of the comprehensive plan update pursuant
408 to the evaluation and appraisal report, whichever occurs last.
409 The state land planning agency shall amend chapter 9J-5, Florida
410 Administrative Code, to be consistent with this subsection. By
411 October 1, 2006, the Department of Transportation, after publicly
412 noticed workshops, shall publish and distribute to local
413 governments a policy guideline containing criteria and options to
414 assist local governments in planning to assess and mitigate the
415 impacts of a proposed concurrency exception area as described in
416 this paragraph.
417 (13) School concurrency shall be established on a
418 districtwide basis and shall include all public schools in the
419 district and all portions of the district, whether located in a
420 municipality or an unincorporated area unless exempt from the
421 public school facilities element pursuant to s. 163.3177(12). The
422 application of school concurrency to development shall be based
423 upon the adopted comprehensive plan, as amended. All local
424 governments within a county, except as provided in paragraph (f),
425 shall adopt and transmit to the state land planning agency the
426 necessary plan amendments, along with the interlocal agreement,
427 for a compliance review pursuant to s. 163.3184(7) and (8). The
428 minimum requirements for school concurrency are the following:
429 (e) Availability standard.--Consistent with the public
430 welfare, a local government may not deny an application for site
431 plan, final subdivision approval, or the functional equivalent

432 for a development or phase of a development authorizing
433 residential development for failure to achieve and maintain the
434 level-of-service standard for public school capacity in a local
435 school concurrency management system where adequate school
436 facilities will be in place or under actual construction within 3
437 years after the issuance of final subdivision or site plan
438 approval, or the functional equivalent. School concurrency shall
439 be satisfied if the developer executes a legally binding
440 commitment to provide proportionate fair-share mitigation against
441 ~~to~~ the demand for public school facilities to be created by
442 actual development of the property, including, but not limited
443 to, the options described in subparagraph 1. Options for
444 proportionate fair-share ~~proportionate-share~~ mitigation of
445 impacts on public school facilities shall be established in the
446 public school facilities element and the interlocal agreement
447 pursuant to s. 163.31777.
448 1. Appropriate proportionate fair-share mitigation options
449 include the contribution of land; the construction, expansion, or
450 payment for land acquisition or construction of a public school
451 facility; or the creation of mitigation banking based on the
452 construction of a public school facility in exchange for the
453 right to sell capacity credits. Such options must include
454 execution by the applicant and the local government of a binding
455 development agreement that constitutes a legally binding
456 commitment to pay proportionate fair-share ~~proportionate-share~~
457 mitigation for the additional residential units approved by the
458 local government in a development order and actually developed on
459 the property, taking into account residential density allowed on
460 the property prior to the plan amendment that increased overall

461 residential density. The district school board shall be a party
462 to such an agreement. As a condition of its entry into such a
463 development agreement, the local government may require the
464 landowner to agree to continuing renewal of the agreement upon
465 its expiration.
466 2. If the education facilities plan and the public
467 educational facilities element authorize a contribution of land;
468 the construction, expansion, or payment for land acquisition; or
469 the construction or expansion of a public school facility, or a
470 portion thereof, as proportionate fair-share ~~proportionate-share~~
471 mitigation, the local government shall credit such a
472 contribution, construction, expansion, or payment toward any
473 other impact fee or exaction imposed by local ordinance for the
474 same need, on a dollar-for-dollar basis at fair market value.
475 3. Any proportionate fair-share ~~proportionate-share~~
476 mitigation must be directed by the school board toward a school
477 capacity improvement identified in a financially feasible 5-year
478 district work plan and which satisfies the demands created by
479 that development in accordance with a binding developer's
480 agreement.
481 4. This paragraph does not limit the authority of a local
482 government to deny a development permit or its functional
483 equivalent pursuant to its home rule regulatory powers, except as
484 provided in this part.
485 (f) Intergovernmental coordination.--
486 1. When establishing concurrency requirements for public
487 schools, a local government shall satisfy the requirements for
488 intergovernmental coordination set forth in s. 163.3177(6)(h)1.
489 and 2., except that a municipality is not required to be a

490 signatory to the interlocal agreement required by ss.
491 163.3177(6)(h)2. and 163.31777~~(6)~~, as a prerequisite for
492 imposition of school concurrency, and as a nonsignatory, shall
493 not participate in the adopted local school concurrency system,
494 if the municipality meets all of the following criteria for
495 having no significant impact on school attendance:
496 a. The municipality has issued development orders for fewer
497 than 50 residential dwelling units during the preceding 5 years,
498 or the municipality has generated fewer than 25 additional public
499 school students during the preceding 5 years.
500 b. The municipality has not annexed new land during the
501 preceding 5 years in land use categories which permit residential
502 uses that will affect school attendance rates.
503 c. The municipality has no public schools located within
504 its boundaries.
505 d. At least 80 percent of the developable land within the
506 boundaries of the municipality has been built upon.
507 2. A municipality which qualifies as having no significant
508 impact on school attendance pursuant to the criteria of
509 subparagraph 1. must review and determine at the time of its
510 evaluation and appraisal report pursuant to s. 163.3191 whether
511 it continues to meet the criteria pursuant to s. 163.31777(6). If
512 the municipality determines that it no longer meets the criteria,
513 it must adopt appropriate school concurrency goals, objectives,
514 and policies in its plan amendments based on the evaluation and
515 appraisal report, and enter into the existing interlocal
516 agreement required by ss. 163.3177(6)(h)2. and 163.31777, in
517 order to fully participate in the school concurrency system. If

518 such a municipality fails to do so, it will be subject to the
519 enforcement provisions of s. 163.3191.
520 ~~(g) Interlocal agreement for school concurrency.--When~~
521 ~~establishing concurrency requirements for public schools, a local~~
522 ~~government must enter into an interlocal agreement that satisfies~~
523 ~~the requirements in ss. 163.3177(6)(h)1. and 2. and 163.31777 and~~
524 ~~the requirements of this subsection. The interlocal agreement~~
525 ~~shall acknowledge both the school board's constitutional and~~
526 ~~statutory obligations to provide a uniform system of free public~~
527 ~~schools on a countywide basis, and the land use authority of~~
528 ~~local governments, including their authority to approve or deny~~
529 ~~comprehensive plan amendments and development orders. The~~
530 ~~interlocal agreement shall be submitted to the state land~~
531 ~~planning agency by the local government as a part of the~~
532 ~~compliance review, along with the other necessary amendments to~~
533 ~~the comprehensive plan required by this part. In addition to the~~
534 ~~requirements of ss. 163.3177(6)(h) and 163.31777, the interlocal~~
535 ~~agreement shall meet the following requirements:~~
536 ~~1. Establish the mechanisms for coordinating the~~
537 ~~development, adoption, and amendment of each local government's~~
538 ~~public school facilities element with each other and the plans of~~
539 ~~the school board to ensure a uniform districtwide school~~
540 ~~concurrency system.~~
541 ~~2. Establish a process for the development of siting~~
542 ~~criteria which encourages the location of public schools~~
543 ~~proximate to urban residential areas to the extent possible and~~
544 ~~seeks to collocate schools with other public facilities such as~~
545 ~~parks, libraries, and community centers to the extent possible.~~

546 ~~3. Specify uniform, districtwide level-of-service standards~~
547 ~~for public schools of the same type and the process for modifying~~
548 ~~the adopted level-of-service standards.~~
549 ~~4. Establish a process for the preparation, amendment, and~~
550 ~~joint approval by each local government and the school board of a~~
551 ~~public school capital facilities program which is financially~~
552 ~~feasible, and a process and schedule for incorporation of the~~
553 ~~public school capital facilities program into the local~~
554 ~~government comprehensive plans on an annual basis.~~
555 ~~5. Define the geographic application of school concurrency.~~
556 ~~If school concurrency is to be applied on a less than~~
557 ~~districtwide basis in the form of concurrency service areas, the~~
558 ~~agreement shall establish criteria and standards for the~~
559 ~~establishment and modification of school concurrency service~~
560 ~~areas. The agreement shall also establish a process and schedule~~
561 ~~for the mandatory incorporation of the school concurrency service~~
562 ~~areas and the criteria and standards for establishment of the~~
563 ~~service areas into the local government comprehensive plans. The~~
564 ~~agreement shall ensure maximum utilization of school capacity,~~
565 ~~taking into account transportation costs and court-approved~~
566 ~~desegregation plans, as well as other factors. The agreement~~
567 ~~shall also ensure the achievement and maintenance of the adopted~~
568 ~~level-of-service standards for the geographic area of application~~
569 ~~throughout the 5 years covered by the public school capital~~
570 ~~facilities plan and thereafter by adding a new fifth year during~~
571 ~~the annual update.~~
572 ~~6. Establish a uniform districtwide procedure for~~
573 ~~implementing school concurrency which provides for:~~

574 ~~a. The evaluation of development applications for~~
575 ~~compliance with school concurrency requirements, including~~
576 ~~information provided by the school board on affected schools,~~
577 ~~impact on levels of service, and programmed improvements for~~
578 ~~affected schools and any options to provide sufficient capacity;~~
579 ~~b. An opportunity for the school board to review and~~
580 ~~comment on the effect of comprehensive plan amendments and~~
581 ~~rezonings on the public school facilities plan; and~~
582 ~~c. The monitoring and evaluation of the school concurrency~~
583 ~~system.~~
584 ~~7. Include provisions relating to amendment of the~~
585 ~~agreement.~~
586 ~~8. A process and uniform methodology for determining~~
587 ~~proportionate-share mitigation pursuant to subparagraph (e)1.~~
588 (g) ~~(h)~~ Local government authority.--This subsection does
589 not limit the authority of a local government to grant or deny a
590 development permit or its functional equivalent prior to the
591 implementation of school concurrency.
592 (16) It is the intent of the Legislature to provide a
593 method by which the impacts of development on transportation
594 facilities can be mitigated by the cooperative efforts of the
595 public and private sectors. The methodology used to calculate
596 proportionate fair-share mitigation under this section shall be
597 as provided for in subsection (12).
598 (a) By December 1, 2006, each local government shall adopt
599 by ordinance a methodology for assessing proportionate fair-share
600 mitigation options. A local government that fails to adopt a
601 methodology for assessing proportionate fair-share mitigation
602 options by December 1, 2006, may not, after that date, impose any

603 transportation impact fee until such methodology has been
604 adopted. By December 1, 2005, the Department of Transportation
605 shall develop a model transportation concurrency management
606 ordinance with methodologies for assessing proportionate fair-
607 share mitigation options.
608 (b)1. In its transportation concurrency management system,
609 a local government shall, by December 1, 2006, include
610 methodologies that will be applied to calculate proportionate
611 fair-share mitigation. A local government that fails to include
612 these methodologies by December 1, 2006, may not, after that
613 date, impose any transportation impact fee until such
614 methodologies been adopted. A developer may choose to satisfy all
615 transportation concurrency requirements by contributing or paying
616 proportionate fair-share mitigation if transportation facilities
617 or facility segments identified as mitigation for traffic impacts
618 are specifically identified for funding in the 5-year schedule of
619 capital improvements in the capital improvements element of the
620 local plan or the long-term concurrency management system or if
621 such contributions or payments to such facilities or segments are
622 reflected in the 5-year schedule of capital improvements in the
623 next regularly scheduled update of the capital improvements
624 element. Updates to the 5-year capital improvements element which
625 reflect proportionate fair-share contributions may not be found
626 not in compliance based on ss. 163.3164(32) ~~163.164(32)~~ and
627 163.3177(3) if additional contributions, payments or funding
628 sources are reasonably anticipated during a period not to exceed
629 10 years to fully mitigate impacts on the transportation
630 facilities.

631 2. Proportionate fair-share mitigation shall be applied as
632 a credit against impact fees to the extent that all or a portion
633 of the proportionate fair-share mitigation is used to address the
634 same capital infrastructure improvements contemplated by the
635 local government's impact fee ordinance.
636 (c) Proportionate fair-share mitigation includes, without
637 limitation, separately or collectively, private funds,
638 contributions of land, and construction and contribution of
639 facilities and may include public funds as determined by the
640 local government. The fair market value of the proportionate
641 fair-share mitigation shall not differ based on the form of
642 mitigation. A local government may not require a development to
643 pay more than its proportionate fair-share mitigation
644 ~~contribution~~ regardless of the method of mitigation.
645 (e) Mitigation for development impacts to facilities on the
646 Strategic Intermodal System made pursuant to this subsection
647 requires the concurrence of the Department of Transportation. The
648 department has 30 days from the date of submission by the
649 applicable local government to concur or withhold concurrence
650 with the mitigation of development impacts to facilities on the
651 Strategic Intermodal System. If the department does not respond
652 within the 30-day period, the department is deemed to have
653 concurred with the mitigation.
654 (f) If ~~In the event the~~ funds in an adopted 5-year capital
655 improvements element are insufficient to fully fund construction
656 of a transportation improvement required by the local
657 government's concurrency management system, a local government
658 and a developer may still enter into a binding proportionate
659 fair-share mitigation ~~proportionate-share~~ agreement authorizing

660 the developer to construct that amount of development on which
661 the proportionate fair-share mitigation ~~proportionate share~~ is
662 calculated if the proportionate fair-share mitigation
663 ~~proportionate-share~~ amount in such agreement is sufficient to pay
664 for one or more improvements which will, in the opinion of the
665 governmental entity or entities maintaining the transportation
666 facilities, significantly benefit the impacted transportation
667 system. The improvement or improvements funded by the
668 proportionate fair-share mitigation ~~proportionate-share~~ component
669 must be adopted into the 5-year capital improvements schedule of
670 the comprehensive plan at the next annual capital improvements
671 element update.
672 Section 5. Subsection (17) of section 163.3184, Florida
673 Statutes, is amended to read:
674 163.3184 Process for adoption of comprehensive plan or plan
675 amendment.--
676 (17) A local government that has adopted a community vision
677 and urban service boundary under s. 163.3177(13) ~~163.31773(13)~~
678 and (14) may adopt a plan amendment related to map amendments
679 solely to property within an urban service boundary in the manner
680 described in subsections (1), (2), (7), (14), (15), and (16) and
681 s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and
682 regional agency review is eliminated. The department may not
683 issue an objections, recommendations, and comments report on
684 proposed plan amendments or a notice of intent on adopted plan
685 amendments; however, affected persons, as defined by paragraph
686 (1)(a), may file a petition for administrative review pursuant to
687 the requirements of s. 163.3187(3)(a) to challenge the compliance
688 of an adopted plan amendment. This subsection does not apply to

689 any amendment within an area of critical state concern, to any
690 amendment that increases residential densities allowable in high-
691 hazard coastal areas as defined in s. 163.3178(2)(h), or to a
692 text change to the goals, policies, or objectives of the local
693 government's comprehensive plan. Amendments submitted under this
694 subsection are exempt from the limitation on the frequency of
695 plan amendments in s. 163.3187.
696 Section 6. Paragraph (a) of subsection (4) of section
697 339.2819, Florida Statutes, is amended to read:
698 339.2819 Transportation Regional Incentive Program.--
699 (4)(a) Projects to be funded with Transportation Regional
700 Incentive Program funds shall, at a minimum:
701 1. Support those transportation facilities that serve
702 national, statewide, or regional functions and function as an
703 integrated regional transportation system.
704 2. Be identified in the capital improvements element of a
705 comprehensive plan that has been determined to be in compliance
706 with part II of chapter 163, after July 1, 2005, or to implement
707 a long-term concurrency management system adopted by a local
708 government in accordance with s. 163.3180(9) ~~163.3177(9)~~.
709 Further, the project shall be in compliance with local government
710 comprehensive plan policies relative to corridor management.
711 3. Be consistent with the Strategic Intermodal System Plan
712 developed under s. 339.64.
713 4. Have a commitment for local, regional, or private
714 financial matching funds as a percentage of the overall project
715 cost.
716 Section 7. Subsection (10) of section 339.55, Florida
717 Statutes, is amended to read:

718 339.55 State-funded infrastructure bank.--
719 ~~(10) Funds paid into the State Transportation Trust Fund~~
720 ~~pursuant to s. 201.15(1)(d) for the purposes of the State~~
721 ~~Infrastructure Bank are hereby annually appropriated for~~
722 ~~expenditure to support that program.~~
723 Section 8. Paragraphs (l), (m), and (n) of subsection (24)
724 of section 380.06, Florida Statutes, are amended to read:
725 380.06 Developments of regional impact.--
726 (24) STATUTORY EXEMPTIONS.--
727 (l) Any proposed development within an urban service
728 boundary established under s. 163.3177(14) is exempt from the
729 provisions of this section if the local government having
730 jurisdiction over the area where the development is proposed has
731 adopted the urban service boundary and has entered into a binding
732 agreement with adjacent jurisdictions and the Department of
733 Transportation regarding the mitigation of impacts on state and
734 regional transportation facilities, and has adopted a
735 proportionate fair-share mitigation ~~share~~ methodology pursuant to
736 s. 163.3180(16).
737 (m) Any proposed development within a rural land
738 stewardship area created under s. 163.3177(11)(d) is exempt from
739 the provisions of this section if the local government that has
740 adopted the rural land stewardship area has entered into a
741 binding agreement with jurisdictions that would be impacted and
742 the Department of Transportation regarding the mitigation of
743 impacts on state and regional transportation facilities, and has
744 adopted a proportionate fair-share mitigation ~~share~~ methodology
745 pursuant to s. 163.3180(16).

746 (n) Any proposed development or redevelopment within an
747 area designated as an urban infill and redevelopment area under
748 s. 163.2517 is exempt from the provisions of this section if the
749 local government has entered into a binding agreement with
750 jurisdictions that would be impacted and the Department of
751 Transportation regarding the mitigation of impacts on state and
752 regional transportation facilities, and has adopted a
753 proportionate fair-share mitigation ~~share~~ methodology pursuant to
754 s. 163.3180(16).
755 Section 9. Subsections (2), (3), and (12) of section
756 1013.33, Florida Statutes, are amended to read:
757 1013.33 Coordination of planning with local governing
758 bodies.--
759 (2)(a) The school board, county, and nonexempt
760 municipalities located within the geographic area of a school
761 district shall enter into an interlocal agreement that jointly
762 establishes the specific ways in which the plans and processes of
763 the district school board and the local governments are to be
764 coordinated. Any updated ~~The~~ interlocal agreements and agreement
765 amendments shall be submitted to the state land planning agency
766 and the Office of Educational Facilities ~~and the SMART Schools~~
767 ~~Clearinghouse~~ in accordance with a schedule published by the
768 state land planning agency pursuant to s. 163.3177(12)(i).
769 ~~(b) The schedule must establish staggered due dates for~~
770 ~~submission of interlocal agreements that are executed by both the~~
771 ~~local government and district school board, commencing on March~~
772 ~~1, 2003, and concluding by December 1, 2004, and must set the~~
773 ~~same date for all governmental entities within a school district.~~
774 ~~However, if the county where the school district is located~~

775 ~~contains more than 20 municipalities, the state land planning~~
776 ~~agency may establish staggered due dates for the submission of~~
777 ~~interlocal agreements by these municipalities. The schedule must~~
778 ~~begin with those areas where both the number of districtwide~~
779 ~~capital-outlay full-time-equivalent students equals 80 percent or~~
780 ~~more of the current year's school capacity and the projected 5-~~
781 ~~year student growth rate is 1,000 or greater, or where the~~
782 ~~projected 5-year student growth rate is 10 percent or greater.~~
783 (b) ~~(c)~~ If the student population has declined over the 5-
784 year period preceding the due date for submittal of an interlocal
785 agreement by the local government and the district school board,
786 the local government and district school board may petition the
787 state land planning agency for a waiver of one or more of the
788 requirements of subsection (3). The waiver must be granted if the
789 procedures called for in subsection (3) are unnecessary because
790 of the school district's declining school age population,
791 considering the district's 5-year work program prepared pursuant
792 to s. 1013.35. The state land planning agency may modify or
793 revoke the waiver upon a finding that the conditions upon which
794 the waiver was granted no longer exist. The district school board
795 and local governments must submit an interlocal agreement within
796 1 year after notification by the state land planning agency that
797 the conditions for a waiver no longer exist.
798 (c) ~~(d)~~ ~~Interlocal agreements between local governments and~~
799 ~~district school boards adopted pursuant to s. 163.3177 before the~~
800 ~~effective date of subsections (2)-(9) must be updated and~~
801 ~~executed pursuant to the requirements of subsections (2)-(9), if~~
802 ~~necessary. Amendments to interlocal agreements adopted pursuant~~
803 ~~to subsections (2)-(9) must be submitted to the state land~~

804 ~~planning agency within 30 days after execution by the parties for~~
805 ~~review consistent with subsections (3) and (4).~~ Local
806 governments and the district school board in each school district
807 are encouraged to adopt a single updated interlocal agreement in
808 which all join as parties. The state land planning agency shall
809 assemble and make available model interlocal agreements meeting
810 the requirements of subsections (2)-(9) and shall notify local
811 governments and, jointly with the Department of Education, the
812 district school boards of the requirements of subsections (2)-
813 (9), the dates for compliance, and the sanctions for
814 noncompliance. The state land planning agency shall be available
815 to informally review proposed interlocal agreements. If the state
816 land planning agency has not received a proposed interlocal
817 agreement for informal review, the state land planning agency
818 shall, at least 60 days before the deadline for submission of the
819 executed agreement, renotify the local government and the
820 district school board of the upcoming deadline and the potential
821 for sanctions.
822 (3) ~~At a minimum,~~ The interlocal agreement must address
823 ~~interlocal agreement requirements in s. 163.3180(13)(g), except~~
824 ~~for exempt local governments as provided in s. 163.3177(12), and~~
825 ~~must address~~ the ~~following~~ issues specified in s. 163.31777(2)~~:~~
826 ~~(a) A process by which each local government and the~~
827 ~~district school board agree and base their plans on consistent~~
828 ~~projections of the amount, type, and distribution of population~~
829 ~~growth and student enrollment. The geographic distribution of~~
830 ~~jurisdiction-wide growth forecasts is a major objective of the~~
831 ~~process.~~

832 ~~(b) A process to coordinate and share information relating~~
833 ~~to existing and planned public school facilities, including~~
834 ~~school renovations and closures, and local government plans for~~
835 ~~development and redevelopment.~~
836 ~~(c) Participation by affected local governments with the~~
837 ~~district school board in the process of evaluating potential~~
838 ~~school closures, significant renovations to existing schools, and~~
839 ~~new school site selection before land acquisition. Local~~
840 ~~governments shall advise the district school board as to the~~
841 ~~consistency of the proposed closure, renovation, or new site with~~
842 ~~the local comprehensive plan, including appropriate circumstances~~
843 ~~and criteria under which a district school board may request an~~
844 ~~amendment to the comprehensive plan for school siting.~~
845 ~~(d) A process for determining the need for and timing of~~
846 ~~onsite and offsite improvements to support new construction,~~
847 ~~proposed expansion, or redevelopment of existing schools. The~~
848 ~~process shall address identification of the party or parties~~
849 ~~responsible for the improvements.~~
850 ~~(e) A process for the school board to inform the local~~
851 ~~government regarding the effect of comprehensive plan amendments~~
852 ~~on school capacity. The capacity reporting must be consistent~~
853 ~~with laws and rules regarding measurement of school facility~~
854 ~~capacity and must also identify how the district school board~~
855 ~~will meet the public school demand based on the facilities work~~
856 ~~program adopted pursuant to s. 1013.35.~~
857 ~~(f) Participation of the local governments in the~~
858 ~~preparation of the annual update to the school board's 5-year~~
859 ~~district facilities work program and educational plant survey~~
860 ~~prepared pursuant to s. 1013.35.~~

861 ~~(g) A process for determining where and how joint use of~~
862 ~~either school board or local government facilities can be shared~~
863 ~~for mutual benefit and efficiency.~~
864 ~~(h) A procedure for the resolution of disputes between the~~
865 ~~district school board and local governments, which may include~~
866 ~~the dispute resolution processes contained in chapters 164 and~~
867 ~~186.~~
868 ~~(i) An oversight process, including an opportunity for~~
869 ~~public participation, for the implementation of the interlocal~~
870 ~~agreement.~~
871 (12) As early in the design phase as feasible and
872 consistent with an interlocal agreement entered pursuant to
873 subsections (2)-(8), but no later than 120 ~~90~~ days before
874 commencing construction, the district school board shall in
875 writing request a determination of consistency with the local
876 government's comprehensive plan. The local governing body that
877 regulates the use of land shall determine, in writing within 45
878 days after receiving the necessary information and a school
879 board's request for a determination, whether a proposed
880 educational facility is consistent with the local comprehensive
881 plan and consistent with local land development regulations. If
882 the determination is affirmative, school construction may
883 commence and further local government approvals are not required,
884 except as provided in this section. Failure of the local
885 governing body to make a determination in writing within 90 days
886 after a district school board's request for a determination of
887 consistency shall be considered an approval of the district
888 school board's application. Campus master plans and development

889 agreements must comply with the provisions of ss. 1013.30 and
890 1013.63.
891 Section 10. Paragraph (a) of subsection (2) of section
892 1013.65, Florida Statutes, is amended to read:
893 1013.65 Educational and ancillary plant construction funds;
894 Public Education Capital Outlay and Debt Service Trust Fund;
895 allocation of funds.--
896 (2)(a) The Public Education Capital Outlay and Debt Service
897 Trust Fund shall be comprised of the following sources, which are
898 hereby appropriated to the trust fund:
899 1. Proceeds, premiums, and accrued interest from the sale
900 of public education bonds and that portion of the revenues
901 accruing from the gross receipts tax as provided by s. 9(a)(2),
902 Art. XII of the State Constitution, as amended, interest on
903 investments, and federal interest subsidies.
904 2. General revenue funds appropriated to the fund for
905 educational capital outlay purposes.
906 3. All capital outlay funds previously appropriated and
907 certified forward pursuant to s. 216.301.
908 4.a. Funds paid pursuant to s. 201.15(1)(d).
909 b. The sum of $75 ~~$41.75~~ million from recurring funds in
910 the Public Education Capital Outlay and Debt Service Trust Fund
911 ~~of such funds~~ shall be appropriated ~~annually~~ for expenditure to
912 fund the Classrooms for Kids Program created in s. 1013.735 and
913 shall be distributed as provided by that section.
914 Section 11. Paragraph (a) of subsection (2) of section 27
915 of chapter 2005-290, Laws of Florida, is amended to read:
916 Section 27.

917 (2) The following appropriations are made for the 2005-2006
918 fiscal year only on a nonrecurring basis:
919 (a) From the State Transportation Trust Fund in the
920 Department of Transportation:
921 1. One hundred seventy-five ~~Two hundred~~ million dollars for
922 the purposes specified in sections 339.61, 339.62, 339.63, and
923 339.64, Florida Statutes.
924 2. Two hundred seventy-five million dollars for the
925 purposes specified in section 339.2819, Florida Statutes.
926 3. One hundred million dollars for the purposes specified
927 in section 339.55, Florida Statutes.
928 4. Twenty-five million for the purposes specified in
929 section 339.2817, Florida Statutes.
930 Section 12. (1) The sum of $33.35 million in nonrecurring
931 funds is appropriated from the Public Education Capital Outlay
932 and Debt Service Trust Fund to fund the Classrooms for Kids
933 Program created in s. 1013.735, Florida Statutes.
934 (2) The sum of $30 million from the Public Education
935 Capital Outlay and Debt Service Trust Fund is appropriated each
936 year for expenditures to fund the High Growth District Capital
937 Outlay Assistance Grant Program created in s. 1013.738, Florida
938 Statutes, and shall be distributed as provided in that section.
939 (3) The sum of $250,000 in recurring funds is appropriated
940 from the Department of Community Affairs' Grants and Donations
941 Trust Fund to support the Century Commission for a Sustainable
942 Florida pursuant to s. 163.3247, Florida Statutes.
943 Section 13. This act shall take effect July 1, 2006.

HOUSE GROWTH MANAGEMENT COMMITTEE
PCB 2 – POLICY REFINEMENTS - Concepts

PR1

- *De Minimis* Impact -- remove change from last year that required *de minimis* record keeping and reporting.

PR2

- Urban Infill – Prioritize urban infill and redevelopment by providing certain transportation facility concurrency waivers including waivers for municipalities that are "built-out."

PR3

- Charter county exception provision – IF development includes a certain percentage of workforce housing, then charter county provisions governing use, development, or redevelopment of land are not applicable to such development.

PR4

- Urban Infill Areas - Small scale plan amendment review applicable for certain amendments within urban infill areas.

PR5

- School Concurrency – Streamline and clarify school concurrency provisions which existing in two chapters.

PR6

- Capital Improvement Element - Citizen challenge to capital improvements element should not amount to a moratorium against other land use amendments.

PR7

- Transportation plan -- If you have a transportation plan and make financial commitments to fund the plan, then as long as local government follows the plan, they will be deemed to have met concurrency even if in a given year the transportation improvements are not current.

PR8

- Fiscal Impact Analysis Model – If FIAM is used in determining proportionate fair-share mitigation, then cannot increase existing level of service over 1 grade.

PR9

- Schools Interlocal Agreement – Existing law provides in two different sections that the public schools capital facilities program be adopted into the comprehensive plan and that it simply be included as data and analysis to support the public school facilities element. Amend the law to remove the requirement to adopt it into the comprehensive plan.

PR10

- DRI Exemptions - Transportation only review for DRI exemptions created last year for urban infill and for rural lands stewardship.

PR11

- Century Commission - Revise reporting structure for Century Commission; revise authority of Executive director to employ staff.

PR 12

- School capacity and land use amendments - Clarify that DCA should not have an independent basis for a non-compliance finding until the school elements and capital improvement plan provisions relating to schools have been adopted.

PR 13

- "Financially feasible" – Removal of requirement that comprehensive plans be "financially feasible." The capital improvement element (5 year capital improvement plan) remains financially feasible. This provides greater flexibility for comprehensive plans, particularly for local governments that have long term comprehensive plans, which by virtue of their duration cannot achieve financial feasibility for the entire comprehensive plan.

PR 14

- Direct the Department of Transportation to permit the use of urban attributable federal funds to be eligible as the local match for transit projects.

CS/CS/CS SB 360
New Issues

PCB 3 – NEW ISSUES:

N1

- Water Concurrency - DCA cannot deny a comprehensive plan amendment if local government submits letter from public water provider indicating that adequate water will be available.

N2

- TRIP Funding – Preference given to local governments that utilize their local options.

N3

- Conversion of rural lands to ranchette development - Use of Florida Forever funds as proposed in the Family Lands Preservation Act, for the purchase of temporary conservation easements to provide an option to conversion of these rural lands to ranchette development.

N4

- Trip Fee – Utilize a per trip fee in lieu of impact fees.

N5

- Sliding Scale Affordable Housing/Density Bonus - If 10% affordable housing, then 10% density bonus.

N6

- Confirm that no additional local review or approval of a change to an approved DRI is required by the DRI statute, s. 380.06, if the change is not a substantial deviation and is allowed by applicable local ordinance without further local review or approval.

N7

- Expedited permitting related to the development of affordable housing.

N8

- Require that written notice be given to municipalities and counties in advance of the commencement of construction materials blasting activities.

Growth Management Committee

Tuesday, March 21, 2005
2:15.PM – 5:15 PM
212 Knott

ADDENDUM A

Allan G. Bense
Speaker

Randy Johnson
Chair

Bill No. **HB 683 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment 1 to Amendment (strike all) by Representative**
5 **Traviesa**
6 Remove line(s) 276-282 and insert:
7
8 8. An increase in the number of dwelling units by 50
9 percent of 200 units, whichever is greater, provided that 15
10 percent of the increase in the number of dwelling units is
11 dedicated to the construction of workforce housing. For
12 purposes of this subparagraph, the term "workforce housing means
13 housing that is affordable to a person who earns less than 150
14 percent of the area median income.
15

Bill No. **HB 683 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment 2 to Amendment (strike all) by Representative**
5 **Traviesa**
6 Between lines 864 and 865 insert:
7
8 Section 3. A new paragraph (i) of subsection (19) of
9 section 380.06, Florida Statutes is added to read:
10 (i) An increase in the number of residential dwelling
11 units shall not constitute a substantial deviation and shall not
12 be subject to DRI review for additional impacts provided that
13 all the residential dwelling units are dedicated to workforce
14 housing. For purposes of this subparagraph, the term "workforce
15 housing" means housing that is affordable to a person who earns
16 less than 150 percent of the area median income.
17
18 ========== T I T L E A M E N D M E N T ==========
19 Remove line(s) 1129 and insert:
20 F.S.; creating paragraph (i) of subsection (19) of section
21 380.06; providing for the state land planning agency to

Bill No. **HB 683 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment 3 to Amendment (strike all) by Representative**
5 **Traviesa**
6 Remove lines 838 - 845 insert:
7
8 (k) Workforce housing.—The Applicable guidelines for
9 residential development and the residential component for
10 multiuse development shall be increased by 50 percent where the
11 developer demonstrates that at least 15 percent of the
12 residential dwelling units will be dedicated to workforce
13 housing. For purposes of this subparagraph, the term "workforce
14 housing" means housing that is affordable to a person who earns
15 less than 150 percent of the area median income.
16

Bill No. **683 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment 4 to Amendment (HB 683 Strike-all) by**
5 **Representative Traviesa (with directory amendments)**
6 Remove line(s) 1116 and insert:
7 197.303 Ad valorem tax deferral for recreational and
8 commercial working waterfront properties.—
9 (3) The ordinance shall designate the percentage or amount
10
11 ========== D I R E C T O R Y A M E N D M E N T =========
12 Remove line(s) 1113 - 1115 and insert:
13 Section 9. Subsection (3) of section 197.303, Florida
14 Statutes is amended to read:

Bill No. **683 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) M. Davis offered the following:
3
4 **Amendment 5 to Amendment (HB 683 Strike-all) by**
5 **Representative Traviesa**
6 Remove line(s) 1090-1091 and insert:
7 (i) The construction of private docks of 1,000 square feet
8 or less of over-water surface area and seawalls in
9