Item: 55

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Legislative - Agenda 2006 (State)

DEPARTMENT: County Manager's Office/County Attorney's Office **DIVISION:**

Susan Dietrich **Ext.** 7254

AUTHORIZED BY: Donald S. Fisher **Contact:** Sally A. Sherman **Ext.** 7224

Agenda Date 01/10/06 **Regular** ☒ **Consent** ☐ **Work Session** ☐ **Briefing** ☐

Public Hearing – 1:30 ☐ **Public Hearing – 7:00** ☐

Package Contents

Reviewed by: 12-30-05
Co Atty: S. Dietrich
DFS:
Other:
DCM: SS
CM:

File No. LEG 01

STATE – Top Legislative Priorities*

1. Oppose - Shifting the costs of Government services and programs from the state to counties

2. Support - Annexation reform

S1020 GENERAL BILL by Bennett
Developments of Regional Impact; requires state land planning agency to initiate rulemaking by specific date to revise development-of-regional-impact review process; requires local government to issue development orders concurrently with comprehensive plan amendments; prohibits local government from issuing permits for development subsequent to buildout date; provides statutory exemptions for development of certain facilities, etc. Amends Ch. 380, 163.3180, 331.303. EFFECTIVE DATE: 07/01/2006.
12/05/05 SENATE Filed **(Attachment A Page 9)**

S1194 GENERAL BILL by Constantine
Interlocal Serv. Boundary Agreement; creates "Interlocal Service Boundary Agreement Act"; provides legislative intent regarding annexation and coordination of services by local governments; provides for creation of said agreements by county & one or more municipalities or independent special districts; identifies issues agreement may or must address; specifies those persons who may challenge plan amendment required by agreement, etc. Creates 171.20-.212; amends FS. EFFECTIVE DATE: Upon becoming law. 12/12/05 SENATE Filed **(Attachment B Page 35)**

3. Support - Car Rental Surcharge Tax Support –adoption of a new per diem charge as a local option.

H207 GENERAL BILL by Quinones
Local Option Surcharge/Motor Vehicle; authorizes certain counties to impose by ordinance surcharge on rental or lease of motor vehicles; provides limitations; provides for collection, administration, & enforcement of surcharge by DOR; provides duties of department; requires referendum; provides for uses of surcharge proceeds; provides for application of certain rules of department. Creates 212.0607. Effective DATE: 07/01/2006.
10/06/05 HOUSE Filed
10/13/05 HOUSE Withdrawn prior to introduction (**Bill Previously Provided)**

H301 GENERAL BILL by Quinones (Similar H 0207)
Local Option Surcharge/Motor Vehicle; authorizes certain counties to impose by ordinance surcharge on rental or lease of motor vehicles; provides exception; provides limitations; provides for collection, administration, & enforcement of surcharge by DOR; provides duties of

department; requires referendum; provides for uses of surcharge proceeds; provides for application of certain rules of department. Creates 212.0607. EFFECTIVE DATE: 07/01/2006.
10/31/05 HOUSE Filed
12/23/05 HOUSE Referred to Tourism (SIC); Finance & Tax (FC); Transportation & Economic Development Appropriations (FC); State Infrastructure Council (**Bill Previously Provided)**

4. Support - Deferred Compensation/Government Employees –deferred compensation plan or plans apply to employees of governmental entities other than state.

H405 GENERAL BILL by Mealor (Identical S 1024)
Deferred Compensation Programs; amends provision re Financial Services Dept., to conform; revises term "employee" & defines term "governmental entity"; authorizes governmental entities, by ordinance, contract agreement, or other documentation, to participate in deferred compensation plan of state & specifies responsibility of Chief Financial Officer with respect thereto. Amends 20.121, 112.215. EFFECTIVE DATE: Upon becoming law.
11/16/05 HOUSE Filed
12/23/05 HOUSE Referred to Governmental Operations (SAC); Local Government Council; Fiscal Council; State Administration Council **(Bill Previously Provided)**

S1024 GENERAL BILL by Constantine (Identical H 0405)
Deferred Compensation Programs; revises term "employee" and defines term "governmental entity"; authorizes governmental entities, by ordinance, contract agreement, or other documentation, to participate in deferred compensation plan of state & specifies responsibility of Chief Financial Officer with respect thereto; amends specified provision regarding Financial Services Dept., to conform. Amends 20.121, 112.215. EFFECTIVE DATE: Upon becoming law.
12/05/05 SENATE Filed **(Bill Previously Provided)**

5. **Support - Growth Management**

S126 GENERAL BILL by Bennett
Growth Management; expresses legislative intent to revise laws regarding growth management. EFFECTIVE DATE: Upon becoming law.
09/08/05 SENATE Filed
10/26/05 SENATE Referred to Community Affairs; Environmental Preservation; Transportation and Economic Development Appropriations; Ways and Means; Rules and Calendar**(Bill Previously Provided)**

S130 GENERAL BILL by Bennett
Growth Management; expresses legislative intent to revise laws regarding

growth
management. EFFECTIVE DATE: Upon becoming law.
09/08/05 SENATE Filed
10/26/05 SENATE Referred to Community Affairs; Environmental Preservation; Transportation and Economic Development Appropriations; Ways and Means; Rules and Calendar **(Bill Previously Provided)**

6. **Support - Seminole Community College** - Increased funding and capital needs.

7. **Support - University of Central Florida Medical School** - Board of Governors heard presentations in November. Seminole support was highlighted. A final vote was postponed until March 2006. Nothing has been presented for legislation.

8. **Support - Sexual Predator Legislation**

H91 GENERAL BILL by Goldstein (Compare H 0083**)**
Residence of Sexual Offenders; prohibits sexual predators from establishing or maintaining residence within 2,500 feet of specified locations; provides for county or municipal ordinances that restrict residence of sexual offenders; revises provisions regarding residence of specified sex offenders; revises requirements for location of public school bus stops in relation to permanent residence of specified sexual offenders, etc. Amends 775.21, 794.065, 947.1405, 948.30. EFFECTIVE DATE:10/01/2006.
08/24/05 HOUSE Filed
09/22/05 HOUSE Referred to Criminal Justice (JC); Justice Appropriation (FC); Justice Council
11/21/05 HOUSE On Committee agenda-- Criminal Justice (JC), 12/07/05, 9:15 am, 404-H
12/07/05 HOUSE Favorable with CS amendment by Criminal Justice (JC); YEAS 6 NAYS 0 --Preliminary)
12/15/05 HOUSE Pending review of CS under Rule 6.3(b); Now in Justice Appropriations (FC)
12/27/05 HOUSE Original reference(s)- removed: Justice Appropriations (FC); Also referred to Criminal Justice Appropriations (FC); Now in Criminal Justice Appropriations (FC) **(Bill Previously Provided)**

H165 GENERAL BILL by Legg
Sheltering of Sex Offender/Predator; prohibits sheltering of sexual offenders & designated sexual predators in public hurricane evacuation shelters; requires each county to provide for sufficient separate & exclusive shelter space for such sexual offenders & predators; prohibits sexual predators from seeking shelter in public hurricane evacuation shelters used by general public; provides finding of important state interest, etc. Creates 252.386, amends 775.21; 943.0435. EFFECTIVE

DATE: 01/01/2007.
09/20/05 HOUSE Filed
10/03/05 HOUSE Referred to Domestic Security (SAC); Criminal Justice Local Government Council; Justice Appropriations (FC); State Administration Council
12/27/05 HOUSE Original reference(s) removed: Justice Appropriations (FC); Aso referred to Criminal Justice Appropriations (FC) **(Bill Previously Provided)**

9. **Driver Education** – No proposed legislation to date.

***Opposition/support is subject to bill language.**

Community Budget Funding Request

A. Lockhart-Smith Canal Regional Stormwater Facility Requested Sponsorship Senator Webster and Representative Hays	$6,675,680
B. Regional Alternative Water Supply Testing Program Requested Sponsorship Senator Constantine and Representative Mealor	$2,400,000
C. Cross Florida Greenways Trail - Seminole County/ Winter Springs Connection Requested Sponsorship Senator Posey and Representative Simmons	$2,500,000
D. SR 46- Regional Evacuation Route (SR 415 to US 1) Requested Sponsorship Senator Baker and Representative Adams	$8,000,000
TOTAL	$19,575,680
E. Middle St. John's River Basin Initiative- Support the District in pursuing state funding)	$4,000,000
F. Lake County Community Budget Request Funding for design, construction and connection of utility lines to convey portable water off SR 46 (Support Lake County in pursuing state funding) Requested Sponsorship Senator Baker and Representative Hays	$8,000,000

State – Issues for Monitoring

1. Funding increase or no reduction in the following programs:

    - State aid to Library Programs
    - Florida Recreation Development Assistance Program (FRDAP)
    - Florida Institute of Food and Agricultural Sciences
    - Medicaid
    - Environmental Health Fees
    - Preservation 2000 (P2000) & Florida Forever.

2. Department of Juvenile Justice Issues

3. Florida Hometown Democracy efforts

4. Trauma Center

5. Efforts to Privatize the Florida State Retirement System

6. Games of Chance

7. Article V

8. Wireless Communications

9. Library Internet Filtering

10. Charter County Form of Government

Items of Interest

- Seminole County Legislative Delegation Meeting -
  Held November 15, 2005, BCC Chambers, 3:00 pm
- Special Session – December 5th -9th, 2005
- **Seminole County Legislative Day in Tallahassee — Proposed - February 22nd and 23rd , 2006.**
- Regular Session – Begins March 7, 2006 - Ends May 5, 2006
- State lobbyist – Brantley and Associates

Attachment A

S1020 GENERAL BILL by Bennett

Developments of Regional Impact

Florida Senate - 2006 SB 1020
By Senator Bennett
21-697-06
A bill to be entitled
An act relating to developments of regional impact; amending s. 380.06, F.S.; conforming a cross-reference; requiring the state land planning agency to initiate rulemaking by a specific date to revise the development-of-regional-impact review process; requiring a local government to issue development orders concurrently with comprehensive plan amendments; specifying certain requirements for a development order; prohibiting a local government from issuing permits for development subsequent to the buildout date; revising the circumstances in which a local government may issue subsequent permits for development; revising the definition of an essentially built-out development; prohibiting the suspension of a development order for failure to submit a biennial report under certain circumstances; revising the criteria under which a proposed change is presumed to create a substantial deviation; requiring that notice of certain changes be given to the state land planning agency, regional planning agency, and local government; requiring that a memorandum of notice of certain changes be filed with the clerk of court; revising the period of time for notice and a public hearing after a change to a development order has been submitted; revising the requirement for further

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Florida Senate - 2006 SB 1020
21-697-06
development-of-regional-impact review of a proposed change; revising the statutory exemptions for the development of certain facilities; providing statutory exemptions for the development of certain facilities; providing that the impacts from a use that will be part of a larger project be included in the development-of-regional-impact review of the larger project; amending s. 380.0651, F.S.; removing the application of statewide guidelines and standards for development-of-regional-impact review to the construction of certain attractions and recreation facilities; revising the statewide guidelines and standards for development-of-regional-impact review of the construction of certain marinas; removing the application of statewide guidelines and standards for development-of-regional-impact

review to the construction of certain schools; prohibiting the state land planning agency from considering an impact of an independent development of regional impact cumulatively under certain circumstances; amending s. 380.07, F.S.; providing a mechanism for challenging the consistency of a development order with a local government comprehensive plan; providing that the Department of Community Affairs has standing to initiate an action to determine the consistency of a development order with a local government

comprehensive plan; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; amending ss. 163.3180 and 331.303, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2), paragraph (b) of subsection (7), and subsections (15), (18), (19), and (24) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.--

(2) STATEWIDE GUIDELINES AND STANDARDS.--

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

1. Fixed thresholds.--

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

b. A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-of-regional-impact review.

c. Projects certified under s. 403.973 which create at least 100 jobs and meet the criteria of the Office of Tourism, Trade, and Economic Development as to their impact on an area's economy, employment, and prevailing wage and skill levels that are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks,

distribution, warehousing or wholesaling facilities, office development or multiuse projects other than residential, as described in s. 380.0651(3)(b), (c), and (h) s. 380.0651(3)(c), (d), and (i), are not required to undergo development-of-regional-impact review.

2. Rebuttable presumption.--It shall be presumed that a development that is at 100 percent or between 100 and 120 percent of a numerical threshold shall be required to undergo development-of-regional-impact review.

(7) PREAPPLICATION PROCEDURES.--

(b) The state land regional planning agency shall

establish by rule a procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval when those questions are found to be unnecessary for development-of-regional-impact review. By August 1, 2006, the department shall initiate rulemaking to revise the development-of-regional-impact review process. The department shall eliminate as many duplicative or unnecessary requirements and questions as possible; provide for the acceptability and use of data and information provided by the applicant for federal, state, or local government permits and authorizations required for the proposed development; and revise and streamline the application process for development approval in order to provide for a more efficient review of an application. It is the legislative intent of this subsection to encourage reduction of paperwork, to discourage unnecessary gathering of data, and to encourage the coordination of the development-of-regional-impact review process with federal, state, and local environmental reviews when such reviews are required by law.

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(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) Unless otherwise requested by the applicant When possible, the local government governments shall issue development orders concurrently with comprehensive plan amendments and, when practicable, with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a buildout termination date that reasonably reflects the time anticipated required to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the

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public health, safety, or welfare. The date established pursuant to this subparagraph shall be no sooner than the buildout date of the project.

4 4. Shall specify the requirements for the biennial
5 report designated under subsection (18), including the date of
6 submission, parties to whom the report is submitted, and
7 contents of the report, based upon the rules adopted by the
8 state land planning agency. Such rules shall specify the
9 scope of any additional local requirements that may be
10 necessary for the report.
11 5. Shall May specify the types of changes, if any, to
12 the development which shall require submission for a
13 substantial deviation determination or a notice of proposed
14 change under subsection (19).
15 6. Shall include a legal description of the property.
16 (d) Conditions of a development order that require a
17 developer to contribute land for a public facility or
18 construct, expand, or pay for land acquisition or construction
19 or expansion of a public facility, or portion thereof, shall
20 meet the following criteria:
21 1. The need to construct new facilities or add to the
22 present system of public facilities must be reasonably
23 attributable to the proposed development.
24 2. Any contribution of funds, land, or public
25 facilities required from the developer shall be comparable to
26 the amount of funds, land, or public facilities that the state
27 or the local government would reasonably expect to expend or
28 provide, based on projected costs of comparable projects, to
29 mitigate the impacts reasonably attributable to the proposed
30 development.
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1 3. Any funds or lands contributed must be expressly
2 designated and used to mitigate impacts reasonably
3 attributable to the proposed development.
4 4. Construction or expansion of a public facility by a
5 nongovernmental developer as a condition of a development
6 order to mitigate the impacts reasonably attributable to the
7 proposed development is not subject to competitive bidding or
8 competitive negotiation for selection of a contractor or
9 design professional for any part of the construction or design
10 unless required by the local government that issues the
11 development order.
12 (e)1. Effective July 1, 1986, A local government shall
13 not include, as a development order condition for a
14 development of regional impact, any requirement that a
15 developer contribute or pay for land acquisition or
16 construction or expansion of public facilities or portions
17 thereof unless the local government has enacted a local
18 ordinance which requires other development not subject to this
19 section to contribute its proportionate share of the funds,
20 land, or public facilities necessary to accommodate any
21 impacts having a rational nexus to the proposed development,
22 and the need to construct new facilities or add to the present
23 system of public facilities must be reasonably attributable to
24 the proposed development.
25 2. A local government shall not approve a development
26 of regional impact that does not make adequate provision for
27 the public facilities needed to accommodate the impacts of the
28 proposed development unless the local government includes in
29 the development order a commitment by the local government to
30 provide these facilities consistently with the development

31 schedule approved in the development order; however, a local
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Florida Senate - 2006 SB 1020
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1 government's failure to meet the requirements of subparagraph
2 1. and this subparagraph shall not preclude the issuance of a
3 development order where adequate provision is made by the
4 developer for the public facilities needed to accommodate the
5 impacts of the proposed development. Any funds or lands
6 contributed by a developer must be expressly designated and
7 used to accommodate impacts reasonably attributable to the
8 proposed development.
9 3. The Department of Community Affairs and other state
10 and regional agencies involved in the administration and
11 implementation of this act shall cooperate and work with units
12 of local government in preparing and adopting local impact fee
13 and other contribution ordinances.
14 (f) Notice of the adoption of a development order or
15 the subsequent amendments to an adopted development order
16 shall be recorded by the developer, in accordance with s.
17 28.222, with the clerk of the circuit court for each county in
18 which the development is located. The notice shall include a
19 legal description of the property covered by the order and
20 shall state which unit of local government adopted the
21 development order, the date of adoption, the date of adoption
22 of any amendments to the development order, the location where
23 the adopted order with any amendments may be examined, and
24 that the development order constitutes a land development
25 regulation applicable to the property. The recording of this
26 notice shall not constitute a lien, cloud, or encumbrance on
27 real property, or actual or constructive notice of any such
28 lien, cloud, or encumbrance. This paragraph applies only to
29 developments initially approved under this section after July
30 1, 1980.
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Florida Senate - 2006 SB 1020
21-697-06
1 (g) A local government may shall not issue permits for
2 development subsequent to the buildout termination date or
3 expiration date contained in the development order if unless:
4 1. The proposed development has been evaluated
5 cumulatively with existing development under the substantial
6 deviation provisions of subsection (19) subsequent to the
7 termination or expiration date;
8 1.2. The proposed development is consistent with an
9 abandonment of development order that has been issued in
10 accordance with the provisions of subsection (26); or
11 2. The proposed development has satisfied the
12 mitigation requirements in the development order and meets the
13 requirements of sub-sub-subparagraph 3.b.(I); or
14 3. The project has been determined to be an
15 essentially built-out development of regional impact through
16 an agreement executed by the developer, the state land
17 planning agency, and the local government, in accordance with
18 s. 380.032, which will establish the terms and conditions
19 under which the development may be continued. If the project
20 is determined to be essentially built-out, development may
21 proceed pursuant to the s. 380.032 agreement after the
22 termination or expiration date contained in the development

order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations or subject to a modified development-of-regional-impact analysis. As used in this paragraph, an "essentially built-out" development of regional impact means:
a. The development is in compliance with all applicable terms and conditions of the development order except the built-out date; and

b.(I) The amount of development that remains to be built is less than 20 percent of the development approved by the original development order but not more than the applicable development-of-regional-impact threshold. Development may also be considered essentially built-out if all the infrastructure and horizontal development for the project has been completed and more than 80 percent of the parcels have been conveyed to third-party buyers, including builders and individual lot owners the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or
(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.
(h) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.
(18) BIENNIAL REPORTS.--The developer shall submit a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies in alternate years on the date specified in the development order, unless the development order by its terms requires more frequent monitoring. If the report is not received, the regional planning agency or the state land planning agency shall notify the local government. If the local government does not receive

the report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order applicable to the property remaining to be developed by the party failing to submit the report. If other developers within a development of regional impact are in compliance with their reporting requirements, the development order as it relates to their property may not be suspended by the local government. If no additional development pursuant to the development order has occurred since the submission of the previous report, then a letter from the developer stating that no development has occurred

shall satisfy the requirement for a report. Development orders that require annual reports shall may be amended to require biennial reports the next time they are amended at the option of the local government.

(19) SUBSTANTIAL DEVIATIONS.--

(a) Any proposed change to a previously approved development which creates an a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, shall constitute a substantial deviation and shall cause the proposed change development to be subject to further development-of-regional-impact review. There are a variety of reasons why a developer may wish to propose changes to an approved development of regional impact, including changed market conditions. The procedures set forth in this subsection are for that purpose.

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall be presumed to create constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 5 percent or 500 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

3.4. An increase in industrial development area by 10 5 percent or 64 32 acres, whichever is greater.

4.5. An increase in the average annual acreage mined by 10 5 percent or 20 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 10 5 percent or 600,000 300,000 gallons, whichever is greater. An increase in the size of the mine by 10 5 percent or 1,000 750 acres, whichever is less. An increase in the size of a heavy mineral mine as defined in s.

378.403(7) will only constitute a substantial deviation if the average annual acreage mined is more than 500 acres and consumes more than 3 million gallons of water per day.

5.6. An increase in land area for office development by 10 5 percent or an increase of gross floor area of office development by 10 5 percent or 100,000 60,000 gross square

7 feet, whichever is greater.
8 6. An increase of development at a marina of 10
9 percent of wet storage or for 30 watercraft slips, whichever
10 is greater, or 20 percent of wet storage or 60 watercraft
11 slips in an area identified by a local government in a boat
12 facility siting plan as an appropriate site for additional
13 marina development, whichever is greater.
14 7. An increase in the storage capacity for chemical or
15 petroleum storage facilities by 5 percent, 20,000 barrels, or
16 7 million pounds, whichever is greater.
17 8. An increase of development at a waterport of wet
18 storage for 20 watercraft, dry storage for 30 watercraft, or
19 wet/dry storage for 60 watercraft in an area identified in the
20 state marina siting plan as an appropriate site for additional
21 waterport development or a 5-percent increase in watercraft
22 storage capacity, whichever is greater.
23 7.9. An increase in the number of dwelling units by 10
24 5 percent or 100 50 dwelling units, whichever is greater.
25 8.10. An increase in commercial development by 100,000
26 50,000 square feet of gross floor area or of parking spaces
27 provided for customers for 600 300 cars or a 10-percent
28 5-percent increase of either of these, whichever is greater.
29 9.11. An increase in hotel or motel rooms facility
30 units by 10 5 percent or 100 rooms 75 units, whichever is
31 greater.
13

1 10.12. An increase in a recreational vehicle park area
2 by 10 5 percent or 100 vehicle spaces, whichever is less.
3 11.13. A decrease in the area set aside for open space
4 of 5 percent or 20 acres, whichever is less.
5 12.14. A proposed increase to an approved multiuse
6 development of regional impact where the sum of the increases
7 of each land use as a percentage of the applicable substantial
8 deviation criteria is equal to or exceeds 120 100 percent. The
9 percentage of any decrease in the amount of open space shall
10 be treated as an increase for purposes of determining when 120
11 100 percent has been reached or exceeded.
12 13.15. A 20-percent 15-percent increase in the number
13 of external vehicle trips generated by the development above
14 that which was projected during the original
15 development-of-regional-impact review. If the transportation
16 mitigation identified in the adopted development order is
17 based upon proportionate-share payments, an increase in the
18 proportionate-share payment commensurate with the increase in
19 external vehicle trips generated by the development is
20 adequate to satisfy the obligation of the developer to rebut
21 the presumption.
22 14.16. Any change that which would result in
23 development of any area which was specifically set aside in
24 the application for development approval or in the development
25 order for preservation or special protection of endangered or
26 threatened plants or animals designated as endangered,
27 threatened, or species of special concern and their habitat,
28 primary dunes, or archaeological and historical sites
29 designated as significant by the Division of Historical
30 Resources of the Department of State. The further
31 science-based refinement of such areas by survey, by habitat
14

evaluation, by other recognized assessment methodology, or by an environmental assessment is not a substantial deviation shall be considered under sub-subparagraph (e)5.b.

The substantial deviation numerical standards in subparagraphs 3., 5., 8., 9., 12., and 13. 4., 6., 10., 14., excluding residential uses, and 15., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 5., 7., 8., 9., 12., and 13. 4., 6., 9., 10., 11., and 14. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(c) An extension of the date of buildout of a development, or any phase thereof, by more than 10 7 or more years shall be presumed to create a substantial deviation subject to further development-of-regional-impact review. An extension of the date of buildout, or any phase thereof, of 5 years or more but less than 7 years shall be presumed not to create a substantial deviation. The extension of the date of buildout of an areawide development of regional impact by more than 5 years but less than 10 years is presumed not to create a substantial deviation. This presumption These presumptions may be rebutted by clear and convincing evidence at the public hearing held by the local government. An extension of 7 years or less than 5 years is not a substantial deviation. For the purpose of calculating when a buildout or, phase, or

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termination date has been exceeded, the time shall be tolled during the pendency of administrative or judicial proceedings relating to development permits. Any extension of the buildout date of a project or a phase thereof shall automatically extend the commencement date of the project, the buildout date the termination date of the development order, the expiration date of the development of regional impact, and the phases thereof by a like period of time.

(d) A change in the plan of development of an approved development of regional impact resulting from requirements imposed by the Department of Environmental Protection or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency shall be submitted to the local government pursuant to this subsection. These changes do The change shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. In addition, if a change to a permit involving property within the development of regional impact is approved by the agencies with jurisdiction, the change does not create a substantial deviation. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a

development order that individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs(b)1.-14.(b)1.-15. and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 7 5 years is not subject to the public hearing requirements of

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subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback that do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that do not affect external access points.

e. Changes to the building design or orientation that stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

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

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

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i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes to internal utility locations.

k. Changes to the internal location of public facilities.

l.j. Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-k. a.-i. and which does not create the likelihood of any additional regional impact.

This subsection does not require a development order amendment for any change listed in sub-subparagraphs a.-l. but shall require notice to the state land planning agency, the regional planning agency, and the local government. In addition, a

memorandum of that notice shall be filed with the clerk of the circuit court along with a legal description of the affected development of regional impact. If a subsequent change requiring a substantial deviation determination is made to the development of regional impact, modifications to the development of regional impact made in all prior notices must be reflected as amendments to the development memorandum.

a.-j. unless such issue is addressed either in the existing development order or in the application for development approval, but, in the case of the application, only if, and in the manner in which, the application is incorporated in the development order.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously

reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development shall include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Except for the types of uses listed in subparagraph (b)14.(b)16., any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

c. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was

originally approved with three or more uses specified in s. 380.0651(3)(c), (d), (f), and (g) and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 15 30 days but no later than 30 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 90 days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 30 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3. shall be applicable in determining whether further development-of-regional-impact review is required.

6. If the local government determines that the proposed change does not require further development-of-regional-impact review and is otherwise approved, or if the proposed change is not subject to a hearing and determination pursuant to subparagraphs 3. and 5. and is otherwise approved, the local government shall issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change. The decision of the local government to approve, with or without conditions, or to deny the proposed change that the developer asserts does not require further review shall be subject to the appeal provisions of s. 380.07. However, the state land planning agency may not appeal the local government decision if it did not comply with subparagraph 4. The state land planning agency may not appeal a change to a development order made pursuant to subparagraph (e)1. or subparagraph (e)2. for developments of regional impact approved after January 1, 1980, unless the change would result in a significant impact to a regionally significant archaeological, historical, or natural resource not previously identified in the original development-of-regional-impact review.

(g) If a proposed change requires further development-of-regional-impact review pursuant to this

section, the review shall be conducted subject to the

following additional conditions:
1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.
2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.
3. If the local government determines that the proposed change, as it relates to the entire development, should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the impacts of the proposed charge.
4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.
(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land planning agency or the appropriate regional

planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.
(24) STATUTORY EXEMPTIONS.--
(a) Any proposed hospital which has a designed capacity of not more than 100 beds is exempt from the provisions of this section.
(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact.
(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:
1. It would not operate concurrently with the scheduled hours of operation of the existing facility.
2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.
3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.
(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

29 (e) Any addition of permanent seats or parking spaces
30 for an existing sports facility located on property owned by a
31 public body prior to July 1, 1973, is exempt from the
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1 provisions of this section if future additions do not expand
2 existing permanent seating or parking capacity more than 15
3 percent annually in excess of the prior year's capacity.
4 (f) Any increase in the seating capacity of an
5 existing sports facility having a permanent seating capacity
6 of at least 50,000 spectators is exempt from the provisions of
7 this section, provided that such an increase does not increase
8 permanent seating capacity by more than 5 percent per year and
9 not to exceed a total of 10 percent in any 5-year period, and
10 provided that the sports facility notifies the appropriate
11 local government within which the facility is located of the
12 increase at least 6 months prior to the initial use of the
13 increased seating, in order to permit the appropriate local
14 government to develop a traffic management plan for the
15 traffic generated by the increase. Any traffic management
16 plan shall be consistent with the local comprehensive plan,
17 the regional policy plan, and the state comprehensive plan.
18 (g) Any expansion in the permanent seating capacity or
19 additional improved parking facilities of an existing sports
20 facility is exempt from the provisions of this section, if the
21 following conditions exist:
22 1.a. The sports facility had a permanent seating
23 capacity on January 1, 1991, of at least 41,000 spectator
24 seats;
25 b. The sum of such expansions in permanent seating
26 capacity does not exceed a total of 10 percent in any 5-year
27 period and does not exceed a cumulative total of 20 percent
28 for any such expansions; or
29 c. The increase in additional improved parking
30 facilities is a one-time addition and does not exceed 3,500
31 parking spaces serving the sports facility; and
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1 2. The local government having jurisdiction of the
2 sports facility includes in the development order or
3 development permit approving such expansion under this
4 paragraph a finding of fact that the proposed expansion is
5 consistent with the transportation, water, sewer and
6 stormwater drainage provisions of the approved local
7 comprehensive plan and local land development regulations
8 relating to those provisions.
9
10 Any owner or developer who intends to rely on this statutory
11 exemption shall provide to the department a copy of the local
12 government application for a development permit. Within 45
13 days of receipt of the application, the department shall
14 render to the local government an advisory and nonbinding
15 opinion, in writing, stating whether, in the department's
16 opinion, the prescribed conditions exist for an exemption
17 under this paragraph. The local government shall render the
18 development order approving each such expansion to the
19 department. The owner, developer, or department may appeal
20 the local government development order pursuant to s. 380.07,

within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.
(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects

listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.
(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section, if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or is consistent with a comprehensive port master plan that is in compliance with s. 163.3178.
(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.
(k)1. Any waterport or marina development is exempt from the provisions of this section if the relevant county or municipality has adopted a boating facility siting plan or policy, which includes applicable criteria, considering such factors as natural resources, manatee protection needs, and recreation and economic demands as generally outlined in the Bureau of Protected Species Management Boat Facility Siting Guide, dated August 2000, into the coastal management or land use element of its comprehensive plan. The adoption of boating facility siting plans or policies into the comprehensive plan is exempt from the provisions of s. 163.3187(1). Any waterport or marina development within the municipalities or counties with boating facility siting plans or policies that meet the above criteria, adopted prior to April 1, 2006 2002, are exempt from the provisions of this section, when their boating

facility siting plan or policy is adopted as part of the relevant local government's comprehensive plan.
2. Within 6 months of the effective date of this law, the Department of Community Affairs, in conjunction with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, shall provide technical assistance and guidelines, including model plans, policies and criteria to local governments for the development of their siting plans.
(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having

jurisdiction over the area where the development is proposed has adopted the urban service boundary and has entered into a binding agreement with contiguous adjacent jurisdictions and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16). If the binding agreement is not entered into within 12 months after the establishment of the urban service boundary, the Department of Transportation shall adopt within 90 days a reasonable impact-mitigation plan that is applicable in lieu of the binding agreement.

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

facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

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

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

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

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

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3178(6)(k) is exempt from the provisions of this section.

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

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

(u) Any development in an area granted an exception from the concurrency requirements for transportation

facilities which has met the requirements of s. 163.3180(5)(b)-(g), including the requirement for proportionate fair-share mitigation for transportation facilities, and which has been adopted into the comprehensive

plan is exempt from the provisions of this section.

If a use is exempt from review as a development of regional impact under subparagraphs (a)-(u) but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

Section 2. Subsections (3) and (4) of section 380.0651, Florida Statutes, are amended to read:

380.0651 Statewide guidelines and standards.--

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

(a) Airports.--

1. Any of the following airport construction projects shall be a development of regional impact unless exempt under s. 380.06(24):

a. A new commercial service or general aviation airport with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights

is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.

(b) Attractions and recreation facilities.--Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:

1. For single performance facilities:

a. Provides parking spaces for more than 2,500 cars; or

b. Provides more than 10,000 permanent seats for spectators.

2. For serial performance facilities:

a. Provides parking spaces for more than 1,000 cars; or

b. Provides more than 4,000 permanent seats for spectators.

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For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.
3. For multiscreen movie theaters of at least 8 screens and 2,500 seats:
a. Provides parking spaces for more than 1,500 cars; or
b. Provides more than 6,000 permanent seats for spectators.
(b)(c) Industrial plants, industrial parks, and distribution, warehousing or wholesaling facilities.--Any proposed industrial, manufacturing, or processing plant, or distribution, warehousing, or wholesaling facility, excluding wholesaling developments which deal primarily with the general public onsite, under common ownership, or any proposed industrial, manufacturing, or processing activity or distribution, warehousing, or wholesaling activity, excluding wholesaling activities which deal primarily with the general public onsite, which:
1. Provides parking for more than 2,500 motor vehicles; or
2. Occupies a site greater than 320 acres.
(c)(d) Office development.--Any proposed office building or park operated under common ownership, development plan, or management that:
1. Encompasses 300,000 or more square feet of gross floor area; or
2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as
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highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.
(d)(e) Marinas Port facilities.--The proposed construction of any waterport or marina is required to undergo development-of-regional-impact review if it is, except one designed for:
1.a. The wet storage or mooring of more fewer than 150 watercraft used exclusively for sport, pleasure, or commercial fishing;, or
b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or
b.c. The wet or dry storage or mooring of more fewer than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake that which has been designated an Outstanding Florida Water., or
d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose.
2. The subthreshold exceptions to this paragraph's requirements for development-of-regional-impact review do shall not apply to any waterport or marina facility located within or which serves physical development located within a

coastal barrier resource unit on an unbridged barrier island designated pursuant to 16 U.S.C. s. 3501.

In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 75 10 slips or storage spaces or a combination of the two is

located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days after of receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.

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

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

(e)(f) Retail and service development.--Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. Provides parking spaces for more than 2,500 cars.

(f)(g) Hotel or motel development.--

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in a county with a population greater than 500,000, and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(g)(h) Recreational vehicle development.--Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(h)(i) Multiuse development.--Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use

in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(i)(j) Residential development.--No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of

the development is located within 2 or less miles of the less populated adjacent county.

(k) Schools.--

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(a) The criteria of two of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:

1.a. The same person has retained or shared control of the developments;

b. The same person has ownership or a significant legal or equitable interest in the developments; or

c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.

2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the

submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.
3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of Florida Land Sales, Condominiums, and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.
4. The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated, except that which was implemented because it was required by a local general-purpose government; water management district; the Department of Environmental Protection; the Division of Florida Land Sales, Condominiums, and Mobile Homes; or the Public Service Commission.
5. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

(b) The following activities or circumstances shall not be considered in determining whether to aggregate two or more developments:
1. Activities undertaken leading to the adoption or amendment of any comprehensive plan element described in part II of chapter 163.
2. The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels.
3. The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which it has an interest.
4. Drainage improvements that are not designed to accommodate the types of development listed in the guidelines and standards contained in or adopted pursuant to this chapter or which are not designed specifically to accommodate the developments sought to be aggregated.
(c) Aggregation is not applicable when the following circumstances and provisions of this chapter are applicable:
1. Developments that which are otherwise subject to aggregation with a development of regional impact that which has received approval through the issuance of a final development order may shall not be aggregated with the approved development of regional impact. However, nothing contained in this subparagraph does not shall preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact

and, if so, the impacts of the independent developments of regional impact may not be considered cumulatively.
2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.
3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.
4. The developments sought to be aggregated were authorized to commence development prior to September 1, 1988, and could not have been required to be aggregated under the law existing prior to that date.
(d) The provisions of this subsection shall be applied prospectively from September 1, 1988. Written decisions, agreements, and binding letters of interpretation made or issued by the state land planning agency prior to July 1, 1988, shall not be affected by this subsection.
(e) In order to encourage developers to design, finance, donate, or build infrastructure, public facilities, or services, the state land planning agency may enter into binding agreements with two or more developers providing that the joint planning, sharing, or use of specified public infrastructure, facilities, or services by the developers shall not be considered in any subsequent determination of whether a unified plan of development exists for their developments. Such binding agreements may authorize the

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developers to pool impact fees or impact-fee credits, or to enter into front-end agreements, or other financing arrangements by which they collectively agree to design, finance, donate, or build such public infrastructure, facilities, or services. Such agreements shall be conditioned upon a subsequent determination by the appropriate local government of consistency with the approved local government comprehensive plan and land development regulations. Additionally, the developers must demonstrate that the provision and sharing of public infrastructure, facilities, or services is in the public interest and not merely for the benefit of the developments which are the subject of the agreement. Developments that are the subject of an agreement pursuant to this paragraph shall be aggregated if the state land planning agency determines that sufficient aggregation factors are present to require aggregation without considering the design features, financial arrangements, donations, or construction that are specified in and required by the agreement.
(f) The state land planning agency has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.
Section 3. Subsection (7) is added to section 380.07, Florida Statutes, to read:
380.07 Florida Land and Water Adjudicatory Commission.--

(7) Notwithstanding any other provision of law, s. 163.3215 is the sole mechanism for challenging the consistency of a development order issued under this chapter with the local government comprehensive plan. The Department of Community Affairs has standing to initiate an action under s.

163.3215 to determine the consistency of a development-of-regional-impact development order with the local government comprehensive plan and for no other purpose.

Section 4. Section 380.115, Florida Statutes, is amended to read:

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

(1) A change in a development-of-regional-impact guideline and standard does not abridge Nothing contained in this act abridges or modify modifies any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact on the effective date of this act. A development that has received a development-of-regional-impact development order pursuant to s. 380.06, but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651 of this act, shall be governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). The development-of-regional-impact development order may be enforced by the local government as provided by ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall may be rescinded by the local government having jurisdiction upon a

showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed abandoned pursuant to the process in s. 380.06(26).

(2) A development with an application for development approval pending, and determined sufficient pursuant to s. 380.06 s. 380.06(10), on the effective date of a change to the guidelines and standards this act, or a notification of proposed change pending on the effective date of a change to the guidelines and standards this act, may elect to continue such review pursuant to s. 380.06. At the conclusion of the pending review, including any appeals pursuant to s. 380.07, the resulting development order shall be governed by the provisions of subsection (1).

(3) A landowner that has filed an application for a development-of-regional-impact review prior to the adoption of an optional sector plan pursuant to s. 163.3245 may elect to have the application reviewed pursuant to s. 380.06, comprehensive plan provisions in force prior to adoption of

the sector plan, and any requested comprehensive plan amendments that accompany the application.

Section 5. Subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

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

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

(b) The development of regional impact contains an integrated mix of land uses and is designed to encourage pedestrian or other nonautomotive modes of transportation;

(c) The proportionate-share contribution for local and regionally significant traffic impacts is sufficient to pay for one or more required improvements that will benefit a regionally significant transportation facility;

(d) The owner and developer of the development of regional impact pays or assures payment of the proportionate-share contribution; and

(e) If the regionally significant transportation facility to be constructed or improved is under the maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local government with jurisdiction over the development of regional impact, the developer is required to enter into a binding and legally enforceable commitment to transfer funds to the governmental entity having maintenance authority or to otherwise assure construction or improvement of the facility.

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the

proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this subsection, "construction cost"

includes all associated costs of the improvement.
Section 6. Subsection (21) of section 331.303, Florida Statutes, is amended to read:
331.303 Definitions.--
(21) "Spaceport launch facilities" shall be defined as industrial facilities in accordance with s. 380.0651(3)(b) s. 380.0651(3)(c) and include any launch pad, launch control center, and fixed launch-support equipment.
Section 7. This act shall take effect July 1, 2006.

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Florida Senate - 2006 SB 1020
21-697-06
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SENATE SUMMARY
Requires the state land planning agency to initiate rulemaking to revise the development-of-regional-impact review process. Requires a local government to issue development orders concurrently with comprehensive plan amendments. Specifies requirements for development orders. Provides that a local government may not issue permits for development subsequent to the buildout date. Revises exceptions. Revises the definition of an "essentially built-out" development. Provides that a development order may not be suspended for failure to submit a biennial report under certain circumstances. Revises the criteria for creating a substantial deviation. Requires that notice be given to the state land planning agency, regional planning agency, local government, and the clerk of court. Revises the time for notice and a public hearing. Revises the requirement for further development-of-regional-impact review. Revises the statutory exemptions for the development of certain facilities. Requires that impacts from a use that will be part of a larger project be included in the development-of-regional-impact review. Removes the guidelines for development-of-regional-impact review of the construction of certain attractions and recreation facilities and of certain schools. Revises the guidelines for development-of-regional-impact review of the construction of certain marinas. Requires that a state land planning agency not consider an impact of an independent development of regional impact cumulatively. Requires that the Department of Community Affairs have standing to initiate an action to determine the consistency of a development order with a comprehensive plan. Provides that a change in a development-of-regional-impact guideline does not modify any vested right or duty under a development order.

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ATTACHMENT B

S1194 GENERAL BILL by Constantine Interlocal Serv. Boundary Agreement

Florida Senate - 2006 SB 1194
By Senator Constantine
22-164-06
A bill to be entitled
An act relating to growth management; creating part II of ch. 171, F.S., the "Interlocal Service Boundary Agreement Act"; providing legislative intent with respect to annexation and the coordination of services by local governments; providing definitions; providing for the creation of interlocal service boundary agreements by a county and one or more municipalities or independent special districts; specifying the procedures for initiating an agreement and responding to a proposal for agreements; identifying issues the agreement may or must address; requiring local governments that are a party to the agreement to amend their comprehensive plans; providing for review of the amendment by the state land planning agency; providing an exception to the limitation on plan amendments; specifying those persons who may challenge a plan amendment required by the agreement; providing for negotiation and adoption of the agreement; providing for preservation of certain agreements and powers regarding utility services; providing for preservation of existing contracts; providing prerequisites to annexation; providing a process for annexation; providing for the effect of an interlocal service boundary area agreement on the parties to the agreement; providing for a transfer of powers; authorizing a municipality to provide

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Florida Senate - 2006 SB 1194
22-164-06
services within an unincorporated area or territory of another municipality; authorizing a county to exercise certain powers within a municipality; providing for the effect on interlocal agreements and county charters; providing a presumption of validity; providing a procedure to settle a dispute regarding an interlocal service boundary agreement; amending s. 171.042, F.S.; revising the time period for filing a report; providing for a cause of action to invalidate an annexation; requiring municipalities to provide notice of proposed annexation to certain persons; amending s. 171.044, F.S.; revising the time period for providing a copy of a notice; providing for a cause of action to invalidate an annexation; creating s. 171.094, F.S.; providing for the effect of interlocal service boundary agreements adopted under the act; amending s.

171.081, F.S.; requiring a governmental entity affected by annexation or contraction to initiate conflict resolution procedures under certain circumstances; providing for initiation of judicial review and reimbursement of attorney's fees and costs regarding certain annexations or contractions; amending s. 163.01, F.S.; providing for the place of filing an interlocal agreement in certain circumstances; amending s. 164.1058, F.S.; providing that a governmental entity that fails to participate in conflict resolution

procedures shall be required to pay attorney's fees and costs under certain conditions; requesting the Division of Statutory Revision to designate parts I and II of ch. 171, F.S.; providing an effective date.

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

Section 1. Part II of chapter 171, Florida Statutes, consisting of sections 171.20, 171.201, 171.202, 171.203, 171.204, 171.205, 171.206, 171.207, 171.208, 171.209, 171.21, 171.211, and 171.212, is created to read:

171.20 Short title.--This part may be cited as the "Interlocal Service Boundary Agreement Act."

171.201 Legislative intent.--The Legislature intends to provide an alternative to part I of this chapter for local governments regarding the annexation of territory into a municipality and the subtraction of territory from the unincorporated area of the county. The principal goal of this part is to encourage local governments to jointly determine how to provide services to residents and property in the most efficient and effective manner while balancing the needs and desires of the community. This part is intended to establish a more flexible process for adjusting municipal boundaries and to address a wider range of the effects of annexation. This part is intended to encourage intergovernmental coordination in planning, service delivery, and boundary adjustments and to reduce intergovernmental conflicts and litigation between local governments. It is the intent of this part to promote sensible boundaries that reduce the costs of local governments, avoid duplicating local services, and increase

political transparency and accountability. This part is intended to prevent inefficient service delivery and an insufficient tax base to support the delivery of those services.

171.202 Definitions.--As used in this part, the term:

(1) "Chief administrative officer" means the municipal administrator, municipal manager, county manager, county administrator, or other officer of the municipality, county, or independent special district who reports directly to the governing body of the local government.

(2) "Enclave" has the same meaning as provided in s.

171.031.
(3) "Independent special district" means an independent special district, as defined in s. 189.403, which provides fire, emergency medical, water, wastewater, or stormwater services.
(4) "Initiating county" means a county that commences the process for negotiating an interlocal service boundary agreement through the adoption of an initiating resolution.
(5) "Initiating local government" means a county, municipality, or independent special district that commences the process for negotiating an interlocal service boundary agreement through the adoption of an initiating resolution.
(6) "Initiating municipality" means a municipality that commences the process for negotiating an interlocal service boundary agreement through the adoption of an initiating resolution.
(7) "Initiating resolution" means a resolution adopted by a county, municipality, or independent special district which commences the process for negotiating an interlocal

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service boundary agreement and which identifies the unincorporated area and other issues for discussion.
(8) "Interlocal service boundary agreement" means an agreement adopted under this part, between a county and one or more municipalities, which may include one or more independent special districts as parties to the agreement.
(9) "Invited local government" means an invited county, municipality, or special district and any other local government designated as such in an initiating resolution or a responding resolution that invites the local government to participate in negotiating an interlocal service boundary agreement.
(10) "Invited municipality" means an initiating municipality and any other municipality designated as such in an initiating resolution or a responding resolution that invites the municipality to participate in negotiating an interlocal service boundary agreement.
(11) "Municipal service area" means one or more of the following as designated in an interlocal service boundary agreement:
(a) An unincorporated area that has been identified in an interlocal service boundary agreement for municipal annexation by a municipality that is a party to the agreement.
(b) An unincorporated area that has been identified in an interlocal service boundary agreement to receive municipal services from a municipality that is a party to the agreement or from the municipality's designee.
(12) "Notified local government" means the county or a municipality, other than an invited municipality, that receives an initiating resolution.

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(13) "Participating resolution" means the resolution adopted by the initiating local government and the invited local government.

(14) "Requesting resolution" means the resolution adopted by a municipality seeking to participate in the negotiation of an interlocal service boundary agreement.
(15) "Responding resolution" means the resolution adopted by the county or an invited municipality which responds to the initiating resolution and which may identify an additional unincorporated area or another issue for discussion, or both, and may designate an additional invited municipality or independent special district.
(16) "Unincorporated service area" means one or more of the following as designated in an interlocal service boundary agreement:
(a) An unincorporated area that has been identified in an interlocal service boundary agreement and that may not be annexed without the consent of the county.
(b) An unincorporated area or incorporated area, or both, which have been identified in an interlocal service boundary agreement to receive municipal services from a county or its designee or an independent special district.
171.203 Interlocal service boundary agreement.--The governing body of a county and one or more municipalities or independent special districts within the county may enter into an interlocal service boundary agreement under this part. The governing bodies of a county, a municipality, or an independent special district may develop a process for reaching an interlocal service boundary agreement which provides for public participation in a manner that meets or

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exceeds the requirements of subsection (12), or the governing bodies may use the process established in this section.
(1) A county, a municipality, or an independent special district desiring to enter into an interlocal service boundary agreement shall commence the negotiation process by adopting an initiating resolution. The initiating resolution must identify an unincorporated area or incorporated area, or both, to be discussed and the issues to be negotiated. The identified area must be specified in the initiating resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The issues for negotiation must be listed in the initiating resolution and may include, but need not be limited to, the issues listed in subsection (6). An independent special district may initiate the interlocal service boundary agreement for the purposes of dissolving an independent special district or removing more than 10 percent of the taxable or assessable value of an independent special district.
(a) The initiating resolution of an initiating county must designate one or more invited municipalities. The initiating resolution of an initiating municipality may designate an invited municipality. The initiating resolution of an independent special district must designate one or more invited municipalities and invite the county.
(b) An initiating county shall send the initiating resolution by United States certified mail to the chief administrative officer of every invited municipality and each other municipality within the county. An initiating municipality shall send the initiating resolution by United

States certified mail to the chief administrative officer of
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Florida Senate - 2006 SB 1194
22-164-06
the county, the invited municipality, if any, and each other municipality within the county.
(c) The initiating local government shall also send the initiating resolution to the chief administrative officer of each independent special district in the unincorporated area designated in the initiating resolution.
(2) Within 60 days after the receipt of an initiating resolution, the county or the invited municipality, as appropriate, shall adopt a responding resolution. The responding resolution may identify an additional unincorporated area or incorporated area, or both, for discussion and may designate additional issues for negotiation. The additional identified area, if any, must be specified in the responding resolution by a descriptive exhibit that includes, but need not be limited to, a map or legal description of the designated area. The additional issues designated for negotiation, if any, must be listed in the responding resolution and may include, but need not be limited to, the issues listed in subsection (6). The responding resolution may also invite an additional municipality or independent special district to negotiate the interlocal service boundary agreement.
(a) Within 7 days after the adoption of a responding resolution, the responding county shall send the responding resolution by United States certified mail to the chief administrative officer of the initiating municipality, each invited municipality, if any, and the independent special district that received an initiating resolution.
(b) Within 7 days after the adoption of a responding resolution, an invited municipality shall send the responding resolution by United States certified mail to the chief
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administrative officer of the initiating county, each invited municipality, if any, and each independent special district that received an initiating resolution.
(c) An invited municipality that was invited by a responding resolution shall adopt a responding resolution in accordance with paragraph (b).
(d) Within 60 days after receipt of the initiating resolution, any independent special district that received an initiating resolution and that desires to participate in the negotiations shall adopt a resolution indicating that it intends to participate in the negotiation process for the interlocal service boundary agreement. Within 7 days after the adoption of the resolution, the independent special district shall send the resolution by United States certified mail to the chief administrative officer of the county, the initiating municipality, each invited municipality, if any, and each notified local government.
(3) A municipality within the county which is not an invited municipality may request participation in the negotiations for the interlocal service boundary agreement. Such a request must be accomplished by adopting a requesting resolution within 60 days after receipt of the initiating

resolution or within 10 days after receipt of the responding resolution. Within 7 days after adoption of the requesting resolution, the requesting municipality shall send the resolution by United States certified mail to the chief administrative officer of the initiating local government and each invited municipality. The county and the invited municipality shall consider whether to allow a requesting municipality to participate in the negotiations, and, if they agree, the county and the municipality shall adopt a

participating resolution allowing the requesting municipality to participate in the negotiations.

(4) The county, the invited municipalities, the participating municipalities, if any, and the independent special districts, if any have adopted a resolution to participate, shall begin negotiations within 60 days after receipt of the responding resolution or a participating resolution, whichever occurs later.

(5) An invited municipality that fails to adopt a responding resolution shall be deemed to waive its right to participate in the negotiation process and shall be bound by an interlocal agreement resulting from such negotiation process, if any is reached.

(6) An interlocal service boundary agreement may address any issue concerning service delivery, fiscal responsibilities, or boundary adjustment. The agreement may include, but need not be limited to, provisions that:

(a) Identify a municipal service area.

(b) Identify an unincorporated service area.

(c) Identify the local government responsible for the delivery or funding of the following services within the municipal service area or the unincorporated service area:

1. Public safety.
2. Fire, emergency rescue, and medical.
3. Water and wastewater.
4. Road ownership, construction, and maintenance.
5. Conservation, parks, and recreation.
6. Stormwater management and drainage.

(d) Address other services and infrastructure not currently provided by an electric utility as defined by s. 366.02(2) or a natural gas transmission company as defined by

s. 368.103(4). However, this paragraph does not affect any territorial agreement between electrical utilities or public utilities under chapter 366 or affect the determination of a territorial dispute by the Public Service Commission under s. 366.04.

(e) Establish a process and schedule for annexation of an area within the designated municipal service area consistent with s. 171.205.

(f) Establish a process for land-use decisions consistent with part II of chapter 163, including those made jointly by the governing bodies of the county and the municipality, or allow a municipality to adopt land-use changes consistent with part II of chapter 163 for areas that are scheduled to be annexed within the term of the interlocal

agreement; however, the county comprehensive plan and land-development regulations shall control until the municipality annexes the property and amends its comprehensive plan accordingly. Comprehensive plan amendments to incorporate the process established by this paragraph are exempt from the twice-per-year limitation under s. 163.3187.
(g) Address other issues concerning service delivery, including the transfer of services and infrastructure and the fiscal compensation to one county, municipality, or independent special district from another county, municipality, or independent special district.
(h) Provide for the joint use of facilities and the colocation of services.
(i) Include a requirement for a report to the county of the municipality's planned service delivery, as provided in s. 171.042, or as otherwise determined by agreement.

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(j) Establish a procedure by which the local government that is responsible for water and wastewater services shall, within 30 days after the annexation or subtraction of territory, apply for any modifications to permits of the water management district or the Department of Environmental Protection which are necessary to reflect changes in the entity that is responsible for managing surface water under such permits.
(7) If the interlocal service boundary agreement addresses responsibilities for land-use planning under chapter 163, the agreement must also establish the procedures for preparing and adopting comprehensive plan amendments, administering land-development regulations, and issuing development orders.
(8) Each local government that is a party to the interlocal service boundary agreement shall amend the intergovernmental coordination element of its comprehensive plan, as described in s. 163.3177(6)(h)1., no later than 6 months following entry of the interlocal service boundary agreement consistent with s. 163.3177(6)(h)1. Plan amendments required by this subsection are exempt from the twice-per-year limitation under s. 163.3187.
(9) An affected person for the purpose of challenging a comprehensive plan amendment required by paragraph (6)(f) includes a person who owns real property, resides, or owns or operates a business within the boundaries of the municipal service area, and a person who owns real property abutting real property within the municipal service area that is the subject of the comprehensive plan amendment, in addition to those other affected persons who would have standing under s. 163.3184.

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(10)(a) A municipality that is a party to an interlocal service boundary agreement that identifies an unincorporated area for municipal annexation under s. 171.202(11)(a) shall adopt a municipal service area as an amendment to its comprehensive plan to address future possible municipal annexation. The state land planning agency shall

7 review the amendment for compliance with part II of chapter
8 163. A municipal service area must contain:
9 1. A boundary map of the municipal service area.
10 2. Population projections for the area.
11 3. Data and analysis supporting the provision of
12 public facilities for the area.
13 (b) This part does not authorize the state land
14 planning agency to review, evaluate, determine, approve, or
15 disapprove a municipal ordinance relating to municipal
16 annexation or contraction.
17 (c) Any amendment required by paragraph (a) is exempt
18 from the twice-per-year limitation under s. 163.3187.
19 (11) An interlocal service boundary agreement may be
20 for a term of 20 years or less. The interlocal service
21 boundary agreement must include a provision requiring periodic
22 review. The interlocal service boundary agreement must require
23 renegotiations to begin at least 18 months before its
24 termination date.
25 (12) No earlier than 6 months after the commencement
26 of negotiations, either of the initiating local governments or
27 both, the county, or the invited municipality may declare an
28 impasse in the negotiations and seek a resolution of the
29 issues under ss. 164.1053-164.1057. If the local governments
30 fail to agree at the conclusion of the process under chapter
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1 164, the local governments shall hold a joint public hearing
2 on the issues raised in the negotiations.
3 (13) When the local governments have reached an
4 interlocal service boundary agreement, the county and the
5 municipality shall adopt the agreement by ordinance under s.
6 166.041 or s. 125.66, respectively. An independent special
7 district, if it consents to the agreement, shall adopt the
8 agreement by final order, resolution, or other method
9 consistent with its charter. The interlocal service boundary
10 agreement shall take effect on the day specified in the
11 agreement or, if there is no date, upon adoption by the county
12 or the invited municipality, whichever occurs later. This part
13 does not prohibit a county or municipality from adopting an
14 interlocal service boundary agreement without the consent of
15 an independent special district, unless the agreement provides
16 for the dissolution of an independent special district or the
17 removal of more than 10 percent of the taxable or assessable
18 value of an independent special district.
19 (14) For a period of 6 months following the failure of
20 the local governments to consent to an interlocal service
21 boundary agreement, the initiating local government may not
22 initiate the negotiation process established in this section
23 to require the responding local government to negotiate an
24 agreement concerning the same identified unincorporated area
25 and the same issues that were specified in the failed
26 initiating resolution.
27 (15) This part does not authorize one local government
28 to require another local government to enter into an
29 interlocal service boundary agreement. However, when the
30 process for negotiating an interlocal service boundary
31 agreement is initiated, the local governments shall negotiate
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in good faith to the conclusion of the process established in this section.
(16) This section authorizes local governments to simultaneously engage in negotiating more than one interlocal service boundary agreement, notwithstanding that separate negotiations concern similar or identical unincorporated areas and issues.
(17) Elected local government officials are encouraged to participate actively and directly in the negotiation process for developing an interlocal service boundary agreement.
(18) This part does not impair any existing franchise agreement without the consent of the franchisee, any existing territorial agreement between electric utilities or public utilities under chapter 366, or the jurisdiction of the Public Service Commission to resolve a territorial dispute involving electric utilities or public utilities in accordance with s. 366.04. In addition, an interlocal agreement entered into under this section has no effect in a proceeding before the Public Service Commission involving a territorial dispute. A municipality or county shall retain all existing authority, if any, to negotiate a franchise agreement with any private service provider for use of public rights-of-way or the privilege of providing a service.
(19) This part does not impair any existing contract without the consent of the parties.
171.204 Prerequisites to annexation under this part.--The interlocal service boundary agreement may describe the character of land that may be annexed under this part and may provide that the restrictions on the character of land that may be annexed pursuant to part I are not restrictions on

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land that may be annexed pursuant to this part. As determined in the interlocal service boundary agreement, any character of land may be annexed, including, but not limited to, an annexation of land not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation where the annexed area is not reasonably compact; however, such area must be "urban in character" as defined in s. 171.031(8). The interlocal service boundary agreement may not allow for annexation of land within a municipality that is not a party to the agreement or of land that is within another county. Before annexation of land that is not contiguous to the boundaries of the annexing municipality, an annexation that creates an enclave, or an annexation of land that is not currently served by water or sewer utilities, one of the following options must be followed:
(1) The municipality shall transmit a comprehensive-plan amendment that proposes specific amendments relating to the property anticipated for annexation to the Department of Community Affairs for review under chapter 163. After considering the department's review, the municipality may approve the annexation and comprehensive-plan amendment concurrently. The local government must adopt the annexation and the comprehensive-plan amendment as separate and distinct actions, but may take such actions at a single public hearing;

26 or
27 (2) A municipality and county shall enter into a joint
28 planning agreement under s. 163.3171, which is adopted into
29 the municipal comprehensive plan. The joint planning agreement
30 must identify the geographic areas anticipated for annexation,
31 the future land uses that the municipality would seek to
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1 establish, necessary public facilities and services, including
2 transportation and school facilities and how they will be
3 provided, and natural resources, including surface water and
4 groundwater resources, and how they will be protected. An
5 amendment to the future land-use map of a comprehensive plan
6 which is consistent with the joint planning agreement must be
7 considered a small-scale amendment.
8 171.205 Consent requirements for annexation of land
9 under this part.--Notwithstanding part I, an interlocal
10 service boundary agreement may provide a process for
11 annexation consistent with this section or with part I.
12 (1) For all or a portion of the area within a
13 designated municipal service area, the interlocal service
14 boundary agreement may provide a flexible process for securing
15 the consent of persons who are registered voters or own
16 property in the area proposed for annexation, or of both such
17 voters and owners, for the annexation of property within a
18 municipal service area, with notice to such voters or owners
19 as required in the interlocal service boundary agreement. The
20 interlocal service boundary agreement may not authorize
21 annexation unless the consent requirements of part I are met
22 or the annexation is consented to by one or more of the
23 following:
24 (a) The municipality has received a petition for
25 annexation from more than 50 percent of the registered voters
26 who reside in the area proposed to be annexed.
27 (b) The annexation is approved by a majority of the
28 registered voters who reside in the area proposed to be
29 annexed voting in a referendum on the annexation.
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1 (c) The municipality has received a petition for
2 annexation from more than 50 percent of the persons who own
3 property within the area proposed to be annexed.
4 (2) If the area to be annexed includes a privately
5 owned solid waste disposal facility as defined in s.
6 403.703(11) which receives municipal solid waste collected
7 within the jurisdiction of multiple local governments, the
8 annexing municipality must set forth in its plan the affects
9 that the annexation of the solid waste disposal facility will
10 have on the other local governments. The plan must also
11 indicate that the owner of the affected solid waste disposal
12 facility has been contacted in writing concerning the
13 annexation, that an agreement between the annexing
14 municipality and the solid waste disposal facility to govern
15 the operations of the solid waste disposal facility if the
16 annexation occurs has been approved, and that the owner of the
17 solid waste disposal facility does not object to the proposed

annexation.
(3) For all or a portion of an enclave consisting of more than 20 acres within a designated municipal service area, the interlocal service boundary agreement may provide a flexible process for securing the consent of persons who are registered voters or own property in the area proposed for annexation, or of both such voters and owners, for the annexation of property within such an enclave, with notice to such voters or owners as required in the interlocal service boundary agreement. The interlocal service boundary agreement may not authorize annexation of enclaves under this subsection unless the consent requirements of part I are met, the annexation process includes one or more of the procedures in subsection (1), or the municipality has received a petition

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for annexation from one or more persons who own real property in excess of 50 percent of the total real property within the area to be annexed.
(4) For all or a portion of an enclave consisting of 20 acres or fewer within a designated municipal service area, within which enclave not more than 100 registered voters reside, the interlocal service boundary agreement may provide a flexible process for securing the consent of persons who are registered voters or own property in the area proposed for annexation, or of both such voters and owners, for the annexation of property within such an enclave, with notice to such voters or owners as required in the interlocal service boundary agreement. Such an annexation process may include one or more of the procedures in subsection (1) and may allow annexation according to the terms and conditions provided in the interlocal service boundary agreement, which may include a referendum of the registered voters who reside in the area proposed to be annexed.
171.206 Effect of interlocal service boundary area agreement on annexations.--
(1) An interlocal service boundary agreement is binding on the parties to the agreement, and a party may not take any action that violates the interlocal service boundary agreement.
(2) Notwithstanding part I, without consent of the county and the affected municipality by resolution, a county or an invited municipality may not take any action that violates the interlocal service boundary agreement.
(3) If the independent special district that participated in the negotiation process pursuant to s. 171.203(2)(d) does not consent to the interlocal service

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boundary agreement and a municipality annexes an area within the independent special district, the independent special district may seek compensation using the process in s. 171.093.
171.207 Transfer of powers.--This part is an alternative provision otherwise provided by law, as authorized in s. 4, Art. VIII of the State Constitution, for any transfer of power resulting from an interlocal service boundary agreement for the provision of services or the acquisition of

public facilities entered into by a county, municipality, independent special district, or other entity created pursuant to law.

171.208 Municipal extraterritorial power.--This part authorizes a municipality to exercise extraterritorial powers that include, but are not limited to, the authority to provide services and facilities within the unincorporated area or within the territory of another municipality as provided within an interlocal service boundary agreement. These powers are in addition to other municipal powers that otherwise exist. However, this power is subject to the jurisdiction of the Public Service Commission to resolve territorial disputes under s. 366.04. An interlocal agreement has no effect on the resolution of a territorial dispute to be determined by the Public Service Commission.

171.209 County incorporated area power.--As provided in an interlocal service boundary agreement, this part authorizes a county to exercise powers within a municipality that include, but are not limited to, the authority to provide services and facilities within the territory of a municipality. These powers are in addition to other county powers that otherwise exist.

171.21 Effect of part on interlocal agreement and county charter.--A joint planning agreement, a charter provision adopted under s. 171.044(4), or any other interlocal agreement between local governments including a county, municipality, or independent special district is not affected by this part; however, a county, municipality or independent special district may avail itself of this part, which may result in the repeal or modification of a joint planning agreement or other interlocal agreement. A local government within a county that has adopted a charter provision pursuant to s. 171.044(4) may avail itself of the provisions of this part which authorize an interlocal service boundary agreement if such interlocal agreement is consistent with the charter of that county, as the charter was approved, revised, or amended pursuant to s. 125.64.

171.211 Interlocal service boundary agreement presumed valid and binding.--

(1) If there is litigation over the terms, conditions, construction, or enforcement of an interlocal service boundary agreement, the agreement shall be presumed valid, and the challenger has the burden of proving its invalidity.

(2) Notwithstanding part I, it is the intent of this part to authorize a municipality to enter into an interlocal service boundary agreement that enhances, restricts, or precludes annexations during the term of the agreement.

171.212 Disputes regarding construction and effect of an interlocal service boundary agreement.--If there is a question or dispute about the construction or effect of an interlocal service boundary agreement, a local government shall initiate and proceed through the conflict resolution procedures established in chapter 164. If there is a failure

to resolve the conflict, no later than 30 days following the

conclusion of the procedures established in chapter 164, the local government may file an action in circuit court. For purposes of this section, the term "local government" means a party to the interlocal service boundary agreement.

Section 2. Subsection (2) of section 171.042, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

171.042 Prerequisites to annexation.--

(2) Not fewer than 15 days prior to commencing the annexation procedures under s. 171.0413, the governing body of the municipality shall file a copy of the report required by this section with the board of county commissioners of the county wherein the municipality is located. Failure to timely file the report as required in this subsection may be the basis for a cause of action invalidating the annexation.

(3) The governing body of the municipality shall, not less than 10 days prior to the date set for the first public hearing required by s. 171.0413(1), mail a written notice to each person who resides or owns property within the area proposed to be annexed. The notice must describe the annexation proposal, the time and place for each public hearing to be held regarding the annexation, and the place or places within the municipality where the proposed ordinance may be inspected by the public. A copy of the notice must be kept available for public inspection during the regular business hours of the office of the clerk of the governing body.

Section 3. Subsection (6) of section 171.044, Florida Statutes, is amended to read:

171.044 Voluntary annexation.--

(6) Not fewer than 10 days prior to Upon publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection may shall not be the basis for a of any cause of action invalidating challenging the annexation.

Section 4. Section 171.094, Florida Statutes, is created to read:

171.094 Effect of interlocal service boundary agreements adopted under part II on annexations under this part.

(1) An interlocal service boundary agreement entered into pursuant to part II is binding on the parties to the agreement and a party may not take any action that violates the interlocal service boundary agreement.

(2) Notwithstanding any other provision of this part, without the consent of the county, the affected municipality, or affected independent special district by resolution, a county, an invited municipality, or independent special district may not take any action that violates an interlocal service boundary agreement.

Section 5. Section 171.081, Florida Statutes, is amended to read:

171.081 Appeal on annexation or contraction.--

(1) No later than 30 days following the passage of an annexation or contraction ordinance, Any party affected who

29 believes that he or she will suffer material injury by reason
30 of the failure of the municipal governing body to comply with
31 the procedures set forth in this chapter for annexation or
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1 contraction or to meet the requirements established for
2 annexation or contraction as they apply to his or her property
3 may file a petition in the circuit court for the county in
4 which the municipality or municipalities are located seeking
5 review by certiorari. The action may be initiated at the
6 party's option within 30 days following the passage of the
7 annexation or contraction ordinance or within 30 days
8 following the completion of the dispute resolution process in
9 subsection (2). In any action instituted pursuant to this
10 subsection section, the complainant, should he or she prevail,
11 shall be entitled to reasonable costs and attorney's fees.
12 (2) If the affected party is a governmental entity, no
13 later than 30 days following the passage of an annexation or
14 contraction ordinance, the governmental entity must initiate
15 and proceed through the conflict resolution procedures
16 established in chapter 164. If there is a failure to resolve
17 the conflict, no later than 30 days following the conclusion
18 of the procedures established in chapter 164, the governmental
19 entity that initiated the conflict resolution procedures may
20 file a petition in the circuit court for the county in which
21 the municipality or municipalities are located seeking review
22 by certiorari. In any legal action instituted pursuant to this
23 subsection, the prevailing party is entitled to reasonable
24 costs and attorney's fees.
25 Section 6. Subsection (11) of section 163.01, Florida
26 Statutes, is amended to read:
27 163.01 Florida Interlocal Cooperation Act of 1969.--
28 (11) Prior to its effectiveness, an interlocal
29 agreement and subsequent amendments thereto shall be filed
30 with the clerk of the circuit court of each county where a
31 party to the agreement is located; however, if the parties to
24
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1 the agreement are located in multiple counties and the
2 agreement, pursuant to subsection (7), provides for a separate
3 legal entity or administrative entity to administer the
4 agreement, the interlocal agreement and any amendments thereto
5 may be filed with the clerk of the circuit court in the county
6 where the legal or administrative entity maintains its
7 principal place of business.
8 Section 7. Section 164.1058, Florida Statutes, is
9 amended to read:
10 164.1058 Penalty.--If a primary conflicting
11 governmental entity which has received notice of intent to
12 initiate the conflict resolution procedure pursuant to this
13 act fails to participate in good faith in the conflict
14 assessment meeting, mediation, or other remedies provided for
15 in this act, and the initiating governmental entity files suit
16 and is the prevailing party in such suit, the primary
17 disputing governmental entity that which failed to participate
18 in good faith shall be required to pay the attorney's fees and
19 costs in that proceeding of the prevailing primary conflicting
20 governmental entity which initiated the conflict resolution

procedure.
Section 8. The Division of Statutory Revision is requested to designate ss. 171.011-171.094, Florida Statutes, as part I of chapter 171, Florida Statutes, and ss. 171.20-171.212, Florida Statutes, as created by this act, as part II of chapter 171, Florida Statutes.
Section 9. This act shall take effect upon becoming a law.

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SENATE SUMMARY

Provides for the creation of interlocal service boundary agreements by a county and one or more municipalities or independent special districts. Specifies the procedures for initiating an agreement and responding to a proposal for agreements. Requires local governments that are a party to the agreement to amend their comprehensive plans. Provides limitations on the review of certain ordinances by the state land planning agency. Specifies those persons who may challenge a plan amendment required by the agreement. Provides for adoption of an interlocal service boundary agreement. Provides prerequisites to annexation. Provides for the effect of an interlocal service boundary area agreement on the parties to the agreement. Authorizes a municipality to provide services within an unincorporated area or territory of another municipality. Authorizes a county to exercise certain powers within a municipality. Provides a procedure to settle a dispute regarding an interlocal service boundary agreement. Provides for a cause of action to invalidate an annexation. Requires municipalities to provide notice of proposed annexation to certain persons. Provides for a cause of action to invalidate an annexation.

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