

# In My Opinion...

## Developments of Regional Impact: Time to Say Goodbye? By: Bob Rhodes

Florida's development of regional impact program was enacted in 1972 to provide for intergovernmental review of large scale development that would produce impacts substantially affecting the health, safety or welfare of citizens of more than one county. The DRI program preceded adoption of the state's mandatory local planning process and was regarded by many as an interim measure that would later be pre-empted by state directed comprehensive local planning requirements that would address intergovernmental coordination and extra-jurisdictional impacts. Several local planning programs, most notably in 1975, 1985, and 2011, have been legislated and through it all, despite well intentioned efforts to develop alternatives and continuous controversy, the DRI program has survived.\*

With passage of the 2011 Community Planning Act, should the DRI program be continued or is there a more effective and efficient process to review, assess and address regional and extra-jurisdictional impacts? I believe there is and here are major concepts offered to facilitate discussion.

**Premises:** Requiring local government to review local plan amendments for consistency with a state mandated strategic regional policy plan (SRPP) including adverse impacts on regional resources and facilities, and to review extra jurisdictional impacts for consistency with other local governments' plans is an important state interest that should continue to be promoted.

The DRI program does not effectively and efficiently further this interest. Its lengthy, expensive and often redundant review process discourages large scale, unified development that does not qualify for sector or rural land stewardship planning. Only three new DRI applications have been filed since 2011.

Cumulative exemptions including deleting dense urban areas (DULA) from review plus narrowing the type and scale of projects that qualify as DRIs have vitiated the DRI program and created an uneven playing field for developers outside exempt areas. Regional and extra jurisdiction impacts are not regularly and adequately reviewed because plan amendments for DRI scale development are subject to the 2011 Act's expedited review process, which typically does not include sufficient

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information or time for sound impact assessment. Moreover, local government implementation of required local plan intergovernmental cooperation policy is inconsistent, situational, and largely ineffective.

State coordinated review of certain plan amendments, including sector plans and rural land stewardship areas, provides a uniform, quicker, simpler, less expensive and relatively predictable framework for effectively reviewing plan amendments that qualify as DRIs.

**Program:**

- a. Replace the DRI program with a process that requires DRI scale local plan amendments proposed in non-DULAs ( hereafter referenced as an amendment) to be reviewed under the state coordinated review process tailored to facilitate meaningful review of regional and extra jurisdictional impacts.
- b. Require regional planning councils to issue a written report on whether an amendment: (i) is consistent with an SRPP, (ii) would adversely affect regional resources and facilities identified in the SRPP, and (iii) would produce extra jurisdictional impacts that would be inconsistent with plans of any affected local government in the region. The report may include recommendations for mitigating adverse impacts and for resolving a dispute concerning extra jurisdictional impacts. Regional councils may charge a review fee not to exceed a legislatively authorized dollar cap.
- c. Authorize state and regional agencies that review amendments to identify and comment on important regional resources and facilities that would be adversely affected by an amendment consistent with the scope of their statutory review authority.
- d. Authorize adjacent local governments to receive amendments and comment on any adverse impacts that would be inconsistent with the adjacent local government's plan.
- e. Require state, regional and local reports and comments be submitted no later than 45 days from receipt of a complete plan amendment package.
- f. Require the state land planning agency to issue an objections, recommendations and comments report (ORC) and a compliance notice of intent for an amendment.
- g. Authorize the state land planning agency to determine non-compliance based on: (i) inconsistency with an SRPP, or (ii) adverse effect to a regional resource or facility identified in an SRPP or an important regional resource or facility identified by a review agency, or (iii) extra jurisdictional impacts that would be inconsistent with the plan of an affected local government in the relevant region; amend the statutory definition of in compliance accordingly and make consistent various references to "adjoining" and "adjacent" local governments in the 2011 Act.
- h. Authorize a regional planning council at a publicly noticed meeting to request the state land planning agency to find an amendment not in compliance based on the council's written report and standards referenced in subparagraph b. above.
- i. If the state planning agency initiates a non-compliance proceeding based on a request from a regional planning council made pursuant to subparagraph h. above, the council may intervene in the proceeding solely to address the contested regional issue(s).
- j. If a compliance proceeding is based on any of the non-compliance standards referenced in subparagraph g. above, the standard of proof for these issues is preponderance of the substantial competent evidence. Other statutory standards of proof applicable to challenges of local plan amendments continue to apply.
- k. DRI guidelines and standards, exemptions, and aggregation guidelines continue to apply.
- l. The new process will apply prospectively. DRI development orders, vested rights and status determinations and all agreements attendant to DRI status and obligations are not affected. Applicable statutory provisions not inconsistent with this concept will apply.

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m. A local plan amendment application filed under this process must satisfy applicable local requirements and must :

1. describe proposed land uses, including densities and intensities,
2. identify needed water supply and available water sources,
3. identify affected transportation facilities, and
4. identify affected natural areas and state and regional resources to be protected .

This concept would repeal the DRI program and replace it with review of DRI scale plan amendments under the a modified state coordinated review process. It would continue the devolution to localities of authority and responsibility to administer state directed planning programs with meaningful intergovernmental and citizen participation and oversight.

*\*The Florida Senate Committee on Community Affairs, The Development of Regional Impact Process, Interim Report 2012-114, September 2011, summarizes the history and legislative action relevant to the DRI program.*

*Bob Rhodes served as the first administrator of the DRI program and chaired the State of Florida Environmental Land Management Study Committee (ELMs II). He may be contacted at [rmrhodes@bellsouth.net](mailto:rmrhodes@bellsouth.net).*