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PROPOSED CHAPTER 163 CHANGES (PCB 11-04)

1. 9J-5 Repealed

- a. Portions of Rule incorporated into Statute including certain definitions, data and analysis requirements and sections from various elements
- b. 9J-11.023 also repealed

2. Plan Amendment Process Streamlined – Removes twice per year limitation and establishes three plan amendment types.

- a. Expedited Review – New standard process for amendments. (No ORC)
- b. State Coordinated Review Process – (Old process with no compliance finding) Limited to amendments related to Evaluation and Appraisal Report (EAR), Rural Land Stewardship Areas (RLSA), Sector Planning, Areas of Critical State Concern and newly incorporated local government comprehensive plans. Agency comments limited. DCA comments limited to compliance issues and impacts to important state resources and facilities.
- c. Small Scale Amendment – Removes density cap for small scale amendments. Allows text amendments that are directly related to a plan amendment like notes on the maps. Deletes prohibitions such as if same property granted change in last 12 months and if the same owner has property within 200 feet and was granted change in past 12 months.

3. Limited and Specifically Defined Role for Review Agencies – Comments from agencies on plan amendments limited to impacts on important state and regional facilities. However, DCA has expanded comment authority under State Coordinated Review Process only.

- a. FDOT – Limited to SIS only
- b. DCA (State Land Planning Agency or whatever form DCA takes) – Limited to important state resources and facilities outside the jurisdiction of other agencies; DCA must balance objectives of amendment against potential adverse impacts to

important state resources and facilities. DCA comment authority expanded to compliance issues under State Coordinated Review Process.

- c. DEP – Limited to air and water pollution, solid waste, sewage, drinking water, state parks, greenways and trails, state-owned lands and wetlands.
- d. FFWCC – Limited to fish and wildlife habitat, listed species and their habitat
- e. WMD – Limited to wellfields, regional water supply plan and wetlands where DEP has delegated authority.
- f. RPC – Limited to adverse effects on regional resources or facilities in the SRPP and extrajurisdictional impacts inconsistent with comprehensive plan of any affected local governments in the region.

4. Compliance Finding and Challenges

- a. State Comprehensive Plan and 9J-5 removed from compliance finding.
- b. DCA no longer conducts compliance review and determination.
- c. For Expedited Review Amendment, DCA may challenge only if important state resources or facilities impacted.
- d. For State Coordinated Review, DCA may challenge on compliance issues as well as impacts to important state resources or facilities.
- e. For citizen challenges of compliance finding, the standard will be fairly debatable and the matter will be sent to DOAH. For in compliance, ALJ submits recommended order to the state land planning agency. For not in compliance, ALJ submits recommended order to the Administration Commission for final agency action. Standard for small scale amendments and for expedited review in pilot communities changed to fairly debatable from preponderance of the evidence.
- f. DCA burden of proof in challenge of amendment that impacts important state resources and facilities is clear and convincing evidence.
- g. DCA can not intervene in citizen initiated challenges.
- h. DCA has 60 days after the effective date of this Act to review all pending administrative and judicial proceedings to determine if they are consistent with 163 as requested. Once a determination has been made, DCA has 30 days to file amended petition. If nothing filed within that timeframe, then case is dismissed.

5. Future Land Use

- a. Modifies Need – Local government must provide minimum amount needed for land uses based on BEBR mid range. However, need must be more than just population projections and must provide adequate supply for real estate market.
- b. Clarifies plan amendment analysis requirements.
- c. Urban Sprawl – Adds definition of urban sprawl, incorporates the 13 indicators of urban sprawl and adds new test for sprawl. Plan amendment must meet 4 of 8 criteria to be determined to not generate urban sprawl.
- d. Allows timeframes beyond the planning timeframe for projects and specific components of plan.
- e. Adds definitions for new towns and transit oriented developments.
- f. Adds requirement for future land use map to be based upon the need to modify land uses and development patterns in antiquated subdivisions. Antiquated

subdivisions are defined as a subdivision approved more than 20 years ago that has substantially failed to be built and its buildout would cause an imbalance of land uses and detrimental to the local and regional economies and development patterns.

6. Public Facilities/Capital Improvements Schedule

- a. Deletes financial feasibility.
- b. Permits Capital Improvements Schedule to be adopted through local ordinance, not a plan amendment.
- c. Modifies definition of public facilities to delete health systems and spoil disposal sites.
- d. Requires local governments to identify all needed facilities to maintain level of service in 5 year period and identify if the improvement is funded or unfunded.

7. Concurrency

- a. Removes state mandated concurrency for transportation, parks and recreation and schools. All are optional for the local governments.
- b. Makes the following Transportation changes:
 - i. Deletes concurrency exemptions.
 - ii. Removes requirement to adopt mobility strategies to support and fund mobility and criteria for mobility plan.
 - iii. Replaces term “backlog” with “deficient.”
 - iv. If locals want to have home rule concurrency management, must allow proportionate share pay and go.

8. School Planning

- a. Makes school concurrency optional.
- b. Removes requirement for public school facilities element.
- c. Removes many of the requirements related to school concurrency and interlocal agreement with school boards.
- d. Removes prohibition on plan amendments for not addressing school siting requirements.
- e. Permits portables to be counted as supply for classrooms.
- f. Removes requirement for collocation of parks and schools; up to local government.

9. Sector Planning

- a. Removes pilot program and limitations on number of sector plans and establishes 15,000 acres as minimum size for sector plan.
- b. Makes scoping meeting an option for local government.
- c. Modifies submittal requirements – Only general information required at conceptual phase with detailed information deferred to detailed plan.
- d. Requires no demonstration of need and removes limitation to planning timeframe.
- e. Directs detailed map (DSAP) to be adopted by local development order – not plan amendment.

- f. Adds to requirements of DSAP identification of maximum and minimum densities and intensities and identification of water resource development and water supply.
- g. Requires consistency of conceptual plan with state and regional plans.

10. Rural Land Stewardship Areas

- a. Removes requirement for an agreement with DCA.
- b. Allows one or more land owners to apply for RLSA in a local government and allows RLSA to include more than one county.
- c. Creates RLSA overlay zoning district by local ordinance.
- d. Replaces term “transferable rural land use credits” with “stewardship credits.”
- e. Deletes reference to minimum 25 year timeframe for receiving areas. Replace with provision that receiving areas based on available data and development potential represented by stewardship credits created in RLSA.

11. Evaluation and Appraisal Report Process Streamlined

- a. Requires local government to analyze plan every 7 years and determine if an amendment is required to address changes in state law or any other revision. Does not change timing for when EAR would be due, thus, 7 years from last EAR.
- b. Requires local government to send a letter to state land planning agency summarizing their findings.
- c. Gives local government one year to adopt required amendment.
- d. Restricts local government from amending its plan if review letter or EAR amendment is not submitted as required.

12. Developments of Regional Impact

- a. Retains DRI exemption for properties within a designated DULA.

13. Dense Urban Land Areas (DULA)

- a. Eliminates Dense Urban Land Areas.
- b. Retains DRI exemption for local governments designated as Dense Urban Land Areas.
- c. Protects DULA designation for local governments –Any communities designated as a DULA will remain a DULA.

14. Update 163 – Reduces the size of 163 by removing sections that are not needed, have already been implemented, rarely used or covered elsewhere in the statute.

15. Other Changes

- a. Prohibits baby hometown amendments (amendments by referendum).
- b. Restricts local governments from duplicating or exceeding a permitting program when a federal, state or regional agency has implemented a permitting program.
- c. Provides for joint agreements for municipal adoption of plan or plan amendments in advance of an annexation.
- d. Deletes the following:
 - i. Most provisions added under HB 697.

- ii. 163.3247 Century Commission.
- iii. Reference to affordable housing needs assessment.
- iv. Community Visioning Provisions.
- v. Local Government Comprehensive Planning Certification Program.