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COMPARISON OF HB 7129 TO SB 1122

Topic	CS/HB 7129 as passed by the House	CS/CS/SB 1122
Repeal of 9J-5	Portions of 9J-5 are incorporated into Statute including certain definitions, data and analysis requirements and sections from various elements 9J-11.023 is also repealed	Identical Language in Senate Bill
Comprehensive Plan Amendment Process	Streamlined and re-written under House Bill	Tweaks current statutory language and processes
1. Expedited Review	New standard process for amendments	Establishes as new standard process but allows small counties and local governments to keep current process if desired.
2. Current Review Process	Retained for EAR Based Amendments, Sector Plans, Rural Land Stewardship Areas and a newly adopted comprehensive plan for a new local government	Same
3. Small Scale Amendments	Removes density cap, 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.	Same

<p>Role of Agencies in review of plan amendments</p>	<p>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.</p> <p>FDOT – Limited to SIS only</p> <p>DCA (State Land Planning Agency or whatever form DCA takes) – For Expedited Review, DCA limited to important state resources and facilities outside the jurisdiction of other agencies and DCA should balance objectives of amendment against potential adverse impacts to important state resources and facilities. For State Coordinated Process DCA issues ORC report and makes a compliance finding similar to current process.</p> <p>DEP – Limited to air and water pollution, solid waste, sewage, drinking water, state parks, greenways and trails, state-owned lands and conservation easements, wetlands and other surface waterbodies and Everglades Restoration.</p> <p>FFWCC – Limited to fish and wildlife habitat, listed species and their habitat</p> <p>WMD – Limited to wellfields, regional water supply plan, wetlands and other surface waterbodies, flood protection and floodplain management.</p> <p>RPC – Limited to adverse effects on regional resources or facilities in the SRPP and extrajurisdictional impacts inconsistent with comprehensive plan of any affected local</p>	<p>Retains current language for standard review and tweaks expedited review.</p> <p>For standard review, there are no limitations on comments from DCA or review agencies.</p> <p>For expedited review, directs agencies to limit comments to their jurisdiction but no specificity as to its meaning. No limitations on comments from DCA.</p>
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	governments in the region. (latter current law)	
Definition of Urban Service Area	Amends definition of urban service area deleting term “built up”, adding that the urban service area must be adopted in the comprehensive plan and replacing facilities in “the first 3 years of the capital improvements schedule” with “identified in the capital improvements element”. <u>Also adds phrase “Urban Service Area includes any areas identified in the comprehensive plan as urban service areas, regardless of local government limitation.”</u>	Identical to HB 7129 except adds phrase “Urban Service Area includes any areas identified in the comprehensive plan as urban service areas, regardless of local government limitation.”
<p>Compliance Finding and Challenges</p> <p>State Comprehensive Plan and 9J-5</p> <p>DCA Review of Adopted Amendment and Challenge Authority</p>	<p>Removed from definition of in compliance</p> <p>Under State Coordinated Process, DCA issues ORC report and Notice of Intent and conducts compliance review. DCA is not limited on comments and may challenge on compliance issues as well as impacts to important state resources or facilities.</p> <p>For Expedited Review Amendment, DCA may comment and challenge only if important state resources or facilities impacted.</p>	<p>Identical</p> <p>Under Standard Process, DCA is not limited in review authority, comments or challenges.</p> <p>For Expedited Review, DCA not limited in comments. Allows DCA to challenge an amendment in order to protect interests of regional or state importance.</p>
Coordinated Amendment	<p>HB 7129 establishes one review process for coordinated and expedited amendments.</p> <p>3rd party may challenge an amendment. Local government determination is sustained if fairly debatable. DCA can not intervene in a citizen initiated petition.</p>	<p>If DCA finds amendment in compliance, a 3rd party can challenge the finding. The local governments determination shall be sustained if fairly debatable.</p> <p>The amendment shall be sent to DOAH for hearing. The Administrative Law Judge (ALJ) shall issue a Recommended</p>

	<p>DCA may challenge an amendment. For DCA challenge, the local government's determination of in compliance is presumed to be correct and sustained if shown by a preponderance of the evidence.</p> <p>Local government determination of internal consistency shall be sustained if fairly debatable.</p> <p>If ALJ finds not in compliance, the judge shall submit the Recommended Order (RO) to the Administration Commission. If ALJ finds in compliance, the judge shall submit the RO to the DCA. DCA will issue the RO unless it finds the amendment in compliance. In this case, the DCA shall refer the amendment to the Administration Commission.</p>	<p>Order and send to DCA. If DCA finds in compliance it shall issue the final order. If not in compliance, the DCA shall submit to the Administration Commission.</p> <p>If DCA finds Not In compliance, the local government determination shall be presumed to be correct and sustained if supported by a preponderance of the evidence.</p> <p>The local governments determination of internal consistency shall be supported if fairly debatable.</p> <p>The ALJ will issue a Recommended Order to the Administration Commission for final action.</p>
Expedited Amendment	<p>DCA challenge under an expedited amendment is limited to the comments provided by the review agencies and a determination by the DCA that an important state resource or facility will be adversely impacted.</p> <p>The local government may challenge the DCA determination that an important state resource or facility will be impacted. The DCA determination must be supported with clear and convincing evidence.</p>	<p>3rd party may challenge local government determination that plan is in compliance. The DCA may intervene in order to protect interests of regional or state importance.</p> <p>DCA may challenge local government determination in order to protect state or regional issues of importance. DCA challenge limited to issues raised by reviewing agencies.</p> <p>Local government determination of in compliance is presumed to be correct and sustained by a preponderance of the evidence. If ALJ finds not in compliance, the RO shall be submitted to the Administration Commission. If ALJ finds in compliance, the Recommended Order shall be sent to DCA for action. If DCA finds in compliance it shall issue</p>

		the final order. If not in compliance, the DCA shall submit to Administration Commission.
Third Party	3 rd party may challenge whether an amendment is in compliance or not. The local government determination will be sustained if fairly debatable. The DCA cannot intervene in a citizen initiated petition.	
	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.	Identical to HB 7129
<p>Future Land Use</p> <p>Need</p> <p>Future Land Use amendment analysis</p> <p>Urban Sprawl</p> <p>Planning Timeframe</p>	<p>Local government must provide minimum amount needed for land uses based on BEBR mid range for a 10 year planning period. However, need must be more than just population projections and must provide adequate supply for real estate market. Does not apply to Areas of Critical State Concern.</p> <p>Clarifies plan amendment analysis requirements.</p> <p>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.</p> <p>Allows timeframes beyond the planning timeframe for projects</p>	Identical to HB 7129

<p>New Towns and Transit Oriented Developments (TOD)</p> <p>Antiquated Subdivisions</p>	<p>and specific components of plan.</p> <p>Adds definitions</p> <p>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.</p>	
<p>Public Facilities/Capital Improvements Schedule</p>	<p>Deletes financial feasibility.</p> <p>Permits Capital Improvements Schedule to be adopted through local ordinance, not a plan amendment.</p> <p>Modifies definition of public facilities to delete health systems and spoil disposal sites.</p> <p>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.</p>	<p>Identical</p>
<p>Concurrency / Transportation</p>	<p>Removes state mandated concurrency for transportation, parks and recreation and schools. All are optional for the local governments.</p> <p>Deletes concurrency exemptions.</p> <p>Removes requirement to adopt mobility strategies to support and fund mobility and criteria</p>	<p>Identical to HB 7129 except for the following:</p> <p>1) SB 1122 proportionate share language very different. Proportionate share language does not include credits, toll facilities and cumulative impact.</p> <p>2) SB 1122 adds a definition for mobility plan that is not included in HB 7129</p>

	<p>for mobility plan.</p> <p>Replaces term “backlog” with “deficient.”</p> <p>If locals want to have home rule concurrency management, must allow proportionate share pay and go.</p> <p><u>Refines proportionate share language to simplify the proportionate share calculation, removes of cost of deficiencies of other projects and toll roads from calculations, specifies that once an impact is mitigated it cannot be charged again, provides for a credit for a proportionate share payment and specifies that local governments are not required to approve a development that is not otherwise qualified for approval.</u></p>	<p>3) SB 1122 adds a provision for Transportation Sufficiency Plans to include mass transit improvements that extend outside of the deficiency area.</p>
School Planning	<p>Makes school concurrency optional.</p> <p>Removes requirement for public school facilities element.</p> <p>Removes many of the requirements related to school concurrency and interlocal agreement with school boards.</p> <p>Removes prohibition on plan amendments for not addressing school siting requirements.</p> <p>Permits portables to be counted as supply for classrooms.</p> <p>Removes requirement for collocation of parks and schools; up to local government.</p>	<p>Identical to HB 7129</p>
Sector Planning	<p>Removes pilot program and limitations on number of sector plans and establishes 15,000</p>	<p>Identical to HB 7129. However, Senate has stated that Sector Plan provisions in SB 1122 will</p>

	<p>acres as minimum size for sector plan.</p> <p>Makes scoping meeting an option for local government.</p> <p>Modifies submittal requirements – Only general information required at conceptual phase with detailed information deferred to detailed plan.</p> <p>Requires no demonstration of need and removes limitation to planning timeframe.</p> <p>Directs detailed map (DSAP) to be adopted by local development order – not plan amendment.</p> <p>Adds to requirements of DSAP identification of maximum and minimum densities and intensities and identification of water resource development and water supply.</p> <p>Requires consistency of conceptual plan with state and regional plans.</p> <p>Allows DCA to enter into an agreement with a local government for a large area comprehensive plan amendment consisting of at least 15,000 acres adopted on or before July 1st in order to apply the sector plan provisions.</p> <p><u>Requires that conservation easements are recorded and effective by the effective date of the development approvals within the sector plan area.</u></p>	<p>eventually mirror language in SB 1904 which has been amended.</p>
Rural Land Stewardship Areas	<p>Removes requirement for an agreement with DCA.</p> <p>Allows one or more land owners</p>	<p>Identical to HB 7129 <u>except for requirements that landowners must consent to be in a RLSA, population based on need is not</u></p>

	<p>to apply for RLSA in a local government and allows RLSA to include more than one county.</p> <p>Creates RLSA overlay zoning district by local ordinance.</p> <p>Replaces term “transferable rural land use credits” with “stewardship credits.”</p> <p>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.</p> <p>Recognizes Collier County’s RLSA as a RLSA under the statute.</p> <p><u>Clarifies that landowners must consent to being in a RLSA, population based upon need is not required and requires conservation easements to be in place prior to receipt of stewardship credits being transferred.</u></p>	<p><u>required, and requires conservation easements to be in place prior to receipt of stewardship credits being transferred.</u></p> <p>Adds provision that stewardship credits can be transferred from sending areas only after a stewardship easement is in place.</p>
Evaluation and Appraisal Report Process Streamlined	<p>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.</p> <p>Authorizes DCA to adopt a schedule for EAR submittal through rule making.</p> <p>Requires local government to send a letter to state land planning agency summarizing their findings.</p>	<p>Identical to HB 7129 <u>except for the newly added EAR language clarifying that due and over due EARs must meet the requirements in the bill.</u></p>

	<p>Gives local government one year to adopt required amendment.</p> <p>Restricts local government from amending its plan if review letter or EAR amendment is not submitted as required.</p> <p><u>Clarifies that all EARs and EAR Amendments must meet the new requirements in this bill even those that are due or overdue.</u></p>	
Developments of Regional Impact	<p>Retains DRI exemption for properties within a designated DULA.</p> <p>Provides for <u>47</u> year extension of DRI build out, phasing and commencement dates and associated mitigation if requested by the developer for valid DRIs. Request must be made by 12/31/11. <u>However, any funds the local government relies upon for a contract as of 12/1 of this year cannot be extended.</u></p> <p>Clarifies that the 180 day adoption date for plan amendments does not apply to DRIs.</p> <p>New thresholds in bill automatically apply for projects and trump any comprehensive plan requirements or agreements that would apply a stricter DRI threshold.</p> <p>Adds an exemption from DRI review for solid mineral mining, <u>industrial, hotel/motel and movie theaters. Clarifies that Spaceport launch facilities are industrial and thus, are exempt from DRI review.</u></p> <p><u>Increases the essentially built out criteria from 20% to 40%</u></p>	<p>Includes DRI exemption for DULA properties. No other DRI provisions in HB 7129 are included in SB 1122.</p> <p>Adds a DRI exemption for a transit oriented development (TOD) if incorporated into the comprehensive plan and supports local government concurrency or mobility plan.</p>

	<p><u>Increase substantial deviation criteria for attraction or recreational facilities, office and commercial</u></p> <p>Projects below 150% of DRI threshold not required to be a DRI. Projects must provide reports to State Land Planning Agency and RPC for 5 years and provide project development plan.</p> <p>Projects 200% or more of DRI threshold automatically a DRI</p> <p>Projects between 150%—200% presumed to be a DRI.</p> <p>Substantial deviation thresholds increased by 100%. Projects that would have triggered substantial deviation review must report to State Land Planning Agency and RPC for five years and provide project development plans.</p> <p>Directs OPPAGA to issue a report to the Governor and Legislature by 12/1/17 on the DRI process. The report must evaluate current DRI and substantial deviation thresholds and what uses constitute a DRI. The report should consider changes to thresholds and criteria, removal of land use categories from DRI review and repeal of the program.</p> <p><u>Amend aggregation criteria to remove voluntary sharing of infrastructure and require 3 of remaining criteria must be met to determine there is a unified plan of development.</u></p>	
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Dense Urban Land Areas (DULA)	<p>Eliminates Dense Urban Land Areas in 163.</p> <p>Retains DRI exemption for local governments designated as Dense Urban Land Areas.</p> <p>Protects DULA designation for local governments that meet the criteria. Any communities designated as a DULA will remain a DULA.</p> <p>If more than 85% of the total area of a DRI is in a DULA, then the entire DRI may be rescinded in both the DULA and non-DULA local government <u>if the portion of the development outside of the DULA does not meet the DRI thresholds.</u></p> <p>Any area that has been identified as a DULA may not be removed from qualifying list. <u>However, the DRI exemption only applies to the portion of the DULA that meets the criteria.</u></p>	
Permit Extensions	<p>Provides a two year permit extension for those that received a permit extension under 360 <u>if those permits were ineligible for extension under SB 1752 because the permits exceeded 1/1/12. The extension is not automatic and must be requested by the permit holder by the end of the year.</u></p>	<p><u>Similar language in SB 1122 but does not include the most recent amendment language in HB 7129 limiting the permit extension</u></p>
Impact Fees	<p>HB 7129 provides a credit for impact fees under proportionate share. No language included in HB 7129 that mirrors the impact fee language in SB 1122</p>	<p>Prohibition on increasing or adding new impact fees until July 1, 2013. SB 1122 does not include impact fee credit language in HB 7129</p>
<u>Local Government Process and Review of Development Applications</u>	<p><u>No language included in HB 7129</u></p>	<p><u>Requires a local government to review and process land use approvals (comprehensive plan amendments, rezoning and development orders) based on</u></p>

		<p><u>the regulations in effect at the time the application is filed except if:</u></p> <p><u>1) the local government can demonstrate it would result in an immediate and imminent threat to public safety or health; or</u></p> <p><u>2) The application was not filed in good faith in an effort to avoid an amendment to the comprehensive plan after the local government has declared publicly its intent to amend the comprehensive plan prior to the filing of the application.</u></p>
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.	Similar changes to HB 7129. Notable differences are identified in this table.
Agricultural Enclaves	Plan amendments for agricultural enclaves are presumed to not be urban sprawl.	<p>Identical to HB 7129 and also includes the following:</p> <p>1) Clarifies that the uses surrounding the enclave can include the existing or authorized uses</p> <p>2) No negotiation is required if the agricultural enclave is abutted by only one land use designation. That land use shall be presumed to be appropriate.</p>
Signage	No language included in HB 7129	Adds process for approving outdoor advertising signs permitted under s.479 and restricting those signs to commercial or industrial areas as defined.
Restriction on Super Majority	No language included in HB 7129	Local government may not adopt any super majority voting requirement for the adoption of amendments to the comprehensive plan.
Climate Change – Adaptation	No language included in HB 7129	Defines the Adaptation Area and permits a local government with

		a Coastal Management Element to include an Adaptation area and plan for impacts from sea level rise.
Regional Planning Councils (RPC)	No language included in HB 7129	Adds two business representatives to the RPC board.
Century Commission	<u>Retained but scheduled for sunset on June 30, 2013.</u> Deleted in HB 7129	Retained but scheduled for sunset on June 30, 2013. Directs Commission to generate a strategic plan for the State. Modifies membership of Commission and directs DCA to include line item to fund Commission through 2013.
Other Changes		
Local Referendums	Prohibits baby hometown amendments (amendments by referendum).	Identical
Duplication of Permitting	Does not require local governments to duplicate or exceed a permitting program when a federal, state or regional agency has implemented a permitting program.	
Annexations	Provides for joint agreements for municipal adoption of plan or plan amendments in advance of an annexation.	
Military Base Compatibility	Any local government that amended its comprehensive plan to address military base compatibility requirements and was found in compliance after 2004 is not required to address the requirements adopted last session until the EAR is due. <u>Also adds provision that comments from the military base commander on plan amendments are not binding on local government.</u>	
Development Agreements	Development agreements extended to 30 years and may	

<p><u>Administration Commission</u></p> <p>Deletions from 163</p>	<p>be extended further by mutual agreement.</p> <p><u>Requires unanimous approval of Administration Commission for sanctions to be applied.</u></p> <p>Provisions added under HB 697.</p> <p>Reference to affordable housing needs assessment.</p> <p>Community Visioning Provisions.</p> <p>Local Government Comprehensive Planning Certification Program.</p>	
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