



House
Legislative
Analysis
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LAND MANAGEMENT

House Bills 4171 and 4172
Sponsor: Rep. Bill Bobier

House Bill 4176
Sponsor: Rep. Thomas Middleton

Committee: Local Government

Complete to 9-1-95

A SUMMARY OF HOUSE BILLS 4171, 4172, AND 4176 AS INTRODUCED 1-17-95

The bills would amend three zoning acts, dealing with counties, townships, and cities and villages, respectively, to do the following:

** Require municipalities (counties, townships, cities, and villages) to adopt land management plans before adopting ordinances of the kind described below. A land management plan would have to describe the future growth and development potential and limitations within the locality.

** Permit municipalities to be divided into three categories of "services districts" for zoning and planning purposes: urban services districts, partial urban services districts, and general services districts.

** Allow municipalities to adopt ordinances authorizing the transfer of development rights.

** Provide for the establishment of authorities for the purpose of purchasing and temporarily holding development rights.

** Allow municipalities, under special ordinances, to purchase development rights to achieve a permitted public purpose or benefit.

** Permit zoning ordinances to require detailed plans, feasibility analysis, and the posting of security to assure concurrency as a condition to the issuance of a building permit, with the term "concurrency" referring to the availability to property of services and facilities specified in the zoning ordinance.

House Bill 4171 would amend the County Rural Zoning Enabling Act (MCL 125.231 et al.) and rename it the County Zoning Act. House Bill 4172 would amend the Township Rural Zoning Act (MCL 125.301) and rename it the Township Zoning Act. House Bill 4176 would amend Public Act 207 of 1921 (MCL 125.581) and rename it the City and Village Zoning Act.

House Bills 4171, 4172 and 4176 (9-1-95)

The following is a summary of the main features of the three bills, which are nearly identical:

Adoption of Land Management Plans. Before adopting an ordinance on services districts, development rights transfers, a development rights authority, the purchase of development rights, or concurrency, a local unit would have to adopt a land management plan. The plan would have to be adopted following the procedure for the preparation and adoption of a zoning ordinance. The land management plan could not be materially incompatible with the basic plan or master plan. The management plan could be integrated with a basic plan or master plan; if it was, the elements described below would have to remain discrete and the plan would have to be adopted following the requirements for zoning ordinances and the act governing development of the basic plan or master plan.

The plan would have to describe the future growth and development potential and limitations of the unit (as related to several elements of the land management plan), including present carrying capacities and level of service standards with regard to the services and facilities. The plan would have to include:

- A public facilities and services plan (to contain a master thoroughfare plan; a plan for water, sanitary sewage disposal, and storm drainage capital improvements; a public safety plan; and a public services plan).
- A regional coordination plan.
- A recreation and open space plan.
- A community character plan.
- An air and water quality plan.
- A financial stability plan.
- A future land use plan.
- A capital improvement plan.

Division into Services Districts. As part of the zoning ordinance, and on a map that could be part of or separate from the zoning use or district map, a local unit could be divided into urban services districts, partial urban services districts, and general services districts. To the extent feasible, services and facilities would have to be provided in an urban services district consistent with the level of development and use contemplated in the zoning ordinance. A partial urban services district would serve as a transitional district and reflect long-range planning for services and facilities anticipated to be needed for urban development and use. For a general services district, it would be specified whether various services and facilities were provided or would be provided in the foreseeable future. In establishing or modifying a services district, the following standards would have to be considered:

- The demonstrated need for the accommodation of long-range urban population growth.
- The need for housing, employment opportunities, and other things affecting the quality of life.
- The orderly and economic provision of services and facilities.
- The maximum efficiency of land uses within and near any existing urban services districts.
- The environmental, energy, economic, and social consequences of the establishment or modification of the services district.
- The provision of reasonable opportunities for urban residential and non-residential activities and development.
- The provision of reasonable opportunities for rural and semi-rural residential and non-residential activities and development.
- For a proposed urban services district, the compatibility of the proposed district with nearby general services districts and partial urban services districts.
- The encouragement of economic development and capital facility investment in areas that are served by urban public facilities.
- The encouragement for existing economic base non-residential uses to remain and reinvest at their present locations.
- The support for residential neighborhoods and community facilities as essential elements in a balanced and competitive local and regional economy.
- The enhancement of long-term stability and discouragement of urban sprawl.
- Plans adopted by city, village, county, and regional planning agencies relating to the classification of land for urban, rural, and semi-rural use, including, but not limited to, sewer service maps.
- The protection of valuable resource production land, including, but not limited to, prime agricultural land, prime forest land, and land with significant mineral resources, from premature conversion.

Definitions of Districts. The terms "general services district", "partial urban services district", and "urban services district" are defined in the bills as follows.

A general services district would be an area that is capable of providing reasonable opportunities for rural and semi-rural residential and non-residential activities and

development, but that is characterized by a predominant lack of services and facilities, including roads and public water and sewer, that provide reasonable opportunities for urban residential and non-residential activities and development.

A partial urban services district would be an area that once met the definition of "general services district" but that is demonstrably needed for the accommodation of long-range urban population growth requirements and is the area most adaptable to the extension of services and facilities from immediately adjacent areas.

An urban services district would be an area characterized by a predominant presence of services and facilities that provide reasonable opportunities for urban residential and non-residential activities and development.

Transfer of Development Rights. A local unit could adopt an ordinance to authorize the transfer of development rights to achieve a development rights benefit. The ordinance would have to require, as part of the determination to transfer property rights, the specification of the development rights that would remain on the property from which development rights were to be transferred and the means by which the limitation of the use of the property would be legally fixed and would run with the land. The ordinance would have to specify:

- The development rights benefits the unit could seek.
- The procedures by which a transfer of development rights could be initiated by the unit or a property owner, including the procedure and documentation to be used.
- The type of development rights that could be transferred.
- The standards to be used by the unit's governing body in determining whether to grant a transfer of development rights.
- The standards and procedure for evaluating and specifying the development rights to be transferred; the use of remaining development rights; the identity of the property to which development rights are made; and the development permitted after the transfer on the property to which the transfer of development rights was made.
- Whether the transfer to other local units of government was permitted and, if so, the contents of an agreement between the respective legislative bodies.
- The location of the sending zones.
- The location of the receiving zones (the capacity of which would have to be sufficient to receive all development rights from sending zones).

The ordinance could not take effect until the unit prepared a report that included all of the following:

- The precise location of each proposed sending and receiving zone.
- An estimate of population and economic growth during the next ten years in the unit and in each zone.
- An estimate of the development potential of each proposed sending and receiving zone.
- An estimate of the existing and proposed infrastructure of each proposed receiving zone.
- For each proposed receiving zone, an analysis of the impact upon and consistency with the basic unit plan of the transfer of development rights.
- A statement of the limitations upon the development rights that could be transferred to each receiving zone, taking into consideration the need to ensure consistency with the basic plan; ensure adequate services and facilities consistent with the services and facilities plan; avoid undue burden on the people and land in the receiving zone; and ensuring consistency with the purposes of the relevant state statutes.

Development Rights Authority. To achieve a development rights benefit, the local governing board that adopted such an ordinance could establish an authority for the purpose of purchasing and temporarily holding development rights. The authority would be created by ordinance. Initially, the governing body would have to adopt a resolution of intent setting a date for a public hearing on the proposed ordinance.

An authority (except as elsewhere provided) would consist of five members. For a township, city, or village, the members would include the chief administrative official, the treasurer, and three at-large members appointed for three-year terms by a township supervisor, city mayor, or village president, subject to the approval of the local legislative body. For a county organized under Public Act 293 of 1966, the members would include either the elected county executive, appointed chief administrative officer, or appointed county manager, along with the county treasurer and three at-large members. In other counties, the treasurer would serve with four at-large members. At-large members would be appointed by the county board of commissioners. In all cases, one at-large member would have to be a representative of "development interests".

However, an ordinance could provide that a township board, the legislative body of a city or village, or a county board of commissioners serve as the authority board. Or, if the unit of government had entered an intergovernmental agreement for the creation of a joint authority, the agreement would specify the membership and, if applicable, the manner of appointment of members.

Activities of an authority could be financed by money provided by the governmental unit, proceeds from the sale of development rights, grants, donations, or other sources approved by the local governing body. The authority could acquire by purchase or condemnation, under the Uniform Condemnation Procedures Act, development rights on

property located in a sending zone. Title to development rights would be taken and held in the name of the local unit.

Sale or Holding of Development Rights. At its discretion, an authority could hold or sell development rights. Development rights could only be sold to a purchaser who would either utilize the rights in a receiving zone in accordance with the local ordinance or permanently terminate the development rights by open space easement to the local unit, deed restriction, or other lawful means, in a manner and form approved by the authority.

The purchase and sale of development rights by the authority would have to be at fair market value, based upon a bona fide appraisal. Purchase and sale of development rights by the authority would be subject to approval by the governing board of the local unit (unless the governing board was the authority board).

Purchase of Development Rights by Local Unit. By ordinance, the governing board of the local unit could authorize the purchase of development rights by the unit to achieve a public purpose or benefit permitted in the exercise of authority under the acts the bills would create. The unit could purchase the development rights by voluntary sale or by condemnation. The ordinance would have to contain many of the same elements as listed above for the transfer of development rights. Additionally, the ordinance would have to include the standards to be used in establishing the price in a purchase in which an exercise of eminent domain was not contemplated.

A person could petition the local unit for the purchase of development rights and for the establishment of a special assessment district to pay for all or a portion of the development rights. The petition would have to contain a description of the development rights to be purchased; a description of the special assessment district; and the signatures of at least 51 percent of the owners of the land in the proposed special assessment district.

The governing body could purchase development rights petitioned for if it determined the purchase would accomplish a public purpose or benefit set forth in the ordinance and would be in the best interest of the unit. If the purchase was made, the governing body would proceed with respect to the special assessments in the manner provided by law or charter for financing the acquisition of park lands by special assessments.

Assurance of Concurrency. A zoning ordinance could require detailed plans, feasibility analysis, and the posting of security to assure concurrency as a condition to the issuance of a building permit under Section 11 of the State Construction Code Act. The security could consist of cash, a letter of credit, or a corporate surety bond in the form approved by the local unit. A zoning ordinance could also require concurrency as a condition to the certificate of use and occupancy under Section 13 of Public Act 230 of 1972. (The term "concurrency" means availability to property of services and facilities specified in the zoning ordinance or established by law, ordinance, rule, or resolution of a governmental entity and incorporated by reference in the zoning ordinance.)