House
Legislative
Analysis
Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

COORDINATED LAND-USE PLANNING ACT

House Bills 6124, 6127, 6128 and 6129
Sponsor: Rep. Jon Jellema

House Bill 6125
Sponsor: Rep. Andrew Richner

House Bill 6126
Sponsor: Rep. Patricia Birkholz

House Bill 6130
Sponsor: Rep. William Byl

Committee: Local Government and Urban Policy
Complete to 11-27-00

A SUMMARY OF HOUSE BILLS 6124 - 6130 AS INTRODUCED 11-9-00

The package of bills would create a state land use planning act and coordinated planning process. House Bill 6124 is the major bill in the package. It would create a new Coordinated Planning Act, and would provide for the repeal of several existing local government planning statutes seven years after the effective date of House Bill 6124. The acts that would be repealed are Public Act 285 of 1931, which defines the creation, powers, and duties of city, village, and municipal planning commissions; Public Act 282 of 1945, which defines the creation, powers, and duties of county planning commissions; and Public Act 168 of 1959, which defines the creation, powers, and duties of township planning commissions. House Bills 6125-6130 would make complementary amendments to acts governing local government zoning, highway construction, and environmental permits. House Bill 6124 is tie-barred to House Bills 6125-6128. House Bills 6125-6130 are all tie-barred to the House Bill 6124.

House Bill 6124 would create the "Coordinated Planning Act." It has six chapters devoted to the following topics: Chapter 1- Definitions; Chapter 2 - Planning Commissions; Chapter 3 - Local Unit and Regional Plans; Chapter 4 - Capital Improvement Programs; Chapter 5 - Planning Commission Powers Related to Zoning, Condominium, and Subdivision Review; and, Chapter 6 - State Agency Plans and State Planning Assistance

Generally, House Bill 6124 would provide for coordinated land use and capital facility planning among cities, villages, townships, counties, regions, and state and federal agencies. To accomplish those ends, the bill would provide for: the creation, organization, powers, and duties of planning commissions; the preparation of capital improvement programs; conditions for funding or construction of capital improvements; the review of land divisions, plats, and condominium projects; a grant program to assist with the financing of plans; and, the powers and duties of certain governmental officials.

Chapter One - Definitions. This chapter contains definitions of the following terms: capital facility, capital improvement plan, chief administrative officer, comprehensive plan, county plan, county planning commission, department, general plan, governing body, guideline, issue of greater than local concern, joint municipal plan, joint municipal planning commission, jurisdictional area, local unit, municipal or municipality, municipal plan, municipal planning commission, participating, plan, planning commission, planning director, political subdivision, proposing, region, regional plan, regional planning commission, reviewing, and zoning plan.

Chapter Two - Planning Commissions. Under the bill, the governing body of a municipality could establish a planning commission, or, if it had a population of less than 5,000, could provide that the governing body itself would serve as the planning commission. A planning commission established before the effective date of the bill by charter could continue to operate. However, a municipality could by ordinance or charter amendment alter the powers and duties of the planning commission established by charter to include the powers and duties of a municipal planning commission under the bill. Further, under the bill, any charter amendments related to the planning commission that were adopted after the effective date of the bill would have to conform with it.

Under the bill, the governing bodies of two or more contiguous municipalities could, by resolution, adopt an agreement to establish a joint municipal planning commission. That agreement would be required to describe the area for which the joint commission had responsibility to prepare a plan, and that area could consist of the combined territory of the participating municipalities, or any portion of that territory. The agreement would be required to include procedures by which a municipality could withdraw, or join.

The bill would allow county boards of commissioners to establish a county planning commission. Further, the bill specifies that three or more contiguous counties, and any number of other political subdivisions within those counties, could, by resolution, adopt an agreement to establish a regional planning commission. That agreement would be required to describe the area over which the regional planning commission had responsibility to prepare a coordinated plan. It also would be required to contained procedures that allowed a participant to withdraw or join.

A regional planning commission already created under law, a regional council of governments to which programs of regional planning have already been transferred, or a regional economic development commission, could exercise the powers provided for a regional planning commission, only if the body was in existence on the effective date of House Bill 6124, had boundaries as defined in Executive Directive 1992-2, and complied with the requirements of the bill. Further, a regional planning commission, and a regional council of governments, or a metropolitan area council established under the Metropolitan Councils Act, could, by resolution, adopt an agreement to transfer that regional planning commission's powers, functions, staff, assets, and liabilities under the bill to the regional council of governments or metropolitan area council, if the territory served was coterminous with county boundaries and was not less than before the transfer. To be effective, the agreement would have to be approved by a resolution of the governing bodies of a majority of the political subdivisions participating in the regional planning commission. If the agreement took effect, the regional council of governments or metropolitan council could receive and disburse grants-in-aid and other revenues that would otherwise be available to the regional planning commission.

Upon creation of a municipal planning commission, a joint municipal planning commission, or a county planning commission under the bill, an already existing planning commission would be abolished.

Planning commission membership. Under the bill and with certain exceptions, a municipal planning commission or county planning commission would consist of five or more regular voting members. A joint municipal planning commission also would consist of five or more regular voting members, as determined by the agreement to establish the commission. A regional planning commission would consist of nine or more regular, voting members, or another number as determined by the agreement to establish the regional planning commission. Each municipality, or each county participating in a joint or regional commission would be represented on that commission by one or more members, as determined by the agreement.

Further, neither a municipal planning commission nor a county planning commission could include more than two alternate members. A joint municipal planning commission could include a number of alternate members not to exceed one-third of the total number of regular members as determined by the agreement to establish the commission. A regional planning commission could include a number of alternate members, not to exceed the total number of regular members, as determined by the agreement to establish the commission. As alternate member could be called on a rotating basis, under circumstances specified by the ordinance or agreement to establish the commission, in order to serve in the absence of a regular member if a regular member had been, or was expected to be, absent for two or more consecutive meetings. An alternate member also could be called to serve as a regular member if a regular member had abstained on a matter because of conflict of interest. The alternate member appointed would serve until the return of a regular member. However, if requested by the chairperson of the commission, the alternate member would continue to serve on a pending individual case after the return of the regular member until a decision was made.

Appointment of members. Under the bill, a member of a planning commission would be appointed by the following officer or body of the political subdivision represented by the member: a) the mayor of a city, the president of a village, or the supervisor of a township with the concurrence of a majority of the members of the governing body of the municipality; b) the county executive or chief administrative officer of a county, or the county manager or county executive of a county, with the concurrence of a majority of the members of the county board of commissioners; c) the county board of commissioners of a county other than a county described in (b), acting by the affirmative vote of a majority of its members; d) the superintendent of a public school district or the chief administrator of a public school academy with the concurrence of a majority of the members of the board; or, e) the board or other governing body of a political subdivision, acting by the affirmative vote of a majority of its members.

Each member of a planning commission would be required to be a qualified elector, and to reside within the jurisdictional area of the planning commission. An officer or body making appointments would be required to provide balanced representation of geographic areas comprising the jurisdictional area of the commission, as well as of race, sex, and age, and of major interests such as agriculture, recreation, education, environment, public health, government, commerce, transportation, and industry, as applicable.

Under the bill, a member of a zoning board or a zoning board of appeals could not be a member of a planning commission. Further, the chief administrative officer of a local unit, a building inspector, zoning administrator, or employee of a local unit, or a community planner employed by or under contract to a local unit, could not be a member of a planning commission. In addition, a member of a governing body of a local unit could not be a member of a planning commission established by that local unit, or of a joint municipal planning commission in which that local unit participated. However, this prohibition would not apply to a municipality with a population of less than 5,000 in which the governing body served as the planning commission, or to a planning commission established before the effective date of the bill by municipal charter.

If a member of the governing body of a local unit had been a member of a municipal planning commission established before the effective date of the bill by municipal charter, that member would be a nonvoting member unless the charter provided otherwise. Further, notwithstanding a requirement as to the size of the planning commission, or any other requirement, the governing body of a local unit could provide, by resolution, that an individual serving immediately before the effective date of the bill as a member of a planning commission could continue to serve, for the duration of his or her term, as a member of a successor planning commission, either local or regional.

Term of office. Under the bill, the term of a member of a municipal planning commission, a joint planning commission, or a county planning commission would be three years. However, the officer of the body appointing the members of a planning commission would make initial appointments of shorter terms, as necessary, so that the terms of one-third of the members would expire each year. The term of a member of a regional planning commission would be established in the agreement to create the regional planning commission.

A vacancy in the office would be filled for the remainder of the term in the same manner as the original appointment.

A member could be removed from office by the officer or body authorized to appoint, with the concurrence of the body authorized to concur in the appointment, if any. The member could be removed only after a hearing under the Open Meetings Act. A member could be removed from office for malfeasance, misfeasance, or nonfeasance in office, as defined by ordinance or charter provision, or in the agreement to establish the commission. Nonfeasance could be defined to include, but would not be limited to, either of the following: a) the failure of a member, without good cause, to attend one or more orientation, training, or other educational conferences or programs related to community planning, capital improvement programming, land use regulation, or other relevant topics as required by the ordinance or agreement to establish the planning commission; or b) poor attendance or preparation as defined by ordinance or charter provision, in the agreement to establish the planning commission, or in the rules of procedure of the planning commission.

Compensation of members. Under the bill, a member of a municipal or county planning commission, or of an advisory or other committee, could receive compensation and reimbursement for actual, reasonable expenses under standards and procedures adopted by ordinance or resolution of the governing body of the local unit. A member of a joint municipal planning commission, of a regional planning commission, or of an advisory or other committee of either such planning commission, also could receive compensation and reimbursement if the governing bodies specified

the standards and conditions for reimbursement by resolution. The standards and procedures could authorize compensation and expenses for attending orientation, training, or other educational conferences or programs related to community planning, capital improvement programming, land use regulation, or other topics related to community planning or community development. The bill specifies that compensation could consist of a per diem. However, an individual could not receive a per diem for attending more than one meeting of the planning commission, or more than one meeting of the same committee of the planning commission, per day.

Operating budget. The governing bodies of the local units of government would be required to include in their general budgets, an annual operating budget for the planning commission, and also to appropriate the budgeted amount. The budget would be decided by adoption of resolutions in the appropriate jurisdictions. The budget could appear as a single line item, or multiple line items, and could include one or more of the following: a) compensation and reimbursement for reasonable expenses of planning commission members; b) educational literature; c) orientation, training, and educational conferences or programs for the planning commission and staff; d) staff salaries and benefits; e) equipment, supplies, and office space; f) consultant and other professional services; g) preparation, adoption, duplication, and dissemination of plans and ordinances; h) studies and information acquisition; i) organizational memberships and dues; and, j) other items related to the activities of the planning commission.

In addition, the local units of government could allow a planning commission to accept and enter into agreements that concern receiving, lending, transferring, or conveying grants or gifts of funds, personnel, or other assistance from any source that promotes broad public interests consistent with the purposes of the bill, to be used in carrying out the commission's functions. Money accepted in this manner would be deposited by a local unit treasurer in a special non-reverting planning commission fund. The treasurer would be allowed to draw warrants against the fund, only upon vouchers signed by the chairperson of the planning commission, or chief administrative officer of the regional planning commission, unless another procedure with adequate accounting safeguards had been adopted by the governing bodies.

Annual report. A planning commission would be required to submit an annual report to the governing body, or if a regional commission, to all participant governing bodies. The annual report would be required to include the commission's operations and the status of its planning activities, including its expenditures and recommendations related to planning and development. The commission would also prepare an annual work program for activities and funding requests from all sources during the succeeding year, and submit it to the appropriate governing bodies in time to be considered as part of the general budget.

Hiring a planning director. Under the bill, the following people could, after consultation with the planning commission, hire a planning director according to hiring procedures adopted by the political subdivision: a) the governing body of the local unit that established a municipal planning commission; b) the county board of commissioners of a county with a planning commission; c) the chief administrative officer of a county, when appropriate; and, d) the governing bodies, acting jointly, when appropriate. The authority to hire could be delegated to the chief administrative officer. Or, the planning commission could hire, if so authorized by the governing body, and if funds had been appropriated for that purpose. A planning commission, planning director, chief

administrative officer, or governing body would be able to contract with consultants for planning related services. These provisions would not affect contracts entered into or charter provisions adopted before the effective date of the bill.

Planning commission officers and rules of procedure. A planning commission would be required to elect from its members a chair, vice-chair, secretary, and such other officers as it considered advisable. Unless otherwise provided by charter, an ex officio member could not serve as chair, and the chair would have no vote except in the case of a tie. The term of each officer would be one year, but a member could serve as an officer for successive terms.

Under the bill, a planning commission would be required to adopt rules of procedure that would include but not be limited to, all of the following: a) rules concerning oaths of office; b) the election of officers including whether they could succeed themselves; c) the circumstances and procedures under which alternate members could sit; d) ethical conduct; e) the adoption or amendment of plans; f) the review and approval or rejection of proposed public facilities; g) the conduct of public hearings and other public meetings; h) the preparation of findings of fact; i) votes on motions; j) the circumstances, if any, under which a matter could receive reconsideration; and, k) the tabling of business. Further, in the conduct of its business, a planning commission would be required to establish procedures that both encouraged and ensured opportunity for input by any individual, without regard to geographic area of residence. The planning commission also would be required to keep a public record of its resolutions, transactions, findings, and determinations.

Open meetings, freedom of information and conflict of interest. A commission would be required to hold not less than four regular meetings each year. A special meeting could be called by the chair, upon written request to the secretary, by at least two members, or a greater number as required by the commission's rules of procedure. The business of the commission would be conducted in compliance with the Open Meetings Act, and the secretary would be required to send written notice of a special meeting to commission members not less than 18 hours in advance of the meeting.

A writing prepared, owned, used, in the possession of, or retained by the planning commission in the performance of its official functions would be made available to the public in compliance with the Freedom of Information Act.

A member of a commission would be required to abstain from taking part in deliberations on or deciding a matter on which the member had a conflict of interest. An ordinance or agreement that established a commission would be required to describe the circumstances under which a conflict of interest existed, and to set forth the procedure for abstention. The rules of procedure of the commission would be required to reiterate the circumstances, and could add procedures and circumstances, not in conflict with those in the ordinance or agreement that established the commission. In addition, members of a planning commission would be subject to any applicable laws or ordinances concerning incompatible offices or conflicts of interest.

Under the bill, the commission could appoint committees of its members and advisory committees on which qualified individuals who were not members could serve. The procedures for committee appointment would be established in the rules of procedure.

Duties and powers. When a commission was preparing or revising a plan, it would be required to encourage broad-based input from citizens, interest groups, and public officials from across the jurisdictional area of the commission, such as information obtained from opinion surveys, local visioning or futuring, town meetings, focus groups, advisory committees, and related participation techniques.

A planning commission would be required to act as a coordinating agency for information and program activities related to its objectives. It would be required to coordinate its plans with related plans of the departments or subdivision of the local unit as well as those relevant plans of the county, region, state, and federal governments. Each county planning commission would be required to maintain planning data and maps with a wide range of information pertinent to planning in the county or region, in formats that were easily accessible to the public. A county planning commission and regional commission whose jurisdiction included that county could agree that the regional commission would assume the county's responsibilities under this provision.

Under the bill, public officials at every level of government would be required to furnish information as the planning commission could require, and could also furnish technical assistance. A planning commission would conduct workshops, meetings, and seminars relative to its functions. It would be required to promote public understanding of, and interest in, the plan. It also would be required to prepare and periodically distribute copies of adopted plans and educational materials about proposed and adopted plans.

A planning commission would have those powers necessary to prepare plans, coordinate planning with adjoining units of government and other governmental agencies, promote and, to the extent provided by the bill, maintain consistency between adopted plans and land development regulations, as well as capital improvement programs adopted to implement the plans.

A county planning commission could implement a task or program delegated to it. The task or program would be delegated by agreement or by ordinance. However, a specific project could be delegated by resolution of the governing body, or bodies. The power to sell land, to acquire land by gift, purchase, or condemnation, or to acquire any other property by condemnation could not be delegated to the planning commission. However, a planning commission could arrange for the sale or acquisition of land subject to the approval of the governing body, or bodies.

Under the bill, the task or program delegated to the planning commission could include one or more of the following: a) arranging for the acquisition, by gift or purchase, of the necessary land for rights-of-way and easements for streets and highways, trails, green ways, telecommunications, flood control, drainage, utilities, hazard mitigation, environmental contamination mitigation, public housing projects, job development projects, redevelopment projects, parks and recreation projects, civic centers, nature preserves, public buildings, historic preservation, and farmland, forest land, or other open space preservation, or other public facilities or purposes as defined in the plan; b) consistent with other laws, implement programs to purchase development rights, or, to the extent permitted by law, transferring development rights; c) arranging for the acquisition by gift or purchase of the necessary land for the site of a project as defined by the plan; d) arranging for acquisition by gift or purchase, construction, reconstruction, repair, renovation, restoration, operation, and maintenance of buildings and structures for projects as defined in the plan; e) dedicating projects,

land, buildings, and structures acquired by gift or purchase to governmental units and public agencies for their use, maintenance, and operation; f) entering into agreements with private or public entities for the execution of the powers provided by the bill; g) designing and implementing an impact assessment system that ensured each new increment of development paid its fair share of the infrastructure costs associated with the new development and that minimized negative impacts on land, water, and air resources; h) carrying out capital improvement programming responsibilities as provided in chapter 4, to ensure development had adequate capital facilities concurrent with the need; and, i) carrying out zoning, condominium, and subdivision review responsibilities as provided in chapter 5.

Chapter Three - Local Unit and Regional Plans. This chapter would require that a planning commission prepare a development plan. The purpose of the plan would be to promote public health, safety, and the general welfare through the creation of economically and environmentally sustainable communities whose plans were compatible and consistent with other plans of local units and state agencies.

Plan purposes. The purpose of the plans also would include: a) the embodiment of a common future vision of new development and redevelopment for at least the next 20 years, and the identification of feasible steps to achieve that vision; b) the coordinated and harmonious long-range physical, social, environmental, and economic development or redevelopment of the community in a fiscally sound and feasible manner; c) the availability of adequate light, clean air, and clean water; d) the promotion of safety from fire, floods, erosion, storm surge, and other dangers; e) the use of natural and physical resources in accord with their character and adaptability; f) the appropriate use of any agricultural lands, forests, wetlands, shorelines, sand dunes, and other open spaces considering their economic and environmental values; g) to avoid overcrowding of land and the underutilization of land by buildings or people; h) to promote population densities and distribution patterns that are attractive, healthy, safe, and convenient to workplaces and services, and that can be efficiently served by sewer, water, public safety, garbage collection, transportation, and other services; i) retention of existing employers and attraction of new ones; j) the provision of adequate land in a planned pattern for all the land uses necessary to meet the identified needs, in particular the need for affordable housing near places of employment; k) the provision of a system of interconnected roads, highways, and streets and of bicycle, pedestrian, transit, and other transportation modes as appropriate in the community; l) the prevention and mitigation of congestion on public roads and streets, and the management of access to prevent accidents and to preserve vehicular capacity; m) the provision of a cost-effective environmentally sound, safe, and efficient system of capital facilities; n) the consideration of the character of each community and its suitability for particular uses judged in terms of such factors as the trend in land and population development in the area, and the physical features of existing buildings and landscapes in a community; o) the promotion of quality building designs and improved or preserved community appearance; p) the promotion of good civic design and arrangement of public buildings and public spaces; q) providing the basis for specific programs to improve community quality of life in accord with adopted plans; r) promoting land use patterns that prevent unreasonable inequities between communities, races, income groups, or generations; and, s) the establishment of a rational legal basis for zoning, subdivision, condominium, and related land development regulations.

Under the bill, a municipal plan or joint municipal plan would serve as the principal policy guide for future land use and capital facilities within the municipality or municipalities. It also would serve as the legal basis for zoning, land division, subdivision, condominium, redevelopment ordinances and rules, capital improvement programs, and other programs if required by law to be based on a plan. A county plan also would serve as the legal basis for any county zoning and land division ordinances and rules, and for capital improvement programs. A county plan that had received a recommendation for approval of at least 60 percent of the planning commissions within the county would serve as the principal general policy guide for future land use, and for county capital facilities. In contrast, a regional plan could serve as all, or part, of the legal basis for any program that the regional planning commission had authority to implement. A regional plan would serve as a general policy guide for future land use and capital facilities serving the region defined in the plan.

Contents of 'general plans', 'future land use plans', 'comprehensive plans', and 'growth management or redevelopment plans'. Under the bill, there are different kinds of plans, depending on whether a unit of government has adopted a zoning ordinance. To that end, the bill specifies that a regional plan or a county plan in a county that had *not* adopted a zoning ordinance would be known as a 'general plan', and it describes the seven required provisions for a 'general plan' in detail in section 45.

In contrast, a municipal plan, a joint municipal plan, or a county plan for a county that had adopted a zoning ordinance would be known in one of three ways:

-a 'future land use plan' that would address land use at least 20 years into the future (and whose 14 required provisions, including the seven requirements of a 'general plan', are described in section 47); or,

-a 'comprehensive plan' (whose 19 required provisions, including the 14 requirements of a 'future land use plan', as well as 13 optional elements, are described in section 49); or if appropriate,

-a 'growth management plan' or 'redevelopment plan' (whose 29 required and optional provisions, including the 19 requirements of a 'comprehensive plan' are described in section 51).

Elements required in all plans. This chapter of the bill also contains provisions that would superintend the content of all plans, and these provisions are described in section 53. The bill specifies that a plan would include, or would incorporate by reference, the relevant portion of any of 23 separate plans that apply to the territory covered by the land use plan. Under the bill, these referenced plans would include but not be limited to any plan adopted by a tax increment finance authority, a downtown development authority, a local development finance authority, an international tradeport development authority, a brownfield redevelopment authority, a county or regional economic development commission, a housing commission, a regional park or recreation commission, an historic district commission, an airport authority for airport approaches, a school board for construction or closing of a school, a sewer or water supply authority, a solid waste authority, and a blighted area rehabilitation authority, among others.

The bill specifies that after a plan had been adopted, an amendment to any of the referenced plans could not be adopted if it were inconsistent with the purposes listed in section 41. Further, any amendment would be submitted to the planning commission for comment a reasonable time before adoption by any of the commissions or authorities developing the referenced plans.

Zoning map and zoning ordinance not a plan. The bill further specifies that a zoning map adopted as part of a zoning ordinance under the county, township, or city and village zoning acts would not be considered a future land use map, and neither a zoning map, nor the text of a zoning ordinance, would constitute a plan under the bill. Likewise, the bill specifies that a plan would not be considered a zoning ordinance, and a future land use map would not be a zoning map under the zoning enabling acts.

Preparation and amendment of plans. This chapter of the bill also sets procedures for the preparation, adoption, and amendment of plans to ensure their coordination, and these procedures are described in sections 55 and 65.

Review of proposed plans and public hearings. This chapter of the bill establishes protocols that a proposing planning commission would be required to follow in order to ensure review and comment by all parties before a plan was adopted. The review protocols would invite comment, questions, and suggestions within 63 days. Further, the chapter sets evaluation criteria against which the quality and adequacy of a plan could be ascertained. The review protocols are described in section 57, and the evaluation criteria are described in section 59.

Section 61 of this chapter specifies that the proposing planning commission hold a public hearing on the plan, and give notice of its hearing twice in a newspaper, beginning not more than 28 days before the hearing is scheduled.

Approval of the plan. Finally, section 63 of this chapter requires the planning commission to approve or reject the plan, with or without changes, following the hearing. Approval of the plan by the planning commission would be the final step for adoption of both a regional plan, and a county plan for a county without county zoning. However, under the bill the final step for adoption of a county plan with a zoning ordinance, as well as for a municipal plan, or for a joint municipal plan, would be approval of the plan by the governing body of the county, by the governing body of the municipality, or by agreement of the governing bodies of the participating municipalities, respectively.

Specifically, after the planning commission approved the plan, it would be forwarded to the governing body or governing bodies for their approval. If they agreed that the plan should be changed, they would be required to submit a clear statement of the proposed changes and the rationale for each proposed change to the planning commission within 63 days. The planning commission would then be required to respond to the governing bodies within 28 days. The governing body or bodies would then approve or reject the plan, with or without the proposed changes, by vote of a majority of its members. After a plan was adopted, a notice of final adoption would be published in the newspaper, and any who wished to read or otherwise inspect the plan would be invited to do so. The notice would list the location where the plan and its supporting

documents were available to the public for inspection, and under the bill that location could include a publicly accessible Internet site.

Chapter Four - Capital Improvement Programs. Within one year after adoption of a plan, each planning commission would be required to prepare or have prepared, and then recommend approval of, a capital improvement program (CIP) for the jurisdictional area of the commission. The proposed CIP would be based on an annual inventory of existing capital facilities including their location, size and capacity, and current or proposed level of service. The inventory could be included in the proposed CIP or in a separate document.

Capital improvement program and inventory. A CIP would include all of the following with respect to capital facilities that were to be acquired, sold, constructed, or improved within the current year, and the next five or more years: a) a description of the capital facilities; b) a map of the location of the facilities; c) a schedule for the acquisition, sale, construction, or improvement of each capital facility; d) the anticipated useful life of each capital facility; e) the cost and means of financing the acquisition, construction, or improvement of each capital facility; f) projected impacts of the capital facilities on future operating budgets; and, g) the projected costs and means of financing maintenance over the useful life of each capital facility.

County CIP. A county capital improvement program could not simply be an aggregate of the CIPs of municipalities within the county unless the county had not adopted a county plan. If the county had adopted a plan, it would be required to include in the county CIP all capital facilities to be acquired, constructed, or improved using funds under the control of the county board of commissioners, county road commission, county drain commissioner, or other special entities created with the county as a partner, as well as proposed capital improvements included in the local CIPs. A county board of commissioners could withhold funds from any county agency that had not submitted its proposed capital facility plan or capital improvement plan to the county planning commission.

Written findings. Before approving a CIP, the planning commission would be required to make written findings that the proposed CIP was consistent with and promoted the purposes of the plan. After the commission approved a proposed CIP, it would be required to submit a certified copy to the chief administrative officer, and the governing body of the local unit that established the commission, or the governing body of each participating local unit, and to each public agency that requested a copy. Further, after a commission approved a proposed CIP, it also would be required to submit a copy for review to each appropriate planning commission.

Notice of inconsistency. Not more than 42 days after receipt of a CIP, a reviewing entity would be required to notify the proposing commission, in writing, whether there was any element of the CIP that was inconsistent with the plan. The notice would be required to describe any inconsistency in detail. The proposing commission would then be required to give serious consideration, and attempt in good faith, to address the alleged inconsistency, and could employ a dispute resolution service to resolve any disagreement with the reviewing entity.

After a commission approved a proposed CIP but before a CIP was finally adopted, a person (including but not limited to the local unit or local units whose planning commissions approved the

proposed CIP) could not undertake a capital improvement included in the proposed CIP. Promptly after a CIP, other than a county CIP, had been adopted, the municipal planning commission or joint municipal planning commission would be required to transmit a certified copy of the CIP to the county planning commission of each county within which all or part of the jurisdictional area of the municipal planning commission or joint municipal planning commission was located, or, if there was no county planning commission, to the county clerk.

Annual review. If a CIP had been adopted, the planning commission for the local unit that adopted the CIP would be required to review it at least annually. Further, if a CIP had been adopted, an amendment to it would be undertaken using the same procedures that governed adoption.

Legislative appropriations and priority funding. Under the bill, the legislature could not appropriate funds, including federal funds passed through the state, for the construction or acquisition of a capital facility unless it had been included in a CIP. Further, a local unit could not expend funds appropriated by the legislature, including federal funds passed through the state, for these purposes unless it had been included in a CIP.

The bill specifies that capital facilities included in CIPs that met all of the following requirements would have a higher priority for state appropriations, including but not limited to appropriations of federal funds passed through the state, than those included that did not meet the following requirements: a) the CIP was adopted under this chapter; and, b) the plan was consistent with relevant adopted plans of state departments and agencies, and the statutes governing those departments and agencies.

If a CIP proposed to finance a capital facility using state funds, included federal pass-through funds, the planning commission (or in its absence, the governing body) would be required to submit to the department all of the following: a) a request for funding assistance; b) a description of the proposed capital facility; c) a copy of the CIP or the specific portion of the CIP relevant to the capital facility; and, d) if the CIP was adopted, a copy of any written comments relative to the capital facility received from a reviewing entity.

Under the bill, the Joint Capital Outlay Committee would be required to consider the effects of the proposed new local or state capital facilities, or the disposition of state lands, upon the municipalities in which the capital facilities or state land were located. After a CIP had been adopted under this chapter, no unit of government could construct or improve a capital facility unless one of the following applied: a) the capital improvement had been provided for in the CIP; or, b) the body authorized to undertake the capital improvement had approved it by a two-thirds vote of its membership after adopting written findings that either the project was essential to address a public health or safety hazard, or that the project was not inconsistent with the plan or related projects in the approved CIP. Those findings would be required to include a detailed statement of their basis, and a copy would be submitted to the planning commission.

Chapter Five - Planning Commission Powers Related to Zoning, Condominium, and Subdivision Review. Within one year after the effective date of the bill, the governing body of a local unit, by ordinance or resolution, would be required to transfer to a planning commission all powers and duties for a zoning board or commission provided by the county zoning act, the township

zoning act, or the city and village zoning act, if the zoning board or commission had been in existence for more than three years. If the existing zoning board or commission was nearing the completion of drafting an interim zoning ordinance, the governing body would be required to postpone the transfer of the zoning board's powers and duties until the completion of the zoning plan and adoption of an interim zoning ordinance by the governing body; however, the postponement could not exceed one year.

Once a plan had been adopted under chapter 3, and a certified copy of the plan had been filed in the office of the county register of deeds of each county in which the jurisdictional area of the planning commission was located, a subdivision of land within the jurisdictional areas of the planning commission could not be filed or recorded unless the planning commission and the governing body had approved the subdivision, and the chairperson or secretary of the planning commission and the clerk of the local unit had entered the approval in writing on the plat.

Subdivision of land. Under the bill, the appropriate planning commission would be required to propose, and the governing body to adopt, regulations pertaining to the subdivision of land within its jurisdiction. The regulations could provide for the proper arrangement of streets in relation to other existing or planned streets, and to the future land use plan; for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light and air; and, for the avoidance of congestion of population, including minimum width and area of lots. The regulations could also include provisions as to the extent to which streets and other ways would be graded and improved, and to which water and sewer and other utility mains, piping, or other facilities would be installed, as a condition precedent to the approval of the plat. The regulations adopted would have to be consistent with the Land Division Act, Public Act 288 of 1967 (MCL 560.105).

Under the bill, the regulations could provide for a tentative approval of the plat before improvements or utilities were constructed or installed. A tentative approval would be revocable and could not be entered on the plat. In lieu of the completion of the improvements and utilities before the final approval of the plat, the governing body could accept a bond with surety to secure the actual construction and installation of the improvements or utilities, at a time and according to specifications fixed by or under the regulation of the local unit.

The subdivision regulations would be published as provided by law for the publication of ordinances; and, before adoption, a public hearing would be held about the regulations. Further, the governing body could choose to adopt the subdivision regulations as a part of the zoning ordinance. The combined regulations would be entitled "Land Development Code of (name of jurisdiction)". A copy of the regulations would be certified by the clerk of the local unit to the clerk of each county in which the jurisdictional area of the unit was located.

Condominium projects. Under the bill, an appropriate planning commission would be required to make a recommendation to approve, approve with modifications, or disapprove a condominium project under an ordinance adopted to implement local unit review authority under the Condominium Act, or a plat under an ordinance adopted under the Land Division Act. The planning commission would be required to state in its records the grounds for recommending approval or disapproval.

A condominium project or subdivision plat submitted to the municipal planning commission or joint municipal planning commission would be required to contain the name and address of a person to whom notice of hearing would be sent. The planning commission could act upon the condominium project or plat only after conducting a hearing on the plat. Notice of the time and place of the hearing would be sent by registered mail to the addresses contained in the condominium project plat not less than 15 days before the date of the hearing. Notice also would be mailed to the owners of land immediately adjoining the platted land, as their names appeared in the records of the county register of deeds office, and their addresses appeared in the directory of the municipality, or on the tax records of the municipality or county.

Upon preliminary approval by the governing body, a condominium or subdivision plat would be considered to be an amendment, or an addition to, or a detail of the plan, and a part of the plan, unless the plat or condominium project never received final approval. Approval of a project or plat would not constitute an acceptance by the public of any street or other open space. The planning commission could recommend to the governing body, amendments to the zoning ordinance or map, to conform to the planning commission's recommendations for the zoning regulation of the territory comprised within approved condominium projects or subdivisions. The commission could agree with the applicant upon use, height, area, or bulk requirements or restrictions governing buildings and premises within the condominium project or subdivision, if the requirements or restrictions did not authorize the violation of the zoning ordinance. The requirements or restrictions could be stated upon the condominium master deed or plat before the approval and recording of the master deed or plat. Under the bill, the requirements or restrictions would have the same force of law and be enforceable in the same manner and with the same sanctions, and subject to the same power of amendment or repeal, as though set out as a part of the zoning ordinance or map.

The failure of the governing body to approve, approve with modifications, or disapprove a preliminary or final condominium project or plat within 90 days after it was submitted to the commission would constitute approval, and a certificate of approval would be issued by the commission upon request of the applicant. However, an applicant for planning commission approval of a condominium project or plat could consent to an extension of the 90-day period.

Chapter Six - State Agency Plans and State Planning Assistance. The Department of Management and Budget would be required to initiate, within two months after the effective date of the bill, the following activities either within the department, or by interdepartmental agreement:

a) Inventory existing policies embodied in state legislation and programs of state departments that affected land use decisions, and recommend policy changes where warranted to be consistent with the purposes of the bill;

b) Summarize goals, objectives, and policies of the adopted plans of state departments that related to land use, economic development, environmental protection, and the provision of capital facilities including, but not limited to, roads, schools, sewer and water systems, storm drains, prisons, and other capital improvements, in order to identify geographic areas of the state where goals, objectives, policies, and proposed capital improvements could be in conflict;

c) Prepare reports that evaluated and made recommendations regarding state technical assistance provided to local governments by state agencies, and data and mapping services available to and desired by local units and regional governmental entities. The first such report would be required to propose policies for siting of state and private facilities that, because of their size or scale, might significantly affect several communities or state or regional capital facilities or services, as well as other land use and capital facility issues of greater than local concern;

d) Prepare recommendations about incentives for state funding of capital facilities included in CIPs, and about allocation of local revenue sharing based on the degree to which local unit plans had received consent;

e) By not more than three years after each decennial census and then at least biannually thereafter, prepare and distribute to local units and regional governmental entities population and employment forecasts at the county level for a 30-year-period, based on 5-year increments;

f) Maintain a land and water database in a geographic information system (GIS) under the Natural Resources and Environmental Protection Act, that included land use and land cover for every acre of land in Michigan. The database would be updated on a statewide basis by 2005 and every five years thereafter;

g) Design and, if appropriate, administer a method for resolving disputes between plans prepared by regional planning commissions for contiguous regions;

h) Prepare guidelines for the siting of essential capital facilities and development of coordinated plans by the Departments of Transportation, Natural Resources, Environmental Quality, Education, and Corrections, the Michigan State Housing Development Authority, and other state departments and state agencies that had responsibility for developing or maintaining state lands or state capital facilities, or for providing financing directly from the state or as a pass-through from the federal government to local units. Under the bill, these guidelines prepared by the department would provide for notice to every local unit and region that a draft plan was about to be developed by the department or agency, and then, after a draft had been prepared, that a plan was scheduled to be adopted. The guidelines and notices also would indicate an opportunity for interested people to comment at a public hearing, or in writing. The Department of Management and Budget also would be required to prepare guidelines for the conduct of public hearings under this section. Records prepared to accompany the development of state department and agency plans would indicate which local plans were consulted, and the specific efforts that were initiated to eliminate inconsistencies when they were identified. After a plan had been adopted by a state department or agency, the plan would be used as the basis for capital improvements, land acquisition, or disposition of state lands and facilities, and state grants or pass-through money for that state department or agency;

i) Prepare guidelines for the development of capital facility needs and improvement requests by state departments and agencies, following guidelines proposed in the bill;

j) Compile the individual proposed statements of capital facility needs of all state agencies into a consolidated proposed statement of needs, and consolidated state capital facilities map, for inclusion in the governor's budget message as part of the state capital outlay budget, and a proposed

six-year capital improvement program. Not more than 30 days after the governor's budget message had been submitted to the legislature, the director of the department would be required to send a copy of the consolidated proposed statement of needs, and the consolidated state capital facilities map, to each of the following: i) the director of each state department; ii) each regional and county planning commission; iii) the governing body of each local unit of government; and iv) the state library and all public libraries that serve as depositories of state documents;

k) Ensure adequate funds were included in the governor's annual budget message for the state to fulfill its obligations under the Natural Resources and Environmental Protection Act; and,

l) Establish a program of technical and financial assistance and incentives to local units and regional governmental entities to encourage and facilitate the adoption and implementation of coordinated plans and development regulations throughout the state, to include i) a program of technical assistance that utilized department staff, other state agency staff, and the technical resources of local units and regional governmental entities to help in the development and implementation of plans prepared under the bill (technical assistance could include model plans and structures for plans, model land use ordinances, educational and training programs, and information dissemination) and ii) developing and distributing guidelines to assist local units and regional governmental entities with the development of plans and resolution of disputes related to review of plans, capital facility proposals, capital improvement programs, and issues of greater than local concern.

Assistance from state associations. In developing any guidelines, model plans or ordinances, standards and procedures, or rules under the bill, the department would be required to seek input and assistance from the Michigan Municipal League, the Michigan Townships Association, the Michigan Association of Counties, the Michigan Association of Regions, and the Michigan Society of Planning.

Grant funding. The legislature would be required to appropriate at least $15 million per year for grant funding for the development of plans under the bill, for at least the first seven years after the effective date of the bill. Grants would not be awarded to municipalities until all the funds eligible for use by counties and regional governmental entities seeking funds had been distributed. Within the first two years of the effective date of funding, funding assistance would be available at an amount not less than 70 percent nor more than 80 percent of the cost to prepare or update a county or regional plan. Under the bill, these funds would be distributed to counties and regional governments in the Lower Peninsula before distribution to those in the Upper Peninsula, unless standards and procedures established under section 97 allowed for a different order of distribution.

After the first two years from the effective date, county or regional plans would not receive less than 45 percent nor more than 50 percent of the cost of preparing a plan. Municipal plans would receive not less than 50 percent nor more than 60 percent of the cost to prepare or update a plan to be in conformance with this act. Joint municipal plans would receive not less than 65 percent nor more than 75 percent of the cost of preparing or updating a plan to be in conformance with the act.

A local unit or regional entity would not receive funding assistance more than once within the first seven years after the effective date of the bill. Further, the legislature could allocate up to

5 percent of the total funds available to local units and regional governmental entities, in order to offer 50 percent matching grants to nonprofit organizations and citizen organizations to promote and enhance broad-based citizen participation in the preparation of plans under the bill.

Funding. The bill would require the legislature to provide grant funds for the preparation of local unit and regional plans out of the general fund in an amount equal to at least $15 million per year for the first seven years after the effective date of the bill, unless another source of funds in at least an equal amount was provided. If $15 million per year was not sufficient, the department would request a supplemental appropriation. If supplemental funds were not forthcoming, or were inadequate, then the department would extend the grant program beyond seven years for the period of time necessary to cover the state commitment to all local units and regional entities that wished to participate.

The bill further specifies that the department would separately request funds to carry out its responsibilities under this chapter of the bill, and describes the general parameters for those requests. Within 60 days after the effective date of the act, the department would be required to request from the legislature the funds necessary to develop and implement chapter 6. Thereafter, the department would include a funding request as part of the annual budget process.

Application and review standards. Under the bill, the Department of Management and Budget would adopt standards and procedures for the application, review, and approval process that would be used to obtain grant assistance for the preparation and adoption of plans, following the Administrative Procedures Act. The bill specifies that the legislature finds that preservation of the public health, safety, and welfare in light of the conditions intended to be addressed by plans and CIPs would require that the rules initially be promulgated under section 48 of the Administrative Procedures Act, which provides for emergency rules, within 120 days after the effective date of the bill. Further, the bill specifies that the department would establish standards for priority of assistance that considered rates of loss of farm and forest land, population growth rates, commercial and industrial development growth rates, land division rates, the existence, age, and quality of existing plans of local units, and other relevant factors. In addition, separate criteria and procedures would be established for grants to enhance citizen participation. Under the bill, local units and regional entities would not be eligible for funds to enhance citizen participation, except in partnership with other nonprofit organization or citizen groups, which would have to be the principal recipients of any grants received. An effort would be made by the department to ensure a broad range of interested parties were involved in the development of a plan before approving a grant request under this chapter.

Other state departments. State departments other than the Department of Management and Budget would be required to examine their planning responsibilities under the bill and, except for the Department of Transportation, could request separate state funds for this purpose.

House Bill 6125 would amend the City and Village Zoning Act (MCL 125.581) to require that city and village zoning be based on a plan developed under the coordinated planning act. Specifically, the bill would require that a zoning ordinance be based on one of the following: a) a municipal plan or joint municipal plan that has been consented to by all reviewing entities and

adopted under the coordinated planning act; b) until seven years after the effective date of the coordinated planning act, a plan adopted under Public Act 285 of 1931 (which defines the creation, powers and duties of city, village, and municipal planning commissions); or, c) until seven years after the effective date of the coordinated planning act, any other plan adopted to promote and accomplish the purposes of the City and Village Zoning Act. Under the bill, if a zoning ordinance did not satisfy these requirements, it would not be presumed to be valid.

House Bill 6126 would amend the Township Zoning Act (MCL 125.273) to require that township zoning be based on a plan developed under the coordinated planning act. Specifically, the bill would require that a zoning ordinance be based on one of the following: a) a municipal plan or joint municipal plan that has been consented to by all reviewing entities and adopted under the coordinated planning act; b) until seven years after the effective date of the coordinated planning act, a plan adopted under Public Act 285 of 1931 or Public Act 168 of 1959 (which define the creation, powers, and duties of municipal and township planning commissions, respectively); or, c) until seven years after the effective date of the coordinated planning act, any other plan adopted to promote and accomplish the purposes the Township Zoning Act. Under the bill, if a zoning ordinance did not satisfy these requirements, it would not be presumed to be valid.

House Bill 6127 would amend the County Zoning Act (MCL 125.203) to require that county zoning be based on a plan developed under the coordinated planning act. Specifically, the bill would require that a zoning ordinance be based on one of the following: a) a county plan that has been consented to by all reviewing entities and adopted under the coordinated planning act; b) until seven years after the effective date of the coordinated planning act, a plan adopted under Public Act 282 of 1945 (which defines the creation, powers, and duties of county planning commissions); or, c) until seven years after the effective date of the coordinated planning act, any other plan adopted to promote and accomplish the purposes of the County Zoning Act. Under the bill, if a zoning ordinance did not satisfy these requirements, it would not be presumed to be valid.

House Bill 6128 would amend Public Act 281 of 1945, which defines the creation, powers and duties of regional planning commissions (MCL 125.11 to 125.25), to specify that notwithstanding any other provision of the act, a plan adopted could be amended or repealed either under this act, or under the coordinated planning act.

Further, House Bill 6128 specifies that a regional planning commission could not exercise powers provided for by the coordinated planning act with respect to the geographic area under the jurisdiction of a regional planning commission.

Finally, under the bill, a plan or a successive part of a plan adopted under the coordinated planning act by a regional planning commission would supercede an adopted plan, to the extent that the elements and geographic area of the plan adopted were covered by the elements and geographic area of the plan or successive part of the plan adopted under the coordinated planning act.

House Bill 6129 would amend Public Act 51 of 1951, the Michigan Transportation Fund Act (MCL 247.651a), to require the Transportation Department to grant priority to projects within local units of government that have adopted a plan, when making a determination between comparable projects for the planning, construction, maintenance, or improvement of state trunk line

highways. Under the bill, "plan" is defined to mean a municipal plan, joint municipal plan, or county plan consented to by all reviewing entities and adopted under the coordinated planning act. Further, the bill would define "reviewing" to mean that term as it is defined in the coordinated planning act.

House Bill 6130 would amend the Natural Resources and Environmental Protection Act (MCL 324.101 to 324.90106) to require an administering department to grant to a local unit of government or to a regional governmental entity that had adopted a plan, an expedited review of a permit or license application. Further, if a grant or loan application submitted by a local unit of government or by a regional governmental entity that had adopted a plan was substantially equivalent to other applications submitted by governments that had not adopted a plan, the administering department would be required to give preference to the application submitted by the government that had adopted a plan.

Under the bill, "plan" is defined to mean either of the following: i) a regional plan adopted under the coordinated planning act; or ii) a municipal plan, joint municipal plan, or county plan consented to by all reviewing entities and adopted under the coordinated planning act. Further, the bill would define "reviewing" to mean that term as it is defined in the coordinated planning act. Finally, the bill would define "administering department" to mean the department administering a program under the NREPA.

Analyst: J. Hunault

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.