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PLANNING COMMISSIONS: CONSULT WITH OTHER UNITS

House Bill 5038 (Substitute H-4)
Sponsor: Rep. Ruth Johnson

House Bill 5252 (Substitute H-2)
Sponsor: Rep. James Koetje

House Bill 5267 (Substitute H-2)
Sponsor: Rep. Patricia Birkholz

Committee: Land Use and Environment
First Analysis (10-24-01)

THE APPARENT PROBLEM:

A standard criticism of local land use planning is that all too often it fails to take into account the planning efforts and the land use patterns of communities throughout the region. Knowledgeable observers say that local planners need to understand the effect of their decisions on neighboring communities and find ways to consult with one another and cooperate with one another. They say that local planning needs to move from an "island" approach to one that provides more coordination among jurisdictions. Obviously, for example, it makes little sense for one community to plan for the protection of farmland and open spaces if its immediate neighbors are planning to develop adjoining lands. For many who want to preserve forests, farmland, scenic areas, and wildlife habitats, who want to redevelop the infrastructure of urban areas, and who want better coordination of area-wide traffic, affordable housing, and large-scale developments, the creation of multi-jurisdictional planning is seen as essential. One step towards improving multi-jurisdictional cooperation is to require local planners, as part of the planning process, to communicate with neighboring communities, sharing proposed plans and soliciting comments. Legislation has been introduced that would put in place procedures, with timelines, that would require consultation between neighboring jurisdictions as master plans are being developed.

THE CONTENT OF THE BILLS:

The bills, generally speaking, would require planning commissions at the township, city, village, and county levels to consult with the planning commissions of contiguous communities, with regional planning commissions (in some cases), and

with certain other interested parties, when developing master plans, and would require them to share proposed master plans for review and comment before adoption and later to share the adopted plans. The notifications and consultations would be part of a new set of procedures for the adoption of master plans by townships, cities, villages, and counties. As part of those procedures, the local legislative body could exercise the right to approve or reject a master plan that had been approved by the planning commission (or it could decide not to exercise that right and leave the adoption of a plan solely to the planning commission).

The bills also would make the prescribed contents of master plans (called by different names in the three planning acts) consistent in the three acts being amended and would allow such plans to project 20 years or more into the future. Further, a planning commission would be required to review its plans at least every five years and determine whether to commence the procedure to amend a plan or adopt a new plan. Planning commissions would be authorized to meet jointly with other governmental planning commissions for deliberations.

House Bill 5038 would amend Public Act 168 of 1959 (MCL 125.321 et al.), which deals with township planning commissions. House Bill 5252 would amend Public Act 282 of 1945 (MCL 125.104 et al.), which deals with county planning commissions. House Bill 5267 would amend the General Municipal Planning Act (MCL 125.31 et al.), which addresses planning commissions in cities, villages, and townships. The plans in question are referred to in the acts as, respectively, a basic plan, a

House Bills 5038, 5252 and 5267 (10-24-01)

county plan, and a master plan. Until one year after the bills took effect, a township, municipality, or county could adopt a plan or an extension, addition, revision, or other amendment to a plan using the procedures in place before the bills took effect.

Generally, the bills impose notification and consultation requirements on planning commissions both before beginning to prepare a plan and after a proposed plan had been prepared. Contiguous jurisdictions would have the opportunity to review and submit written comments on a proposed plan, as would public utilities and railroads. The bills also would require a public hearing before a plan could be approved. After the final adoption of a plan, a copy of the plan would be sent to the same jurisdictions and entities that had received the proposed plan. The consultation, mailing, and comment process would vary somewhat from bill to bill. Notably, counties would be more involved in the development of the basic plans of townships than the plans of cities.

House Bill 5038 (Townships). Townships are already required by Public Act 168 to consult with adjacent townships, the county planning commission, incorporated municipalities within the township, and with the regional planning commission, if any, when developing a basic plan. The bill would rewrite those provisions. Before preparing a plan, a township planning commission would have to send a notice by first-class mail explaining that it intended to prepare a plan and requesting the recipient's cooperation and comment to: the planning commission of each contiguous township, city, or village (and of communities located within the township); the county planning commission of the county in which the township was located or if there was no county planning commission, then the county board of commissioners and the regional planning commission; and to each public utility or railroad company located within the township. (If there was a county planning commission, the township could consult with the regional planning commission but would not be required to.)

After preparing a proposed plan, the township planning commission would submit it to the township board for review and comment. If the township board approved the distribution of the proposed plan, a copy of the plan would be submitted to the county planning commission (or the board of commissioners, if there was not planning commission). The county would have to promptly submit a copy of the proposed basic plan to the planning commission of each contiguous city, village, or township (or of one located within the township); the regional planning

commission, in cases where there was no county planning commission; and each public utility company or railroad company owning or operating a utility or railroad within the township. (A utility or railroad would have to reimburse the county for the copying and postage costs involved.)

The planning committees and other entities would have 65 days to submit comments on the proposed plan to the township planning commission. A planning commission or legislative body that submitted comments to the township would have to concurrently submit its comments to the appropriate county planning commission (or county board of commissioners). Not less than 75 days or more than 95 days after receiving the proposed plan, the county planning commission or board of commissioners would have to submit its comments on the proposed plan, to include a statement whether it considered the proposed plan inconsistent with the plan of any city, village, township, or region consulted and if the proposed plan was inconsistent with the county plan, if there was one. An extension, addition, or other amendment to a basic plan, or a successive part of a plan, would follow the same procedure, except that for the 65-day period for submitting comments would be shortened to 40 days and the 75- to 95-day period would be shortened to 55 to 75 days. (The responsibility given to county commissioners in the bill would be that of the county executive in a county operating under Public Act 293 of 1966.)

The township planning commission would have to hold a public hearing on a proposed plan before approving it. The hearing would have to be held after the deadline for receiving comments. Notice of the hearing would have to be published twice in a newspaper of general circulation, with the first publication not more than 30 days or less than 20 days before the hearing. The second publication would be not more than 8 days before the hearing. It would take a majority vote of its membership for the planning commission to approve the proposed plan. Following approval, the planning commission would submit a copy of the plan to the township board. Approval of the plan by the planning commission would be the final step in adopting the plan unless the township board by resolution asserted its right to approve or reject the plan. If the board rejected the plan, it would have to submit a statement of its objections to the planning committee, and the planning committee would have to revise the plan to address the objections. This would be repeated until the township board approved the plan. Once approved, a copy of the plan would be submitted to the jurisdictions and entities that received the

proposed plan for comment. Within 45 days after receiving the plan, the county planning commission, or the regional planning commission if there was no county planning commission, would approve or disapprove the plan. This approval or disapproval would be advisory only. The county or regional planning commission would have to send notice of its approval or disapproval to the township planning commission and the other jurisdictions and entities involved within 15 days.

House Bill 5267 (Municipalities). A municipal planning commission before preparing a plan would have to send a notice by first-class mail that it intended to prepare a plan and requesting cooperation and comment to: the planning commission of each contiguous township, city, or village, or to the local legislative body if there was no planning commission; the county planning commission of the county in which the municipality was located or, if there was no county planning commission, the county board of commissioners and the regional planning commission; and each utility or railroad within the municipality. If there was a county planning commission, the municipal planning committee could still consult with the regional planning commission, but would not be required to. (The bill also would specify that the new process would not affect the authority of a planning department established by charter to submit plans, amendments, or revisions to the planning commission. It also would make the references to the county board of commissioners apply instead to a county executive in a county organized under Public Act 293 of 1966.)

Once a proposed plan had been prepared, it would be submitted to the legislative body of the municipality for review and comment. If the legislative body approved the distribution of the proposed plan, the plan would be sent by the planning commission to the jurisdictions and entities that received the earlier notice. Those jurisdictions and entities would have 65 days to submit written comments. They would have to concurrently submit a copy of the comments to the county planning commission or county board of commissioners, which would have not less than 75 days or less than 95 days to submit its comments. The county's comments would have to include a statement whether the proposed plan was inconsistent with the plan of any city, village, or township and a statement whether the proposed plan was inconsistent with the county plan.

A municipal planning commission would have to hold at least one public hearing, to be held after the deadline for submitting comments. Notice of the

hearing would have to be published in a newspaper of general circulation not less than 15 days before the hearing and would have to be sent to the jurisdictions and entities receiving the earlier notices. Approval of the plan would require, as now, an affirmative vote of not less than two-thirds of the members of the commission. The planning commission would have to submit the approved proposed plan to the municipal legislative body. Approval by the planning commission would be final unless the legislative body asserted its right to approve or reject the plan. If the legislative body rejected the plan, it would have to state its objections, and the planning commission would have to revise it to address the objections. This process would continue until the legislative body approved the plan. Upon final adoption of the plan, copies would have to be submitted to the same jurisdictions and entities that had received the proposed plan for comment. The same process would apply to an extension, addition, or other amendment to a plan, except that the 65-day period for submitting comments would be shortened to 40 days.

House Bill 5252 (Counties). Before preparing a county plan, a county planning commission would have to send a written notice explaining its intention to prepare a plan and requesting cooperation and comment to: the planning commission of each city, village, or township located in the county or contiguous to the county (or to the legislative body when there was no planning committee); the county planning commission of each contiguous county (or the board of commissioners if there was no planning commission); the regional planning commission; and each public utility or railroad owning or operating a utility or railroad in the county.

After preparing a proposed plan, the county planning commissioners would have to submit it to the county board of commissioners for review and comment. If the board of commissioners approved the distribution of the proposed plan, the commission would send a copy to the same jurisdictions and entities that received the earlier notice. They would have 65 days to submit written comments.

The planning commission would have to conduct a public hearing on the proposed plan before it could adopt it, with the hearing to be held after the required period for comments. Adoption would require, as now, a majority of the full membership of the planning commission. Following approval of the proposed plan, it would have to be submitted to the county board of commissioners. Approval by the planning commission would be the final step unless

the board of commissioners asserted its right to approve or reject the plan. If it rejected the plan, the board would have to state its objections, and the planning commission would have to revise the plan to address the objections. This process would continue until the board of commissioners approved the plan.

A county planning commission also would be required to consult with the planning boards of contiguous and constituent cities, villages, and townships, and contiguous counties and the regional planning commission. After a proposed county plan had been submitted to and commented upon by the county board of commissioners, the county planning commission would have to mail a copy of the proposed plan to the planning commissions of the contiguous and constituent units and to the regional planning commission. Those planning commissions could submit written comments within 40 days after the mailing, with the comments to include statements as to whether the proposed plan was inconsistent with their plans. As with townships and municipalities, the county planning commission would have to promptly mail by first-class mail an adopted county plan to the planning commissions that had been mailed the proposed plan. Upon final adoption of the plan, copies would have to be submitted to the jurisdictions and entities that received the proposed plan for comment. (The same process would apply to an extension, addition, or other amendment to a plan, except that the 65-day period for submitting comments would be shortened to 40 days.)

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

These bills could have the effect of greatly improving communication and cooperation among neighboring communities engaged in developing the master plans that guide land use and community development. They require local units to notify adjacent communities and the county both when planning begins and at the point when a proposed plan has been developed. Final plans, once adopted, would also be shared throughout the region. Townships, cities, villages, and counties would submit their proposals to other units of government for review and comment, particularly seeking out areas of inconsistency between the various master plans in a region. At the same time, the package retains local

control of the planning process. The procedures laid out in the bill would also require a level of cooperation between the appointed members of the local planning commission and the elected local governing body, since the governing board would have to sign off before any proposed plan could be distributed to other jurisdictions in the region. The bills also have the virtue of providing uniform definitions and uniform procedures in three separate planning acts. The package represents a step forward in improving the planning statutes under which local units operate.

Against:

Critics of these bills argue not so much against what they do as what they do not do. While these bills would improve communication among neighboring local governments and would allow for some multi-jurisdictional coordination in developing master plans, they do not go far enough in overhauling the state's planning laws. Professional planners have been working on coordinated planning legislation for a decade that would be more comprehensive than the proposal in these bills. House Bill 4571 in this session embodies that proposal. It would be a shame if the success of these bills spelled the end of deliberations on that bill, which promises significant reform of land use planning in the state. Further, some people complain that the bills would add considerable time to the planning process without addressing ways of resolving conflicts between neighboring communities.

POSITIONS:

The Michigan Townships Association supports House Bill 5038. (10-23-01)

The Michigan Municipal League supports the concept of House Bill 5267. (10-23-01)

The Michigan Association of Homebuilders supports the bills. (10-23-01)

The Michigan Association of Counties has indicated support for House Bills 5252 and 5308. (10-23-01)

PIRGIM (Public Interest Research Group in Michigan) supports the bills. (10-23-01)

The Michigan Society of Planning supports the bills. (10-23-01)

The Michigan Farm Bureau supports the bills. (10-23-01)

The Michigan Chamber of Commerce has indicated support for the bills. (10-23-01)

The Michigan Environmental Council is neutral on the bills. (10-23-01)

Analyst: C. Couch

■ 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.