



**House  
Legislative  
Analysis  
Section**

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**PLANNING COMMISSIONS:  
CONSULT WITH NEIGHBORS**

**House Bill 5038 as enrolled  
Public Act 263 of 2001  
Sponsor: Rep. Ruth Johnson**

**House Bill 5252 as enrolled  
Public Act 264 of 2001  
Sponsor: Rep. James Koetje**

**House Bill 5267 as enrolled  
Public Act 265 of 2001  
Sponsor: Rep. Patricia Birkholz**

**House Committee: Land Use and  
Environment  
Senate Committee: Natural Resources  
and Environmental Affairs**

**Second Analysis (1-10-02)**

***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 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 neighboring communities, with regional planning commissions (in some cases), and with certain other interested parties, when developing the master plans that serve as a guide to development, and would require them to share proposed master plans for review and comment before adoption and to distribute master plans once adopted. 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 land use issues to be addressed in master plans 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 also would be

House Bills 5038, 5252 and 5267 (1-10-02)

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 municipalities (defined as cities, villages, and townships). The bills contain similar requirements regarding consultations before and after the preparation of master plans, but somewhat different requirements for the adoption of plans. The plans in question are referred to in the acts as, respectively, a basic plan, a county plan, and a municipal plan. The bills specify that a plan could be adopted as a whole or by successive parts corresponding with major geographical areas of the local unit or with functional subject matter areas of the 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.

Before preparing a plan. Before preparing a plan, a 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 township, city, or village located within or contiguous to the local unit, or the unit's legislative body if there was no planning commission; the county planning commission of the county in which the local unit 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 operating a utility or railroad within the local unit, and to each government entity, that registered its name and mailing address for this purpose with the local planning commission. (If there was a county planning commission, the local unit could consult with the regional planning commission but would not be required to.) The requirements would differ somewhat for a county planning commission. It would be required to notify the regional planning commission if there was one and would be required to notify the planning commission of each contiguous county, or the county commissioners, if there was no planning commission.

(This would be in addition to the other notification requirements.)

The notices sent by township, county, and municipal planning commissions could request permission for any subsequent required information to be submitted electronically. If the entity receiving the notice did not grant permission, information would have to be delivered in writing by first-class mail or personal delivery.

After preparing a plan. After preparing a proposed plan, a planning commission would submit it to the legislative body (e.g. county commission, city council, township board) for review and comment. If the legislative body approved the distribution of the proposed plan, a copy of the plan would be submitted for review and comment to the same units of government and other entities previously notified when the planning commission announced it intended to prepare a plan. (A utility, railroad, or governmental entity that had registered for the purpose of receiving information would have to reimburse the county for the copying and postage costs involved.) Further, a township or municipal planning commission would be required to submit to the county planning commission (or board of commissioners) a statement that it had carried out the necessary submission of plans and listing the names and address of each planning commission and legislative body to which plans had been submitted and the date of submittal. The governmental units and other entities notified would have 65 days to submit comments on the proposed plan.

The governmental and other entities that submitted comments to a township or municipal planning commission would have to concurrently submit the 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 from a township or municipal planning commission, the county planning commission or board of commissioners would have to submit its comments on the proposed plan, including a statement whether it considered the proposed plan inconsistent with the plan of any city, village, township, or region consulted and a statement whether the proposed plan was inconsistent with the county plan, if there was one. These statements would be advisory only.

An extension, addition, or other amendment to a plan, or a successive part of a plan, would follow the same procedure, except that 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.

Plan approval process for townships. 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.

Plan approval process for cities and villages. 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.

Plan approval process for counties. 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. 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.

County board of commissioners. When House Bills 5038 and 5267 refer to a "county board of commissioners", that term would mean the county executive in a county organized under Public Act 293 of 1966; an elected county board of commissioners; a subcommittee of a board of commissioners, if the board had delegated its powers and duties under the planning acts to the subcommittee; or the regional planning commission, if the county board of commissioners had delegated its powers and duties to the regional commission. In House Bill 5252, the term would refer either to a county executive in a county organized under Public Act 293 or an elected county board of commissioners.

Elements of the master plans. Each bill would specify that the master plan (a basic plan, county plan, or municipal plan) must address land use issues and could project 20 years or more into the future. The plan would have to include maps, plats, charts, and descriptive, explanatory, and other related matter and show the planning commission's recommendations for the physical development of the area. It would also have to include (where pertinent):

- a land use plan and program, in part consisting of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes;

- the general location, character, and extent of streets, roads, highways, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and water front developments; flood prevention works, drainage, sanitary sewers and water supply systems, works for preventing pollution, and works for

maintaining water levels; and public utilities and structures;

-- recommendations as to the general character, extent, and layout for the redevelopment and rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, or changes of use or extension of ways, grounds, open spaces, buildings, utilities, or other facilities; and

-- recommendations for implementing any proposals.

A municipal plan, additionally, would have to contain a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises where pertinent to the future development of the municipality.

### ***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency reports that the bills would have no direct fiscal impact on state revenues and minimal fiscal impact on local revenues. The SFA notes that by potentially altering the future uses of property, the bills could affect future property values and thus affect both state and local revenues. The impact of such secondary effects, says the agency, is indeterminate. (SFA analysis dated 12-11-01)

### ***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 major reform of land use planning in the state. Further, some people complain that the three bills under consideration would add considerable time to the planning process without addressing ways of resolving conflicts between neighboring communities.

Analyst: C. Couch

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■ 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.