

JOINT MUNICIPAL PLANNING ACT

House Bill 4284 (Substitute H-2) First Analysis (7-16-03)

Sponsor: Rep. Chris Kolb
Committee: Land Use and Environment

THE APPARENT PROBLEM:

In their April 2003 report entitled *Michigan Metropatterns: A Regional Agenda for Community and Prosperity in Michigan*, Myron Orfield and Thomas Luce note that despite slow population growth in most areas of the state, Michigan's regions continue to expand outward. In fact, from 1970 to 2000, the amount of land in urban uses grew significantly faster than population in most regions. In the Flint region, for instance, population fell by two percent during that period, while the amount of urban land grew by 72 percent. Even in fast-growing Grand Rapids, the amount of land in urbanized uses grew twice as fast as population.

Throughout its 61-pages, *Metropatterns* utilizes computer-assisted geographic information systems (GIS) technology to map what is called the 'hallowing out' of regions, and the report documents the serious cost and life-quality implications that come from the effects of unbalanced growth, regionally. For example, urban centers such as Flint, Saginaw and Grand Rapids close school buildings that are no longer full due to declining enrollment, while communities on the urban edge of these cities spend millions of dollars to build new schools to accommodate the new students arriving each year. Or, in another example, many communities in greater Detroit face failing or improperly sited septic systems and overflowing sewer systems. These faulty systems are sending untreated sewage to Lake St. Clair, a valuable regional resource that provides recreation, natural habitat, and drinking water to over 4.5 million people.

To address the problems of urban sprawl, Governor Jennifer Granholm issued Executive Order No. 2003-4 to create the Land Use Leadership Council within the Michigan Department of Environmental Quality. The Executive Order notes that outward migration and land use change have a significant impact of development patterns; traffic, air, and water resources; historic, cultural, and scenic resources; open space, wetlands, and agriculture; the availability of affordable housing; and the ability of the state and its local governments to finance improvements in

public facilities and services. With regard to Michigan's second largest industry alone—agriculture—encroaching development has resulted in the loss of over 1 million acres of farmland between 1982 and 1997.

Co-chaired by former governor William Milliken and former attorney general Frank Kelley, the 30-member Land Use Leadership Council is working to establish a Smart Growth program, and will provide recommendations to the governor and the legislature on land use matters in the summer of 2003. The council has been charged with "proposing innovative and cooperative land use approaches that will accommodate and guide growth and development through cooperation and partnership on a local and regional basis." See *BACKGROUND INFORMATION* below.

In an effort to promote regional land use planning to enable smarter growth and more cooperation among local units of government, legislation has been introduced by members of the council who serve as state representatives, and other legislators.

THE CONTENT OF THE BILL:

House Bill 4284 would create a new act called the Joint Municipal Planning Act to provide for joint land use planning by certain local units of government. Under the bill, "municipality" would be defined to mean a city, a village, or a township.

The bill would allow each of two or more municipalities' legislative bodies to adopt an ordinance that established a joint planning commission. Their agreement would have to specify all of the following:

- the composition of the commission, including alternate members;
- the members' qualifications, the selection by election or appointment, and terms of office;

- conditions and procedures for removal from office, and for filling vacancies;
- how the operating budget would be shared;
- the commission's jurisdictional area (which could consist of all or part of the municipalities' combined territory);
- procedures enabling a municipality to join or withdraw; and
- the planning act whose procedure would be followed when adopting a plan or when exercising any other power or performing any other duty. (Under the bill, the planning act would be the act that would otherwise be applicable to at least one participating municipality.)
- the zoning act whose procedure would be followed when the commission exercised the powers or duties of a zoning board or zoning commission. (Under the bill, the zoning act would be the act that would otherwise be applicable to at least one participating municipality.)
- any additional provision concerning the powers or duties of a zoning board or zoning commission that the specified zoning act authorized to be set forth in a zoning ordinance, and that was agreed to by the participating municipalities.

With respect to the jurisdictional area of the joint planning commission, the bill specifies that all the powers and duties of a planning commission under each planning act, as well as all the powers and duties of a zoning board or zoning commission under each zoning act, would be transferred to the joint planning commission. The bill specifies that if only part of the territory of a participating municipality was in the jurisdictional area of a joint planning commission, then the participating municipality, with the joint planning commission acting as the zoning board or zoning commission, could adopt a zoning ordinance that affected only that portion of its territory in the jurisdiction area of the joint planning commission.

The bill specifies that if a municipality adopted an ordinance, then within seven days after the ordinance (or its synopsis) was published, a registered elector could file with the municipal clerk, a notice of intent to file a petition to place the question of the ordinance before the voters in a referendum. The bill specifies that within 30 days following the ordinance's publication, a petition signed by electors numbering at least 15 percent of the total votes cast

for all candidates for governor at the last preceding general election in the municipality, would have to be filed with the municipal clerk, requesting that the ordinance be submitted to the voters for their approval. Upon the filing of a notice of intent, the ordinance would not take effect until one of the following occurred: a) 30 days passed without a petition being filed; b) the clerk of the municipality determined that a filed petition was inadequate; or, c) the municipal clerk determined that the petition was adequate, and the ordinance was approved by a majority of the registered electors voting for the ordinance at the next regular election that supplied reasonable time for proper notice and printing of ballots, or at any special election called for that purpose. Further, the bill specifies that the municipality's legislative body would decide how to submit the ordinance to the voters, and determine the result of the election.

The bill also specifies that a petition (including the circulation and signing of the petition) would be subject to the Michigan Election Law. A person who violated a provision of the election law applicable to a petition would be subject to the penalties prescribed in that law. Finally, if a municipality had a charter, and the charter provided for a right of referendum on municipal ordinances, then, in that municipality, the charter referendum provisions, instead of the procedures noted above, would apply to the adoption of the ordinance.

Under the bill, the business that a joint planning commission performed would be conducted in compliance with the Open Meetings Act (MCL 15.261 et al). Further, any writing prepared, owned, used, in the possession of, or retained by the joint planning commission in the performance of an official function would be subject to the Freedom of Information Act (MCL 15.231 et al).

BACKGROUND INFORMATION:

More information about Michigan law use patterns and practices is available at the website of the Land Use Leadership Council. Visit <http://www.michiganlanduse.org>

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that there are no fiscal implications for the state government, and that joint planning and zoning commissions may allow cost-savings for local governments. (7-15-03)

ARGUMENTS:***For:***

Planning decisions that are made by local officials about uses for the land and the built environment often affect people who live outside the boundaries of the jurisdiction where they are made, because the geography, geology, hydrology, topography, and aesthetics of place extend beyond political boundaries. Coordinated and comprehensive land use planning by region is often the best way to assure that all interested communities are involved in the decision-making process, and that the process is a success. That way, many natural features, agricultural tracts, watersheds, and other land areas that transcend local jurisdictions can be better handled through a joint process.

This bill would directly authorize joint planning commissions in state statute. The statutory authority would insulate local units of government from the challenges to their joint planning that could be brought in lawsuits by disgruntled parties. Joint planning commissions could also help to streamline public comment, and make the issuance of building permits more efficient.

Against:

Some have argued that a joint planning commission would interfere with local control, since a regional decision-making framework would superintend the decision-making authority of the regional commission's individual constituent units of government. This move to make collective decision-making easier within a quasi-governmental agency reduces the ability of a few key (yet powerful) local interests to control the decision-making process, and removes the decision-makers from direct accountability to the taxpayer.

Response:

The bill is entirely permissive, allowing local governments to cooperate as they work to promote particular projects or to specify the best uses for undeveloped land that is adjacent to two (or more) jurisdictional boundaries.

POSITIONS:

The Department of Environmental Quality supports the bill. (7-15-03)

The Michigan Farm Bureau supports the bill. (7-15-03)

The Michigan Municipal League supports the bill. (7-15-03)

The Michigan Environmental Council supports the bill. (7-15-03)

Public Interest Research Group in Michigan (PIRGIM) supports the bill. (7-15-03)

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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.