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BILL



ANALYSIS

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Senate Bill 115 (as enacted)

**PUBLIC ACT 134 of 2008**

Sponsor: Senator Patricia L. Birkholz

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Intergovernmental, Urban and Regional Affairs

Date Completed: 7-2-09

**RATIONALE**

Until July 1, 2006, local zoning was governed by the City and Village Zoning Act, the County Zoning Act, and the Township Zoning Act. Public Act 110 of 2006 repealed those Acts and created the Michigan Zoning Enabling Act for the regulation of local zoning. Similarly, effective September 1, 2008, Public Act 33 of 2008 repealed separate statutes governing local planning by different types of municipalities and created the Michigan Planning Enabling Act. The Joint Municipal Planning Act, however, still contained references to the previous zoning and planning acts and procedures under them. It was suggested that those references be changed to reflect the changes in zoning and planning laws.

In another matter, the Joint Municipal Planning Act allows local units of government to form joint planning commissions. Difficulties in enforcing existing zoning ordinances evidently can arise while a newly formed joint planning commission is developing a new ordinance. It was suggested that allowing for the phased transfer of powers and duties from individual planning commissions to a joint planning commission would rectify this situation.

**CONTENT**

**The bill amended the Joint Municipal Planning Act to do the following:**

- Allow the phased transfer to a joint planning commission of the powers and duties of existing planning commissions or zoning boards.**

- Allow participating municipalities to adopt a joint zoning ordinance, with the joint planning commission acting as the zoning commission.**
- Refer to the Michigan Zoning Enabling Act, as well as procedures under that Act, instead of specified zoning acts.**

The bill took effect on May 21, 2008.

The Joint Municipal Planning Act allows the legislative bodies of two or more municipalities each to adopt an ordinance approving an agreement establishing a joint planning commission. Previously, the agreement had to specify the planning act and zoning act whose procedure the joint planning commission would follow in exercising the powers and performing the duties of a planning commission or zoning board or zoning commission, as applicable. The planning act and zoning act had to be one that otherwise would apply to at least one participating municipality.

The bill deleted these requirements. Instead, for situations in which the powers, duties, or procedures of a planning commission under the Michigan Planning Enabling Act depend on 1) whether the municipality is a township that on September 1, 2008, had a planning commission created under former Public Act 285 of 1931 (which governed planning by cities, village, townships, and other incorporated political subdivisions), 2) a township that did not have a planning commission created under that Act on that date, or 3) a city or village, the agreement

must specify a designation of which these three categories of municipalities' powers, duties, and procedures will apply to the joint planning commission. A category of municipality may not be designated unless at least one of the participating municipalities falls within that category.

For situations in which the powers, duties, or procedures under the Michigan Zoning Enabling Act applicable to a planning commission depend on whether the relevant municipality is a township, city, or village, the agreement must specify that the joint planning commission will follow the powers, duties, and procedures applicable either to a township or to a city or village. Powers, duties, and procedures applicable to a township may not be designated unless at least one of the participating municipalities is a township. Powers, duties, and procedures applicable to a city or village may not be designated unless at least one of the participating municipalities is a city or village.

Also, under the bill, the agreement must specify any additional provision concerning the powers or duties of a zoning board or zoning commission that the Michigan Zoning Enabling Act (rather than the specified zoning act) authorizes to be set forth in a zoning ordinance and that is agreed to by the participating municipalities.

Additionally, the bill requires the agreement to specify its effective date.

Under the bill, the agreement may provide for the phased transfer to the joint planning commission of the powers and duties of existing planning commissions or zoning boards or zoning commissions.

Under the Joint Municipal Planning Act, all the powers and duties of a planning commission under each planning act, and all the powers and duties of a zoning board or zoning commission under each zoning act, were transferred to the joint planning commission, with respect to its jurisdictional area. Under the bill, these provisions apply subject to the agreement's designation of a category of planning commission powers, duties, and procedures, and provision for the phased transfer of powers and duties to the joint planning commission. Additionally, the bill refers to the Michigan Zoning Enabling Act rather than each planning or zoning act.

Previously, in exercising its powers or performing its duties, a joint planning commission had to follow the procedure provided under the specified zoning act. The bill instead requires the joint planning commission to follow the specified township or city or village procedure, when relevant.

Under the bill, the participating municipalities, with the joint planning commission acting as the zoning commission, each may adopt a joint zoning ordinance that affects the joint planning commission's jurisdictional area and provides for the joint administration of the joint zoning ordinance, including a joint zoning board of appeals.

MCL 125.133-125.137

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bill addresses a problem that can arise when two local units opt to replace their individual planning commissions with a joint planning commission. By providing for the phased transfer of powers and duties to the joint planning commission, the bill enables individual planning commissions to enforce existing zoning ordinances while a new ordinance to be enforced by the joint commission is adopted. Additionally, the bill updates the Joint Municipal Planning Act to reflect the consolidation of zoning laws under the Michigan Zoning Enabling Act and planning laws under the Michigan Planning Enabling Act, and clarifies that a joint planning commission may act as a zoning commission.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill will have no fiscal impact on State government. The bill will have an unknown and likely negligible impact on local units.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.