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BILL



ANALYSIS

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Senate Bill 206 (as enacted)

**PUBLIC ACT 33 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**

In 2003, Governor Jennifer Granholm issued Executive Order 2003-4 to establish the Michigan Land Use Leadership Council. Under the Executive Order, the Council's mission was to identify the trends, causes, and consequences of unmanaged growth and development, and to provide recommendations to the Governor and the Legislature to minimize the negative impacts of current land use trends; promote urban revitalization and reinvestment; foster intergovernmental and public-private land use partnerships; identify new growth and development opportunities; and protect Michigan's natural resources and better manage the cost of public investments in infrastructure to support growth.

The Council's final report, "Michigan's Land, Michigan's Future", noted that there were four different planning enabling acts and three different zoning enabling acts in place, and included a recommendation that the laws be consolidated under one zoning act and one planning act that would apply to all local units of government. Public Act 110 of 2006 repealed the zoning acts and created the Michigan Zoning Enabling Act. Similarly, it was suggested that three of the existing planning acts be repealed and that a State planning act be established.

**CONTENT**

**The bill created the "Michigan Planning Enabling Act" to repeal and replace statutes that govern municipal, county, and township planning. The bill does the following:**

- **Allows a local unit of government to adopt, amend, and implement a master plan.**
- **Prescribes the general purpose of a master plan.**
- **Allows a local unit to adopt an ordinance creating a planning commission.**
- **Requires a planning commission to make and approve a master plan as a guide for development within the planning jurisdiction.**
- **Allows a planning commission to adopt a subplan for a geographic area less than the planning jurisdiction if that area needs more intensive planning.**
- **Allows a county planning commission to be designated as the metropolitan county planning commission to perform metropolitan and regional planning.**
- **Prescribes procedures for the adoption of, and amendments to, a master plan.**
- **Requires a planning commission to review the master plan at least every five years.**
- **Requires a planning commission's approval for the construction of particular structures and facilities, and allows the legislative body of the local unit to overrule a planning commission's disapproval under certain circumstances.**
- **Requires a planning commission annually to prepare a capital improvements program.**
- **Allows a planning commission to recommend to the local unit's**



**legislative body provisions of an ordinance or rules governing the subdivision of land.**

- **Requires a planning commission to review and make recommendations on plats, under certain circumstances.**
- **Provides that an existing master plan or charter provision or ordinance creating a planning commission will continue in effect under the Act, unless rescinded or repealed, subject to certain conditions.**

The statutes that the bill repealed were Public Act 285 of 1931, which governed planning by cities, villages, townships, and other incorporated political subdivisions; Public Act 282 of 1945, which governed county planning; and Public Act 168 of 1959, which governed township planning.

The bill took effect on September 1, 2008.

#### Purpose of Master Plan

A local unit of government (i.e., a county, city, village, or township) may adopt, amend, and implement a master plan as provided in the new Act. The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that satisfies all of the following criteria:

- Is coordinated, adjusted, harmonious, efficient, and economical.
- Considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development.
- In accordance with present and future needs, will best promote public health, safety, morals, order, convenience, prosperity, and general welfare.

Additionally, the purpose of a master plan is to guide and accomplish development that includes, among other things, promotion of or adequate provision for one or more of the following:

- A system of transportation to lessen congestion on streets.
- Safety from fire and other dangers.
- Light and air.

- Healthful and convenient distribution of population.
- Good civic design and arrangement and wise and efficient expenditure of public funds.
- Public utilities such as sewage disposal and water supply and other public improvements.
- Recreation.
- The use of resources in accordance with their character and adaptability.

#### Creation of Planning Commission

A local unit of government may adopt an ordinance creating a planning commission with powers and duties provided in the Act. The planning commission of a local unit officially must be called "the planning commission", even if a charter, ordinance, or resolution uses a different name, such as "plan board" or "planning board".

Within 14 days after a local unit adopts an ordinance creating a planning commission, the clerk of the local unit must transmit notice of the adoption to the planning commission of the county where the local unit is located. If there is no county planning commission, however, or if the local unit adopting the ordinance is a county, notice must be transmitted to the regional planning commission engaged in planning for the region within which the local unit is located. Notice is not required when a planning commission created before the bill's effective date continues in existence under the new Act, but is required when an ordinance governing or creating the planning commission is amended or superseded as provided in the Act.

If, after the Act's effective date, a city or home rule village adopts a charter provision providing for a planning commission, the charter provision must be implemented by an ordinance that conforms to the Act. Specific sections provide for the continuation of a planning commission created by a charter provision adopted before the Act's effective date; the continuation of a planning commission created under a planning act repealed by the bill; and the continued exercise by a planning commission, or the transfer to a planning commission, of the powers and duties of a zoning board or zoning commission (as described below under "Transitional Provisions").



A township ordinance creating a planning commission takes effect 63 days after the ordinance is published by the township board in a newspaper having general circulation in the township.

An ordinance creating a planning commission may impose additional requirements relevant to the subject matter of, but not inconsistent with, the Act's provisions.

#### Township Petition

Before a township ordinance creating a planning commission takes effect, a petition may be filed with the township clerk requesting the submission of the ordinance to the electors residing in the unincorporated portion of the township for their approval or rejection. The petition must be signed by a number of qualified and registered electors residing in the unincorporated portion equal to at least 8% of the total vote cast for all candidates for Governor, at the last preceding general election at which a Governor was elected. If such a petition is filed, the ordinance may not take effect until approved by a majority of the electors residing in the unincorporated portion of the township voting on it at the next regular or special election that allows reasonable time for proper notices and printing of ballots, or at any special election called for that purpose, as determined by the township board. The township board must specify the language of the ballot question.

These provisions do not apply if the planning commission created by the ordinance is the successor to an existing zoning commission or zoning board as provided for under the Michigan Zoning Enabling Act.

If a township board does not on its own initiative adopt an ordinance creating a planning commission under the new Act, a petition requesting the township board to adopt one may be filed with the township clerk. The petition must be signed by a number of qualified and registered electors as provided above. If such a petition is filed, the township board, at its first meeting following the filing, must submit the question to the electors of the township in the same manner as provided above.

A petition, including its circulation and signing, is subject to the Michigan Election Law. A person who violates a provision of the Law applicable to a petition is subject to the penalties prescribed for that violation.

#### Planning Commission Membership

In a municipality (i.e., a city, village, or township), the chief elected official must appoint members of the planning commission, subject to approval by a majority vote of the members of the legislative body elected and serving. In a county, the county board of commissioners must determine the method of appointment of planning commission members by resolution of a majority of the full membership of the county board.

A city, village, or township planning commission must consist of five, seven, or nine members. A county planning commission must consist of five, seven, nine, or 11 members. Members of a planning commission other than ex officio members (described below) must be appointed for three-year terms. Of the members first appointed, other than ex officio members, however, a number must be appointed to one- or two-year terms so that, as nearly as possible, the terms of one-third of all the planning commission members will expire each year. If a vacancy occurs, it must be filled for the unexpired term in the same manner as provided for an original appointment. A member must hold office until his or her successor is appointed.

A commission's membership must be representative of important segments of the community, such as the economic, governmental, educational, and social development of the local unit, in accordance with the major interests existing in the local unit, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership also must represent the entire geography of the local unit to the extent practicable.

Commission members must be qualified electors of the local unit, except that the following number of members may be individuals who are not qualified electors of the local unit:



- Three, in a city that, on the Act's effective date, had a population of more than 2,700 but less than 2,800.
- Two, in a city or village that, on the Act's effective date, had a population of less than 5,000, except as provided above.
- One, in all other local units of government.

In a township that on the Act's effective date had a planning commission created under Public Act 285 of 1931 (which regulated municipal planning and was repealed by the bill), one member of the legislative body or the chief elected official, or both, may be appointed to the commission as ex officio members. In any other township, one member of the legislative body must be appointed to the planning commission as an ex officio member. In a city, village, or county, the chief administrative official or his or her designee, if any, the chief elected official, one or more members of the legislative body, or any combination of those people may be appointed to the planning commission as ex officio members, unless prohibited by charter. In a city, village, or county, however, not more than one-third of the members may be ex officio members. An ex officio member's term is as follows:

- The term of a chief elected official must correspond to his or her term as chief elected official.
- The term of a chief administrative official expires with the term of the chief elected official who appointed him or her as chief administrative official.
- The term of a member of the legislative body expires with his or her term on the legislative body.

("Chief administrative official" means the city or village manager or other highest nonelected administrative official of a city or village. "Chief elected official" means the mayor of a city, the president of a village, the supervisor of a township, or, when applicable, the chairperson of a county board of commissioners. "County board of commissioners" means the elected county board of commissioners, except that, with regard to the procedures for the preparation and adoption of a master plan, it means either a committee of the county board of commissioners, if the board delegates its powers and duties under the bill to the committee, or the regional planning commission for the region in which the

county is located, if the board delegates its powers and duties to the regional planning commission.)

Except as otherwise provided, an elected officer or employee of the local unit is not eligible to be a member of the planning commission.

For a county planning commission, the county must make every reasonable effort to ensure that the membership includes a member of a public school board or an administrative employee of a school district contained, in whole or in part, within the county's boundaries. This requirement applies whenever an appointment is to be made to the planning commission, unless an incumbent is being reappointed or an ex officio member is being appointed.

#### City or Village Under 5,000

A city or village that has a population of less than 5,000, and that has not created a planning commission by charter, may by an ordinance adopted under the Act provide that one of the following boards will serve as its planning commission:

- The board of directors of the city's or village's economic development corporation.
- The board of a downtown development authority, if the boundaries of the downtown district are the same as the boundaries of the city or village.
- A board created under the Tax Increment Finance Authority Act, if the boundaries of the authority district are the same as the boundaries of the city or village.

The provisions of the Planning Enabling Act related to the appointment of board members, the eligibility criteria for board members, and the ex officio members do not apply to a planning commission established under this provision. All other provisions of the Act apply.

#### Member Removal; Conflict of Interest

The legislative body may remove a planning commission member for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Before casting a vote on a matter on which a member reasonably could be considered to



have a conflict of interest, the member must disclose the potential conflict of interest to the commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members. A member's failure to disclose a potential conflict of interest constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of these provisions, the planning commission must do so in its bylaws.

#### Commission Officers; Advisory Committee

A planning commission must elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. An ex officio member of the commission is not eligible to serve as chairperson. The term of each officer is one year, with the opportunity for reelection as specified in bylaws.

A planning commission may appoint advisory committees whose members are not members of the planning commission.

#### Bylaws; Annual Report; Budget

A planning commission must adopt bylaws for the transaction of business, and must keep a public record of its resolutions, transactions, findings, and determinations.

A commission also must make an annual report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development.

After preparing the annual report, a planning commission may prepare a detailed budget and submit it to the legislative body for approval or disapproval. The legislative body annually may appropriate funds for carrying out the purposes and functions permitted under the Act, and may match local government funds with Federal, State, county, or other local government or private grants, contributions, or endowments.

A planning commission's expenditures, excluding gifts and grants, must be within the amount appropriated by the legislative body.

#### Meetings; Compensation; Gifts

A planning commission must hold at least four regular meetings each year, and by resolution must determine their place and time. Unless the bylaws provide otherwise, a special meeting of the commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary must send written notice of a special meeting to the planning commission members at least 48 hours before the meeting.

A planning commission is subject to the Open Meetings Act and the Freedom of Information Act.

Commission members may be compensated for their services as provided by the legislative body. A planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the legislative body, including attendance at conferences, workshops, educational and training programs, and meetings.

A planning commission may accept gifts for the exercise of its functions. Only the township board may accept such gifts, on behalf of the planning commission, however, in a township other than a township that had an existing planning commission on the effective date of the Planning Enabling Act. A gift of money accepted in either case must be deposited with the treasurer of the local unit in a special nonreverting planning commission fund for expenditure by the commission for the purpose designated by the donor. The treasurer may draw a warrant against the special fund only upon receiving a voucher signed by the planning commission chairperson and secretary and an order drawn by the clerk of the local unit.

#### Hiring & Contracting; Public Information

A local unit may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the legislative body. This authority must be exercised by the legislative body, unless a charter provision or ordinance delegates it to the planning commission or another body



or official. The appointment of employees is subject to the same provisions of law as those governing other corresponding civil employees of the local unit.

For the purposes of the Act, a planning commission may use maps, data, and other information and expert advice provided by appropriate Federal, State, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies must make public information available for the use of planning commissions and furnish such other technical assistance and advice as they have for planning purposes.

#### Metropolitan County Planning Commission

A county board of commissioners may designate the county planning commission as the metropolitan county planning commission. A designated county planning commission must perform metropolitan and regional planning whenever necessary or desirable. The metropolitan county planning commission may engage in comprehensive planning, including the following:

- Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for the development.
- Programming of capital improvements based on relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program.
- Coordination of all related plans of local governmental agencies within the metropolitan area or region.
- Intergovernmental coordination of all related planning activities among the State and local governmental agencies within the metropolitan area or region.

In addition to the powers conferred by other provisions of the Act, a metropolitan county planning commission may apply for, receive, and accept grants from any local, regional, State, or Federal governmental agency and agree to and comply with the terms and conditions of the grants. A metropolitan county planning commission may do any and all things necessary or desirable to secure the financial aid or cooperation of a regional, State, or Federal governmental

agency in carrying out its functions, when approved by a two-thirds vote of the county board of commissioners.

#### Preparation of Master Plan

A planning commission must make and approve a master plan as a guide for development within the planning jurisdiction, subject to the Act's provisions regarding existing plans and planning commissions. Also, for a county, the master plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole. For a township that had an existing planning commission on the Act's effective date, or for a city or village, the planning jurisdiction may include any areas outside of the municipal boundaries that, in the planning commission's judgment, are related to the planning of the municipality.

In the preparation of a master plan, a planning commission must do all of the following, as applicable:

- Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.
- Consult with representatives of adjacent local units in respect to their planning so that conflicts in master plans and zoning may be avoided.
- Cooperate with all departments of the State and Federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit's programs with these agencies.

In preparing the master plan, the planning commission may meet with other governmental planning commissions or agency staff to deliberate.

In general, a planning commission has such lawful powers as necessary to enable it to promote local planning and otherwise carry out the purposes of the Act.



A master plan must address land use and infrastructure issues and may project 20 years or more into the future. A master plan must include maps, plats, charts, and descriptive, explanatory, and other related matter, and must show the planning commission's recommendations for the physical development of the planning jurisdiction.

A master plan also must include those of the following subjects that reasonably may be considered pertinent to the future development of the planning jurisdiction:

- A land use plan that consists in part 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, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments; sanitary sewers and water supply systems; facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels; and public utilities and structures.
- Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.
- Recommendations for implementing any of the master plan's proposals.
- For a local unit of government that has adopted a zoning ordinance, a zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises.

The zoning plan must include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.

If a county has not adopted a zoning ordinance, a land use plan and program for the county may be a general plan with a generalized future land use map.

If a master plan is or includes a master street plan, the means for implementing the master street plan in cooperation with the county road commission and the Michigan Department of Transportation (MDOT) must be specified in the master street plan in a manner consistent with the respective powers and duties of and any written agreements between these entities and the municipality.

These provisions are subject to a provision under which an existing plan will continue in effect under the Act and does not need to be readopted.

By a majority vote of the members, a planning commission may adopt a subplan for a geographic area less than the entire planning jurisdiction if, because of the unique physical characteristics of that area, more intensive planning is necessary for the purposes set forth in the Act.

#### Adoption of Master Plan

A master plan must be adopted under the procedures (described below) set forth in the Act. A master plan may be adopted as a whole or by successive parts corresponding with major geographical areas of the planning jurisdiction or with functional subject matter areas of the master plan.

Before preparing a master plan, a planning commission must send to all of the following, by first-class mail or personal delivery, a notice explaining that it intends to prepare a master plan and requesting the recipient's cooperation and comment:

- For any local unit of government undertaking a master plan, the planning commission, or if there is no planning commission, the legislative body, of each municipality located within or contiguous to the local unit.
- For a county undertaking a master plan, the regional planning commission for the region in which the county is located, if any.
- For a county undertaking a master plan, the county planning commission, or if there is none, the county board of commissioners, for each county located contiguous to the county.
- For a municipality undertaking a master plan, the regional planning commission for the region in which the city, village, or



township is located, if there is no county planning commission for the county in which that municipality is located.

- For a municipality undertaking a master plan, the county planning commission, or if there is none, the county board of commissioners, for the county in which that municipality is located.
- For any local unit undertaking a master plan, each public utility company and railroad company owning or operating a public utility or railroad within the local unit, and any government entity that registers its name and mailing address for this purpose with the planning commission.
- If the master plan is or includes a master street plan, the county road commission and MDOT.

If there is no county planning commission, a municipal planning commission may consult with the regional planning commission but is not required to do so.

A submittal of a notice or copy of a proposed or final master plan by or to an entity (as described below) may be made by personal or first-class mail delivery of a hard copy, or by electronic mail. The planning commission preparing the plan, however, may not make such submittals by e-mail unless it states in the notice that it intends to do so and the entity receiving the notice does not respond by objecting to the use of e-mail. Electronic mail may contain a link to a website on which the submittal is posted if the site is accessible to the public free of charge.

#### Review & Comment on Proposed Master Plan

After preparing a proposed master plan, a planning commission must submit it to the legislative body for review and comment. The process of adopting a master plan may not proceed further unless the legislative body approves the proposed plan's distribution.

If the legislative body approves the proposed plan's distribution, it must notify the planning commission's secretary in the manner provided by the Act. The secretary must submit a copy of the proposed plan, for review and comment, to all of the following:

- For any local unit of government proposing a master plan, the planning

commission, or if there is none, the legislative body, of each municipality located within or contiguous to the local unit.

- For a county proposing a master plan, the regional planning commission for the region in which the county is located, if any.
- For a county proposing a master plan, the county planning commission, or if there is none, the county board of commissioners, for each contiguous county.
- If the proposed master plan is or includes a proposed major street plan, the county road commission and MDOT.

For a municipality proposing a master plan, the secretary must submit a copy to the regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county in which that local unit is located. If there is a county planning commission, the secretary may submit a copy to the regional planning commission but does not have to do so.

For a municipality proposing a master plan, the secretary must submit a copy to the county planning commission, or if there is none, the county board of commissioners, for the county in which that municipality is located. The secretary concurrently must submit to the county planning commission a statement that the requirements pertaining to any local unit have been met or, if there is no county planning commission, must submit to the county board of commissioners a statement that requirements pertaining to any local unit and, in the case of a municipality, the notice to the regional planning commission, have been met. The statement must be submitted in the manner provided in the Act, be signed by the secretary, and include the name and address of each planning commission or legislative body to which a copy of the proposed master plan was submitted, as applicable, and the date of submittal.

For any local unit proposing a master plan, the secretary must submit a copy to each public utility company and railroad company owning or operating a public utility or railroad within the local unit, and any government entity that registers its name and address for this purpose with the



secretary. An entity that receives a copy of a proposed master plan, or of a final master plan, must reimburse the local unit for any copying and postage costs it incurs.

An entity may submit comments on the proposed master plan to the planning commission as provided in the Act within 63 days after the plan is submitted to the entity. If the county planning commission or county board of commissioners that receives a copy of a proposed master plan submits comments, the comments must include both of the following advisory statements, as applicable:

- A statement whether the county planning commission or board of commissioners considers the proposed master plan to be inconsistent with the master plan of any municipality within or contiguous to the local unit, or the region.
- If the county has a county master plan, a statement whether the county planning commission considers the proposed master plan to be inconsistent with the county master plan.

Before approving a proposed master plan, a planning commission must hold at least one public hearing on it. The hearing must be held after the expiration of the 63-day deadline for comment. The planning commission must give at least 15 days' advance notice of the time and place of the public hearing by publication in a newspaper of general circulation within the local unit. The commission also must submit notice of the hearing as provided in the Act to each entity described above. This notice may accompany the proposed master plan.

#### Approval of Master Plan

The approval of a master plan must be by resolution of the planning commission carried by the affirmative votes of at least two-thirds of the members of a city or village planning commission or at least a majority of the members of a township or county planning commission. The resolution must refer expressly to the maps and descriptive and other matter intended by the planning commission to form the master plan. A statement recording the planning commission's approval, signed by the commission's chairperson or secretary, must be included on the inside of the front or back cover of the master plan and on the future

land use map, if it is a separate document from the text of the master plan. After the planning commission approves the proposed master plan, the secretary must submit a copy of it to the legislative body.

Approval by the planning commission is the final step for adoption of the master plan, unless the legislative body by resolution has asserted the right to approve or reject it. In that case, after approval by the planning commission, the legislative body must approve or reject the proposed master plan. A statement recording the legislative body's approval, signed by the clerk of the legislative body, must be included on the inside of the front or back cover of the master plan and on the future land use map, if it is a separate document from the text of the master plan.

If the legislative body rejects the proposed plan, it must submit to the planning commission a statement of its objections. The planning commission must consider the objections and revise the proposed master plan to address them. The procedures regarding the public hearing, the planning commission resolution, and submission to the legislative body for approval or rejection must be repeated until the legislative body approves the proposed master plan.

Upon final adoption of the plan, the planning commission secretary must submit, in the manner provided in the Act, copies of it to the same entities to which copies of the proposed master plan are required to be submitted.

#### Amendment to Master Plan

An extension, addition, revision, or other amendment to a master plan must be adopted according to the procedures under the Act for adoption of a master plan. Compliance with the procedures is not required, however, for grammatical, typographical, or similar editorial changes, a title change, or changes to conform to an adopted plat.

Also, when a planning commission sends notice to an entity that it intends to prepare a subplan, the notice may indicate that the local unit does not intend to provide the entity with further notices of or copies of proposed or final subplans otherwise required to be submitted to that entity.



Unless the entity responds that it chooses to receive notice of subplans, the local unit is not required to provide further notice of subplans to that entity.

At least every five years after adoption of a master plan, a planning commission must review it and determine whether to commence the procedure to amend the master plan or adopt a new one. The review and its findings must be recorded in the minutes of the relevant meeting or meetings of the planning commission.

#### Other Provisions for Master Plans

Incorporated Areas. A part of a county master plan covering an incorporated area within the county may not be recognized as the official master plan or part of the official master plan for that area unless adopted by the appropriate city or village in the manner prescribed by the Act. This provision does not apply if the incorporated area is subject to county zoning pursuant to the Michigan Zoning Enabling Act and a contract under the Urban Cooperation Act.

Planning Department. The Planning Enabling Act does not alter the authority of a planning department of a city or village created by charter to submit a proposed master plan, or a proposed extension, addition, revision, or other amendment to a master plan, to the planning commission, whether directly or indirectly as provided by charter. Nevertheless, the planning commission must comply with the requirements of the Act.

Public Interest. To promote public interest in and understanding of a master plan, a planning commission may publish and distribute copies of it or of any report, and employ other means of publicity and education. A planning commission must consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens concerning the promotion or implementation of the master plan.

#### Capital Improvements

A street, a square, park, playground, public way, ground, or other open space, or a public building or other structure may not be constructed or authorized for construction in

an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility has been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission. The planning commission must submit its reasons for approval or disapproval to the body having jurisdiction. If the planning commission disapproves, the body having jurisdiction may overrule the planning commission by a vote of at least two-thirds of its entire membership for a township that had an existing planning commission on the Act's effective date, or for a city or village; or by a vote of at least a majority of its membership for any other township. If the planning commission fails to act within 35 days after submission of the proposal, the project will be considered approved.

Following adoption of the county plan or any part of a county plan and the certification by the county planning commission to the county board of commissioners of a copy of the plan, work may not be initiated on any project involving the expenditure of money by a county board, department, or agency unless a full description of the project, including its proposed location and extent, has been submitted to the county planning commission and the report and advice of the planning commission have been received by the county board of commissioners and by the county board, department, or agency submitting the proposal. Work on the project may proceed, however, if the planning commission fails to provide its report and advice upon the proposal in writing within 35 days after the proposal is filed with the commission. The planning commission must provide copies of the report and advice to the county board, department, or agency sponsoring the proposal.

If the opening, widening, or extension of a street, or the acquisition or enlargement of any square, park, playground, or other open space has been approved by a township commission that was created before the Act's effective date, or by a city or village planning commission, and authorized by the legislative body, the legislative body may not rescind its authorization unless the matter has been resubmitted to the planning



commission and the planning commission has approved the rescission. The planning commission must hold a public hearing on the matter, and must submit its reasons for approval or disapproval of the rescission to the legislative body. If the planning commission disapproves the rescission, the legislative body may overrule the commission by a vote of at least two-thirds of its entire membership. If the planning commission fails to act within 63 days after submission of the proposed rescission, the rescission is considered approved.

To further the desirable future development of the local unit under the master plan, a planning commission, after adoption of the master plan, annually must prepare a capital improvements program of public structures and improvements, unless the commission is exempted from this requirement by charter or otherwise. In that case, the legislative body either must prepare and adopt a capital improvements program, separate from or as a part of the annual budget, or must delegate the preparation of the program to the chief elected official or a nonelected administrative official, subject to final approval by the legislative body. The capital improvements program must show those public structures and improvements, in the general order of their priority, that in the commission's judgment are needed or desirable and may be undertaken within the ensuing six-year period. The program must be based upon the requirements of the local unit for all types of public structures and improvements. Each agency or department of the local unit with authority for public structures or improvements must furnish the planning commission with lists, plans, and estimates of time and cost of those public structures and improvements, upon request.

Any township may prepare and adopt a capital improvement program. The program is mandatory for a township, however, that alone or jointly with one or more local units, owns or operates a water supply or sewage disposal system.

A planning commission may recommend to the appropriate public officials programs for public structures and improvements and for their financing, regardless of whether the commission is exempted from the requirement to prepare a capital improvements program.

## Municipal Zoning Ordinance

If a municipal planning commission has zoning duties pursuant to the Act and the municipality has adopted a zoning ordinance, the county planning commission, if any, may, by first-class mail or personal delivery, request the municipal planning commission to submit to the county planning commission a copy of the zoning ordinance and any amendments. The municipal planning commission must submit the requested documents to the county planning commission within 63 days after receiving the request and must submit any future amendments within 63 days after adopting them. The municipal planning commission may submit a zoning ordinance or amendment electronically.

## Subdivision Ordinance Recommendations

A planning commission may recommend to the legislative body provisions of an ordinance or rules governing the subdivision of land authorized under the Land Division Act. If a township is subject to county zoning consistent with the Michigan Zoning Enabling Act, or if a city or village is subject to county zoning pursuant to that Act and a contract under the Urban Cooperation Act, the county planning commission may recommend to the legislative body of the municipality provisions of an ordinance or rules governing the subdivision of land. A planning commission may proceed under these provisions on its own initiative or upon request of the appropriate legislative body.

Recommendations for a subdivision ordinance or rule may address plat design, including the proper arrangement of streets in relation to other existing or planned streets and to the master plan; adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air; and the avoidance of population congestion, including minimum width and area of lots. The recommendations also may address the extent to which streets must be graded and improved and to which water and sewer and other utility mains, piping, or other facilities must be installed as a condition precedent to the approval of the plat.

Before recommending an ordinance or rule, the planning commission must hold a public hearing on the proposed ordinance or rule.



The commission must give at least 15 days' notice of the time and place of the hearing by publication in a newspaper of general circulation within the local unit.

#### Plat Recommendations

If a municipality has adopted a master plan or master street plan, the planning commission of that municipality must review and make recommendations on plats before the legislative body takes action on them under Section 112 of the Land Division Act (which prescribes procedures for the tentative approval of a preliminary plat). If a township is subject to county zoning consistent with the Michigan Zoning Enabling Act, or if a city or village is subject to county zoning pursuant to that Act and a contract under the Urban Cooperation Act, and the municipality has adopted a master plan or master street plan, the county planning commission also must review and make recommendations on plats before the legislative body of the municipality takes action on them.

A planning commission may not take action on a proposed plat without affording an opportunity for a public hearing on it. A plat submitted to the planning commission must contain the name and address of the proprietor or other person to whom notice of a hearing must be sent. At least 15 days before the hearing, notice of the date, time, and place of the hearing must be mailed to that person at that address, and must be published in a newspaper of general circulation in the municipality. Similar notice must be mailed to the owners of land immediately adjoining the proposed platted land.

A planning commission must recommend approval, approval with conditions, or disapproval of a plat within 63 days after it is submitted. If applicable standards under the Land Division Act and an ordinance or published rules governing the subdivision of land authorized under that Act are met, the planning commission must recommend approval of the plat. If the planning commission fails to act within the required period, the plat will be considered recommended for approval. The planning commission must issue a certificate to that effect upon the proprietor's request. The proprietor, however, may waive this requirement and consent to an extension of

the 63-day period. The grounds for any recommendation of disapproval of a plat must be stated upon the planning commission's records.

A plat approved by a municipality and recorded under the Land Division Act is considered an amendment to, and a part of, the master plan. A municipality's approval of a plat does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

#### County Officer or Body

The assignment of a power or duty under the Planning Enabling Act to a county officer or body is subject to Public Act 293 of 1966 (which governs charter counties) or Public Act 139 of 1973 (which provides for an optional unified form of county government in a county that has not adopted a charter) in a county organized under one of those Acts.

#### Transitional Provisions

Unless rescinded by the local unit, any plan adopted or amended under a planning act repealed by the Planning Enabling Act does not have to be readopted under the Act, but will continue in effect as a master plan, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term. This includes a plan prepared by a planning commission and adopted before the Act took effect to satisfy the requirements of Section 203(1) of the Michigan Zoning Enabling Act (described below) or similar provisions of the former City and Village Zoning Act, the former Township Zoning Act, and the former County Zoning Act. The master plan is subject to the requirements of the Planning Enabling Act, including the requirement for periodic review and the prescribed amendment procedures. The master plan, however, is not subject to the requirements regarding the specified contents until it is first amended under the Act. This provision applies to any plan adopted or amended under an act repealed by the new Act.

(Under Section 203(1) of the Michigan Zoning Enabling Act, a zoning ordinance must be based upon a plan designed to: promote the public health, safety, and general welfare; encourage the use of land



in accordance with its character and adaptability; limit the improper use of land; conserve natural resources and energy; meet the needs of the State's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; ensure that uses of the land are situated in appropriate locations and relationships; avoid the overcrowding of population; provide adequate light and air; lessen congestion on the public roads and streets; reduce hazards to life and property; facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and property. The zoning ordinance must be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.)

Unless repealed, a city or home rule village charter provision creating a planning commission before the effective date of the Planning Enabling Act and any ordinance adopted before that date implementing that charter provision will continue in effect under the Act. The planning commission does not need to be newly created by an ordinance adopted under the Act. The legislative body, however, may by ordinance increase the powers and duties of the planning commission to correspond with the powers and duties of a planning commission created under the Act. The Act's provisions regarding planning commission powers and duties do not otherwise apply to a planning commission created by charter before the Act's effective date. Provisions of the Act regarding planning commission membership, appointment, and organization do not apply to such a planning commission. All other provisions of the Act apply.

Additionally, the legislative body must amend any ordinance adopted before the Act's effective date to implement the charter provision, or repeal the ordinance and adopt a new ordinance, to conform fully to the requirements of the Act made applicable by the provision described above by the earlier

of July 1, 2011, or the date when an amendatory act or new ordinance is first adopted under the Act for any purpose.

Unless repealed, an ordinance creating a planning commission under the repealed planning acts will continue in effect under the Act. The planning commission does not need to be newly created by an ordinance adopted under the Act. Beginning on the Act's effective date, however, the planning commission's duties are subject to the requirements of the Act. The legislative body must amend the ordinance, or repeal the ordinance or resolution and adopt a new ordinance, to conform fully to the Act's requirements by the earlier of July 1, 2011, or the date when an amendatory or new ordinance is first adopted under the Act for any purpose. This ordinance is not subject to referendum.

Unless repealed or rescinded by the legislative body, an ordinance or published rules governing the subdivision of land authorized under the Land Division Act does not need to be readopted under the Planning Enabling Act or amended to comply with it, but will continue in effect under the Act. If amended, however, the ordinance or rules must be amended under the Act's procedures.

If, on the Act's effective date, a planning commission had the powers and duties of a zoning board or zoning commission under the former City and Village Zoning Act, the former County Zoning Act, or the former Township Zoning Act, and under the Michigan Zoning Enabling Act, the planning commission may continue to exercise those powers and duties without amendment of the ordinance, resolution, or charter provision that created it.

If, on the effective date of the Planning Enabling Act, a local unit had a planning commission without zoning authority created under one of the repealed planning acts, the legislative body may by amendment to the ordinance creating the planning commission, or, if the planning commission was created by resolution, may by resolution, transfer to the planning commission all the powers and duties provided to a zoning board or zoning commission created under the Michigan Zoning Enabling Act. If an existing zoning board or zoning commission in the local unit is nearing the completion of its draft zoning



ordinance, the legislative body must postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but is not required to postpone the transfer more than one year.

If, on or after the effective date of the Planning Enabling Act, a planning commission is created in a local unit that had a zoning board or zoning commission since before that date, the legislative body must transfer all the powers, duties, and records of the zoning board or zoning commission to the planning commission before July 1, 2011. If the existing zoning board or commission is nearing the completion of its draft zoning ordinance, the legislative body may, by resolution, postpone the transfer of the zoning board's or zoning commission's powers, duties, and records until the completion of the draft zoning ordinance, but not later than until one year after creation of the planning commission or July 1, 2011, whichever comes first.

MCL 125.3801-125.3885

## **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**

As the Land Use Leadership Council stated in its report, the previous planning acts "...differ[ed] in terms of powers, responsibilities, or procedures, with no apparent reasons for the differences. In addition, they provide[d] very little statutory guidance on what local plans should contain and inconsistent language linking zoning decisions to local plans." Consolidating the acts governing county, township, and municipal planning under one statute creates a standard structure for all local planning commissions and one set of requirements that apply to the preparation of all master plans. (The fourth planning act, which governs regional planning, was not repealed.) The consistency will reduce confusion for developers and property owners and facilitate intergovernmental planning coordination. Additionally, the new Act refers to provisions in the Michigan Zoning Enabling Act, enacted in 2006. Because planning and zoning are

interrelated, it is important that the laws governing those activities complement each other.

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.