

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2573 Session of
2000

INTRODUCED BY VITALI, M. COHEN, FREEMAN, CAWLEY, CURRY, GRUCELA,
KIRKLAND, MICHLOVIC, MUNDY, PISTELLA, RAMOS, STEELMAN,
STURLA, THOMAS, WALKO, WILLIAMS AND YOUNGBLOOD, MAY 15, 2000

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 15, 2000

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," providing for the adoption and revision of
21 urban growth boundaries by counties and municipalities.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. The act of July 31, 1968 (P.L.805, No.247), known
25 as the Pennsylvania Municipalities Planning Code, reenacted and
26 amended December 21, 1988 (P.L.1329, No.170), is amended by
27 adding an article to read:

1 and planning.

2 (9) Ensure that new public water and wastewater
3 treatment systems are constructed in areas which will result
4 in the proper and maximum utilization of existing systems,
5 prior to the development and construction of new systems.

6 (10) Ensure that new or major extensions of existing
7 public water and wastewater treatment systems are constructed
8 only in those areas in which the anticipated growth and
9 development that may occur as a result of such an extension
10 can adequately be accommodated within the financial and
11 environmental capacity of the area to sustain such growth and
12 development.

13 (11) Identify those areas within the Commonwealth's
14 counties where growth and development will occur so that a
15 full range of urban services including sewer, water,
16 highways, police and fire protection, public schools, parks,
17 open space and other services can be adequately planned and
18 provided as needed to accommodate the growth which occurs.

19 (12) Encourage innovations in residential, commercial
20 and industrial development so that the growing population
21 demands may be met by an increased variety in type, design
22 and layout of structures and by the conservation and more
23 efficient use of open space ancillary to such structures.

24 Section 402-A. Definitions.--Subject to additional
25 definitions contained in subsequent provisions of this article
26 which are applicable to specific provisions of this article, the
27 following words and phrases when used in this article shall have
28 the meanings given to them in this section unless the context
29 clearly indicates otherwise:

30 "Public services," services traditionally provided by a

1 local government or municipal authority, including water and
2 sewer, roads, parks, schools, police and fire protection.

3 "Urban," of, or relating to, characteristics constituting a
4 city.

5 "Urban growth," refers to growth that makes intensive use of
6 land for the location of buildings, structures and impermeable
7 surfaces to such a degree as to be incompatible with the primary
8 use of such land for the production of food, other agricultural
9 products, or fiber or the extraction of mineral resources. When
10 allowed to spread over wide areas, urban growth typically
11 requires urban public services.

12 "Urban growth area," an area contained in a county or a
13 municipal comprehensive plan that has been mutually adopted by
14 both jurisdictions within which urban development is encouraged
15 and outside of which urban development is discouraged. Urban
16 growth areas are to be based on a population forecast and shall
17 include areas and densities sufficient to permit the urban
18 growth that is provided to occur for a specific period of time.
19 An urban growth area shall include or permit existing or
20 proposed land uses at densities and intensities sufficient to
21 permit urban growth that is projected for the municipality for
22 succeeding 20-year period and existing or proposed facilities or
23 services to adequately support that urban growth.

24 Urban growth boundary," a line on a map, drawn around an
25 urban growth area, that is used to mark the separation of
26 urbanizable land from rural land and within which urban growth
27 should be contained for a period of time specified by a growth
28 management plan.

29 "Urban reserve," an area outside of an urban service area
30 but within an urban growth boundary in which future development

1 and extension of services are planned. The urban service area
2 and urban reserve combined, in many places, constitute an urban
3 growth boundary.

4 Urban services," services that are provided to urban level
5 densities and intensities that include any or all of the
6 following:

7 (1) Sanitary sewers and collection and treatment of
8 sewage.

9 (2) Water distribution lines and the pumping and
10 treatment of water.

11 (3) Police and fire protection.

12 (4) Educational facilities and campuses.

13 (5) Parks, open space and greenways.

14 (6) Streets and roads.

15 (7) Mass transit.

16 (8) Other services and facilities of an urban nature,
17 such as stormwater management or flood control.

18 "Urban service area," an area in which urban services will
19 be provided and outside of which such services will not be
20 extended.

21 "Urbanizable land," real property located within the
22 perimeter of an urban growth boundary, which, regardless of
23 present use, would be available for urban development within the
24 next 20 years.

25 Section 403-A. Establishment of Urban Growth Boundaries.--

26 (a) Any county in the Commonwealth may cooperate with any
27 municipality or municipalities located within the county to
28 individually or jointly establish an urban growth boundary. All
29 counties and municipalities which desire to establish an urban
30 growth boundary shall first pass a resolution or ordinance

1 authorizing an urban growth boundary and hold at least one
2 public hearing in each participating municipality. The purpose
3 of the urban growth boundary shall be to separate those lands
4 which are most likely to urbanized within the next 20 years
5 radiating outward from some preestablished urban core within the
6 municipality, from lands that should remain undeveloped and used
7 for agricultural resource purposes or limited to rural use. The
8 urbanization which will occur shall be considered to be
9 residential development and average densities of greater than
10 one per acre per dwelling unit and commercial and industrial
11 development which requires public water or sewer systems.

12 (b) The urban growth boundaries which may be established
13 pursuant to this article shall be based upon the following
14 criteria:

15 (1) The availability of a complete range of services and
16 facilities.

17 (2) The need for land to accommodate regional growth.

18 (3) The need for orderly and efficient development.

19 (4) The need to protect land from premature and
20 unnecessary development.

21 (5) The responsibility to protect environmentally
22 sensitive areas.

23 (c) The amount of land to be included within any urban
24 growth boundary shall be determined by all of the following:

25 (1) The target population for the municipality or
26 preexisting urban core to a date at least 20 years from the
27 date of establishment of the urban growth boundary, which
28 shall reflect the municipality's fair share of the regional
29 growth as determined and allocated by the county planning
30 commission.

1 (2) The need for additional commercial and industrial
2 land, coordinated with the planned transportation system for
3 the municipality, to provide for the economic and employment
4 needs of the community and to insure that the community has
5 an adequate tax base to support the provision of urban
6 services.

7 (3) The intensity of anticipated development as
8 determined by the municipal comprehensive plan and the
9 density of development permitted by the municipal zoning
10 ordinance.

11 (d) The county, through its planning commission, may provide
12 to municipalities preparing urban growth boundaries technical
13 assistance in the preparation, including but not limited to,
14 computerized mapping services and reports which document growth
15 alternatives. The technical assistance may include providing the
16 municipal planning commission with all data and forecasting
17 analysis needed to establish the appropriate location for the
18 urban growth boundary. The county shall also in cooperation with
19 the adjoining municipalities establish the point at which the
20 regional urban growth boundary will enter and exit the
21 municipality.

22 (e) The municipalities establishing urban growth boundaries
23 shall utilize the beginning and ending points established by the
24 county planning commission to create a boundary and agree to
25 project that boundary based on the target population and utilize
26 the criteria contained in the county comprehensive plan in
27 determining the precise location of the boundary. All urban
28 growth boundaries shall follow tax parcel property lines. The
29 county shall accept a reasonable boundary proposed by a
30 municipality prepared in accordance with the aforementioned

1 stipulation and the county shall incorporate such a boundary in
2 the county's comprehensive plan.

3 (f) the urban growth boundary shall be used as a means to
4 identify lands that are appropriate for different intensities of
5 development. Upon adoption of the urban growth boundary, a
6 municipality shall concurrently amend its zoning map if
7 necessary to zone lands for urban use only within the urban
8 growth boundary. Urban uses would be zoning classifications
9 encompassing activities such as:

10 (1) Residential development in which the minimum lot
11 size is one acre or less including single-family housing,
12 multi-family housing and manufactured home communities.

13 (2) Commercial and institutional development typified by
14 downtown development areas, regional and highway strip
15 shopping centers, office or business parks, civic centers,
16 hospitals, hotels and destination resorts, outlet malls, and
17 similar activity areas requiring public water and sewer.

18 (3) Industrial development such as heavy manufacturing
19 plants, railroad yards, industrial parks, warehousing, gas
20 and oil depots, research and development facilities,
21 automobile and truck sales and repair, and other similar
22 industrial activities requiring public water and sewer.

23 (g) Lands located outside the urban growth boundary shall be
24 zoned predominately for rural and agricultural use. The zoning
25 classification would include activities such as:

26 (1) Residential development on large lots, utilizing
27 independent wells or subsurface sewage disposal systems.

28 (2) Farm use and farm-related activities and businesses,
29 including cottage industries.

30 (3) Villages, rural housing clusters, and isolated

1 settlements.

2 (4) Forests, woodlots and resource-related activities.

3 (5) Governmental and institutional uses serving the
4 rural population.

5 (6) Extractive industries.

6 (7) Limited commercial development such as convenience
7 stores, county stores, farm markets and similar businesses.

8 (h) (1) Preexisting urban level development located outside
9 of urban growth boundaries, such as villages, manufactured
10 housing parks, or industrial facilities may be zoned
11 conformably and allowed to expand, provided that such
12 expansion does not induce additional urban level development
13 outside of the boundary or necessitate the extension of urban
14 services into an area not planned for such service.

15 (2) Urban services may be extended outside of urban
16 growth boundaries to serve an existing development or to
17 correct a health hazard if that extension does not induce
18 additional urban level growth. Water and sewer lines shall be
19 engineered to serve the existing level of development and
20 shall not be constructed with excess capacity. When it is
21 necessary to extend water or sewer lines through an area not
22 planned for such service, connections to the infrastructure
23 shall be restricted for intervening lands.

24 (i) Lands located inside the urban growth boundaries shall
25 be made available for urban uses over time by the immediate or
26 staged zoning of those lands for urban uses and the planned
27 provision and extension of public facilities. Every effort shall
28 be made to finance and improve public facilities within the
29 urban growth boundaries to urban standards in order to
30 facilitate appropriate urban development. Other government

1 bodies like sewer and water authorities, transportation
2 authorities, and special districts shall take actions consistent
3 with the development objectives for the urban growth boundary as
4 expressed in the municipal and county comprehensive plans. Sewer
5 facility plans approved by the Department of Environmental
6 Protection shall be consistent with and shall implement the
7 objectives of the urban growth boundaries. Transportation
8 improvement programs and long range transportation plans adopted
9 by metropolitan planning organizations and local development
10 districts in cooperation with the State Transportation
11 Commission shall be designed to improve transportation
12 infrastructure within urban growth areas so as to adequately
13 serve and support planned community growth. In authorizing new
14 public school construction the Department of Education shall
15 take into consideration the location of urban growth boundaries
16 and the target population projections for community growth.

17 (j) Urban growth boundaries must be planned in conjunction
18 with all surrounding municipalities and municipalities must be
19 given standing to participate in the development of urban growth
20 boundaries in all contiguous municipalities.

21 (k) A municipality must adopt a new comprehensive plan or
22 amend its previously adopted comprehensive plan to provide for
23 urban growth boundaries before it may enact implementing
24 ordinances, including representing urban growth boundaries on
25 any zoning map. In adopting or amending the comprehensive plan a
26 municipality must take into consideration what effect, if any,
27 enactment of the boundary may have on land use, transportation,
28 community facilities and housing.

29 (l) Urban growth boundaries must be based on the extension
30 of required infrastructure, including educational

1 infrastructure, consistent with the provisions of the county and
2 municipal comprehensive plans, with a prohibition of further
3 extension without a revision to the projected growth plan for
4 the urban growth area. Each county planning agency shall have
5 the responsibility for convening representatives of all
6 municipal governments, special districts, public utilities,
7 whether publicly or privately owned and other entities that
8 provide or declare an interest in providing an urban service
9 inside an urban growth boundary shown in a county comprehensive
10 plan. A county planning agency may establish two or more sub
11 areas inside an urban growth area for the purpose of such
12 agreements. A county planning agency may provide or contract
13 with others to provide technical assistance, mediation or
14 dispute resolution services in order to assist the parties in
15 negotiating such agreements.

16 (m) Counties and municipalities that have adopted urban
17 growth boundaries as described shall be entitled to priority
18 consideration when applying for State financial or technical
19 assistance or for grants to provide the urban services needed
20 within adopted urban growth boundaries to support projected
21 urban growth. Priority shall be given to assistance or grants
22 from, but not limited to, the following programs:

23 (1) Housing finance loans and grants under the act of
24 May 20, 1949 (P.L.1633, No.493), known as the "Housing and
25 Redevelopment Assistance Law," and the act of December 3,
26 1959 (P.L.1688, No.621), known as the "Housing Finance Agency
27 Law."

28 (2) Recreation and parks funding under the act of July
29 2, 1984 (P.L.527, No.106), known as the "Recreational
30 Improvement and Rehabilitation Act."

1 (3) PENNVEST loans and grants under the act of March 1,
2 1988 (P.L.82, No.16), known as the "Pennsylvania
3 Infrastructure Investment Authority Act."

4 (4) Transportation funding under the act of July 9, 1985
5 (P.L.187, No.47), known as the "Transportation Partnership
6 Act" and the act of August 5, 1991 (P.L.238, No.26) entitled
7 "An act amending Titles 74 (Transportation) and 75 (Vehicles)
8 of the Pennsylvania Consolidated Statutes, codifying
9 provisions relating to public transportation; imposing
10 certain fees and taxes; further providing for certain
11 Pennsylvania Turnpike projects; defining "farm equipment";
12 further providing for the responsibilities of vehicle
13 transferees, for exemptions from registration and
14 certificates of title and for the use of dealer plates,
15 multipurpose dealer plates and farm equipment plates; further
16 providing for funeral processions; further providing for a
17 restricted receipts fund and for registration for snowmobiles
18 and ATV's; establishing the Snowmobile Trail Advisory
19 Committee; further providing for the highway maintenance and
20 construction tax; and making repeals."

21 (5) Parks and open space funding under the act of July
22 2, 1993 (P.L.359, No.50), known as the "Keystone Recreation,
23 Park and Conservation Fund Act."

24 (6) Heritage park funding under the act of June 28, 1995
25 (P.L.89, No.18), known as the "Conservation and Natural
26 Resources Act."

27 (7) Planning assistance grants under the act of June 27,
28 1996 (P.L.403, No.58), known as the "Community and Economic
29 Development Enhancement Act."

30 (8) Economic development loans and grants under the act

1 of June 27, 1996 (P.L.403, No.58), known as the "Community
2 and Economic Development Enhancement Act."

3 (9) Grants for shared municipal services under the act
4 of June 27, 1996 (P.L.403, No. 58), known as the "Community
5 and Economic Development Enhancement Act."

6 Section 404-A. Urban Service Agreements.--(a) Local
7 governments, special districts and public utilities, whether
8 publicly or privately owned and other entities that provide an
9 urban service to an area within an urban growth boundary with a
10 population greater than 2,500 persons shall enter into urban
11 service agreements that address all of the following:

12 (1) Specify whether the urban service will be provided
13 by a county, city, borough, township, authority, special
14 district or private public utility or by a combination of one
15 or more counties, cities, boroughs, townships, authorities,
16 special districts or public utilities.

17 (2) Set forth the functional role of each service
18 provider in the future provision of the urban service.

19 (3) Determine by map the future service areas for each
20 provider of the urban service, provided, however, that no
21 future urban service is to be provided to an area not within
22 an urban growth area boundary shown in the comprehensive plan
23 or the sewer facilities plan.

24 (4) Assign responsibilities for planning and
25 coordinating the provision of the urban service with other
26 urban services, for the planning, constructing and
27 maintaining of service facilities and for the managing and
28 administration of provision of services to urban users.

29 (5) Define the terms of necessary transitions in the
30 provision of urban services, ownership of facilities,

1 annexation of services territory, transfer of moneys or
2 project responsibility between one urban service provider and
3 another and the merger of urban service providers or other
4 measures for enhancing the cost efficiency of providing urban
5 services.

6 (6) Establish a process for the preview and modification
7 of the urban service agreement. Parties to the agreement at
8 least once every 5 years shall review each agreement.

9 (b) The parties to an urban service agreement shall consider
10 all of the following factors in establishing the agreement:

11 (1) The financial, operational and managerial capacity
12 to provide the service.

13 (2) The effect on the cost of the urban service to the
14 users of the service, the quality of the service provided and
15 the ability of urban services users to identify and contact
16 service providers for assistance.

17 (3) Physical factors related to the provision of the
18 urban service.

19 (4) The feasibility of creating a new entity for the
20 provision of the urban service.

21 (5) The elimination or avoidance of unnecessary
22 duplication of facilities.

23 (6) Economic and demographic trends and projections
24 relevant to the provision of the urban service.

25 (7) The allocation of charges among urban service users
26 in a manner that reflects the difference in the costs of
27 providing services to the users.

28 (8) The equitable and reasonable allocation of costs
29 between new development and existing development.

30 (9) The economics of scale in providing the urban

1 service.

2 (c) Urban service agreements entered into pursuant to this
3 section shall provide for the continuation of an adequate level
4 of urban services to the entire area that each provider
5 services. If an urban service agreement calls for significant
6 reductions in the territory or district in which services are
7 provided, the urban service agreement shall specify how the
8 remaining portion of the territory or district is to receive
9 services in an affordable manner.

10 (d) In entering into an urban service agreement local
11 governments, authorities, special districts, public utilities
12 and other entities that provide urban services shall consider
13 the agreement's effect on the financial integrity and
14 operational ability of each service provider and its protection
15 of the solvency and commitments of affected service providers.

16 (e) Municipalities that establish urban growth boundaries
17 may also by agreement share tax revenues and fees generated from
18 municipalities located within the region that have also
19 established urban growth boundaries pursuant to this article.
20 The courts shall not require additional areas to be zoned for
21 any use if full utilization of the areas zoned for such use
22 within an urban growth boundary is achieved.

23 (f) Municipalities adopting urban growth boundaries may
24 provide for the transfer of development rights from properties
25 outside of the urban growth boundary to properties within the
26 boundary. In providing for such transfers of development rights
27 municipalities may allow development rights to be transferred
28 across municipal boundaries if the procedures for such transfers
29 are contained in intergovernmental agreements adopted by both
30 municipalities.

1 Section 405-A. Amending an Urban Growth Boundary.--(a) An
2 urban growth boundary may be amended from time to time by the
3 mutual consent of the county and the municipality establishing
4 an urban growth boundary, but in any event a boundary shall be
5 reviewed by both the county and the municipality, at a minimum,
6 every five years. The process for amending the urban growth
7 boundary shall utilize the same criteria and considerations
8 employed in the establishment of the boundary initially.
9 Boundaries shall be adjusted so that as the supply of
10 developable land within the boundary is utilized additional
11 lands shall be added to ensure that an adequate supply of land
12 available for urban development is maintained. If during the
13 periodic review of the urban growth boundary it is determined
14 that the urban growth boundary does not contain sufficient land
15 to accommodate the housing needs for the next 20 years at the
16 actual developed density that has occurred since adoption of the
17 boundary, the municipality and the county shall take one of the
18 following actions:

19 (1) Amend its urban growth boundary to include
20 sufficient vacant land to accommodate the housing needs
21 projected in the comprehensive plan for the next 20 years.

22 (2) Amend its comprehensive plan and zoning ordinance to
23 include new measures that demonstrably increase the
24 likelihood that residential development will occur at
25 increased densities sufficient to accommodate the housing
26 needs of the municipality for the next 20 years.

27 (3) Adopt a combination of the actions required in
28 paragraphs (1) and (2) of this subsection.

29 (b) (1) In the event of a dispute arising from the
30 establishment or amendment of an urban growth boundary, the

1 county and municipality establishing the urban growth
2 boundary shall submit any questions of fact to a mediator and
3 shall seek a negotiated settlement.

4 (2) Upon resolution of any dispute, the county and
5 municipality establishing the urban growth boundary shall
6 formally amend their respective comprehensive plans and
7 ordinances to reflect the agreed upon changes.

8 (c) Changes to any existing urban growth boundary shall
9 require revisions to the municipality's comprehensive plan.

10 (d) The occasional granting of a zoning variance by a
11 municipality pursuant to Article IX of the Pennsylvania
12 Municipalities Planning Code shall not require the amendment of
13 the municipal urban growth boundary.

14 Section 2. This act shall take effect in 60 days.