

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1614 Session of
1997

INTRODUCED BY STEIL, MASLAND, CONTI, MUNDY, SAYLOR, WALKO,
BELARDI, WAUGH, STURLA, HENNESSEY, MELIO, YOUNGBLOOD,
E. Z. TAYLOR, STEELMAN, ROSS, ARGALL, STETLER, LEVDANSKY AND
CARONE, JUNE 11, 1997

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 11, 1997

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 intergovernmental cooperative
21 planning and implementation agreements.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 2. 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

1 adding an article to read:

2 ARTICLE VI-A

3 INTERGOVERNMENTAL COOPERATIVE PLANNING

4 AND IMPLEMENTATION AGREEMENTS

5 Section 601-A. Purposes.--The following powers are granted to
6 municipalities in order:

7 (1) To further purposes of this act in an area where
8 urban growth and development in many counties is encroaching
9 upon valuable farmland and other rural resource uses produce
10 development patterns that are neither consistent with the
11 established character of the communities in the counties, nor
12 efficient for providing adequate public services.

13 (2) To provide for development that is compatible with
14 surrounding land uses and that will complement existing land
15 development with a balance of commercial, industrial and
16 residential uses.

17 (3) To protect and maintain the separate identity of
18 communities in Pennsylvania's counties and to prevent the
19 unnecessary conversion of valuable and limited prime
20 agricultural land.

21 (4) To encourage cooperation and coordinated planning
22 among adjoining municipalities so that each municipality
23 accommodates its share of the regional growth burden and does
24 not induce unnecessary or premature development of rural
25 lands.

26 (5) To minimize disruption of the economy and
27 environment of existing communities.

28 (6) To complement the economic and transportation needs
29 of the region and this Commonwealth.

30 (7) To provide for the continuation of historic

1 community patterns.

2 (8) To provide for coordinated highways, public services
3 and development.

4 (9) To ensure that new public water and wastewater
5 treatment systems are constructed in areas that will result
6 in the proper and maximum utilization of existing systems,
7 prior to the development and construction of new systems.

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

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

21 (12) To encourage innovations in residential, commercial
22 and industrial development to meet growing population demands
23 by an increased variety in type, design and layout of
24 structures and by the conservation and more efficient use of
25 open space ancillary of such structures.

26 Section 601-A. Definitions.--Subject to additional
27 definitions contained in subsequent provisions of this article
28 which are applicable to specific provisions of this article, the
29 following words and phrases when used in this article shall have
30 the meanings given to them in this section unless the context

1 clearly indicates otherwise:

2 "Designated growth area," a region of a county described in a
3 county or multimunicipal plan that includes and surrounds a
4 city, borough or rural village, and within which residential and
5 mixed use development is permitted or planned for at densities
6 of one unit to the acre or more, commercial, industrial and
7 institutional uses are permitted or planned for and urban
8 services are provided or planned.

9 "Development of regional significance and impact," any land
10 development that, because of its character, magnitude, or
11 location will have substantial effect upon the health, safety,
12 or welfare of citizens in more than one municipality.

13 "Future growth reserve area," a region of a county described
14 in a county or multimunicipal plan outside of and adjacent to a
15 designated growth area where residential, commercial, industrial
16 and institutional uses and development are permitted or planned
17 at varying densities and urban services may or may not be
18 provided, but future development at greater densities is planned
19 to accompany the orderly extension and provision of urban
20 services.

21 "Rural resource area," a region of a county described in a
22 county or multimunicipal plan within which rural resource uses
23 including, but not limited to, agriculture, timbering, mining,
24 quarrying and other extractive industries, forest and game lands
25 and rural recreation and tourism are encouraged and enhanced,
26 development that is compatible with or supportive of such uses
27 is permitted, and urban services are not provided except in
28 rural villages.

29 "Rural village," an unincorporated settlement that is part of
30 a township where residential and mixed use densities of one unit

1 to the acre or more exist or are permitted and limited
2 commercial, industrial and institutional uses exist or are
3 permitted.

4 "Specific plan," a detailed plan for development of an area
5 covered by a county or multimunicipal comprehensive plan, which
6 when approved and adopted by the county and participating
7 municipalities through ordinances and agreements, supersedes all
8 other applicable ordinances.

9 "Urban growth boundary," a perimeter line drawn around a
10 designated growth area for the purpose of separating such area
11 from rural resource areas in a county or multimunicipal
12 comprehensive plan and implemented by county and local
13 municipalities through intermunicipal cooperative agreements,
14 county and local comprehensive plans, ordinances and official
15 maps, as amended from time to time to include all or part of a
16 future growth reserve area.

17 "Urban services," services that are provided to urban level
18 densities and intensities of one or more units to the acre,
19 including provision of sanitary sewers and facilities for the
20 collection and treatment of sewage, water lines and facilities
21 for the pumping and treating of water, fire protection, parks
22 and open space, streets and sidewalks, public transportation and
23 other services that may be appropriate to urban areas.

24 "Urban service area," a designated growth area and all or any
25 portion of a future growth reserve area described in a county or
26 multimunicipal comprehensive plan where urban services will be
27 provided and outside of which such services will not be
28 provided.

29 Section 603-A. Intergovernmental Cooperative Planning and
30 Implementation Agreements; Initiative and Referendum.--(a) The

1 governing bodies of a county and local municipalities located
2 within the county may enter into intergovernmental cooperative
3 agreements, as provided by the act of July 12, 1972 (P.L.762,
4 No.180), referred to as the Intergovernmental Cooperation Law,
5 for the purpose of developing, adopting and implementing a
6 comprehensive plan for the entire county or for any region of
7 the county consisting of two or more municipalities. Such
8 agreements may also be entered into between and among counties
9 and municipalities for regions that include municipalities in
10 more than one county, and between and among counties and local
11 municipalities and State agencies, school districts, authorities
12 and special districts providing water and sewer facilities or
13 other services within the region of a plan.

14 (b) Where municipalities representing 25% of the population
15 of a county propose that the entire county adopt a county
16 comprehensive plan developed in conformity with this article,
17 the county commissioners shall, at least ninety days prior to
18 the next primary or general election, file such proposal as a
19 petition for referendum to be voted upon as authorized by
20 section 6 of the Intergovernmental Cooperation Law. If adopted
21 by the electorate, the county comprehensive plan shall be
22 implemented by intergovernmental implementation agreements,
23 conforming ordinances and resolutions, or both, as appropriate.

24 Section 604-A. County or Multimunicipal Comprehensive
25 Plans.--(a) (1) The comprehensive plan that is the
26 subject of an agreement shall be developed by the county
27 planning agency, or agencies in the case of a plan covering
28 municipalities in more than one county, in cooperation with
29 local municipalities within the region and shall include all
30 the elements required or authorized in section 301 for the

1 region of the plan.

2 (2) The plan shall:

3 (i) Designate growth areas within the region of the
4 plan where:

5 (A) Orderly and efficient development to
6 accommodate the projected growth of the region within
7 the next 20 years is planned for at urban residential
8 and mixed use densities of one unit or more per acre.

9 (B) Commercial, industrial and institutional
10 uses to provide for the economic and employment needs
11 of the region and to insure that the region has an
12 adequate tax base are planned for.

13 (C) Urban services to serve such development are
14 provided or planned for.

15 (ii) Designate future growth reserve areas where
16 future development is planned for at urban densities to
17 accompany the orderly extension and provision of urban
18 services.

19 (iii) Designate rural resource areas within the
20 region of the plan where:

21 (A) Rural resource uses are planned for.

22 (B) Development at rural densities that are
23 compatible with rural resource uses are or may be
24 permitted.

25 (C) Urban services are not provided or planned
26 for except in rural villages.

27 (iv) Plan for the accommodation of all categories of
28 uses within the region of the plan, including a wide
29 range of housing opportunities for all income levels and
30 a reasonable allocation of affordable housing to

1 accommodate low to moderate-income households within all
2 of the municipalities that are included in the plan,
3 provided, however, that such housing need not be new
4 housing in rural resource areas and that all uses need
5 not be provided in every municipality, but shall be
6 planned and provided for over the region of the plan.

7 (v) Plan for developments of regional significance
8 and impact, particularly those identified in section
9 301(3) and (4), within the region of the plan.

10 (vi) Plan for the conservation and enhancement of
11 the natural, scenic, historic and aesthetic resources
12 within the region of the plan, including, but not limited
13 to, surface and groundwater resources, air quality,
14 forest and game lands, historic sites and scenic vistas.

15 (b) The plan may delineate an urban growth boundary or
16 boundaries around the perimeter of designated growth areas to
17 separate such areas from future growth reserve areas and rural
18 resource areas.

19 (c) The county shall have primary responsibility for
20 facilitating a joint planning process that is regional in scope
21 and may enter into cooperative planning agreements with
22 participating municipalities governing particular planning
23 subjects and responsibilities. The regional planning process
24 shall include a public participation process to assure that all
25 governing bodies, municipal authorities, school districts and
26 agencies, whether public or private, having jurisdiction or
27 operating within the region of the plan and landowners and
28 citizens affected by the plan have an opportunity to be heard
29 prior to the public hearings required for the adoption of the
30 plan under section 302(a).

1 (d) Adoption of the plan and plan amendments shall conform
2 to the requirements of section 302. Where a county has developed
3 and adopted a comprehensive county or multimunicipal plan that
4 conforms to the requirements of this article within five years
5 prior to the date of adoption of this article, the plan may be
6 implemented by agreements as provided for in this article.

7 Section 605-A. Implementation Agreements.--(a) In order to
8 implement county and multimunicipal comprehensive plans,
9 counties shall have authority to enter into intergovernmental
10 cooperative agreements with municipal governing bodies and other
11 agencies, including State agencies, municipal authorities,
12 school districts, special districts and agencies, whether public
13 or private, having jurisdiction or operating within the region
14 of an adopted plan. Municipalities and agencies that enter into
15 agreements with a county to implement a county or multimunicipal
16 comprehensive plan shall be known as participating
17 municipalities and participating agencies.

18 (b) Cooperative implementation agreements between a county
19 and one or more local municipalities shall:

20 (1) Establish the process that the county and
21 participating municipalities will use to achieve consistency
22 between the county or multimunicipal comprehensive plan and
23 implementing local plans and land-use regulations within
24 participating municipalities, including adoption of
25 conforming ordinances by participating municipalities within
26 two years.

27 (2) Establish a process for review and approval of
28 developments of regional significance and impact that are
29 proposed within any participating municipality.

30 (3) Establish the role and responsibilities of

participating municipalities with respect to implementation of the plan, including the provision of urban services within participating municipalities as described in subsection (d), the purchase of real property, including rights-of-way and easements, and the achievement of performance standards contained in the county or multimunicipal comprehensive plan.

(4) Require a yearly report by participating municipalities to the county planning agency and by the county planning agency to the participating municipalities concerning activities carried out pursuant to the agreement during the previous year.

(5) Describe any other duties and responsibilities as may be agreed upon by the parties.

(c) Cooperative implementation agreements may establish urban growth boundaries that have been delineated in the county or multimunicipal plan for the purpose of separating designed growth areas from future growth reserve areas and rural resource areas within the region of the plan. Urban growth shall generally be drawn around cities, boroughs and villages where infrastructure exists and future growth in planned for shall follow tax parcel lines, and may include areas in more than one municipality within the region of the plan. Urban growth boundaries, as delineated in a plan and agreed to in cooperative implementation agreements, shall be shown on the official map of a participating municipality as provided in Article IV-A. When an urban growth boundary is established by agreement, the agreement shall also provide a process for amending the boundary to include all or portions of future growth reserve areas.

(d) The county shall have primary responsibility for convening representatives of local municipalities, municipal

authorities, special districts, public utilities, whether public or private, or other agencies that provide or declare an interest in providing, an urban service in an urban service area or a portion of an urban service area within an urban growth boundary, as established in a county or multimunicipal comprehensive plan, for the purpose of negotiating agreements for the provision of urban services. The county may provide or contract with others to provide technical assistance, mediation or dispute resolution services in order to assist the parties in negotiating such agreements.

Section 606-A. Legal Effect.--Where a county and local municipalities have adopted a county or multimunicipal plan and participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances, the following rules shall be applicable:

(1) The zoning ordinances of participating municipalities shall not be subject to challenge by curative amendment under sections 609.1 and 609.2.

(2) State agency decisions for the funding or permitting of infrastructure or facilities shall be consistent with the county or multimunicipal plan.

(3) Act 537 plans under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act, for sewage facilities shall be required to be consistent with the plan adopted under this article.

(4) In considering any challenge to the validity of the zoning ordinance of a participating municipality on the ground that the ordinance is exclusionary or does not provide

1 for a specific use, a court shall consider all uses and
2 zoning densities available within the region of the plan
3 rather than within the specific municipality whose ordinance
4 is under review, and determine whether the plan as
5 implemented by consistent county and local ordinances makes a
6 reasonable amount of land in reasonable geographic locations
7 available for all uses within the region of the plan.

8 (5) Section 303(c) shall not be applicable to protect
9 the governing bodies of municipalities from challenges to
10 their actions on the basis that such action is inconsistent
11 with or fails to comply with the provisions of the county or
12 multimunicipal plan.

13 (b) A county and participating municipalities that have
14 adopted and implemented a county or multimunicipal plan as
15 described in this article shall be entitled to priority
16 consideration when applying for State financial or technical
17 assistance loans or grants for projects or programs consistent
18 with the plan, including, but not limited to, the following
19 programs, as amended from time to time:

20 (1) Planning assistance grants under the act of June 27,
21 1996 (P.L.403, No.58), known as the Community and Economic
22 Development Enhancement Act.

23 (2) Economic development loans and grants under the act
24 of June 27, 1996 (P.L.403, No.58), known as the Community and
25 Economic Development Enhancement Act.

26 (3) Grants for shared municipal services under the
27 Community and Economic Development Enhancement Act.

28 (4) Housing finance loans and grants under the act of
29 December 3, 1959 (P.L.1688, No.621), known as the Housing
30 Finance Agency Law, and the act of May 20, 1949 (P.L.1633,

1 No.493), known as the Housing and Redevelopment Assistance
2 Law.

3 (5) PENNVEST loans and grants under the act of March 1,
4 1988 (P.L.82, No.16), known as the Pennsylvania
5 Infrastructure Investment Authority Act.

6 (6) Transportation funding under 74 Pa.C.S. Part II
7 (relating to public transportation) and the act of July 9,
8 1985 (P.L.187, No.47), known as the Transportation
9 Partnership Act.

10 (7) Recreation and parks funding under the act of July
11 2, 1984 (P.L.527, No.106), known as the Recreational
12 Improvement and Rehabilitation Act.

13 (8) Parks and open space funding under the act of July
14 2, 1993 (P.L.359, No.50), known as the Keystone Recreation,
15 Park and Conservation Fund Act.

16 (9) Funding for heritage park programs under the act of
17 June 28, 1995 (P.L.89, No.18), known as the Conservation and
18 Natural Resources Act.

19 (10) Purchase of development rights for farmland
20 preservation under the act of June 30, 1981 (P.L.128, No.43),
21 known as the Agricultural Area Security Law.

22 (11) Grants and assistance under the act of October 4,
23 1978 (P.L.851, No.166), known as the Flood Plain Management
24 Act.

25 (12) Grants and assistance under the act of October 4,
26 1978 (P.L.864, No.167), known as the Storm Water Management
27 Act.

28 (13) Grants and loans to municipalities under the act of
29 May 19, 1995 (P.L.4, No.2), known as the Land Recycling and
30 Environmental Remediation Standards Act.

1 (c) A county and participating municipalities that have
2 entered into implementation agreements to carry out a county or
3 multimunicipal plan as described in this article shall have the
4 following additional powers:

5 (1) To provide by cooperative agreement for the sharing
6 of tax revenues and fees by municipalities within the region
7 of the plan.

8 (2) To adopt a transfer of development rights program by
9 adoption of a county ordinance applicable to the entire
10 county or to the region of the plan so as to enable
11 development rights to be transferred from rural resource
12 areas in any municipality within the plan to designated
13 growth areas in any municipality within the county or area of
14 the plan.

15 Section 607-A. Specific Plans.--(a) A county or counties
16 and participating municipalities shall have authority to adopt a
17 specific plan for the systematic implementation of a county or
18 multimunicipal comprehensive plan for any part of the area
19 covered by the plan. Such specific plan shall include a text and
20 a diagram or diagrams and implementing ordinances which specify
21 all of the following in detail:

22 (1) The distribution, location, extent of area and
23 standards for land uses and facilities, including design of
24 sewage, water, drainage and other essential facilities needed
25 to support the land uses.

26 (2) The location, classification and design of all
27 transportation facilities, including, but not limited to,
28 streets and roads needed to serve the land uses described in
29 the specific plan.

30 (3) Standards for population density, land coverage,

1 building intensity and supporting services, including
2 utilities.

3 (4) Standards for the preservation, conservation,
4 development and use of natural resources, including the
5 protection of significant open spaces, resource lands and
6 agricultural lands within or adjacent to the area covered by
7 the specific plan.

8 (5) A program of implementation including regulations,
9 financing of the capital improvements and provisions for
10 repealing or amending the specific plan. Regulations may
11 include zoning, storm water, subdivision and land
12 development, highway access and any other provisions for
13 which municipalities are authorized by law to enact. The
14 regulations may be amended into the county or municipal
15 ordinances or adopted as separate ordinances. If enacted as
16 separate ordinances for the area covered by the specific
17 plan, the ordinances shall repeal and replace any county or
18 municipal ordinances in effect within the area covered by the
19 specific plan and ordinances shall conform to the provisions
20 of the specific plan.

21 (b) (1) No specific plan may be adopted or amended unless
22 the proposed plan or amendment is consistent with an adopted
23 county or multi-municipal comprehensive plan.

24 (2) No capital project by any municipal authority, local
25 government, or State agency shall be approved or undertaken,
26 and no final plan, development plan or plat for any
27 subdivision or development of land shall be approved unless
28 such projects, plans or plats are consistent with the adopted
29 specific plan.

30 (c) In adopting or amending a specific plan, a county and

1 participating municipalities shall use the same procedures as
2 provided in this article for adopting comprehensive plans and
3 ordinances.

4 (d) Whenever a specific plan has been adopted, applicants
5 for subdivision or land development approval shall be required
6 to submit only a final plan as provided in Article V, provided
7 that such final plan is consistent with and implements the
8 adopted specific plan.

9 (e) A county or participating municipalities, after adopting
10 a specific plan, may impose a fee upon persons seeking
11 governmental approvals, which are required to be consistent with
12 the specific plan, for the purpose of defraying the cost of
13 preparing adopting, enforcing and administering the specific
14 plan. As nearly as can be estimated, the fee charges shall be a
15 prorated amount in accordance with the applicant's relative
16 benefit derived from the specific plan. Counties and
17 municipalities are authorized to enter into financial agreements
18 with landowners who would benefit from the adoption of a
19 specific plan, whereby the landowner agrees to compensate a
20 county or municipality for the cost of preparing and adopting a
21 specific plan that is consistent with an adopted county or
22 multi-municipal comprehensive plan.

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