



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 115 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Patricia L. Birkholz
Committee: Natural Resources and Environmental Affairs

Date Completed: 2-22-07

RATIONALE

Until July 1, 2006, local zoning was governed by the City and Village Zoning Act, the County Zoning Act, and the Township Zoning Act. Public Act 110 of 2006 repealed those Acts and created the Michigan Zoning Enabling Act for the regulation of local zoning. The Joint Municipal Planning Act, however, still contains references to the previous zoning acts and procedures under them. It was suggested that those references be changed to accommodate the recent changes in zoning laws.

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

CONTENT

The bill would amend the Joint Municipal Planning Act to do the following:

- **Allow the phased transfer to a joint planning commission of the powers and duties of existing planning commissions or zoning boards.**
- **Allow participating municipalities to adopt a joint zoning ordinance, with the joint planning commission acting as the zoning commission.**
- **Refer to the Michigan Zoning Enabling Act, as well as procedures**

under that Act, instead of specified zoning acts.

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

The bill would delete these requirements. Instead, for situations in which the procedures under the Michigan Zoning Enabling Act applicable to a planning commission depend on whether the relevant municipality is a township, city, or village, the agreement would have to specify either that the procedures applicable to a township would be followed by the joint planning commission or that the procedures applicable to a city or village would be followed. Procedures applicable to a township could not be designated unless at least one of the participating municipalities were a township. Procedures applicable to a city or village could not be designated unless at least one of the participating municipalities were a city or village.

The Joint Municipal Planning Act also requires the agreement to specify any additional provision concerning the powers or duties of a zoning board or zoning commission that the specified zoning act authorizes to be set forth in a zoning ordinance and that is agreed to by the

participating municipalities. The bill would refer to the Michigan Zoning Enabling Act, rather than the specified zoning act.

Additionally, the bill would require the agreement to specify its effective date.

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

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

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

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

MCL 125.135 & 125.137

ARGUMENTS

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

Supporting Argument

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

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State government. The bill would 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.