

# Pennsylvania State Planning Board

## 2006 Report

submitted to:

Edward G. Rendell  
Governor

Robert C. Jubelirer  
Senate Pro Tempore

John M. Perzel  
Speaker of the House

May 1, 2006

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### **Statute of Authority for State Planning Board**

Governor Edward G. Rendell reactivated the Pennsylvania State Planning Board (hereafter the Board) in 2004. The Board, first established in 1929, was reauthorized by Act 42 of 1989, amending Administrative Code 2 P.S.A. Section 451, to establish it as an advisory board within the Governor's office with the following powers and duties:

- Conduct research and collect, compile and analyze data bearing upon social, economic, physical, demographic, and other factors which may influence the present and future welfare of the Commonwealth.
- Monitor national and State trends, identify issues of potential interest and concern to the Commonwealth and prepare for the Governor and the General Assembly on an annual basis, or more often if necessary, reports detailing the findings of the Board.
- Develop strategic plans and programs to promote and enhance the welfare of the Commonwealth and make such recommendations thereon to the Governor as it may deem proper and advisable.
- Solicit information and input from State and local government officials and private citizens in Pennsylvania as part of the process of developing strategic plans and programs.
- Submit annually to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives a report on its program and activities.

### **Charge to the Board**

Prior to the start of the Board's activities in September, 2004, Governor Rendell directed the Board to use the above, broadly described powers to develop recommendations for state policies and actions, including possible legislation, addressing development, conservation, and land use issues vital to the "present and future welfare of the Commonwealth." Governor Rendell's initial charge to the Board was to develop consensus recommendations in three areas:

- Conflicts among development, municipal, and conservation interests and needs on open space and infrastructure issues;
- Specific policies, such as criteria for state investments, incentives for more multi-municipal planning and implementation, attracting private investment, and tax and revenue sharing that will achieve smart growth goals for revitalization of cities and towns and sound economic development in rural communities; and

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- Proposed options for improved governance measures that will enable Pennsylvania to compete more effectively for economic growth while improving the quality of life in Pennsylvania's diverse communities.

The Center for Local Government Services, Pennsylvania Department of Community & Economic Development, provides professional and administrative support to the Board and its committees.

### **Members of the Board**

The membership of the Board includes 15 gubernatorial appointees that are confirmed by the Senate. These members serve four year terms. The Board also includes Secretaries or their designees from six Commonwealth agencies and four representatives from the General Assembly. A list of the Board members follows:

#### ***2003 Appointees:***

- Robert J. Dillman, President, East Stroudsburg University
- Rubye Jenkins-Husband, Erie City Council Member
- Wendell E. Pritchett, Asst. Professor, University of Pennsylvania Law School
- Stephen G. Pollack, Esq., Ballard Spahr Andrews & Ingersoll, LLP
- Richard D. Urbano, Planning Director, Robinson Township

#### ***2004 Appointees:***

- Ronald Bailey, Land Use Planner
- Donald Zucco, Mayor of Johnstown, Vice-President Crown American Corp
- Judith Schwank, Chair, County Commissioners of Berks County
- Alexander J. Graziani, Executive Director, Smart Growth Partnership of Westmoreland County
- John Westrum, President, Westrum Development Company
- Alan Jennings, Executive Director, Community Action Committee of the Lehigh Valley
- Ellen Ferretti, Environmental Services Manager, Borton-Lawson Engineering
- Jane Billings, Borough Manager, Swarthmore Borough
- William B. Hawk, Chairman, Board of Supervisors, Lower Paxton Township
- Harry Stokes, Associate Director, Adams County Conservation District

#### ***Legislative Appointees:***

- Rep. David Steil (R Bucks County)
- Rep. Josh Shapiro (D Montgomery County)
- Sen. Anthony Williams (D Philadelphia County)
- Sen. Dominic F. Pileggi (R Delaware County)

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***Ex Officio Members:***

- Agriculture Secretary Dennis Wolff
- Community and Economic Development Secretary Dennis Yablonsky
- Environmental Protection Secretary Kathleen McGinty
- Conservation and Natural Resources Secretary Michael DiBerardinis
- Transportation Secretary Allen Biehler
- Public Welfare Secretary Estelle Richman

The Governor appointed Judith Schwank as the Board's Chair and Alexander Graziani as the Board's Vice-Chair.

**History of the Board**

Since its reactivation by Governor Rendell, the Board has held six meetings. During this time they worked diligently to identify priority areas and issues, and formed committees to study them. The three priority areas are Governance, Transportation and Infrastructure, and Economic Development. The Board formed individual committees to address these priority areas. The committees met over the past year and a half to further study these areas, identify the specific issues and develop recommendations to address them.

The priority areas, issues and recommendations identified in this initial Report are just the beginning for the Board. The Board acknowledges that issues identified here are very complex, and there are many stakeholders across the Commonwealth that are interested in working with the Board to further develop recommendations. Therefore, the Board is proposing an outreach effort to work with stakeholders to further identify issues within these priority areas and begin to build consensus among these stakeholders on proposed recommendations. This is the State Planning Board's first report to the Governor and Legislative Leaders.

**Next Steps: Outreach; Further Refinement of Recommendations**

For more than a year the Board has grappled with some of the difficult challenges Pennsylvania faces and has looked for solutions that will improve Pennsylvania's economic and environmental health as well as the quality of life in our diverse urban, suburban, and rural communities.

In several brainstorming and planning sessions the Board decided that it would focus initially on three identified priority areas: governance; transportation and infrastructure; and economic development. The Board began by gathering information on state agency programs, initiatives, and challenges from agency Secretaries and Deputy Secretaries, the Economic Development Cabinet and the Interagency Land Use Team. It also worked with staff from the Governor's Center for Local Government Services to review other relevant studies and reports.

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From the outset, the Board considered its mission to make recommendations for administrative or legislative actions that could be taken at the state level in **partnership** with counties and local governments or other governmental or private entities:

- to help achieve more cost-effective, service-oriented government at the state, county, and local levels;
- to plan and implement regionally and locally for efficient, well-designed transportation, water and sewer, and other infrastructure that serves state, regional, and local needs;
- to achieve sustainable economic development in every region of the state based on regional and local assets.

The Board has focused on **voluntary options and incentives** to achieve these goals, not on mandates. The Board's intent from the start has been to develop its initial recommendations, which are contained in this report, and then to facilitate broad public discussion and solicit input from specific as well as general audiences.

In the case of the Governance Committee, the Committee and the Board decided that because of the high level of municipal interest and concern on the subject of governance, as evidenced by the request of the League of Cities and Municipalities to the Governor to establish a separate commission on governance, and the complexity of these issues, representatives of the municipal associations should be included in the Governance Committee's deliberations on its recommendations. Consequently, the associations were invited to send representatives to the Committee's fall meetings, and to review the recommendations and submit comments. The December redraft of the Committee's recommendations made changes based on those comments. As a result of additional reviews solicited by the Committee from the associations, the report has been further edited to break out the concerns and issues raised in discussion items listed after each of the four priority areas of focus of the Governance Committee report.

It is the Board's hope that in the next year the Board will be able to take its recommendations on the road, hear from people in every region of the state, and that the next report to Governor Rendell and legislative leaders will contain a refined set of recommendations based upon what is heard. The Economic Development Report contains an outreach plan that could serve for the entire Board to accomplish this aim.

Full Committee Reports

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# Governance Committee Report

## Recommendations to Remove Barriers and Provide Incentives to County and Local Governments for Improved Governance Options

### Members

John Westrum – Chair  
Ronald Bailey  
Jane Billings  
D. Robert Davidson for Secretary Dennis Wolff  
William Hawk  
RUBY Jenkins-Husband  
Alan Jennings  
Wendell Pritchett

### Municipal Association Representatives

John Brenner, PLCM  
John Haiko, PSATS  
Peter Ferraro, PSATC  
Ross Watts, PSAB  
Percy Dougherty, CCAP

### Staff Resources

Joanne Denworth, Governor's Policy Office  
Fred Reddig, DCED  
John Mizerak, DCED  
Elizabeth Hansburg, DCED  
Alan Kugler, Consultant  
Tim Kelsey, Consultant

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## **Goals & Objectives**

Although Pennsylvania's counties and local governments can do little to control national and global trends and conditions, they can do much to enhance their local and regional communities in ways that will benefit Pennsylvania residents and at the same time make Pennsylvania more competitive in the global economy. The stakes are high. If Pennsylvania is to compete and prosper in today's economy, where success is measured in terms of regions rather than individual states or local governments, a successful region must have a vibrant economy, well-planned infrastructure, a well-educated and competent workforce, a healthy and attractive environment, and a superior quality of life.

Developing and coordinating plans and actions to achieve both local and regional goals is especially challenging in Pennsylvania with our 2565 local governments, 67 counties, 501 school districts, and thousands of special purpose authorities and districts. While local governments often do an excellent job of providing for residents and businesses within their jurisdictions, many development, infrastructure, social, environmental and resource issues cross municipal boundaries. Today's Pennsylvanians are likely to live in one community, work in another, shop in another, and enjoy sports, culture, and entertainment in others. Effective planning and coordinated investment and implementation by the state, its counties and local governments, as well as our school districts, special purpose authorities and regional organizations are essential to achieving these goals in every region of the Commonwealth.

The Governance Committee of the State Planning Board has reviewed existing laws and programs affecting land use and resource allocation decisions in order to respond to the Governor's charge to the Board to make recommendations on "options for improved governance." What is compellingly clear is that Pennsylvania's county and local governments often lack the necessary legal tools to provide efficient, cost effective services locally and regionally and to achieve the development and conservation goals they have for their communities. The Committee's recommendations are intended to enable municipalities to work together more effectively to improve the Commonwealth's economic vitality and the quality of life enjoyed by its residents and to attract new residents, businesses and visitors to Pennsylvania.

Central objectives agreed upon by Governance Committee members are to:

- Stabilize and revitalize Pennsylvania's urban areas (cities, boroughs and developed areas of townships) and promote planned growth in suburban and rural areas.
- Provide incentives for more effective use of county and multi-municipal planning as the means for coordinating land use decisions about development and conservation among levels of government and public and private agencies and organizations.
- Give additional tools and authority to county and local governments for "right sizing" services such as police, fire, emergency services, infrastructure, and storm water management to enable them to provide cost effective, efficient services to their communities.
- Strengthen the legal and practical connection between planning and implementation.

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- Provide clearer authority and incentives for tax base and revenue sharing.
  - Remove legal impediments to voluntary consolidations, mergers or dissolutions.

Recognizing the significant impact that the issues identified in this Report have on local governments, the Governance Committee reached out to the Municipal Associations and invited each of them to appoint a representative to the Committee. These representatives have been helpful in the development of this Report and will continue to contribute to the direction of future discussions.

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**Priority Areas of Concern**

After considering many issues and challenges, the Governance Committee identified the following priority areas for needed action by the Governor and the Legislature:

- Right-Sizing the Provision of Services
- Consistency of Planning and Implementation
- Tax Revenue and Tax Base Sharing
- Barriers to Boundary Changes

This Report is organized to describe each issue area, provide specific examples of the need for better options, and make recommendations for legislative or other policy changes that would address each issue.

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**Issue 1 – Right-Sizing the Provision of Services**

**Right-sizing**—The members of the Pennsylvania State Planning Board are impressed with the diversity of local governance in Pennsylvania. This diversity means that different approaches are needed in different parts of the Commonwealth to equip municipal government to achieve greater effectiveness in the 21<sup>st</sup> Century. This is the concept of “right-sizing.”

“Right-sizing” means giving local elected officials options to meet the needs in their community. It means using municipal, multi-municipal or regional structures that are appropriate for the character and fiscal resources of the community. It encourages cooperation with other jurisdictions to provide services and facilities that can be best delivered on a multi-municipal basis. It means creating more flexibility to merge or consolidate existing municipalities or incorporate new municipalities that are adapted to modern realities. It means encouraging regional agencies where the need exists, and providing for meaningful participation by municipal governments in ways that respond to the needs of a region. It means giving municipal governments the option of contracting with or turning responsibility for certain services over to counties, and it means promoting innovation and efficiency in local governance.

Many municipal governments are finding it difficult to afford the rising costs of basic service delivery and the associated financial liabilities. Many local governments provide efficient and responsive services and infrastructure, but some do not. Some local governments cannot afford to provide basic services such as police protection, sewage collection and treatment, parks and recreation, coordinated storm water management, recycling, planning and community development, libraries, or improvement of local roads and streets. Other municipalities that do provide these services are finding it increasingly difficult to afford to do so, and the level of fiscal stress is increasing. Some municipalities have aging or deficient infrastructure which they cannot afford to rebuild, while nearby new development is consuming farm land and requiring the construction of new infrastructure. In addition, many areas which have historically relied on volunteer fire and ambulance services are finding that the number of volunteers is declining, and that the lack of trained personnel and adequate funding may be reaching crisis conditions.

These problems are particularly acute in regions of the Commonwealth where the population is declining, reducing both the financial and volunteer labor bases and in regions of the Commonwealth that are growing rapidly and changing from a rural community to a suburban or urban community. In some parts of the Commonwealth people have to travel further from their homes to find family-sustaining employment. In other areas of the Commonwealth, the pattern by which regions are developing means that people live in one community, work in another community, and shop and visit friends in still other communities. In many municipalities of Pennsylvania the majority of residents no longer live, work and play within the same community, but are elsewhere during much of each day.

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Moreover, local jurisdictional boundaries are not always a good fit for solving problems that are regional in nature. Storm water management and flood control, for instance, need to be planned and accomplished on the basis of natural water sheds. Air pollution and water pollution often extend over large areas, and impacts that are created in one municipality can affect people living in a municipality that is miles away. Likewise, businesses in Pennsylvania generally draw customers from many municipalities, yet the tax benefits of business investments accrue only to the jurisdiction that physically encompasses the establishment. Traffic impacts in one municipality can also be generated by development in another municipality, but the revenues to fix the roads do not cross the municipal line.

Consequently, local governments are seeking to work together in new ways to improve service delivery and achieve greater economies of scale. Since the passage of Acts 67 & 68 in 2000, over 700 municipalities have worked together on joint issues and concerns, and it is in the interest of the State to encourage growth of this trend. Local governments are also looking for ways to outsource services in order to achieve greater economies of scale, looking in particular at ways to partner with existing county government. However, existing laws and codes are often unclear, difficult to apply, and limited in authority and scope.

The Intergovernmental Cooperation Law, for instance, lacks procedures by which to reconcile conflicts among the governing codes of cooperating municipalities. Currently, confusion frequently arises among participating local governments about which locality's particular code or home rule charter—with its particular array of “mays” and “shalls”—applies to the intergovernmental arrangement. This confusion severely complicates cooperative ventures and prevents many from occurring.

Such obstacles are both discouraging and frustrating, preventing many municipalities from reaching the goal of providing efficient, right-sized service delivery.

- **Examples**

- ***Police Services***

While undoubtedly able to provide excellent personalized service, small police departments are not efficient in today's environment. Increased regulation, reporting and training requirements, insurance and employee benefit costs have greatly increased the funds needed to provide police services. Pension obligations illustrate the point; in one small Borough, the ***required*** contribution to its police pension plan jumped from under \$255 in 2005 to \$40,067 in 2006 due to the early disability retirement of a fairly young police officer. This occurred because the small pension plan was unable to absorb such a large hit against future liabilities. A department of a larger size would have been able to absorb the loss much more easily by spreading the liability out over the larger group.

By State law, cities are mandated to pay for and provide police services, and most boroughs find it necessary, as well. Some townships also pay for local police

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departments, but many do not. Many townships do not have the population or financial base to support a police department, and must, therefore, rely on the State Police for basic police services. Because some townships have not provided such services in the past, it becomes impractical for them to do so now, even though the population of the municipality has grown and the character of the township has changed. This creates situations where a city must pay for local police protection, whereas its neighboring township does not. For example, the City of Greensburg, as an incorporated city, must provide and pay for a police department, whereas neighboring Hempfield Township, with a suburban population of more than 42,000 residents, relies on the State Police. The greater cost of providing police services to a suburban community, with tens of thousands of residents, over a rural community, with only a few hundred residents, is borne by all Pennsylvania taxpayers, not just those residents of the benefiting municipality.

In another example, the Borough of Mount Joy in Lancaster County operates a police department, which is supported by the property owners and residents of the Borough. Adjacent to the Borough, in neighboring Penn Township, is a large triangle of land along PA 283 that is being developed for over a thousand residential units, industrial warehouses, manufacturing businesses, and commercial businesses, including a proposed Wal-Mart. Penn Township has no local police department and police services are provided by the State Police. The cost of the increase in services that the State Police will have to provide as a result of this area's development will be paid for by taxpayers of the State, including the residents of the Borough, which are already paying for their police services.

○ *Provision of Water and Sewer Service*

Municipalities and their municipal authorities often work closely together to provide public water and sewer services and other infrastructure related needs. These arrangements are handled in many different ways under agreements and contracts between the creating municipalities and their respective authorities. In many cases neighboring municipalities and their authorities are also included.

For example, Borough X and Township Y wish to cooperate in the provision of water and sewer infrastructure; however, the primary provider is Z municipal authority. Under the Intergovernmental Cooperation Law, municipalities have the power to enter into agreements, but the authorities do not. This is because Municipal Authorities are not defined as a "local governments" for cooperative purposes under the law. This gap in the law makes it difficult for the municipalities and the authority to work together to share the costs of water and sewer provision.

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○ ***Fire Service***

Cities in Pennsylvania operate paid fire departments. Fire protection services in most other municipalities are provided by volunteer fire companies. The decline in fire company and ambulance company volunteers in recent years has left some companies critically short of trained manpower. In addition, because so many residents of suburban communities live in one municipality and work in another, the ability of many volunteers to rapidly respond to an emergency is becoming impaired.

Because of the increasing shortage of available volunteers, some fire companies and ambulance companies are turning to municipal governments and seeking public funding of positions, particularly drivers, and training of employees. If the municipal government does not absorb the additional costs, even though these may not historically have been part of the municipal budget, the resident and property owners of the municipality might be left with inadequate structural fire protection and protection of human life.

Individualized fire service has also created new financial burdens for those municipalities that are required or have elected in the past to fund fire services, particularly regarding costs for equipment and buildings. In 1995, a small Borough in southeastern Pennsylvania was paying approximately \$7,500 per year in debt service for fire equipment and the fire house. Ten years later that number is \$35,000 per year. This increase can be attributed to the purchase of a new aerial apparatus; a piece of equipment that is duplicated in at least three adjacent municipalities located less than five miles away. The Borough has also incurred an *additional* \$10,000 per year in debt service to pay for renovations to the fire house. This has occurred while new fire houses have *also* been built in at least two adjacent communities located less than five miles away.

○ ***Tax Collection***

Many Borough households receive *seven* tax bills in each calendar year – A borough real estate tax bill, a borough per capita bill for each adult living in the household, a County real estate tax bill, a School District real estate tax bill, and a School District per capita bill for each adult living in the household. Such lack of coordination is cumbersome and confusing for taxpayers compared to an integrated system that allows one tax bill to cover all real estate and other taxes for the year, such as the system in effect in Maryland.

The Governance Committee recommends three solutions to “right-size” service delivery in Pennsylvania: 1) change the scope and improve the clarity of the Pennsylvania Intergovernmental Cooperation Law; 2) establish of a Regional Police Services Act; and 3) amend the Pennsylvania County Code.

- **Recommendation** - Change the scope and improve the clarity of the Pennsylvania Intergovernmental Cooperation Law

The PA Intergovernmental Cooperation Law enables Article IX, Section 5, of the PA Constitution, which allows municipalities to cooperate with one another in any action or service that local government has the power to undertake alone. The Intergovernmental Cooperation Law gives far-reaching authority, stating that “two or more local governments may jointly cooperate in the exercise of or in the performance of their respective governmental functions, powers or responsibilities.” It further states that a “local government may enter into intergovernmental cooperation with or delegate any functions, powers, or responsibilities to another governmental unit or local government upon the passage of an ordinance by its governing body.” For the purpose of this Act, “local governments” are defined as “. . . a county, city of the second class, second class A and third class, borough, incorporated town, township, school district or any other similar general purpose unit of government which shall hereafter be created by the General Assembly.”

Under this broad language, intergovernmental cooperation has grown common in Pennsylvania, organized most often by joint or multi-municipal service provision, provider-purchaser relationships between municipalities, or service provision through a council of governments (COG). There are two formal methods of intergovernmental cooperation authorized under the current PA Law. These are intergovernmental cooperation agreements adopted by ordinance by participating municipalities and councils of governments that are entered into to jointly address some aspect(s) of local governance. In addition, there are many informal “handshake agreements” in effect throughout the Commonwealth. Handshake agreements include unwritten working arrangements between local governments, and any written agreements not formally adopted.

Nevertheless, there are gaps in the law that frustrate local officials and stifle intergovernmental cooperation efforts. First, the law does not explicitly declare municipal authorities eligible to enter into cooperative agreements with municipalities. Legal uncertainty therefore clouds efforts to link authorities into cooperative ventures. Second, the law lacks procedures by which to reconcile conflicts among the governing codes of cooperating municipalities. Conflicts or confusion often arise among participating municipalities regarding which municipality’s particular code or home rule charter, with its particular array of “mays” and “shalls,” applies to the intergovernmental agreement. This confusion severely hampers cooperative ventures.

To address these issues, the Committee recommends that the Pennsylvania Intergovernmental Cooperation Law be amended to enable additional cooperative ventures to:

- *Enable municipal authorities to be brought into cooperative agreements with local governments.*
- *Reconcile conflicts among the governing codes of cooperating municipalities so as to clarify what provisions apply to new intergovernmental ventures.*

- **Recommendation** - Establish of a Regional Police Services Act

Police service is often appropriate for regionalization, but merging different municipal codes, collective bargaining agreements, and pension plans can be daunting for even the most committed local government officials. In addition, civil service issues of staffing and seniority, startup funds for a centrally-located police station, new uniforms, and other equipment are significant impediments to the regionalization of police forces, and more than one proposal has been stymied by the long list of impediments. In fact, despite almost 30 years of effort and hundreds of studies, Pennsylvania has only 32 regional police departments, while hundreds of local departments remain, some with a few as two officers.

Unfortunately, the Intergovernmental Cooperation Law leaves unresolved important questions regarding the multi-municipal provision of police services. Many of these questions pertain to contentious issues such as the new regional department's organizational structure, its powers and duties, budgeting and financing procedures, the ownership of assets, and collective bargaining. A new law could resolve the many problems faced by departments that wish to merge services.

The Local Government Center of the Department of Community and Economic Development has already completed a number of policing studies in different parts of the Commonwealth and has identified these impediments. Therefore, the committee recommends that in 2006 the State Planning Board facilitate investigation by key stakeholders of creating a Regional Police Services Act to:

- *Provide a clearer path under Pennsylvania law for creating regional police agencies.*
- *Fund initial start-up costs for regional police agencies.*

- **Recommendation** - Amend the Pennsylvania County Code

Counties appear well suited to provide some services that are traditionally provided by local municipalities, including but not limited to fire service and tax collection. There are two reasons to enable counties to work jointly with municipal governments for the provision of services. First, counties are of an adequate size to address problems

affecting adjoining municipalities on a regional level. Second, by partnering with municipal governments, counties can help local governments achieve an economy of scale for the provision of services that is lost when individual municipalities undertake these efforts alone.

Unfortunately, this type of cooperation is hampered because county governments cannot accept responsibility for many services when requested by municipal governments. The County Code permits counties to assume responsibility only for health and human services, county courts and corrections, elections, record keeping, emergency management, and real estate valuation. Only Allegheny County, for instance is authorized to provide police services or even to contract for such services. In most counties, detectives have to be employed in the district attorney's offices since the county sheriffs have no law enforcement authority. Legislation is needed to enable counties to take on some or all of the traditional municipal services historically provided by cities, boroughs, and townships, in partnership with these governments and provide a mechanism with which to finance them. Counties should be able to provide municipal services through a menu of options available to local governments.

- *Direct Purchase of Service:* Local municipalities could directly contract with the county for specific services. The local municipality would pay the cost of the service from appropriate funding sources, which would include local general fund tax dollars or specific user fees available to the municipality.
- *Delegation of Authority with Shared Tax Base:* The local municipality and county could establish an intergovernmental agreement for the transfer of specific service responsibility to the county. In the event this service is not self-financing through user fees, the local municipality could share with the county a portion of its real estate, income, or other tax base to support the cost of providing the agreed service(s).
- *Service Districts:* The local municipality and county could establish an intergovernmental agreement for the complete transfer of specific service responsibility to the county. The county would create a special service district, and the county would directly charge or tax the beneficiaries of the service.

Therefore, the Committee recommends that the County Code be amended to:

- *Provide clear legal authority for all counties to take on traditional local services in partnership with boroughs, cities and townships.*
- *Permit boroughs, cities and townships to purchase particular municipal services from counties.*

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- *Authorize boroughs, cities and townships to permit counties to establish special service districts and taxing authority, with citizen representation, in their area to provide municipal services in designated areas agreed to by the local municipalities.*
  
  - **Issues & Questions for Further Study based on Review Comments from Municipal Associations**
    - “While the report is an excellent first step and the measures suggested supported,” it may not go far enough to address fragmentation issues that prevent core communities from "building and enhancing the values of community while offering quality local governance". Inadequate tax base to provide quality services is the fundamental issue for core communities. What further measures can be employed to level the playing field among municipalities, specifically an equitable regional approach to providing police, fire and other services in all municipalities?
  
    - What services could be shared on a regional basis such as mass transit, water and sewer services, roads and bridges, recreation and conservation and public safety?
  
    - Counties or even regional associations of counties could be the proper level of government at which to consolidate many activities including police, fire, emergency services, school districts, tax collection, trash collection, etc. to achieve economies of scale. The Board should investigate whether empowering counties to perform these services would be more direct and cost-effective than creating many different regional entities for particular services.
  
    - Just because counties exist as more regional entities does not mean they should necessarily be "the basis for the reforms contemplated by the report". While reduction in the number of municipalities may be appropriate, there is "historic value, economic advantage, and service benefits in maintaining strong vibrant cities and larger core communities" as "beacons of economic vitality". What are the possible mechanisms for accomplishing these goals using existing urban centers as their core and extending the provisions of services on an equitable basis in such regions?
  
    - Detailed planning and study is needed as to the fiscal impacts of moving toward regional provision of services. Questions include: Determining whether such services should be provided at the county level or a regional level? (The recommendations suggest both could be options.) What is the experience with regional police departments with regard to success? Should the state require municipalities without police services to pay for coverage for the state police?

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- Investigation of the report produced under SR 60 on Fire and Emergency Services, which has already prompted meaningful legislation, should be done as input from these services is vital to any regionalization or consolidation of service.
  - Should the Intergovernmental Cooperation Law be expanded to include authorities, which would put them on a par with municipal government? This could lead to a greater proliferation of authorities, and undermining of municipal authority.
  - Given that intergovernmental cooperation already takes place through Councils of Governments, the Committee should investigate designating more resources to existing shared municipal service programs, which would allow them to expand, rather than placing emphasis on the reconciliation of municipal codes and cooperation under the Intergovernmental Cooperation Law.
  - Consider tax collection at the state level.
  - In considering right sizing of services, evaluate whether a larger organization with greater overhead can deliver services as effectively as a smaller one.

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**Issue 2 – Consistency of Planning and Implementation**

The Municipalities Planning Code requires counties and enables other municipalities to prepare and adopt comprehensive plans for the sound development of communities. The Code, however, contains a single sentence that largely negates the effectiveness of comprehensive planning in communities' ability to plan for the future. Section 303(c) states:

“Notwithstanding any other provision of this act, no action by a governing body of a municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent with, or fails to comply with, the provision of the comprehensive plan.”

Section 303 (c) of the MPC dramatically reduces the importance of comprehensive planning in Pennsylvania because it renders comprehensive plans legally powerless and prevents their appropriate use as the rationale for zoning, subdivision, and other land use ordinances and decisions. While planning in most states is advisory and not law, other states do not include this disconnect between planning and zoning in their law.

The comprehensive plan is intended to represent the community's vision and articulated overall plan for the development of their region to accommodate growth and conserve valuable resources. Many excellent plans have been developed by counties and local governments in Pennsylvania, but because of this provision such plans can be ignored or contravened with impunity, and are therefore regarded by some as a waste of time and money. In addition, there is no recourse for private property owners, citizens, or even local officials to object to a decision based on the fact that it is inconsistent with the comprehensive plan.

Section 303 (c) was originally included in the MPC to limit frivolous lawsuits challenging municipal zoning decisions for particular developments. However, it has been misapplied and misinterpreted to mean that courts and hearing boards cannot consider the comprehensive plan in any zoning matter. Other provisions of the MPC now require general consistency between county and local plans and between plans and ordinances, but section 303 (c) undercuts those requirements.

- **Examples**

A township in Lancaster County was confronted with a proposal to amend its zoning ordinance in such a way that was inconsistent with both the municipal and the county comprehensive plans. During the hearings, municipal officials were not allowed to consult or rely upon the plans as a basis for their decisions. Despite the recommendations of the County Planning Commission and the municipality's own planning commission, the governing body rezoned the land, which was class 1 prime farmland located outside of a designated growth boundary, from Agricultural to Commercial. Because of Section

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303(c), this change in zoning was enacted without any consideration of the plan for the township as a whole.

Likewise, a township in Berks county recently disregarded the County's comprehensive plan in rezoning critical resource land for development because, despite the fact that the General Assembly has mandated that counties prepare and adopt comprehensive plans and the requirements in the MPC that plans and ordinances be generally consistent, Section 303(c) overrides every other provision of the enabling law.

- **Discussion**

Under the MPC, an individual, multi-municipal, or county comprehensive plan must contain elements that plan for all the needs of a municipality or a region of municipalities including existing and future housing, commercial, industrial, and institutional uses; necessary infrastructure and community facilities; tax base to meet community needs; and conservation of prime farmland and historic and natural resources.

The MPC makes clear that the purpose of a comprehensive plan is to guide decisions about zoning and development. The MPC assumes that the plan will be considered whenever a municipal governing body adopts or amends a zoning ordinance. Unfortunately, municipal officials are often advised that they cannot base their decision on a comprehensive plan because section 303(c) negates the use of comprehensive plans as a legal justification. Plans are advisory; they are not regulatory. However, comprehensive plans demonstrate the knowledge and intent behind the zoning ordinance, and they should not be ignored.

The elected governing body of a municipality must have the ability to amend its comprehensive plan and zoning ordinance as the need may arise. Property owners must also have the right to petition their elected officials for a change in the zoning regulations that affect their property, and the governing body, after review by the municipal or regional planning commission, must have the express authority to amend the plan and zoning, as currently provided in the MPC. In such cases, however, a process needs to exist to allow a reasonable time for making the municipal comprehensive plan or multi-municipal plan consistent with the requirements of law and generally consistent with the county comprehensive plan.

- **Recommendation** - Amend section 303(c) to provide protection from challenges brought against developments that have been approved under existing, duly adopted ordinances, while still giving meaning to comprehensive plans.
  - Add a provision that any challenge to the consistency of a zoning ordinance or decision with a comprehensive plan and with the consistency of a multimunicipal or county comprehensive plan shall be limited to mandamus and that such

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challenge can only be brought after a reasonable time is allowed to make the plans consistent.

- Cross reference section 303 with section 603 (j) and (k) to make explicit that zoning ordinances and comprehensive plans may be amended at any time and that such amendments can be done concurrently. (It should take no more time to pass a motion to amend the plan than it does to pass a motion to amend the ordinance.)
  
  - Provide explicit language that property owners may rely upon the regulation in effect at the time that they make an application.
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- **Issues & Questions for Further Study based on Review Comments from Municipal Associations**
    - All of the municipal associations are in favor of comprehensive plans having a stronger legal significance; however there are differences on the issue of how much stronger, ranging from the belief that there should be general consistency among the county and local comprehensive plans and ordinances to the view that there needs to be flexibility to change the plan and ordinance if economic needs dictate.
  
    - Counties are mandated to develop comprehensive plans, but they are advisory and counties have no power to assure that development and local plans and ordinances are consistent with the plan. These plans cost hundreds of thousands of dollars and sit on the shelf. Can the County Code and the MPC be strengthened to require that counties and local governments work together and reduce redundancy of effort in planning and economic development?

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### Issue 3 – Tax Base and Revenue Sharing

The cost of providing government services increases over time. If taxing bodies cannot attract sufficient new development to generate revenue that will offset the increasing cost of services, then tax rates will increase, and those municipalities with tax rates higher than others in their region are less desirable places for investment. Likewise, the cost of development often impacts facilities and services in multiple municipalities and school districts, but there is no clear means to use the new tax revenue to offset the increased costs of providing services to the new development or to increase the tax base of all affected taxing jurisdictions. Although the Municipalities Planning Code provides for tax revenue sharing, there is no procedure or guidance to municipalities on ways to implement this authority. In addition, there is no authority in Pennsylvania law enabling municipalities and school districts to share their tax *base*.

There are two basic approaches to sharing the benefits and burdens of development:

#### **Tax Revenue Sharing**

It is not uncommon that a major development is located in one municipality but will involve and/or have impacts in neighboring municipalities. The host municipality will benefit from the new development's real estate tax revenue while the neighboring municipalities, even if they contribute to the development's success by providing services that benefit the development or they must contend with the burden of resulting traffic problems, will receive no real estate tax revenue from the development. In a deal making scenario, neighboring municipalities would be rewarded with a tax share for their contributions to a project's success or for their efforts to mitigate project impacts.

- **Examples**

- ***Tax Share***

A Pennsylvania example of this scenario is the Waterfront development near Pittsburgh. The development is located mostly in one municipality, Homestead, but small parts are also in West Homestead and Munhall. To make the deal, West Homestead and Munhall, in addition to Homestead, had to approve tax increment financing and adopt uniform zoning regulations as well as deal with development impacts. West Homestead and Munhall were rewarded with a tax share.

- ***Regional Growth Fund***

The Wolf Creek/ Slippery Rock Creek COG (Grove City Borough and Liberty, Pine, Springfield, and Wolf Creek Townships) recently completed and are in the process of adopting a multi-municipal comprehensive plan. The plan identifies several growth initiatives for the region: revitalization of Grove City's downtown, new commercial/industrial development at the I-79/PA 208 interchange, new residential growth, and regional infrastructure improvements to support these initiatives. The plan also identified a tax share opportunity through the creation of

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a regional growth fund. An agreed portion of tax revenues from new developments of regional impact (as defined by the MPC and for which thresholds are set in the plan) would be placed in the fund. The share portion would be revenues in excess of those needed for basic public services. The fund would be used to pay for regional growth initiatives of the type mentioned previously. It would be managed by a regional growth committee within the COG with representatives from all five municipalities.

## **Tax Base Sharing**

We all recognize that significant fiscal disparities exist among municipalities in Pennsylvania. Some of our boroughs and cities are struggling to provide their residents with basic services and to maintain aging infrastructure. In other places, new development has increased tax bases in areas that, until recently have not had to contend with the problems brought about by rapid growth. However, when a business locates in a region, it is taxed by only one of the municipalities. Although the business is dependent upon employees who reside in other municipalities and services that are generated by many jurisdictions, it contributes revenue, in the form of property tax, only to the municipality and the school district in which its business is physically located. This has implications for the business and the affected municipalities since its workforce is educated by multiple districts and the availability of workforce housing is determined by multiple jurisdictions.

- **Examples**

- The Minneapolis, MN metropolitan area recognized that for the region to best advance economically, all municipalities in the region need to be healthy and vital. There should be no “weak links” that detract from the region’s perceived attractiveness for business and residential investment. The region employs a tax sharing program to ensure all local governments have the fiscal capacity to solve problems and enhance their well-being. Forty percent of the increased tax base from new commercial-industrial development is placed in a regional pool and distributed back to local governments to reduce disparities between richer and poorer communities, i.e. poorer local governments receive proportionally higher shares.
- In Pennsylvania, a metropolitan region is usually composed of many municipalities and several school districts. Development within this region may vary substantially. Some municipalities will be established communities with very little new development. Other municipalities will be rapidly-growing suburbs. Community leaders in York County have been discussing the desirability of finding a way to share the tax base of the region among the school districts that serve the region. As the region grows and new investment occurs, it would benefit everyone in the region and those municipalities and school districts that provide services necessary to the new business would share in the increased

revenue. If all of the school districts that educate the work force in the York region had additional resources to improve the training of new workers, it would benefit all businesses and residents and make the York region competitive for new economic growth.

- **Discussion**

Section 619.2 (2) (C) of the PA Municipalities Planning Code (MPC) (Act 805 of 1998) states that when municipalities adopt a joint municipal zoning ordinance, they “may, by agreement, share tax revenues and fees remitted to municipalities located within the joint municipal zone.” In addition, the MPC in Section 1105 (B)(1) affirms that participating municipalities that have entered into implementation agreements to carry out a county or multi-municipal comprehensive plan shall have the power to share “tax revenues” and fees within the region of the plan.

- ***Tax Revenue Sharing***

Tax revenue sharing involves sharing real estate tax revenue from new development in one municipality with other municipalities that have entered into a tax share agreement. The following is a hypothetical example of how such tax revenue sharing could work.

Tax share agreement has 3 municipalities: Smithtown Borough, West Township, and East Township. Current real estate tax millages: Smithtown 25 mills, West Township 10 mills, East Township 5 mills. The agreement specifies the following shares from new development in agreed target areas: Smithtown 40%, West Twp. 40%, and East Twp. 20%. New development occurs in an agreed tax sharing target area in West Township. The development has an assessed valuation of \$10,000,000. With tax revenue sharing, the development would generate \$100,000 of annual real estate tax revenue in West Township. That \$100,000 would be placed in the tax share account and be distributed as follows: Smithtown 40% \$40,000, West Twp. 40% \$40,000, East Township. 20% \$20,000.

- ***Tax Base Sharing***

While tax revenue sharing is useful, tax base sharing would provide more opportunities for struggling municipalities to share in the growth and increasing property values in their regions. Tax base sharing would share real estate assessed valuation from development in one municipality with all municipalities participating in a tax share agreement. Each municipality taxes its share of the base at its own tax rate. For example, using the same scenario referenced above, under a tax base sharing model, the development’s assessed valuation of \$10,000,000 is shared with participating municipalities as follows: Smithtown 40% \$4,000,000, West Twp. 40% \$4,000,000, East Twp. 20% \$2,000,000. Each municipality then applies its own millage and collects the following taxes:

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Smithtown \$100,000 (\$4,000,000 at 25 mills), West Twp. \$40,000 (\$4,000,000 at 10 mills), East Twp. \$10,000 (\$2,000,000 at 5 mills).

In many Pennsylvania regions, the convergence of local property values, municipal services, and tax rates contributes to economic polarization and sprawl. For many communities, tax base sharing has the prospect to counter this trend and promote equity in service provision, a reduced fiscal incentive for sprawl, and decreased competition for tax base.

- ***Tax share authority***

Tax revenue sharing is clearly authorized by the PA Municipalities Planning Code for municipalities participating in a multi-municipal comprehensive plan and implementing the plan via a cooperative agreement. Also, some believe authority is also implied (though not expressly authorized) by the PA Intergovernmental Cooperation Law. The Waterfront development tax share agreement was prepared under such implied authority. Unfortunately, no Pennsylvania statute authorizes a locality's general authority to share tax *base* across a multi-municipal or multi-jurisdictional area. Further its provision under the uniform taxation clause in the Pennsylvania Constitution is unclear. The ability to share tax bases and revenues would provide local governments one of the best tools with which to undertake regional endeavors. Enabling legislation should more fully define tax revenue sharing and provide additional authority to enable tax base sharing among municipalities for both general and project-specific multi-municipal partnerships.

- **Recommendation** - During 2006 the State Planning Board should convene a series of meetings throughout the various regions of the State to consider, along with recommendations for economic development, the concept of tax revenue sharing and additional authority for tax base sharing. The format of the meetings should enable the participants to help the State Planning Board frame recommendations to the Governor and General Assembly that would:
  - Identify the means to carry out both tax revenue and tax base sharing in different areas of the Commonwealth and provide specific procedures and definitions for each.
  - Identify the type(s) of tax that could be shared, how base years would be established and adjusted, how expenses would be related to regional contributions, and how jurisdictions could be fiscally protected.
  - Define the types of development that could comprise a shared base and how the value of that development would be determined.

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- Establish contribution and distribution formulas to be used in an intergovernmental cooperation agreement and the permissible use and beneficiaries of the shared revenues
  - Provide for collection, distribution and general fiduciary responsibility for the funds.
  - Clarify the meaning of the uniform taxation clause in the Pennsylvania Constitution.
  - Identify a broader menu of taxing options for generating local government and school revenues that could be enacted by the General Assembly as a reform to the current limited authorizations in the municipal and county codes.
- **Issues & Questions for Further Study based on Review Comments from Municipal Associations**
    - Again, inadequate tax base is the fundamental issue for core communities. While tax base and tax revenue sharing could be an excellent voluntary regional solution if there were enabling legislation to provide the guiding mechanism for municipalities that want to use it, working this out by agreement is problematic, time consuming and unlikely to happen.
    - Fundamental inequities of the state's antiquated financial systems must be dealt with. Specific possibilities to be investigated should include a local option, county sales tax that could provide a broader base to fund services "provided locally to the region;" foreign fire/casualty taxes distributed to core communities with the oldest municipal pension systems; reworking per mile formula for liquid fuels tax to support urban centers with less miles but more lane miles and congestion; and a payment in lieu of taxes program (PILOT) for formula funding to urban centers with large amounts of tax exempt property.
    - If tax base sharing is to work, school districts must be included in the planning and implementation process. The Committee should investigate whether county or regional school districts are needed in order for tax base sharing to work.
    - The Regional Asset District in Allegheny County is the state's only true example of tax base sharing in Pennsylvania. Under that system, enacted by the state legislature, a percentage of the sales tax is shared using a distribution formula among cultural, sports and other regional assets as well as those municipalities impacted by the development. Using the RAD as a model, could the state develop

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a program for other counties to use if they chose?

- Tax base & tax revenue sharing require close examination and careful study as these issues are very complex.
- What are the actual costs (police, fire, road maintenance) that local governments incur as the result of development in neighboring communities, and how do these costs affect their ability to serve their communities?
- What are the most efficient/appropriate mechanisms to enable neighboring communities that bear the costs of new development to share the benefits of that development? How can the model of tax increment financing be adopted to solve this problem?
- What sections of the state revenue code would need to be amended to enable localities to share increases in revenue as a result of new development? How would these changes relate to possible amendments of the MPC?

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**Issue 4 – Barriers to Boundary Changes**

The Pennsylvania Constitution requires that legal provisions be made that would allow municipalities to be established, dissolved, merged, or consolidated. However, the laws governing mergers and consolidations are unclear and cumbersome, and they do not provide sufficient guidance to integrate or create new municipalities from the existing ones. In addition, there is no legal means by which to disincorporate municipalities in Pennsylvania.

- **Example**

The consolidation vote to join the municipalities of Farrell, Hermitage, Sharon, Sharpsville and Wheatland in Mercer County revealed significant problems in the merger and consolidation process. Others surfaced in the initiative considering the consolidation of the municipalities of Daisytown, Franklin, East Conemaugh Township, and East Taylor in Cambria County. In both cases, the principal difficulty was that some of the governments were unwilling to use the joint agreement to craft a new home rule charter prior to the vote. This gap in the process leaves voters little option but to defeat the question because they have no knowledge of the form of the future government.

Strong technical assistance for municipal mergers and consolidations is available through the Governor's Center for Local Government Services. However, financial assistance and incentives are severely lacking and do not come close to meeting the needs of the municipal governments. Significant technical assistance was rendered by the Governor's Center in the merger of Muhlenberg Township and Temple Borough, but the disparity between the two municipalities' financial resources made the merger process difficult. Significant technical assistance was also provided in the consolidation of Barnesboro and Spangler Boroughs, now Northern Cambria Borough; however, the lack of funding for Borough administration and a new governmental building or land acquisition that would integrate all local government services such as police, fire and public works made this consolidation very difficult.

- **Discussion**

The Pennsylvania Constitution provides for municipal mergers and consolidations in Article IX. Section 6 says that "the General Assembly shall provide for the establishment and dissolution of government of areas involving two or more municipalities or parts thereof." Section 8 states that "the electors of any municipality shall have the right, by initiative and referendum, to consolidate, merge or change boundaries by a majority vote of those voting thereon in each municipality, without the approval of any governing body." Beyond this language, the Constitution does not provide guidance for the many questions that arise when voters consider mergers or consolidations.

To help address this issue, the General Assembly enacted the Municipal Consolidation or Merger Act, Act 90 of 1994. This law states that two or more adjacent municipalities

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may combine to form a single municipality. A merger or consolidation may be initiated by either a voter initiative or a joint agreement of the municipalities' governing bodies approved by ordinance. In either case, the new municipality may be governed by an already existing home rule charter or municipal code used in one of the merging municipalities. There is no provision, however, for two or more municipalities to disincorporate and reincorporate as a different type of municipal government, even though the combination of several small municipalities would create a much larger corporate entity. Under the existing law, municipalities only have the option of merging if one or more of the municipal governments dissolve and become part of another existing municipality, or by consolidating, in which two or more municipalities form a new municipality of the same type that previously existed.

In 2003, the Merger or Consolidation Act was amended to enable citizens to conduct a referendum to form a joint Government Study Commission to study merging their municipalities. If after studying the issue, the Commission recommends consolidation, it would craft a new home rule charter to be used in the new, proposed municipality, and the question of merger or consolidation would automatically go on the ballot in the effected municipalities. While this change addresses some of the difficulties previously associated with mergers and consolidations, it only partially solves the problem because it still leaves in place a cumbersome, multi-step approach. More direct routes are needed for rational voter consideration.

Finally, there are some municipalities which are struggling or simply unable to provide even the most basic services. They may also have difficulty finding adequate numbers of persons to serve on their legislative bodies, boards and commissions. In these cases, the governments are neither close to the people nor are they responsive to community needs. As stated above, Article IX, Section 6 of the State's Constitution provides for the establishment and dissolution of government. Despite this clear directive, the Legislature has not addressed this issue. Consequently, struggling municipalities cannot dissolve and are required to continue providing services regardless of their ability to reasonably do so.

- **Recommendation** – County and municipal codes should be amended to establish clear procedures to permit municipal disincorporations as an intermediate step to merger or consolidation.

New language in the municipal codes should:

- Set guidelines suggesting disincorporation for municipalities falling below designated standards of fiscal health or service provision.
- Allow disincorporation via an approved referendum in the specified municipality, initiated either by municipal ordinance or citizen petition.

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- Allow, upon voter approval, for the specified municipality to become an unincorporated area served by the county government. Such dissolution into the county will require changes in county service authority and taxation. In particular, counties must be provided taxing authority to provide traditional municipal services and the authority to establish special districts for the provision of services in unincorporated areas.
  - Provide counties the authority to contract with existing municipal authorities, fire departments, or neighboring municipalities for the provision of services in unincorporated areas. Counties should also be given the authority to directly provide police protection, public works, parks, and other services.
  - Provide for a county special district mechanism to hold the prior debt of the former municipality and incur new debt. In no case should such debt become part of the county's general debt.
  - Establish a mechanism to provide citizens of the unincorporated area with special representation before county government, perhaps through an advisory appointed or elected board or commission.
  - Provide for the eventual merger or consolidation of the unincorporated land area into a contiguous municipality.
- **Recommendation** – The Municipal Consolidation or Merger Act should be amended to remove barriers to merger or consolidation where municipalities have voluntarily agreed to pursue such an initiative.

Specific amendments to the Act should:

- Allow a citizen-initiated petition for consolidation to directly include a proposed home rule charter as part of the vote.
- Permit the mixing of governmental joint agreements in some of the governmental areas and citizen initiatives in others when authorizing combinations. The language change for this would be made in 53 Pa.C.S.A. § 733, Procedure for Consolidation or Merger. It could be amended to read:

*One or more of the municipalities proposed to be consolidated or merged may use a joint agreement and one or more of the municipalities proposed to be*

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*consolidated or merged may use initiative of electors. In such case, the initiative of electors' petition shall be consistent with the municipal joint agreement.*

- More expressly define the legal procedures, processes, and time frames by which newly consolidated municipalities are to be certified and recognized as municipal corporations by the Commonwealth.
  - Permit consolidation to take place among the approving municipalities included in a vote, even if one or more of the participating jurisdictions disapproves the combination. In this way, disapproval in one municipality would not necessarily defeat consolidation for all the others at the same election. The petition or ordinance that establishes the ballot question for consolidation would need to specify the allowable combinations. Those jurisdictions that do not approve the vote would not be included in the consolidation.
  - Expressly authorize that a transition planning committee be created through the vote to assist with the joint agreement process. This committee would be developed through procedures enumerated in the law, municipal joint agreement, or citizen petitions, and would be empowered to assist officials in the existing and new governments to undertake operational planning and process recommendations to combine services, ordinances, assets and budgets under approved consolidations.
  - Better address how election schedules and terms for officers are to be established for a consolidated municipality.
  - Require that financial resources be made available by the Commonwealth to support multi-municipal study processes considering consolidation, home rule charters, and so on; and for assistance in the transition processes for new consolidations, the elimination of prior debt; and infrastructure improvements in consolidating and merging municipalities.
  - Fix the definition problem created in the law by HB 77 of 2003 by defining third to eighth class counties as municipalities for purposes of multi-municipal government study.
- **Issues & Questions for Further Study based on Review Comments from Municipal Associations**

During the remainder of 2006, the State Planning Board will initiate an outreach program to involve key stakeholders and interest groups in public discussion of these

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recommendations. During this time the Board will work with key legislators and legislative committees to craft language that can be used as the basis of new legislation.

As part of the outreach effort the State Planning Board will also study and discuss:

- What time frame would be both an effective “disincorporation period” to allow for the restructuring of a local government AND to ensure that the area returns to incorporated, municipal status, whether by merger or reincorporation. How do we develop an effective mechanism for use by counties to facilitate the area’s transition back into reincorporated status?
- What new authorities might counties need in order to support and manage temporarily disincorporated areas?
- What new authority is needed by counties to hold the debt of any disincorporated municipality separate from the general debt obligations of the county and what new taxing authority is needed by counties to assess taxes exclusively within an unincorporated area of the county to pay that debt and to provide services until the unincorporated area is reincorporated or annexed into adjacent municipalities?
- What are appropriate fiscal and population thresholds for continuation of an independent municipality? If an existing municipality falls below these thresholds how would the process of disincorporation be initiated? What would be the role of county government and state government in such circumstances?
- What tools are necessary to enable depopulating or fiscally distressed municipalities to *assess their options* to address these problems? How do we use *existing mechanisms* such as Act 47 to help these municipalities maintain their viability or transition to another incorporated status that will restore their capacity for governance and provide municipal services to the area?
- What administrative and financial assistance will the State need to provide in a disincorporation and reincorporation process?
- What changes to the existing municipal codes would facilitate easier mergers and/or consolidations under the current version of the Merger and Consolidation Law?

# Transportation & Infrastructure Committee Report

## Members

Representative Dave Steil, Chair

Senator Dominic Pileggi

Ellen Ferretti

Barb Sexton for Secretary Kathleen McGinty

Larry Williamson for Secretary Michael DiBerardinis

Danielle Spila

Secretary Allen Biehler

Denny Puko - Staff

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The importance of transportation and infrastructure to the vitality – whether economic competitiveness or quality of life – of the Commonwealth and its communities cannot be overstated.

- The Commonwealth should facilitate planning for the development, replacement, and maintenance of transportation and infrastructure to best support community and economic vitality, quality of life, and sound land use policies, and to be consistent at local, county, and state levels.

**Issue 1 – There is need for a common infrastructure definition.**

Infrastructure, typically including transportation, is perceived by different levels of government and different agencies as having different meaning or priority. Many think narrowly of water, sewer, and roads and fail to consider telecommunications so integral to today's information-driven society and natural systems that provide economic and quality of life resources. Agencies tend to focus on particular regulatory, operational, or funding responsibilities.

A common definition will serve two purposes: 1) to encourage state agencies and local governments to speak the same language regarding infrastructure; and 2) to provide uniform guidance for how state agencies consider and rely upon local comprehensive plans as per PA MPC Sections 619.2 and 1105(a)(2) & (3).

- **Recommendation** – Below is a definition that is thorough and inclusive of all elements of infrastructure that should be considered for planning purposes:

Infrastructure – Essential services and related structures, systems, networks, developed facilities, or devices, both immovable and movable, either publicly or privately owned, operated, and maintained, that are provided or available to or for the benefit of all or parts of the general public, which may include wastewater collection and treatment; potable water supply, treatment, and distribution; transportation of people and goods via road, rail, air, water, mass transit, bicycle, or on-foot; stormwater management systems and facilities; fire, police, emergency, and medical services; schools; networks and facilities for the delivery of energy and telecommunications; parks and recreation; greenways; and natural and water resource systems.

- **Recommendation** – The recommended definition should be considered for uniform use by state agencies. This can be implemented via the Interagency Land Use Team, a collaboration of 10 state agencies that coordinates state agency involvement in and response to local comprehensive planning.

- **Recommendation** – The recommended definition should be incorporated into the Pennsylvania Municipalities Planning Code (MPC), the state law that authorizes and sets requirements for comprehensive planning. Occasionally there are amendments proposed to the MPC and an appropriate opportunity may be found to address the infrastructure definition. It will be necessary to make other minor text amendments to the MPC to ensure compatibility of the new definition with existing provisions. The State Planning Board is prepared to provide an enumeration of such minor amendments.

**Issue 2 – Local comprehensive plans need to be effective at infrastructure planning.**

Local comprehensive plans are required by the MPC to contain plans for community facilities, transportation, and natural resources. However, not all elements of infrastructure suggested by the previously recommended definition are required to be addressed in those three component plans. And, finished plans vary in the degree to which they are effective at strategically determining infrastructure capital investments, ensuring maximum economic and community impact from those investments, and coordinating planning for different elements of infrastructure.

- **Recommendation** – The PA MPC should be amended to better suggest what subject matter should be addressed in a well-prepared comprehensive plan. Below are sections of the MPC dealing with infrastructure with suggested revisions shown in *italics*:

Section 301(a)(3) – A plan for movement of people and goods, which may include expressways, highways, local street systems, parking facilities, pedestrian and bikeway systems, *trails*, public transit routes, terminals, airfields, port facilities, railroad facilities, and other similar facilities or uses.

Section 301(a) (4) – A plan for community facilities and utilities, which may include public and private education, recreation, municipal buildings, fire and police stations, libraries, hospitals, water supply and distribution, sewerage and wastewater treatment, solid waste management, storm drainage, and flood plain management, utility corridors and associated facilities, *networks and facilities for the delivery of energy and telecommunications*, and other similar facilities or uses.

Section 301(a) (6) – A plan for the protection of natural and historic resources to the extent not preempted by federal or state law. This clause includes, but is not limited to, wetlands and aquifer recharge zones, woodlands, steep slopes, prime agricultural land, flood plains, *and unique natural areas, so as to provide green and blue infrastructure, a natural life support system including a planned and managed network of wilderness, parks, greenways, conservation easements, and working lands with conservation value that supports native species, maintains natural ecological processes, sustains air and water resources, and contributes to the health and quality of life for communities and people*; and historic sites. The plan shall be consistent with and may not exceed those

requirements imposed under the following: [the provision continues and identifies nine specific state acts].

Additionally, the MPC should prescribe coordination of planning for the various infrastructure elements. Currently it prescribes only “a statement of the interrelationships among the various plan components.” Coordination would be enhanced if the MPC prescribed, instead of three different component plans related to infrastructure, a single “plan for infrastructure” that would consist of the three parts now separately enumerated.

- **Recommendation** – State agencies should publish Good Planning Guidelines that go beyond minimum MPC requirements to describe how best to prepare a local comprehensive plan so it is most effective for capital investment decisions, ensuring maximum impact from investments, and coordinating transportation, infrastructure, and development. The Governor’s Center for Local Government Services in the Department of Community and Economic Development, with involvement of the Interagency Land Use Team, is the logical agency to spearhead development of the guidelines. Agencies should also provide the necessary education and technical assistance to promote use of good planning guidelines.

**Issue 3** – There is need for additional incentives to encourage multi-municipal, county, and regional planning of infrastructure & transportation.

Major amendments to the MPC in the year 2000 gave renewed authorization for multi-municipal planning. As a result, municipalities that engage in multi-municipal comprehensive planning are afforded incentives including priority consideration in state funding and permit decisions, zoning flexibility, intermunicipal tax sharing and transfer of development rights, and specific plans. And, while many municipalities have since initiated or completed multi-municipal plans, they have not routinely proceeded to enact agreements to implement the plans and fully utilize the special planning tools.

Additional incentives are needed to realize the needed effective planning and partnerships, and to 1) plan for transportation and infrastructure as systems rather than municipality by municipality; 2) coordinate infrastructure and development planning; 3) help local infrastructure decisions strategically support regional economic competitiveness; and 4) build a team approach to launch plans to implementation.

- **Recommendation** – The state should create an incentive-based program using existing resources to spark effective, results-oriented, coordinated and cooperative planning at a multi-municipal and/or regional scale. Below is an outline for such a program:
  - Establish an “integrated” program of funding from existing planning programs in various state agencies. It may not be possible to “pool” funds because of statutory limits of some programs, but more coordinated application processes could be

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considered. There may also be a possibility to partner with private funding sources.

- Funding would be used to support and encourage community planning efforts that address specific criteria:
  - Multi-municipal or regional scope
  - Integration of infrastructure, transportation, and other functional plans
  - Focused and strategic effort
  - Outcomes oriented – Effort facilitates and leads directly to implementation actions
  - Attention to “good planning guidelines”
  - Creation of public/private partnerships for team approach to planning and implementation
- County planning agencies would be core to the management structure.
- State agencies would provide increased and targeted education, training, and technical assistance.
- Communities successfully completing the program would be “spring boarded” to state investments via priority consideration, the Community Action Team, or other.

# Economic Development Committee

## Members

Stephen Pollock, Esq., Chair  
Dr. Robert Dillman  
Alex Graziani, AICP  
Hon. Rubye Jenkins-Husband  
Kenneth Klothen for Secretary Dennis Yablonsky  
Hon. Judith Schwank  
Harry Stokes  
Ed LeClear - Staff

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Economic development – supported by sound land use and progressive transportation planning – has been a cornerstone of the Rendell administration’s efforts to strengthen Pennsylvania’s long-term economic prospects. The State Planning Board supports these initiatives and recommends three areas of additional study it believes will further strengthen the Commonwealth’s approach to sustainable economic development.

**Issue 1** – There is need for greater coordination among state agencies regarding investment in economic development and land use initiatives and a greater level of synthesis needed among agency outreach efforts.

For years, economic development has been the focus of a variety of state agency outreach and programmatic efforts. Through these efforts the Commonwealth has identified several potential programmatic and policy changes that would encourage better development.

- **Recommendation** – Below is a brief summary of several administration initiatives to support economic development through sound land use planning. Each of these initiatives includes action steps the Commonwealth can take to better support land use planning and economic development. The State Planning Board recommends an intensive review and synthesis of these initiatives and the creation of a comprehensive action strategy for specific implementation of the common action items evident throughout the reports.

### **2003 Governor’s Economic Development Summits**

In 2003, a series of summits were held throughout nine regions of the Commonwealth as part of Governor Rendell’s plan to spur economic development in Pennsylvania. The summits served as a forum for exchanging ideas and encouraging dialog between the Rendell Administration and the region regarding issues affecting the economic health of the region as well as development strategies and potential local development projects. With representatives from organized labor, non-profit associations, educational institutions, economic development organizations and government officials, the summits resulted in a wide-range of issues deemed critical to the economics of the region, as well as a list of “Projects of Promise” – projects or programs that show promise in addressing the identified issues.

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### **2003 Conference on Transportation and Land Use for Economic Development and subsequent Action Plan**

In May 2003, the secretaries of five agencies [Pennsylvania Department of Agriculture, Department of Transportation, Department of Environmental Protection, Department of Community and Economic Development and Department of Conservation and Natural Resources] hosted a Conference on Transportation and Land Use for Economic Development. Over 230 participants – economic development professionals, agency representatives, local government officials, and business and civic leaders – evaluated where Pennsylvania currently stands on integrating land use, economic development, transportation and conservation policies and actions, and then provided input and direction for the Commonwealth to achieve the desired development and conservation goals. The conference resulted in an extensive Action Plan for implementation.

### **Regional Conferences on Transportation and Land Use for Economic Development**

As a key implementation component of the Action Plan from the 2003 conferences, the five partnering agencies along with the Department of Agriculture and the Office of the Governor hosted a series of nine regional conferences throughout May 2005 focusing on economic, transportation and land use issues. Participants clearly identified a vision for regional economic development, and identified key objectives and action steps to realize those visions. The conference resulted in a region-specific plan for moving the region forward in integrating transportation and land use for economic development.

### **IBM Global Competitiveness Initiative: Action Plan for Investing in a New Pennsylvania**

To further identify key economic sectors critical to the long-term economic health of the Commonwealth, the Rendell Administration, in partnership with the Team Pennsylvania Foundation, contracted with IBM Business Consulting Services to develop a cutting edge analysis of the state's competitiveness. Known as the Global Competitiveness Initiative, this IBM study addressed the state's ability to attract new business by benchmarking eleven Pennsylvania regions and business sectors against twenty-two other competitor regions in the US and around the world. The report also identified specific industry sectors and clusters that will support Pennsylvania's long-term economic growth. As a result, IBM recommended specific product development, business development and marketing coordination to support industry cluster development. Many of the report's recommendations can be integrated into local and regional land use and transportation infrastructure decisions.

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### **Pennsylvania Keystone Principles & Criteria for Growth, Investment and Resource Conservation**

Announced by Governor Rendell on October 25, 2005, the Keystone Principles for Growth, Investment & Resource Conservation and related Criteria represent a two-year effort by a partnership of fifteen agencies and seven offices of the governor to develop a set of guiding principles for state agency investment. Many state agencies represented on the Land Use Interagency Team are integrating the Principles and Criteria into their investment decision making process, leading to a framework of public investment that will encourage sustainable economic development and growth throughout the Commonwealth.

**Issue 2 – Barriers to sound economic development exist at all levels of government and must be understood and addressed if Pennsylvania is to succeed at long-term economic growth.**

**Recommendation** – The Commonwealth should begin a comprehensive outreach effort to meet with private sector development professionals, local government officials and planning and economic development professionals to identify key barriers to economic development and recommend solutions. Such an outreach effort would identify ways in which the Commonwealth should facilitate economic development so that it is effective at both business development (existing business and new business investment) and removing barriers at state and local levels to sound economic development. Additionally, this outreach effort will identify best practices in Pennsylvania that illustrate planning efforts and regulatory frameworks that support high-quality and sustainable economic development projects.

A proposed format for such an outreach effort is below.

### **Land Use and Economic Development Focus Groups**

#### **Program**

Hold focus group meetings at nine (9) locations throughout Pennsylvania modeling the location selection from the Regional Conferences on Transportation and Land Use for Economic Development. Primarily utilize the Local Development Districts (LDDs) and Regional Planning Organizations (RPOs).

Utilize LDD directors, stakeholders among statewide organizations (i.e. PEDDA, RenewPA, etc...), planning directors and other regional stakeholders to identify key “thought leaders” among the private and public sectors that should be invited to the focus groups.

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### **Group Composition**

Include representation from private sector business interests and development professionals, public sector economic development and planning directors, regional LDD directors, local government officials and representatives from other economic development and planning entities within the region.

### **Meeting Format and Logistics**

Group size should not to exceed thirty-five individuals per focus group with the meeting conducted in a roundtable discussion format with one facilitator per meeting.

### **Examples of Focus Group Questions**

- How can public programs and financing more strategically target core industries and build on core assets? How can the public sector best support private investment in Pennsylvania?
- What barriers in land-use regulation have you encountered that could be modified to create a more attractive environment for investment? How best can the land use planning process be modified to support strategic and integrated economic development? Do you have good examples of private sector driven development that acted as a catalyst for broader community or regional planning and development efforts?
- What specific incentives to promote infill development and re-use have been effective in the region, and can you provide specific examples of projects that have successfully implemented sound infill and re-use policies. What additional incentives should be created?
- Does the current delivery system for state assistance (financial, permitting, technical assistance) meet the economic development needs of the region? If not, what specific steps can be taken to reform the delivery system and adjust the types of state assistance?
- What additional technical assistance should be developed to support public/private partnerships and appropriate economic development projects? What technical assistance should be developed to better link regional land-use decisions with economic development decisions?
- Please review the attached “Keystone Principles and Criteria for Growth, Investment and Resource Conservation.” These criteria are intended to guide investment decisions made by various Commonwealth agencies, and each agency is required to revise their program guidelines to incorporate the criteria. Of those Commonwealth

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programs that you have worked with directly, do you have any suggestions on how best to incorporate these criteria into the programs, or into decision making and project development at the local level?

**Issue 3 – Local comprehensive plans need to be developed and used effectively to prepare for and prioritize economic development projects.**

Local comprehensive plans are required by the MPC to contain statements regarding the “interrelationships among the various plan components” and the economic impact of plans and future development. However, planning efforts vary widely in terms of the effective preparation and prioritization of development projects, and are often viewed as “too general” to be useful to both public and private sector development interests. Much as the Transportation and Infrastructure Committee identifies the need for finished plans to be effective at strategically determining infrastructure capital investments, the Economic Development Committee concludes that plans must also be effective at preparing for and prioritizing development projects. The committee also concludes planning efforts should do a better job identifying priority funding opportunities with which community and development professionals can leverage resources to make prioritized projects a reality.

- **Recommendation** – The PA MPC should be amended to include specific language to suggest what economic development related subject matter should be addressed in a well-prepared comprehensive plan.
- **Recommendation** – State agencies should publish “Good Planning Guidelines” that go beyond minimum MPC requirements to describe how best to prepare a local comprehensive plan so it is most effective in preparing for economic development projects of significant community-wide impact. Specifically, these guidelines should address how comprehensive plans should set concrete, project-specific priorities with identified implementation steps and opportunities for public and private investment. The Governor’s Center for Local Government Services in the Department of Community and Economic Development, with involvement of the Interagency Land Use Team, is the logical agency to spearhead development of the guidelines. Agencies should also provide the necessary education and technical assistance to promote use of good planning guidelines.