



**House
Legislative
Analysis
Section**

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TOWNSHIP PLANNING

**Senate Bills 139 and 140 with House committee
amendments
First Analysis (6-3-87)**

**Sponsor: Sen. John D. Cherry, Jr.
Senate Committee: Local Government and Veterans
House Committee: Towns and Counties**

THE APPARENT PROBLEM:

Township planning commissions are required under Public Act 168 of 1959 and the Township Rural Zoning Act to develop and adopt a basic plan as a guide for developing unincorporated portions of a township. "Basic plan" means a master plan, general development plan, guide plan, or the plan referred to in the Township Rural Zoning Act, the basis on which the zoning plan is developed. Many townships have gone a step further in their planning, and have created more comprehensive plans for portions of their townships that are experiencing rapid growth. Reportedly, many townships across the state have interpreted the planning acts as permitting them to develop detailed plans for portions of their townships, and some people argue that the acts should be amended to allow townships to do so.

THE CONTENT OF THE BILL:

Senate Bill 139: Currently, a planning commission is required to make and adopt a basic plan as a guide for developing unincorporated portions of a township. (Basic plan means a "master plan, general development plan, guide plan, or the plan referred to in [the Township Rural Zoning Act], being the basis on which the zoning plan is developed"). In addition to this basic plan, the bill would allow a planning commission, by a majority vote of the members, to adopt a plan for a geographic area less than the entire unincorporated area of the township if, because of the area's "unique physical characteristics", more intensive planning were needed for purposes set forth in the act (e.g., to promote public health, safety, and welfare; to lessen congestion on roads and streets; etc.). Before a plan was adopted, the planning commission would be required to hold at least one public hearing on the plan after giving notice, as provided in the act. After a plan was adopted, a site plan for property located in the plan area that is required to be submitted under the Township Rural Zoning Act would have to comply with the plan adopted under the bill's provisions. The bill would specify that its purpose is to clarify the authority of planning commissions to take certain actions, which is implied but not specifically set forth in the act.

MCL 125.326

Senate Bill 140: The bill would amend the Township Rural Zoning Act, under which a township may require that a site plan be submitted and approved before a land use or activity regulated by a zoning ordinance is authorized. Under the bill, decisions for rejecting, approving, or conditionally approving a site plan, which now are based on requirements and standards contained in the zoning ordinance, also would have to be based on "other township documents" and on "other applicable ordinances, and state and federal statutes". The bill would specify that its purpose is to clarify the authority of township planning

officials to take certain actions, which is implied but not specifically set forth in the act.

MCL 125.286e

HOUSE COMMITTEE ACTION:

The House Committee on Towns and Counties adopted amendments to each bill which stated that the purpose of the bills is to clarify the authority of planning commissions.

BACKGROUND INFORMATION:

In 1975, Davison Township in Genesee County developed a detailed plan for the area along state trunkline M-15, between the city of Davison and the highway. The township had developed the plan under the belief they had the authority to do so under the two township planning acts. The detailed plan was being followed by commercial developers until 1983, when a dispute with a fast food developer led to a federal lawsuit against Davison Township. Holding against the township, the court noted that the intent of the township to offer guidelines for development was good, but the township did not have the power under the planning acts to develop a plan for an area less than the size of the entire township. Reportedly, other townships across the state have interpreted the planning acts as permitting them to develop similar plans.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills have no fiscal implications for the state. (6-3-87)

ARGUMENTS:

For:

Public Act 168 and the Township Rural Zoning Act note that the purposes of townships' development plans include: promoting public health, safety, and general welfare; encouraging the use of resources in accordance with their character; avoiding overcrowding; lessening congestion on public roads and streets; and providing for a system of transportation, sewage disposal, and water. In practice, township planning boards have produced extensive plans for portions of their townships in an effort to fulfill the spirit of the acts and to promote sound and orderly development. Davison Township, for example, proposed in the detailed plan that a "collector road" be constructed to avoid the possibility of 26 driveways exiting onto state road M-15 and creating a traffic hazard. Disagreement with this proposal by a fast food developer resulted in a lawsuit against the township. Senate Bills 139 and 140 clearly would give townships the authority to develop these detailed plans.

S.B. 139 & 140 (6-3-87)

For:

Metropolitan areas around the state have experienced increased growth in commercial and residential development. As particular areas develop more extensively than others, some townships may want to plan that type of growth carefully. The bills would allow townships to develop more extensive plans to serve as guidelines for this intense growth.

Against:

From time to time, local governments have overstepped their bounds. Allowing townships to develop detailed plans for portions of their localities could provide a method for townships to draw plans purposely to exclude businesses and developments they consider undesirable.

Response: The plans allowed under the bill would not usurp other local ordinances and a developer's right to seek a variance. If a business wanted to locate in an area and it complied with zoning requirements, it would be difficult for a township to turn the developer down.

POSITIONS:

A representative of Davison Township testified in support of the bills. (6-2-87)

The Michigan Townships Association supports the bill. (6-2-87)