

CHAPTER 40B

REGIONAL PLANNING LAW

C. 40B Sec. 1. Title.

This chapter shall be designated and may be known as "The regional planning law."

C. 40B Sec. 2. Purpose.

The purpose of this chapter is to permit a city or town to plan jointly with cities or towns to promote with the greatest efficiency and economy the coordinated and orderly development of the areas within their jurisdictions and the general welfare and prosperity of their citizens.

C. 40B Sec. 2A. Consent to Inclusion in Region or District.

No state agency shall place a city or town individually or severally, within a regional or district grouping without the consent of the governing body of such city or town. The governing body in a town shall be the town meeting and in a city, the city council.

C. 40B Sec. 3. Planning Districts.

Any group of cities, towns, or cities and towns may, by vote of their respective city councils or town meetings, vote to become members of and thus establish a planning district, which shall constitute a public body corporate. After a planning district has been thus established, any other city or town within the district area as hereinafter defined may by vote of its city council or town meeting apply for admission. Upon the affirmative vote of two thirds of the representatives of the cities and towns comprising the district, said city or town shall become a member thereof. The area of jurisdiction of said district shall be an area defined or redefined as an effective regional planning region by the Massachusetts office of business development. All rights, privileges and obligations applicable to the original members of the district shall be applicable to the new members.

C. 40B Sec. 4. District Planning Commissions.

In each planning district so established there shall be a district planning commission consisting of one member of the planning board of each city and town voting to join such district, elected annually by said planning board and certified in writing to the district planning commission. Said member may be replaced by a two thirds vote of his planning board before the termination of his annual appointment. In the case of the planning board's failure to elect a delegate in any year the previously named delegate shall continue to serve until his successor is qualified, as long as he shall remain a member of his local planning board. There may be an alternate designee, who may or may not be a planning board member, who shall be a resident of the city or town he represents, appointed annually and certified in writing to the district planning commission by the mayor in a city, confirmed by the council, or in the case of a city with a plan E form of government, appointed annually by the city manager, or in a town by the selectmen or in towns with a manager form of government, by the town manager, who may attend meetings of the district planning commission and who shall assume the rights and duties of the planning board member in his absence. The alternate designee shall be named in writing to the district planning commission annually in order that he may perform the duties and exercise the powers authorized in this section. In a member town which has not established a planning board, the selectmen shall annually appoint a member of the district planning commission. Such district planning commission shall annually elect a chairman, a vice chairman, a treasurer, and a clerk from among its members and alternate designees, and may elect an assistant clerk, from among such members and alternate designees. The treasurer and assistant

treasurer shall give the commission a bond, with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of their duties in such sums and upon such conditions as the commission may require. The said commission may employ experts and clerical and other assistants. All meetings of the commission shall be held at the call of the chairman and at such other times as the commission may determine. A quorum of the commission shall consist of at least one fourth of the duly named members or alternate designees. Lack of a quorum shall not prevent the members at an officially called meeting from coming to order, making motions, discussing or passing a motion to continue said meeting to a later time. The commission shall establish rules of procedure for its activities and shall keep a record of its meetings, transactions, resolutions, findings and determinations, all of which shall be public records.

C. 40B Sec. 4A. Executive Committee of District Planning Commissions; Membership; Powers and Duties.

Upon a two-thirds vote of all of the members of the district planning commission there may be established an executive committee, elected annually from the membership of the commission, and consisting of the chairman, vice chairman, if one is elected annually by the commission, the clerk, the assistant clerk, if one is elected annually, the treasurer and at least one but no more than seven members elected at large from the commission membership annually, so that there shall be an uneven number of members of said committee. Actions taken by said executive committee shall be in the name of and on behalf of the commission. Such actions may include one or more of the following listed functions, but only if authorized by a two-thirds vote of the commission's total membership:-- employment of technical staff members, and other professional and clerical assistants; retention of consultants; the disbursement of commission funds based upon a warrant approved by a majority of the executive committee; the borrowing of funds in anticipation of receipt of revenue; applications for federal, state and local aid; the preparation of reviews and comments on proposals of a regional or intercommunity nature, including those referred to the district planning commission under the provisions of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Inter-Governmental Cooperation Act of 1968, and Section 102 of the National Environmental Policy Act of 1969; proposed zoning changes near municipal boundaries of member cities and towns; requests for planning related advice; and the establishment of various technical advisory committees. Said executive committee shall report its actions to the full commission at least quarterly, and its authority to exercise such functions heretofore authorized shall be reconfirmed by a two-thirds vote of all of the members annually. Additional functions may be authorized for the executive committee from time to time. Such additions shall also be by a two-thirds vote of the district planning commission membership. The authority given to the executive committee to act on behalf of the commission may be terminated for any function by a majority vote of the commission members and thirty days' notice to said executive committee.

C. 40B Sec. 4B. Seal.

Each planning district may have a seal consisting of a circular die bearing the words "Commonwealth of Massachusetts, --- Regional Planning District, 19-", which seal may be used whenever deemed advisable by the district planning commission on papers and documents issued or executed by the commission or by any officer or employee designated by the commission.

C. 40B Sec. 4C. District Planning Commissions; Membership of Commanding Officers of Certain Military Installations.

Whenever there is located, wholly or partially, within a planning district established hereunder, a federal military installation having a resident population of at least five hundred persons according to the most recent available federal decennial census, the district planning commission may vote to offer to the commanding officer of said federal military installation the privilege of membership for himself or his designee. Upon acceptance by the commanding officer of this offer, he shall be deemed a member ex officio of the district planning commission, and shall assume the same rights and duties as other commission members, except that this ex officio membership shall not continue except by an annual affirmative vote of the majority of the commission.

C. 40B Sec. 5. District Planning Commissions; Powers and Duties; Regional and District Plans.

A planning commission established hereunder shall make careful studies of the resources, problems, possibilities and needs of its district and, on the basis of such studies, shall prepare a comprehensive plan of development or a schematic study plan of such district or of such part or parts thereof as the commission may deem necessary and in such plans shall make such recommendations for the physical, social, governmental or economic improvement of the district as in their opinion will be in the best interest of the inhabitants of the district. Such plans and recommendations shall concern, among other things, the general use of the district, including land use, principal highways and expressways, bridges, airports, public utilities, public facilities, parks, recreational areas, public institutions and such other matters as in the opinion of said commission will be beneficial to the district and will promote with the greatest efficiency and economy the coordinated development of the district and the general welfare and prosperity of its people. Before the adoption of any such regional plan or a portion thereof, the district planning commission shall hold at least one public hearing thereon, notice of the time, place and subject of which shall be given. Written notice of such hearing shall be given to each planning board, board of selectmen, and city council. Notice of the time, place and subject of the hearing shall be published at least once in a newspaper having substantial circulation in the region at least ten days before such hearing. Adoption of such plan or portion thereof shall be by a majority vote of the representatives of the district planning commission. Such plan may be amended from time to time in the same manner as hereinbefore provided. A copy of the plan adopted by the commission or any amendments thereto signed by the chairman shall be filed with the town clerk of each member municipality not more than thirty days after commission action. Such plan or portion of a plan shall be a public record. Such district planning commission shall also assist the planning boards of the several cities and towns within the area of its jurisdiction in applying any district plans and recommendations so adopted to the local board's area of jurisdiction.

Such planning commission shall report annually to the city councils and town meetings of the cities and towns within its district, showing the status of its plans and recommendations. Such plans and recommendations shall be advisory only.

C. 40B Sec. 5A. Agreements for Conducting Water Favorability Studies.

Such commission may enter into an agreement with the water resources commission for the purpose of conducting water favorability studies under the direction of the water resources commission, as authorized by section nine of chapter twenty-one. The district's share of the cost of such studies shall be assessed against the constituent cities and towns in accordance with the provisions of section seven of this chapter.

C. 40B Sec. 5B. Economic Development Regional Commissions.

A district planning commission may, by an affirmative vote of two thirds of the representatives of the cities and towns comprising the district, agree to act as, and to assume the duties, obligations, and responsibilities of, an economic development regional commission for as many of the cities and towns within its area of jurisdiction as it may deem proper and logical, subject to the availability of funds for such purpose; provided, however, that said cities and towns shall be eligible for designation as an economic development region, hereinafter called the region, in accordance with the provisions of the Public Works and Economic Development Act of 1965. Additional eligible cities and towns may be added to or deleted from the region by an affirmative vote of two thirds of the representatives of the cities and towns comprising the district.

The district planning commission members and alternate designees of the cities and towns comprising the region shall constitute the economic development regional commission. In addition, such technical and advisory committees as are necessary and required by the Public Works and Economic Development Act of 1965 may be appointed in accordance with the provisions of said Act for the purpose of providing advice and guidance to the region.

The economic development regional commission may prepare economic development programs which shall be public records and may be changed or supplemented from time to time by a majority vote of the representatives of the cities and towns comprising the region. Said regional commission may conduct feasibility and implementation studies for public facilities and programs and develop public and private development projects which are consistent with and which aid in implementing the objectives of said commission. Said regional commission may advertise and otherwise promote the implementation of its plans and recommendations for the economic and industrial development of the region and may sponsor conferences, institutes, seminars and training programs on behalf of the region.

C. 40B Sec. 6. Consultations with, and Assistance to, Commissions by Commonwealth Agencies.

The several officers, boards, commissions, departments and divisions of the commonwealth and city and town officials may consult with any such district planning commission and shall furnish or make available to it on request all data and information within their knowledge and control pertaining to the area of jurisdiction of such commission.

C. 40B Sec. 7. Annual Estimate of Costs and Expenses of Districts; Payments to District Treasurer; Grants and Gifts; Contracts for Planning Studies and Services.

Said commission shall, annually in the month of February, estimate the amount of money required to pay the costs and expenses of the district for the following fiscal year, shall fix and determine the proportion of such costs and expenses to be paid by the constituent cities and towns thereof during such fiscal year which, however, shall not exceed any per capita limit established by the vote of two-thirds of the city councils and town meetings of member cities and towns, and shall certify the amount so determined for each city and town to the assessors thereof who shall include the sum in the tax levy of such fiscal year, provided that the per capita limit of any new member municipality shall not be less than the per capita cost to the member municipalities in the district at the time the new member joined the district. Such apportioned cost shall be on a per capita basis in direct proportion to the population of the city or town and the planning district as they appear in the most recent national census, exclusive of the inmates of county, state or federal institutions, and exclusive of the resident population of federal military installations to which the privilege of ex officio membership has been extended as provided in section four C; provided, however, that the national census or the annual national census estimate, whichever is the most recent, shall be used in any planning district in which the governing body of each city and town comprising such planning district accepts the provisions of this proviso. Upon order of the commission, the treasurer of each constituent municipality thereof shall, from time to time, subject to the provisions of section fifty-two and section fifty-six of chapter forty-one, pay to the district treasurer sums not exceeding the amount certified by the commission as the city's or town's share of the costs and expenses of the district. The commission is authorized to determine the amount of payment to be made to the district during the first year of membership of a new city or town in its respective district, but such payment shall not exceed any aforementioned per capita limits. Any such district planning commission established under the authority of this chapter is authorized to receive for its own uses and purposes any funds or moneys from any source, including grants, bequests, gifts or contributions made by the federal, state or municipal governments or by any individual, corporation or association. Any such district planning commission may contract with the federal or state government, or a city or town within such district, or with another district planning commission or planning council for the performance of planning studies and services within the limits of funds available to the district planning commission for such purposes. The treasurer of the district planning commission or, in his absence, the assistant treasurer shall disburse the moneys so received upon an order approved by the chairman of the commission when so authorized by a majority vote of said commission.

C. 40B Sec. 8. Borrowing in Anticipation of Revenues; Execution, Effect, and Maturity of Revenue Anticipation Notes.

The district may authorize debt by a majority vote of the commission in anticipation of revenue to an amount not in excess of that to be received during the current fiscal year from member cities and towns. Notes issued under authority of this section shall be in the name of and upon the full faith and credit of the district, and said notes shall be signed by the treasurer of the district, and the chairman of the district planning commission shall countersign and approve them in the presence of the clerk of the district who shall certify to the fact on the face thereof. Such notes shall be payable, and shall be paid not later than one year from their dates, and shall not be renewed or paid by the issue of new notes, except as provided in section seventeen of chapter forty-four.