

1 AN ACT concerning growth planning.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Growth Planning Act.

6 Section 5. Purpose. The General Assembly intends to
7 establish a comprehensive growth policy for this State that:

- 8 (1) eliminates annexation or incorporation out of fear;
- 9 (2) establishes incentives to annex or incorporate where
10 appropriate;
- 11 (3) more closely matches the timing of development and
12 the provision of public infrastructure;
- 13 (4) stabilizes each county's education funding base and
14 establishes an incentive for each county board to be more
15 interested in education matters; and
- 16 (5) minimizes suburban sprawl.

17 Section 10. Definitions:

18 "Department" means the Department of Commerce and
19 Community Affairs.

20 "Growth plan" means the plan each county must file with
21 the Department by January 1, 2004.

22 "Planned growth area" means an area established in
23 conformance with the provisions of Section 45 and approved in
24 accordance with the requirements of Section 30.

25 "Rural area" means an area established in conformance
26 with the provisions of Section 45 and approved in accordance
27 with the requirements of Section 30.

28 Section 15. Applicability. This Act applies to all
29 counties in Illinois except Cook County.

1 Section 20. Coordinating committee; growth plan.

2 (a) Each county must establish a coordinating committee.

3 The committee must have the following members:

4 (1) The chairman of the county board, or the
5 chairman's designee.

6 (2) The mayor of each municipality in the county,
7 or the mayor's designee.

8 (3) One member representing public utilities,
9 appointed by the county board.

10 (4) One member representing agricultural interests,
11 appointed by the governing body of a soil and water
12 conservation district located in the county.

13 (5) One member representing education, appointed by
14 the school board of the school district having the
15 largest student enrollment in the county.

16 (6) One member representing business, appointed by
17 the county board.

18 (7) Two members representing environmental,
19 construction, and homeowner interests, appointed by the
20 chairman of the county board and 2 members representing
21 environmental, construction, and homeowner interests,
22 appointed by the mayor of the largest municipality in the
23 county.

24 (b) The coordinating committee shall develop a
25 recommended growth plan not later than January 1, 2003, and
26 shall submit the plan for ratification by the county board
27 and the city council of each municipality. The recommended
28 growth plan must (i) identify urban growth boundaries for
29 each municipality within the county and (ii) identify planned
30 growth areas and rural areas within the county, all in
31 conformance with the provisions of Section 45. The
32 coordinating committee must give due consideration to any
33 planned growth areas and rural areas that may be
34 timely-proposed and submitted to the coordinating committee

1 by the county board. The coordinating committee is encouraged
2 to use planning resources that are available within the
3 county, including municipal, county, or regional planning
4 commissions. The coordinating committee is further encouraged
5 to use the services of the Department. Before finalizing the
6 recommended plan, the coordinating committee must consult
7 with the coordinating committees of the contiguous counties.
8 The Department may resolve disputes between 2 or more
9 counties in the same manner it resolves disputes between a
10 county and municipality under Section 25.

11 (c) Before finalizing the recommended growth plan, the
12 coordinating committee must conduct at least 2 public
13 hearings. The committee shall give at least 15 days advance
14 notice of the time, place, and purpose of each public hearing
15 by notice published in a newspaper of general circulation in
16 the county.

17 (d) Not later than January 1, 2004, the coordinating
18 committee must submit its recommended growth plan for
19 ratification by the county board and by the city council of
20 each municipality located in the county. Not later than 120
21 days after receiving the recommended growth plan, the county
22 board or city council, as the case may be, must either ratify
23 or reject the recommended growth plan of the coordinating
24 committee. Failure by the county board or by any city council
25 to act within the 120-day period shall be deemed to be
26 ratification of the recommended growth plan.

27 (e) If the county or any municipality in the county
28 rejects the recommended growth plan, then the county or
29 municipality shall submit its objections to the plan for
30 resolution in accordance with Section 25.

31 (f) The coordinating committee must review all
32 development that has, or may have, a regional impact in the
33 county and in contiguous counties.

1 Section 23. Annexation agreements and other agreements.

2 (a) A municipality may make binding agreements with
3 other municipalities and with counties to refrain from
4 exercising any power or privilege granted to the municipality
5 by law, to any degree contained in the agreement including,
6 but not limited to, the authority to annex.

7 (b) A county may make binding agreements with
8 municipalities to refrain from exercising any power or
9 privilege granted to the county by law, to any degree
10 contained in the agreement including, but not limited to, the
11 authority to receive revenue.

12 (c) Any agreement made pursuant to this Section need not
13 have a set term, but after the agreement has been in effect
14 for 5 years, any party upon giving 90 days' written notice to
15 the other parties is entitled to a renegotiation or
16 termination of the agreement.

17 (d) Notwithstanding any provisions of law to the
18 contrary, any annexation agreement or any agreement of any
19 kind either between municipalities or between municipalities
20 and counties setting out areas reserved for future municipal
21 annexation and in effect on the effective date of this Act
22 are ratified and remain binding and in full force and effect.
23 Any such agreement may be amended from time to time by mutual
24 agreement of the parties. Any such agreement or amendment may
25 not be construed to abrogate the application of any provision
26 of this Act to the area annexed under the agreement or
27 amendment.

28 (e) Nothing in this Section prohibits written contracts
29 between municipalities and property owners relative to the
30 exercise of a municipality's rights of annexation or operates
31 to invalidate an annexation ordinance in existence on the
32 effective date of this Act.

33 Section 25. Rejection of growth plan; dispute

1 resolution.

2 (a) If the county or any municipality rejects the
3 recommended growth plan, then the coordinating committee must
4 reconsider its action. After reconsideration of the plan, the
5 coordinating committee may recommend a revised growth plan
6 and may submit the revised growth plan for ratification by
7 the county board and the city council of each municipality.
8 If a recommended growth plan or revised growth plan is
9 rejected, then the county or any municipality may declare the
10 existence of an impasse and may request the Department to
11 provide an alternative method for resolution of disputes
12 preventing ratification of a growth plan.

13 (b) Upon receiving a request for dispute resolution, the
14 Department shall promptly appoint a dispute resolution panel.
15 The panel shall consist of 3 members each of whom shall be
16 appointed from the ranks of the administrative law judges
17 employed by the Department and each of whom shall possess
18 formal training in the methods and techniques of dispute
19 resolution and mediation; provided, however, if the county
20 and all municipalities agree, the Department may appoint a
21 single administrative law judge rather than a panel of 3
22 members. No member of the panel, or of the immediate family
23 of any the member or the member's spouse, may be a resident,
24 property owner, official, or employee of the county or of any
25 municipality located in the county.

26 (c) The panel shall attempt to mediate the unresolved
27 disputes. If, after reasonable efforts, mediation does not
28 resolve the disputes, then the panel shall propose a
29 non-binding resolution of the dispute. The county board and
30 the municipalities must be given a reasonable period in which
31 to consider the proposal. If the county board and the city
32 councils of municipalities do not accept and approve the
33 resolution, they may submit final recommendations to the
34 panel. For the sole purpose of resolving the impasse, the

1 panel shall adopt a growth plan. In mediating the dispute or
2 in making a proposal, the panel may consult with the
3 University of Illinois and others with expertise in urban
4 planning, growth, and development. The growth plan adopted by
5 the panel shall conform to the provisions of Section 45.

6 (d) The Department must certify the reasonable and
7 necessary costs incurred by the dispute resolution panel,
8 including, but not necessarily limited to, salaries,
9 supplies, travel expenses, and staff support for the panel
10 members. The county and the municipalities must reimburse the
11 Department for those costs, to be allocated on a pro rata
12 basis calculated on the number of persons residing within
13 each of the municipalities and the number of persons residing
14 within the unincorporated areas of the county; provided,
15 however, if the dispute resolution panel determines that the
16 dispute resolution process was necessitated or unduly
17 prolonged by bad faith or frivolous actions on the part of
18 the county or one or more of the municipalities then the
19 Department may, upon the recommendation of the panel,
20 reallocate liability for the reimbursement in a manner
21 clearly punitive to the party acting frivolously or in bad
22 faith.

23 (e) If a county or municipality fails to reimburse its
24 allocated or reallocated share of panel costs to the
25 Department after 60 days' notice of the costs, the
26 Department of Revenue shall deduct the costs from a county's
27 or a municipality's share of sales taxes.

28 Section 30. Approval of growth plan by Department.

29 (a) No later than January 1, 2004, the growth plan
30 recommended or revised by the coordinating committee and
31 ratified by the county and each municipality located in the
32 county or alternatively adopted by a dispute resolution panel
33 shall be submitted to the Department. If planned growth areas

1 and rural areas were recommended or revised by a coordinating
2 committee and ratified by the county and each municipality in
3 the county, then the Department must grant its approval, and
4 the growth plan shall become immediately effective. In all
5 other cases, if the Department determines that the urban
6 growth boundaries, planned growth areas, and rural areas
7 conform with the provisions of Section 45, then the
8 Department must grant its approval and the growth plan shall
9 immediately become effective; provided, however that if the
10 Department determines that the planned growth areas or rural
11 areas in any way do not conform with the provisions of
12 Section 45, the Department shall adopt and grant its approval
13 of alternative planned growth areas or rural areas for the
14 sole purpose of making the adjustments necessary to achieve
15 conformance with the provisions of Section 45. The
16 alternative planned growth areas or rural areas shall
17 supersede and replace all conflicting urban growth
18 boundaries, planned growth areas, or rural areas and shall
19 immediately become effective as the growth plan.

20 (b) After the Department has approved a growth plan, the
21 Department shall forward a copy to the chairman of the county
22 board who shall file the plan in the recorder's office. The
23 recorder may not impose a fee on the chairman of the county
24 board for this service.

25 Section 35. Amendment of growth plan. After the
26 Department approves a growth plan, the plan shall stay in
27 effect for not less than 3 years absent a showing of
28 extraordinary circumstances. After the expiration of the
29 3-year period, a municipality or county may propose an
30 amendment to the growth plan by filing notice with the
31 chairman of the county board and with the mayor of each
32 municipality in the county. Upon receipt of the notice, those
33 officials shall take appropriate action to promptly reconvene

1 or re-establish the coordinating committee. The burden of
2 proving the reasonableness of the proposed amendment shall be
3 upon the party proposing the change. The procedures for
4 amending the growth plan shall be the same as the procedures
5 in Sections 20, 25, and 30 for establishing the original
6 plan.

7 Section 40. Judicial review.

8 (a) The affected county, an affected municipality, a
9 resident of the county, or an owner of real property located
10 in the county is entitled to judicial review under this
11 Section. The provisions of this Section are the exclusive
12 method for judicial review of the growth plan and its planned
13 growth areas and rural areas. Proceedings for review shall be
14 instituted by filing a petition for review in the circuit
15 court of the affected county. The petition must be filed
16 during a 60-day period after final approval of the planned
17 growth areas and rural areas by the Department. In accordance
18 with the provisions of the Code of Civil Procedure pertaining
19 to service of process, copies of the petition shall be served
20 upon the Department, the county, and each municipality
21 located in the county.

22 (b) Judicial review shall be de novo and shall be
23 conducted by the circuit court without a jury. The petitioner
24 has the burden of proving, by a preponderance of the
25 evidence, that the planned growth areas or rural areas are
26 invalid because the adoption or approval of them was granted
27 in an arbitrary, capricious, illegal, or other manner
28 characterized by abuse of official discretion. The filing of
29 the petition for review does not itself stay effectiveness of
30 the planned growth areas and rural areas; provided, however,
31 the court may order a stay upon appropriate terms if it is
32 shown to the satisfaction of the court that any party or the
33 public at large is likely to suffer significant injury if a

1 stay is not granted. If more than one petition is filed
2 within the county, then all the petitions shall be
3 consolidated and reviewed as a single civil action.

4 (c) If the court finds by a preponderance of the
5 evidence that the planned growth areas or rural areas are
6 invalid because the adoption or approval of them was granted
7 in an arbitrary, capricious, illegal, or other manner
8 characterized by abuse of official discretion, an order shall
9 be entered vacating the growth plan, in whole or in part, and
10 remanding the growth plan to the county and the
11 municipalities in order to identify and obtain adoption or
12 approval of urban growth boundaries, planned growth areas, or
13 rural areas in conformance with the procedures set forth
14 within Sections 20, 25, and 30.

15 (d) Any party to the suit, aggrieved by the ruling of
16 the circuit court, may obtain a review of the final judgment
17 of the circuit court by appeal to the Appellate Court in the
18 judicial district in which the circuit court is located.

19 Section 45. Planned growth areas; rural areas.

20 (a) Each planned growth area of a county must:

21 (1) Identify territory that is reasonably compact
22 yet sufficiently large to accommodate residential and
23 nonresidential growth projected to occur during the next
24 20 years.

25 (2) Identify territory that is not within the
26 existing boundaries of any municipality.

27 (3) Identify territory that a reasonable and
28 prudent person would project as the likely site of
29 high-density or moderate-density commercial, industrial,
30 and residential growth over the next 20 years based on
31 historical experience, economic trends, population growth
32 patterns, topographical characteristics, and, if
33 available, professional planning, engineering, and

1 economic studies.

2 (4) Identify territory that is not contained within
3 urban growth boundaries.

4 (5) Reflect the county's duty to manage natural
5 resources and to manage and control urban growth, taking
6 into account the impact to agricultural lands, forests,
7 water quality, and wildlife habitat.

8 Before formally proposing any planned growth area to the
9 coordinating committee, the county shall develop and report
10 population growth projections. The projections shall be
11 developed in conjunction with the University of Illinois. The
12 county shall also determine and report the projected costs of
13 providing urban-type core infrastructure, urban services, and
14 public facilities throughout the territory under
15 consideration for inclusion within the planned growth area as
16 well as the feasibility of recouping the costs by imposition
17 of fees or taxes within the planned growth area. The county
18 shall also determine and report on the need for additional
19 land suitable for high-density industrial, commercial, and
20 residential development after taking into account all areas
21 within the current boundaries of municipalities that can be
22 used, reused, or redeveloped to meet those needs. The county
23 shall also determine and report on the likelihood that the
24 territory under consideration for inclusion within the
25 planned growth area will eventually incorporate as a new
26 municipality or be annexed. The county shall also examine and
27 report on agricultural lands, forests, water quality, and
28 wildlife habitat within the territory under consideration for
29 inclusion within the planned growth area and shall examine
30 and report on the likely long-term effects of urban expansion
31 on those agricultural lands, forests, recreational areas, and
32 wildlife management areas.

33 Before a county board may propose planned growth areas to
34 the coordinating committee, the county must hold at least 2

1 public hearings. Notice of the time, place, and purpose of
2 the public hearing shall be published in a newspaper of
3 general circulation in the county not less than 15 days
4 before each hearing.

5 (b) Each rural area must:

6 (1) Identify territory that is not within urban
7 growth boundaries.

8 (2) Identify territory that is not within a planned
9 growth area.

10 (3) Identify territory that, over the next 20
11 years, is to be preserved as agricultural lands, forests,
12 recreational areas, wildlife habitat, wetlands, or for
13 uses other than high-density commercial, industrial, or
14 residential development.

15 (4) Reflect the county's duty to manage growth and
16 natural resources in a manner that reasonably minimizes
17 detrimental impact to agricultural lands, forests, water
18 quality, and wildlife habitat.

19 Before a county board may propose rural areas to the
20 coordinating committee, the county must hold at least 2
21 public hearings. Notice of the time, place, and purpose of
22 the public hearing shall be published in a newspaper of
23 general circulation in the county not less than 15 days
24 before each hearing.

25 Section 50. Land use after growth plan approval. After
26 the Department approves a growth plan, all land use decisions
27 made by the county must be consistent with the growth plan.
28 The growth plan must include, at a minimum, documents
29 describing and depicting municipal corporate limits, as well
30 as urban growth boundaries, planned growth areas, if any, and
31 rural areas, if any. The purpose of a growth plan is to
32 direct the coordinated, efficient, and orderly development of
33 the unit of local government that will, based on an analysis

1 of present and future needs, best promote the public health,
2 safety, morals, and general welfare of the public. A growth
3 plan may address land use, transportation, public
4 infrastructure, housing, and economic development. The goals
5 and objectives of a growth plan include the need to:

6 (1) Provide a unified physical design for the
7 development of the local community.

8 (2) Encourage a pattern of compact and contiguous high
9 density development to be guided into urban areas or planned
10 growth areas.

11 (3) Establish an acceptable and consistent level of
12 public services and community facilities and ensure timely
13 provision of those services and facilities.

14 (4) Promote the adequate provision of employment
15 opportunities and the economic health of the region.

16 (5) Conserve features of significant statewide or
17 regional architectural, cultural, historical, or
18 archaeological interest.

19 (6) Protect life and property from the effects of
20 natural hazards, such as flooding, winds, and wildfires.

21 (7) Take into consideration any other matters that may
22 be logically related to or form an integral part of a plan
23 for the coordinated, efficient and orderly development of the
24 local community.

25 (8) Provide for a variety of housing choices and assure
26 affordable housing for future population growth.

27 Section 55. Consideration for grants by Department.
28 Upon approval of a county's growth plan by the Department,
29 the Department may give the county additional consideration
30 for any grants that the Department determines by rule. The
31 Department may, by rule, make grant programs unavailable to
32 counties that do not have approved growth plans.

1 Section 60. Home rule. A home rule unit may not adopt a
2 growth plan in a manner that is inconsistent with the
3 provisions of this Act. This Section is a limitation under
4 subsection (i) of Section 6 of Article VII of the Illinois
5 Constitution on the concurrent exercise by home rule units of
6 powers and functions exercised by the State.

7 Section 65. Severability. If any provision of this Act
8 or its application to any person or circumstance is held
9 invalid, the invalidity of that provision or application does
10 not affect other provisions or applications of this Act that
11 can be given effect without the invalid provision or
12 application.

13 Section 90. The State Mandates Act is amended by adding
14 Section 8.25 as follows:

15 (30 ILCS 805/8.25 new)

16 Sec. 8.25. Exempt mandate. Notwithstanding Sections 6
17 and 8 of this Act, no reimbursement by the State is required
18 for the implementation of any mandate created by this
19 amendatory Act of the 92nd General Assembly.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.