WEST VIRGINIA CODE CHAPTER 8 ARTICLE 25

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§8-25-1. Legislative findings and purposes.

The Legislature hereby finds and declares that as a result of changes in the economy, population shifts, new transportation demands and increasing demands for public services, and as a result of increasing complexity in government programs and added demands on public revenues, there is a need to plan comprehensively for the future development of West Virginia and to provide for the efficient management of limited public revenues for the purpose of promoting the orderly development of the state and harmonizing the development of the state's governmental, social, economic, environmental and physical resources, while maintaining acceptable levels of public services and facilities toward the end of promoting the general health, safety and welfare of all its citizens. The Legislature further finds that the responsibility for planning and development rests with the Governor of the state, as the state's chief planning officer. The Legislature hereby further finds and declares that problems of growth and development so transcend the boundary lines of governmental units that no single unit can plan for the solution of these problems without affecting other units of government; that intergovernmental cooperation on a regional basis is an effective method to approach common planning and development problems and to seek more efficient and economical solutions to common problems of local government; and that assistance of the state is needed to make the most effective use of local, state, federal and private resources and funding in serving the citizens of all the state and of such regions; and the Legislature further finds that any assistance provided by the state for the purpose of this article is for the benefit of all its citizens and for a public purpose.

It is, therefore, the purpose of this article to delegate to the Governor, the responsibility for planning and development in order to (1) achieve the objectives and policies necessary for the orderly growth and development of the state; (2) facilitate intergovernmental cooperation; and (3) designate regions and provide for the creation of regional planning and development councils; all being hereby declared to be public purposes.

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§8-25-2. Definitions.

The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context:

(a) "Comprehensive planning" shall mean the process of (1) assessing, within a geographic area, the needs and resources of the area; (2) formulating goals, objectives, policies and standards to guide its long-range governmental, social, economic, environmental and physical development; and (3) preparing plans and programs therefor which (a) identify alternative courses of action and the spatial and functional relationships among the activities to be carried out thereunder; (b) specify the appropriate ordering in time of such activities; (c) take into account other relevant factors affecting the achievement of the desired development of the area; and (d) provide an overall framework and guide for the preparation of functional and project development plans.

(b) "Development" shall mean the process of implementing, carrying out, effectuating, administering or otherwise performing the activities, processes, steps or operations as necessary to meet the comprehensive planning goals, objectives, programs and plans formulated, accepted, adopted or approved as a result of comprehensive planning.

(c) "Region" shall mean a specific geographic area consisting of at least one county or two or more contiguous counties in which a regional council may exercise authority and powers in accordance with the provisions of this article.

(d) "Regional council" shall mean a regional planning and development council established pursuant to the provisions of this article.

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§8-25-3. Powers and duties of Governor generally.

The Governor, as chief executive officer of the state, shall be responsible for planning and development of the state's governmental, social, health, economic, environmental and physical resources. In executing this responsibility, the Governor shall:

(1) Prepare, revise and update state development plans which shall, at least annually, submit to the Legislature. Such plans shall identify and stress statewide goals, objectives and opportunities, giving appropriate consideration to regional council and local governmental plans; and shall include, but not be limited to, population and economic analysis; appraisals of the state's natural resources; general land use policies; policies for housing and urban development; transportation policies; policies for health services; manpower programs; employment opportunities; education; law enforcement; environmental protection and other programs; projection of needs for public facilities, recreation and open space; and policies for intergovernmental relations and governmental organization: Provided, That once a regional plan is submitted to the Governor by a regional council for his consideration in preparing, revising or updating a state plan, the Governor shall have a period of sixty days from the date such regional plan is received by within which to specify in writing to the regional council his objection or objections to such regional plan, and if no such objection or objections are so specified, then such regional plan shall become a part of the state plan being prepared, revised or updated; and if any such objection or objections are so specified, the regional council shall have a period of sixty days from the date of receipt of such specification within which to modify its regional plan or otherwise respond to such objection or objections, and, thereafter, the Governor shall, in preparing, revising or updating a state plan, give such consideration to such original regional plan, modified regional plan or other response of the regional council, as the case may be, as deems appropriate;

(2) Advise and consult with regional councils and regional and local planning agencies in developing state development plans and studies;

(3) Facilitate the coordination of planning and development activities of all state departments, agencies and institutions; local governments; regional councils; and other public and private agencies within the state;

(4) Review local, areawide and state applications for planning and development assistance;

(5) Review and appraise the progress of state government in achieving the goals and objectives set forth in the state development plans;

(6) Monitor and coordinate the state's participation in federal and state aid programs and be responsible for liaison with the appropriate federal and state agencies; and be responsible for all federal programs which require the designation of responsible state agencies, if no other state agency has heretofore been legally designated;

(7) Assist local governments, regional councils and other public bodies in obtaining federal,

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state or other available funds and services;

(8) Facilitate state and local capital improvement projects to meet the requirements of industrial and socio-economic development in various governmental units within the state;

(9) Provide professional and technical assistance and make information available to regional councils and local governments within the state; and be responsible for receiving and disseminating information regarding federal grant assistance within the state; and

(10) Apply for and accept advances, grants, contributions and other forms of assistance from the state or federal government or from any private or public agencies or foundations, to carry out the provisions of this article.

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§8-25-4. Delineation of regions and recommendations of Governor thereon; publication of statement fixing regional boundaries; public hearings; certification of regional boundaries; change in boundaries.

(a) Within sixty days after the effective date of this article, the Governor shall define and recommend for the purposes of this article regional boundaries embracing each municipality and county within the state.

(b) In delineating boundaries of the regions, the Governor shall consider such factors as the units of local government shall express by proper resolution, including community interest and homogeneity; geographic features and natural boundaries; patterns of communication and transportation; patterns of urban development; uniformity of social and economic problems; special problems, boundaries of existing metropolitan and other substate planning and administrative areas; and utility of the proposed boundaries for efficient provision of governmental services. Municipalities shall not be divided when forming a region, except insofar as it is necessary to keep multicounty municipalities within a region.

(c) The Governor shall, within six months after the effective date of this article, certify to the Secretary of State the boundaries of each region.

(d) Not less than sixty days prior to the certification of the boundaries of any region, the Governor shall cause a statement setting forth the counties to be included within the boundary of the proposed region to be published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the proposed region. The Governor shall forward a copy of the statement to the principal executive officer or officers of each municipality and county located within the proposed region.

(e) Prior to the time that the Governor shall certify the boundaries of a region, he or his designee shall conduct at least one public hearing at a convenient place within the proposed region. The Governor shall advertise the meeting by means of a Class I-0 legal advertisement in compliance with the provisions of said article three, and the publication area for such advertisement shall be the proposed region. All public and private organizations located in, and all individuals residing in, municipalities or counties within or adjacent to the proposed region shall be permitted to appear and testify on matters pertaining to its boundaries.

(f) At any time following the certification of the boundaries of any region, the Governor may change such boundaries, pursuant to the criteria and procedures set forth in subsections (b), (c), (d) and (e) of this section.

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§8-25-5. Formation of regional councils; purpose; receipt of funds and assistance; effect on interstate planning commissions and other existing organizations.

(a) The Governor shall provide for an organizational meeting of each of the regional councils within sixty days after his certification pursuant to section four of this article. He shall notify the president of each county court and the mayor of each municipality of the region of the time and place of such meeting. The official so notified shall attend this meeting or shall designate a representative. In the case of the county court, another member of the court shall be the designee or, in the case of a municipality, a member of the governing body of such municipality shall be the designee. Those present shall constitute a quorum and shall select a temporary chairman and secretary and shall provide for a subsequent meeting or meetings at which time the members provided for in section six of this article shall be nominated and elected and the permanent organization and bylaws established.

(b) Each regional council formed pursuant to this article shall fulfill the purposes of development regions and shall be eligible to receive state funds and technical assistance in accordance with the provisions of this article.

(c) (1) Nothing herein contained shall in any way limit or restrict the powers, duties and responsibilities of planning bodies organized under article twenty-six of this chapter relating to interstate planning commissions.

(2) Interstate planning commissions in existence on the effective date of this article are hereby designated as the planning and development councils for the region, insofar as the West Virginia member counties of such interstate planning commissions are concerned, and such commissions shall be empowered to act as the planning and development councils for such regions insofar as the West Virginia member counties are concerned.

(3) When additional West Virginia counties are added, under the provisions of this article, to such interstate planning commissions, their membership in such commissions shall comply, insofar as the West Virginia counties are concerned, with the council membership requirements of this article.

(4) Regional councils or commissions established under this article and article twenty-six of this chapter may, at the option of the county courts of the participating West Virginia counties, continue to have all the powers, duties and responsibilities permitted and required under said article twenty-six, in addition to the powers, duties and responsibilities provided herein for regional councils.

(5) State regional councils or commissions and their corresponding boundaries in existence on the effective date of this article, which were established under the former provisions of this article, and any nonprofit corporation in existence on the effective date of this article, which was established under chapter thirty-one of this code and pursuant to section eighteen, article five, chapter seven of this code and which has had in its employ a full-time paid executive staff for a period of no less than six months immediately prior to the effective

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date of this article, may be designated by the Governor as planning and development regions and regional councils. Such designation shall be made within sixty days after the effective date of this article. Regional councils so designated shall have a period of six months from the date of designation to comply with the membership structure required by this article. Nothing herein contained shall be construed to deprive such existing state regional councils of their legal authority prior to the expiration of the aforementioned six-month period.

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§8-25-6. Membership, organization, etc., of regional council; executive committee; officers and personnel.

(a) All municipalities and all counties within the region shall be represented on the regional council. The county representative shall be the president of the county commission or a member of the county commission designated by him or her. The municipal representative shall be the mayor or a member of the governing body designated by him or her. The number of members of the regional council by virtue of this subsection shall comprise not less than fifty-one percent of the total number of members.

(b) Regional council members serving by virtue of subsection (a) of this section shall select additional members to serve on the council to represent principal community or regional interests, including, but not limited to, commerce, banking, industry, labor, agriculture, education, health and any such interests as may be required by federal law or regulations. The selection of such members shall also provide for reasonable representation of geographic, economic and ethnic groups without exclusion of significant minority groups. Subsequent changes in the designation of representatives shall be determined by the regional council. The number of members serving by virtue of this subsection shall not exceed forty-nine percent of the total number of members.

(c) Each regional council shall select from its membership a chairman, who shall preside at each council meeting, and an executive committee which shall be comprised of one representative from each county commission and one representative from the largest municipality within each county in the region and such other members as the aforesaid representatives may select, but such other members so selected shall not constitute more than forty-nine percent of the total membership of the executive committee. The executive committee shall perform such administrative duties as are prescribed by the regional council in its bylaws and shall exercise the review function provided for in section nine of this article. Each regional council may further provide for such other officers as it shall deem necessary and may establish other committees which may include citizens who are not regional council members.

(d) Each regional council shall establish personnel rules and shall appoint a director who shall be qualified by reason of training and experience. The director shall be empowered to appoint and remove other employees in accordance with the regional council's personnel rules. He or she may, with the approval of the executive committee, enter into agreements with governmental agencies within the region for the use of personnel, equipment and facilities.

(e) Whenever a person associated with a public utility or bank has a conflict of interest between the council and that public utility or bank, or any other member of the council has a direct pecuniary interest in a question before the council, then he or she must recuse himself or herself from any vote, discussion or other activity associated with the council or its members that creates the conflict of interest.

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§8-25-7. Contracts for services, materials, etc.; publication of notice for bids.

Each regional council is empowered and authorized to contract for services of consultants to perform planning, development, engineering, legal or other services of a professional, specialized or technical nature; and such consultants shall be persons appropriately qualified under state statutes dealing with the applicable profession or occupation. Each such contract must have the express approval of the regional council or the executive committee. Such contracts shall not be subject to any law relating to public bidding: Provided, That every contract of the council for the purchase of merchandise, materials or supplies in the amount of $1,000 or more shall be let to the lowest responsible bidder after notice requesting such bids has been published as a Class I-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for this publication shall be the region in question.

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§8-25-8. Powers and duties of regional councils generally.

Each regional council may:

(a) Continuously engage in comprehensive planning and development processes and prepare, and from time to time revise, amend, extend or add to, a plan or plans for the development of the region consistent with any state comprehensive planning and development objectives and reflecting plans and programs of the participating governmental units. Any such plan or plans shall be based on studies of governmental, social, economic, environmental and physical conditions and trends, and shall aim at the coordinated development of the region in order to promote the general health, welfare, convenience and prosperity of its people. Such plan or plans, or parts thereof, shall be prepared by persons appropriately qualified under state statutes dealing with the applicable profession or occupation. Such plan or plans shall be submitted for review to the appropriate agencies in accordance with the provisions of this article. The plan or plans shall embody the policy recommendations of the regional council, and may include, but shall not be limited to: (1) A statement of goals, objectives, standards and principles sought to be expressed in the plan or plans to guide economic, social, environmental and human resource development; (2) recommendations for transportation networks in the region, including land, water and air transportation, and for communication facilities; (3) recommendations concerning the need for and proposed general location of public and private works and facilities, which by reason of their function, size, extent or for any other cause are of a regional, as distinguished from a purely local concern; and (4) recommendations for the long-range programming and financing of capital projects and facilities.

(b) Prepare and from time to time revise, amend, extend or add to a regional development program to implement the policies contained in the comprehensive development plan for the region. The program shall contain a listing of development projects and programs, priorities for the financing of these projects and programs and recommended methods for project and program financing.

(c) Prepare and recommend ordinances, rules and regulations which would implement regional and local plans.

(d) Prepare and publish studies of the region's resources, both natural and human, with respect to existing and emerging problems of industry, commerce, transportation, population, housing, agriculture, environment, health, education, welfare, public service, local governments and any other matters which are relevant to regional planning.

(e) Collect, process and analyze the social and economic statistics for the region which are necessary to planning studies and make the results of such collection, processing and analysis available to the general public.

(f) Participate with other governmental agencies, educational institutions and private organizations in the coordination of the regional research and educational activities

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described in subdivisions (d), (e) and (h) of this section.

(g) Cooperate with, and provide, upon request, planning and technical assistance to municipalities, counties and planning and development agencies within the region, and coordinate regional planning with the planning activities and plans of the state and of the municipalities and counties within the region, as well as neighboring areas, including those in adjoining states, and the programs of federal departments and agencies.

(h) Provide information to officials, departments, agencies and instrumentalities of the federal, state and local governments and to the public at large, in order to foster public awareness and understanding of the objectives of the regional plans and the functions of the regional and local planning and development councils, and to stimulate public interest and participation in the orderly, integrated development of the region.

(i) Apply for, accept and expend funds and grants provided for the purposes hereof by the government of the United States or its departments or agencies; by departments and agencies of the state or any other state; by one or more municipalities, counties or other political subdivisions of this state or of any other state; or by any other agency, public or private; or from any individual whose interests are in harmony with the purposes hereof, including planning councils and commissions, all in accordance with any federal requirements and subject to any conditions or limitations of the Constitution or laws of this state.

(j) Perform development on a regional basis as necessary to undertake, complete or accomplish the goals and purposes of comprehensive planning in the region by intergovernmental contract or joint enterprises, or both, with local governmental units or combinations of such units pursuant to article twenty-three of this chapter.

(k) Exercise powers jointly or in cooperation with agencies or political subdivisions of the State of West Virginia or any other state, or with agencies of the United States, subject to Constitutional and statutory provisions applicable to interjurisdictional agreements.

(l) Adopt bylaws and such other rules and regulations as may be necessary to effectuate the purposes of this article.

(m) Exercise all other powers and authority necessary and proper for the discharge of its duties.

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§8-25-9. Review of applications for loans or grants.

Each regional council shall review all applications of governmental units or independent agencies within the region for loans or grants from the federal government or any of its agencies or the State of West Virginia or any of its agencies. All recommendations and comments on applications for the aforementioned funding programs shall be forwarded to the Governor. Each council shall establish and maintain a clearinghouse for the purpose of establishing required review procedures in compliance with the "Intergovernmental Cooperation Act of 1968 (Public Law 90-557)," and the "Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 87-754)," and the rules and regulations pertaining thereto, as promulgated by the United States office of management and budget. The state review agency designated by the Governor shall inform regional councils of state review findings relating to applications submitted from within the jurisdiction of each council.

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§8-25-10. Cooperation of regional council and other planning or development agencies, governmental units and officials.

To effectuate the purposes of this article, regional councils shall cooperate with planning agencies or development agencies within the region or within other regions, with the governing bodies and administrative officials of any municipality, county or any other political subdivision, including those in other states, or with any other entity, private or public, whose interests are in harmony with the purposes of this article, in order to coordinate and harmonize planning and development for the cooperating units. All state departments and agencies shall cooperate with regional councils established under this article and shall make available for the studies conducted by such councils, reports, data and other informational and technical assistance within financial and personnel limitations. Each regional council may appoint such committees and may adopt such rules and regulations as may be proper to effect such coordination and integration. The governing bodies and administrative officials of municipalities, counties and other political subdivisions within this state are hereby empowered and authorized to cooperate with such planning and development agencies and with the governing bodies and administrative officials of political subdivisions and planning and development agencies in other states for the purpose of such coordination and integration in accordance with the provisions of this article.

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§8-25-11. Appointment of citizens' advisory committees.

Each regional council may appoint advisory committees of interested and affected citizens to assist in the review of plans, programs and other purposes of this article referred for review by the regional council. Whenever a special advisory committee is required by any federal or state regional program, the regional council chairman shall, with approval of the executive committee, appoint such committees as advisory groups to the regional council.

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§8-25-12. Annual budget of regional council; contributions by governmental units; deposits and disbursements.

Each regional council shall adopt an annual budget, to be submitted to the participating governmental units which shall each contribute to the financing of the council according to a formula adopted by the council and approved by a majority of the counties and a majority of the municipalities participating in the regional council. All such contributions shall be fair and equitable and shall be based on the population of each participating governmental unit as determined on the basis of the latest decennial census, or such other criteria as may be determined by each respective regional council. Each participating county and municipality is hereby directed and empowered to pay over and contribute to the operation of said councils in accordance with the formula adopted as hereinbefore provided. Such sums, as are appropriated hereunder, may be transferred to the regional councils for deposit and disbursement as the regional councils may designate and direct. By such transfer, the governing body designates the regional council as its disbursing agent.

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§8-25-13. Annual report of regional council.

On or before July thirty-first of each year, each regional council shall prepare an annual report. The regional council shall submit copies of the report to the participating governmental units and to the Governor. The report shall include the following:

(a) A consolidated statement of the regional council's receipts and expenditures by category since the preceding report.

(b) A consolidated, detailed regional council budget for the year in which the report is filed and the following year including an outline of its program for such period.

(c) A description of any comprehensive plan adopted in whole or in part for the region.

(d) Summaries of any studies and development progress and the recommendations resulting therefrom made for the region.

(e) A listing of all applications for federal grants or loans submitted by the governmental units within the region together with the action taken by the regional council in relation thereto.

(f) A listing of plans of local governmental units submitted to the region and actions taken in relation thereto.

(g) Recommendations of the regional council regarding federal and state programs, cooperation, funding and legislative needs.

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§8-25-14. Effect of article upon pending projects and applications.

Any of the provisions of this article to the contrary notwithstanding, no pending application for federal or state grants, loans, mortgages or other types of funding nor any application for grants, loans, mortgages or other types of funding intended to supplement a pending project shall be required to be approved by any such regional council nor shall any such pending application be delayed or disapproved by reason of the provisions of this article.

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§8-25-15. Construction of article.

The provisions of this article shall be liberally construed to accomplish its objectives and purposes.

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