

LEGISLATIVE BILL 317

Approved by the Governor May 2, 1975

Introduced by Bereuter, 24

AN ACT relating to the State Office of Planning and Programming; to provide additional responsibilities; and to provide certain requirements for certain classes of municipalities.

Be it enacted by the people of the State of Nebraska,

Section 1. Effective July 1, 1977, the county government of a county that is included in a Standard Metropolitan Statistical Area, as defined by the federal government, is authorized, with the assistance of its planning commission, to prepare, adopt, and enforce zoning and subdivision regulations that are based upon a comprehensive development plan, as defined by section 23-114.02, Reissue Revised Statutes of Nebraska, 1943, for the land area included in any municipality that has not by such date adopted zoning and subdivision regulations and begun an organized and staffed program to enforce such regulations, either as an individual municipality or jointly with the assistance of the county. If the State Office of Planning and Programming determines, under authority granted by section 6 of this act, that a city of the first class, city of the second class, or village in such county is not, by July 1, 1977, enforcing zoning and subdivision regulations in a manner that the state agency determines to be adequate, the municipality shall permanently lose its land-use planning and land-use regulatory powers, and the county, by July 1, 1978, shall have prepared necessary plans and shall enforce zoning and subdivision regulations for the area within that municipality.

A city of the second class or a village which loses its land-use planning and land-use regulatory powers in such a manner may regain such authority one year after it becomes a city of the first class. Upon the enforcement of zoning and subdivision regulations by the municipality, the county shall relinquish its control over both the area in the municipality and the extraterritorial jurisdiction of the municipality.

At the time that an additional county is added to a Standard Metropolitan Statistical Area, a municipality in that county shall have a one-year period after such designation to individually or jointly begin enforcing zoning and subdivision regulations before it becomes

subject to permanent loss of its land-use planning and land-use regulatory powers. If such municipality does not begin adequate regulatory programs, as determined by the State Office of Planning and Programming acting under section 6 of this act, by the end of the one-year period, the county shall begin such regulatory programs within two years after the designation of the county as part of a Standard Metropolitan Statistical Area.

Sec. 2. By July 1, 1977, the county government of a county that contains some or all portions of a city of the first class shall have prepared a comprehensive development plan that meets the requirements of section 23-114.02, Reissue Revised Statutes of Nebraska, 1943, adopted zoning and subdivision regulations covering all portions of its regulatory jurisdiction, and begun an organized and staffed program to enforce such zoning and subdivision regulations that the State Office of Planning and Programming, acting under authority granted by section 6 of this act, determines to be adequate.

Sec. 3. Effective July 1, 1976, a county government, city of the metropolitan class, or city of the primary class that is enforcing zoning and subdivision regulations shall, upon request, provide either directly or through an intergovernmental program, all the necessary services and staff to assist villages and cities of the second class that are located wholly or partially within the county with the enforcement of their individual zoning and subdivision regulations, and such assistance may, at the option of the county, city of the metropolitan class, or city of the primary class also be rendered to cities of the first class upon request. The county or municipality may assess the full costs of such assistance to a municipality served. The county or municipality providing the service may require a one-year notice before beginning or terminating such services. A municipality receiving service may terminate such an arrangement only when it demonstrates to the State Office of Planning and Programming that it has the intention and capabilities to provide adequate regulatory programs either by means of its own program or through an intergovernmental program.

Sec. 4. A municipality incorporated after January 1, 1976, shall have no land-use planning and land-use regulatory power if it is located wholly or partially within a county that is exercising zoning and subdivision regulatory powers at the time of its incorporation. The county government of such county or counties, with the assistance of its planning commission, is authorized to continue land-use planning and enforcing land-use regulations for that incorporated area and for

any additional area later added to the municipality. One year after such municipality becomes a city of the first class, it may regain land-use planning and land-use regulatory authority, and upon the enforcement of zoning and subdivision regulations by the municipality in a manner deemed adequate by the State Office of Planning and Programming, acting under section 6 of this act, the county shall relinquish its control over both the area in the municipality and the extraterritorial jurisdiction of the municipality.

Sec. 5. The zoning board of adjustment of a county that has adopted a comprehensive development plan, as defined by section 23-114.02, Reissue Revised Statutes of Nebraska, 1943, and is enforcing zoning regulations based upon such a plan, shall, effective January 1, 1976, serve as the zoning board of adjustment for all villages and cities of the second class in that county. Existing zoning boards of adjustment for such municipalities shall be dissolved on January 1, 1976. A city of the first class may request that the county zoning board of adjustment of the county in which it is located serve as that city's zoning board of adjustment, and such county government shall comply with that request within ninety days. A municipality located in more than one county shall be served by request or otherwise only by the county zoning board of adjustment of the county in which the greatest area of the municipality is located, and the jurisdiction of such county zoning board of adjustment shall include all portions of the municipality and its area of extraterritorial control, regardless of county lines. In a county where there is a city of the primary class, the board of zoning appeals, created under section 23-174.01, Reissue Revised Statutes of Nebraska, 1943, may serve in the same capacity for all cities of the second class and villages in place of a zoning board of adjustment.

Sec. 6. The State Office of Planning and Programming is hereby authorized to examine, with the assistance of other state agencies or officials, the land-use regulatory programs of all counties and municipalities, and is directed to do so by January 1, 1977. It is further directed to reexamine such programs and examine new regulatory programs, at least once annually thereafter. Such examinations shall be limited to a scrutiny of the procedure and practices utilized in municipalities, counties, and interlocal regulatory programs by their legislative bodies, planning commissions, boards of adjustment, and planning and enforcement staffs to insure that such procedures, practices, and related actions are consistent with state laws that relate to land-use regulations which are in

force as of the effective date of this act. Specifically to be excluded from such examination are matters, consistent with state statutes, which relate to the efficiency, efficacy, or constitutionality of the regulatory and planning techniques utilized in local programs. A confidential report shall be provided by the state agency to each municipality, county, or interlocal organization examined which provides a listing of procedures, practices, and actions that were found to be inconsistent with state law, and a corresponding list of suggestions for correcting those deficiencies. After one hundred twenty days and within one hundred fifty days of the delivery of the report, the state agency shall publish a report in a newspaper of general circulation within the municipality, county, or municipalities and counties involved which describes any deficiencies which remained uncorrected one hundred twenty days after the confidential report was delivered. The state agency shall also report annually to the Legislature as to the nature and extent of its findings and as to the extent that procedural corrections were made or not made by the counties and municipalities.

Sec. 7. The State Office of Planning and Programming shall assess a municipality's regulatory intentions and capabilities as required by section 3 of this act, and render a decision whether they are satisfactory and adequate to permit the municipality to terminate its involvement in an existing county or intergovernmental enforcement program.

Sec. 8. All municipalities and counties shall file a current version of adopted zoning and subdivision regulations with the State Office of Planning and Programming by January 1, 1976, along with evidence of such adoptive action. Municipalities and counties shall thereafter annually file copies of any amendatory or repealing actions for such zoning and subdivision regulations by the first day of January. When practicable, a municipality or county shall also provide a copy of the current version of its adopted comprehensive development plan and, on an annual basis, any amendments thereto.