

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1580 SCOMM 59: JNT. COMMITTEE ON ECONOMIC RECOVERY, 1988 1577

The Value of Alaska's Commercial Fisheries to Resident and Non-resident Fishermen
(\$ millions)

Species	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Salmon	119.7	176.4	241.2	346.8	254.1	397.3	309.7	320.2	343.1	389.0	404.0
Shellfish	97.3	153.2	230.6	239.0	265.3	196.9	211.7	146.6	102.1	106.3	186.4
Halibut	20.5	17.6	23.4	32.9	13.5	19.3	24.9	35.3	24.9	40.3	63.2
Herring	2.5	2.7	7.2	32.7	12.2	18.6	20.2	28.9	19.8	38.0	38.5
Groundfish	1.1	1.6	3.3	6.3	8.9	24.0	40.9	78.0*	107.2*	137.5*	197.9*
All Commercial Fisheries	241.1	351.5	505.7	657.7	554.0	656.1	607.4	609.0	597.1	711.1	890.0

1985 and 1986 data preliminary estimates.

* 1983, 1984, 1985, and 1986 groundfish include J.V.¹ and D.A.P.² landings, in and out of Alaska.

Source: Informational Pamphlet, Alaska Department of Fish and Game, February, 1987.

1 J.V. = Joint Venture

2 D. A.P. = Domestic Annual Processing

Strategy for Success

The Commission identified key factors for success in realizing these objectives: knowledge, focused insight (such as that resident in Washington state and Japan), vessel support and fish processing facilities, adequate Alaskan ports and processors to serve industry needs, and a degree of regulatory stability.

Specific areas for action which the Commission suggests are as follows:

(1) Develop knowledge and insight with detailed study of Alaska's present position and future potential including:

- Direct dollar benefit by region (in-state and out) of vessel harvest value, wholesale value and market value for each type of fishery.

- Indirect dollar benefit by region (in-state and out) of fishing fleet support, processing and product storage facilities.

(2) Develop the in-state fleet through favorable regulation.

- Harvest quotas that encourage fresh market prices and local home ports.

- Biologically based harvest management to lengthen seasons where possible.

- Resolve salmon, crab, and white fish conflicts to unite the local fleet.

- Rebuild the share of Alaskan Native and non-Native permit holders.

- Consider modifications to fishery permit system
 - Consider state buy-back of some permits

(3) Develop in-state, onshore processing through improved competitiveness.

- Identify factors for success that have resulted in processing growth outside Alaska.

- Utilize fish tax investment credits as incentives.

--Prioritize projects that reduce energy and cold storage costs.

--Define the type and level of technical and research support needed.

(4) Develop adequate harbor and vessel service facilities.

--Use state lands to increase the capability of ports to fuel and supply vessels.

--Improve dry docks and haul-out rails for in-state vessel maintenance and repairs.

(5) Develop the Alaska Board of Fish as the agency to define the optimal fishery harvest levels and to define the State's role in mariculture, fish farming and ranching.

--Increase the biological expertise on the Board with appointments of fishery experts with no direct fishing interest.

The Insurance Industry

For 1986, the estimate of total insurance premiums paid by Alaskans was over \$650 million. Of this, between \$450 and \$550 million came back to Alaska for claims and the remainder must be considered "leakage" to economies outside of Alaska.

The Commission identified this leakage as an opportunity for import substitution. Of the 1004 companies authorized to sell insurance in the state, 989 were "foreign" (not Alaska-based) and 15 were domestic. Although it may be difficult to capture all of the "leakage" due to the nature of the insurance industry, there appears to be some room for growth.

For example in 1985, the health care bill for the state was estimated to be about \$1.3 billion. Although the data is sketchy and hard to obtain, at present it appears that Alaska spends about \$500 million in State and federal tax dollars for

health care services. Another \$800 million is paid for by insurance and private individuals. Information about the proportion of insurance premiums paid to out-of-state companies relative to the total claims paid to Alaskan health care providers is not available for recent years. A 1982 study, however, revealed a net excess of health insurance premiums over amounts paid of about \$40 million, or twenty-one percent of the total premiums paid.

Strategy for Success

Economic leaders need to investigate the dimensions of this leakage of insurance premium dollars, estimated to be \$100 - 200 million. Then, they must identify potentially viable strategies for keeping the insurance premium dollars in the state.

The Investment Industry

Like the insurance industry, the main challenge with the investment industry opportunity is that the portion of investment dollars being managed outside of Alaska is unknown. The estimate of dollars available for investment ranges from \$25 to \$40 billion. The largest pools of available dollars include:

- The Permanent Fund
- The Teachers Retirement System
- The Public Employees Retirement System
- Corporate pension funds
- Union pension funds
- Local government funds
- Investments in local banks, savings and loans, credit unions, insurance companies, and brokerage firms.

If Alaskan brokers and investment advisors were to collect one quarter of one percent for investing \$25 billion (or \$40 billion) -- the value to the Alaskan economy generated from the investment industry could be \$60 million (or \$100 million).

Strategy for Success

These objectives could be partly accomplished by "gentle nudging" on the part of institutional investors ... such as administrators of the Permanent Fund and pension funds. As a matter of policy, fund administrators could only do business with investment firms which kept active Alaskan offices capable of providing competitive service to their accounts. Also, the Legislature could enact statutory incentives regarding the investment of public funds.

ACTION ITEMS/IMPLEMENTATION

The next phase of the Strategic Planning Commission's work focuses on communication. This phase includes taking this report "public" in town meetings with business and government leaders throughout the State. These include:

- local Chambers of Commerce statewide
- service clubs and other forums.

The emphasis of these local presentations will be on how each local community can evaluate its own economy using the "Export Model" and the "Strategies for Development." Each community and region should create its own development initiatives and priorities.

Finally, since its mission is to involve key Alaskan economic thinkers and leaders in the planning process, the Commission offers the following "Economic Leadership Checklist."

Economic Leadership Checklist

The Commission urges Alaska's economic leaders to:

- Educate Alaska's people, especially the children, because they are the greatest resource;
- Recognize the importance of the Alaskan political economy to other facets of life in the state;
- Become educated about the nature of economic change in the world and its effect on Alaska;
- Insist on sound diagnosis as a foundation for economic strategy;
- Require that economic development programs be monitored and periodically evaluated to assure public accountability and necessary adjustments;
- Participate in shaping a vision of Alaska's economic future;
- Identify actions compatible with that vision and motivate people to undertake them; and,
- Join with the State Chamber of Commerce in a statewide partnership to provide the leadership for economic expansion and diversification.

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Official Business

Alaska State Legislature

Senate

Senate Joint Economic Recovery Committee

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senate Joint Economic Recovery Committee members
FROM: Senator Lloyd Jones, Co-Chair
RE: Information

Here is some information regarding what Michigan and Washington have done to spur on economic recovery.

As you know, Michigan suffered through some tough years recently when the American auto industry foundered. Washington state has also had some tough times. I am sure Alaska can benefit from the work other states have done to improve their economy.

If any of the items in this packet interest you, we can discuss them in committee.



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Alaska State Legislature

SENATE ADVISORY COUNCIL



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

MEMORANDUM

TO: Senator Jones
FROM: Senate Advisory Council Staff
DATE: February 16, 1988
RE: Informational Release: Request # 88-003231

Thank you for your recent request for assistance. Attached is the material you requested. This information will remain confidential unless we receive your approval for release.

Please check the appropriate box and return to Mail Stop 3100 or the above mailing address by March 1, 1988.

- ☐ I approve the release of this information.
- ☐ I approve the release of this information, but please remove my name.
- ☐ I do not approve the release of this information at this time.

If we can be of further service, please do not hesitate to contact us.

DATE _____

SENATOR _____

1/1/88

Alaska State Legislature

Senate Advisory Council



P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

MEMORANDUM

TO: Senator Jones
Alaska State Legislature

FROM: Carol R. Vandor *CPV*
Senate Advisory Council

DATE: February 16, 1988

RE: Economic Development Legislation in Washington and Michigan
IR# 88-003231

Attached is the information you requested regarding economic development/economic recovery legislation in Washington and Michigan. The Michigan Department of Commerce was not aware of any legislation that was enacted as a specific result of the failing auto industry. They did, however, feel that the Michigan Strategic Fund legislation might be of interest.

Any statutes you may wish to view that are amended by the attached material are available at the Legislative Library. The library is located on the 6th floor of the Court Plaza; their phone number is 465-3808. They can also provide you with copies of specific sections.

If we may be of further assistance, please let us know.

Attachments:

Washington
FEB 8 1988

SENATE BILL REPORT

SB 6220

BY Senators Anderson, Halsan, Deccio, Owen, Saling, Smitherman, Stratton, DeJarnatt, Warnke, Lee, Cantu, West, McMullen, Fleming, Williams, Conner, Hayner and Garrett

Changing provisions relating to business industrial development corporations.

Senate Committee on Economic Development & Labor

Senate Hearing Date(s): January 12, 1988; January 18, 1988

Majority Report: That Substitute Senate Bill No. 6220 be substituted therefor, and the substitute bill do pass and refer to Committee on Ways & Means.

Signed by Senators Lee, Chairman; Anderson, Vice Chairman; Cantu, Conner, Deccio, McMullen, Saling, Smitherman, Warnke, West, Williams.

Senate Staff: Jack Brummel (786-7428)
January 19, 1988

AS REPORTED BY COMMITTEE ON ECONOMIC DEVELOPMENT & LABOR, JANUARY 18, 1988

BACKGROUND:

The 1963 Industrial Development Corporation Act was intended to stimulate the Washington economy via equity investments and loans made by industrial development corporations. Only two such corporations have been formed, neither of which are currently operating. The need for an effective program to increase investment in Washington businesses is underscored by the state's low rate of new business incorporations and the difficulty Washington firms experience in obtaining capital if they do not meet current commercial bank or venture capital criteria.

SUMMARY:

The Industrial Development Corporation Act of 1963 is amended. The requirement that financial institutions be members and have voting control is eliminated. Business and industrial development corporations' (BIDCO) investments are to be in firms with a majority of their workforce in Washington state.

A certification requirement prior to approval of corporate documents is added. Such certification may be revoked if the

BIDCO fails to act in a safe sound manner or fails to comply with the intent of the Act to make capital available to moderate risk firms.

Fewer people are required to form a corporation and they are given greater flexibility in operation. The amount of capital necessary to start BIDCO is \$1 million in equity and \$1 million in lendable funds. Detailed reporting requirements on BIDCO performance are required. Reserve requirements for BIDCOs may be established by the Supervisor of Banking.

The Department of Trade and Economic Development provides technical assistance to BIDCOs in formation. BIDCOs may contract with the Department to deliver management assistance to firms but one-half of a corporation's investments must be in firms that enter into first-source agreements to hire first from a list of unemployed individuals.

Investors are given credit against state B&O, utility, or insurance premium taxes for their investment in a BIDCO. The tax credits available to investors start at 25 percent in fiscal year 1990 and decline by 5 percent per year to a 0 percent tax credit in 1995.

EFFECT OF PROPOSED SUBSTITUTE:

BIDCOs contracting with the Department of Trade and Economic Development will enter first-source hiring arrangements and one half of their firms will be in distressed areas.

Appropriation: none

Rvenue: yes

Fscal Note: requested January 5, 1988

at Committee - Testified: Senator Halsan; John Anderson, DTED; David Dougherty, DTED; Collin Sprague, AWB; Bill Lotto, EDEW; Mary Ryan, Evergreen CDA; Wayne Schwart, 4th Corner Development; Gary Independent Business Association

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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Committee on Economic
and Labor (originally
by Senators Anderson, Halsan,
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DeJarnatt, Warnke, Lee,
t, McMullen, Fleming,
Conner, Hayner and Garrett)

Provisions relating to
Industrial development
ns.

time

Filed by _____
Committee and ordered printed _____
On Motion Substituted _____
for Original, placed on calendar _____

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First Reading

Referred to

Reintroduced by Resolution

Majority Reported

Minority Reported

Majority Reported

Minority Reported

Second Reading

Substituted//Amended//Held

Third Reading

F.P. Yeas/Nays

Passed as Amended

Reconsideration

Reconsideration Vote

F.P. Yeas/Nays

Title Agreed to

Sec. of Sen./Chief Clerk

Received//Returned

Do Concur//Don't - Recede//Insist

Do Concur - Recede w/Exceptions

F.P. Yeas/Nays

Conference - Asked/Granted

Sec. of Sen./Chief Clerk

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Washington

1 AN ACT Relating to business and industrial development CR978
2 corporations; amending RCW 31.24.010, 31.24.020, 31.24.030, F
3 31.24.040, 31.24.070, 31.24.080, 31.24.090, 31.24.120, 31.24.130, S
4 31.24.140, and 31.24.150; reenacting and amending RCW 42.17.310; -4153
5 adding new sections to chapter 31.24 RCW; adding a new section to ;1
6 chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding PARTA
7 a new section to chapter 48.14 RCW; creating a new section; repealing ;3
8 RCW 31.24.050, 31.24.060, and 31.24.100; and prescribing penalties. 26

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: 27

10 NEW SECTION. Sec. 1. The legislature finds that the 29
11 unavailability of capital to viable firms that do not meet current 30
12 commercial bank or venture capital criteria for loans or equity 30
13 investments can have a devastating impact on the state's economic 31
14 development efforts. Without reasonable access to financing, 32
15 talented and aggressive entrepreneurs are cut out of the economic 33
16 system and the overall economy of the state suffers. 33

17 The process of job creation and economic development requires 34
18 readily available capital for small and young companies that are the 35
19 major source of innovations and new jobs. To ensure the availability 36
20 of capital to entrepreneurs in Washington state, the legislature 37
21 hereby eliminates unnecessary restrictions which have discouraged the 37
22 formation of industrial development corporations under current law 38
23 and aids incentives to encourage the formation of business and 39
24 industrial development corporations. 39

25 Sec. 2. Section 1, chapter 162, Laws of 1963 and RCW 31.24.010 43
26 are each amended to read as follows: 43

27 ((AS--used--in--this--chapter,--the--following--words--and--phrases, 45
28 unless--differently--defined--or--described,--shall--have--the--meanings--and 46

CORRECTION

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28 unless--differently--defined--or--described,--shall--have--the--meanings--and 46

1 references---as---follows)) Unless the context clearly requires 47
2 otherwise, the definitions in this section apply throughout this 47
3 chapter: 47

4 (1) Corporation means a Washington business and industrial 48
5 development corporation created under this chapter. 49

6 (2) Financial institution means any banking corporation or trust 51
7 company, national banking association, savings and loan association, 52
8 insurance company or related corporation, partnership, foundation, or 53
9 other institution engaged primarily in lending or investing funds. 54

10 (3) ~~((Member means any financial institution authorized to do~~ 56
11 ~~business within this state which shall undertake to lend money to a~~ 57
12 ~~corporation created under this chapter, upon its call, and in~~ 57
13 ~~accordance with the provisions of this chapter.~~ 58

14 ~~{4})~~) Board of directors means the board of directors of the 59
15 corporation created under this chapter. 60

16 ~~((5) loan limit means for any member, the maximum amount~~ 62
17 ~~permitted to be outstanding at one time on loans made by such member~~ 63
18 ~~to the corporation, as determined under the provisions of this~~ 65
19 ~~chapter.)~~ 65

20 (4) Business means an individual, proprietorship, joint venture, 66
21 partnership, trust, business trust, syndicate, association, joint 67
22 stock company, cooperative, corporation, or any other organization 68
23 operating in this state, and paying more than fifty percent of its 69
24 contributions or payments for the purposes of unemployment insurance 69
25 to this state. 69

26 (5) Associate means, if used with respect to a corporation: 70

27 (a) A controlling person, director, officer, agent, or advisor of 71
28 that corporation. 71

29 (b) A director, officer, or partner of a person referred to in 72
30 (a) of this subsection. 73

31 (c) A person who controls, is controlled by, or is under common 74
32 control with a person referred to in (a) of this subsection directly 75
33 or indirectly through one or more intermediaries. 76

34 (d) Any close relative of any person referred to in (a) of this 77
35 subsection. 77

1 this subsection is a director or officer. 79

2 (f) A person in which a person referred to in (a) through (d) of 80

3 this subsection, or any combination of those persons acting in 81

4 concert, owns or controls, directly or indirectly, a twenty percent 82

5 or greater equity interest. 82

6 For the purposes of this subsection (5) (f), a person who is in a 84

7 relationship referred to in this subsection within six months before 95

8 or after a corporation provides financing assistance shall be 86

9 considered to be in that relationship as of the date that corporation 87

10 provides that financing assistance. 87

11 If a corporation, in order to protect its interests, designates a 88

12 person to serve as a director of, officer of, or in any capacity in 89

13 the management of a business to which that corporation provides 90

14 financing assistance, that person shall not, on that account, be 91

15 considered to have a relationship with that business. This exception 91

16 does not apply if the person has, directly or indirectly, any other 92

17 financial interest in the business or if the person, at any time 93

18 before the corporation provides the financing assistance, served as a 94

19 director of, officer of, or in any other capacity in the management 94

20 of the business for a period of thirty days or more. 95

21 (6) Close relative means a parent, child, sibling, spouse, 96

22 father-in-law, mother-in-law, son-in-law, brother-in-law, daughter- 97

23 in-law, sister-in-law, grandparent, or grandchild. 98

24 (7) Supervisor means the state supervisor of banking. 99

25 Sec. 3. Section 2, chapter 162, Laws of 1963 as amended by 101

26 section 1, chapter 16, Laws of 1974 ex. sess. and RCW 31.24.020 are 104

27 each amended to read as follows: 104

28 ((Fifteen)) Seven or more persons, a majority of whom shall be 105

29 residents of this state, who may desire to create ((an)) a business 107

30 and industrial development corporation under the provisions of this 108

31 chapter, for the purpose of promoting, developing and advancing the 110

32 prosperity and economic welfare of the state and, to that end, to 112

33 exercise the powers and privileges hereinafter provided, may be 112

34 incorporated by filing in the office of the secretary of state, as 114

35 hereinafter provided, articles of incorporation. The articles of 115

36 incorporation shall contain: 116

1 (1) The name of the corporation, which shall include the words 118
2 "Business and Industrial Development Corporation of Washington." 118

3 (2) The location of the principal office of the corporation, but 119
4 such corporation may have offices in such other places within the 121
5 state as may be fixed by the board of directors. 121

6 (3) The purposes for which the corporation is founded, which 122
7 shall be to (~~promote, stimulate, develop and advance the business~~ 124
8 ~~prosperity and economic welfare of Washington and its citizens, to~~ 125
9 ~~encourage and assist through loans, investments or other business~~ 126
10 ~~transactions in the location of new business and industry in this~~ 128
11 ~~state and to rehabilitate and assist existing business and industry;~~ 128
12 ~~to stimulate and assist in the expansion of all kinds of business~~ 130
13 ~~activity which will tend to promote the business development and~~ 131
14 ~~maintain the economic stability of this state; provide maximum~~ 132
15 ~~opportunities for employment, encourage thrift, and improve the~~ 134
16 ~~standard of living of citizens of this state; similarly, to cooperate~~ 134
17 ~~and act in conjunction with other organizations, public or private;~~ 135
18 ~~in the promotion and advancement of industrial, commercial,~~ 136
19 ~~agricultural and recreational developments in this state; and to~~ 138
20 ~~provide financing for the promotion, development, and conduct of all~~ 138
21 ~~kinds of business activity in this state)~~ provide moderate risk 140
22 financing and management assistance to businesses operating primarily 142
23 in Washington state to increase job opportunities for Washington 142
24 citizens and the prosperity of the state. 143

25 (4) The names and post office addresses of the members of the 144
26 first board of directors, who, unless otherwise provided by the 146
27 articles of incorporation or the bylaws, shall hold office for the 147
28 first year of existence of the corporation or until their successors 148
29 are elected and have qualified. 148

30 (5) Any provision which the incorporators may choose to insert 149
31 for the regulation of the business and for the conduct of the affairs 151
32 of the corporation and any provision creating, dividing, limiting and 152
33 regulating the powers of the corporation, the directors, stockholders 153
34 or any class of the stockholders, including, but not limited to a 155
35 list of the officers, and provisions governing the issuance of stock 156

1 (6) The amount of authorized capital stock and the number of 158
2 shares into which it is divided, the par value of each share and the 159
3 amount of capital with which it will commence business and, if there 159
4 is more than one class of stock, a description of the different 160
5 classes; the names and post office addresses of the subscribers of 162
6 stock and the number of shares subscribed by each. The aggregate of 162
7 the subscription shall be the minimum amount of capital with which 164
8 the corporation shall commence business which shall not be less than 165
9 ~~((fifty--thousand))~~ one million dollars, except as otherwise provided 166
10 in this chapter. The articles of incorporation may also contain any 168
11 provision consistent with the laws of this state for the regulation 169
12 of the affairs of the corporation. 169

13 (7) The articles of incorporation shall be in writing, subscribed 170
14 by not less than five natural persons competent to contract and 172
15 acknowledged by each of the subscribers before an officer authorized 173
16 to take acknowledgments and filed in the office of the secretary of 174
17 state for approval. A duplicate copy so subscribed and acknowledged 176
18 may also be filed. 176

19 (8) The articles of incorporation shall recite that the 177
20 corporation is organized under the provisions of this chapter. 179

21 The secretary of state shall not approve articles of 180
22 incorporation for a corporation organized under this chapter until 183
23 ~~((a-total-of-at-least-ten-national-banks, state-banks, savings-banks,~~ 184
24 ~~industrial--savings--banks,--federal--savings--and--loan--associations,~~ 185
25 ~~domestic-building--and--loan--associations,--or--insurance--companies~~ 186
26 ~~authorized--to--do--business--within--this--state, or any combination~~ 187
27 ~~thereof,--have--agreed--in--writing--to--become--members--of--said~~ 189
28 ~~corporation;--and--said--written--agreement--shall--be--filed--with--the~~ 189
29 ~~secretary-of-state-with-the-articles-of-incorporation-and-the--filing~~ 191
30 ~~of--same--shall--be--a--condition--precedent--to--the-approval-of-the~~ 192
31 ~~articles-of-incorporation-by--the--secretary--of--state))~~ the state 193
32 supervisor of banking has certified the corporation as eligible to 194
33 operate as a business and industrial development corporation under 195
34 this chapter. 195

35 A person transacting business in this state shall not use a name 196
36 or title which indicates that the person is a business and industrial 197

1 development corporation including, but not limited to, use of the 198
2 term "BIDCO," and a person shall not otherwise represent that the 199
3 person is a business and industrial development corporation until the 199
4 person has been certified as a business and industrial development 200
5 corporation. 200

6 A corporation shall be certified by the supervisor of banking as 202
7 eligible to operate under this chapter upon meeting the following 202
8 conditions: 202

9 (a) The corporation has paid a three thousand dollar 203
10 certification fee to the state supervisor of banking and such other 204
11 fees or costs as the supervisor establishes by rule; 205

12 (b) The corporation has submitted a business plan which includes 206
13 at least three years of detailed financial projections and other 207
14 relevant information; 207

15 (c) The corporation has provided information about the character 208
16 and competence of each director and officer of the corporation; and 209

17 (d) The supervisor finds that the corporation's officers and 210
18 directors are capable of running the corporation competently, has a 211
19 net worth and lendable funds sufficient to provide financing 212
20 assistance, and that the directors and officers of the corporation 213
21 have agreed to comply with the terms of this chapter and its intent 214
22 to facilitate the availability of moderate risk financing to firms in 215
23 Washington. In making the finding under this subsection, the 215
24 supervisor of banking shall: 216

25 (i) Consult with the director of trade and economic development 217
26 and the director of community development; and 218

27 (ii) Require a minimum net worth of one million dollars and an 219
28 additional one million dollars in lendable funds or an enforceable 220
29 pledge for one million dollars in lendable funds, unless the 221
30 supervisor finds that special circumstances render lesser amounts of 221
31 net worth or lendable funds adequate for the corporation to meet the 222
32 intent of this chapter and operate according to its business plan. 224

33 Whenever the articles of incorporation shall have been filed in 227
34 the office of the secretary of state and approved by ((him)) the 228
35 secretary and all taxes, fees and charges, have been paid, as 229
36 required by law, the subscribers, their successors and assigns shall 230

1 constitute a corporation, and said corporation shall then be 232
2 authorized to commence business, and stock thereof to the extent 232
3 herein or hereafter duly authorized may from time to time be issued. 234

4 Sec. 4. Section 3, chapter 162, Laws of 1963 as last amended by 236
5 section 42, chapter 466, Laws of 1985 and RCW 31.24.030 are each 239
6 amended to read as follows: 239

7 The business of a corporation shall be to provide financing and 240
8 management assistance to businesses operating primarily in Washington 241
9 state. In furtherance of its ((purposes)) business and in addition to 243
10 the powers now or hereafter conferred on business corporations by the 244
11 provisions of Title 23A RCW, ((the)) each corporation shall, subject 245
12 to the restrictions and limitations herein contained, have the 246
13 following powers: 246

14 (1) To elect, appoint and employ officers, agents and employees; 248
15 to make contracts and incur liabilities for any of the purposes of 249
16 the corporation((~~---PROVIDED,--That-the-corporation-shall-not-incur~~ 250
17 ~~any-secondary-liability-by-way-of--guaranty--or--endorsement--of--the~~ 251
18 ~~obligations--of--any--person,firm,corporation,joint-stock-company,~~ 252
19 ~~association-or-trust,or-in-any-other-manner))~~). 252

20 (2) To borrow money ((~~from-its-members--and--the--small--business~~ 255
21 ~~administration-and-any-other-similar-federal-agency;))~~ for any of the 256
22 purposes of the corporation; to issue therefor its bonds, debentures, 257
23 notes or other evidence of indebtedness, whether secured or 257
24 unsecured, and to secure the same by mortgage, pledge, deed of trust 259
25 or other lien on its property, franchises, rights and privileges of 260
26 every kind and nature or any part thereof or interest therein, 260
27 without securing stockholder ((~~or--member~~)) approval((~~---PROVIDED,~~ 261
28 ~~That-no-loan-to-the-corporation-shall-be-secured-in-any-manner-unless~~ 262
29 ~~all-outstanding-loans-to-the-corporation-shall-be-secured-equally-and~~ 264
30 ~~atably-in-proportion-to-the-unpaid-balance-of-such-loans-and-in--the~~ 265
31 ~~same-manner))~~). 265

32 (3) To make loans to any person, firm, corporation, joint-stock 267
33 company, association or trust, and to establish and regulate the 268
34 terms and conditions with respect to any such loans and the charges 269
35 for interest and service connected therewith((~~---PROVIDED,--That--the~~ 270
36 ~~corporation--shall--not--approve-any-application-for-a-loan-unless-and~~ 271

1 until-the-person-applying-for--said--loan--shall--show--that--he--has 272
2 applied--for--the-loan-through-ordinary-banking-channels-and-that-the 273
3 loan-has-been-refused--by--at--least--one--bank--or--other--financial 273
4 institution)). 273

5 (4) To purchase, receive, hold, lease, or otherwise acquire, and 275
6 to sell, convey, transfer, lease or otherwise dispose of real and 276
7 personal property, together with such rights and privileges as may be 277
8 incidental and appurtenant thereto and the use thereof, ((including, 278
9 but-not-restricted-to;-any)) if the real or personal property is for 278
10 the corporation's use in operating its business, or if the real or 279
11 personal property is acquired by the corporation from time to time in 281
12 the satisfaction of debts or enforcement of obligations. 282

13 (5) ((To-acquire--the--good--will;-business;-rights;-real--and 283
14 personal-property;-and-other-assets;-or-any-part-thereof;-or-interest 284
15 therein;-of-any-persons;-firms;-corporations;-joint-stock-companies; 285
16 associations--or--trusts;-and--to--assume;-undertake;-or--pay--the 286
17 obligations;-debts--and--liabilities--of--any--such--person;-firm; 287
18 corporation;-joint-stock-company;-association-or--trust;-to--acquire 288
19 improved--or--unimproved--real-estate-for-the-purpose-of-constructing 289
20 industrial-plants-or-other-business-establishments-thereon-or-for-the 290
21 purpose--of--disposing--of--such--real--estate--to--others--for--the 291
22 construction--of--industrial-plants-or-other-business-establishments; 292
23 and-to-acquire;-construct-or-reconstruct;-alter;-repair;-maintain; 293
24 operate;-sell;-convey;-transfer;-lease;-or--otherwise-dispose-of 294
25 industrial-plants-or-business--establishments;)) To determine the 295
26 form and the terms and conditions for financing assistance provided 295
27 by the corporation to a business including, but not limited to forms 296
28 such as loans; purchase of debt instruments; straight equity 297
29 investments, such as purchase of common stock or preferred stock; 298
30 debt with equity features such as warrants to purchase stock, 298
31 convertible debentures, or receipt of a percent of net income or 299
32 sales; royalty based financing; guaranteeing of debt; or leasing of 300
33 property. A corporation may purchase securities of a business either 301
34 directly or indirectly through an underwriter. A corporation may 302
35 participate in the program of the small business administration 302

1 536, 15 U.S.C. Sec. 636(a), or any other government program for 304
 2 which the corporation is eligible and which has as its function the 305
 3 provision or facilitation of financing or management assistance to 305
 4 businesses. If a corporation participates in a program referred to 306
 5 in this section, the corporation shall comply with the requirements 308
 6 of that program. Financing assistance provided by a corporation to a 309
 7 business shall be for the business purposes of that business. 309
 8 (6) (~~To acquire, subscribe for, own, hold, sell, assign,~~ 310
 9 ~~transfer, mortgage, pledge or otherwise dispose of the stock, shares,~~ 311
 10 ~~bonds, debentures, notes or other securities and evidences of~~ 312
 11 ~~interest in, or indebtedness of, any person, firm, corporation,~~ 313
 12 ~~joint stock company, association or trust, and while the owner or~~ 314
 13 ~~holder thereof to exercise all the rights, powers and privileges of~~ 315
 14 ~~ownership, including the right to vote thereon.)) To provide 316
 15 management assistance to a business which may encompass both 317
 16 management or technical advice and management or technical services. 318
 17 Management assistance provided by a corporation to a business shall 318
 18 be for the business purposes of that business. 319
 19 (7) To mortgage, pledge, or otherwise encumber any property, 321
 20 right or things of value, acquired pursuant to the powers contained 322
 21 in subsection((s)) (4)((7)) or (5)((7-or-(6))) of this section, as 323
 22 security for the payment of any part of the purchase price thereof. 324
 23 (8) To cooperate with and avail itself of the facilities of the 326
 24 United States department of commerce, the department of trade and 327
 25 economic development, the department of community development, and 327
 26 any other similar state or federal governmental agencies; and to 329
 27 cooperate with and assist, and otherwise encourage organizations in 330
 28 the various communities of the state in the promotion, assistance and 331
 29 development of the business prosperity and economic welfare of such 332
 30 communities or of this state or of any part thereof. 333
 31 (9) To make donations for charitable, educational, research, or 334
 32 similar purposes. 334
 33 (10) To do all acts and things necessary or convenient to carry 336
 34 out the powers expressly granted in this chapter. 336
 35 Sec. 5. Section 4, chapter 162, Laws of 1963 and RCW 31.24.040 340
 36 are each amended to read as follows: 340~~

1 Notwithstanding any rule at common law or any provision of any 342
2 general or special law or any provision in their respective charters, 343
3 agreements of association, articles of organization or trust 344
4 indentures: 344

5 ((~~{}~~)) Any person including all domestic corporations organized 346
6 for the purpose of carrying on business within this state and further 347
7 including without implied limitation public utility companies and 348
8 insurance companies, and foreign corporations licensed to do business 349
9 within this state, and all financial institutions as defined herein, 350
10 and all trustees, are hereby authorized to acquire, purchase, hold, 351
11 sell, assign, transfer, mortgage, pledge or otherwise dispose of any 352
12 bonds, securities or other evidences of indebtedness created by, or 353
13 the shares of the capital stock of, the corporation, and while owners 354
14 of said stock to exercise all the rights, powers and privileges of 355
15 ownership, including the right to vote thereon, all without the 355
16 approval of any regulatory authority of the state except as otherwise 357
17 provided in this chapter(~~(--PROVIDED, That a financial institution~~ 358
18 ~~which does not become a member of the corporation shall not be~~ 360
19 ~~permitted to acquire any shares of the capital stock of the~~ 360
20 ~~corporation;~~ 360

21 ~~{2} All financial institutions are hereby authorized to become~~ 362
22 ~~members of the corporation and to make loans to the corporation as~~ 363
23 ~~provided herein; and~~ 363

24 ~~{3} Each financial institution which becomes a member of the~~ 365
25 ~~corporation is hereby authorized to acquire, purchase, hold, sell,~~ 367
26 ~~assign, transfer, mortgage, pledge or otherwise dispose of, any~~ 368
27 ~~bonds, securities or other evidences of indebtedness created by, or~~ 369
28 ~~the shares of the capital stock of, the corporation, and while owners~~ 370
29 ~~of said stock, to exercise all the rights, powers and privileges of~~ 371
30 ~~ownership, including the right to vote thereon, all without the~~ 372
31 ~~approval of any regulatory authority of the state:--PROVIDED, That~~ 373
32 ~~the amount of the capital stock of the corporation which may be~~ 374
33 ~~acquired by any member pursuant to the authority granted herein shall~~ 376
34 ~~not exceed ten percent of the loan limit of such member).~~ 376

35 The amount of capital stock of the corporation which any 378

1 the authority granted herein is in addition to the amount of capital 380
2 stock in corporations which such ((member)) financial institution may 381
3 otherwise be authorized to acquire. 382

4 Sec. 6. Section 7, chapter 162, Laws of 1963 and RCW 31.24.070 386
5 are each amended to read as follows: 386

6 The stockholders ((and--the--members)) of the corporation shall 388
7 have the following powers of the corporation: 388

8 (1) To determine the number of and elect directors as provided in 390
9 RCW 31.24.090; 390

10 (2) To make, amend and repeal bylaws; 391

11 (3) To amend this charter as provided in RCW 31.24.080; 392

12 (4) To dissolve the corporation as provided in RCW 31.24.150; 393

13 (5) To do all things necessary or desirable to secure aid, 394
14 assistance, loans and other financing from any financial 395
15 institutions, and from any agency established under the small 396
16 business investment act of 1958, public law 85-699, 85th congress, or 397
17 other similar federal laws now or hereafter enacted. 398

18 (6) To exercise such other of the powers of the corporation 400
19 consistent with this chapter as may be conferred on the stockholders 401
20 ((and-the-members)) by the bylaws. 401

21 As to all matters requiring action by the stockholders ((and-the 403
22 members)) of the corporation, said stockholders ((and-said--members)) 404
23 shall vote separately thereon by classes, and, except as otherwise 405
24 herein provided, such matters shall require the affirmative vote of a 406
25 majority of the votes to which the stockholders present or 406
26 represented at the meeting shall be entitled ((and-the-affirmative 407
27 vote-of-a-majority-of-the-votes--to--which--the--members--present--or 408
28 represented-at-the-meeting-shall-be-entitled)). 409

29 ((Each)) stockholders shall have one vote, in person or by proxy, 411
30 for each share of capital stock held ((by-him; and each member shall 412
31 have one vote; in person or by proxy, except that any member having a 413
32 loan--limit--of--more--than--one--thousand--dollars--shall--have--one 414
33 additional--vote;--in--person--or--by--proxy, for each additional one 415
34 thousand dollars which such member is authorized to have--outstanding 416
35 on--loans--to--the--corporation--at--any-one-time-as-determined-under 417
36 subsection-(3)-(b)-of-RCW-31.24.050)). 417

1 Sec. 7. Section 8, chapter 162, Laws of 1963 and RCW 31.24.080 421
2 are each amended to read as follows: 421
3 The articles of incorporation may be amended by the votes of the 423
4 stockholders ~~((and--the--members--of---the---corporation))~~, voting 424
5 separately by classes, and such amendments shall require approval by 425
6 the affirmative vote of two-thirds of the votes to which the 426
7 stockholders ~~((shall-be-entitled-and-two-thirds-of-the-votes-to-which~~ 427
8 ~~the--members))~~ shall be entitled: PROVIDED, That no amendment of the 428
9 articles of incorporation which is inconsistent with the general 429
10 purposes expressed herein or which authorizes any additional class of 430
11 capital stock to be issued, or which eliminates or curtails the right 431
12 of the state supervisor of banking to examine the corporation or the 432
13 obligation of the corporation to make reports as provided in RCW 433
14 31.24.120, shall be made ~~((--PROVIDED,--FURTHER,--That--no--amendment--of~~ 434
15 ~~the--articles--of--incorporation--which--increases--the--obligation--of--a~~ 435
16 ~~member--to--make--loans--to--the--corporation,--or--makes--any--charge--in--the~~ 436
17 ~~principal--amount,--interest--rate,--maturity--date,--or--in--the--security--or~~ 437
18 ~~credit--position--of--an--outstanding--loan--of--a--member---to---the~~ 438
19 ~~corporation,--or--affects--a--member's--right--to--withdraw--from--membership~~ 439
20 ~~as--provided--herein,--or--affects--a--member's--voting--rights--as--provided~~ 440
21 ~~herein,--shall--be--made--without--the--consent--of--each--membership--affected~~ 441
22 ~~by--such--amendment))~~. 441
23 Within thirty days after any meeting at which an amendment of the 443
24 articles of incorporation has been adopted, articles of amendment 444
25 signed and sworn to by the president, treasurer, and a majority of 445
26 the directors, setting forth such amendment and due adoption thereof, 446
27 shall be submitted to the secretary of state, who shall examine them 447
28 and if ((he)) the secretary finds that they conform to the 448
29 requirements of this chapter, shall so certify and endorse his or her 449
30 approval thereon. Thereupon, the articles of amendment shall be 450
31 filed in the office of the secretary of state and no such amendment 451
32 shall take effect until such articles of amendment shall have been 452
33 filed as aforesaid. 452

34 Sec. 8. Section 9, chapter 162, Laws of 1963 as amended by 454

35 section 3, chapter 16, Laws of 1974, ex. sess. and RCW 31.24.080 are 455

1 The business and affairs of the corporation shall be managed and 458
2 conducted by a board of directors, a president, a vice president, a 460
3 secretary, a treasurer, and such other officers and such agents as 461
4 the corporation by its bylaws shall authorize. The board of 462
5 directors shall consist of such number, not less than ((eleven)) 463
6 ~~seven~~ nor more than twenty-one, as shall be determined in the first 464
7 instance by the incorporators and thereafter annually by ((the 466
8 members--and)) the stockholders of the corporation. The board of 466
9 directors may exercise all the powers of the corporation except such 468
10 as are conferred by law or by the bylaws of the corporation upon the 469
11 stockholders ((or-members)) and shall choose and appoint all the 470
12 agents and officers of the corporation and fill all vacancies except 472
13 vacancies in the office of director which shall be filled as 472
14 hereinafter provided. The board of directors shall be elected in the 474
15 first instance by the incorporators and thereafter at the annual 475
16 meeting, the day and month of which shall be established by the 477
17 bylaws of the corporations, or, if no annual meeting shall be held in 477
18 the year of incorporation, then within ninety days after the approval 478
19 of the articles of incorporation at a special meeting as hereinafter 479
20 provided. ((At each annual meeting, or at each special meeting--held 480
21 as--provided--in--this--section, the members of the corporation shall 481
22 elect two-thirds of the board of directors and the stockholders shall 483
23 elect the remaining directors.)) The directors shall hold office 483
24 until the next annual meeting of the corporation or special meeting 485
25 held in lieu of the annual meeting after the election and until their 486
26 successors are elected and qualified unless sooner removed in 487
27 accordance with the provisions of the bylaws. Any vacancy in the 488
28 office of a director ((elected by the members shall be filled by--the 489
29 directors--elected by the members, and any vacancy in the office of a 491
30 director elected--by--the--stockholders)) shall be filled by the 491
31 directors ((elected by the stockholders)). 492

32 Directors and officers shall not be responsible for losses unless 493
33 the same shall have been occasioned by the wilful misconduct of such 495
34 directors and officers. 495

35 NEW SECTION. Sec. 9. A new section is added to chapter 31.24 497
36 RCW to read as follows: 498

1 (1) A corporation shall transact its business in a safe and sound 499
2 manner and shall maintain itself in a safe and sound condition. The 500
3 supervisor of banking shall revoke the certification of a corporation 501
4 if the supervisor finds that the corporation has failed to operate or 502
5 maintain itself in a safe and sound manner or has failed to comply 502
6 with the intent of this chapter, and the corporation may not transact 503
7 business as a business and industrial development corporation until 504
8 such time as the supervisor recertifies the corporation consistent 505
9 with RCW 31.24.020(8). The secretary of state shall remove from the 506
10 active files the incorporation records of a corporation with its 506
11 certification revoked until such time as the supervisor of banking 507
12 has recertified the corporation. 507

13 (2) In determining whether a corporation is transacting business 508
14 in a safe and sound manner or has committed an unsafe or unsound act, 509
15 the supervisor shall consider the risk of a provision of financing 510
16 assistance to a business firm, within the context of the anticipated 511
17 higher risks associated with the purposes of corporations organized 511
18 under this chapter. 512

19 (3) Subsection (2) of this section does not limit the authority 513
20 of the supervisor to: 513

21 (a) Determine that a corporation's financing assistance to a 514
22 single business or group of affiliated firms is in violation of 515
23 subsection (1) of this section if the amount of that financing 516
24 assistance is unduly large in relation to the total assets or the 516
25 total shareholder's equity of the corporation; 517

26 (b) Require that a corporation maintain a reserve in the amount 518
27 of anticipated losses; and 519

28 (c) Require that a corporation have a written financing 520
29 assistance policy, approved by its board of directors, including 521
30 credit evaluation and other matters. The supervisor shall not 522
31 require that a corporation adopt a financing assistance policy that 522
32 contains standards which prevent the corporation from exercising 523
33 flexibility in meeting the capital needs of the individual firms. 524

34 Sec. 10. Section 12, chapter 162, Laws of 1963 and RCW 31.24.120 528
35 are each amended to read as follows: 528

1 every eighteen months by the state supervisor of banking and shall 531
 2 make quarterly reports of its condition ((not-less-than-annually)) to 532
 3 said state supervisor of banking and more frequently upon call of the 533
 4 state supervisor of banking, who in turn shall make copies of such 534
 5 reports available to the state insurance commissioner and the 535
 6 governor; and the corporation shall also furnish such other 536
 7 information as may from time to time be required by the state 537
 8 supervisor of banking and secretary of state. The corporation shall 538
 9 pay the actual cost of said examinations. The state supervisor of 540
 10 banking shall exercise the same power and authority over corporations 541
 11 organized under this chapter as is now exercised over banks and trust 542
 12 companies by the provisions of the Title 30 RCW, where the provisions 543
 13 of Title 30 RCW are not in conflict with this chapter. 544
 14 The state supervisor of banking shall publish annually and 545
 15 provide to the senate and house commerce and labor committees and 546
 16 ways and means committees information on the impact of this chapter 548
 17 in promoting economic development in Washington. At the minimum, the 549
 18 information shall include aggregate statistics on each of the 549
 19 following: 549
 20 (1) The number and locations of corporations operating under this 550
 21 chapter; 550
 22 (2) The number of instances and dollar amount of financing and 551
 23 management assistance given by corporations operating under this 553
 24 chapter to: 553
 25 (a) All individual businesses assisted; 554
 26 (b) Types of businesses classified using the standard industrial 555
 27 classification manual; 556
 28 (c) Minority and women-owned businesses; and 557
 29 (d) Businesses located in distressed areas; 558
 30 (3) The number of jobs created or retained by: 559
 31 (a) All individual businesses assisted; 560
 32 (b) Types of businesses classified using the standard industrial 562
 33 classification manual; 562
 34 (c) Minority and women-owned businesses; 563
 35 (d) Businesses located in distressed areas; and 564
 36 (e) The wage rates paid to the employees hired or retained; and 565

(4) The percentage of each business's total contributions or
payments for unemployment insurance made to the state of Washington.

Sec. 11. Section 13, chapter 162, Laws of 1963 and RCW 31.24.130
are each amended to read as follows:

The first meeting of the corporation shall be called by a notice
signed by three or more of the incorporators, stating the time, place
and purpose of the meeting, a copy of which notice shall be mailed,
or delivered, to each incorporator at least five days before the day
appointed for the meeting. Said first meeting may be held without
such notice upon agreement in writing to that effect signed by all
the incorporators. There shall be recorded in the minutes of the
meeting a copy of said notice or of such unanimous agreement of the
incorporators.

At such first meeting, the incorporators shall organize by the
choice, by ballot, of a temporary clerk; by the adoption of bylaws,
by the election by ballot of directors; and by action upon such other
matters within the powers of the corporation as the incorporators may
see fit. The temporary clerk shall be sworn and shall make and
attest a record of the proceedings. ((Ten)) Five of the
incorporators shall be a quorum for the transaction of business.

NEW SECTION. Sec. 12. A new section is added to chapter 31.24
RCW to read as follows:

(1) The director of trade and economic development is authorized
to provide assistance and advice to persons forming corporations
under this chapter.

(2) The director may contract with corporations organized under
this chapter. Each contract shall specify that the money received
under the contract shall be used to provide management assistance,
which may include management and technical advice and services and
other technical support, to businesses receiving financing from the
contracting corporation. No more than five corporations may contract
with the department under this section at any time. No corporation
may receive more than a total of two hundred fifty thousand dollars
under this section.

1 shall agree that at least one-half of the corporation's loans and 605
2 investments will be to businesses operating in distressed areas as 606
3 defined in RCW 82.60.020(3) and that the corporation's loans and 607
4 investments will be to businesses that have agreed to enter first- 608
5 source hiring agreements with the employment security department, 609
6 local private industry councils, local labor unions, or other 609
7 employment or placement agencies. These agreements shall require the 610
8 businesses to interview prospective employees from a list of the 612
9 unemployed supplied by the employment or placement agencies and hire 613
10 any qualified candidates on the list before hiring any candidates not 614
11 on the list. The first-source hiring agreements shall require the 615
12 business to: 615

13 (a) Provide a job description for each position; 616

14 (b) Provide a description of the skills each position requires; 617

15 and 617

16 (c) Provide a salary range for each position. 618

17 The first-source hiring agreements shall require the employment 619
18 or placement agency to provide a list of candidates who have 620
19 expressed interest in each available position and who meet the skill 621
20 requirements of each position. No fees may be charged of the 622
21 unemployed candidates on the list supplied by the employment or 622
22 placement agency. 622

23 (4) The director of trade and economic development shall adopt 623
24 rules to carry out this section. 624

25 Sec. 13. Section 14, chapter 162, Laws of 1963 and RCW 31.24.140 628
26 are each amended to read as follows: 628

27 Unless otherwise provided in the articles of incorporation, the 630
28 period of duration of the corporation shall be perpetual, subject, 631
29 however, to the right of the stockholders ((and--the--members)) to 632
30 dissolve the corporation prior to the expiration of said period as 633
31 provided in RCW 31.24.150. 633

32 Sec. 14. Section 15, chapter 162, Laws of 1963 as amended by 635
33 section 52, chapter 3, Laws of 1983 and RCW 31.24.150 are each 638
34 amended to read as follows: 638

35 The corporation may upon the affirmative vote of two-thirds of 640

1 the votes to which the stockholders shall be entitled ((and-two- 641
2 thirds-of-the-votes-to-which-the-member-shall-be-entitled)) dissolve 642
3 said corporation as provided by Title 23A RCW, insofar as Title 23A 644
4 RCW is not in conflict with the provisions of this chapter. Upon any 645
5 dissolution of the corporation, none of the corporation's assets 646
6 shall be distributed to the stockholders until all sums due the 647
7 ((members)) creditors of the corporation ((as--creditors--thereof)) 647
8 have been paid in full. 649

9 NEW SECTION. Sec. 15. A new section is added to chapter 82.04 651
10 RCW to read as follows: 652

11 (1) A credit is allowed against the tax imposed under this 653
12 chapter for each of the fiscal years beginning July 1, 1989, and 654
13 ending June 30, 1994, for amounts invested in each such year in 655
14 business and industrial development corporations organized under 655
15 chapter 31.24 RCW. The amount of allowable credit in each such year 656
16 shall be as follows: 656

17	<u>FISCAL YEAR</u>	<u>AMOUNT INVESTED</u>	658
18	1990	25%	659
19	1991	20%	660
20	1992	15%	661
21	1993	10%	662
22	1994	5%	663
23	1995	0%	664

24 (2) Applications for credit under this section shall be submitted 665
25 as prescribed by the department by rule. No credit may be taken 666
26 under this section until it has been approved by the department. 667

27 (3) Credits allowed under this section to any taxpayer shall not 668
28 exceed the tax otherwise payable under this chapter by the taxpayer 669
29 for that fiscal year. Any excess credit shall not be carried over to 670
30 succeeding years. 670

31 (4) No credit may be allowed under this section for an investment 671
32 for which credit has been allowed under section 16 or 17 of this act. 672

33 (5) Any taxpayer receiving a credit under this section who 673

1 within five years shall repay the credit in proportion to the 675
2 withdrawal as provided in section 18 of this act. 675

3 NEW SECTION. Sec. 16. A new section is added to chapter 82.16 677
4 RCW to read as follows: 678

5 (1) A credit is allowed against the tax imposed under this 679
6 chapter for each of the fiscal years beginning July 1, 1989, and 680
7 ending June 30, 1994, for amounts invested in each such year in 681
8 business and industrial development corporations organized under 681
9 chapter 31.24 RCW. The amount of allowable credit in each such year 682
10 shall be as follows: 682

11	FISCAL YEAR	AMOUNT INVESTED	684
12	1990	25%	685
13	1991	20%	686
14	1992	15%	687
15	1993	10%	688
16	1994	5%	689
17	1995	0%	690

18 (2) Applications for credit under this section shall be submitted 691
19 as prescribed by the department by rule. No credit may be taken 692
20 under this section until it has been approved by the department. 693

21 (3) Credits allowed under this section to any taxpayer shall not 694
22 exceed the tax otherwise payable under this chapter by the taxpayer 695
23 for that fiscal year. Any excess credit shall not be carried over to 696
24 succeeding years. 696

25 (4) No credit may be allowed under this section for an investment 697
26 for which credit has been allowed under section 15 or 17 of this act. 698

27 (5) Any taxpayer receiving a credit under this section who 699
28 withdraws all or part of the investment on which the credit was based 700
29 within five years shall repay the credit in proportion to the 701
30 withdrawal as provided in section 18 of this act. 701

31 NEW SECTION. Sec. 17. A new section is added to chapter 48.14 704
32 RCW to read as follows: 705

33 (1) A credit is allowed against the tax imposed under this 706
34 chapter for each of the fiscal years beginning July 1, 1989, and 707

1 ending June 30, 1994, for amounts invested in each such year in 708
 2 business and industrial development corporations organized under 708
 3 chapter 31.24 RCW. The amount of allowable credit in each such year 709
 4 shall be as follows: 709

5	<u>FISCAL_YEAR</u>	<u>AMOUNT_INVESTED</u>	711
6	1990	25%	712
7	1991	20%	713
8	1992	15%	714
9	1993	10%	715
10	1994	5%	716
11	1995	0%	717

12 (2) Applications for credit under this section shall be submitted 718
 13 as prescribed by the department by rule. No credit may be taken 718
 14 under this section until it has been approved by the department. 719

15 (3) Credits allowed under this section to any taxpayer shall not 720
 16 exceed the tax otherwise payable under this chapter by the taxpayer 721
 17 for that fiscal year. Any excess credit shall not be carried over to 722
 18 succeeding years. 722

19 (4) No credit may be allowed under this section for an investment 723
 20 for which credit has been allowed under section 15 or 16 of this act. 724

21 (5) Any taxpayer receiving a credit under this section who 725
 22 withdraws all or part of the investment on which the credit was based 726
 23 within five years shall repay the credit in proportion to the 727
 24 withdrawal as provided in section 18 of this act. 727

25 NEW_SECTION. Sec. 18. A new section is added to chapter 31.24 729
 26 RCW to read as follows: 730

27 (1) Investors which take advantage of the tax credits allowed 731
 28 under sections 15, 16, and 17 of this act and which withdraw within 732
 29 the first five years of their investment any funds invested in a 733
 30 corporation governed by this chapter shall be obligated to return to 734
 31 the state treasury a portion of the tax credit granted which is equal 734
 32 in proportion to the amount the withdrawn funds represent relative to 735
 33 the total funds invested by the investor. 736

1 obligated to pay to the state treasurer an amount equal to any tax 738
2 credits taken by investors in such corporation within three years 739
3 preceding the loss of certification. Such payment shall be made 739
4 within eighteen months of the loss of certification unless the 740
5 corporation is recertified within that time. The obligation to pay 741
6 the state treasurer created by this section shall be a lien on the 742
7 assets and capital of a corporation losing its certification and 742
8 shall have priority over any other liens or security interests. 743

9 NEW SECTION. Sec. 19. A new section is added to chapter 31.24 745
10 RCW to read as follows: 746

11 (1) A corporation shall not provide, directly or indirectly, 747
12 financing assistance to: 747

13 (a) An associate of the corporation; 748

14 (b) Discharge, or to free other money for use in discharging, in 749
15 whole or in part, an obligation to an associate of that corporation. 750
16 This section does not apply to a transaction effected by an associate 751
17 of a corporation in the normal course of that associate's business 752
18 involving a line of credit or short-term financing assistance. 752

19 (c) A business to which an associate of that corporation provides 753
20 financing assistance, either contemporaneously with, or within one 754
21 year before or after, the providing of financing assistance by the 755
22 corporation, if the terms on which the corporation provides financing 756
23 assistance are less favorable to the corporation than the terms on 756
24 which the associate provides financing assistance to the business. 757
25 If the financing assistance provided by the associate of the 758
26 corporation is of a different kind from the financing assistance 759
27 provided by the corporation, the burden shall be on the corporation 759
28 to prove that the terms on which the corporation provided financing 760
29 assistance were at least as favorable to the corporation as the terms 761
30 on which the associate provided financing assistance to the business. 762

31 This subsection (1)(c) does not apply to any of the following: 763

32 (i) If the associate is a controlling person of the corporation 764
33 and is also the only shareholder of the corporation; 765

34 (ii) If the associate is a subsidiary of the corporation; or 766

35 (iii) A transaction effected by an associate of a corporation in 767
36 the normal course of that associate's business involving a line of 768

1 credit or short-term financing assistance. 768

2 (2) For the purposes of this section and section 21 of this act: 769

3 (a) "Person" means an individual, proprietorship, joint venture, 770

4 partnership, trust, business trust, syndicate, association, joint 771

5 stock company, corporation, cooperative, government, agency of a 772

6 government, or any other organization. If used with respect to 773

7 acquiring control of or controlling a specified person, person 773

8 includes a combination of two or more persons acting in concert; 774

9 (b) "Control" means, if used with respect to a specified person, 775

10 the power to direct or cause the direction of, directly or indirectly 776

11 through one or more intermediaries, the management and policies of 777

12 that specified person, whether through the ownership of voting 778

13 securities; by contract, other than a commercial contract for goods 779

14 or nonmanagement services; or otherwise. A natural person shall not 779

15 be considered to control a person solely on account of being a 780

16 director, officer, or employee of that person. A person who, 781

17 directly or indirectly, owns of record or beneficially holds with 781

18 power to vote, or holds proxies with discretionary authority to vote, 782

19 twenty percent or more of the then outstanding voting securities 783

20 issued by a corporation shall be rebuttably presumed to control that 784

21 corporation; and 784

22 (c) "Controlling person" means, if used with respect to a 785

23 specified person, a person who controls that specified person, 786

24 directly or indirectly through one or more intermediaries. 787

25 NEW SECTION. Sec. 20. A new section is added to chapter 31.24 789

26 RCW to read as follows: 790

27 An associate of a corporation shall not receive, directly or 791

28 indirectly, from a person to whom that corporation provides financing 792

29 assistance, compensation in connection with the providing of that 793

30 financing assistance or anything of value for procuring, influencing, 795

31 or attempting to procure or influence the corporation's action with 795

32 respect to the providing of the financing assistance. This section 797

33 does not apply to the receipt of fees by an associate of a 798

34 corporation for bona fide closing services performed by that 798

35 associate if all of the following are true: 799

1 to whom the financing assistance is provided, is designated by the 801
2 corporation to perform the services; 801

3 (2) The services are appropriate and necessary in the 802
4 circumstances; 802

5 (3) The fees for the services are approved as reasonable by the 803
6 corporation; and 803

7 (4) The fees for the services are collected by the corporation on 804
8 behalf of the associate. 805

9 Sec. 21. Section 2, chapter 107, Laws of 1987 and section 1, 807
10 chapter 337, Laws of 1987 and section 16, chapter 370, Laws of 1987 808
11 and section 1, chapter 404, Laws of 1987 and section 10, chapter 411, 809
12 Laws of 1987 and RCW 42.17.310 are each reenacted and amended to read 811
13 as follows: 811

14 (1) The following are exempt from public inspection and copying: 813

15 (a) Personal information in any files maintained for students in 814
16 public schools, patients or clients of public institutions or public 816
17 health agencies, welfare recipients, prisoners, probationers, or 817
18 parolees. 817

19 (b) Personal information in files maintained for employees, 818
20 appointees, or elected officials of any public agency to the extent 820
21 that disclosure would violate their right to privacy. 820

22 (c) Information required of any taxpayer in connection with the 822
23 assessment or collection of any tax if the disclosure of the 823
24 information to other persons would (i) be prohibited to such persons 824
25 by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or 828
26 result in unfair competitive disadvantage to the taxpayer. 829

27 (d) Specific intelligence information and specific investigative 831
28 records compiled by investigative, law enforcement, and penology 832
29 agencies, and state agencies vested with the responsibility to 833
30 discipline members of any profession, the nondisclosure of which is 833
31 essential to effective law enforcement or for the protection of any 834
32 person's right to privacy. 834

33 (e) Information revealing the identity of persons who file 835
34 complaints with investigative, law enforcement, or penology agencies, 837
35 other than the public disclosure commission, if disclosure would 838
36 endanger any person's life, physical safety, or property: PROVIDED, 839

1 That if at the time the complaint is filed the complainant indicates 840
2 a desire for disclosure or nondisclosure, such desire shall govern: 840
3 PROVIDED, FURTHER, That all complaints filed with the public 841
4 disclosure commission about any elected official or candidate for 842
5 public office must be made in writing and signed by the complainant 842
6 under oath. 842

7 (f) Test questions, scoring keys, and other examination data used 843
8 to administer a license, employment, or academic examination. 844

9 (g) Except as provided by chapter 8.26 RCW, the contents of real 845
10 estate appraisals, made for or by any agency relative to the 846
11 acquisition or sale of property, until the project or prospective 846
12 sale is abandoned or until such time as all of the property has been 847
13 acquired or the property to which the sale appraisal relates is sold, 847
14 but in no event shall disclosure be denied for more than three years 848
15 after the appraisal. 848

16 (h) Valuable formulae, designs, drawings, and research data 849
17 obtained by any agency within five years of the request for 850
18 disclosure when disclosure would produce private gain and public 850
19 loss. 850

20 (i) Preliminary drafts, notes, recommendations, and intra-agency 851
21 memorandums in which opinions are expressed or policies formulated or 852
22 recommended except that a specific record shall not be exempt when 853
23 publicly cited by an agency in connection with any agency action. 853

24 (j) Records which are relevant to a controversy to which an 854
25 agency is a party but which records would not be available to another 855
26 party under the rules of pretrial discovery for causes pending in the 856
27 superior courts. 856

28 (k) Records, maps, or other information identifying the location 857
29 of archaeological sites in order to avoid the looting or depredation 858
30 of such sites. 858

31 (l) Any library record, the primary purpose of which is to 859
32 maintain control of library materials, or to gain access to 860
33 information, which discloses or could be used to disclose the 860
34 identity of a library user. 860

35 (m) Financial information supplied by or on behalf of a person, 861

1 proposal for (a) a ferry system construction or repair contract as 863
2 required by RCW 47.60.680 through 47.60.750 or (b) highway 865
3 construction or improvement as required by RCW 47.29.070. 865
4 (n) Railroad company contracts filed with the utilities and 866
5 transportation commission under RCW 81.34.070, except that the 867
6 summaries of the contracts are open to public inspection and copying 868
7 as otherwise provided by this chapter. 868
8 (o) Financial and commercial information and records supplied by 869
9 private persons pertaining to export services provided pursuant to 870
10 chapter 53.31 RCW. 870
11 (p) Financial disclosures filed by private vocational schools 871
12 under chapter 28C.10 RCW. 872
13 (q) Records filed with the utilities and transportation 873
14 commission or attorney general under RCW 80.04.095 that a court has 874
15 determined are confidential under RCW 80.04.095. 875
16 (r) Financial and commercial information and records supplied by 876
17 businesses during application for loans or program services provided 877
18 by chapters 43.31, 43.63A, and 43.168 RCW. 878
19 (s) Membership lists or lists of members or owners of interests 879
20 of units in timeshare projects, subdivisions, camping resorts, 880
21 condominiums, land developments, or common-interest communities 881
22 affiliated with such projects, regulated by the department of 882
23 licensing, in the files or possession of the department. 882
24 (t) Except as provided under section 2 of this 1987 act [1987 c 883
25 404 § 2], all applications for public employment, including the names 885
26 of applicants, resumes, and other related materials submitted with 886
27 respect to an applicant. 886
28 (u) The residential addresses and residential telephone numbers 887
29 of employees or volunteers of a public agency which are held by the 888
30 agency in personnel records, employment or volunteer rosters, or 889
31 mailing lists of employees or volunteers. 889
32 (v) The residential addresses and residential telephone numbers 890
33 of the customers of a public utility contained in the records or 891
34 lists held by the public utility of which they are customers. 892
35 (w) Information obtained by the board of pharmacy as provided in 893
36 RCW 69.45.090. 893

1 ~~(x) Financial information, business plans, examination reports,~~ 894
2 ~~and any information produced or obtained in evaluating or examining a~~ 895
3 ~~business and industrial development corporation organized or seeking~~ 896
4 ~~certification under chapter 31.24 RCW.~~ 896
5 (2) Except for information described in subsection (1)(c)(i) of 898
6 this section and confidential income data exempted from public 899
7 inspection pursuant to RCW 84.40.020, the exemptions of this section 899
8 are inapplicable to the extent that information, the disclosure of 901
9 which would violate personal privacy or vital governmental interests, 902
10 can be deleted from the specific records sought. No exemption may be 902
11 construed to permit the nondisclosure of statistical information not 904
12 descriptive of any readily identifiable person or persons. 905
13 (3) Inspection or copying of any specific records exempt under 906
14 the provisions of this section may be permitted if the superior court 908
15 in the county in which the record is maintained finds, after a 910
16 hearing with notice thereof to every person in interest and the 910
17 agency, that the exemption of such records is clearly unnecessary to 912
18 protect any individual's right of privacy or any vital governmental 913
19 function. 913
20 (4) Agency responses refusing, in whole or in part, inspection of 914
21 any public record shall include a statement of the specific exemption 916
22 authorizing the withholding of the record (or part) and a brief 918
23 explanation of how the exemption applies to the record withheld. 918
24 NEW SECTION. Sec. 22. The following acts or parts of acts are 920
25 each repealed: 920
26 (1) Section 5, chapter 162, Laws of 1963, section 1, chapter 30, 923
27 Laws of 1973 1st ex. sess., section 2, chapter 16, Laws of 1974 ex. 924
28 sess. and RCW 31.24.050; 925
29 (2) Section 6, chapter 162, Laws of 1963 and RCW 31.24.060; and 928
30 (3) Section 10, chapter 162, Laws of 1963 and RCW 31.24.100. 931



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

January 8, 1988

MEMORANDUM

TO: Representative Randy Phillips

ATTN: Janet Seitz

FROM: Karla Hart *KH*
Legislative Analyst

RE: California Small Business Development Loan Guarantee Program
Research Request 88.099

California's Small Business Development Loan Guarantee Program was created by the California Small Business Development Corporation Law, which established small business programs that provide needed financial and technical resources for small businesses and agricultural firms in California. The law also created the Small Business Development Board, designated the Office of Small Business, Department of Commerce, to implement the California Loan Guarantee Program, and allowed for the creation of private nonprofit small business development corporations (regional corporations) to administer the Loan Guarantee Program and to provide management and technical assistance to small business firms and entrepreneurs in California. Koki Tanaka, Office of Small Business, said that the Loan Guarantee Program is being revised and substantial changes will be made within the next six months. The following information reflects the program as it currently exists.

Program Organization

The Small Business Development Board was created to advise the executive director of the Office of Small Business on matters affecting small businesses in California.¹ The board conducts public hearings every other

¹The Board consists of 17 voting members--drawn from state government, the private sector, and the legislature--and one nonvoting member from each regional corporation.

month to review program activities under the Small Business Development Corporation Law and other business issues at the request of the governor and the California Department of Commerce. Among other duties, the board sets policy and develops regulations applicable to the activities of the regional development corporations.

The California Office of Small Business oversees the activities of the Loan Guarantee Program and contracts with the regional corporations which conduct the day to day operations throughout California. The executive director of the Office of Small Business serves as liaison between regional corporations and other state and federal agencies, lenders and the legislature.

Currently there are seven private nonprofit regional development corporations.² Each corporation is controlled by a board of directors and has a central staff whose responsibilities include all administrative requirements of the corporation, the provision of management and technical assistance to borrowers, and the preparation of financial statements on all applicants for loans through the program. Each corporation also has one or more loan committees, each of which is composed of five or more persons, a majority of whom are experienced in banking and lending operations carried out by the corporation.

State general funds for administrative support are granted to the regional corporations during their first four years of operation. After that time, general fund support ceases and regional corporations must rely on other funding sources (e.g., grants and contracts) and on interest income generated through investments and loan guarantees. The annual total administrative budget--including all salaries, benefits, legal costs, equipment purchases, and office costs--for each of the existing corporations generally ranges between \$200,000 and \$300,000.

²The Office of Small Business said they are hoping to expand the number of corporations by five within the next year or two.

Regional Small Business Development Loan Guarantee Fund

Each regional corporation may establish a regional small business development loan guarantee fund, to be maintained as an account within the State Treasury. Statutes require the regional corporations to use all reasonable means to maintain and enlarge the small business development corporation loan guarantee funds.³ The California legislature has provided annual state general fund appropriations to be used for loan guarantee funds--appropriated funds are allocated among the existing regional corporations by the Office of Small Business. Although continuously appropriated, all appropriated funds, and earnings from those funds, remain state funds.

The loan guarantee funds currently have a balance of \$31 million state-wide. Legislative appropriations to the funds are negotiated on an annual basis, although, no appropriation was made last year. However, in past years approximately \$3.2 million per year has been appropriated to the Loan Guarantee Program, of which approximately \$480,000 per year has been applied to regional corporation administrative costs and the remainder has been added to the loan guarantee funds.

General Guidelines for Loan Guarantees Provided by Regional Corporations

A small business or agriculture firm may apply for a loan guarantee at a regional corporation. To apply, the applicant must have first sought conventional financing and must have no prospect of obtaining appropriate financing without a guarantee. The applicant must also demonstrate that there is reasonable assurance that the loan will be repaid and that there is security for the loan. The loan proceeds must be used for a business operation located in California. In connection with any loan made, guaranteed or otherwise assisted by the state, management and technical assistance must be provided to the borrower by the central staff of a regional corporation.

The maximum loan guarantee is \$350,000. The loan guarantee, in most cases, cannot exceed 90 percent; however, in some cases, a guarantee may be made at 100 percent for a small farm loan, line of credit or an interim loan of 90 days. The maximum term of guarantee is seven years and the interest rate is established by the lender or creditor, usually bank prime rate plus one or two percentage points. The applicant may be required to pay a fee of up to one and one-half percent of the guarantee amount to the regional corporation, or the regional corporation may consider an equity interest in the business, not to exceed five percent, in lieu of fees.

³Statutory provisions allow for certain investments of portions of the funds to increase earnings.

Representative Phillips
January 8, 1987
Page 4

Default Rates

The Office of Small Business indicated that the default rate for guaranteed loans is 3.67 percent. However, not all of the money within the guaranteed loan funds is encumbered to guarantee loans at any one time. The five-year average default rate is 5.86 percent when calculated only against the encumbered funds.

* * *

I hope this information is helpful. If you desire additional information, please call.

1-5-87



U.S. DEPARTMENT OF COMMERCE
Economic Development Administration
701 "C" Street, Box 10
Anchorage, Alaska 99513

Frank -

Thank you for the "draft." I shall try to reply
by the end of the week.

Am enclosing "Alabama" and "Florida."

Benny R.

Alabama
Statutes

See especially
p. 83 ff.

REGIONAL PLANNING AND DEVELOPMENT

CHAPTER 85.

REGIONAL PLANNING AND DEVELOPMENT.

Article 1.

Regional Planning Commissions
Generally.

Sec.

- 11-85-1. Establishment of region and creation of regional planning commission.
- 11-85-2. Composition; qualifications, appointment, terms of office, compensation and removal of members; vacancies.
- 11-85-3. Organization, staff, procedure, etc.; appropriation and expenditure of funds.
- 11-85-4. Adoption, etc., of master plan for physical development of region by commission; contents and purpose of plan.
- 11-85-5. Certification of plan to governor and to municipalities, counties, etc., within region.
- 11-85-6. Adoption of plan by municipal planning commission; certification of proposed amendments to adopted plan to regional planning commission for approval, etc.
- 11-85-7. Proposed construction of streets, public buildings, utilities, etc., to be submitted for approval of commission after adoption of master plan; overruling of commission.

Article 2.

Regional Planning Commissions for
Comprehensive Advisory Planning
and Research.

- 11-85-20. Definitions.
- 11-85-21. Establishment of region for advisory planning and creation of regional planning commission.
- 11-85-22. Composition; qualifications, appointments, terms of office and compensation of members; vacancies.
- 11-85-23. Powers and duties.
- 11-85-24. Article not to impair right of eminent domain or rights under franchises, leases, etc., of utilities.

Article 3.

Comprehensive Advisory Planning and
Research by Municipal, County,
Regional, etc., Planning
Commissions, etc.

- 11-85-40. Powers of Alabama development office and local, regional and joint

Sec.

planning commissions as to comprehensive advisory planning and research; comprehensive advisory planning defined.

Article 4.

Regional Planning and Development
Commissions.

- 11-85-50. Definitions.
- 11-85-51. Designation of state planning and development districts by governor generally; designation of single county state planning and development districts.
- 11-85-52. Formation of regional planning and development commissions.
- 11-85-53. Composition; selection, terms and replacement of representatives; financing; procedure for addition or withdrawal of governmental units, dissolution, etc.
- 11-85-54. Officers; appointment of advisory committees.
- 11-85-55. Receipt of state financial support.
- 11-85-56. Powers and duties generally.
- 11-85-57. Joint planning agreements, etc., with adjoining counties, municipalities, etc., authorized; changes of boundaries of regional planning and development districts to include adjacent counties.
- 11-85-58. Use of planning and development districts and regional planning and development districts for other purposes and programs.
- 11-85-59. Effect of population changes upon establishment and operation of state planning and development districts or regional planning and development commissions.

Article 5.

Confirmation of Operating Regional
Planning and Development
Commissions.

- 11-85-70. Existing regional planning and development commissions ratified and confirmed.
- 11-85-71. Procedure for additional governmental units to become members of regional planning and development commissions.
- 11-85-72. General powers, rights, obligations, etc., of regional planning and development commissions.

Sec.

11-85-73. Commissions authorized to enter into contracts with other agencies.

Cross references. — As to comprehensive land-use management in flood-prone areas in counties, see § 11-19-1 et seq. As to county regulation of subdivision, see § 11-24-1 et seq. As to municipal planning, zoning and subdivisions, see § 11-52-1 et seq. As to municipal planning commissions, see § 11-52-3 et seq.

Chapter provides for regional planning commissions designated to operate in a wider geographical area than county planning commissions. In re Opinion of Justices, 370 So. 2d 1373 (Ala. 1979).

ARTICLE 1.

REGIONAL PLANNING COMMISSIONS GENERALLY.

§ 11-85-1. Establishment of region and creation of regional planning commission.

The planning commission of any municipality or the county commission of any county or any 100 citizens by signed petition may apply to the governor for the establishment of a region for planning purposes and the appointment of a regional planning commission for such region. The governor shall hold at least one public hearing upon any such application or petition, the time and place of which he shall officially proclaim. If the governor finds that by reason of urban growth and development not corresponding to existing municipal boundary lines or by reason of other developments or trends in the growth and distribution of population, commerce and industry or by reason of topographic or other conditions two or more separate municipalities or the territory of one or more municipalities and neighboring nonmunicipal territory have overlapping and interrelated or common problems of such nature as not to be capable of intelligent, economical and adequate solution by means of the separate planning of each separate political unit and require for such solution a general plan of the physical development of the entire area of such municipalities or territories as a whole and that, consequently, it is to the public interest that a region be established for planning purposes, he shall grant the application and shall define the boundaries of such region and appoint a regional planning commission. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 809.)

§ 11-85-2. Composition; qualifications, appointment, terms of office, compensation and removal of members; vacancies.

The regional planning commission shall consist of nine persons. Members shall be appointed for six years; except, that the respective terms of seven of the members first appointed shall be one year, two years, two years, three years, four years, four years and five years; provided, that, if at the time of his appointment the appointee is a public officer or in the public service of the state or any of its political subdivisions and his incumbency as such public officer or servant expires previous to the term for which he is appointed on the

regional planning commission, then his term on the commission shall terminate with the expiration of his incumbency as such public officer or servant, unless it is extended by the governor, in which case such extension shall be for the remainder of the term for which he was originally appointed. The members shall serve without compensation but shall be paid their necessary expenses incurred in the performance of their duties. They may, after a public hearing, be removed by the governor for inefficiency, neglect of duty or malfeasance in office, and he shall file a written statement of his reasons therefor. Vacancies shall be filled by the governor for the unexpired term. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 809.)

§ 11-85-3. Organization, staff, procedure, etc.; appropriation and expenditure of funds.

(a) Except as otherwise provided in this article, the provisions of sections 11-52-4, 11-52-5 and 11-52-6 relative to organization, rules, staff, finances, procedure and miscellaneous powers and duties of municipal planning commissions shall, so far as applicable, apply to regional planning commissions.

(b) The amount which a regional planning commission may expend in any year shall be such as may be determined by said regional planning commission, subject to approval by the governor, who shall fix the proportion of such expenditure to be borne by the respective municipalities, counties and other taxing districts and political subdivisions within the region. The council or other governing body of each such municipality, the county commission of each such county and the appropriating body of each such taxing district or political subdivision within the region are hereby authorized to appropriate their respective shares of such expenditures. The sums so appropriated shall be paid into the treasury and shall be paid out on certificate of the regional planning commission. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 817.)

§ 11-85-4. Adoption, etc., of master plan for physical development of region by commission; contents and purpose of plan.

Any regional planning commission is hereby authorized and empowered to make, adopt, amend, extend and add to a master regional plan for the physical development of its region. Such plan shall be based on comprehensive studies of the present and future development of the region with due regard to its relation to neighboring regions and the state as a whole and to neighboring states.

Such plan, including maps, charts, diagrams and descriptive matter, shall show the commission's recommendations for the physical development of the region and may include, among other things, the general location, extent and character of streets, parks and other public ways, grounds and open spaces, public buildings and properties and public utilities (whether publicly or privately owned or operated) which affect the development of the region as a whole or which affect more than one political subdivision of the state within

the region, the general location of forests, agricultural and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities or the protection of future urban development and a zoning plan for the control of the height and area or bulk, location and use of buildings and premises and of the density of population.

Such master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the region and of public improvements and utilities which do not begin and terminate within the boundaries of any single municipality or which do not relate exclusively to the development of any single municipality and which will, in accordance with the present and future needs of the region and the state, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 811.)

§ 11-85-5. Certification of plan to governor and to municipalities, counties, etc., within region.

The regional planning commission, after adopting the regional plan, shall certify a copy thereof to the governor, to the planning commission of each municipality within the region, to the council of each municipality not having a planning commission, to the county commission of each county wholly or partly included in the region and to other organized taxing districts or political subdivisions wholly or partly included in the region. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 812.)

§ 11-85-6. Adoption of plan by municipal planning commission; certification of proposed amendments to adopted plan to regional planning commission for approval, etc.

(a) Such plan may be adopted by the municipal planning commission of any municipality within the region to which it is certified by the regional planning commission. Such adoption shall be in accordance with the procedure specified in sections 11-52-8, 11-52-9, and 11-52-10 for the adoption of plans by municipal planning commissions. When thus adopted, it shall thereupon have the same force and effect within such municipality as plans made and adopted by municipal planning commissions and shall be deemed an original municipal plan or an amendment of or addition to the municipal plan.

(b) Before adopting any amendment of the municipal plan which would constitute a violation of or departure from the regional plan certified to the municipal planning commission by the regional planning commission, the municipal planning commission shall submit such proposed amendment to the regional planning commission, which latter commission shall certify to the municipal commission its approval, disapproval or other opinion concerning the proposed amendment. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 813.)

§ 11-85-7. Proposed construction of streets, public buildings, utilities, etc., to be submitted for approval of commission after adoption of master plan; overruling of commission.

After the adoption of the regional plan by the regional planning commission, no street, park or other public way, ground or open space, public building or other public structure and public utility, whether publicly or privately owned or operated, shall be constructed or authorized in nonmunicipal territory within the region until the location, character and extent thereof shall have been submitted to and approved by the regional planning commission of the region. This prohibition shall not be interpreted as requiring the approval by the regional planning commission of any subdivision falling within the subdivision jurisdiction of a municipal planning commission as defined in section 11-52-30, and duly approved by such municipal planning commission as provided in section 11-52-32. In case of disapproval by the regional planning commission, such disapproval may be overruled by the board, commission, body or officer in which or in whom the power to finally determine such location, character and extent is reposed by law by a vote, in the case of any such board, commission or body, of not less than two thirds of its membership. A statement of its or his reason for any such overruling shall be spread upon the minutes or records of the board, commission, body or officer. (Acts 1935, No. 534, p. 1126; Code 1940, T. 37, § 814.)

ARTICLE 2.

REGIONAL PLANNING COMMISSIONS FOR COMPREHENSIVE
ADVISORY PLANNING AND RESEARCH.

§ 11-85-20. Definitions.

When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) GOVERNMENTAL UNIT. Counties and municipalities.
- (2) GOVERNING BODY. The chief legislative body of a governmental unit.
- (3) MUNICIPALITY. Such term shall include cities and towns.
- (4) REGION. All the geographical area contained within the aggregate territorial limits of all governmental units participating in the establishment of a region for planning as provided in this article.
- (5) ADVISORY PLANNING. Continuing and systematic studies of the land economics and land policies of a region in terms of social and economic betterment of said region, together with the submission of interim and final results of said systematic and continuous studies to the governing bodies of constituent governmental units for review, adoption, rejection or implementation thereof in whole or in part. Said term shall not be deemed, construed or held to include zoning or any other regulation of the use, disposition,

alienation, ownership, improvement or change of any land or any structures thereon within any given region, whether said regulation is sought to be accomplished by way of ordinance, resolution, rule, regulation or any other enactment or action of whatsoever kind.

(6) **COMPREHENSIVE ADVISORY PLANNING.** Comprehensive studies of the present and future development of the land economics and land policies of a region, with due regard to neighboring regions and the state as a whole. Said term may include, but is not limited to:

a. Preparation, as a guide for long-range development, of advisory general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities, together with long-range fiscal plans for such development;

b. Advisory coordination of all related advisory plans and planned activities at both the intragovernmental and intergovernmental levels; and

c. Preparation of suggested regulatory or administrative measures in support of the foregoing for submission to the governing bodies of constituent governmental units for review, adoption, rejection or implementation in whole or in part as said units may elect. (Acts 1963, No. 584, p. 1278, § 1.)

§ 11-85-21. Establishment of region for advisory planning and creation of regional planning commission.

The governing bodies of any two or more governmental units are hereby authorized and empowered to create and establish a region for advisory planning purposes and to constitute, create and establish a regional planning commission. Such joint creation and establishment of a region for planning purposes and of a regional planning commission shall be accomplished by ordinance or resolution separately adopted by the governing body of each governmental unit involved. Such ordinance or resolution shall be recorded in the minutes of the governing body of each such governmental unit. (Acts 1963, No. 584, p. 1278, § 2.)

§ 11-85-22. Composition; qualifications, appointments, terms of office and compensation of members; vacancies.

(a) The membership of any regional planning commission created and established under this article shall be composed of not less than three representatives of each governmental unit participating in the creation of such. In addition to said minimum representation of three, each governmental unit shall be entitled to appoint one other representative for each 50,000 people residing within the geographical and territorial limits and bounds of such governmental unit according to the most recent federal census; provided, that any commission in which any county having a population in excess of 600,000 participates shall be constituted as follows: Each governmental unit shall have only one representative, except that any city having a population

of more than 300,000 shall have 20 representatives, and each county having a population of more than 600,000 shall have 10 representatives; provided further, that any commission in which any county having a population between 300,000 and 500,000 according to the most recent federal census participates shall be constituted as follows: Voting representatives from each governmental unit in such number, not less than one for each unit, as shall be agreed upon between all the governmental units forming the region and participating in the regional planning commission on a basis of representation which will give relatively equal representation to each governmental unit according to percentage of its population and its financial contribution to the cost of the commission as related to the total population of the region and the total agreed operating cost of the commission, it being understood that the assessment of operating costs to the member governmental units will be based on the population and area of each such unit as related to the whole population of the region.

(b) Each governmental unit may designate to membership ex officio, and without vote its chief planning officer or chief engineer if it has either, but not both of said officials. The voting members of each such planning commission shall be appointed by the respective governing bodies of the respective governmental units participating. No member of any regional planning commission created under this article shall receive any compensation for his or her services rendered as a member of such regional planning commission, but each such member shall be entitled to receive reimbursement for his or her actual and necessary expenses incurred in the performance of his or her duties as a member of such regional planning commission. Voting members of each regional planning commission created under this article shall be appointed for terms of four years. The terms of ex officio members shall expire with their incumbency in the offices by virtue of which they shall have been designated to membership on such regional planning commission. Vacancies occurring on any such commission shall be filled by the governing body of the governmental unit previously represented by the latest prior occupant of a particular vacant place on such commission. (Acts 1963, No. 584, p. 1278, § 3; Acts 1969, No. 1190, p. 2226.)

§ 11-85-23. Powers and duties.

Any regional planning commission established and created under this article shall have the following powers and duties:

- (1) To perform comprehensive advisory planning and research for the region for which such commission shall have been established and its urban areas or areas where rapid urbanization has occurred or is expected to occur, including those areas extending into adjoining states in instances and situations where such planning and related activities for such bi- or multi-state areas are now or hereafter may be authorized by compact or otherwise;
- (2) To provide planning assistance, upon request duly evidenced by ordinance or resolution, to

- a. Any city, other municipality or county;
 - b. Any group of adjacent communities, incorporated or unincorporated, having common or related urban planning or development problems; or,
 - c. Any other regional planning agency;
- (3) To apply for and accept and utilize grants and assistance from the federal government or from any other public or private source which now or hereafter legally may make such grants or afford such other assistance;
- (4) To contract with the federal government or with private or public sources which now or hereafter legally may contract as to such planning to receive advances or progress payments; and
- (5) To adopt its own rules of procedure and order of business. (Acts 1963, No. 584, p. 1278, § 4.)

§ 11-85-24. Article not to impair right of eminent domain or rights under franchises, leases, etc., of utilities.

Nothing contained in this article shall be construed to impair the right of eminent domain conferred on utilities, both public or private, or their right to exercise authority conferred by statutes, franchises, certificates of convenience and necessity, licenses or easements. (Acts 1963, No. 584, p. 1278, § 5.)

ARTICLE 3.

**COMPREHENSIVE ADVISORY PLANNING AND RESEARCH
BY MUNICIPAL, COUNTY, REGIONAL, ETC.,
PLANNING COMMISSIONS, ETC.**

§ 11-85-40. Powers of Alabama development office and local, regional and joint planning commissions as to comprehensive advisory planning and research; comprehensive advisory planning defined.

(a) To facilitate the solution of urban and regional planning problems and to provide for comprehensive advisory planning, including transportation planning, for the state and its cities, counties, urban areas and regions, the Alabama development office, the various regional planning commissions presently authorized to be created, the various county planning commissions presently authorized to be created, the various joint planning commissions presently authorized to be created, municipalities and the various municipal planning commissions presently authorized to be created are each and all hereby empowered and authorized, within the respective geographical areas as to which planning power has heretofore been delegated to such respective office, commissions or other agencies to perform comprehensive advisory planning and research and other activities related thereto for urban areas and regions or areas where rapid urbanization has occurred or is expected to occur and to provide planning assistance, upon request duly evidenced by ordinance or resolution, to

- (1) Any city, other municipality or county;
- (2) Any group of adjacent communities, incorporated or unincorporated, having common or related urban planning or development problems; or
- (3) Any municipal, county, joint, joint county, multicounty or regional planning agency.

(b) The Alabama development office, as well as each and all of the aforesaid other commissions and planning agencies, are hereby further authorized and empowered to perform comprehensive advisory planning and research and other activities related thereto for urban areas and regions or areas where rapid urbanization has occurred or is expected to occur, which said areas and regions extend into adjoining states, in instances and situations where such planning and other activities for such bistate or multistate areas is now or hereafter may be authorized by compact or otherwise.

(c) The Alabama development office, the various regional planning commissions presently authorized to be created, the various joint planning commissions presently authorized to be created, the various county planning commissions presently authorized to be created and the municipal planning commissions presently authorized to be created, as well as cities and other municipalities, counties and groups of adjacent communities (incorporated or unincorporated) having common or related urban planning or development problems are authorized for the purpose of this section to perform comprehensive advisory planning, to contract with the federal government and with any public or private sources which now or hereafter legally may contract as to such planning, to receive advances or progress payments and to contract with other planning agencies, public agencies and political subdivisions. Said office, planning commissions and other planning agencies are also authorized and empowered to apply for and to accept and utilize grants and other assistance from the federal government or from any other public or private sources which now or hereafter legally may make such grants or afford such other assistance.

(d) The term "comprehensive advisory planning" as used in this section shall mean comprehensive studies of the present and future development of the land economics and land policies of a region, with due regard to neighboring regions and the state as a whole. Said term may include, but is not limited to:

- (1) Preparation, as a guide for long-range development, of advisory general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, including transportation facilities, together with long-range fiscal plans for such development;
- (2) Advisory coordination of all related advisory plans and planned activities at both the intragovernmental and intergovernmental levels; and
- (3) Preparation of suggested regulatory or administrative measures in support of the foregoing for submission to the governing bodies of constituent governmental units for review, adoption, rejection or implementation in whole or part, as said units may elect. (Acts 1963, No. 585, p. 1281.)

Existence and legal authority of county planning commissions, joint planning commissions, or municipal planning commis-

sions are explicitly recognized in this section. In re Opinion of Justices, 370 So. 2d 1373 (Ala. 1979).

ARTICLE 4.

REGIONAL PLANNING AND DEVELOPMENT COMMISSIONS.

§ 11-85-50. Definitions.

When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) **GOVERNMENTAL UNIT.** Counties and municipalities.
- (2) **GOVERNING BODY.** The chief legislative body of a governmental unit.
- (3) **MUNICIPALITY.** Cities or towns.
- (4) **REGION.** All the geographical area contained within the aggregate territorial limits of all governmental units participating in a regional planning and development commission as provided in this article.
- (5) **DISTRICT.** A geographical area designated by the governor as provided in this article. (Acts 1969, No. 1126, p. 2084, § 1.)

§ 11-85-51. Designation of state planning and development districts by governor generally; designation of single county state planning and development districts.

(a) The governor may, from time to time as he deems appropriate and necessary, define and designate a state planning and development district by executive order.

(b) In defining boundaries of state planning and development districts, the governor shall consult with the governmental units concerned and shall consider such factors as community of interest and homogeneity; geographic features and natural boundaries; patterns of communication and transportation; patterns of urban development; total population and population density; similarity of social and economic problems; boundaries of existing regional planning commissions and councils of government; existing state functional planning areas and the utility of proposed boundaries for provision of governmental services. Districts should be as large as practicable consistent with the above factors and except as provided in subsection (d) of this section, shall include at least three contiguous counties and contain a population of at least 100,000. No county shall be divided in forming a district.

(c) The governor may change boundaries of districts as required to reflect changing conditions or otherwise to fulfill the purposes of this article observing the criteria and procedures stated in subsection (b) of this section.

(d) Any provision of this section to the contrary notwithstanding, the governor may define and designate single county state planning and development districts within any county having a population between 93,000 and 100,000 persons according to the most recent federal decennial census. (Acts 1969, No. 1126, p. 2084, § 2; Acts 1973, No. 692, p. 1039, § 1.)

§ 11-85-52. Formation of regional planning and development commissions.

(a) *Generally.* — At any time subsequent to the designation of a state planning and development district pursuant to section 11-85-51, governmental units within the district acting through their governing bodies by ordinance or resolution may adopt a written agreement for the formation of a regional planning and development commission and may petition the governor to certify such a commission for a region located entirely within a state planning and development district and consisting of at least three contiguous counties and containing a population of at least 100,000. Governmental units so petitioning must represent at least a majority of the population within the proposed region. No county shall be divided in forming a region. The governor may, after consultation with the governing bodies of the governmental units involved, amend petitions to include additional counties to assure that the objectives of this article are furthered and that no county or city will be precluded from participation in a regional planning and development commission.

(b) *Bistate or multistate commissions.* — In case two or more governmental units determine that the geographical area embraced by such units, although not meeting the minimum criteria prescribed in subsection (a) of this section, is logically, for planning and development purposes, a part of a larger area which extends into an adjoining state or states, such governmental units may adopt an agreement for the formation of a regional planning and development commission and may petition the governor to certify such commission for the proposed region. The governor may, after consultation with the governmental units which are parties to the petition and after approval by him of an appropriate interstate agreement or compact certify the commission. In such case the governor may authorize such deviations from the minimum requirements for area and population prescribed in section 11-85-51 and subsection (a) of this section and the requirements for composition of the commission prescribed in section 11-85-53 as may be necessary to conform to the interstate agreement or compact. No county shall be divided in applying the provisions of this subsection.

(c) *Single county commissions.* — Regional planning and development commissions may be formed in any county having a population between 93,000 and 100,000 persons according to the most recent federal decennial census in the same manner as any other state planning and development district; provided, however, that the requirements for the formation of such districts and commissions with respect to the population and numbers of contiguous counties shall not be applicable to districts and commissions formed pursuant to this subsection. Regional planning and development commissions so formed may function in conjunction with contiguous regional planning and development commissions with respect to any project, plan, program or other activity which by necessity crosses county or state planning and development district boundary lines. (Acts 1969, No. 1126, p. 2084, § 3; Acts 1973, No. 692, p. 1039, § 1.)

§ 11-85-53. Composition; selection, terms and replacement of representatives; financing; procedure for addition or withdrawal of governmental units, dissolution, etc.

(a) All governmental units within the boundaries of a region which are parties to the agreement for the establishment of a regional planning and development commission shall be represented on the commission as provided in this section. The agreement may provide formulas and procedures under which smaller governmental units may select a common representative and larger units may select more than one representative, but there shall be at least one representative for each county and for each city of over 10,000 population. At least a majority of the representation of a commission shall be elected public officials of the participating governmental units. This section shall not apply to any counties which have formed any regional planning commissions.

(b) The terms and manner of selection and replacement of the commission representatives shall be specified in the agreement or, pursuant to the terms of the agreement, by ordinances or resolutions adopted by participating governmental units. Terms of representatives who are not elected officials shall be arranged to provide overlapping periods of service. The term of any representative serving in such capacity by virtue of elective public office shall expire with his incumbency in such office.

(c) The agreement shall include the formula by which participating governments will contribute to the financing of the commission and the procedure for amendment, for addition of other governmental units within the region which are not parties to the original agreement and for withdrawal from the agreement by a governmental unit and for dissolution of the commission.

(d) Any governmental unit included within the boundaries of a region but not a party to the agreement and petition shall not be represented on the commission nor be entitled as a matter of right to services provided by the commission until it joins the commission by appropriate official action as provided for in the agreement or the bylaws of the commission. (Acts 1969, No. 1126, p. 2084, § 4.)

§ 11-85-54. Officers; appointment of advisory committees.

The commission shall elect a chairman and may elect an executive committee and other officers as necessary from among its membership. A commission may appoint such advisory committees as it may deem necessary. (Acts 1969, No. 1126, p. 2084, § 6.)

§ 11-85-55. Receipt of state financial support.

Regional planning commissions certified pursuant to this article may receive state financial support if they meet requirements for state financial assistance, for financial controls and for reporting established by executive order. (Acts 1969, No. 1126, p. 2084, § 8.)

§ 11-85-56. Powers and duties generally.

A regional planning and development commission established pursuant to this article is authorized and empowered to:

(1) Carry on continuous, comprehensive planning for the region, assessing needs, resources and development opportunities and formulating goals, objectives, policies and standards to guide physical, economic and human resource development;

(2) Prepare a regional plan therefor consistent with state comprehensive planning and reflecting plans and programs of the participating governmental units which shall set forth policies for the development of the region in accordance with present and future needs and resources including policies for patterns of urbanization, for the use of land and resources for commerce, industry, recreation, transportation, forestry and agriculture, for the development of human resources and for administrative measures in support thereof;

(3) Prepare an annual regional development program to implement the policies contained in the regional plan, which program shall contain an analysis of the current status of regional development in relation to the regional plan and prior regional development programs, a review of trends affecting regional development, schedules of major program expenditures and activities and capital improvements together with financing plans and recommendations for new programs or elimination or change of existing programs and for changes in administrative organization or procedures;

(4) Prepare and publish studies of the region's resources;

(5) Provide planning and technical assistance to governmental units and planning and development agencies within the region and coordinate regional planning activities with those of the state, of governmental units within the region and in neighboring regions and with the programs of federal departments and agencies and regional commissions;

(6) Borrow money and apply for and receive grants-in-aid, contributions and any other forms of financial or other assistance from any sources, public or private, for the purposes of this article subject to applicable provisions of state law;

(7) Review and comment on applications by governmental units within the region for state or federal loans, grants-in-aid or other financial assistance and indicate their relationship to the regional plan and development program and provide information regarding state and federal grants and assistance programs in the region;

(8) Adopt bylaws and issue rules and regulations for the conduct of its business;

(9) Make and enter into contracts and agreements;

(10) Acquire and dispose of real and personal property subject to applicable provisions of state law;

(11) Charge fees for services provided by the commission;

(12) Employ a director and other employees and consultants, prescribe their duties and fix their compensation;

(13) Perform other activities in furtherance of this article not inconsistent or contrary to state law; and

(14) Determine the name by which said commission shall be called and certified. (Acts 1969, No. 1126, p. 2084, § 5.)

§ 11-85-57. Joint planning agreements, etc., with adjoining counties, municipalities, etc., authorized; changes of boundaries of regional planning and development districts to include adjacent counties.

(a) Commissions formed pursuant to this article shall have the authority to enter into joint planning agreements, contracts or programs with adjacent counties, municipalities situated in adjacent counties or adjacent regional planning and development commissions.

(b) If the governor should determine that it is desirable to change the boundaries of regional planning and development districts which have been defined and designated pursuant to this article to include an adjacent county or counties within such district or districts, he shall have the authority to do so in the manner and form set forth in section 11-85-51; provided, however, that the criteria or requirements set forth in subsection (b) of section 11-85-51 with respect to population and numbers of contiguous counties shall not apply to a district designated by the governor under the authority of this section, nor to any change in the boundaries of such district which the governor may find to be desirable as provided in subsection (c) of section 11-85-51. (Acts 1973, No. 692, p. 1039, § 3.)

§ 11-85-58. Use of planning and development districts and regional planning and development districts for other purposes and programs.

State planning and development districts designated under this article and regional planning commissions established pursuant to this article shall, to the extent possible, be used as the basis for:

- (1) State planning and programming;
- (2) Proposing or designating areas for the purposes of administering programs which receive aid under federal acts which require districts; and
- (3) Performing areawide planning including review and comment on projects, coordination and informational services for state and federal grant-in-aid programs. (Acts 1969, No. 1126, p. 2084, § 7.)

§ 11-85-59. Effect of population changes upon establishment and operation of state planning and development districts or regional planning and development commissions.

The establishment and operation of any state planning and development district or regional planning commission designated or formed pursuant to this article shall not be affected by any subsequent changes in population so long as the county comprising such district and in which such commission is

located met the requirements of this article at the time such district was designated or such commission was formed. (Acts 1973, No. 692, p. 1039, § 2.)

ARTICLE 5.

CONFIRMATION OF OPERATING REGIONAL PLANNING AND DEVELOPMENT COMMISSIONS.

Effective date. — The act which added this article became effective May 29, 1985.

§ 11-85-70. Existing regional planning and development commissions ratified and confirmed.

Those 12 bodies, organizations, or persons respectively acting and operating as regional planning and development commissions within their respective districts on May 29, 1985, and however created or established; by formation of nonprofit corporations, by various resolutions of local governments, or by agreements and/or compacts between local governments, or otherwise; are hereby ratified and confirmed as regional planning and development commissions under sections 11-85-50 through 11-85-59. (Acts 1985, No. 85-757, § 1.)

§ 11-85-71. Procedure for additional governmental units to become members of regional planning and development commissions.

The respective regional planning and development commissions ratified and confirmed by section 11-85-70 shall henceforth continue to act and operate as regional planning and development commissions within their respective districts, and any governmental units within a particular district desiring to become a member of, and have representation on a commission within the district in which the governmental unit is located, shall pass resolutions or ordinances as applicable to accomplish that purpose and they shall thereupon become members of the commission within their respective district and shall be granted the respective representation on the commission as is provided by section 11-85-53, provided they agree by appropriate resolution or ordinance, as applicable, to contribute to the financing of the commission in keeping with a formula of financing on a population basis in the same proportion as current members as established by the commission. (Acts 1985, No. 85-757, § 2.)

§ 11-85-72. General powers, rights, obligations, etc., of regional planning and development commissions.

The regional planning and development commissions ratified and confirmed by this article as such commissions shall have such powers, rights, obligations and privileges as heretofore accorded to, and which might be hereinafter accorded to regional planning and development commissions under the laws of Alabama. (Acts 1985, No. 85-757, § 3.)

§ 11-85-73. Commissions authorized to enter into contracts with other agencies.

Regional planning commissions, business corporations, nonprofit corporations, and local entities as defined in section 23-1-21.1, or as might be hereafter defined by amendment of such section are authorized and empowered to enter into contracts, jointly, separately, and severally with each other and/or with the state of Alabama, the federal government, and/or with their respective departments and agencies, for the purpose of receiving and disbursing state, federal and/or local governmental and private funds for programs established or which might be established as a result of federal, state, and/or local legislation, and to establish on a state or local level, operate and administer any such programs under the contract terms, provided the contract performance, the operation and administration of programs thereunder are in keeping with any such legislation and regulations thereunder. Any such contracts entered into prior to May 29, 1985, are deemed to have been executed with full power and authority. (Acts 1985, No. 85-757, § 4.)

TITLE XIII

PLANNING AND DEVELOPMENT

CHAPTER 186

STATE AND REGIONAL PLANNING

- 186.001 Short title.
- 186.002 Findings and intent.
- 186.003 Definitions.
- 186.004 Governor; chief planning officer of the state.
- 186.005 Designation of departmental planning officer.
- 186.006 Powers and responsibilities of Executive Office of the Governor.
- 186.007 State comprehensive plan; preparation; revision.
- 186.008 State comprehensive plan; adoption; implementation.
- 186.021 State agency functional plans.
- 186.022 State agency functional plans; consistency with state comprehensive plan.
- 186.031 Annual report.
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- ✓ 186.504 Regional planning councils; creation; membership.
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- 186.506 Executive Office of the Governor; powers and duties.
- 186.507 Comprehensive regional policy plans.
- 186.508 Comprehensive regional policy plan adoption; consistency with state comprehensive plan.
- 186.509 Mediation of conflicts between local governments.
- 186.511 Evaluation of comprehensive regional policy plan; changes in plan.
- 186.513 Reports.
- 186.515 Creation of regional planning councils under ch. 163.
- 186.801 Ten-year site plans.
- 186.805 Data Bank on Older Floridians.
- 186.901 Population census determination.
- 186.911 Growth Management Trust Fund.

186.001 Short title.—Sections 186.001-186.031, 186.801-186.911 shall be known and may be cited as the "Florida State Comprehensive Planning Act of 1972."

History.—s. 1, ch. 72-295.
Note.—Former s. 23.0111.

186.002 Findings and intent.—

- (1) The Legislature finds and declares that:
 - (a) Growth and development issues transcend the boundaries and responsibilities of individual units of

government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(b) It is necessary to establish an integrated planning system and to ensure coordinated administration of government policies, especially those policies dealing with land use, water resources, and transportation system development.

(c) The preservation and enhancement of the quality of life of the people of this state require that a state comprehensive plan be adopted and implemented by state and regional agencies.

(2) The intent of this act is that the state comprehensive plan guide state and regional agency policies, especially those policies dealing with land use, water resources, and transportation system development. It is intended that state agency functional plans be effectively coordinated to facilitate the orderly, positive management of growth consistent with the public interest. It is also intended that the implementation of state and regional plans enhance the quality of life of the citizens of the state.

History.—s. 2, ch. 84-257.

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(1) "Executive Office of the Governor" means the Office of Planning and Budgeting of the Executive Office of the Governor.

(2) "Goal" means the long-term end toward which programs and activities are ultimately directed.

(3) "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

(4) "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

(5) "Regional planning agency" means the regional planning council created pursuant to ss. 186.501-186.515 to exercise responsibilities under ss. 186.001-186.031 and 186.801-186.911 in a particular region of the state.

(6) "State agency" means the Executive Office of the Governor, each executive department, the Game and Fresh Water Fish Commission, the Parole and Probation Commission, and the Department of Military Affairs.

(7) "State agency functional plan" means the agency program policies and objectives and administrative directions contained within the plan prepared pursuant to s. 186.021.

(8) "State comprehensive plan" means the goals and policies contained within the state comprehensive plan initially prepared by the Executive Office of the Governor and adopted pursuant to s. 186.006.

History.—s. 3, ch. 72-295; s. 1, ch. 78-287; s. 66, ch. 79-190; s. 3, ch. 84-257.
Note.—Former s. 23.0112.

186.004 Governor; chief planning officer of the state.—The Governor shall be the chief planning officer of the state.

History.—s. 1, ch. 67-157; s. 7, ch. 71-377; s. 4, ch. 72-295.
Note.—Former s. 23.011.

186.005 Designation of departmental planning officer.—

(1) On or before September 29, 1972, the head of each executive department and the Public Service Commission, the Game and Fresh Water Fish Commission, the Parole and Probation Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the planning officer for such agency. The planning officer shall be responsible for coordinating with the Executive Office of the Governor and with the planning officers of other agencies all activities and responsibilities of such agency relating to planning.

(2) The head of each agency shall notify the Executive Office of the Governor in writing of the person initially designated as the planning officer for such agency and of any changes in persons so designated thereafter.

History.—s. 5, ch. 72-295; s. 67, ch. 79-190; s. 1, ch. 81-169.
Note.—Former s. 23.0113.

186.006 Powers and responsibilities of Executive Office of the Governor.—For the purpose of establishing consistency and uniformity in the state and regional planning process and in order to ensure that the intent of ss. 186.001-186.031 and 186.801-186.911 is accomplished, the Executive Office of the Governor shall:

(1) Identify and monitor on a continuing basis statewide conditions and trends which impact the state.

(2) Prepare, and update or revise regularly, the state comprehensive plan.

(3) Designate the geographic boundaries of comprehensive planning districts.

(4) Designate, and prepare or direct to be prepared, specific data, assumptions, forecasts, and projections for use by each state or regional agency in the preparation of plans.

(5) Coordinate planning among federal, state, regional, and local levels of government and between this state and other states.

(6) Prepare or direct appropriate state or regional agencies to prepare such studies, reports, data collections, or analyses as are necessary or useful in the preparation or revision of the state comprehensive plan, state agency functional plans, or regional comprehensive policy plans.

(7) Act as the state clearinghouse and designate the regional planning councils as the regional data clearinghouses.

(8) Direct state agencies and regional agencies to prepare and implement, consistent with their authority and responsibilities under law, such plans as are neces-

sary to further the purposes and intent of the state comprehensive plan.

(9) Provide such data and information to public and private agencies and to the public as it may have available.

(10) Using federal, state, local, or private funds, contract with public agencies or private firms or consultants for specialized services or research facilities, whenever such services or facilities are not otherwise available to it.

(11) Perform such other functions as are necessary to carry out the intent of ss. 186.001-186.031 and 186.801-186.911.

History.—s. 4, ch. 84-257; s. 7, ch. 85-57.

186.007 State comprehensive plan; preparation; revision.—

(1) The Executive Office of the Governor shall prepare a proposed state comprehensive plan which provides long-range guidance for the orderly social, economic, and physical growth of the state. The plan shall be composed of goals and policies that are briefly stated in plain, easily understandable words and that give specific policy direction to state and regional agencies. The goals and policies shall be statewide in scope and shall be consistent and compatible with each other. The state comprehensive plan shall not include a land use map.

(2) In preparing the goals and policies of the state comprehensive plan, the Executive Office of the Governor shall analyze the problems, opportunities, and needs associated with growth and development in this state, particularly those problems, opportunities, and needs related to land use, water resources, and transportation system development. The Executive Office of the Governor shall document present conditions and trends, forecast future conditions and trends based on expected growth patterns, and identify needs. Such conditions, trends, and needs shall be used to prepare goals and policies designed to preserve and enhance the quality of life of the citizens of this state.

(3) In the state comprehensive plan, the Executive Office of the Governor may include goals and policies related to the following program areas: economic opportunities; agriculture; employment; public safety; education; health concerns; social welfare concerns; housing and community development; natural resources and environmental management; recreational and cultural opportunities; transportation; and governmental direction and support services.

(4) The Executive Office of the Governor shall prepare statewide goals and policies related to the opportunities, problems, and needs associated with growth and development in this state, which goals and policies shall constitute the growth management portion of the state comprehensive plan. In preparing the growth management goals and policies, the Executive Office of the Governor initially shall emphasize the management of land use, water resources, and transportation system development.

(5)(a) The Executive Office of the Governor shall prepare a separate portion of the state comprehensive plan related to the long-term infrastructure and capital outlay

needs of the state. This portion shall be prepared based upon a comprehensive assessment of needs conducted by the Executive Office of the Governor, and it shall be updated annually as part of the budgeting process prescribed by chapter 216. The assessment shall provide estimates by area of the future infrastructure needs of the state that result from expected growth patterns and shall include recommendations for directing state expenditures to particular areas of the state in order to implement the growth management goals and policies of the state comprehensive plan.

(b) All capital outlay recommendations submitted to the Legislature in the budget of the Governor shall be consistent with the goals and policies of the state comprehensive plan and the long-term infrastructure and capital outlay portion when adopted.

(c) Notwithstanding the provisions of ss. 186.001-186.031 and 186.801-186.911, the Executive Office of the Governor shall prepare the long-term infrastructure and capital outlay portion of the state comprehensive plan no later than July 1, 1986.

(6) The adopted state comprehensive plan shall provide, in addition to other criteria established by law, standards and criteria for the review and approval of state agency functional plans and comprehensive regional policy plans.

(7) In preparing and revising the state comprehensive plan, the Executive Office of the Governor shall, to the extent feasible, consider studies, reports, and plans of each department, agency, and institution of state and local government, each regional planning agency, and the Federal Government and shall take into account the existing and prospective resources, capabilities, and needs of state and local levels of government.

(8) The revision of the state comprehensive plan is a continuing process. Each section of the plan shall be reviewed and analyzed yearly by personnel of the Executive Office of the Governor in conjunction with the planning officers of other state agencies significantly affected by the provisions of the particular section under review.

History.—s. 7, ch. 72-295; ss. 3, 5, ch. 77-306; s. 2, ch. 78-287; s. 68, ch. 79-190; s. 5, ch. 84-257.

Note.—Former s. 23.0114.

186.008 State comprehensive plan; adoption; implementation.—

(1) On or before December 1, 1984, the Executive Office of the Governor shall prepare, and the Governor shall recommend to the Administration Commission, a proposed state comprehensive plan. The Governor shall transmit the proposed state comprehensive plan to the Administration Commission within 15 days of his acceptance of the plan. Copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy.

(2) On or before February 15, 1985, the Administration Commission shall review the proposed state comprehensive plan prepared by the Governor. The commission shall adopt a resolution, after public notice and a reasonable opportunity for public comment, and transmit the proposed state comprehensive plan to the Legislature, together with any amendments approved by the

commission and any dissenting reports. The commission shall identify those portions of the plan that are not based on existing law.

(3) All amendments, revisions, or updates to the plan shall be adopted by the Legislature as a general law.

(4) The state comprehensive plan shall be implemented and enforced by all state agencies consistent with their lawful responsibilities whether it is put in force by law or by administrative rule. The Governor, as chief planning officer of the state, shall oversee the implementation process.

(5) All state agency budgets and programs shall be consistent with the adopted state comprehensive plan and shall support and further its goals and policies.

(6) The Florida Public Service Commission, in approving the plans of utilities subject to its regulation, shall take into consideration the compatibility of the plan of each utility and all related utility plans taken together with the adopted state comprehensive plan.

History.—s. 3, ch. 87-157; ss. 31, 35, ch. 89-106; s. 8, ch. 72-295; s. 1, ch. 77-306; s. 3, ch. 78-287; s. 6, ch. 84-257; ss. 5, 7, ch. 85-57.

Note.—Former s. 23.013.

186.021 State agency functional plans.—

(1) A state agency functional plan shall contain, at a minimum, a statement of the policies guiding the programs and functions of the agency and shall specify those objectives against which there shall be evaluated the achievement by the agency of its policies and the goals and policies for the state comprehensive plan. A state agency functional plan shall also identify specific agency programs which support and further the goals and policies of the growth management portion of the state comprehensive plan. Each state agency functional plan shall identify infrastructure and capital improvement needs associated with the agency programs.

(2) All amendments, revisions, or updates to a state agency functional plan shall be prepared in the same manner as the original and shall be prepared as needed because of changes in the state comprehensive plan or changes in the statutory authority and responsibility of the agency.

(3) Notwithstanding the provisions of 'subsection (3), the Department of Environmental Regulation, with regard to the plan required by s. 373.036, and the state land planning agency, with regard to the plan defined in s. 380.031(17), shall prepare such state agency functional plans no later than 6 months after the adoption of the state comprehensive plan.

History.—s. 7, ch. 84-257; ss. 6, 7, ch. 85-57.

Note.—Former subsection (3) of s. 186.021 was repealed by s. 7, ch. 85-57.

186.022 State agency functional plans; consistency with state comprehensive plan.—

(1) Within 1 year of the adoption of the state comprehensive plan, and by November 1 of each odd-numbered year thereafter, each state agency, except as provided in s. 186.021, shall prepare and submit its agency functional plan to the Executive Office of the Governor. Prior to the submission of the agency functional plans to the Governor, each agency shall hold public workshops on the proposed agency functional plan, and shall allow at least a 21-day period for public

comment. Adequate public notice shall be assured by publication of notice of hearing and comment period in the Florida Administrative Weekly.

(2) The Executive Office of the Governor shall review the proposed state agency functional plans for consistency with the state plan, and shall, within 60 days, return a proposed agency functional plan to the agency, together with any proposed revisions.

(3) Each agency functional plan shall be in a form and manner prescribed in instructions prepared by the Executive Office of the Governor after consultation with the President of the Senate and the Speaker of the House of Representatives. Each agency functional plan shall identify the financial resources necessary to implement the provisions of the plan, and shall identify the specific legislative authority necessary to implement the elements of the proposed functional plan. An agency may only implement those portions of its functional plan that are consistent with existing statutory or constitutional authority, and for which funding, if needed, is available consistent with the provisions of chapter 216. Financial resources necessary to implement the policies and goals of the state comprehensive plan shall be clearly identified and coordinated between each agency functional plan and the budget requests and recommendations prescribed in s. 216.023(1).

(4) The state agency shall, within 30 days of the return of its proposed state agency functional plan, incorporate all revisions recommended by the Governor, or shall petition the Administration Commission to resolve any disputes regarding the consistency of the state agency functional plan or the revisions recommended by the Governor with the state comprehensive plan. The Administration Commission shall resolve any disputes within 45 days of the petition.

(5) Any differences between state agencies regarding the programs, policies, or functional plans of such agencies shall be mediated by the Governor.

(6) Each agency shall transmit copies of its functional plan and all public comments on its plan to the President of the Senate and the Speaker of the House of Representatives not later than 30 days prior to the next regular session of the Legislature.

(7) Agency functional plans developed pursuant to this chapter are not rules and therefore are not subject to the provisions of chapter 120.

History.—s. 8, ch. 84-257; s. 4, ch. 85-57.

186.031 Annual report.—The Governor as the chief planning and budget officer of the state shall annually report to the Legislature and the public on the economic conditions of the state, the infrastructure and capital outlay needs of the state, and the impacts of growth and development and shall assess state, regional, and local government efforts in addressing such conditions, needs, and impacts. The report shall appraise current growth trends, shall evaluate the extent to which existing growth management policies effectively address such trends, and shall review such other factors and indicators as are appropriate. The report shall contain timely and authoritative data and information about economic and demographic growth patterns and an analysis of such information as it affects the goals and poli-

cies of the state for growth and development. The report shall contain specific recommendations for any legislative and administrative changes needed to continue to manage growth effectively and to build upon the opportunities available. The report shall be related to, and developed in conjunction with, the regular updates of the state comprehensive plan.

History.—s. 5, ch. 67-157; ss. 31, 35, ch. 69-106; s. 72, ch. 79-190; s. 15, ch. 81-259; s. 9, ch. 84-257.

Note.—Former s. 23.015.

186.501 Short title.—Sections 186.501-186.513 shall be known and may be cited as the "Florida Regional Planning Council Act."

History.—ss. 1, 5, ch. 80-315; s. 4, ch. 82-46.

Note.—Former s. 160.001.

186.502 Legislative findings; public purpose.—

(1) The Legislature finds and declares that:

(a) The problems of growth and development often transcend the boundaries of individual units of local general-purpose government, and often no single unit can formulate plans or implement policies for their solution without affecting other units in their geographic area.

(b) There is a need for regional planning agencies to assist local governments to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain federal and state grants-in-aid, and provide a regional focus in regard to multiple programs undertaken on an areawide basis.

(c) Federal and state programs should have coordinated purposes and consistent policy direction in order to avoid the proliferation of overlapping, duplicating, and competing regional agencies. To further this end, these efforts should result in entities agencies which effectively carry out a wide variety of federal and state program designations.

(d) The financial and technical assistance of the state should be provided to regional planning agencies to maximize the effective use of regional programs undertaken with the authorization of local, state, or federal governments serving the citizens of this state.

(e) There is a need for the establishment at the regional level of clear policy plans that will guide broad-based representative regional planning agencies as they undertake regional review functions.

(2) It is the declared purpose of this act to establish a common system of regional planning councils for areawide coordination and related cooperative activities of federal, state, and local governments; ensure a broad-based regional organization that can provide a truly regional perspective; and enhance the ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries.

(3) The regional planning council is designated as the primary organization to address problems and plan solutions that are of greater than local concern or scope, and the regional planning council shall be recognized by local governments as one of the means to provide input into state policy development.

History.—ss. 2, 5, ch. 80-315; s. 4, ch. 82-46; s. 10, ch. 84-257.

Note.—The word "entities" appears to be an error; it was substituted for the word "regional" in the preparation of C.S. for H.B. 1452 (1980).

Note.—Former s. 160.002.

186.503 Definitions.—As used in this act, the term:

(1) "Comprehensive planning districts" means the geographic areas within the state specified by rule by the Executive Office of the Governor pursuant to s. 186.006.

(2) "Comprehensive regional policy plan" means a long-range guide for physical, economic, and social development of a comprehensive planning district which identifies regional goals and objectives and opportunities as embodied in the policies of a regional planning council.

(3) "Elected official" means a member of the governing body of a municipality or county or an elected county official chosen by the governing body.

(4) "Existing regional planning council" means a regional planning council created by local general-purpose governments prior to October 1, 1980, pursuant to chapters 160 and 163.

(5) "Federal" or "Federal Government" means the United States Government or any department, commission, agency, or other instrumentality thereof.

(6) "Local general-purpose government" means any municipality or county created pursuant to the authority granted under ss. 1 and 2, Art. VIII of the State Constitution.

(7) "State" or "state government" means the government of the State of Florida or any department, commission, agency, or other instrumentality thereof.

History.—ss. 3, 5, ch. 80-315; s. 7, ch. 81-167; s. 4, ch. 82-46; s. 7, ch. 83-55; s. 18, ch. 84-257; s. 22, ch. 85-80.

Note.—The sections comprising former chapter 160 were transferred to ch. 186 by the reviser incident to compiling the 1984 Supplement to the Florida Statutes 1983.

Note.—Former s. 160.003.

186.504 Regional planning councils; creation; membership.—

(1) A regional planning council shall be created in each of the several comprehensive planning districts of the state. Only one agency shall exercise the responsibilities granted herein within the geographic boundaries of any one comprehensive planning district.

(2) Membership on the regional planning council shall be as follows:

(a) Representatives appointed by each of the member counties in the geographic area covered by the regional planning council.

(b) Representatives from other member local general-purpose governments in the geographic area covered by the regional planning council.

(c) Representatives appointed by the Governor from the geographic area covered by the regional planning council.

(3) Not less than two-thirds of the representatives serving as voting members on the governing bodies of such regional planning councils shall be elected officials of local general-purpose governments chosen by the cities and counties of the region, provided each county shall have at least one vote. The remaining one-third of the voting members on the governing board shall be appointed by the Governor, subject to confirmation by the Senate, and shall reside in the region. No two appointees of the Governor shall have their places of residence in the same county until each county within the region is represented by a Governor's appointee to the govern-

ing board. Nothing contained in this section shall deny to local governing bodies or the Governor the option of appointing either locally elected officials or lay citizens provided at least two-thirds of the governing body of the regional planning council is composed of locally elected officials.

(4) Nothing contained in this act shall be construed to mandate municipal government membership or participation in a regional planning council. However, each county shall be a member of the regional planning council created within the comprehensive planning district encompassing the county.

(5) The existing regional planning council in each of the several comprehensive planning districts shall be designated as the regional planning council specified under subsections (1)-(4), provided the council agrees to meet the membership criteria specified therein and is a regional planning council organized under either s. 163.01 or s. 163.02 or chapter 160.

History.—s. 1, ch. 59-369; s. 19, ch. 63-400; s. 1, ch. 69-63; ss. 3, 5, ch. 80-315; s. 4, ch. 82-46; s. 11, ch. 84-257.

Note.—Former s. 160.01.

186.505 Regional planning councils; powers and duties.—Any regional planning council created hereunder shall have the following powers:

(1) To adopt rules of procedure for the regulation of its affairs and the conduct of its business and to appoint from among its members a chairman to serve annually; however, such chairman may be subject to reelection.

(2) To adopt an official name and seal.

(3) To maintain an office at such place or places within the comprehensive planning district as it may designate.

(4) To employ and to compensate such personnel, consultants, and technical and professional assistants as it deems necessary to exercise the powers and perform the duties set forth in this act.

(5) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

(6) To hold public hearings and sponsor public forums in any part of the regional area whenever the council deems it necessary or useful in the execution of its other functions.

(7) To sue and be sued in its own name.

(8) To accept and receive, in furtherance of its functions, funds, grants, and services from the Federal Government or its agencies; from departments, agencies, and instrumentalities of state, municipal, or local government; or from private or civic sources. Each regional planning council shall, no later than January 30 of each year, render an accounting of the receipt and disbursement of all funds received by it to the secretary of the Department of Community Affairs. The Secretary of Community Affairs shall consolidate all such reports and submit such consolidated report to the Legislature no later than March 1 of each year. A separate accounting of the receipt and disbursement of funds received by each regional planning council pursuant to the federal Older Americans Act shall be submitted to the Legislature no later than March 1 of each year.

(9) To receive and expend such sums of money as shall be from time to time appropriated for its use by any

county or municipality when approved by the council and to act as an agency to receive and expend federal funds for planning.

(10) To act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.

(11) To cooperate, in the exercise of its planning functions, with federal and state agencies in planning for emergency management under s. 252.34(3).

(12) To fix and collect membership dues, rents, or fees when appropriate.

(13) To acquire, own, hold in custody, operate, maintain, lease, or sell real or personal property.

(14) To dispose of any property acquired through the execution of an interlocal agreement under s. 163.01.

(15) To accept gifts, grants, assistance, funds, or bequests.

(16) To conduct studies of the resources of the region.

(17) To participate with other governmental agencies, educational institutions, and private organizations in the coordination or conduct of its activities.

(18) To select and appoint such advisory bodies as the council may find appropriate for the conduct of its activities.

(19) To enter into contracts to provide, at cost, such services related to its responsibilities as may be requested by local governments within the region and which the council finds feasible to perform.

(20) To provide technical assistance to local governments on growth management matters.

History.—s. 2, ch. 59-369; ss. 17, 35, ch. 69-108; s. 1, ch. 73-283; ss. 3, 5, ch. 80-315; s. 8, ch. 81-167; s. 4, ch. 82-48; s. 8, ch. 83-55; s. 4, ch. 83-334; s. 12, ch. 84-257.

Note.—Former s. 160.02.

186.506 Executive Office of the Governor; powers and duties.—The Executive Office of the Governor, or its designee, shall:

(1) Arbitrate and settle disputes between regional planning councils.

(2) Provide assistance to local general-purpose governments concerning organization of, or reorganization into, a regional planning council.

(3) Review, modify, reject, or approve those rules of the regional planning councils which pertain to the functions designated to the regional planning councils by the state. These rules shall be submitted to the Governor or his designee and, if not acted upon within 30 days of receipt, they will be assumed to be in force.

(4) Conduct an in-depth analysis of the current boundaries of the regional planning councils and include in its study the preferences of local general-purpose governments; the effect of population migration, transportation networks, population increases and decreases, economic development centers and trade areas; and other data, projections, or studies which it determines to be of significance in establishing district boundaries. The Executive Office of the Governor may make such changes in the district boundaries as are found to be feasible and desirable.

History.—ss. 3, 5, ch. 80-315; s. 4, ch. 82-48.

Note.—Former s. 160.05.

186.507 Comprehensive regional policy plans.—

(1) A comprehensive regional policy plan shall contain regional goals and policies, specifically including growth management policies; shall be consistent with, and shall further, the state comprehensive plan; and shall implement and accurately reflect the goals and policies of the state comprehensive plan. Regional plans shall address significant regional resources, infrastructure needs, or other issues of importance within the region. Regional plans shall specify regional issues that may be used in reviewing a development of regional impact. Such regional issues shall be consistent with any state statutes, rules, or policies that specifically relate to or govern a regional issue or criteria adopted for development-of-regional-impact reviews. All regional issues and criteria shall be included in the comprehensive regional policy plan adopted by rule pursuant to s. 186.508.

(2) The Executive Office of the Governor shall adopt by rule minimum criteria to be addressed in each comprehensive regional policy plan and a uniform format for each plan. Such criteria shall emphasize the need for each regional planning council, when preparing and adopting a comprehensive regional policy plan, to focus on regional rather than local issues.

(3) In preparing the comprehensive regional policy plan, the regional planning council shall seek the full cooperation and assistance of local governments to identify key regional issues and shall document present conditions and trends with respect to the policy areas addressed; forecast future conditions and trends based on expected growth patterns of the region; and analyze the problems, needs, and opportunities associated with growth and development in the region, especially as those problems, needs, and opportunities relate to land use, water resources, and transportation system development.

(4) The regional goals and policies shall be used to develop a coordinated program of regional actions directed at resolving the identified problems and needs.

(5) The council shall give consideration to existing state, regional, and local plans in accomplishing the purposes of this section.

(6) The draft regional plan shall be circulated to all local governments in the region, and the local governments shall be afforded a reasonable opportunity to comment on the regional plan.

(7) The council shall provide for adequate input by citizens into the regional planning process.

(8) Upon adoption, a comprehensive regional policy plan shall provide, in addition to other criteria established by law, the basis for regional review of developments of regional impact, regional review of federally assisted projects, and other regional overview and comment functions.

(9) Regional planning councils shall consider, and make accessible to the public, appropriate data and studies, including development-of-regional-impact applications and agency reports, in order to assist participants in the development-of-regional-impact review process. A major objective of the regional planning process shall be to coordinate with the state land planning agency in order to achieve uniformity and consistency in land

use information and data collection efforts in this state and provide a usable and accessible data base to local governments and the private sector.

History.—ss. 3, 5, ch. 80-315; s. 4, ch. 82-46; s. 13, ch. 84-257.
Note.—Former s. 180.07.

186.508 Comprehensive regional policy plan /adoption; consistency with state comprehensive plan.— Within 18 months of the adoption of the state comprehensive plan, each regional planning council shall submit to the Executive Office of the Governor its proposed comprehensive regional policy plan. The Executive Office of the Governor, or its designee, shall review the proposed comprehensive regional policy plan for consistency with the adopted state comprehensive plan and shall, within 90 days, return the proposed comprehensive regional policy plan to the council, together with any revisions recommended by the Governor. The rules adopting the regional policy plan shall not be subject to rule challenge under s. 120.54(4) or to drawout proceedings under s. 120.54(17). Such rules shall become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the next regular session of the Legislature. In its review, the Legislature may reject, modify, or take no action relative to the adopted rules. The regional planning council shall conform the rules to the changes made by the Legislature; if no action was taken by the Legislature, the rules may become effective.

History.—s. 14, ch. 84-257; s. 23, ch. 85-55.

186.509 Mediation of conflicts between local governments.—The regional planning council shall establish an informal mediation process to resolve conflicts between local governments relating to comprehensive plans. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.

History.—s. 15, ch. 84-257.

186.511 Evaluation of comprehensive regional policy plan; changes in plan.—

(1) The regional planning process shall be a continuous and ongoing process. Each regional planning council shall prepare an evaluation report on its comprehensive regional policy plan at least once every 3 years; assess the successes or failures of the plan; and prepare amendments, revisions, or updates to the plan.

(2) All amendments, revisions, or updates to a comprehensive regional policy plan shall be adopted in the same manner as the original comprehensive regional policy plan was adopted and shall be prepared as needed because of changes in the state comprehensive plan or on the basis of the evaluation report required by this section.

History.—s. 16, ch. 84-257.

186.513 Reports.—Each regional planning council shall prepare and furnish an annual report on its activities to the department and the local general-purpose governments within its boundaries and, upon payment as may be established by the council, to any interested person. The regional planning councils shall make a joint

report and recommendations to appropriate legislative committees.

History.—ss. 3, 5, ch. 80-315; s. 4, ch. 82-46.
Note.—Former s. 180.08.

186.515 Creation of regional planning councils under ch. 163.—Nothing in ss. 186.501-186.507, 186.513, and 186.515 is intended to repeal or limit the provisions of chapter 163; however, the local general-purpose governments serving as voting members of the governing body of a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515 are not authorized to create a regional planning council pursuant to chapter 163 unless an agency, other than a regional planning council created pursuant to ss. 186.501-186.507, 186.513, and 186.515, is designated to exercise the powers and duties in any one or more of ss. '23.012(6), 163.3164(17), and 380.031(13); in which case, such a regional planning council is also without authority to exercise the powers and duties in 's. 23.012(6), s. 163.3164(17) or s. 380.031(15).

History.—ss. 4, 5, ch. 80-315; s. 4, ch. 82-46.

Note.—Section 23.012 was repealed by s. 18, ch. 84-257.

Note.—Former s. 180.09.

186.801 Ten-year site plans.—

(1) Beginning January 1, 1974, each electric utility shall submit to the Department of Community Affairs a 10-year site plan which shall estimate its power-generating needs and the general location of its proposed power plant sites. The 10-year plan shall be reviewed and submitted not less frequently than every 2 years.

(2) Within 9 months of the receipt of the proposed plan, the department shall make a preliminary study of such plan and classify it as "suitable" or "unsuitable." The department may suggest alternatives to the plan. All findings of the department shall be made available to the Department of Environmental Regulation for its consideration at any subsequent electrical power plant site certification proceedings. It is recognized that 10-year site plans submitted by an electric utility are tentative information for planning purposes only and may be amended at any time at the discretion of the utility upon written notification to the department. A complete application for certification of an electrical power plant site under chapter 403, when such site is not designated in the current 10-year site plan of the applicant, shall constitute an amendment to the 10-year site plan. In its preliminary study of each 10-year site plan, the department shall consider such plan as a planning document and shall review:

(a) The need, including the need as determined by the Public Service Commission, for electrical power in the area to be served.

(b) The anticipated environmental impact of each proposed electrical power plant site.

(c) Possible alternatives to the proposed plan.

(d) The views of appropriate local, state, and federal agencies, including the views of the appropriate water management district as to the availability of water and its recommendation as to the use by the proposed plant of saltwater or freshwater for cooling purposes.

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

DEPARTMENT OF COMMERCE

DOUG ROSS, Director

**LOCAL DEVELOPMENT
SERVICES BUREAU**
P.O. BOX 30225
Lansing, Michigan 48909

October 28, 1987

Mr. Frank Homan
Office of Senator Sturgulewski
Box V
Juneau, Alaska 99811

Dear Frank:

As promised here is the material describing what Community Growth Alliances are all about. The CGA's, as they are called, are not formally recognized in either legislation or executive order although there is some movement to eventually have them formally recognized in legislation. I hope this helps.

Feel free to call me at (517) 373-9305 if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth P. Voytek".

Kenneth P. Voytek
Economist
Center for Local Economic
Competitiveness

KV/ph

Enclosure: a/s

the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes, or through grants to such individuals, organizations, or institutions, or through conferences and similar meetings organized for such purposes. The Secretary shall make available to interested individuals and organizations the results of such research. The Secretary shall include in his annual report under section 707 a detailed statement concerning the study and research conducted under this section together with his findings resulting therefrom and his recommendation for legislative and other action.

Purposes

(d) The Secretary shall aid redevelopment areas and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Secretary may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in redevelopment areas and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

Study Board

(e) The Secretary shall establish an independent study board consisting of governmental and nongovernmental experts to investigate the effects of Government procurement, scientific, technical, and other related policies, upon regional economic development. Any Federal officer or employee may, with the consent of the head of the department or agency in which he is employed, serve as a member of such board, but shall receive no additional compensation for such service. Other members of such board may be compensated in accordance with the provisions of section 701 (10). The board shall report its findings, together with recommendations for the better coordination of such policies, to the Secretary, who shall transmit the report to the Congress not later than two years after the enactment of this Act.

Demonstration Projects

(f) The Secretary is authorized to make grants, enter into contracts or otherwise provide funds for any demonstration project within a redevelopment area or areas which he determines is designed to foster regional productivity and growth, prevent outmigration, and otherwise carry out the purposes of this Act.

42 USC 3151a

SEC. 302. (a) The Secretary is authorized, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organiza-

tion (including a redevelopment area or an economic development district), to make direct grants to such State, city, other political subdivision, or organization to pay up to 80 per centum of the cost for economic development planning. The planning for cities, other political subdivisions, and sub-State planning and development organizations (including redevelopment areas and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes. Such planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program. Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State. Upon completion of any such plan, the State shall certify to the Secretary (1) that in the preparation of such State plan, the local and economic development district plans were considered and, to the fullest extent possible, such State plan is consistent with such local and economic development district plans, and (2) that such State plan is consistent with such local and economic development district plans, or, if such State plan is not consistent with such local and economic development district plans, all of the inconsistencies of the State plan with the local and economic development district plans, and the justification for each of these inconsistencies. Any overall State economic development planning shall be a part of a comprehensive planning process that shall consider the provision of public works to stimulate and channel development, economic opportunities and choices for individuals; to support sound land use, to enhance and protect the environment including the conservation and preservation of open spaces and environmental quality, to provide public services, and to balance physical and human resources through the management and control of physical development. The assistance available under this section may be provided in addition to assistance available under section 301(b) of this Act but shall not supplant such assistance and shall be available to develop an annual inventory of specific recommendations for assistance under section 304 of this Act. Each State receiving assistance under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

(b) In addition, the Secretary is authorized to assist economic development districts in—

(1) providing technical assistance (other than by grant) to local governments within the district; and

Direct
Planning Grant

City &
Sub-State Plan

State Plans

]

T/A

NOTE: This unofficial reprint of the Public Works and Economic Development Act of 1965, as amended, incorporates all amendments through the 1976 amendments (P.L. 94-487). The text was edited and is published by the Office of Chief Counsel, Economic Development Administration, U.S. Department of Commerce.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965, AS AMENDED

(P.L. 89-136; 42 U.S.C. 3121 *et seq.*)

To provide grants for public works and development facilities, other financial assistance and the planning and coordination needed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That this Act may be cited as the "Public Works and Economic Development Act of 1965".

STATEMENT OF PURPOSE

SEC. 2. The Congress declares that the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment; that such unemployment and underemployment cause hardship to many individuals and their families, and waste invaluable human resources; that to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development; that Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, provided that such assistance is preceded by and consistent with sound, long-range economic planning; and that under the provisions of this Act new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another. Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized

42 USC 3121

[38 FR 2269, Jan. 23, 1973, as amended at 39 FR 44960, Dec. 30, 1974; 44 FR 40883, July 12, 1979]

§ 302.51 Lists of redevelopment areas and centers designated under the Act.

The Economic Development Administration will maintain current lists of areas and centers designated under the Act. The lists shall be kept available for public inspection during the regular business hours of the Department of Commerce. Inquiries for such lists shall be made to the Director, Office of Management and Administration, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 7816, Washington, D.C. 20230.

[OCC NOTE: Revised 48 FR 5711, Jan. 8, 1983]

Subpart E—Information

§ 302.60 Information.

Upon the request of the Assistant Secretary the heads of such governmental agencies as may be appropriate are authorized to conduct such special studies, obtain such information, and compile and furnish to the Assistant Secretary such data as the Assistant Secretary may deem necessary or proper to enable him to make the determinations provided for in this part. The Assistant Secretary shall reimburse when appropriate, out of any funds appropriated to carry out the purposes of the Act, the foregoing officers for any expenditures incurred by them under this section.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570, as amended (42 U.S.C. 3211); Pub. L. 94-487, 90 Stat. 2331; Dept. of Commerce Organization Order 10-4 (Sept. 30, 1975), as amended (40 FR 56702 as amended at 40 FR 58878 and 41 FR 35548))

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

Subpart A—Standards for Designation, Modification and Termination of Economic Development Districts

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303.2 Designation of economic development districts.

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Sec.

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303.25 Assistance to economic development districts.

AUTHORITY: Sec. 701, Pub. L. 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Dept. of Commerce Organization Order 10-4 (Apr. 1, 1970), unless otherwise noted.

SOURCE: 38 FR 2269, Jan. 23, 1973, unless otherwise noted.

Subpart A—Standards for Designation, Modification and Termination of Economic Development Districts

§ 303.1 Authorization of economic development districts.

(a) The Assistant Secretary may authorize, at the request of the Governor(s) of the State or States, the delineation of economic development district (hereinafter district) boundaries as a prerequisite to designation of an economic development district and as a prerequisite to the provision of planning grants, Subpart B of Part 307 of this chapter.

(b) Authorization of delineation may be made:

(1) Where the State or States after analyzing economic and social relationships among the various redevelopment area counties proposed to EDA a district boundary delineation.

(2) Where the district proposed for authorization meets the general standards for designation set forth in § 303.2.

(3) Where a consideration of the following factors has been made:

(i) The percentage of the population living in redevelopment areas.

(ii) District per capita income.

(iii) The percentage of families with annual income below the poverty threshold.

(iv) Unemployment rates and labor force participation rates of the proposed district.

(v) Economic characteristics of economic growth centers.

(vi) The proposed district's readiness to hire a professional staff and begin work.

(4) Where the district proposed for authorization of delineation of bound-

aries conforms to an officially delineated sub-State district, if such exists, or where the Governor has provided the Assistant Secretary with an explanation and support from any variation of the officially delineated sub-State district.

[38 FR 2269, Jan. 23, 1973, as amended at 39 FR 44960, Dec. 30, 1974]

§ 303.2 Designation of economic development districts.

The Assistant Secretary is authorized to designate economic development districts with the concurrence of the States in which the districts will be wholly or partially located.

(a) Where the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single redevelopment area.

(b) Where the proposed district contains at least one redevelopment area.

(c) Where the proposed district contains one or more redevelopment areas or economic development centers identified in an approved district overall economic development program (hereinafter OEDP) as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the redevelopment areas within the district.

(d) Where the proposed district has a district OEDP which identifies one or more proposed economic growth centers, includes adequate land use and transportation planning, contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary.

(e) Where at least three-fourths of the counties within the proposed district boundaries have submitted documentation of their commitment to support the economic development activities of the district.

(f) Where a district organization has been established which meets the requirements of § 303.4-1.

(g) Where the proposed district organization requests such designation.

[38 FR 2269, Jan. 23, 1973, as amended at 39 FR 44960, Dec. 30, 1974; 45 FR 55701, Aug. 21, 1980]

§ 303.3 Designation of nonfunded districts.

Designation is not limited to districts receiving EDA planning grants. However, any nonfunded district receiving authorization and designation is subject to the same criteria and organization requirements applicable to funded districts.

§ 303.4-1 District organizations.

(a) *Organization prerequisite to designation and funding.* The district organization is a prerequisite to initial and continued designation of an economic development district ("EDD"). In addition, it is prerequisite to the

provision of planning grants.

(b) *Legal status.* Districts shall organize in one of the following ways:

(1) As nonprofit organizations incorporated under the laws of the States in which they are located;

(2) As public organizations through intergovernmental agreements for the joint exercise of local government powers; or

(3) As public organizations established under State enabling legislation for the creation of multijurisdictional areawide planning organizations.

(c) *Basic organizational requirements.* Each district organization must meet EDA requirements concerning its membership composition as set forth in § 303.4-1(d), its authorities and responsibilities for carrying out economic development functions as set forth in § 303.4-3, and the maintenance of adequate staff support to perform its economic development functions as set forth in § 303.4-1(e) in one of the two ways cited below:

(1) In general, the foregoing requirements must be met by the board of directors (or other governing body of the organization) as a whole.

(2) However, a waiver may be granted under provisions of § 303.4-2 to permit a district organization to use one of a variety of organizational options (hereafter, the "EDA component") set forth in § 303.4-2(c) to meet the basic organizational requirements.

(d) *Representation requirements.* The district organization shall demonstrate that either the district organization as a whole or its EDA component meets all of the following requirements:

(1) It is broadly representative of the following interests:

(i) The principal economic interests of the district, including business, industry, finance, transportation, utilities, the professions, labor, agriculture, and education. In meeting this requirement, the representatives of the principal economic interests may be private citizens, part-time elected officials, or minority representatives also selected under paragraph (d)(1)(ii) of this section.

(ii) Minority groups. Minority representatives shall be selected in accordance with *Civil Rights Guidelines* issued pursuant to 13 CFR Part 311, and may be private citizens, elected officials, or government employees.

(iii) Representatives of the unemployed and underemployed.

(2) There is at least a simple majority of its membership who are elected officials of, or employees of, a general purpose unit of local government and who have been appointed to represent such government.

(i) Where appointment of local government members is not otherwise provided for by the district organization charter or by-laws, each county

and major city which joins the district shall name an elected official or an employee to represent it.

(ii) Where appropriate to their non-governmental occupations, part-time elected officials may also represent the principal economic interests.

(3) There is at least one-fifth of its membership who are private citizens who are neither elected officials of a general purpose unit of local government nor employees of such a government who have been appointed to represent that government. All districts which have been authorized or designated before June 6, 1979, must comply with this provision no later than August 21, 1981.

(i) The district organization shall demonstrate that persons fulfilling this requirement represent the interests of groups listed in paragraph (d)(1) (i) or (iii) of this section. Minority representatives who meet these criteria may be counted toward the fulfillment of the private citizen requirement.

(ii) Except where these private citizens are also selected as minority representatives under paragraph (d)(1)(ii) of this section, these representatives shall be appointed by the governing bodies of the counties actively participating in the district organization or as otherwise provided in the district organizational charter and by-laws.

(e) *Staff support.* (1) The district organization or its EDA component established according to § 303.4-2 shall be assisted by a professional staff drawn from qualified persons in planning, economics, business administration, engineering and related disciplines.

(2) EDA may provide planning grants to economic development districts to employ professional staff in accordance with Subpart B of Part 307 of this chapter.

(f) *Public participation.* District organizations shall provide access for persons who are not members of the district organization or its "EDA component" to make their views known concerning ongoing and proposed district activities in accord with the following requirements:

(1) At a minimum, the district organization shall conduct meetings open to the public once a year. It shall also publish the date and the agenda of the meeting at least four weeks in advance to allow members of the public a reasonable time to prepare to participate effectively in the meetings.

(2) The district organization shall adopt a system of parliamentary procedures to assure that board members and other interested persons and groups have access to and an effective opportunity to participate in the affairs of the district.

(3) Where an "EDA component" is used, the district organization is required to hold appropriate public meetings and hearings when it consid-

ers significant economic development matters involving authorities, responsibilities, activities, or products of the EDA component.

(4) Information should be provided sufficiently in advance of public decisions to give citizens an adequate opportunity to review and react to proposals. District organizations should seek to relate technical data and other professional material to the affected citizens so that they may understand the impact of public programs, available options and alternative decisions.

(Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended))

[45 FR 55701, Aug. 21, 1980, as amended at 46 FR 9026, Jan. 28, 1981]

§ 303.4-2 Waiver of district organization basic representation requirements and organizational options thereunder.

(a) *Conditions for waivers to basic representational requirements.* Under the following circumstances only, EDA will grant waivers to § 303.4-1(c)(1) to permit district organizations to use an "EDA component" to meet EDA basic organizational requirements: (1) Where the subject organization is not the governing body of a designated economic development district or is not receiving a planning assistance grant under 13 CFR Part 307, Subpart B, and

(i) Where the proposed district organization is not able to meet some part of the representational requirements of § 303.4-1(d) because of mandatory requirements of an interstate compact, a State law or constitutional provision, a State governor's executive order issued pursuant to a constitutional provision or state law or a home rule charter of a participating city or county, or

(ii) Where the proposed district organization demonstrates that it would undergo special hardship if it is required to reorganize in order to comply with the requirements of § 303.4-1(c)(1); or

(2) Where the proposed district organization is an existing designated or funded economic development district which demonstrates to the satisfaction of the Assistant Secretary: (i) That it would undergo a special hardship if it is required to maintain its district status through continued compliance with § 303.4-1(c)(1), and

(ii) That it has obtained concurrence in its proposal to reconstitute the district organization under § 303.4-1(c)(2) from the principal economic interests, minority interests, and local governments involved in the district.

(b) *Consideration of requests for waivers.* EDA will consider the following points (without excluding other possibilities) in determining whether to grant a waiver under the foregoing section.

(1) Where the waiver request is based on a legal constraint under § 303.4-2(a)(1)(i), the following kinds of situations would be the basis for a

waiver: (i) Where the membership composition or the membership appointment procedures of the organization are legally specified such that it cannot meet EDA board membership requirements, or

(ii) Where only local government elected officials are legally allowed to participate in the joint exercise of local government powers.

(2) Where the waiver request is based on the demonstration of special hardship under § 303.4-2(a)(1)(ii) or § 303.4-2(a)(2), the following factors would be considered: (i) The record of the organization in delivering projects related to economic development to assist distressed populations of the area.

(ii) The mechanisms proposed to provide for the involvement of the private sector and of distressed populations, including minority groups and local jurisdictions with high rates of distress, in the economic development planning process.

(iii) The age and complexity of any interlocal agreement for the joint exercise of powers.

(iv) The array of public policy issues assigned to the organization and the appropriateness for the various categories of representation required by EDA to participate in voting on the issues, and

(v) The risk of any breach of contract obligations if the organization were required to restructure its governing board in order to comply with EDA regulations.

(c) *Organizational options available under waiver provisions.* Organizations which are granted a waiver of § 303.4-1(c)(1) may employ one of the following types of organizational structure as their "EDA component" in accordance with § 303.4-1(c)(2), to meet EDA's basic organizational requirements:

(1) An augmented governing board whose membership meets EDA requirements;

(2) A subcommittee of the governing board where the subcommittee membership meets EDA's requirements;

(3) A policy advisory committee to the governing board where the committee membership meets EDA requirements;

(4) A bicameral decisionmaking organization in which dual policy bodies are created (consistent with § 309.17(b)), one of which meets EDA's requirements; and

(5) Other types of arrangements which are found by the Assistant Secretary to meet EDA's requirements.

[45 FR 55702, Aug. 21, 1980]

§ 303.4-3 District organization functions and responsibilities.

(a) *Basic requirement.* Economic development districts (EDDs) must arrange to carry out two classes of functions and responsibilities: Those which every EDD must carry out (paragraph (b) of this section), and those which EDDs receiving grants must carry out

(paragraph (c)). Where the district organization uses an EDA component to meet EDA requirements, as provided for in § 303.4-2, the EDA component of the district organization shall be given authority to carry out certain parts of these two classes of functions and responsibilities described in paragraph (d) of this section.

(b) *Functions and responsibilities common to all EDDs.* Subject to the requirements of § 303.4-1, EDDs are responsible for seeing that the following functions are provided for on a continuing basis.

(1) *Organizational actions*, including: (i) Arranging the legal form of organization which will be used;

(ii) Arranging for the membership of the board of directors to meet § 303.4-1 requirements;

(iii) Recruiting staff to carry out the economic development functions;

(iv) Establishing a management system;

(v) Contracting for services to carry out district functions; and

(vi) Establishing and directing activities of economic development subcommittees.

(2) *Civil rights responsibilities* of 13 CFR Part 311 including: (i) Arranging for the EDD board of directors and its executive committee to comply with EDA requirements for minority representation;

(ii) Submitting reports to EDA on the EDD's compliance with civil rights requirements (e.g., nondiscrimination on the basis of race, color, national origin, sex, or handicap); and

(iii) Preparing, taking action on and reporting on an affirmative action plan for the district.

(3) *Actions to develop and maintain the required district overall economic development program (OEDP), and any subsequent supplements or revisions*, including: (i) Preparing the analytic, strategic and implementation components of the OEDP;

(ii) Identifying economic development centers and redevelopment centers and any later boundary modifications;

(iii) Adopting the OEDP by formal action of the EDD governing board;

(iv) Submitting the OEDP and any supplements or revisions for reviews by appropriate governmental bodies and interested organized groups, and attaching dissenting opinions and comments received; and

(v) Obtaining EDA approval of the OEDP.

(4) *Preparation of proposals that EDA take actions* which: (i) Establish or change the designation status of the district or its growth centers; or

(ii) Affect economic development projects available to the EDD.

(5) *Coordination and implementation* of economic development activities in the district, including:

(i) [Reserved]

(ii) Assisting other eligible units within the district to apply for grant

assistance for economic development purposes;

(iii) Carrying out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations, and as are necessary and helpful to the development and implementation of the overall economic development program;

(iv) Coordinating the development and implementation of the OEDP with other local, State, Federal and private organizations (including minority organizations); and

(v) Carrying out the annual OEDP plan for implementation.

(c) *Grants management activities.* Economic development district organizations which seek and receive EDA grant assistance must carry out grants management activities, including:

(1) Preparing application materials and accepting EDA grant offers;

(2) Arranging for the contribution of the required non-Federal matching share of the grant project costs;

(3) Receiving and managing the proceeds of the grant from EDA and of the matching share contributions;

(4) Complying with grant terms and conditions, including those pertaining to financial management and to work program requirements;

(5) Incurring expenses in carrying out the purposes of the EDA grant and charging these projects costs against grant project accounts; and

(6) Keeping records, and preparing and submitting reports on the grant project.

(d) *EDA component functions and responsibilities.* Where the EDD uses an EDA component to meet EDA requirements under § 303.4-1, the following functions and responsibilities (with the exception of paragraph (d)(4)(iii), which need not be exclusive to the EDA component) shall be lodged solely in the EDA component:

(1) *Organizational actions.* The EDA component shall: (i) Adopt bylaws for the conduct of the functions and responsibilities assigned to the EDA component;

(ii) Establish and direct activities of economic development subcommittees;

(iii) Advise the district board of directors or the staff director, as appropriate, concerning the activities of the economic development staff which is established according to § 303.4-1(e)(1).

(2) *Civil Rights responsibilities.* The EDA component shall: (i) Assure that the required minority representatives participate in the functions and responsibilities of the EDA component; and

(ii) Work to resolve matters of civil rights compliance review and assist in implementing the district organization's ongoing affirmative action plan required under § 311.4(b) of 13 CFR.

(3) *Overall economic development*

program (OEDP) activities. The EDA component shall have responsibility for: (i) Preparing and recommending adoption of the district OEDP, and of any subsequent supplements of revisions required by EDA, including the recommendation therein of project implementation priorities;

(ii) Making comments to the district organization board of directors concerning any board-initiated revisions of such OEDP documents;

(iii) Informing EDA when such revisions by the district organization board of directors constitute major departures from the recommendations of the EDA component and efforts to re-instate the substance of the recommended OEDP documents have not been successful;

(iv) Submitting the OEDP and any supplements or revisions for review by appropriate governmental bodies and significant organized interest groups, and the attaching thereto of dissenting opinions and comments received; and

(v) Determining when, on the initiative of the district, to revise and resubmit the OEDP.

(4) *Coordination and implementation activities.* The EDA components unit shall: (i) [Reserved]

(ii) Take actions required by EDA concerning grant or loan applications from other eligible applicants within the district which affect the district; and

(iii) Carry out economic development related research, planning, implementation and advisory functions as are necessary and helpful to the coordination with other local, State, Federal, and private organizations and to the development and implementation of the overall economic development program.

(5) *Application for and use of EDA grants.* The EDA component shall: (i) Advise the district organization board of directors concerning the scope of work section of grant applications; and

(ii) Comply with EDA terms and conditions relating to work program requirements.

[45 FR 55702, Aug. 21, 1980]

[OCC NOTE: Amended 48 FR 29136, Jan. 24, 1983]

§ 303.5 Coordination with State and local organizations.

The Assistant Secretary will cooperate with State and local organizations in activities leading to designation of economic development districts including participation in the district program, formulation of the OEDP, and identification and analyses of potential economic growth centers.

§ 303.6 Modification of district boundaries.

The Assistant Secretary, with concurrence of the State or States affected, may modify the boundaries of a district consistent with standards for authorizing new districts set forth in § 303.1 if the Assistant Secretary determines that such modification will

contribute to a more effective program for economic development.

§ 303.7 Termination and suspension of district designation.

(a) The Assistant Secretary will, upon 30 days' prior notice, terminate or suspend the designated status of an economic development district:

(1) Where the district no longer meets the standards for designation:

(i) As set forth in § 303.2(a), (b), (c), (d), (f), or (g), or

(ii) As set forth in § 303.2(e), except that district designation status may be continued if those counties which would maintain their commitment to support economic development activities are determined by EDA to meet the other standards of § 303.2 and the standards of § 303.1.

(2) Where a district has not maintained a currently approved district OEDP in accordance with Part 304 of this chapter.

(3) Where a district has requested termination with the approval of the State or States affected.

(4) Where a funded district fails to comply with terms and conditions of an EDA planning grant agreement.

(b) Terminations and suspensions resulting from failure to comply with Title VI of the Civil Rights Act of 1964 will be processed in accordance with the provisions of that Act.

[38 FR 2269, Jan. 23, 1973, as amended at 45 FR 55703, Aug. 21, 1980]

§ 303.8 Benefits.

(a) Designation of an economic development district is a prerequisite to EDA providing financial assistance to economic development centers.

(b) Projects in redevelopment areas which are located within designated economic development districts and which actively participate in the economic development district's OEDP planning process are eligible for 10-percent Lonus grants, §§ 303.23 and 305.6 of this chapter if the project is consistent with a currently approved district OEDP.

§ 303.9 [Reserved] [39 FR 44960, Dec. 30, 1974]
[OCC NOTE: Removed 48 FR 6525, Feb. 14, 1983]

Subpart B—Standards for Designation, Modification, and Termination of Economic Development Centers

§ 303.10 General standards for designation of economic development centers.

The Assistant Secretary may designate an economic development center if such proposed center:

(a) Has been identified and included in an approved district OEDP.

(b) Is recommended by the State or States affected. Written concurrence from the State must be received by EDA.

(c) Is geographically and economically so related to the economic development district that the economic devel-

opment center's economic growth may be expected to contribute significantly to the alleviation of distress in the redevelopment areas of the district.

(d) Does not have a population in excess of 250,000 according to the last preceding Federal census.

(e) May reasonably be expected to accelerate or maintain existing rates of growth in terms of population, employment, and income.

(f) Has the prospect of developing a diversified economy providing a wide range of health, educational, recreational, and cultural facilities; a relatively large local market; a relatively large well-trained labor force; and other similar qualities which encourage the continuing growth of economic activities.

(g) Is an active participant in the district economic development program.

[38 FR 2269, Jan. 23, 1973, as amended at 40 FR 6640, Feb. 13, 1975]

§ 303.11 Number of economic development centers per district.

The Assistant Secretary will designate the single leading growth point in an economic development district as the economic development center. However, additional centers may be designated where unusual conditions exist in the district.

(a) Where the district contains a relatively large number of redevelopment area residents who do not have reasonable community access to any one economic development center.

(b) Where the district contains several smaller growth points rather than one leading economic development center.

§ 303.12 Boundaries of economic development centers and boundary modifications.

(a) An economic development center is administratively defined as a city or grouping of contiguous incorporated places. However, where justified, boundaries may be extended to include adjoining minor civil divisions or corridors of growth between centers.

(b) The Assistant Secretary may modify either the boundaries of an economic development center or the number of economic development centers in a district after giving notice and opportunity for comment to the State or States affected, if such modification will contribute to a more effective program.

§ 303.13 Termination and suspension of economic development centers.

The Assistant Secretary may, upon 30 days prior notice to the interested State and local agencies, terminate the designated status of an economic development center when—

(a) The economic development center is no longer identified or recommended for designation in an approved district OEDP.

(b) The economic development

center no longer meets the standards for designation, § 303.10.

(c) The economic development center fails to actively pursue its role as an economic development center in a manner that makes a significant impact on the performance of the economic development district within which it is located.

§ 303.14 Redevelopment centers.

The Assistant Secretary may recognize a redevelopment center which meets the criteria for economic development centers, but which falls in designated redevelopment area. There is no limit on the size of the population of a redevelopment center.

Subpart C—Financial and Other Assistance to Economic Development Centers and Districts

§ 303.20 Financial assistance to economic development centers.

The Assistant Secretary may provide financial assistance (including public works and development facility loans and grants and commercial and industrial loans and working capital guarantees) in accordance with the criteria contained in Parts 305 and 306 of this chapter for projects in economic development centers when—

(a) The project will further enhance the objectives of the overall economic development program of the district in which the economic development center is located.

(b) The project will enhance the relationship between the economic development center and the economic development district, particularly the redevelopment areas.

(c) The project will achieve one or more of the following:

- (1) Encourage economic growth.
- (2) Discourage out-migration from the district.
- (3) Have a beneficial impact on the district's redevelopment areas.

§ 303.21 Economic development center project characteristics.

Projects in economic development centers shall have one or more of the following characteristics:

- (a) High job producing capability.
- (b) Remove barriers of access to jobs for the target population.
- (c) Ability to trigger further project activity.
- (d) Ability to trigger further economic impact.
- (e) Provision of facilities and services deemed essential to stimulate further growth, at a level above that normally required for simple maintenance of a substantial community.

[38 FR 2269, Jan. 23, 1973, as amended at 39 FR 44960, Dec. 30, 1974]

§ 303.22 Grant rate for economic development center projects.

The grant rate for projects in economic development centers shall not exceed 50 percent of the project costs.

§ 303.23 Supplementary grants to district redevelopment areas.

Subject to the limitation that the maximum Federal share for any project may not exceed 80 percent of the aggregate cost (except as provided in §§ 305.5 and 305.6 of this chapter), the Assistant Secretary may increase the amount of grant assistance for public works and development facilities projects within redevelopment areas by an amount not to exceed 10 percent of the aggregate cost of any such project, if:

(a) The redevelopment area is situated within a designated economic development district and is actively participating in the economic development activities of the district and

(b) The project is consistent with the currently approved district OEDP.

§ 303.24 Financial assistance to redevelopment centers.

The eligibility of redevelopment centers for EDA financial assistance, including the 10 percent bonus as provided for in §§ 303.23 and 305.6 of this chapter, is the same as for any designated redevelopment area within the district. The grant rate for the redevelopment center shall be determined by the rate applicable to the redevelopment area within which it is located.

§ 303.25 Assistance to economic development districts.

Pursuant to Title III of the Act, the Assistant Secretary may provide other assistance to the district including:

- (a) Technical assistance.
- (b) Planning grants. Subpart B of Part 307 of this chapter, to assist the district organization in engaging a professional staff and carrying its planning activities.
- (c) Research assistance.

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

Sec.

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AUTHORITY: Sec. 701, Pub. L. 89-136 (42 U.S.C. 3211); 79 Stat. 570 and Dept. of Commerce Organization Order 10-4 (Apr. 1, 1970), unless otherwise noted.

SOURCE: 38 FR 2271, Jan. 23, 1973, unless otherwise noted.

§ 304.1 OEDP requirement.

(a) Approval of an overall economic development program, hereinafter referred to as OEDP, is a prerequisite for designation of a redevelopment area or economic development district except those areas designated under §§ 302.5 and 302.7 of this chapter.

(b) A redevelopment area or economic development district, where appropriate, is required to maintain a currently approved OEDP to retain its previous designation for eligibility to receive EDA funds.

[38 FR 2271, Jan. 23, 1973, as amended at 39 FR 7779, Feb. 28, 1974; 39 FR 44960, Dec. 30, 1974]

§ 304.2 Redevelopment areas may use district OEDP's.

Those qualified areas within existing economic development districts may use the district's accepted OEDP in lieu of drawing up a separate area OEDP:

(a) Where the area has actively participated in and supported the district OEDP planning process, and

(b) Where the area has submitted a letter to EDA signed by the Area's chief elected official or governing body and, where appropriate, a letter from the local OEDP committee wherein the area's decision to use the district OEDP is stated.

§ 304.3 Redevelopment Area OEDP Committee.

(a) The preparation of the Area OEDP and of the ongoing development program which it charts is the primary responsibility of the Area OEDP committee.

(1) Area OEDP Committees are required only in those areas not located in districts. (District organization requirements are set forth at § 303.4-1, § 303.4-2 and § 303.4-3 of this chapter.)

(2) However, because of the crucial role of the OEDP committee, EDA recommends that all areas establish such an organization even though located within a district and using the district OEDP (as allowed under § 304.2).

(b) The Area OEDP committee shall be representative of the community so that all viewpoints are considered in discussion and decisionmaking and all available local skills are engaged in program formulation. Representation on the committee shall include representatives of local government (county, city, and town), business industry, finance, agriculture, the professions, organized labor, utilities, education, minorities, and the unemployed or underemployed. 13 CFR Part 311 of this chapter, as implemented by the *Civil Rights Guidelines*, contains the requirements for the specific representation of minority groups.

(c) If an existing development group meets the criteria as set forth in paragraph (b) of this section, that group may function as the Area OEDP committee.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Dept. of Commerce Organization Order 19-4 (Sept. 30, 1975), as amended (40 FR 56702, as amended))

(45 FR 55703, Aug. 21, 1980)

§ 304.4 Initial OEDP.

(a) The initial OEDP is the beginning of a planning program required by qualified redevelopment areas, title I areas, and economic development districts before the designation process can be completed.

(b) The initial OEDP will provide a concise and accurate background of the area or district in order to assist the local leaders and EDA to understand the current development situation. Such background may include a discussion of the district or area's geography, population, labor force, natural and manmade resources, economic and social activities.

(c) The initial OEDP will examine economic development and community improvement opportunities and problems. This includes an identification of major current activities of other organizations in connection with economic development and community improvement opportunities and problems.

(d) The initial OEDP will provide a realistic development program and work program that will be developed and implemented in an effort to:

(1) Promote the district or area's economic progress.

(2) Improve community facilities and services.

(3) Serve as a basis for a continuing planning and development program.

(e) The initial OEDP will be developed with a specific regard for energy conservation concerns and principles, and shall reflect this regard in any developed or proposed plans, programs, or projects.

[38 FR 2271, Jan. 23, 1973, as amended at 45 FR 57962, Aug. 29, 1980]

§ 304.5 Initial OEDP for districts.

The requirements for the initial OEDP for districts are those contained in § 304.4 and the following:

(a) The identification and proposal for designation or recognition of at least one economic growth center.

(b) An economic growth center program describing the role to be played by the proposed center in the implementation of the district wide development program, particularly as it relates to the redevelopment areas.

§ 304.6 Submission of initial OEDP.

When the initial OEDP is completed, the following steps shall be taken to obtain EDA approval:

(a) The initial OEDP of the area or district to be designated is to be reviewed by appropriate governmental bodies and all organized interested groups, especially the appropriate State agency, those organizations with OMB Circular A-95 review authority, and the EDA Regional Office.

(b) Dissenting opinions or comments from the above entities shall be submitted to EDA as attachments. If no comments are received, there shall be a note from the submitting party indicating to whom and when the OEDP was sent to the various organizations for comments.

(c) The OEDP committee shall reproduce the initial OEDP in sufficient quantity for the use of all groups taking part in the program. The local organization shall submit seven copies to its EDA Economic Development Representative including one copy for his use and six copies for the EDA Regional Office. Two copies shall also be sent to the State agency designated by the Governor to handle EDA activities and to the appropriate Regional Commission, if any.

(d) The EDA Regional Office Planning Division staff will review the OEDP for its adequacy. If the OEDP can be approved, the staff will notify the Economic Development Administration in Washington of its approval. If, however, the staff finds the initial OEDP inadequate, it will contact the chairman of the OEDP committee by letter and outline the required revisions or request a supplement.

§ 304.7 The continuing program.

After setting up and organizing the committee and submitting the initial OEDP, the area or district shall implement the development program, and periodically update the development program with annual progress reports, § 304.8, or with a revised OEDP, § 304.9.

§ 304.8 Progress report.

(a) The OEDP annual progress report for the annual designation and eligibility review for redevelopment areas shall be submitted after January 1, but not later than March 31 of each year, covering the preceding calendar year.

(b) If located within an economic development district, a redevelopment area, may, at its discretion, notify EDA annually, on or before March 31, that the district annual OEDP progress report satisfactorily covers the area's own planning and programming.

(c) The annual progress report for districts shall be submitted annually 30 days after the anniversary date of the EDA planning grant, Part 307, Subpart B, and shall cover the period of the planning grant. Those districts which do not receive EDA planning grants, shall submit the report annually within 30 days of either their district designation date or their fiscal year.

(d) Extensions for submitting the area and district progress reports will be granted only under exceptional circumstances.

(e) Areas and districts submitting initial or revised OEDP during the last quarter of the calendar year will not be required to submit an annual progress

report by the following March 31. The report will be due the following year covering a period of 1 year to 15 months.

(f) If the area progress report has not been submitted by March 31, or cannot be approved, the Regional Director:

(1) Will inform the area or district chairman of the nonreceipt or disapproval of the progress report.

(2) Will direct a member of the EDA regional office staff to visit and consult with the area or district chairman on the most expeditious way of submitting the progress report.

(3) May allow a reasonable extension of time (not to exceed 60 days) to prepare the report or supplemental data. Under very exceptional circumstances the Regional Director may allow a further extension. However, the report must be received not later than June 15.

(4) Will recommend that the Assistant Secretary notify the State and the affected area or district officials that the eligibility status of the area or district is suspended pending receipt of an acceptable progress report if the progress report has not been received within the required time period. This means no applications for projects for financial assistance from the affected area or district will be approved.

(g) If an unacceptable progress report was submitted, a supplement covering the deficiencies shall be prepared by the OEDP committee.

[38 FR 2271, Jan. 23, 1973, as amended at 39 FR 44960, Dec. 30, 1974]

§ 304.9 Revised OEDP.

(a) A revised OEDP will be required if EDA determines that the initial OEDP of the area or district is inadequate.

(b) A revised OEDP will be required if EDA determines that the initial OEDP is outdated.

(c) An area or district shall also revise its initial OEDP if the OEDP committee determines that a complete reassessment of the local situation or a complete reassessment of the economic development program is desirable.

(d) A revised OEDP may be submitted in lieu of the annual OEDP progress report. Failure of an area or district to submit a revised OEDP in acceptable form within the time specified, and extensions thereof, may result in the suspension or termination of such area's or district's designation after 30 days written notice by EDA.

(e) Before any revised OEDP for a district is approved by EDA, it shall be reviewed by appropriate governmental bodies and all organized interested groups, especially the appropriate State agency, those organizations with OMB Circular A-95 review authority, and the EDA Regional Office.

[38 FR 2271, Jan. 23, 1973, as amended at 40 FR 2796, Jan. 16, 1975]

ACT 118 of 1969

PLANNING AND DEVELOPMENT DISTRICTS

AN ACT TO AUTHORIZE THE ARKANSAS PLANNING COMMISSION TO DESIGNATE PLANNING AND DEVELOPMENT DISTRICTS; TO RECOGNIZE THE ORGANIZATIONS REPRESENTATIVE OF SUCH DISTRICTS; TO MAKE PAYMENTS TO SUCH ORGANIZATIONS; TO ESTABLISH THE CONDITIONS UPON WHICH PAYMENTS MAY BE MADE; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. PURPOSE. (a) The purpose of this Act is to encourage multi-county planning and develop organizations which have been formed, or which may be formed in the future, as voluntary non-profit associations to promote economic development, to assist local governments and private organizations in obtaining federal grants and loans, to prepare comprehensive regional plans for economic development and improve government services, to enlist private support for these activities, and to coordinate private and public programs in the multi-county districts. Recognizing the beneficial services to be provided the people of this State through the activities of such multi-county planning and development organizations established for the aforementioned purposes, and in order to encourage such organizations in their efforts to provide such beneficial services, the General Assembly hereby establishes a program of providing financial assistance to such associations to enable them to continue and expand their activities in furtherance of the purposes of this Act.

(b) Nothing in this Act is intended to be inconsistent with or contrary to a policy of relying on the private enterprise system.

SECTION 2. DESIGNATION OF DISTRICTS.

(a) The General Assembly of the State of Arkansas hereby recognizes as Planning and Development Districts the boundaries of the following eight existing or proposed Economic Development Districts:

(1) Northwest Arkansas Economic Development District, Inc., consisting of Benton, Washington, Madison, Carroll, Boone, Newton, Marion, Searcy and Baxter Counties.

(2) North Central Arkansas Economic Development District, Inc., consisting of Fulton, Izard, Sharp, Stone, Independence, Jackson, Van Buren, Cleburne, White, and Woodruff Counties.

(3) Northeast Arkansas Economic Development District, Inc., consisting of Randolph, Clay, Lawrence, Greene, Craighead, Mississippi, Poinsett, Cross, Crittenden, St. Francis, Lee, and Phillips Counties.

(4) Southeast Arkansas Economic Development District, Inc., consisting of Grant, Jefferson, Arkansas, Cleveland, Lincoln, Desha, Bradley, Drew, Chicot, and Ashley Counties.

(5) Southwest Economic Development District of Arkansas, Inc., consisting of Sevier, Howard, Little River, Hempstead, Nevada, Ouachita, Dallas, Calhoun, Miller, Lafayette, Columbia, and Union Counties.

(6) Western Arkansas Economic Development District, Inc., consisting of Crawford, Franklin, Sebastian, Logan, Scott, and Polk Counties.

(7) West Central Arkansas Economic Development District, Inc., consisting of Johnson, Pope, Conway, Yell, Perry, Montgomery, Garland, Pike, Clark, and Hot Spring Counties.

(8) Central Arkansas Economic Development District, Inc., consisting of Faulkner, Saline, Pulaski, Lonoke, Prairie, and Monroe Counties.

(b) The Arkansas Planning Commission is hereby authorized to change the number and boundaries of Planning and Development Districts, provided that the concurrence therein is obtained of the governing boards of each of the affected existing Districts as established and recognized in sub-section (a) of this Section.

(c) Nothing in this Act is intended to change or conflict with the status of regional and metropolitan planning commissions or councils of governments established under Act 26 of 1955, as amended. This Act does not change the designation of urban and metropolitan planning organizations presently recognized by the Arkansas Planning Commission for programs of the Department of Housing and Urban Development or any other department of the Federal Government.

SECTION 3. RECOGNIZED ORGANIZATIONS.

(a) The governing boards of directors of the eight existing or proposed Economic Development Districts are hereby recognized as the representative organizations of the initial Planning and Development Districts as recognized in Section 2(a) of this Act.

(b) The Arkansas Planning Commission is hereby authorized, whenever district boundary changes have been made in accordance with Section 2(b), to recognize the representative organizations of the new Planning and Development Districts, provided, that no representative organization of a new Planning and Development shall be recognized unless the membership of the governing board thereof complies with the provisions of sub-section (c) of this Section.

(c) In order to qualify for the benefits of the provisions of this Act, the representative organization of a Planning and Development District shall have a governing board of directors a majority of whose members are elected officials of local governments and the remainder of whose members represent economic development organizations and organizations broadly representative of diverse community interests.

(d) The operations of representative organizations of Planning and Development Districts shall be solely within the discretion and control of the local governing boards of directors of the respective Districts, it not being the intention of the General Assembly that anything in this Act create any power, authority or control in the State Planning Commission or any other State agency over the management and operations of said organizations. Provided, that continued State financial support of such organizations as provided in this Act shall terminate with respect to any organization that uses State funds for any purpose not within the intent and purposes of this Act, until such organization shall make restitution for any misused funds and furnishes proof of compliance with respect to future operations.

SECTION 4. PAYMENTS AUTHORIZED.

(a) The Arkansas Planning Commission is hereby authorized to make payments from time to time to officially recognized organizations of Planning and Development Districts from State funds appropriated for such purpose. Payments shall be scheduled as nearly as possible to begin on July 1 of each fiscal year and on the first day of each calendar quarter thereafter.

(b) Funds appropriated for payments to recognized organizations of Planning and Development Districts shall be allocated, in equal shares, among the initial eight (8) recognized Planning and Development Districts as established in Section 2(a) of this Act. If, in the future, any change occurs in the District boundaries of any of the initial eight (8) Districts, as authorized in Section 2(b) of this Act, the #1 allocation of appropriated funds to the former district or districts which comprise counties reorganized in the new District, shall be apportioned to the new District or Districts in accordance with equitable criteria established by the State Planning Commission and published in advance prior to the establishment of the new District or Districts.

SECTION 5. CONDITIONS OF PAYMENTS.

Whenever the General Assembly shall have appropriated funds to be used for making payments as authorized in this Act, the Arkansas Planning Commission shall notify the respective boards of directors of the Districts of the amount allocated to such District as provided in Section 4 hereof and shall notify the District that application for such funds may be made upon forms provided therefor by the Planning Commission. Upon receipt of application for such allocated funds from a District, the Arkansas Planning Commission shall determine that the following conditions have been met before making such payments:

(1) The organization applying for payment is officially recognized for a designated District in accordance with Section 2 and Section 3 of this Act.

(2) The governing board of directors of the organization shall certify that a proposed budget has been established for the expenditures of State and local funds for purposes consistent with the purposes of this Act.

(3) The organization has obtained non-federal matching funds committed from local governments or private sources at least equal to the amount of the payment of State funds, and the President and/or Treasurer of the Board of Directors of the organization shall certify from time to time that such matching funds from local or private sources are on deposit to the organization's own account before quarterly payments of State funds may be made to the District.

(4) At the end of each fiscal year, an audited report of expenditures of the District shall be submitted to the Arkansas Planning Commission; and, any State funds unexpended or unobligated by June 30th shall be returned by the District to the State Treasury. In addition, if such District shall have used any State funds for any purpose not within the purposes of this Act, such amount thereof shall be reimbursed to the State of Arkansas before any additional payments may be made to the District.

Upon receipt of the application for funds from a District, the Arkansas Planning Commission shall review the same and if said Commission shall determine that the District is qualified to receive payments under this Act, State funds shall be paid to the District on a dollar per dollar matching basis of funds provided from local or private non-federal sources, but in no event may State matching funds exceed the amount of funds allocated to the District for the fiscal year from funds appropriated therefor. It is the specific intention of the General Assembly that all or part of the State and local funds may be used to qualify for matching federal funds to be used for the purposes provided in this Act. In the event a District shall not qualify for the total amount of State funds allocated to the District during any fiscal year, because of failure to provide the required matching funds from non-federal local or private sources, the amount thereof for which the District does not qualify shall remain in the State Treasury and shall not be apportioned for payment to other districts, it being the intention hereof that each District shall receive no payment in excess of the prorata share of State funds allocated to the District.

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.