

SUBPART D
AREA GOVERNMENT AND INTERGOVERNMENTAL
COOPERATION

Chapter

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CHAPTER 23
GENERAL PROVISIONS

Subchapter

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SUBCHAPTER A
INTERGOVERNMENTAL COOPERATION

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Cross References. Subchapter A is referred to in sections 5611, 8002 of this title; section 8501 of Title 42 (Judiciary

and Judicial Procedure).

§ 2301. Scope of subchapter.

This subchapter applies to all local governments.

§ 2302. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Local government." A county, city of the second class, second class A and third class, borough, incorporated town, township, school district or any other similar general purpose unit of government created by the General Assembly after July 12, 1972.

§ 2303. Intergovernmental cooperation authorized.

(a) **General rule.**--Two or more local governments in this Commonwealth may jointly cooperate, or any local government may jointly cooperate with any similar entities located in any other state, in the exercise or in the performance of their respective governmental functions, powers or responsibilities.

(b) **Joint agreements.**--For the purpose of carrying the provisions of this subchapter into effect, the local governments or other entities so cooperating shall enter into any joint agreements as may be deemed appropriate for those purposes.

§ 2304. Intergovernmental cooperation.

A municipality by act of its governing body may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility with or delegate or transfer any function, power or responsibility to one or more other local governments, the Federal Government or any other state or its government.

§ 2305. Ordinance.

A local government may enter into intergovernmental cooperation with or delegate any functions, powers or responsibilities to another governmental unit or local government upon the passage of an ordinance by its governing body. If mandated by initiative and referendum in the area affected, the local government shall adopt such an ordinance.

§ 2306. Initiative and referendum.

(a) **Initiative.**--An initiative under this subchapter shall be commenced by filing with the appropriate election officials at least 90 days prior to the next primary or general election a petition containing a proposal for referendum signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial election in each local

government or area affected. The applicable election officials shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at the election. Initiative on a similar question shall not be submitted more often than once in five years.

(b) Referendum.--The question shall be placed on the ballot as a referendum and shall become effective by a majority vote of the electors voting thereon.

§ 2307. Content of ordinance.

The ordinance adopted by the governing body of a local government entering into intergovernmental cooperation or delegating or transferring any functions, powers or responsibilities to another local government or to a council of governments, consortium or any other similar entity shall specify:

(1) The conditions of agreement in the case of cooperation with or delegation to other local governments, the Commonwealth, other states or the Federal Government.

(2) The duration of the term of the agreement.

(3) The purpose and objectives of the agreement, including the powers and scope of authority delegated in the agreement.

(4) The manner and extent of financing the agreement.

(5) The organizational structure necessary to implement the agreement.

(6) The manner in which real or personal property shall be acquired, managed, licensed or disposed of.

(7) That the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for its employees.

§ 2308. Bids for certain joint purchases.

All joint purchases involving an expenditure of more than \$10,000 shall be made by contract, in writing, only after notice for bids once a week for two weeks in at least one and not more than two newspapers of general circulation in the joining local governments. All contracts shall be let to the lowest responsible bidder. Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

Cross References. Section 2308 is referred to in sections 2309, 2312, 2313 of this title.

§ 2309. Direct purchases.

In addition to joint purchases authorized by section 2308 (relating to bids for certain joint purchases), local governments may make direct purchases from vendors or suppliers of goods, materials or equipment without compliance with existing and otherwise applicable statutory requirements governing competitive bidding and execution of contracts as follows:

(1) Any county may by appropriate resolution, and subject to such reasonable regulations as it may prescribe, permit any local government within the county to participate in or purchase off contracts for goods, materials or equipment entered into by the county.

(2) Any local government desiring to participate in purchase contracts shall file with the county purchasing agency and with the county solicitor a certified copy of an ordinance or resolution of its governing body requesting that it be authorized to participate in purchase contracts of the county and agreeing that it will be bound by the terms and conditions as the county prescribes and that it will be responsible for payment directly to the vendor under each purchase contract.

(3) The county may permit participation by local governments only where the solicitation for bids and specifications for the county contracts, and the contracts themselves, expressly provide for and inform prospective and successful bidders that the contract to be let is intended to be subject to this subchapter and to regulations adopted by the county.

(4) Among the terms and conditions as the county may specify, it shall prescribe that all prices shall be F.O.B. destination.

§ 2310. Joint purchases with private educational establishments.

Any local government may, by ordinance, authorize joint purchases of materials, supplies and equipment with any private school, parochial school, private college or university or nonprofit human services agency within the local government. The ordinance shall require that the school, college or agency shall be bound by the terms and conditions of purchasing agreements which the local government prescribes and that the school,

college or agency shall be responsible for payment directly to the vendor under each purchase contract. Schools, colleges and agencies shall be exempt from any existing statutory requirements governing competitive bidding and execution of contracts with respect to purchases under this section.

§ 2311. Written or telephonic price quotations required.

Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts that exceed \$4,000 but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price, written price quotations, written records of telephonic price quotations, and memoranda shall be retained for a period of three years.

§ 2312. Division of transactions provided.

No local government shall evade the provisions of section 2308 (relating to bids for certain joint purchases) as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under \$10,000 upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than \$10,000. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below such price when in either case the transaction involved should have been made as one transaction for one price.

§ 2313. Penalty.

Any member of a governing body of a local government who votes to unlawfully evade the provisions of section 2308 (relating to bids for certain joint purchases) and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

§ 2314. Review of agreement by Local Government Commission.

Every agreement between a local government and the Commonwealth, any other state, government of another state or the Federal Government under the provisions of this subchapter shall, prior to and as a condition precedent to enactment of an ordinance, be submitted to the Local Government Commission for review and recommendation. The commission shall within 60 days of receipt of the agreement determine whether it is in proper form and compatible with the laws of this Commonwealth. Failure of the commission to make recommendations within 60 days of receipt of the agreement shall constitute a recommendation in favor of the agreement.

§ 2315. Effect of joint cooperation agreements.

Any joint cooperation agreement shall be deemed in force as to any local government when the agreement has been adopted by ordinance by all cooperating local governments. After adoption by all cooperating local governments, the agreement shall be binding upon the local government, and its covenants may be enforced by appropriate remedy by any one or more of the local governments against any other local government which is a party to the agreement.

§ 2316. Recognition by Commonwealth departments and agencies.

All Commonwealth departments and agencies in the performance of their administrative duties shall deem a council of governments, consortiums or other similar entities established by two or more municipalities under this subchapter as a legal entity.

(May 30, 2001, P.L.102, No.13, eff. 60 days)

2001 Amendment. Act 13 added section 2316.

SUBCHAPTER B

ENVIRONMENTAL ADVISORY COUNCILS

Sec.

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- 2324. Powers and duties of council.
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§ 2321. Scope of subchapter.

This subchapter applies to all municipal corporations.

§ 2322. Establishment of environmental advisory council.

The governing body of any municipal corporation or group of two or more municipal corporations may by ordinance establish an environmental advisory council to advise other local governmental agencies, including, but not limited to, the planning commission, park and recreation boards and elected officials, on matters dealing with protection, conservation, management, promotion and use of natural resources, including air, land and water resources, located within its or their territorial limits.

§ 2323. Composition and organization of council.

(a) Composition.--An environmental advisory council shall be composed of no less than three nor more than seven residents of the municipal corporation establishing the council, who shall be appointed and all vacancies filled by the governing body. Where two or more municipal corporations jointly establish an environmental advisory council, the members shall be appointed in the same manner by each of the respective municipal corporations establishing the council, each constituent municipal corporation to have equal membership on the joint council.

(b) Term of office.--Council members shall serve for three years except that initial appointments shall be so staggered that the terms of approximately one-third of the membership shall expire each year, the terms of their successors to be of three years each.

(c) Compensation and expenses.--Members shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

(d) Chairman.--The appointing authority shall designate the chairman of the council except that in joint councils the chairman shall be elected by the duly selected members. Whenever possible, one member shall also be a member of the municipal planning board.

§ 2324. Powers and duties of council.

(a) General rule.--An environmental advisory council shall have the power to:

- (1) Identify environmental problems and recommend plans

and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within its territorial limits.

(2) Make recommendations as to the possible use of open land areas of the municipal corporations within its territorial limits.

(3) Promote a community environmental program.

(4) Keep an index of all open areas, publicly or privately owned, including flood-prone areas, swamps and other unique natural areas, for the purpose of obtaining information on the proper use of those areas.

(5) Advise the appropriate local government agencies, including the planning commission and recreation and park board or, if none, the elected governing body or bodies within its territorial limits, in the acquisition of both real and personal property by gift, purchase, grant, bequest, easement, devise or lease, in matters dealing with the purposes of this subchapter.

(b) Limitation.--An environmental advisory council shall not exercise any powers or perform any duties which by law are conferred or imposed upon a Commonwealth agency.

§ 2325. Records and reports.

An environmental advisory council shall keep records of its meetings and activities and shall make an annual report which shall be printed in the annual report of the municipal corporation or, if none, otherwise made known and available.

§ 2326. Appropriations for expenses of council.

The governing body of any municipal corporation establishing an environmental advisory council may appropriate funds for the expenses incurred by the council. Appropriations may be expended for those administrative, clerical, printing and legal services as may be required and as shall be within the limit of funds appropriated to the council. The whole or any part of any funds so appropriated in any year may be placed in a conservation fund and allowed to accumulate from year to year or may be expended in any year.

§ 2327. Status of existing agencies unaffected.

This subchapter shall not be construed to require a municipal corporation to abolish an existing commission with a related responsibility or to prevent its establishment.

§ 2328. Assistance from State Conservation Commission.

The State Conservation Commission shall establish a program

of assistance to environmental advisory councils that may include educational services, exchange of information, assignment of technical personnel for natural resources planning assistance and the coordination of State and local conservation activities.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2329. Assistance from Department of Community and Economic Development.

The Department of Community and Economic Development shall establish a program of assistance to environmental advisory councils in planning for the management, use and development of open space and recreation areas.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

SUBCHAPTER C
REGIONAL PLANNING

Sec.

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§ 2341. Short title and scope of subchapter.

(a) Short title of subchapter.--This subchapter shall be known and may be cited as the Regional Planning Law.

(b) Scope of subchapter.--This subchapter applies to all municipalities, but it shall not operate as a reenactment of any provisions repealed by section 1202 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

§ 2342. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." A regional planning commission created in accordance with the terms of this subchapter.

"Governing body." The body or board authorized by law to

enact ordinances or adopt resolutions for the municipality.

"Region." An area comprised of two or more municipalities which have joined in creating a regional planning commission.

§ 2343. Declaration of policy.

For the purpose of promoting health, safety, morals and the general welfare of the regions in this Commonwealth through effective development, the powers set forth in this subchapter for the establishment of regional planning commissions are granted.

§ 2344. Establishment and organization of regional planning commission.

(a) General rule.--The governing body of two or more municipalities may, by ordinance or resolution, authorize the establishment or membership in and support of a regional planning commission. The number and qualifications of the members of any commission and their terms and method of appointment or removal shall be determined and agreed upon by the governing bodies. A majority of the members of the commission shall at the time of appointment to the commission and throughout the duration of their service on the commission be locally elected officials. Members of the commission shall serve without salary but may be paid expenses incurred in the performance of their duties. The commission shall elect a chairman whose term shall not exceed one year and who shall be eligible for reelection. The commission may create and fill other offices as it may determine.

(b) Rules and records.--The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(c) Assistance from municipality.--Any municipality may, upon the request of the commission, assign or detail to the commission any employees of a municipality to make special surveys or studies requested by the commission.

§ 2345. Finances, staff and program.

(a) General rule.--The governing bodies of municipalities may appropriate funds for the purpose of contributing to the operation of the commission. The commission may, with the consent of all the governing bodies, also receive grants from the Federal or State governments or from individuals or foundations and shall have the authority to contract therewith. The commission may appoint such employees and staff as it deems necessary for its work and contract with planners and other

consultants for the services it may require. The commission may also perform planning services for any municipality which is not a member thereof and may charge fees for the work. The commission may also prepare and sell maps, reports, bulletins or other material and establish reasonable charges therefor.

(b) Planning assistance.--The commission may provide planning assistance and do planning work, including surveys, land use studies, urban renewal plans, technical services and other elements of comprehensive planning programs, for any municipalities within the region. For this purpose, the commission may, with the consent of all the governing bodies, accept any funds, personnel or other assistance made available by the Federal or State government or from individuals or foundations, and, for the purposes of receiving and using Federal or State planning grants for provision of urban planning assistance, the commission may enter into contracts regarding the acceptance or use of the funds or assistance.

§ 2346. Commission to prepare master plan.

The commission shall prepare a master plan, and the surveys and studies essential thereto, for the guidance of the physical development of the region.

§ 2347. Cooperation between commission, municipalities and others.

The commission shall encourage the cooperation of the municipalities within the region in matters which concern the integrity of the master plan or maps prepared by the commission, and, as an aid toward coordination, all municipalities and public officials shall, upon request, furnish the commission within a reasonable time the available maps, plans, reports and statistical or other information it may require for its work.

§ 2348. Interstate participation.

Whenever a regional planning commission has been or is being established to serve the Pennsylvania portion of an area which, for planning purposes, constitutes a logical region as approved by the State Planning Board and which extends beyond the boundaries of this Commonwealth, the commission may admit to membership municipalities that are part of the same region but located in other states. Municipalities may participate, through membership and financial support, in commissions that have been or are being established in other states when the municipalities are part of the same region served by the out-of-State commission.