

66.0309 Creation, organization, powers and duties of regional planning commissions.

(1) DEFINITIONS. In this section:

(a) "Governing body" means the town, village or county board or the legislative body of a city.

(b) "Local governmental units" or "local units" means cities, villages, towns and counties.

(c) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate under s. 16.96.

(2) CREATION OF REGIONAL PLANNING COMMISSIONS. (a) A regional planning commission may be created by the governor, or a state agency or official as the governor designates, upon petition in the form of a resolution by the governing body of a local governmental unit and the holding of a public hearing on the petition. If the petition is joined in by the governing bodies of all the local units in the proposed region, including the county board of any county, part or all of which is in the proposed region, the governor may dispense with the hearing. Notice of any public hearing shall be given by the governor by mail at least 10 days in advance to the clerk of each local unit in the proposed region.

(b) If the governor finds that there is a need for a regional planning commission, and if the governing bodies of local units within the proposed region which include over 50% of the population and equalized assessed valuation of the region as determined by the last previous equalization of assessments, consent to the formation of such regional planning commission, the governor may create the regional planning commission by order and designate the area and boundaries of the commission's jurisdiction taking into account the elements of homogeneity based upon, but not limited to, such considerations as topographic and geographic conformations, extent of urban development, the existence of special or acute agricultural, forestry, conservation or other rural problems, uniformity of social or economic interests and values, park and recreational needs, civil defense, or the existence of physical, social and economic problems of a regional character.

(c) Territory included within a regional planning commission that consists of one county or less in area also may be included in the creation of a multicounty regional planning commission. The creation does not require that the existing regional planning commission consisting of one county or less in area be terminated or altered, but upon creation of the multicounty commission, the existing commission shall cease to have authority to make charges upon participating local governmental units under sub. (14) and shall adopt a name other than "regional planning commission".

(2m) LIMITATION ON TERRITORY. No regional planning commission may be created to include territory located in 3 or more uniform state districts as established by 1970 executive order 22 dated August 24, 1970. Any existing regional planning commission which includes territory located in 3 or more uniform state districts shall be dissolved no later than December 31, 1972.

(3) COMPOSITION OF REGIONAL PLANNING COMMISSIONS. (a) The membership composition of a regional planning commission which includes a city of the first class shall be as follows:

1. One member appointed by the county board of each county, part or all of which is initially within the region or is later added.

2. Two members from each participating county shall be appointed by the governor. At least one appointee shall be a person, selected from a list of 2 or more persons nominated by the county board, who has experience in local government in elective or appointive offices or who is professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance, engineering or recreation and natural resources development. The governor in making appointments under this subdivision shall give due weight to the place of residence of the appointees within the various counties encompassed by the region.

3. The secretary of commerce or a designee shall serve as a nonvoting member of each regional planning commission organized under this section.

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(b) For any region which does not include a 1st class city, the membership composition of a regional planning commission shall be in accordance with resolutions approved by the governing bodies of a majority of the local units in the region, and these units shall have in the aggregate at least half the population of the region. For the purposes of this determination a county, part or all of which is within the region, shall be counted as a local unit, but the population of an approving county shall not be counted. In the absence of the necessary approval by the local units, the membership composition of a commission shall be determined as follows:

1. For regions which include land in more than one county par. (a) shall apply.

2. For regions that include land in only one county, the commission shall consist of the following:

a. Three members appointed by the county board.

b. Three members appointed by the governing body of each city, village and town in the region having a population of 20,000 or more. If there is no city, village or town having a population of 20,000 or more, the governor shall appoint one member from each city, village or town with a population of 5,000 or more within the region. All governor appointees under this subd. 2. b. shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance or engineering.

c. Three members appointed at large by the governor. All governor appointees under this subd. 2. c. shall be persons who have experience in local government in elective or appointive offices or who are professionally engaged in advising local governmental units in the fields of land-use planning, transportation, law, finance or engineering.

(c) Terms of office for regional planning commission members shall be as follows:

1. If the composition of the commission is approved by local units under par. (b), the terms shall be as prescribed in the resolutions of approval.

2. For members of all other commissions the term is 6 years after the initial term. At the first meeting of the commission it shall be determined by lot which of the initial members shall have 2, 4 and 6-year terms, respectively, and each group shall be as nearly equal as may be.

(d) All regional planning commission members shall be electors of the state and reside within the region.

(4) COMPENSATION; EXPENSES. A per diem compensation may be paid members of regional planning commissions. This shall not affect in any way remuneration received by any state or local official who, in addition to serving as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

(5) CHAIRPERSON; RULES OF PROCEDURE; RECORDS. Each regional planning commission shall elect its own chairperson and executive committee and shall establish its own rules of procedure, and may create and fill other offices as it may determine necessary. The commission may authorize the executive committee to act for it on all matters under rules adopted by it. The commission shall meet at least once each year. It shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(6) DIRECTOR AND EMPLOYEES. The regional planning commission shall appoint a director and such employees as it deems necessary for its work and may hire such experts and consultants for part-time or full-time service as may be necessary for the prosecution of its responsibilities.

(7) ADVISORY COMMITTEES OR COUNCILS; APPOINTMENT. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning

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commission on all phases of the commission's program. Members of advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

(8) FUNCTIONS, GENERAL AND SPECIAL. (a) 1. The regional planning commission may take any of the following actions:

a. Conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties.

b. Consistent with the elements specified in s. 66.1001, make plans for the physical, social and economic development of the region, and, consistent with the elements specified in s. 66.1001, adopt by resolution any plan or the portion of any plan so prepared as its official recommendation for the development of the region.

c. Publicize and advertise its purposes, objectives and findings, and distribute reports concerning these items.

d. Provide advisory services on regional planning problems to the local government units within the region and to other public and private agencies in matters relative to its functions and objectives, and may act as a coordinating agency for programs and activities of local units and agencies as they relate to its objectives.

2. All public officials shall, upon request, furnish to the regional planning commission, within a reasonable time, available information as it requires for its work. In general, the regional planning commission shall have all powers necessary to enable it to perform its functions and promote regional planning. The functions of the regional planning commission shall be solely advisory to the local governments and local government officials comprising the region.

(b) The regional planning commission shall make an annual report of its activities to the legislative bodies of the local governmental units within the region, and shall submit 2 copies of the report to the legislative reference bureau.

(9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning commission shall have the function and duty of making and adopting a master plan for the physical development of the region. The master plan, with the accompanying maps, plats, charts, programs and descriptive and explanatory matter, shall show the commission's recommendations for physical development and shall contain at least the elements described in s. 66.1001. The regional planning commission may amend, extend or add to the master plan or carry any part or subject matter into greater detail.

(10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the region which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. The regional planning commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may by resolution adopt a part or parts of the master plan, any part to correspond with one or more of the elements specified in s. 66.1001. The resolution shall refer expressly to the maps, plats, charts, programs and descriptive and explanatory matter, and other matters intended by the regional planning commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part of the adopted plan by the identifying signature of the chairperson of the regional planning commission and a copy of the plan or part of the adopted plan shall be certified to the legislative bodies of the local governmental units within the region. The purpose and effect of adoption of the master plan shall be solely to aid the regional planning commission and the local governments and local government officials comprising the region in the performance of their functions and duties.

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(11) MATTERS REFERRED TO REGIONAL PLANNING COMMISSION. The officer or public body of a local governmental unit within the region having final authority may refer to the regional planning commission, for its consideration and report, the location or acquisition of land for any of the items or facilities which are included in the adopted regional master plan. Within 20 days after the matter is referred to the regional planning commission or a longer period as may be stipulated by the referring officer or public body, the commission shall report its recommendations to the referring officer or public body. The report and recommendations of the commission shall be advisory only. A state agency may authorize the regional planning commission with the consent of the commission to act for the agency in approving, examining or reviewing plats, under s. 236.12 (2) (a). A regional planning commission authorized by a local unit on November 1, 1980 to act for the local unit in approving plats may continue to so act until the commission withdraws its consent or the local unit its approval. A local unit may authorize a regional planning commission, with the consent of the commission, to conduct an advisory review of plats.

(12) LOCAL ADOPTION OF PLANS OF REGIONAL COMMISSION; CONTRACTS. (a) Any local governmental unit within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.

(b) In addition to the other powers specified in this section a regional planning commission may enter into a contract with any local unit within the region under s. 66.0301 to make studies and offer advice on any of the following topics:

1. Land use, thoroughfares, community facilities, and public improvements.
2. Encouragement of economic and other developments.

(13) AID FROM GOVERNMENTAL AGENCIES; GIFTS AND GRANTS. Aid, in any form, for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which aid is furnished are not incompatible with the other provisions of this section. The regional planning commission may accept gifts and grants from public or private individuals or agencies if the conditions under which the grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

(14) BUDGET AND SERVICE CHARGES. (a) For the purpose of providing funds to meet the expenses of a regional planning commission, the commission shall annually on or before October 1 prepare and approve a budget reflecting the cost of its operation and services to the local governmental units within the region. The amount of the budget charged to any local governmental unit shall be in the proportion of the equalized value for tax purposes of the land, buildings and other improvements on the land of the local governmental unit, within the region, to the total equalized value within the region. The amount charged to a local governmental unit shall not exceed .003 per cent of equalized value under its jurisdiction and within the region, unless the governing body of the unit expressly approves the amount in excess of that percentage. All tax or other revenues raised for a regional planning commission shall be forwarded by the treasurer of the local unit to the treasurer of the commission on written order of the treasurer of the commission.

(b) Where one-half or more of the land within a county is within a region, the chairperson of the regional planning commission shall certify to the county clerk, before August 1 of each year, the proportionate amount of the budget charged to the county for the services of the regional planning commission. Unless the county board finds the charges unreasonable, and institutes the procedures under par. (d), it shall take legislative action as necessary to provide the funds called for in the certified statement.

(c) Where less than one-half of the land within a county is within a region, the chairperson of the regional planning commission shall before August 1 of each year certify to the clerk of the local

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governmental unit involved a statement of the proportionate charges assessed to that local governmental unit. The clerk shall extend the amount shown in the statement as a charge on the tax roll under s. 281.43 (2).

(d) If any local governmental unit makes a finding by resolution within 20 days of the certification to its clerk that the charges of the regional planning commission are unreasonable, it may take any of the following actions:

1. Submit the issue to arbitration by 3 arbitrators, one to be chosen by the local governmental unit, one to be chosen by the regional planning commission, and the third to be chosen by the first 2 arbitrators. If the arbitrators are unable to agree, the vote of 2 shall be the decision. The arbitrators may affirm or modify the report, and shall submit their decision in writing to the local governmental unit and the regional planning commission within 30 days of their appointment unless the time is extended by agreement of the commission and the local governmental unit. The decision is binding. An election to arbitrate is a waiver of the right to proceed by action. Two-thirds of the expenses of arbitration shall be paid by the party requesting arbitration and the balance by the other.

2. If a local governmental unit does not elect to arbitrate, it may institute a proceeding for judicial review under ch. 227.

(e) By agreement between the regional planning commission and a local governmental unit, special compensation to the commission for unique and special services provided to the local governmental unit may be arranged.

(f) The regional planning commission may accept from any local governmental unit supplies, the use of equipment, facilities and office space and the services of personnel as part or all of the financial support assessed against the local governmental unit.

(15) DISSOLUTION OF REGIONAL PLANNING COMMISSIONS. Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county board of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the commission has been paid and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made for the outstanding indebtedness or unexpended funds, the governor shall issue a certificate of dissolution of the commission which shall then cease to exist.

(16) WITHDRAWAL. Within 90 days of the issuance by the governor of an order creating a regional planning commission, any local unit of government within the boundaries of the region may withdraw from the jurisdiction of the commission by a two-thirds vote of the members-elect of the governing body after a public hearing. Notice of withdrawal shall be given to the commission by registered mail not more than 3 nor less than 2 weeks before withdrawal and by publication of a class 2 notice, under ch. 985. A local unit may withdraw from a regional planning commission at the end of any fiscal year by a two-thirds vote of the members-elect of the governing body taken at least 6 months before the effective date of the withdrawal. However, the local unit shall be responsible for its allocated share of the contractual obligations of the regional planning commission continuing beyond the effective date of its withdrawal.

History: 1971 c. 225, 227; 1977 c. 29, 187, 418; 1979 c. 110, 175, 248; 1979 c. 361 s. 112; 1991 a. 316; 1993 a. 184, 246; 1995 a. 27 s. 9116 (5); 1995 a. 225, 227; 1999 a. 9; 1999 a. 150 ss. 608 to 612; Stats. 1999 s. 66.0309; 2001 a. 103. Withdrawal from the commission by a municipality has no effect on the county's authority to contract with the commission under this section. *Tanck v. Dane County Regional Planning Commission*, 81 Wis. 2d 76, 260 N.W.2d 18 (1977). A plan commission is immune from suit with respect to claims of contractual interference and civil conspiracy. *Busse v. Dane County Regional Planning Comm.* 181 Wis. 2d 527, 510 N.W.2d 136 (Ct. App. 1993). The representation provisions of sub. (3) do not violate the one man, one vote principle. 62 Atty. Gen. 136. Appointments to regional planning commissions on behalf of a county, under sub. (3) (b), are made by the county board unless the county has a county executive or a county administrator, in which event the appointments are made by that county officer. 62 Atty. Gen. 197. Commission employees have indemnity protection under s. 895.46 (1) (a). 77 Atty. Gen. 142. The boundaries of existing multicounty regional planning commissions may only be altered following their dissolution under sub. (15). 81 Atty. Gen. 70.