ACIR
State Legislative Program

2.
Local Government Modernization
2.

Local Government Modernization
FOREWORD

ACIR's Legislative Program

The Advisory Commission on Intergovernmental Relations is a permanent, national bipartisan body established by Act of Congress in 1959 to give continuing study to the relationships among local, state, and national levels of government. The Commission does not function as a typical Federal agency, because a majority of Commission members come from state and local government. The Commission functions as an intergovernmental body responsible and responsive to all three levels of government.

It should not be inferred, however, that the Commission is a direct spokesman for any single level or branch of government — whether the Congress, the Federal Executive Branch, or state and local government. Nevertheless, many of the Commission's policy recommendations are paralleled by policies of the organizations of state and local government — including the National League of Cities, U.S. Conference of Mayors, and National Association of Counties — and a substantial number of the Commission's draft legislative proposals are disseminated by the Council of State Governments in its annual volume entitled Suggested State Legislation. The National Governors' Conference in its report of the 67th Annual Meeting carries 38 of ACIR's legislative proposals as an appendix entitled State Responsibilities to Local Governments: Model Legislation from the Advisory Commission on Intergovernmental Relations.

The Commission recognizes that its contribution to strengthening the federal system will be measured, in part, in terms of its role in fostering significant improvements in the relationships between and among Federal, state, and local governments. It therefore devotes a considerable share of its resources to encouraging the consideration of its recommendations for legislative and administrative action by government at all levels, with considerable emphasis upon the strengthening of state and local governments.

ACIR's State Legislative Program represents those recommendations of the Commission for state action which have been translated into legislative language for consideration by the state legislatures. Though ACIR has drafted individual bills from time-to-time following the adoption of various policy reports, its suggested state legislation was brought together into a cumulative State Legislative Program initially in 1970. This 1975 edition is the first complete updating of the original cumulative program. It contains a number of new bills as well as major rewrites and minor updatings of previously suggested legislation.

Scope of the Legislative Program. ACIR's reports, over the years, have dealt with state and local government modernization and finances, as well as a variety of functional activities. Commission recommendations to the states, contained in these reports, have addressed all of these subjects. The suggested legislation contained in the Commission's State Legislative Program has been organized into ten booklets (parts) in which the draft bills are grouped logically by subject matter. The groupings for all ten booklets are listed in the summary contents of the full legislative program which follows this foreword. Then, the detailed contents of this booklet, including the title of all bills, are listed with the page numbers where they can be found.
Process for Developing Suggested Legislation. Most of the proposals in the State Legislative Program are based on existing state statutes and constitutional provisions. Initial drafts were prepared by the ACIR staff or consultants. Individual proposals were reviewed by state officials and others with special knowledge in the subject matter fields involved. The staff, however, takes full responsibility for the final form of these proposals.

How to Use the Suggested Legislation

The Commission presents its proposals for state legislation in the hope that they will serve as useful references for state legislators, state legislative service agencies, and others interested in strengthening the legislative framework of intergovernmental relations. Additional copies of this booklet and the other booklets in the full Program are available upon request. Any of the materials in the Program may be reproduced without limitation.

The Commission emphasizes that legislation which fits one state may not fit another. Therefore, the following advice is offered to users of the Commission’s suggested state legislation.

Fit Proposals to Each State. Many states have standard definitions, administrative procedures acts, standard practices in legislative draftsmanship, and established legislation and constitutional provisions related to new proposals. These differ widely from one state to another, yet they vitally affect the drafting of new proposals for state legislation. No model legislation can possibly reflect the variations which apply in all 50 states. Thus, ACIR strongly recommends that any user of its suggested state legislation seek the advice of legislative draftsmen familiar with the state or states in which such proposals are to be introduced.

Alternative Provisions and Optional Policies. Likewise, the Commission recognizes that uniform policies are frequently not appropriate for application nationwide. Accordingly, its adopted recommendations frequently include alternative procedures and optional policies among which the states should make conscious choices as they legislate. Consequently, the suggested legislation which follows includes bracketed language which alerts the users of these materials to the choices which are to be made. In many cases, the bracketed language is also labeled as an alternative or an option. In the case of alternatives, one (or in some cases more than one) should be chosen and the others rejected. In the case of options, the suggested language may be included or deleted without reference to other provisions unless otherwise noted.

Three types of bracketed information || are provided in the suggested legislation. Brackets containing italicized information indicate wording that is essential to the legislation, but must be rewritten to conform to each particular state’s terminology and legal references. Information in regular type within brackets presents alternative or optional language. The third type of brackets contains blank space and requires the insertion of a date, amount, time span, quantity, or the like, as required by each state to comply with its individual circumstances or recommendations.

Caution About Excerpting. Frequently one provision in the suggested legislation may be related to another in the same bill. Thus, any state wishing to en-
act only certain portions of the suggested legislation should check carefully to
make sure that essential definitions and related provisions are taken into ac-
count in the process of excerpting those portions desired for enactment.

ACIR Assistance

Each item of suggested state legislation in this Program is referenced to the
ACIR policy report upon which it is based. These reports may be obtained free
of charge in most cases, by writing to ACIR, and usually may also be purchased
from the U.S. Government Printing Office (especially if multiple copies are re-
quired). In those cases where a policy report is out of print, copies may be
found in ACIR's numerous depository libraries throughout the nation as well as
in many other libraries. In addition, where copies are otherwise unavailable,
the ACIR library will arrange to loan a copy.

The ACIR staff, though limited in size, is available upon request to answer
questions about the suggested legislation, to help explain it to legislators and
others in states where it is under active consideration, and to assist the legis-
lative process in other appropriate ways.

September 1975

Robert E. Merriam
Chairman
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ACKNOWLEDGMENTS

The suggested state legislation in this part of ACIR's State Legislative Program is based largely upon existing state statutes. James Tait acted as consultant to the Commission in tailoring these enactments to ACIR policy.

The following persons served diligently on a panel which reviewed each proposal: Richard Carlson, director of research, Council of State Governments; Honorable Charles A. Docter, Maryland House of Delegates; Marcus Halbrook, director, Arkansas Legislative Council; David Johnston, director, Ohio Legislative Service Commission; William J. Pierce, executive director, National Conference of Commissioners for Uniform State Laws; Bonnie Reese, executive secretary, Wisconsin Joint Legislative Council; Honorable Karl Snow, Utah state senator; and Troy R. Westmeyer, director, New York Legislative Commission on Expenditure Review.

The suggested legislation was also circulated in draft form to the following national organizations for their review and comment:

- Council of State Governments
- International City Management Association
- National Association of Counties
- National Conference of State Legislatures
- National Governors' Conference
- National League of Cities
- U.S. Conference of Mayors

The Commission acknowledges the financial assistance of the U.S. Department of Housing and Urban Development in updating and publishing this new edition of the State Legislative Program.

The Commission is grateful to all who helped to produce this volume, but the Commission alone takes responsibility for the policies expressed herein and any errors of commission or omission in the draftsmanship.

Wayne F. Anderson
Executive Director


# Part II

**LOCAL GOVERNMENT MODERNIZATION**

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INTRODUCTION

America's local governments face greater challenges today than ever before, with problems and citizen demands emerging and growing at a rate far greater than the legal, structural, and financial capacity to deal with them. Here one sees most dramatically the triple mismatch between fiscal resources and human needs, between political boundaries and population settlement patterns, and between the states' constitutional role as parents of these units and their frequent unwillingness to "grasp the local government nettle."

Formation, Boundaries, and Dissolution. Historically, most urban growth has been concentrated on the fringes of cities where there has been vacant land. Many American cities in the 1800s grew in population and area by annexing these new neighborhoods. But by the early 1900s, municipal corruption became a public concern, and state legislatures passed laws to "protect" the people on the fringe by making it easy for them to incorporate into new independent municipalities and by making it very difficult for the large city to annex adjoining territory — at least not without the approval of those being annexed. Here, in these double-barreled statutory enactments, were implanted many of the roots of what has come to be called the "urban crisis."

With the formation of new independent municipalities came a shift in municipal powers. When the residents of a particular geographic area vote to incorporate, the resulting municipality acquires the following powers, among others:
(a) property taxation — the incorporating residents have their own tax base;
(b) land use regulation — the new city can regulate the types of growth and housing it will permit;
(c) school district adjustment — many state laws require or permit the readjustment of school district lines with any change in municipal boundaries; and
(d) provision of municipal services.

Efficiency and economy in governmental services were not the only considerations involved in this fragmentation of local government structure. Serious consequences also arose from the splintering of the tax base and political decision making.

Aside from fiscal disparities and the growth of exclusionary zoning policies — subjects that are dealt with in subsequent sections of ACIR's State Legislative Program — easy incorporation and difficult annexation produced a very complicated pattern of local government structure in urbanized areas of the nation. This pattern is characterized by: (1) existence of many different local governments in a single metropolitan area — the average in the 1970s was about 85 units of general and special purpose local government in each area, including two counties, 13 townships, 21 municipalities, 18 school districts, and 31 special districts and authorities for such purposes as fire protection, water supply, sewers, and housing; (2) smallness in population and geographic size of a great majority of these local governments; (3) multiple layering — the geographic overlapping of separate local governments. Most residents of metropolitan areas are served by a minimum of four governmental units — a county, municipality, school district, and one or more special districts. This diffusion of governmental responsibilities adds to the difficulty of asserting adequate political accountability.

Draft legislative proposals that follow are designed to (a) establish at the state and/or local levels machinery and standards, including "viability" criteria for the review of proposed local government boundary changes and for the resolution
of boundary disputes among local units; (b) establish statutory standards and procedures for the incorporation of new municipalities, the creation of special districts, the annexation by municipalities of adjacent unincorporated territory, and the dissolution or merger of municipalities, special districts, or any combination thereof; and (c) authorize the consolidation of units of general local government, either city-county or county-county, including authorization for state technical and financial assistance to local governments or charter commissions engaged in studying or implementing consolidation proposals.

Organization and Functions. Historically, state governments have treated their local governments inconsistently. States have been very strict in some areas where flexibility is needed, but overly permissive in others where a strong hand may be necessary. The states often rigidly specify functions to be carried out by counties while handcuffing them further by requiring uniform tax rates (and consequently rigid service levels) through the entire county area, explicitly determine county and city organization, structure, and stringently guard what cities do and how they raise the money to do it. This rigidity, in part, has led to the creation of special districts to perform individual functions, sometimes supported by a tax levy, more frequently by service charges or benefit assessments.

Furthermore, state courts have varied widely in their interpretation of state constitutional provisions purporting to grant "home rule" powers to local governments. In some cases, these provisions have been liberally construed, but the courts have usually been reluctant to concede that local governments need a relatively free hand to meet sudden, new, or emerging problems.

Over recent years, the Advisory Commission on Intergovernmental Relations, the Committee for Economic Development, and many state and local government study commissions have urged strong state legislative and executive action to introduce more flexibility and provide greater legal capacity to general purpose local governments. In general, these proposals have called for statutory or constitutional actions to:

- clarify the legal powers of general purpose local governments;
- authorize cities and counties to determine their own internal structure, subject only to basic guidelines;
- eliminate state provisions that mandate popular election for various types of county and municipal administrative officials; and
- authorize contracting and other cooperative relationships between and among units of local government.

The draft constitutional and statutory proposals that follow are designed to strengthen local government organization and functional performance. They include: (1) a suggested constitutional amendment providing home rule powers to local government, following the "residual powers" approach whereby local governments may exercise any power not denied or limited by state constitution or statute; (2) authorization of optional forms of municipal government; (3) authorization of the modernization of county government; (4) authorization for local governments to contract with one another for the performance of services and to create interlocal joint enterprises for the discharge of particular functions; and (5) establishment of a process for the allocation of functions among units of local government and the transfer of functions from city to county government or vice-versa by joint administrative action of the governing bodies concerned; (6) authorization for the establishment of neighborhood subunits of
government; (7) provisions for the supervision of special districts by the city or county within whose territory the district is located.

The draft County Government Modernization Act authorizes: (a) county performance for urban services; (b) optional forms of county government; (c) consolidation of county offices; (d) county officers on a statutory instead of a constitutional basis; and (e) the establishment of subordinate service areas whereby differential property tax rates may be imposed commensurate with the type and intensity of services provided.

Areawide Units. Population settlement patterns, the resulting citizen needs for governmental services, and the physical nature of many of the services themselves inevitably overlap political boundary lines. Transportation, water and sewer utilities, and air pollution monitoring are obvious examples. Consequently, Federal, state, and local officials often have been forced to resort to special districts with boundary lines drawn to fit a particular problem and the specific geographic area to be served.

The result has been both constructive and chaotic — constructive since services that existing cities, counties, and townships were unable or unwilling to render have been provided to the citizens needing and demanding them, but chaotic in that the local government map has grown considerably more complex. There are now 25,000 special districts and authorities. Three-quarters of these overlap municipal or county boundaries; most of them are beyond the authority and control of locally elected general governments, and they are usually out of sight of the public.

At the beginning of the 1970s, a consensus on some general directions that regional cooperation might take began to emerge among local government officials, state municipal leagues, associations of counties, civic groups, and scholars of state and local government. This consensus was to lessen the duplication and fragmentation of local effort while still preserving a maximum role for individual local governments. It was conceded by most that entirely aside from the question of desirability, a general purpose metropolitan government was beyond the realm of feasibility in most parts of the country. Nevertheless, since the status quo was becoming increasingly intolerable, something going beyond strictly voluntary, random patterns of cooperation was both necessary and inevitable.

The Advisory Commission on Intergovernmental Relations has formulated six legislative proposals to deal with regional cooperation and coordination. These are: (1) establishment of a statewide pattern of substate regional districts, including the powers and governing body structure for the district organization, its functions in the conduct of planning, research, and technical assistance activities, and the use of such districts by state agencies in the conduct of their respective programs and operations; (2) where such a substate districting system is not in effect, the establishment of an individual regional "umbrella multi-jurisdictional organization" (UMJO) in one or more metropolitan or other regional areas of the state; (3) an interstate compact creating a regional "UMJO" organization for a specified interstate metropolitan area; (4) authorization for the establishment of multipurpose authorities to carry on specified functions over a regional area and with power to impose user charges, issue revenue bonds, and levy taxes to support its activities; (5) provision for the adoption, after study and subsequent popular vote, of home rule charters by regional areas; and (6) authorization for the establishment of regional study commissions to examine problems of interlocal cooperation and coordination in various areas of the state. These regional study commissions would be authorized to consider
any of the options listed above, as well as the local government formation, consolidation, boundary adjustment, and dissolution options provided under suggested state legislation contained earlier in this booklet.
2.1 Formation, Boundaries, and Dissolution
LOCAL GOVERNMENT CREATION, DISSOLUTION, AND BOUNDARY ADJUSTMENTS

Only the states have the power to halt the chaotic spread of special districts and small municipalities within existing and emerging metropolitan areas. States should provide rigorous statutory standards for establishing new municipalities and special districts, changing the boundaries of existing local units, and reducing, where desirable, the number of jurisdictions within metropolitan areas, through merger, consolidation, or dissolution.

States should adopt one of the two principal approaches for exercising surveillance over local government boundary adjustments. The first approach — state review of local actions — has been adopted by Minnesota, which has established a three member state commission, appointed by the governor, to review all incorporation proposals and to approve all proposals to annex unincorporated territory. The following draft legislation provides for state agency review of local boundary changes. The second approach has been adopted by California and involves the establishment of local agency formation commissions (usually consisting of two county officials, two city officials, and one member representing the general public) which have jurisdiction over proposed boundary adjustments within their respective counties. Oregon has adopted a variation of this approach and, in the Portland region, has created a regional body to supervise the boundary adjustments. For states desiring to follow the second approach, certain amendments to the draft bill, discussed later, will be necessary.

If local boundary adjustment powers are placed in the hands of a state agency or state empowered local bodies, the state legislature should establish standards of economic, geographic, and political viability to guide these agencies. Some of the factors to be considered in evaluating the viability of local governments are jurisdictional size large enough to span the forces that create the problems to be met; ability to raise adequate revenues equitably; flexibility to adjust governmental boundaries; organization as general purpose rather than single purpose governments; adequacy of area to permit economies of scale; and accessibility and popular control by the people.

The suggested comprehensive statute vests authority under Title II in a state commission or local commission to propose and review petitions for all types of local government boundary adjustments. The legislation is based in part on the model act published in 1965 by the Harvard Student Legislative Research Bureau and in part on the draft legislation proposed in 1973 by the Florida Commission on Local Government, drawn partially in turn from the statutes of Minnesota, Oregon, California, Michigan, Alaska, Washington and Iowa.

Title III (Incorporation and Dissolution) and IV (Annexation) provide for local initiation under legislative review if Title II is not adopted. They are drafted from statutes presently in use in Florida and North Carolina. The North Carolina statute authorizes municipalities to annex immediately pursuant to the standards imposed in Title IV.

The provisions relating to local initiative in the difficult areas of government consolidation and merger, contained in the Local Government Consolidation Act, should also be considered in conjunction with this bill.

Much has been written about local government formation and boundary adjustment in trying to develop appropriate state-local relationships and relative influences, powers, and responsibilities. Historically, the


4 Chapters 165 and 171, Florida Statutes; Chapter 1029, North Carolina Laws of 1959.
states have abdicated their leadership roles in assuring adequate, efficient, and equitable response to citizen demands for local governmental services. Each state must find its own pattern of response consistent with its tradition; however, an affirmative response and direction should be developed in any case. As the ACIR stated in one of its 1974 reports, "The Commission concludes that the time has come for all states to adopt a comprehensive, long range policy with respect to the structure and functions of their local governments. . . . It notes that existing state policies in this pivotal area for the most part have been piecemeal, partial, and outdated."1

If a state adopts the Title II local version of the boundary commission, Titles III and IV should be deleted and the specific standards used in those titles should be reviewed for inclusion in Title II. If the state adopts the Title II state version of the boundary commission, they may desire to delete Titles III and IV and review the specific standards used in those titles for inclusion under the State Boundary Commission Act. However, in the second case, other states may desire to authorize local initiation and resolution of local boundary issues, with the state boundary commission setting additional standards or guidelines or acting as an additional method for such adjustments.

The suggested legislation may be adapted for use by those states not wishing to use boundary commissions by deleting Title II which establishes either state or local government bodies to review and approve boundary adjustments for local governments as well as consolidations and incorporations. Titles I, III, and IV alone would provide a very strong system of local initiative and action.

In Title I, Section 1 of the suggested legislation states the purpose of the act, and Section 2 defines the terms and phrases used. It provides in Section 3 a statement of state policy to preempt existing laws.

Section 4 requires appropriate state agencies to provide the governor (legislature and commission) with specific data on each county and municipality in the state, which the governor (legislature or commission) shall use to prepare a list identifying each county and municipality with any or all of certain listed characteristics related to jurisdictional adequacy.

Title II of the act provides alternative proposals for a boundary commission approach — first, for a state commission with local hearings on local issues, and second for a local commission.

Section 1 of both alternatives provides for the creation of the boundary adjustment commissions and sets out the manner of appointment of members and commission powers and duties.

Section 2 of both alternatives deals with formation and boundary adjustment proceedings, delineating those conditions under which such proceedings shall be initiated and what actions the commissions may take with regard to petitions submitted for a formation or boundary adjustment.

Section 3 of the first alternative (state commission) provides for local boards to rule on individual formation or boundary adjustment petitions and sets out the boards’ membership and powers and duties. Section 4 of the first alternative or Section 3 of the second alternative (local commissions) requires a local board or local commission to conduct hearings and spells out the actions it must take once a petition has been received.

Section 5 (Section 4 in the second alternative) enumerates those standards which must be met for a local board or commission to approve a proposed boundary adjustment, annexation, detachment, municipal or special district incorporation, merger, or dissolution.

Section 6 (Section 5 in second alternative) provides that no county boundary shall be a barrier to any type of a formation or boundary adjustment authorized by the act, and provides procedures to handle multicounty cases under the second alternative. It also prohibits action across substate district lines.

Section 7 (Section 6 in the second alternative) mandates that all final decisions of a local board and any dismissal of petitions shall be subject to judicial review.

Title III provides for local government incorporation and dissolution procedures and standards.

Section 1 provides the procedures for the incorporation of a municipality or special district.

Section 2 sets out the procedures for dissolution of an existing municipality or special district. Section 3 deals with the special situation whereby a municipality or special district may be declared inactive and dissolved.

Section 4 prescribes the conditions to be met for incorporation of a new municipality or a special dis-

strict, or the dissolution of a municipality or special district.

Section 5 provides for the allocation of all indebtedness of, and property owned by, a municipality or special district in the case of incorporation or dissolution.

Section 6 authorizes judicial review of all actions taken, including petitions dismissed, pursuant to this act and restricts the time for requesting such review.

Title IV relating to municipal annexation is based almost entirely on the North Carolina statute. Section 1 vests authority to annex in the governing bodies of municipalities of a specified minimum size. Section 2 requires the annexing municipality to make plans for extension of services to the area proposed to be annexed, and sets forth the information to be included in the report of the plans.

Section 3 specifies the character of the area that may be annexed. The area must be adjacent or contiguous to the municipality’s boundaries; at least one-eighth of its boundaries must coincide with the municipality’s boundaries; and it may not be included within the boundaries of another municipality. Part or all of the area must be developed for urban purposes, which are defined in three alternative ways, reflecting population density, lot size, and land use. The municipality may also include in the area to be annexed certain areas not to be developed for urban purposes, but which constitute necessary land connections between the municipality and areas developed for urban purposes, or between two or more areas developed for urban purposes.

Section 4 prescribes the procedure of annexation, including notice of intent and notice of public hearing, approval of the report of plans, and passage of the annexation ordinance following the public hearing and revision of the original plans as a result of the hearing. The ordinance must include findings that the area to be annexed meets the requirements of Section 3; a statement of the municipality’s intent to provide services to the area in accord with the report under Section 2; a finding that on the date of the annexation the municipality will have funds or borrowing power to finance extension of utility lines or streets to the area; and the effective date of annexation.

In the period 12-15 months after the effective date of annexation, any property owner in the annexed territory who believes that the municipality has not followed through on its service plans may apply for a writ of mandamus from the court, and the court may grant relief if the municipality has not provided the services or facilities according to plan.

Section 5 provides for appeal to the courts by property owners within the annexed area who believe they will be injured materially because of failure of the municipality to comply with the act’s procedure. The court may affirm the action of the municipality, remand the ordinance to the municipality for further proceedings to overcome procedural irregularities, reduce the area annexed, or amend the plans for services to the annexed area.

Section 6 provides for recording of the annexation. Section 7 authorizes municipal expenditures for purposes in connection with preparing for the annexation or providing services to the annexed area. Section 8 specifies the manner of making population and land estimates for the purposes of the act.

Title V provides for separability and effective date clauses.
Suggested Legislation

[AN ACT TO PROVIDE PROCEDURES AND STANDARDS FOR COUNTY, MUNICIPAL, AND SPECIAL DISTRICT CREATION, DISSOLUTION, AND BOUNDARY ADJUSTMENTS]

(Be it enacted, etc.)

Title I

DECLARATION OF STATE POLICY, DEFINITIONS, AND DATA

SECTION 1. Purpose. The purpose of this act is to set forth procedures for forming, dissolving, and adjusting the boundaries of local governments in the state. The act sets forth criteria for identifying viable units of local government so as to:

(a) allow orderly patterns of urban or regional growth and land use;
(b) assure adequate quality and quantity of local public services;
(c) ensure fiscal adequacy of units of local government;
(d) eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
(e) promote equity in the financing and delivering of local government services.

SECTION 2. Definitions. The following terms and phrases, when used in this act, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning.

(a) "Boundary adjustment" or "formation proceeding" which terms shall be interchangeable, means any annexation, detachment, dissolution, incorporation, or consolidation, as defined below.

(1) "Annexation" means the alteration of the boundaries of a municipality or special district to add territory.

(2) "Consolidation" means the combining of the government of one or more counties, municipalities, or special districts with the government of one or more counties, municipalities, or special districts, or any combination thereof.

(3) "Detachment" means the alteration of the boundaries of a municipality or special district in order to separate territory.

(4) "Dissolution" means the dissolving of the corporate status of a municipality or special district.

(5) "Incorporation" means the establishment of a municipality or special district.

Suggested short title: Local Government Formation and Boundary Adjustment Act.
[(b) "Commission" means the [state] [local] boundary adjustment commission.]

(c) "Community" means the area within and surrounding a municipality or special district, which forms an economic and socially related region, which shall include, where applicable, a metropolitan area described as a Standard Metropolitan Statistical Area as defined by the United States Bureau of the Census; or a substate district as defined pursuant to [statewide substate districting act].

(d) "Contiguous" means territory which has extensive, although not always complete, contact, whether across a body of water or otherwise, with the adjoining jurisdiction proposing to merge or annex said territory.

(e) "Department" means the state department [of community affairs or other appropriate state agency].

(f) "Local board" means the assigned members of the state commission and local representatives acting together as a single body in a local hearing.

(g) "Local government" means a county, municipality, [town, township.] or special district.

(h) "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, or a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

(i) "Parties affected" means any person owning property or residing either in a municipality or special district when a formation or boundary adjustment proceeding is proposed or any governmental unit with jurisdiction over such area.

(j) "Qualified voter" means any person registered to vote in accordance with law.

(k) "Special district" means a local unit of special government created pursuant to law for the purposes of performing prescribed, specialized functions within limited boundaries, exclusive of [school districts and] those units of local special government formed by county or municipal governments pursuant to their powers, and governed, ex officio, by the governing body of such counties or municipalities.

(l) "State aid" means any moneys authorized or appropriated by the [legislature] and allocated for support of any local government, excluding any moneys paid to any such unit in fulfillment of a specific contractual obligation between it and the state.

(m) "Sufficiency of petition" means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county [supervisor of elections] and certification that the number of valid signatures represents the required percentage of the total number of qualified voters.

1Should be deleted if one of the alternative Title II's is not used.

2This definition should be carefully reviewed for consistency with state court decisions.

3Should be deleted if the first alternative Title II (state boundary commission) is not used.
voters in the area affected by a proposal pursuant to this chapter.

(n) "Territory" means the area proposed to be consolidated, annexed, detached, dissolved, or incorporated.

(o) "Used for residential purposes" shall mean any lot or tract of [_____] acres or less in size on which is constructed a habitable dwelling unit.

SECTION 3. Preemption; Effect on Special Laws. It is further the purpose of this act to provide viable general law standards and procedures for forming, dissolving, and adjusting the boundaries of local governments in lieu of any procedure or standards now provided by general or special law. The provisions of this act shall be the exclusive procedure pursuant to general law for forming, dissolving, or adjusting the boundaries of local governments in this state. Any provisions of a general or special law, existing on the effective date of this act, in conflict with the provisions of this act shall not be effective to the extent of such conflict.

SECTION 4. Data to be Furnished.

(a) On or before [February 11] of each year, the [appropriate state agencies] shall report to the governor, legislature, and commission, with respect to each county and municipality in the state:

(1) total population, as indicated by the last preceding Federal census or other more recent official state population estimate authorized by state law;

(2) total equalized assessed valuation of taxable property, as indicated by the most recent official state sources of such data;

(3) total revenues received by each county and municipality during its most recent fiscal year for which data are available from:

   (i) state aid, as defined in subsection (2); and

   (ii) from all local general revenue sources of each unit, which for this purpose shall comprise all receipts exclusive of amounts from borrowing, state aid, Federal government grants-in-aid, Federal revenue sharing, and any charges and earnings derived from, and used in, the operation of water supply, electric power, gas supply, transit system, or other proprietary activities.

(b) Within [two months] after receipt of the foregoing report from the [appropriate state agencies], the [governor] [commission] shall publish a list, with supporting data, which identifies each county and municipality having any or all of the following characteristics.

(1) Counties with:

   (i) a population of fewer than [5,000] persons; and/or

   (ii) a ratio of total state aid received to total receipts from its own general revenue sources, as identified in Section (a)(3)(ii), at least 50 percent greater than the corresponding average ratio for all county governments in the state.

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1States may wish to enact specific repeals.
(i) a population of fewer than 10,000 persons, if located wholly or mainly within a county whose population was more than 50 percent urban, as reported by the last official census of population or estimate thereof, or fewer than 500 persons if not located wholly or mainly in such a county;

(ii) a ratio of total state aid to total receipts from its own general revenue sources, as identified in Section (a)(3)(ii), at least 50 percent greater than the corresponding average ratio for all municipal governments in the state;

(iii) a per capita amount of equalized assessed valuation of taxable property which varies by at least 50 percent from the average per capita amount of equalized assessed valuation of the entire county in which the municipality is located; and/or

(iv) a per capita amount of personal income which varies by at least 50 percent from the average per capita amount of personal income of the entire county in which the municipality is located.

[Alternative I.]

[Title II]

STATE BOUNDARY ADJUSTMENT COMMISSION

SECTION 1. Commission; Creation, Appointment, Powers and Duties.

(a) Creation and appointment.

(1) A state boundary adjustment commission is created and, for administrative purposes, is located in the [appropriate state agency]. The commission shall consist of [nine] members appointed by the governor, subject to confirmation by the [senate]. The governor shall designate the presiding officer from among the members to serve in such capacity at the pleasure of the governor.

(2) The first [nine] appointments made under this act shall consist of [four members for terms of two years and five members for terms of four years]. Each subsequent regular appointment shall be for a term of [four] years. If, for any reason, a vacancy occurs, the governor, subject to confirmation by the [senate], shall appoint a new member to fill the unexpired term. Members shall be eligible for reappointment and shall serve until their successors qualify.

(3) Each member of the commission shall receive [compensation and] per diem, travel, and other reasonable expenses for meetings, hearings, and other official business.

(4) An affirmative vote by a majority of the commission present and voting is required to take action.

(b) Powers and duties. The state boundary commission shall:

(1) adopt standards and procedures, consistent with the provisions of this act, for the initiation and evaluation of proposals for the formation of new local governments, for the adjustment of
local government boundaries, and for the review of any boundaries used by state or regional agencies in performing their responsibilities within the state;

(2) conduct studies of county, municipal, state agency, and special district formation and boundary adjustment problems throughout the state [and within [45 days] respond to any request for review of a consolidation proposal as provided by law];

(3) issue orders, when appropriate, requiring local governments to submit, individually or jointly, a plan for a formation proceeding or boundary adjustment in conformance with guidelines set forth in such orders;

(4) initiate proceedings based on its own studies and findings for formation or boundary adjustment, and make preliminary rulings on petitions received for boundary adjustment, in accordance with Section 2;

(5) establish a local board to rule on a formation or boundary adjustment case, in accordance with Section 3;

(6) subpoena witnesses and documents or other materials as set forth in subsection (d);

(7) employ an executive director who shall employ such staff and consultants as may be authorized by the commission, subject to available fiscal resources; and

(8) submit a written report to the governor and [legislature] each fiscal year stating the number of proceedings initiated, the outcome of the proceedings, expenses incurred, its recommendations for legislation, and other pertinent information.

(c) Studies.

(1) The commission, in its discretion, may conduct studies relating to the need for, and the feasibility of, boundary adjustments that will strengthen the capability of local governments to provide and maintain public services in a fiscally equitable manner. Factors to be studied may include demographic and land area characteristics; per capita assessed valuation; per capita tax burden in relation to per capita personal income; need for municipal services; topographic features; cost and adequacy of governmental services and controls; future needs for such services and controls; and the probable effect of alternative courses of action on the tax incidence, service quality, local governmental structure, growth, environmental, development, and other aspects of the community. Agencies and instrumentalities of the state shall furnish the commission with any available information and data which the commission may require for the conduct of its studies.

(2) The commission shall, in conjunction with its duty to initiate under Section 2, work with affected local units of government to establish a plan for future boundary adjustment in each metropolitan area [substate district] of the state. The plan shall specify the geographic area of probable expansion of each unit and for any consolidations deemed necessary and for any times of termination of

1See draft bill, Local Government Consolidation.
special districts deemed necessary.

(d) **Subpoena power.** The commission shall have the power to require the attendance of witnesses before it and to require the production of records and other data for its examination in the manner prescribed by [appropriate citation].

(e) **Information.** The commission or any local board is empowered to call on any state, county, special district, or municipal agency, department, bureau, or board for any and all information or assistance which may, in its judgement, be of assistance in administering, or preparing for the administration of, this title, and such state, county, special district, or municipal agency, department, bureau, or board is hereby authorized, directed, and required to furnish such information or assistance.

(f) **Regional delegation.** The commission may delegate any or all of its power and duties within the boundaries of a [substate district]¹ to the [appropriate regional body].¹ Such delegation shall be pursuant to agreement entered into between the commission and the [regional body] under such terms and conditions as mutually agreed; shall be for a fixed period not to exceed [five] years, renewable; and shall be filed with the [appropriate state agency] in the same manner as an interlocal agreement under [appropriate citation].

SECTION 2. **Initiation of Proceedings.**

(a) When, on the basis of its own studies or on the basis of the data submitted to it pursuant to Section 1(a), the commission determines that formation proceedings or boundary adjustments are necessary to carry out the purposes of this act, the commission shall order each unit of local government whose boundaries or jurisdiction are affected to show cause, within [ ] months of notification, why it should not be required to submit a plan for formation or boundary adjustment. The commission shall conduct a hearing at which representatives of affected local governments and other interested persons may be heard. If, at the conclusion of a hearing, the commission finds that a formation proceeding or boundary adjustment is necessary, it shall order the appropriate unit or units of local government to submit, within [ ] months, a plan for formation or boundary adjustments to carry out the purposes of this act. The plan shall include procedures for putting into effect the proposed formation or boundary adjustment. Upon receipt of a plan, the commission shall consider it in the same manner as a petition submitted in accordance with subsection (b) of this section, except that a preliminary ruling under subsection (c) is not required.

(b) (1) The commission shall initiate proceedings for formation or boundary adjustments upon receipt of a petition from the governing body of an affected municipality or special district; the governing body of the county wherein the territory, or a part of it, is located; [ ] percent of the registered voters in the territory; or the owners, resident or non-resident, of [ ] percent of the

¹See proposed legislation concerning areawide units, contained elsewhere in ACIR's State Legislative Program.
assessed value of the real property in the territory.

(2) A petition or plan must contain a statement of the formation or boundary adjustment proposed on an accurate map of every county, municipality, special district, and territory involved; a statement of the reasons for the proposed formation or boundary adjustment; a description of the character, land use, and facilities of either the territory or, in the case of dissolution, the municipalities or special districts involved; and procedures for putting into effect the proposed formation or boundary adjustment.

(3) The commission may combine petitions or plans which concern the same territory, or parts of it, or the same municipalities or special districts, if such a combination will not cause an unreasonable delay in the processing of the petitions or plans and will not substantially prejudice consideration of any proposals made therein.

(c) (1) Within a reasonable time after it receives a petition, the commission shall meet and make a preliminary ruling on whether to dismiss the petition. The commission may rule to dismiss the petition only if it finds that:

(i) the petition does not comply with the provisions of this section or the standards or procedures of the commission;

(ii) the request for formation proceeding or boundary adjustment is frivolous; or

(iii) substantially the same proposal has been disapproved by a local board within [two years] prior to the date the petition is received by the commission and the conditions in the affected territory have not substantially changed.

(2) If the petition is not dismissed, the commission shall notify those governing bodies required to appoint local representatives under Section 3.

SECTION 3. Local Formation Board.

(a) Creation. If a petition is not dismissed by the commission under Section 2, a local board shall be established to rule on the formation or boundary adjustment proposed in the petition. The local board shall consist of [three] members of the commission and [two] or more local representatives appointed as follows.

(1) The governing body of each unit of local government which has jurisdiction within the territory involved in the proposed formation or boundary adjustment, or will have jurisdiction if the boundary adjustment is approved, shall appoint a citizen to serve on the local board.

(2) If only one governing body is involved, it shall appoint two citizens to serve on the local board.

(b) Representatives.

(1) A local representative shall be a resident and registered voter of the county, municipality, or district from which appointed.
(2) A local representative shall receive *per diem*, travel, and other reasonable expenses for meetings, hearings, and other official business.

(3) Each commission member and each local representative has one vote, except that if there are more than two local representatives, each local representative has an equal fraction of a total of two votes.

(4) The presence of two commission members and one local representative constitutes a quorum.

(c) Powers and duties. The local board:

(1) shall hold hearings as required in Section 4, approve or disapprove petitions for boundary adjustment, and make financial allocations pursuant to law;

(2) may amend a petition, prior to the day of approval, by altering the shape and size of the territory;

(3) after a hearing is completed pursuant to Section 4 and after due deliberation, shall decide whether to approve the proposed formation or boundary adjustment and, if the formation or boundary adjustment is approved, what financial allocations, if any, should be made and the date on which the formation or boundary adjustment and financial allocations shall take effect. That date shall be not less than [90] days nor more than [one year] from the date on which the local board approves the formation or boundary adjustment;

(4) shall notify the [appropriate state official] and the [appropriate local officials] of the counties, municipalities, and special districts affected by its ruling. The ruling shall report the vote of each member of the local board, an explanation of its decision, and, if a petition or plan is approved, an accurate map of every county, municipality, special district, and territory involved, the financial allocations made, the method of adoption, and the effective date of the formation or boundary adjustment.

(d) Adoption. The decision of the local board shall be final in all cases [except consolidations, mergers, or incorporations where a referendum is required by law].

SECTION 4. Local Formation Board; Hearings.

(a) The local board shall conduct a hearing within [90] days from the date on which a petition is received by the commission, but, if two or more petitions are combined under Section 2 (b)(3), the [90] day period begins on the day of the receipt of the last of the petitions. At least [30] days before the commencement of the hearing, the commission shall give notice of the time and place to each governmental entity involved; to each planning body that has jurisdiction in the territory involved; and to the public.

(b) At the hearing, the local board shall receive all information, written or oral, that any person wishes to present and that is relevant to the resolution of the questions before the local board; and
shall seek all information, written or oral, that the local board believes will be useful to the resolution of the questions before the local board. If the local board so requests, the commission may subpoena witnesses and documents relevant to these questions pursuant to subsection (d) of Section 1.

(c) If the local board amends a petition, the local board shall give notice of the amendment to each of the parties and the commission. If the notice is given less than seven days before the commencement of the hearing, or during the hearing, or after the termination of the hearing, and if any person informs the local board or the commission, within seven days from the date notice is given, of his desire to present information relevant to the amendment, the local board shall continue the hearing for a reasonable time or reopen it within a reasonable time to receive that information.

SECTION 5. Standards for Boundary Adjustments. The local board shall approve a proposed formation or boundary adjustment only if the proposal is for the type of adjustment that is more beneficial to the community than are other available alternatives and if the proposal is found to meet all applicable standards of law. The local board shall make a specific finding of financial allocations in any case where such allocations are required.

SECTION 6. County and Substate District Boundaries.

(a) County boundaries shall not be a barrier to any type of formation or boundary adjustment authorized by this act.¹

(b) Any type of formation or boundary adjustment authorized by this act shall not be in more than one substate district established pursuant to [substate districting act].

SECTION 7. Judicial Reviews. All final decisions of a local board and any dismissal of petitions shall be reviewable by certiorari pursuant to the provisions of [appropriately citation — state administrative procedures act]. No appeal may be brought after the effective date of the formation or boundary adjustment.¹

[OR]

[Alternative 2.]

[Title II]

LOCAL BOUNDARY ADJUSTMENT COMMISSION

SECTION 1. Commission; Creation, Appointment, Powers and Duties.

(a) (1) A county boundary adjustment commission [hereafter called commission] is created in each county of the state.² The commission shall consist of [five] members selected as follows:

(i) [two] representing the county, each of whom shall be a county officer appointed by the [county governing body];
(ii) [two] representing the cities in the county, each of whom shall be a city officer appointed by the [chief executive officers] of the cities within the county at a joint meeting; and

(iii) [one] representing the general public, who shall be chairman of the commission, appointed by the four other members of the commission.

(2) The term of each member shall be [four years] and until the appointment and qualification of his successor, except that the term of each county officer and each city officer shall expire upon the termination of his county or city office. Any city or county member may be removed by his appointing authority.

(3) Vacancies on the commission shall be filled for the unexpired term by the appointing authority which originally appointed the member whose position has become vacant.

(4) Each member of the commission shall receive [compensation and] per diem, travel, and other reasonable expenses for meetings, hearings, and other official business.

(5) An affirmative vote by a majority of a quorum is required to take action. A majority of all members of the commission currently qualified shall constitute a quorum.

(b) Powers and duties. The commission shall:

(1) adopt standards and procedures, consistent with the provisions of this act, for the initiation and evaluation of proposals for the adjustment of local government boundaries;

(2) conduct studies of county, municipal, and special district formation and boundary adjustment problems throughout the state, and, within [45 days] respond to any request for review of a consolidation proposal as provided by law;

(3) issue orders, when appropriate, requiring municipalities and special districts to submit, individually or jointly, a plan for a formation proceeding or boundary adjustment in conformance with guidelines set forth in such orders;

(4) initiate proceedings based on its own studies and findings for formation or boundary adjustment, and make preliminary rulings on petitions received for boundary adjustment, in accordance with Section 2;

(5) subpoena witnesses and documents or other materials as set forth in subsection (d);

(6) employ an executive director who shall employ such staff and consultants as may be authorized by the commission, subject to available fiscal resources; and

(7) submit a written report to the governor and [legislature] each fiscal year stating the number of proceedings initiated, the outcome of the proceedings, expenses incurred, its recommendations for legislation, and other pertinent information.

(c) Studies.

(1) The commission, in its discretion, may conduct studies relating to the need for, and the

1See draft legislation on Local Government Consolidation.
feasibility of, boundary adjustments that will strengthen the capability of local governments to pro-
vide and maintain public services in a fiscally equitable manner. Factors to be studied may include
demographic and land area characteristics; per capita assessed valuation; per capita tax burden in
relation to per capita personal income; need for municipal services, topographic features; cost and
adequacy of governmental services and controls; future needs for such services and controls; and the
probable effect of alternative courses of action on the tax incidence, service quality, local governmental
structure, growth, environmental, development, and other aspects of the community. Agencies and
instrumentalities of the state shall furnish the commission with any available information and data
which the commission may require for the conduct of its studies.

(2) The commission shall, in conjunction with its duty to initiate under Section 2, and with
the local boundary adjustment commissions of all other included counties, work with affected local
units of government to establish a plan for future boundary adjustment in each metropolitan area
[substate district] of the state. The plan shall specify the geographic area of probable expansion of
each unit for any consolidations deemed necessary and for any times of termination of special
districts deemed necessary.

(d) Subpoena power. The commission shall have the power to require the attendance of witnesses
before it and to require the production of records and other data for its examination in the manner
prescribed by [appropriate citation].

(e) Information. The commission is empowered to call on any state, county, special district, or
municipal agency, department, bureau, or board for any and all information or assistance which may
in its judgement, be of assistance in administering, or preparing for the administration of, this title;
and such state, county, special district, or municipal agency, department, bureau, or board is
hereby authorized, directed, and required to furnish such information or assistance.

SECTION 2. Initiation of Proceedings.

(a) When, on the basis of its own studies or on the basis of the data submitted to it pursuant to
Section 1(e), the commission determines that formation proceedings or boundary adjustments are
necessary to carry out the purposes of this act, the commission shall order each unit of local govern-
ment whose boundaries or jurisdictions are affected to show cause, within [__] months of notification,
why it should not be required to submit a plan for formation or boundary adjustment. The commission
shall conduct a hearing at which representatives of affected local governments and other interested
persons may be heard. If, at the conclusion of a hearing, the commission finds that a formation pro-
ceeding or boundary adjustment is necessary, it shall order the appropriate unit or units of local
government to submit, within [__] months, a plan for formation or boundary adjustments to carry out
the purposes of this act. The plan shall include procedures for putting into effect the proposed forma-
tion or boundary adjustment. Upon receipt of a plan, the commission shall consider it in the same
manner as a petition submitted in accordance with subsection (b) of this section, except that a pre-
liminary ruling under subsection (c) is not required.

(b) (1) The commission shall initiate proceedings for boundary adjustments upon receipt of a
petition from the governing body of an affected municipality or special district; the governing body
of the county wherein the territory, or a part of it, is located; [ ] percent of the registered voters in
the territory; or the owners, resident or non-resident, of [ ] percent of the assessed value of the real
property in the territory.

(2) A petition or plan must contain a statement of the formation or boundary adjustment
proposed on an accurate map of every county, municipality, special district, and territory involved; a
statement of the reasons for the proposed formation or boundary adjustment; a description of the
character, land use, and facilities of either the territory or, in the case of dissolution, the municipalities
or special districts involved, and procedures for putting into effect the proposed formation or boun-
dary adjustment.

(3) The commission may combine petitions or plans which concern the same territory, or parts
of it, or the same municipalities or special districts, if such a combination will not cause an unreason-
able delay in the processing of the petitions or plans and will not substantially prejudice consideration
of any proposals made therein.

(c) Within a reasonable time after it receives a petition, the commission shall meet and make a
preliminary ruling on whether to dismiss the petition. The commission may rule to dismiss the petition
only if it finds that:

(1) the petition does not comply with the provisions of this section or the standards or pro-
cedures of the commission;

(2) the request for formation proceeding or boundary adjustment is frivolous; or

(3) substantially the same proposal has been disapproved by the commission within [two years]
prior to the date the petition is received by the commission and the conditions in the affected territory
have not substantially changed.

(d) If the petition is not dismissed, the commission:

(1) shall hold hearings as required in Section 3, approve or disapprove petitions for boundary
adjustment, and make financial allocations pursuant to law;

(2) may amend a petition, prior to the day of approval, by altering the shape and size of the
territory;

(3) after a hearing is completed pursuant to Section 3 and after due deliberation, shall decide
whether to approve the proposed formation or boundary adjustment and, if the formation or boundary
adjustment is approved, what financial allocations, if any, should be made and the date on which the
formation or boundary adjustment and financial allocations shall take effect. That date shall be not
less than [90] days nor more than [one year] from the date on which the commission approves the for-
formation or boundary adjustment;

(4) shall notify the [appropriate state official] and the [appropriate local officials] of the
counties, municipalities, and special districts affected by its ruling. The ruling shall report the vote of
each member of the local board, an explanation of its decision, and, if a petition or plan is approved,
an accurate map of every county, municipality, special district, and territory involved, the financial
allocations made, the method for adoption, and the effective date of the formation or boundary adjust-
ment.

(e) Adoption. The decision of the local board shall be final in all cases [except consolidations,
mergers, or incorporations where a referendum is required by law].

SECTION 3. Hearings.

(a) The local commission shall conduct a hearing within [90] days from the date on which a
petition is received by the commission, but, if two or more petitions are combined under Section 2
(b) (3), the [90 day] period begins on the day of the receipt of the last of the petitions. At least [30
days] before the commencement of the hearing, the commission shall give notice of the time and place
to each governmental entity involved; to each planning body that has jurisdiction in the territory
involved; and to the public.

(b) At the hearing, the commission shall receive all information, written or oral, that any person
wishes to present and that is relevant to the resolution of the questions before the commission; and
shall seek all information, written or oral, that the commission believes will be useful to the resolution
of the questions before it.

(c) If the commission amends a petition, it shall give notice of the amendment to each of the
parties. If the notice is given less than [seven days] before the commencement of the hearing, or during
the hearing, or after the termination of the hearing, and if any person informs the commission, within
[seven days] from the date notice is given, of his or her desire to present information relevant to the
amendment, the commission shall continue the hearing for a reasonable time or reopen it within a
reasonable time to receive that information.

SECTION 4. Standards for Boundary Adjustments. The commission shall approve a proposed
formation or boundary adjustment only if the proposal is for the type of adjustment that is more
beneficial to the community than are other available alternatives and if the proposal is found to meet
all applicable standards of law. The commission shall make a specific finding of financial allocations
in any case where such allocations are required.

SECTION 5. County and Substate District Boundaries.

(a) County boundaries shall not be a barrier to any type of formation or boundary adjustment
authorized by this act. However, in cases where areas in more than one county are involved, the
commissions of all counties involved shall jointly consider such application in which votes shall be
taken separately for each commission participating.
(b) Any type of formation or boundary adjustment authorized by this act shall not be in more
than one substate district established pursuant to [substate districting act].
SECTION 6. Judicial Review. All final decisions of a local board and any dismissal of petitions
shall be reviewable by certiorari pursuant to the provisions of [appropriate citation — state adminis-
trative procedures act]. No appeal may be brought after the effective date of the formation or boun-
dary adjustment.]

Title III

LOCAL GOVERNMENT INCORPORATION AND DISSOLUTION

SECTION 1. Incorporation; Procedures.
(a) A charter for incorporation of a municipality or special district shall be adopted only in con-
formance with the standards herein provided.
(b) A charter for incorporation of a municipality may be adopted by the methods provided in [cite
existing municipal incorporation statute].
(c) A charter for incorporation of a special district may be adopted by the methods provided in [cite existing special district enabling legislation].
[(d) (1) Initiation of procedures for an incorporation may be done either by adoption of a resolu-
tion by the governing body or bodies of an area to be affected — in the case of a proposed munici-
pality, the county governing body or bodies — or by a petition of [10] percent of the qualified voters
in the area to be affected.
(2) If a petition has been filed with the [clerk] of the governing bodies concerned, the gov-
erning bodies shall immediately undertake a study of feasibility of the formation proposal and shall,
within six months, either adopt an ordinance under [subsections (b) or (c)] of this section or shall re-
ject the petition specifically stating the facts upon which the rejection is based.
(3) The purpose of this subsection is to provide broad citizen involvement in both initiating
and developing their local government; therefore, establishment of appropriate citizen advisory com-
mittees as well as other mechanisms of citizen involvement by the governing bodies of the units affect-
ed is specifically authorized and encouraged.]
(e) (1) If a referendum is required, the date of election shall be the next regularly scheduled elec-
tion, or a special election held prior to such election if approved by a majority of the members of the

Footnotes:
1 Check your constitution for provisions affecting this sentence.
2 If the boundary commission in either Title II is used, this subsection should be deleted.
governing body of each governmental unit affected, but no sooner than [30] days after approval of
the incorporation proposal under subsection (a).

(2) Notice of the election shall be published at least once a week for the [four] successive
weeks immediately prior to the election in a newspaper of general circulation in the area to be affected.
Such notice shall give the time and places for the election and a description of the area to be included
in the municipality with such description to be in metes and bounds and to include a map to clearly
show the area to be covered by the municipality.

SECTION 2. Dissolution Procedures; Active Units.

(a) The charter of any existing municipality or special district may be revoked and the municipal
or special district corporation dissolved by either:

(1) an ordinance of the governing body of the municipality approved by a vote of the quali-
fied voters; or

(2) a petition of [10] percent of the qualified voters in the municipality approved by a vote of
the qualified voters; or

(3) an ordinance of the governing body of a municipality or county in which a special dis-
trict is solely located and which is empowered to perform the same functions, or if located in more
than one, a joint agreement between all county and municipal governing bodies with jurisdiction over
the area involved. The ordinance or joint agreement must provide for the assumption of the services
provided by the special district and its assets, liabilities, and obligations;¹ or

(4) a resolution of a special district governing body which provides for the financial alloca-
tions required; or

(5) a special act of the [legislature].²

(b) If a vote of the qualified voters is required, the governing body of the municipality or special
district or, if the municipal or special district governing body does not act within [30] days, the
governing body of the county or counties in which the municipality or special district is located shall
set the date of the election which shall be the next regularly scheduled election, or a special election
held prior to such election if approved by a majority of the members of the governing body of each
governmental unit affected, but no sooner than [30] days after passage of the ordinance. Notice of
the election shall be published at least once a week for the [four] successive weeks prior to the elec-
tion in a newspaper of general circulation in the municipality or special district.

SECTION 3. Dissolution Procedures; Inactive Units.

(a) The [secretary of state], by proclamation, shall declare inactive any municipality or special
district in this state upon a report filed by [the department] [boundary commission] which shall show

¹See suggested legislation on Local Government Consolidation.
²In some states this procedure may not be constitutionally available.
that such municipality or special district is no longer active based upon a finding:

(1) that the municipality has not conducted an election for membership in its legislative body within the [four] years immediately preceding or as otherwise provided by law; or

(2) that the special district has not had appointed or elected a governing body within the [four] years immediately preceding or as otherwise provided by law or has not operated within the [two] years immediately preceding; and

(3) that a notice of proposed proclamation has been published once a week for [four] weeks in a newspaper of general circulation within the county wherein territory of the municipality or special district is located stating the name of said municipality or special district, the law under which it was organized and operating, a description of the territory included in said municipality or special district and that any objections to the proposed proclamation or any debts of said municipality or special district shall be filed not later than [60] days following the date of last publication with the department; and

(4) that [60] days have elapsed from the last publication date of the notice of proposed proclamation and no sustained objections have been filed.

(b) The [state agency] charged with collecting financial information from municipalities and special districts shall report to the [secretary of state] and the department any municipality or special district which has failed to file a report within the prescribed time set by law.

(c) If any municipality or special district declared inactive pursuant to this section shall owe any debt at the time of proclamation, any property or assets of such unit or which belonged thereto at the time of such proclamation shall be subject to legal process for payment of such debt. After the payment of all the debts of said inactive municipal or special district corporation, any remaining assets shall escheat and revert to the county wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive municipality or special districts, the same may be assessed and levied by order of the [county governing body] of the county wherein the same is situated and shall be assessed by the county assessor of taxes and be collected by the county tax collector. The proceedings in the assessment, collection, receipt, and disbursements for such taxes shall be the same as proceedings concerning county taxes as far as applicable.

(d) Any law authorizing or providing the incorporation or relating only to the powers or duties of any municipality or special district proclaimed inactive hereunder shall [become ineffective as to such municipality or special district] and [be reported by the governor to the [presiding officers of both houses of the legislature]]. [The proclamation of inactive status shall be sufficient notice as required by law to authorize the [legislature] to repeal any special laws so reported].

Some states may have different provisions constitutionally required to fully dissolve an inactive unit.
SECTION 4. Standards for Incorporation and Dissolution.

(a) The incorporation of a new municipality must meet the following conditions in the area proposed for incorporation:

(1) be compact and contiguous and amenable to separate municipal government;
(2) be the best alternative available for delivering general governmental services;
(3) have a total population as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least [1,500] persons in counties with a population of less than [50,000] and of at least [5,000] population in counties with a population of more than [50,000];
(4) have an average population density of at least [1.5] persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density;
(5) have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least [two] miles or have an extraordinary natural boundary which requires separate municipal government; and
(6) have a proposed municipal charter which:
   (i) prescribes the form of government and clearly defines the responsibility for legislative and executive functions; and
   (ii) does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the constitution or general law; and
[(7) be consistent with any metropolitan [or substate district] plan for future boundary adjustment which may have been established by a boundary commission under Title II].

(b) The creation of a special district must be the best alternative available for delivering the service and be amenable to separate special district government if such district is to have a governing body other than a county or municipal governing body [, and must be consistent with any metropolitan [or substate district] plan for future boundary adjustment which may have been established by a boundary commission under Title II].

(c) The dissolution of a municipality or special district must meet the following conditions:

(1) the county or other municipalities are demonstrably able to provide necessary services to the municipal or special district area proposed for dissolution;
(2) an equitable arrangement is made in relation to bonded indebtedness and vested rights of employees of the municipality or special district to be dissolved; and
[(3) the proposed dissolution is consistent with any metropolitan [or substate district] plan for future boundary adjustment which may have been established by a boundary commission under Title II]].

¹Delete this proviso if either Title II is not enacted.
SECTION 5. Financial Allocations.

(a) The incorporation of a new municipality in previously unincorporated lands shall provide for assumption, if any, of the existing governmental indebtedness or property specially benefiting that area, the fair value of such, and the manner of transfer, if any, and financing.

(b) In the dissolution of an existing special district by a county or municipality, or jointly, the county or municipality shall assume all indebtedness of, and receive title to all property owned by, the pre-existing special districts. The proposed dissolution ordinance or proposal shall provide for the determination of the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(c) The dissolution of a municipal or special district government shall transfer the title to all property owned by the pre-existing municipal or special district government to the county which shall also assume all indebtedness of the pre-existing municipality or special district, unless otherwise provided in the dissolution ordinance or plan. The county is specifically authorized to levy and collect ad valorem taxes in the same manner as other county taxes from the area of the pre-existing municipality or special district for repayment of any assumed indebtedness through a special purpose taxing district created for such purposes.

SECTION 6. Judicial Review. All actions taken, including any dismissal of petitions, pursuant to this part shall be reviewable by certiorari pursuant to the provisions of [the state administrative procedures act]. No appeal may be brought after the effective date of an incorporation or dissolution.

Title IV

MUNICIPAL ANNEXATION

SECTION 1. Authority to Annex. The governing body of any municipality [having a population of [ ] or more persons according to the last Federal decennial census] may extend the corporate limits of such municipality under the procedure set forth in this act.¹

SECTION 2. Prerequisites to Annexation: Ability to Serve. A municipality exercising authority under this act shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in Section 4 of this title, prepare a report setting forth such plans to provide services to such area. The report shall include:

(a) a map or maps of the municipality and adjacent territory to show the following information:

1. the present and proposed boundaries of the municipality;

2. the present streets, major trunk water mains, sewer interceptors and outfalls and other

¹This title provides the authority for a municipality to annex by ordinance with an appeal to the courts. The standards provided in this act are developed to provide appropriate protection against unreasonable use of the power.
utility lines, and the proposed extension of such streets and utility lines as required in subsection (c) of this section; and

(3) the general land use pattern in the areas to be annexed;

(b) a statement showing that the area to be annexed meets the requirements of Section 3 of this title; and

(c) a statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:

(1) provide for extending police protection, fire protection, garbage collection, and street maintenance services to the area to be annexed on the date of annexation, on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation;

(2) provide for extension of streets and of major trunk water mains, sewer outfall lines, and other utility services into the area to be annexed, so that when such streets and utility lines are constructed, property owners in the area to be annexed will be able to secure such services, according to the policies in effect in such municipality for extending such services to individual lots or subdivisions;

(3) if extension of streets and water, sewer, or other utility lines into the area to be annexed is necessary, set forth a proposed timetable for construction of such streets and utility lines as soon as possible following the effective date of annexation. In any event, the plans shall call for contracts to be let and construction to begin within [12] months following the effective date of annexation;

(4) set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

SECTION 3. Character of Area to be Annexed.

(a) A municipal governing board may extend the municipal corporate limits to include any area:

(1) which meets the general standards of subsection (b) of this section; and

(2) every part of which meets the requirements of either subsection (c) or subsection (d) of this section.

(b) The total area to be annexed must meet the following standards.

(1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.

(2) At least one-eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.

(3) No part of the area shall be included within the boundary of another incorporated municipality.
The annexation must be consistent with any metropolitan [or substate district] plan for future boundary adjustment which may have been established by a boundary commission under Title II.¹

(c) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

1. has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
2. has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least [ ] percent of the total acreage consists of lots and tracts [ ] acres or less in size and such that at least [ ] percent of the total number of lots and tracts [ ] acre or less in size; or
3. is so developed that at least [ ] percent of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts such that at least [ ] percent of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts [ ] acres or less in size.

(d) In addition to areas developed for urban purposes, a governing board may include in the area to be annexed any area which does not meet the requirements of subsection (c) of this section if such area either:

1. lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services and/or utility lines through such sparsely developed area; or
2. is adjacent, on at least [ ] percent of its external boundary, or any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (c) of this section.

The purpose of this subsection is to permit municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes, but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

(e) In fixing new municipal boundaries, a municipal governing board shall, whenever practical, use natural topographic features, such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality land on both sides of the street and such outside boundary may not extend more than [ ] feet beyond the right-of-way of the street.

¹Delete this proviso if either Title II is not adopted.
SECTION 4. Procedure of Annexation.

(a) Any municipal governing board desiring to annex territory under the provisions of this act shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than [ ] days and not more than [ ] days following passage of the resolution.

(b) The notice of public hearing shall:

1. fix the date, hour, and place of the public hearing;
2. describe clearly the boundaries of the area under consideration; and
3. state that the report required in Section 2 of this title will be available at the office of the municipal official at least [ ] days prior to the date of the public hearing.

Such notice will be given by publication in a newspaper having general circulation in the municipality [ ] a week for at least [ ] successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than [ ] days including Sundays, and the date of the last publication shall not be more than [ ] days preceding the date of the public hearing. If there be no such newspaper, the municipality shall post the notice in at least [ ] public places within the municipality and at least [ ] public places in the area to be annexed for [ ] days prior to the date of the public hearing.

(c) At least [ ] days before the date of the public hearing, the governing board shall approve the report provided for in Section 2 of this title, and shall make it available to the public at the office of the municipal official. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) At the public hearing, a representative of the municipality shall first make an explanation of the report required in Section 2 of this title. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by Section 2 of this title, to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of Section 2. At any regular or special meeting held no sooner than [ ] days following the public hearing and no later than [ ] days following such public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing, which meets the requirements of Section 3 of this title, and which the governing board has concluded should be annexed. The ordinance shall:
contain specific findings showing that the area to be annexed meets the requirements of Section 3 of this title. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of Section 3, subsections (c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance;

(2) contain a statement of the intent of the municipality to provide services to the area being annexed as set forth in the report by Section 2 of this title;

(3) contain a specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amounts to finance construction of any streets or utility lines, found necessary in the report required by Section 2 to extend the basic utility system of the municipality into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election; and

(4) fix the effective date of annexation. The effective date of annexation may be fixed for any date within 12 months from the date of passage of the ordinance except within the first 30 days.

(f) From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation. Annexed property which is a part of a sanitary district or other special service district which has installed water, sewer, or other utilities or improvements, paid for by the residents of said district, shall not be subject to that part of the municipal taxes levied for debt service for the first [ ] years after the effective date of annexation. If the effective date of annexation falls between [January 1 and June 30], the municipality shall, for purposes of levying taxes for the fiscal year beginning [July 1] following the date of annexation, obtain from the county a record of property in the area being annexed, which was listed for taxation as of said [January 1].

(g) If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this act for the annexation of such areas.

(h) If, not earlier than one year from the effective date of annexation, and not later than 15 months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans, adopted under the provisions of Section 2(c) and Section 6(e), such person may apply for a writ of mandamus under the
provisions of [cite appropriate statute]. Relief may be granted by the [court of appropriate jurisdiction]:

(1) if the municipality has not provided the services set forth in its plan submitted under the provisions of Section 2(c)(1) on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation; and

(2) if at the same time the writ is sought services set forth in the plan submitted under the provisions of Section 2(c)(1) are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the [court of appropriate jurisdiction]:

(i) if the plans submitted under the provisions of Section 2(c)(3) require the construction of streets or utility services; and

(ii) if contracts for such construction have not yet been let. [If a writ is issued, costs in the action, including a reasonable attorney’s fee for such aggrieved person, shall be charged to the municipality.]

SECTION 5. Appeal.

(a) Within 30 days following the passage of an annexation ordinance under authority of this act, any person owning property in the annexed property who shall believe that he will suffer material injury, by reason of the failure of the municipal governing board to comply with the procedure set forth in this act or to meet the requirements set forth in Section 3 of this title as they apply to his property, may file a petition with [the court of appropriate jurisdiction of the county in which the municipality is located], seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within [ ] days after the petition is filed with the commission [court], the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within [ ] days after receipt of the copy of the petition for review, or within such additional time as the [court] may allow, the municipality shall transmit to the reviewing commission [court]:

(1) a transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth; and

(2) a copy of the report setting forth the plans for extending services to the annexed area as required in Section 2 of this title.

(d) If two or more petitions for review are submitted to the [court], the [court] may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c) of this section.

(e) At any time before or during the review proceeding, any petitioner or petitioners may apply
to the reviewing [court] for an order staying the operation of the annexation ordinance pending the outcome of the review. The [court] may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f) the [court] shall fix the date for review of annexation proceedings under this act, which review date shall preferably be within [ ] days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the [court] without a jury. The [court] may hear oral arguments and receive written briefs, and may take evidence intended to show either:

(1) that the statutory procedure was not followed; or
(2) that the provisions of Section 2 were not met; or
(3) that the provisions of Section 3 have not been met.

(g) The [court] may affirm the action of the governing board without change, or it may:

(1) remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners;
(2) remand the ordinance to the municipal governing board for amendment to the boundaries to conform to the provisions of Section 3 if it finds that the provisions of Section 3 have not been met; but the [court] cannot remand the ordinance to the municipal governing board with directions to add area to the municipality, which was not included in the notice of public hearing and not provided for in plans for service; or
(3) remand the report to the municipal governing board for amendment of plans for providing services to the end that the provisions of Section 2 of this title are satisfied.

If any municipality shall fail to take action in accordance with the [court's] instructions upon remand within [ ] months after receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party of the review proceedings, including the municipality, may appeal to the [appellate or supreme court] from the final judgment of the [lower court] under rules of procedures applicable in other civil cases. The appealing party may apply to the [lower court] for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the higher court; provided, that the [lower court] may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of
an appeal to the [court] on the effective date of the ordinance, then the ordinance shall be deemed
amended to make the effective date with respect to such area the date of the final judgment of the
[court] or the date the municipal governing board completes action to make the ordinance conform to
the [court’s] instructions in the event of remand.

SECTION 6. Annexation Recorded. Whenever the limits of a municipality are enlarged in
accordance with the provisions of this act, it shall be the duty of the mayor [or other appropriate
official] of the municipality to cause an accurate map of such annexed territory, together with a copy
of the ordinance duly certified, to be recorded in the office of the [county official] of the county or
counties in which such territory is situated and in the office of [the secretary of state or other
appropriate state official].

SECTION 7. Authorized Expenditures. Municipalities initiating annexation under the provi-
sions of this act are authorized to make expenditures for surveys required to describe the property
under consideration, or for any other purpose necessary to plan for the study and/or annexation of
unincorporated territory adjacent to the municipality. In addition, following final passage of the
annexation ordinance, the annexing municipality shall have the authority to proceed with expendi-
tures for construction of streets, utility lines, and other capital facilities, and for any other purpose
calculated to bring services into the annexed area in a more effective and expeditious manner prior
to the effective date of annexation.

SECTION 8. Population and Land Estimates. In determining population and degree of land
subdivision for purposes of meeting the requirements of Section 3 of this act, the municipality shall
use methods calculated to provide reasonably accurate results. In determining whether the standards
set forth in Section 3 have been met on appeal to the [court of appropriate jurisdiction] under
Section 5 of this title, the reviewing [court] shall accept the estimates of the municipality:

(a) as to population, if the estimate is based on the number of dwelling units in the area,
multiplied by the average family size in such area or in the [townships] of which such area is a part, as
determined by the last preceding Federal decennial census; or if it is based on a new enumeration
carried out under reasonable rules and regulations by the annexing municipality; but the [court]
shall not accept such estimates if petitioners demonstrate that such estimates are in error in the
amount of [ ] percent or more;

(b) as to total area, if the estimate is based on an actual survey, or on county tax maps or records,
or on aerial photographs, or on some other reasonably reliable map used for official purposes by a
governmental agency, unless the petitioners on appeal demonstrate that such estimates are in error
in the amount of [ ] percent or more; and

Some states have appropriate state officials responsible for this type of work; however, others do not develop the details required by this title.
(c) as to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of [   ] percent or more.

Title V

SEPARABILITY AND EFFECTIVE DATE

SECTION 11. Separability. [Insert separability clause.]

SECTION 12. Effective Date. [Insert effective date.]
2.102 LOCAL GOVERNMENT CONSOLIDATION

The need for an authoritative areawide decision making unit, and for less fragmentation of local government through existing small units, in most areas of a state is unquestionable. There are many options open to individual governments, but for some areas local government consolidation, or mergers, either city-city, city-county, or county-county, may be the most feasible solution, since all of these approaches build on existing governmental structures.

In approximately 170 urban areas, one county encompasses entirely or contains the vast majority of the population within a Standard Metropolitan Statistical Area. Yet, within that county, there are usually a number of municipal governments and special districts which often provide the same services that the county performs in unincorporated areas. This situation results in fragmentation of governmental authority, in unnecessary service duplication, and in municipal residents being taxed for services they do not receive. In some rural areas, on the other hand, there are sparsely settled counties which lack the fiscal resources necessary to do more than support traditional county services mandated by the state. Governmental consolidation would help alleviate these problems in certain instances and also would establish a government capable of providing areawide services.

City-county consolidation and city-city merger is especially appropriate in those areas where the new government would encompass the majority of an urban population. A consolidated city-county or merged city is likely to produce strengthened executive management and coordination, more effective use of tax money, and a higher level of public services. While no multicounty consolidations have occurred to date, 19 states authorize such restructuring. The newly merged county would have a broader tax base supporting only one government, thus freeing up funds to be used for service delivery. Even more than the city-county, the newly merged county would have the geographic scope to handle regional problems.

A number of states have recently concluded that local options and opportunities provide the best mechanism for initiating this type of change. Alaska, California, Florida, Kansas, Kentucky, New Mexico, and Tennessee have all recently considered variations of this issue. The suggested constitutional amendment is drafted from the revised Florida constitution.

The suggested legislation, authorizing consolidation, draws heavily upon Tennessee's Metropolitan Government Act (T.C. Ann. 6-3701) and Florida's Formation of Local Government's Act (Chapter 165, Florida Statutes). Section 12-14 dealing with state assistance, are not based on a specific recommendation of the Advisory Commission on Intergovernmental Relations (ACIR) but are in harmony with other proposals of the Commission relating to state-local relationships.

Section 1 states the findings and purpose. Section 2 defines the terms used in the act.

Section 3 authorizes consolidation and merger of cities and counties. Section 4 provides for creation of a charter commission; Section 5 prescribes its membership, funding, and rules of organization and procedure.

Section 6 specifies those provisions the charter shall include.

Section 7 deals with service districts, delineating general and local services districts and subordinate service areas.

Section 8 provides for review of the charter commission report by any appropriate state or local boundary commission.

Section 9 sets out the requirements for a referendum on the charter in the affected county and municipal areas.

Section 10 provides for the assumption of functions from special districts and the supervision of special districts by the consolidated government. It also provides for merger of such special districts with each other and with any county or municipality in the state and further provides various powers for policy review.

Section 11 authorizes the state to provide information and technical assistance and financial assistance to the charter commission. Section 12 provides for transition grants from the state to a consolidated local government. Section 13 authorizes state appropriations as required in Sections 11 and 12. Section 14 specifies that no consolidated local government shall receive less, in any type of state financial aid, than would have been received by the governments had consolidation not taken place.

Sections 15 and 16 provide for separability and effective date clauses, respectively.

Suggested Constitutional Amendment

[A CONSTITUTIONAL AMENDMENT TO PROVIDE FOR LOCAL GOVERNMENT CONSOLIDATION AND MERGER]

(Be it enacted, etc.)

1 Section [  ]. Consolidation and Merger. Consolidation or merger of counties, municipalities, or any combination thereof, except as provided herein, shall be as provided by law [subject to a referendum].

2

3
Suggested Legislation

[AN ACT TO PROVIDE FOR THE CONSOLIDATION OR MERGER OF COUNTIES, CITIES, AND SPECIAL DISTRICTS WITH EACH OTHER, AND TO PROVIDE FINANCIAL AND OTHER ASSISTANCE FOR SUCH MERGERS] 1

(Be it enacted, etc.)

SECTION 1. Findings and Purposes.

(a) The [legislature] finds and declares that:

1. certain counties of the state contain numerous overlapping governmental jurisdictions;
2. the proliferation of local governments and special districts results in duplication of functions and causes inefficiency;
3. the citizens of the state should be free to restructure their local governments to best reflect their needs and desires; and
4. the financial and technical assistance of the state is needed to facilitate efforts to merge and consolidate county, city, and special district governments.

(b) It is the purpose of this act to encourage the restructuring of local government along more efficient, economical, and effective lines by providing procedures for the consolidation and merger of counties, cities, and special districts, with each other in any combination, and to provide state financial assistance to help absorb transitional expenses incurred by the merged or consolidated local government.

SECTION 2. Definitions.

(a) "City-county" means the political entity created by the consolidation of the political and corporate functions of a county and one or more of the municipalities within the county [and shall have the powers and duties previously held by the county and the municipalities].

(b) "Local government" means counties, municipalities, and special districts.

(c) "Municipality" means any incorporated city, town, or village.

(d) "Special district" means an independent political subdivision of the state, [except school districts], created pursuant to general or special law for the purpose of performing one or a limited number of functions within prescribed boundaries.

(e) "Substate district" means the geographic area within each set of boundaries established pursuant to [insert state statutory or executive order citation delineating substate districts].

SECTION 3. Authorization.

(a) Any county in the state and one or more of the municipalities in that county may merge and form a city-county. A city-county may exercise all powers and duties assigned by general law to both

1Suggested short title: Local Government Consolidation Act.
cities and counties in the territory merged, in addition to those set forth in the city-county charter.¹

(b) Any two or more adjoining counties, including city-counties, within the same substate district may consolidate into a single county.

(c) Any two or more adjoining municipalities and contiguous unincorporated area within the same substate district may consolidate into a single city. The governing body of the county having jurisdiction over any unincorporated area to be included shall act pursuant to this act in the manner of a governing body of a municipality with respect to such area.

SECTION 4. Initiation Procedures.

(a) Establishment of a city-county or consolidation of two or more adjacent counties or municipalities shall be initiated by the creation of a charter commission by:

(1) adoption of a resolution of the governing bodies [majority or extraordinary majority] of each county or each participating municipality to be involved; or

(2) submission of petitions signed by voters in an amount equal to [ ] percent of those voting in the preceding gubernatorial election in each county or in the unincorporated areas of the county and in each municipality to be involved. Such petitions shall be certified in the same manner as petitions nominating candidates for the governing body of the municipality or county.

[Optional Section.]

(b) A charter commission may also be established by the [legislature].² The [legislature] shall name the county and municipal areas to be included in the commission’s work and appropriate or assure funds adequate to totally support the work of the commission.


[Alternative 1.]

(a) Upon passage of the resolutions or certification of the petitions provided for in Section 4, the governing bodies of each county or the county and each participating municipality shall appoint persons to serve on the charter commission. The number of persons appointed by each county and each municipality involved shall be proportionate to their share of total population of the area to be studied; provided that for purposes of determining the proportion of county members where municipal appointments also are to be made, only persons residing in the unincorporated area shall be included.]³

[OR]

[Alternative 2.]

(a) Upon passage of the resolutions or certification of the petitions provided for in Section 4,

¹See Advisory Commission on Intergovernmental Relations suggested constitutional amendment, Home Rule Powers of Local Government.

²This could be done by a special act with the legislature assuring that sufficient funds will be provided.

³Instead of population, states could use other bases, such as expenditures or tax volume.
the governing body of each participating county or municipality shall appoint [one] resident as a member of the charter commission, except in the case of a city-county consolidation, the participating county governing body shall appoint members equal to the total number appointed by the participating municipalities, and in a city-city consolidation which includes an unincorporated territory the county governing body shall appoint a number which approximates the ratio of the population in the unincorporated area to the total population of the area studied times the total number appointed by the participating municipalities.\(^1\)

(b) Members shall serve without pay, but may be reimbursed for travel and other reasonable expenses for meetings, hearings, and other official business.

(c) The governing bodies of the county and participating municipalities shall appropriate funds adequate to support the operation of the charter commission as well as the printing and publication of its final report.\(^2\) Within the limitation of such appropriations and any privately contributed or state appropriated funds and services which shall be publicly reported, the commission may appoint and fix the rate of compensation for consultants and clerical and other personnel.

(d) The commission shall adopt [by majority vote] rules for its organization and procedures, provided that all meetings shall be open to the public, and that at least one public hearing shall be held during charter preparation.

SECTION 6. Charter. The charter commission shall prepare and adopt [by majority vote] a proposed charter to be presented to the voters. The charter shall include provision for:

(a) disposition of existing bonded indebtedness and other obligations of the consolidating governments;\(^3\)

(b) selection, organization, authority, and responsibilities of the governing body and the chief executive officer;

(c) transfer of city and county personnel and continuation of salary, benefits, pension rights, and related matters;

(d) transfer or other disposition of property and other rights,\(^4\) claims, assets, obligations, and franchises of the local governments to be consolidated;

(e) procedures for the subsequent inclusion of additional municipalities wishing to become part of the city-county;

(f) where appropriate, establishment of a general services district and local services district, the enlargement of local services districts as provided in Section 7, and the provision of financing for such districts;

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\(^1\)Instead of population, states could use other bases, such as expenditure or tax volume.

\(^2\)However, if the legislature enacts Subsection 4 (b), this responsibility is to be exercised or shared by it.

\(^3\)Provision should be made in those states where debt limitation may apply to authorize totaling of all ceilings or apportioning debt.

\(^4\)Water or riparian rights, for example.
(g) creation of subordinate service and taxing areas as provided in Section 7;¹

(h) procedures for amendment of the charter, which may include provision for periodic establishment of a charter revision commission;

(i) effective date of the charter; and

(j) any other matter deemed necessary by the charter commission.

SECTION 7. Service Districts.

(a) The general services district shall include the whole area of the new government. Any service or function which is now or in the future assigned by state law to county government shall be performed in the general services district when the new government is a city-county or county-county consolidation. The charter may specify additional services to be performed in the general services district.

(b) The local services districts shall consist of;

(1) each city or county area in the consolidation; and

(2) any additional areas specified in the charter. Local services districts within a county may be non-contiguous. The charter shall specify the services in addition to those provided in the general services district, to be provided in the local services districts. These services shall be financed from revenues collected within the local services district or otherwise secured for such services as provided in the charter.

(c) Additional subordinate service areas may be established in accordance with [insert appropriate state statutory citation] in order to furnish services on a less than governmentwide basis. Subordinate service areas may be used;

(1) to perform a limited number of services in territory outside the boundaries of a local services district, provided that service areas shall become part of the local services district upon assuming responsibility for a specified number or type of services as determined by the charter;

(2) to perform other specified services anywhere in the governmental unit; and

(3) to perform any service of a special district included under Section 10 of this title.

Any service provided within a subordinate service area shall be financed from revenues collected within the area.

(d) The charter shall establish a procedure for adding new services to, discontinuing services in, and transferring services between the general services district, local services districts, and subordinate service areas.

[Optional Section.]

¹If there is a separate state statutory authorization for the creation of county subordinate service areas, this provision should be eliminated. See suggested state legislation entitled, County Modernization.
[SECTION 8. Boundary Commission Review. At the same time the charter commission submits its report to the affected local governing bodies, it shall also submit a copy of the report to the [state] [local] government boundary commission for consideration. The boundary commission shall review the proposed consolidation and return its comments and recommendations to the charter commission and to the city and county governing bodies within [45] days after receipt of the report. The charter commission may make any changes it deems desirable, prior to submission of its final report to the city and county governing bodies.]

SECTION 9. Referendum.

(a) Within [one year] after its creation, the charter commission shall submit to the participating local governments its report containing the proposed charter. The report, or a summary thereof, and the complete text of the charter shall be published at municipal and county expense in a newspaper of general circulation within the county or counties at least once during two different calendar weeks within the 30 day period immediately preceding the date of the referendum.

(b) Not less than 30 nor more than 120 days after the filing of the charter commission’s report, the county governing body(s) shall hold a referendum on the question of consolidating the local governments included in the report [as approved by the boundary commission]. [If a majority of those voting in the participating municipalities, taken together, and a majority of those voting in the remainder of the county approved the consolidation.] [If approved by a majority of those voting on the question,] the charter shall take effect as provided in the charter.

(c) When a proposed charter has been approved by the voters, the [county clerk] shall immediately file a certified copy of the charter with the [secretary of state]. The approved charter shall then become the organic act for the consolidated government and shall be a public record open to public inspection and judicially noticeable by all courts.

(d) Authorized provisions of a charter duly adopted by the voters supercede any conflicting ordinances or resolutions.

SECTION 10. Assumption of Functions, Merger, and Supervision of Special Districts.

(a) Any government created under this act may, after [60] days notice, at any time assume all functions, rights, duties, personnel, property, assets, and liabilities of any independent special district operating entirely within the geographical jurisdiction of the government, which special district shall thereupon be dissolved.

(b)(1) Any county or municipality within this state may at any time assume all functions, rights, duties, personnel, property, assets, and liabilities of any independent special district operating entirely within its geographic jurisdiction if it is authorized to exercise such powers itself, and after it has no-

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1This section should be omitted in states which do not have a boundary commission. See ACIR suggested legislation, Local Government Creation, Dissolution, and Boundary Adjustments, Title II.
ified the special districts of its intent to assume responsibility for any or all of the special districts
functions. The government and the special district, upon notification, shall draw up an agreement
providing for the transfer of the functions(s) and any necessary rights, duties, property, assets, and
liabilities. In the event that the county or municipality and the special district shall be unable to con-
clude an agreement within [60] days after the date of notification by the county or municipality,
the [insert appropriate stage agency or boundary commission] shall draw up the terms of the agree-
ment, which shall be binding on the county or municipality and the special district.

(2) If the county or municipality assumes responsibility for all the functions, services, and
duties of a special district, then the special district shall be dissolved, in accordance with the terms of
the above agreement.

(c) Any county or municipality in this state may exercise policy control over any special district
operating entirely within its boundaries by:

(1) reviewing and approving any plans, projects, or policies of the special district;
(2) serving as or appointing the district's governing body; and
(3) reviewing and approving the district's annual operating budget and capital expenditure
program.

(d) When a consolidated city, city-county, or county has been created, no new special district
operating wholly within its boundaries shall be formed unless the governing body of the consolidat-
ed government demonstrates to the [insert boundary commission or other appropriate state agency]
that it is unwilling or unable to perform the proposed service.

(e) The governing body of any special district may, by resolution, merge with any one or more
other special districts which is authorized to perform the same services. The resolution authorizing
such merger shall provide for the manner of transferring personnel without any loss of their rights,
assets, and obligations, and the effective date of such merger and may provide, if passed jointly
by all special districts involved and approved by the counties [and boundary commission(s)] which
have jurisdiction over the territory involved, for the creation of a new special district which shall
assume the functions, duties, and powers of the special districts so subsumed.

SECTION 11. Aid to Study Commissions.

(a) The [insert office of community affairs or local government or other appropriate state agency]
may furnish, upon request, any charter commission or county government study commission created
under this act with information and technical assistance relating to the work of the commission.

(b) The [director of the office of community affairs or local government or other appropriate state
agency] shall reimburse any local government which has participated in a charter commission or a
county government study commission for 1 percent of the total funds provided by the jurisdiction to
the commission.
SECTION 12. Incentive Grants. The [director of the office of community affairs or office of local government or other appropriate state agency] shall make transition grants to a city-county or consolidated county or municipality. Transition grants shall be made annually for a period of [five] years, and shall equal [ ] percent of the combined revenues from real property taxes collected by the consolidated governments or, alternatively, [$ ] for each resident of the consolidated government.

SECTION 13. Appropriations. State appropriations are authorized in the amounts required for this title.

SECTION 14. Continuation of State Financial Assistance. A city-county, or a consolidated county or municipality shall not receive less in state grants-in-aid, general support payments, shared revenues, or tax abatement programs than the total of the amount that would have been received by each government if consolidation had not taken place. In addition, for [five] years following consolidation, the amount of such state financial assistance for the consolidated units shall be computed in two ways:

(a) by determining the amount the consolidated government should receive, and

(b) by combining the amounts each previously independent government would have received.

The city-county or the consolidated county or municipality shall receive whichever amount is greater.

SECTION 15. Separability. [Insert separability clause.]

SECTION 16. Effective Date. [Insert effective date.]
2.2 Organization and Functions
A familiar rule of law with respect to local governmental units is that they may exercise only those powers affirmatively conferred upon them by statute or constitutional provision. Experience has shown that where local governments are not adequately empowered to meet their responsibilities, pressure is exerted upon both the state and Federal governments to assume responsibility themselves for solving local problems and for providing needed governmental services or to establish special districts for those purposes. Under such circumstances, the flow of responsibility to the state or the Federal government, or to special districts, often is detrimental not only to the best interests of our society, but is unnecessary. The effectiveness of local government in particular, and the federal system in general, requires that general purpose local governments (cities and counties), have adequate authority to meet their responsibilities.

Powers granted by state legislatures to local governments usually have been narrowly construed by the courts, preventing the localities from assuming their proper responsibilities. In an attempt to overcome this problem some states have conferred on local governments all powers not denied or limited by state law or constitution.

The following suggested constitutional amendment would grant all functional powers to municipalities and counties, or selected units, that are not otherwise specifically denied in the state constitution or by law. In given functional areas, the legislature could preempt an entire field of activity, or portions thereof, from local government or, at its discretion, prescribe limitations on local activity. The amendment is designed to permit the legislature to determine what functions or portions of functions should be undertaken by the state or by any particular unit of local government. While freeing the bonds of local government, the state should, at the same time, exert greater leadership in resolving problems that are interlocal or that affect many localities in the state.

It should also be noted that while the amendment would permit municipalities, counties, and other selected units of local government to exercise the authority granted by the proposed amendment, such authority should be granted only to units of general local government whose governing bodies are held directly responsible for their actions by the people at election time. Therefore, states should consider carefully what units of general local government should be granted the powers authorized by the amendment.

Suggested Constitutional Amendment

[A CONSTITUTIONAL AMENDMENT TO PROVIDE RESIDUAL POWERS TO SPECIFIED UNITS OF LOCAL GOVERNMENT]

(Be it enacted, etc.)

(a) [Municipalities and counties] shall have all powers and functions not expressly denied by this constitution, state law [or charter].

(b) If a home rule county ordinance conflicts with an ordinance of a municipality, the [municipal] [county] ordinance shall prevail within its jurisdiction.

(c) Home rule units may exercise and perform concurrently with the state any power or function of a home rule unit to the extent that the [general assembly] by law does not specifically limit the concurrent exercise or specifically declare the state’s exercise to be exclusive.

(d) Powers and functions of home rule units shall be construed liberally.

Based on the 1970 Illinois Constitution.
The city charter provides a framework for the powers of local government and has a fundamental influence on the way in which they are exercised. It can serve to facilitate the provision of services and provide a government responsive to the needs of its residents or it can become an impediment, limiting the value and responsiveness of local government.

As the nation becomes increasingly urbanized, flexibility in framing charters is desirable to allow localities to meet changing conditions and demands placed upon them. In its study of local government organization and structure, *State Constitutional and Statutory Restrictions Upon the Structural, Functional, and Personnel Powers of Local Government*, the Advisory Commission on Intergovernmental Relations concluded that if local government is to be made more effective and responsive and if further unnecessary centralization at higher levels is to be avoided, local citizens, within general guidelines and subject to certain necessary limitations particularly in the case of metropolitan areas, must be enabled to select the form of government judged by them to be most appropriate for their particular circumstances. The Commission recommended that optional forms of municipal government be made available. The Commission concluded that a strong executive form of local government should be encouraged and that all classes of municipalities should be empowered to appoint all city officers other than council members and the mayor (if a mayor is provided for). These objectives are reflected in the model legislation. Determinations regarding selection, appointment, terms, and salaries of all officers and employees, except for the governing body, are left to the discretion of the municipality. In some states, of course, where provisions for a number of local offices are already imbedded in the constitution, amendments to remove them from the constitution would be necessary before the full effect of the provisions in the model would be achieved. In a few states, constitutional change may be required to authorize use of optional forms.

The range of choice available in framing local charters currently varies considerably from state-to-state and among types of municipalities within a given state. Over two-thirds of the states have some provision for classification of municipalities by size and for the provision of varying choices of organizational structure depending on the classification. A few states grant virtually all charters by special act of the legislature. In another group of states, all municipalities within a given class must be organized on a similar basis, sometimes with a limited number of options regarding size of council, types of election, and the area from which councilmen will be elected.

In the so-called “optional charter” states, municipalities are given a wider range of choices of charters from among which to choose. The range of choices regarding council size, powers, method of election, and relationship to the executive is too great to address specifically, but a brief summary of the principal issues involved may be helpful.

First, the size, duties, and method of election of a council are often associated with the type of executive provided for in the charter. An appointed executive (e.g., city or county manager) is typically combined with a small (five to 11 member) non-partisan council elected at-large rather than from districts. A variance is for the council to stand for office from residential districts, but be voted on at-large. Such a council is usually charged with policy making only, and not with administrative duties. Council positions are usually considered part-time and compensation is either non-existent or modest.

An elected executive (e.g., mayor or county executive) is typically associated with a larger council elected on a partisan ballot from single member districts. A common variance is to elect some members of the council from single member districts, and some at-large. In the case of a “strong” elected executive, using the term to indicate the degree of administrative control enjoyed by the elected executive, the council is largely

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2 In providing for optional forms, the thrust of “home rule” for local government becomes highlighted. See draft amendment for *Home Rule Powers of Local Governments*. 57
a policymaker. In the case of a "weak" elected executive, the council may be involved in administrative as well as legislative duties, often through a variety of boards and commissions. In larger jurisdictions, the council is apt to be considered full time, and be compensated accordingly. It should be stressed that the above generalizes a range of practices that vary almost endlessly.

Finally, over half of the states have constitutional or statutory provisions empowering localities to frame their own charters within broad procedural and substantive guidelines.

In the suggested state legislation presented here, Section 1 states the purposes and findings of the act. Section 2 provides definitions of terms used.

Section 3 authorizes municipalities to adopt one of two optional forms of municipal government, the council-manager form or the council-elected executive form.

Section 4 deals with the council-manager form of government and includes an enumeration of the manager's powers and duties. Section 5 deals with the council-elected executive form of government and includes an enumeration of the executive's powers and responsibilities.

Section 6 authorizes municipalities adopting an optional form of government to abolish or make appointive any municipal office established by statute.

Section 7 requires the creation of a municipal government study commission should a municipality elect to establish an optional form of municipal government, and provides for its membership, funding, and responsibilities.

Section 8 mandates the submission of the study commission's report, containing its findings and proposed plan of municipal government, to the voters for a referendum on the question of adoption of the recommended plan.

Sections 9 and 10 provide for abandonment of an optional form and state aid for study commissions, respectively, while Sections 11 and 12 provide for separability and effective date clauses, respectively.
Suggested Legislation

[AN ACT TO PROVIDE OPTIONAL FORMS FOR THE GOVERNMENT OF MUNICIPALITIES AND PROCEDURES FOR THE ADOPTION OF SUCH FORMS]

(Be it enacted, etc.)

SECTION 1. Findings and Purposes.

(a) The [legislature] finds and declares that:

(a) the present structure of municipal government does not meet the needs of every municipality in the state;

(2) municipal government can be made more responsive to the wishes of the people by allowing structural changes;

(3) greater economy, efficiency, and effectiveness in providing governmental services can be achieved by permitting the modernization of municipal government; and

(4) certain municipalities in metropolitan areas have problems which require the skills of a full-time administrator.

(b) It is the purpose of this act to authorize optional forms of municipal government so that the citizens of each municipality may select the form which best serves their needs and desires.

SECTION 2. Definitions. As used in this act, "administrative code" means the document approved by the city council which sets forth the duties, rules, regulations, and systems of management of the various offices, departments, and agencies of the municipality.

SECTION 3. Optional Forms of Municipal Government.

(a) Any municipality may adopt one of the optional forms of government provided in this act. Until adoption, each municipality shall operate under the form of government in existence on the effective date of this act. Any of the options provided below may be adopted by a municipality by following the procedures in this act.

(b) Optional forms of municipal government shall be the council-manager form and the council-elected executive form.

(c) An area not heretofore incorporated may adopt any of the optional forms as provided in this act by requesting, upon petition of [percent] percent of the voters residing in the proposed area, the county governing body or the [legislature] to create a charter commission under Section 7. Upon creation of the commission, the county governing body or the [legislature], however the case may be, shall pro-

vide support and shall place the proposed charter to referendum as provided in Section 8.

SECTION 4. Council-Manager Form.¹

(a) Each municipality adopting the council-manager form of government shall have a city council, or council, which shall be the governing body of the municipality. The city council shall exercise all powers provided by laws and constitutional provisions applicable to municipalities, except where provided otherwise by law.

(b) The council-manager form of government shall be that form in which the chief administrative officer is known as the city manager. The manager shall be appointed for an indefinite period by the city council solely on the basis of training, experience, and administrative qualifications, and need not be a resident of the city at the time of his appointment. The manager may be removed by the city council at any time, provided, however, that after he has served in his position for one year he may demand written charges and a public hearing on the charges before the city council prior to the effective date of his removal. Pending the hearing and removal, the city council may suspend him from office. The city council may designate a properly qualified person to perform the duties of the manager during his absence or disability. The city council shall set the salary of the manager and may provide for a termination allowance.

(c) The manager shall be appointed by the city council as soon as practicable after the adoption of the council-manager plan.

(d) The city manager shall be the administrative head of the municipality and shall have all the powers and perform all the duties of an administrative nature vested in, or assigned to, the city council by law or by agreement with any municipality or other subdivision of the state and such additional powers as may be granted by the council. The manager shall be responsible for the proper administration of the affairs of the municipality placed in his charge. In addition, the city manager shall:

   (1) provide for the execution of all ordinances and resolutions of the city council, execute all contracts entered into by the city council, and provide for the execution of all laws of the state subject to enforcement by him or by officers who are under his direction and supervision;

   (2) prepare and submit to the city council for approval an administrative code incorporating the details of administrative procedure for the operation of the municipality and review such code and suggest revisions periodically or as requested by the council;

   (3) furnish the city council with information concerning the operations of municipal departments, boards, or commissions, necessary for the council to exercise its powers, or as requested by the council;

   (4) prepare and submit to the city council an annual budget and a long range capital improvement [and expenditure] program, along with a financial plan for raising revenue, covering a

¹Certain states may prefer to use the term administrator in place of manager.
period of not less than the [five] ensuing years, and administer the provisions of the budget adopted
by the city council;

(5) keep the city council fully advised as to the financial condition and needs of the munici-
pality and make such other reports from time-to-time as required by the council or as he deems
necessary;

(6) attend all meetings of the city council, take part in discussions, but not vote, and recom-
mend measures for adoption;

(7) appoint qualified administrative personnel to assist in the performance of his duties, and
suspend and remove such personnel; and

(8) exercise, as determined in the optional plan, the authority of the city council to appoint,
supervise, suspend, and remove municipal personnel whose appointments, suspension, supervision,
or removal were a function of the city council under general law; make nominations and appoint-
ments to additional offices as the city council may determine; and make appointments to advisory
boards and committees in administrative areas as the city manager may create.

(e) A municipality adopting the council-manager form shall provide for a chairman of the city
council [mayor] elected by the council from among its members. The chairman shall have all the powers
and duties of a member of the council, and shall serve as city spokesman on policy matters and serve
as ceremonial head.

(f) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to
influence or coerce the city manager in the appointment or removal of any officer or employee, or in
the purchase of supplies, or attempt to exact any promise relative to any appointment from a can-
didate for the manager position. Any city council member who violates this subsection shall forfeit
his office, in accordance with [insert state statutory citation for removal of elected officials]. Nothing in
this subsection, however, shall be construed as prohibiting the council while in open session from
fully and freely discussing with, or suggesting to, the manager anything pertaining to municipal af-
fairs or the interests of the municipality.

SECTION 5. Council-Elected Executive Form.

(a) Each municipality adopting the council-elected executive form of government shall have a
city council, or council, which shall be the legislative body of the municipality. The city council shall
exercise all powers provided by laws and constitutional provisions applicable to municipalities, ex-
cept where provided otherwise by law.

(b) The council-elected executive form of government shall be that form in which the chief exec-
utive officer is known as the mayor. The first mayor shall be elected at the municipal general election
following the adoption of the council-elected executive form. He shall hold office for a term of [four]
years commencing [insert appropriate date or time limit]. Only an elector of the municipality shall be
eligible for election as mayor. He shall be nominated and elected by the qualified voters of the munici-

pality in the manner provided by law for the election of municipal officers. In case the office of

mayor becomes vacant by reason of death, resignation, or removal, the city council shall appoint a

successor for the unexpired term.

(c) The salary of the mayor shall be set by the city council, but may not be reduced during his
term except as part of a general salary reduction.

(d) The mayor shall be the chief executive of the municipality and shall have all the powers and
perform all the duties of an executive and administrative nature vested in or imposed upon the mu-
nicipality or its council by law or by agreement with any municipality or other subdivision of govern-
ment and such additional powers as are granted by the council. The mayor shall be responsible for the
proper administration of the affairs of the municipality placed in his charge. His responsibilities
shall include, but are not limited to, the following:

(1) provide for the execution of all ordinances and resolutions of the city council, execute
all contracts entered into by the city council, and provide for the execution of all laws of the state sub-
ject to enforcement by him or by officers who are under his direction and supervision;

(2) prepare and submit to the city council for approval an administrative code incorporating
the details of administrative procedure for the operation of the municipality and review such code
and suggest revisions periodically or at the request of the council;

(3) furnish the city council with information concerning the operations of municipal depart-
ments, boards, or commissions, necessary for the council to exercise its powers or as requested by the
council;

(4) prepare and submit to the city council an annual budget and a long range capital im-
provement [and expenditure] program, along with a financial plan for raising revenue, covering a
period of not less than the [five] ensuing years, and administer the provisions of the budget when
adopted by the city council;

(5) keep the city council fully advised as to the financial condition and needs of the munici-
pality and make such other reports from time-to-time as required by the council or as he deems
necessary;

(6) attend, at his discretion, meetings of the city council, take part in the discussions, and
recommend measures for adoption;

(7) appoint an administrative officer, qualified by education and experience, who shall be re-
sponsible for the orderly and efficient operation and coordination of the various departments,
boards, and commissions of the municipal government, appoint other qualified staff to assist the
mayor in the performance of his duties, and suspend and remove such personnel for cause; and

(8) exercise, as determined in the optional plan, the authority of the city council to appoint,
supervise, suspend, and remove municipal personnel whose appointment, supervision, suspension, or removal was a function of the city council under general law; make such nominations and appointments to additional offices as the city council may determine; and make appointments to such advisory boards and committees as the mayor, charter, law, or ordinance may create.

(e) The mayor may veto any ordinance or resolution adopted by the city council. A veto by the mayor may apply to all items or to any specific items of an ordinance or resolution appropriating money. Certification of a veto must be made by the mayor within ten days of the passage of the ordinance or resolution by the city council. The city council may override the veto by two-thirds vote of all its members. An ordinance or resolution shall become effective upon approval by the mayor, the expiration of ten days after adoption without approval or veto, or the overriding of a veto.

(f) The mayor may create, abolish, or combine any municipal department or agency or transfer a function from one department or agency to another, provided that he shall first submit plans for such reorganization to the city council. If not disapproved within 60 days, the plans shall become effective.

SECTION 6. Elective Officers Made Optional.1 No state law shall be construed as preventing any municipality from adopting an optional form of government from abolishing or making appointive any municipal office established by statute, except an elected chief executive or member of the [city council].


(a) Any municipality wishing to establish an optional form of government shall create a municipal government study commission. The commission shall be formed by a resolution of the city council or by a petition signed by at least [ ] percent of the number of voters within the municipality casting ballots at the immediately preceding gubernatorial election. The petition shall be filed with the [city clerk], who shall certify it in the same manner as petitions nominating candidates for the city council.

(b) A municipal government study commission may also be formed by [joint] resolution of the [legislature], provided that the [legislature] appropriates funds adequate to support the work of the commission.

(c) Members of the commission shall be appointed within 30 days by the city council and shall represent a broad cross section of the citizens of the municipality.2 The council shall fill any vacancies in the commission membership. Members shall serve without pay, but shall be reimbursed for travel and other reasonable expenses for meetings, hearings, and other official business.

(d) The city council shall appropriate funds adequate to support the operation of the commis-

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1See suggested constitutional amendment, County Officers Placed on a Statutory Basis.
2In municipalities having the council-mayor form, the mayor should make nominations to the city council for appointment to the commission.
sion as well as the printing and publication of its report. Within the limitation of such appropria-
tions and any privately contributed funds and services, the commission may appoint and fix the rate
of compensation for consultants and clerical and other personnel.

(e) The commission shall adopt rules for its organization and procedure, provided that all meet-
ings shall be open to the public and that at least one public hearing shall be held prior to the com-
mission's final report.

(f) The commission shall study the existing structure of municipal government and procedures
for the delivery of local governmental services within the municipality, and compare them with the
other forms authorized by this act. If it determines that establishment of one of the forms would
make the administration of municipal government more efficient and effective or more responsive
and accountable to the people, it shall draw up a detailed plan of municipal government embodying
that form. The plan shall establish procedures for the election or appointment of new officers; provide
for any necessary transfer of powers, records, documents, properties, assets, funds, and liabilities, re-
sulting from the changes in municipal structure; set procedures for the amendment of the plan; and,
where necessary, provide the continuity of existing offices or their change from elective to appointive
status, and the making of interim and temporary appointments.

SECTION 8. Referendum.

(a) Within [one] year after its initial meeting, the commission shall submit to the city council a re-
port containing its findings and the plan of municipal government, if any, to be presented to the vot-
ers. The commission shall be discharged [upon the filing of its final report] [on the day after its final
report is voted on pursuant to a referendum under this section].

(b) A referendum on the question of whether to adopt the plan of municipal government shall
be held not less than 30 days nor more than 90 days after the plan is submitted to the city council.
The complete text of the proposed optional plan and final report of the commission, or summary
thereof, shall be published at municipal expense in a newspaper of general circulation within the
municipality at least once during two different calendar weeks, within the 30 day period immediately
preceding the date of the referendum. If a majority of those voting approve the plan, then the optional
form of government shall be instituted in accordance with the terms of the plan.

(c) When a proposed optional plan has been approved by the voters, the [city clerk] shall im-
mediately file a certified copy of the plan with the [secretary of state]. The approved plan shall then be-
come the organic act for the government of the municipality and shall be a public record open to pub-
lic inspection and judicially noticeable by all courts.

(d) Authorized provisions of an optional plan of municipal government duly adopted by the
voters supersede any conflicting ordinances or resolutions.

SECTION 9. Abandonment of an Optional Form. Any municipality may abandon an optional
form by approving, pursuant to Section 7 and Section 8, an alternate form provided in this act or
in [insert state statutory citation for any other forms of municipal government]. No form may be aban-
donned until [six] years have elapsed after the date of the referendum at which the plan was adopted.

[Optional Section.]

SECTION 10. State Assistance and Grants.¹

(a) The [insert office of community affairs or local government or other appropriate state agen-
cy] may furnish, upon request, any municipal government study commission created under this act
with information and technical assistance relating to the work of the commission.

(b) The [director of the office of community affairs or local government or other appropriate state
agency] shall reimburse any local government, which has participated in a municipal government
study commission, [ ] percent of the total funds provided by the jurisdiction to the commission.

(c) The [director of the office of community affairs or office of local government or other ap-
propriate state agency] shall reimburse any municipality, which has held a referendum as required in
Section 8, [ ] percent of the total funds spent by such municipality for holding the referendum and
notice thereof.

(d) State appropriations are authorized in the amounts required for this section.

SECTION 11. Separability. [Insert separability clause.]

SECTION 12. Effective Date. [Insert effective date.]

¹ACIR has taken no specific position on such assistance, but this optional section is consistent with other recommendations of the
Commission concerning state responsibility for local government modernization.
2.203 COUNTY MODERNIZATION

The variation in social and economic conditions and local traditions across the nation argue against any suggestion of a single ideal structure of local government. In many states, counties are providing several basic services of general local government, such as fire and police protection and water and sewer facilities. Yet, counties are hampered in their service delivery efforts by a lack of statutory authorization for services and a modern governmental structure with administrative (executive) leadership.

In 1973, counties in 13 states (outside of New England) were still unable to make a change from the commission (or plural executive) form of government. While 31 states allow some variety, seven provide only one alternative structure and 13 require a county charter for any modification of governmental form.

The streamlining of county government is also impeded by the number of elective officers mandated by many state constitutions. "Constitutionally protected" officers — such as the sheriff, county clerk, treasurer, auditor, coroner, attorney, assessor, and county judicial officials — present the voter with an overly long ballot, i.e., too many candidates for too many offices, to judge knowledgeably. With authority for formulating and implementing county policy and programs spread among a number of independently elected officers, it is difficult for the public to pinpoint responsibility for county action or inaction. In addition, many of these officials are virtually immune from direction by the county chief administrative officer.

Placing all county officers other than members of the governing body on a statutory rather than constitutional basis is a major way of streamlining county structure and enhancing operational flexibility. With proper state enabling action, each county would be able to ascertain officials who should be retained and the mode of selection that should be used for various positions, thus giving more substance to the home rule doctrine. Other county modernization efforts also would be enhanced by this action. For example, replacing a commission form with a council-elected executive or administrator structure would not greatly increase centralized and coordinated decision making, if a large number of independent elected officials with control over various departments were constitutionally exempted.

In previous years, the Advisory Commission on Intergovernmental Relations has recommended state constitutional and statutory action to permit cooperation among local jurisdictions. Title III of the suggested legislation provided here goes one step further by authorizing two or more adjacent counties to consolidate functionally similar county offices either elected or appointed. Consolidation of offices would be especially appropriate when complete merger of the counties is not politically or fiscally feasible.

One basic purpose of local government is to supply its citizens with the services they need to conduct their lives and businesses in peace, health, and safety. All too often, however, county government has not fulfilled this need. Many counties provide only a few mandated functions such as highways, welfare, and courts. Frequently these are available only to residents of unincorporated territory. But today's citizens, in urban and rural areas, are demanding more services from their counties.

While libraries, parks, recreation, fire protection, and solid waste disposal are occupying a larger role in some county budgets, a majority are still not involved significantly in these and other municipal type services. This situation is due partly to the lack of statutory authority to perform urban and regional functions, and partly to reluctance on the part of some counties to take on additional responsibilities. State authorization of county performance of urban functions would remove one major obstacle, and would place the decision squarely on the counties' shoulders.

In order to minimize the need for special districts, counties should be authorized to create subordinate service areas in order to provide and finance one or more governmental services with a portion of the county. Where counties do not possess authority to create such areas there are only three alternatives available: the service can be financed from general county revenues which are derived from all residents of the county; the area desiring the service can create a special district; or the residents can do without the ser-

vice. The first alternative may be inequitable as well as politically unacceptable and the third alternative incompatible with the public interest — thus the demand for special districts. In some states, there may be constitutional barriers to financing subordinate service areas which would have to be removed before this device could be used.

In order to fulfill ACIR recommendations concerning the modernization of county government, two suggested constitutional amendments and an omnibus *County Modernization Act* are presented here.
2.203.1 COUNTY OFFICERS PLACED ON STATUTORY BASIS

This model constitutional amendment is intended to replace that section of the state constitution which lists elective county officers, and is based on a recommendation calling upon state legislatures to place county officers on a statutory rather than a constitutional basis in Substate Regionalism and the Federal System, Volume III.

Suggested Constitutional Amendment

[COUNTY OFFICERS PLACED ON A STATUTORY BASIS]

1. The governing body of each county shall be the county council1 [and chief executive] elected by the qualified voters of the county. The [legislature] may establish additional county offices, provide a method of selection for such officers, and authorize counties to consolidate or abolish offices.

1Different terms for the county governing body may be used in various states, such as “board of chosen freeholders,” “board of county legislators,” “commissioners' court,” “board of supervisors,” and “board of county commissioners.”
2.203.2 COUNTY MODERNIZATION ACT

The following suggested state legislation, coupled with the two suggested constitutional amendments herein — concerning appointment of county officers and differential property tax rates in subordinate service areas — and with the separately suggested constitutional amendment on Home Rule Powers of Local Government, provides a strong basis for implementation of a modernized county government. The four main titles of the act provide in specific areas the powers necessary for the citizens of a county, as well as the county officials, to establish a responsive and modernized county government.

Title I provides for the legislative findings and purposes of the act, and the definitions to be used throughout the act.

Title II provides for two alternatives to the traditional commission form of county government — the council-manager (or administrator) form, and the council-elected executive form. In the process of establishing one of these forms a county may also provide for the appointment rather than election of non-constitutional county officers. If the state also grants residual local government home rule powers to counties, the optional plan called for in the model legislation would enable the county to become a general purpose municipal type government.

While it is desirable for most counties to be able to choose the structure best suited to their conditions and to have the option of retaining or returning to the commission form, counties which comprise the predominant portion of a metropolitan area are in a unique position to undertake regional and urban problem solving. Since the local governance system in such an area is likely to be highly fragmented, the county needs the strong leadership, accountability, and professionalism embodied in a full-time executive officer. The state interest in providing for such leadership outweighs the county interest in retaining the commission form. Therefore, the model bill requires that each county, at least 60 percent urban, in a metropolitan area adopt either the council-manager or council-elected executive form.

Authorization of optional forms of county government was urged by the Advisory Commission on Intergovernmental Relations in State Constitutional and Statutory Restrictions Upon the Structural, Functional, and Personnel Power of Local Government and a mandatory executive officer was proposed in Substate Regionalism and the Federal System, Volume II. This title draws upon Minnesota's Optional Forms of County Government Act (Laws 1973, Chapter 542) and Utah's Optional Plans for County Government (1971, S.B. No. 92).

Section 1 authorizes counties to adopt one of two optional forms of county government, the council-manager form or the council-elected executive form.

Section 2 deals with the council-manager form of government and includes an enumeration of the manager's powers and duties. Section 3 deals with the council-elected executive form of government and includes an enumeration of the executive's powers and responsibilities.

Section 4 authorizes counties adopting an optional form of government to abolish or make appointive any county office established by statute, except an elected chief executive or members of the county governing (legislative) body.

Section 5 requires the creation of a county government study commission if a county should elect to establish an optional form of county government, and provides for its membership, funding, and responsibilities.

Section 6 mandates the submission of the study commission's report, containing its findings and proposed plan of county government, to the voters for a referendum on the question of adoption of the recommended plan.

Section 7 requires all urban counties, as defined by the United States Office of Management and Budget, to adopt one of the two optional forms of government authorized by this title.

Section 8 provides for the abandonment of an optional form of government, provided that an alternate

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1See the Advisory Commission on Intergovernmental Relations' suggested constitutional amendments, County Officers Placed on a Statutory Basis and Home Rule Powers of Local Governments.
form is approved in its place and that certain time constraints have been met.

Section 9 provides for state grants, as well as assistance, for studies and referendums conduct

Title III provides for the consolidation of county offices. Montana and Nebraska were the only states
to allow consolidation of elective county offices, between or among counties, as of 1973. This bill is based
partially upon the Nebraska statute (R.S.N. 22-408). The bracketed language requiring a referendum on
the consolidation may be included or deleted according to conditions in a particular state.

Section 1 of this title authorizes two or more adjoining counties to consolidate functionally similar
county offices.

Section 2 sets out the means by which such consolidation may be initiated and what the agreement
shall specify.

Section 3 (optional) requires that the consolidation question be submitted to the voters.

Section 4 provides that, where necessary, the consolidation agreement establish the procedures for ap-
pointment to the consolidated offices, and, in the case of elections required by such agreement, provides
for election procedures.

Section 5 mandates the same duties and responsibilities for an officer of a consolidated office as speci-
fied by law for the same office in a single county.

Title IV provides two alternative methods in which a state may authorize its counties to perform any
specified urban service in its unincorporated areas upon passage of a county ordinance. The county may
also provide urban services to incorporated municipalities under the following circumstances: (1) the
particular urban service is being performed by a countywide special district; (2) a municipality requests
the county to provide the service; or (3) the citizens vote to have the county supply the service. These
conditions are designed to strike a balance between the interests of the municipalities, the need for a
provider of areawide services, and the preferences of the citizenry. They give maximum flexibility to general
local governmental units to devise solutions to service delivery problems.

Alternative 1 provides two sections which authorize county provision of one or more urban services
in the unincorporated areas of the county, in any municipality of the county, in both incorporated and
unincorporated areas of the county where a special district is currently providing the service(s), or through-
out the entire county (Section 1) and mandates the establishment of measurable standards which set forth
the level, quality, scope, cost apportionment, and other factors related to the performance of the service
(Section 2).

Alternative 2, which is adapted from Florida legislation granting "home rule" powers to non-charter
counties,1 provides greater detail in Section 1 which authorizes counties to provide certain enumerated urb-
an services and to work with the municipalities located in its area. Section 2 authorizes any county acting
under authority of this title to assume, own, posses, and control assets, rights, and liabilities of certain
special districts when related to the services the counties assume pursuant to the authority to provide
contained in Section 1.

Title V is designed to authorize counties to establish subordinate service areas in order to provide any
governmental service or additions to existing countywide services in such areas which the county is other-
wise authorized by law to provide.

Section 1 permits the county governing body to set taxes within such areas of a different level than the
overall county tax rate in order that only those receiving a particular service pay for it.

Sections 2 through 7 provide the mechanisms for creating such service areas, including initiation by
petition of citizens and affected municipalities. A constitutional amendment may be necessary in some
states to permit use of this device; suggested amendment language is included following this act.

Title VI provides for separability and effective date clauses.

1Chapter 125, Florida Statutes.

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Suggested Legislation

[AN ACT TO PROVIDE FOR THE MODERNIZED GOVERNMENT OF COUNTIES; PROVIDING OPTIONAL FORMS OF GOVERNMENT, CONSOLIDATION OF COUNTY OFFICERS, AUTHORITY TO PERFORM FULL GOVERNMENTAL SERVICES IN BOTH UNINCORPORATED AND MUNICIPAL AREAS, AND AUTHORITY TO ESTABLISH SUBORDINATE SERVICE AREAS]

(Be it enacted, etc.)

Title I

FINDINGS, PURPOSE, AND DEFINITIONS

SECTION 1. Findings and Purposes.
(a) The legislature finds and declares that:

(1) the present structure of county government does not meet the needs of every county in the state;

(2) county government can be made more responsive to the wishes of the people by allowing structural changes;

(3) greater economy, efficiency, and effectiveness in providing governmental services can be achieved by permitting the modernization of county government;

(4) many counties in both metropolitan and non-metropolitan areas have problems which require the skills of a full-time administrator;

(5) present statutory restrictions on counties prevent certain vital services from being provided to unincorporated areas; and

(6) the inability of counties to perform such services within municipal boundaries prevents a county and its constituent municipalities from reassigned functional responsibilities among themselves and often results in municipal residents paying for services they do not receive.
(b) It is the purpose of this act to provide various means by which counties as units of general local government can effectively provide and finance various governmental services for their residents. The act is designed to provide citizens, and county officials, full opportunity to select the form of government, and services therefrom, which best serves their needs and desires.
(c) It is the further purpose of this act to authorize county performance of necessary urban services in unincorporated areas, to establish conditions and procedures for county performance of urban services within municipal boundaries, and to insure that municipal residents do not finance county services from which they do not benefit.

[Suggested short title, County Modernization Act of 19\( \text{1} \) ]
SECTION 2. Definitions. As used in this act:

(a) "Administrative code" means the document approved by the [county council] which sets forth the duties, rules, regulations, and systems of management of the various offices, departments, and agencies of the county.

(b) "Municipality" means any incorporated city, town, or village.

(c) "Region" means the geographic area within each set of boundaries established pursuant to [insert state statutory or executive order citation delineating substate districts].

(d) "Special district" means a local unit of special government created pursuant to general or special law for the purpose of performing specialized functions within limited boundaries.

(e) "Subordinate service area" means an area within a county in which one or more governmental services or additions to countywide services are provided by the county and financed from revenues secured from within that area.

(f) "Urban service" or "service" means any of the following: animal control, code enforcement, fire protection, industrial development, manpower, parking facilities, parks and recreation, planning, police protection, public housing, refuse collection, sewer construction, subdivision control, urban renewal, water supply, and zoning.1

Title II

OPTIONAL FORMS OF COUNTY GOVERNMENT

SECTION 1. Optional Forms Authorized.

(a) Any county may adopt one of the optional forms of government provided in this act. Until adoption, each county shall operate under the form of government in existence on the effective date of this act. Any of the options provided below may be adopted or abandoned by a county by following the procedures in this act, except that one of them must be adopted within any urban county in accordance with Section 7 of this title.

(b) Optional forms of county government shall be the council-manager form and the council-elected executive form.

SECTION 2. Council-Manager Form.3

(a) Each county adopting the council-manager form of government shall have a county council, or council, which shall be the governing body of the county. The county council shall exercise all pow-

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1The term "county council" is used throughout this bill to refer to the governing body of the county. Different terms may be used in the various states, such as "board of chosen freeholders," "board of county legislators," "commissioners’ court," "board of supervisors," and "board of county commissioners."

2Individual states may wish to add to, or delete from, this list of urban services to better reflect the conditions in the state.

3Certain states may prefer to use the term administrator in place of manager.
ers provided by laws and constitutional provisions applicable to counties, except where provided
otherwise by law.

(b) The council-manager form of government shall be that form in which the chief administra-
tive officer is known as the county manager. The manager shall be appointed for an indefinite period
by the county council solely on the basis of training, experience, and administrative qualifications,
and need not be a resident of the county at the time of his appointment. The manager may be re-
moved by the county council at any time; provided, however, that after he has served in his position
for one year, he may demand written charges and a public hearing on the charges before the county
council prior to the effective date of his removal. Pending the hearing and removal, the county coun-
cil may suspend him from office. The county council may designate a properly qualified person to
perform the duties of the manager during his absence or disability. The county council shall set the
salary of the manager and may provide for a termination allowance.

(c) The manager shall be appointed by the county council as soon as practicable after the adopt-
ion of the council-manager plan.

(d) The county manager shall be the administrative head of the county and shall have all the
powers and perform all the duties of an administrative nature vested in, or assigned, to the county
council by law or by agreement with any municipality or other subdivision of the state and such ad-
ditional powers as may be granted by the council. The manager shall be responsible for the proper
administration of the affairs of the county placed in his charge. In addition, the county manager shall:

(1) provide for the execution of all ordinances and resolutions of the county council, execute
all contracts entered into by the county council, and provide for the execution of all laws of the
state subject to enforcement by him or by officers who are under his direction and supervision;

(2) prepare and submit to the county council for approval an administrative code incorpor-
ating the details of administrative procedure for the operation of the county and review such code
and suggest revisions periodically or as requested by the council;

(3) furnish the county council with information concerning the operations of county depart-
ments, boards, or commissions, necessary for the council to exercise its powers, or as requested by the
council;

(4) prepare and submit to the county council an annual budget and a long range capital im-
provement [and expenditure] program, along with a financial plan for raising revenue, covering a
period of not less than the [five] ensuing years, and administer the provisions of the budget adopted
by the county council;

(5) keep the county council fully advised as to the financial condition and needs of the
county and make such other reports from time-to-time as required by the council or as he deems neces-
nary;
(6) attend all meetings of the county council, take part in discussions, but not vote, and recommend measures for adoption;

(7) appoint qualified administrative personnel to assist in the performance of his duties, and suspend and remove such personnel; and

(8) exercise, as determined in the optional plan, the authority of the county council to appoint, supervise, suspend, and remove county personnel whose appointment, suspension, supervision, or removal were a function of the county council under general law; make nominations and appointments to additional offices as the county council may determine; and make appointments to advisory boards and committees in administrative areas as the county manager may create.

(e) A county adopting the council-manager form shall provide for a chairman of the county council elected by the council from among its members. The chairman shall have all the powers and duties of a member of the council, and shall serve as county spokesman on policy matters and serve as ceremonial head.

(f) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the county manager in the appointment or removal of any officer or employee, or in the purchase of supplies, or attempt to exact any promise relative to any appointment from a candidate for the manager position. Any county council member who violates this subsection shall forfeit his office, in accordance with [insert state statutory citation for removal of elected officials]. Nothing in this subsection, however, shall be construed as prohibiting the council while in open session from fully and freely discussing with, or suggesting to, the manager anything pertaining to county affairs or the interests of the county.

SECTION 3. Council-Elected Executive Form.

(a) Each county adopting the council-elected executive form of government shall have a county council, or council, which shall be the legislative body of the county. The county council shall exercise all powers provided by laws and constitutional provisions applicable to counties, except where provided otherwise by law.

(b) The council-elected executive form of government shall be that form in which the chief executive officer is known as the county executive. The first county executive shall be elected at the county general election following the adoption of the council-elected executive form. He shall hold office for a term of [four] years commencing [insert appropriate date or time limit]. Only an elector of the county shall be eligible for election as county executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the county council for the unexpired term.

(c) The salary of the county executive shall be set by the county council, but may not be reduced
during his term except as part of a general salary reduction.

(d) The county executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its council by law or by agreement with any municipality or other subdivision of government and such additional powers as are granted by the council. The county executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

1. provide for the execution of all ordinances and resolutions of the county council, execute all contracts entered into by the county council, and provide for the execution of all laws of the state subject to enforcement by him or by officers who are under his direction and supervision;

2. prepare and submit to the county council for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the council;

3. furnish the county council with information concerning the operations of county departments, boards, or commissions, necessary for the council to exercise its powers or as requested by the council;

4. prepare and submit to the county council an annual budget and a long range capital improvement [and expenditure] program, along with a financial plan for raising revenue, covering a period of not less than the [five] ensuing years, and administer the provisions of the budget when adopted by the county council;

5. keep the county council fully advised as to the financial condition and needs of the county and make such other reports from time-to-time as required by the council or as he deems necessary;

6. attend, at his discretion, meetings of the county council, take part in the discussions, and recommend measures for adoption;

7. appoint an administrative officer, qualified by education and experience, who shall be responsible for the orderly and efficient operation and coordination of the various departments, boards, and commissions of the county government, appoint other qualified staff to assist the executive in the performance of his duties, and suspend and remove such personnel for cause; and

8. exercise, as determined in the optional plan, the authority of the county council to appoint, supervise, suspend, and remove county personnel whose appointment, supervision, suspension, or removal was a function of the county council under general law; make such nominations and appointments to additional offices as the county council may determine; and make appointments to such advisory boards and committees as the county executive, charter, law, or ordinance may create.

(e) The county executive may veto any ordinance or resolution adopted by the county council. A veto by the executive may apply to all items or to any specific item; of an ordinance or resolution
appropriating money. Certification of a veto must be made by the executive within ten days of the passage of the ordinance or resolution by the county council. The county council may override the veto by two-thirds vote of all its members. An ordinance or resolution shall become effective upon approval by the county executive, the expiration of ten days after adoption without approval or veto or the overriding of a veto.

(f) The county executive may create, abolish, or combine any county department or agency or transfer a function from one department or agency to another, provided that he shall first submit plans for such reorganization to the county council. If not disapproved within 60 days, the plans shall become effective.

SECTION 4. Elected Officers Made Optional.¹ No state law shall be construed as preventing any county from adopting an optional form of government from abolishing or making appointive any county office established by statute, except an elected chief executive or members of the [county governing body].

SECTION 5. [County Government Study Commission].

(a) Any county wishing to, or required to, establish an optional form of government shall create a [county government study commission]. The [commission] shall be formed by a resolution of the county council or by a petition signed by at least [ ] percent of the number of voters within the county casting ballots at the immediately preceding gubernatorial election. The petition shall be filed with the [county clerk], who shall certify it in the manner as petitions nominating candidates for the county council.

(b) A [county government study commission] may also be formed by [joint] resolution [special law] of the [legislature], provided that the [legislature] appropriates funds adequate to support the work of the [commission].

(c) Members of the [commission] shall be appointed within 30 days by the county council and shall represent a broad cross-section of the citizens of the county.¹ The council shall fill any vacancies in the [commission] membership. Members shall serve without pay, but shall be reimbursed for travel and other reasonable expenses for meetings, hearings, and other official business.

(d) The county council shall appropriate funds adequate to support the operation of the [commission] as well as the printing and publication of its report and the holding of a referendum. Within the limitation of such appropriations and any privately contributed or state appropriated funds and services, the [commission] may appoint and fix the rate of compensation for consultants and clerical and other personnel.

¹See suggested constitutional amendment County Officers Placed on a Statutory Basis.
²In counties having the council-elected executive form, the executive should make nominations to the county council for appointment to the commission.
(e) The [commission] shall adopt rules for its organization and procedure, provided that all meet-
ings shall be open to the public and that at least one public hearing shall be held prior to the [com-
mission’s] final report.

(f) The [commission] shall study the existing structure of county government and procedures for
the delivery of local governmental services within the county, and compare them with the other forms
authorized by this act. If it determines that establishment of one of the forms would make the admini-
stration of county government more efficient and effective or more responsive and accountable to the
people, or if it is required to adopt one of the optional forms, it shall draw up a detailed plan of
county government embodying that form. The plan shall establish procedures for the election or ap-
pointment of new officers; provide for any necessary transfer of powers, records, documents, proper-
ties, assets, funds, and liabilities, resulting from the changes in county structure; set procedures for
the amendment of the plan; and, where necessary, provide for the continuity of existing offices and
officers, the abolition of offices or their change from elective to appointive status, and the making of
interim and temporary appointments.

SECTION 6. Referendum.

(a) Within [one] year after its initial meeting, the [commission] shall submit to the county council a
report containing its findings and the plan of county government, if any, to be presented to the voters.
The [commission] shall be discharged [upon filing of its final report] [on the day after its final report
is voted on pursuant to a referendum under this section].

(b) A referendum on the question of whether to adopt the plan of county government shall be
held not less than 30 days nor more than 90 days after the plan is submitted to the county council.
The complete text of the proposed optional plan and final report of the [commission], or summary
thereof, shall be published at county expense in a newspaper of general circulation within the coun-
ty at least once during two different calendar weeks, within the 30 day period immediately preceding
the date of the referendum. If a majority of those voting approve the plan, then the optional form of
government shall be instituted in accordance with the terms of the plan.

(c) When a proposed optional plan has been approved by the voters, the [county clerk] shall im-
mediately file a certified copy of the plan with the [secretary of state]. The approved plan shall then
become the organic act for the government of the county and shall be a public record open to public
inspection and judicially noticeable by all courts.

(d) Authorized provisions of an optional plan of county government duly adopted by the voters
supersede any conflicting ordinances or resolutions.

SECTION 7. Urban Counties.

(a) Each county, at least [60 percent] urban, located within a Standard Metropolitan Statistical
Area, designated by the United States Office of Management and Budget, shall, within [18 months]
of the effective date of this act, adopt either the council-manager or council-elected executive form of
government.

(b) In these counties the [county government study commission] shall draw up two plans of
county government, each embodying one of the optional forms. Both plans shall be submitted to the
voters and the plan receiving the majority of the votes cast between the two shall be instituted. The
county council may allow the [commission] additional time, up to 60 days, to complete the plans, but in
no instance shall a referendum be held less than 30 days nor more than 90 days after the submission
of the [commission’s] report to the council.

(c) If no optional form is approved by the voters in such a county by the required date, the
[legislature] shall enact one of the optional forms for the county.

SECTION 8. Abandonment of an Optional Form. Any county may abandon an optional form
by approving, pursuant to Section 5 and Section 6, an alternate form provided in this act or in [insert
state statutory citation for commission form of county government]. No form may be abandoned
until [six] years have elapsed after the date of the referendum at which the plan was adopted, and no
county covered by Section 7 shall adopt any form other than the council-manager or council-elected
executive form.

[Optional Section.]

SECTION 9. State Assistance and Grants.¹

(a) The [insert office of community affairs or local government or other appropriate state agency]
may furnish, upon request, any [county government study commission] created under this act with
information and technical assistance relating to the work of the [commission].

(b) The [director of the office of community affairs or local government or other appropriate state
agency] shall reimburse any local government, which has participated in a [county government study
commission], [ ] percent of the total funds provided by the jurisdiction to the [commission].

(c) The [director of the office of community affairs or office of local government or other ap-
propriate state agency] shall reimburse any county, which has held a referendum as required in
Section 6, [ ] percent of the total funds spent by such county for holding the referendum and notice
thereof.

(d) State appropriations are authorized in the amounts required for this title.]

Title III

CONSOLIDATION OF COUNTY OFFICES

SECTION 1. Consolidation Authorized. Any two or more adjoining counties within the same

¹ACIR has taken no specific positions on such assistance, but this optional section is consistent with other recommendations of the Commission concerning state responsibility for local government modernization.
substate district may consolidate functionally similar county offices, either elected or appointed.

SECTION 2. Consolidation Agreement.

(a) Consolidation of county offices may be initiated by:

(1) the [governing bodies] of the affected counties entering into an agreement to consolidate offices by resolution; or

(2) the filing of a petition, signed by at least [ ] percent of the number of voters in each county casting ballots at the immediately preceding gubernatorial election, requesting the county [governing body] to enter into a consolidation agreement with the county or counties named in the petition.

(b) The consolidation agreement shall specify the office or offices to be consolidated, their duties and responsibilities, and procedures for the selection and reassignment of personnel, procedures for the transfer of powers, records, documents, properties, assets, funds, and liabilities, and for the possible termination of the agreement. The agreement also shall provide for apportionment of the cost of the consolidated office, based on the equalized taxable valuation or the population, or a combination thereof, of the counties involved. The agreement may contain other provisions pertaining to the consolidated office that the participating counties deem necessary or advisable.

(c) The consolidation agreement shall be approved by the [governing body] of each county [before submission to the voters].

[Optional Section.]

SECTION 3. Referendum. The question of consolidation of offices shall be submitted to the voters in the affected counties at the next general election or at a special election called for the purpose. If approved by a majority of those voting on the question in each county, the proposed consolidation shall become effective in accordance with the terms of the agreement.]

SECTION 4. Selection of Officers for Consolidated Office.

(a) Where necessary, the consolidation agreement shall establish procedures for appointment to the consolidated office.

(b) Where required by the agreement, elections for a consolidated office shall be held in the same manner as for the same office in a single county, except as otherwise provided in this section. Candidates for the consolidated office shall file with the [clerk] of their county of residence, who shall certify the names of the candidates to the [clerks] of the other affected counties to be placed on the ballot in those counties. The candidate for consolidated office receiving [the highest number] [a majority] of votes cast in the affected counties, taken together, shall be elected. [If no candidate receives a majority of votes cast, a run-off election between the two candidates receiving the highest number of votes shall be held within [30] days].

SECTION 5. Duties. An officer occupying a consolidated office shall have the same duties and

1The bracketed language and Section 3 should be eliminated in any state which does not wish to require a referendum.
responsibilities in each affected county specified by law for the same office in a single county.

Title IV

AUTHORIZATION FOR FULL SERVICE COUNTY

[Alternative 1.]

(SECTION 1. County Performance of Urban Services Authorized.

(a) Any county may provide one or more urban services to the unincorporated areas of the county upon passage of a county ordinance.

(b) A county may provide an urban service to both incorporated and unincorporated areas when that service is being provided by a special district operating entirely within the geographical boundaries of the county. The county may assume all rights, duties, personnel, property, assets, and liabilities of the special district connected with the provision of the urban service, in accordance with the following procedures.

(1) The county shall notify the special districts of its intent to assume responsibility for any or all of the special district's urban services. The county and the special district shall then draw up an agreement providing for the transfer of the service(s) and any necessary rights, duties, property, assets, and liabilities. In the event that the county and the special district shall be unable to conclude an agreement within [60] days after the date of notification by the county, the [insert appropriate state agency] shall draw up the terms of the agreement, which shall be binding on the county and the special district, provided that the [insert state agency] shall not refuse to allow the county to assume the urban service(s) it has specified.

(2) If the urban services assumed by the county include all of the functions, services, and duties of a special district, then the special district shall be dissolved, in accordance with the terms of the agreement above.

(c) A county may perform an urban service within a municipality upon the request of the municipality's [governing body] as expressed through an ordinance or resolution. The county council may accept or deny a municipal request to perform an urban service.

(d) A county may perform an urban service throughout the county when authorized by referendum. Such referendum may be initiated by:

(1) a resolution of the county council;

(2) the filing of a petition signed by at least [ ] percent of the number of voters in the county casting ballots at the immediately preceding gubernatorial election; or

(3) a resolution of a municipal [governing body] with the consent of the county council.

The resolution or petition shall state the urban service(s) to be provided by the county. The
question of county performance of the urban service shall be submitted to the voters at the next general election or at a special election called for the purpose. If approved by a majority of those voting on the question, the county shall provide the urban service.

SECTION 2. Standards for the Performance of Urban Services Within Municipalities. When a county provides an urban service within a municipality the county shall establish in a county ordinance, agreed upon by the municipality, measurable standards setting forth the level, quality, scope, cost apportionment, and other factors relating to the performance of the service. If the county performs an urban service throughout the county as a result of a referendum, such standards shall be set by the county in consultation with constituent municipalities representing at least 50% percent of the total municipal population.]

[OR]

[SECTION 1. Urban Services Authorized.
(a) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power shall include, but shall not be restricted to, the power to:

(1) adopt its own rules of procedure, elect its officers, and set the time and place of its official meetings;

(2) provide for the prosecution and defense of legal causes in behalf of the county or state and retain counsel and set their compensation;

(3) provide and maintain county buildings;

(4) provide fire protection;

(5) provide hospitals, ambulance service, and health and welfare programs;

(6) provide parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs;

(7) prepare and enforce comprehensive plans for the development of the county;

(8) establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public;

(9) adopt, by reference or in full, and enforce building, housing, and related technical codes and regulations;

(10) establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control, air pollution control, and navigation and drainage, and cooperate with governmental agencies and private enterprises in the development and operation of such programs;

(11) provide and regulate waste and sewage collection and disposal, water supply and con-
provide and operate air, water, rail, and bus terminals, port facilities, and public transportation systems;

provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities; eliminate grade crossings; provide and regulate parking facilities; and develop and enforce plans for the control of traffic and parking;

license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire operating in the unincorporated areas of the county;

establish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law;

enter into agreements with other governmental agencies within or outside the boundaries of the county for joint performance, or performance by one unit in behalf of the other, of any of either agency's authorized functions;

establish, and subsequently merge or abolish those created hereunder, subordinate service units for any part or all of the unincorporated area of the county, within which may be provided fire protection, law enforcement, beach erosion control, recreation service and facilities, water, streets, sidewalks, street lighting, garbage and trash collection and disposal, waste and sewage collection and disposal, drainage, transportation, and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

levy and collect taxes, both for county purposes and for the provision of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness, which power shall be exercised in such manner, and subject to such limitations as may be provided by general law;

make investigations of county affairs; inquire into accounts, records, and transactions of any county department, office, or officer, and for these purposes, require reports from any county officer or employee and the production of official records;

adopt ordinances and resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of ordinances in accordance with law;

create civil service systems and boards;

require every county official to submit to it annually, at such time as it may specify, a copy of his operating budget for the succeeding fiscal year;

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1See suggested legislation on interlocal agreements and transfer of functions.

2See suggested legislation on Subordinate Service Areas (Title V) and Neighborhood Subunits of Government (separate bill).
(23) employ an independent accounting firm to audit any funds, accounts, and financial records of the county and its agencies and governmental subdivisions; and

(24) perform any other acts not inconsistent with law which are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.

(b) The county council shall be the governing body of any subordinate service unit created pursuant to subsection (a) (17).

(c) (1) To the extent not inconsistent with general or special law, the [governing body] of a county shall have the power to establish, and subsequently merge or abolish those created hereunder, special districts for any part or all of the county including incorporated areas if the [governing body] of the incorporated area affected approves such creation by ordinance within which may be provided municipal services and facilities from funds derived from service charges, special assessments, or taxes within such district only. Such ordinance may be subsequently amended by the same procedure as the original enactment.

(2) The [governing body] of such special district may be composed of representatives of both county government and the government of such participating municipalities.

(d) (1) The [governing body] of a municipality or municipalities, by resolution, or the citizens of a municipality or county, by petition of [ ] percent of the qualified electors of such unit, may identify a service rendered specially for the benefit of the property or residents in unincorporated areas and financed from countywide revenues and may petition the county council to develop an appropriate mechanism to finance such activity which either may be by taxes, special assessments, or service charges levied solely upon residents or property in the unincorporated area, by the establishment of a subordinate service unit pursuant to subsection (a) (17) of this section or by remitting the identified cost of service paid by the taxes levied upon property situated within the municipality or municipalities to the municipality or municipalities.¹

(2) The county council, within [90] days, shall file a response to such petition which shall either reflect action to develop appropriate mechanisms or reject said petition and state findings of fact demonstrating that the service does not specially benefit the property or residents of the unincorporated areas.

(e) (1) No enumeration of powers herein shall be deemed exclusive or restrictive, but shall be deemed to incorporate all implied powers necessary or incident to carrying out such enumerated powers, including, specifically, authority to employ personnel, expend funds, enter into contractual obligations, and purchase or lease and sell or exchange real or personal property.

(2) The provisions of this section shall be liberally construed in order to effectively carry out

¹See suggested legislation in Title V on Subordinate Service Areas and the suggested constitutional amendment that follows this suggested legislation.
the purpose of this section and to secure for the counties the broad exercise of home rule powers authorized by this act.

SECTION 2. Special Districts; Assumption of Assets, Rights, and Liabilities. A county acting under authority of this act may assume, own, possess, and control assets, rights, and liabilities related to functions and services defined in Section 1. Local improvement and other special districts wholly within a county, upon decision of the county governing body, may be divested of such assets, rights, and liabilities in a manner prescribed by the county governing body. Where a special district encompasses territory in more than one county, adjoining counties may concurrently assume assets, rights, and liabilities as described in this section. Decisions approving proposals for the merger, consolidation, or dissolution of a special district shall provide for the equitable disposition of the assets of the subject district, for the adequate protection of the legal rights of employees of the district as specified in [cite here statutes which afford various civil service and tenure protection to employees of special districts], and for adequate protection of the legal rights of creditors.]

[End of two alternatives.]

Title V

SUBORDINATE SERVICE AREAS

SECTION 1. Establishment of Service Areas. Notwithstanding any provision of law requiring uniform property tax rates on real or personal property within a county, counties may establish subordinate service areas to provide and finance any governmental service or function which they are otherwise authorized to undertake.¹

SECTION 2. Creation by County Council. The county council may establish a subordinate service area in any portion of the county by adoption of an appropriate resolution [ordinance]. The resolution [ordinance] shall specify the service or services to be provided within the subordinate taxing area and shall specify the territorial boundaries of the area. Adoption of a resolution [ordinance] shall be subject to the publication, hearing, [and referendum] provisions of law relating to the county council.

SECTION 3. Creation by Petition.

(a) (1) A petition signed by [ ] percent of the qualified voters within any portion of a county may be submitted to the county council requesting the establishment of a subordinate county service area to provide any service or services which the county is otherwise authorized by law to provide. The petition shall include the territorial boundaries of the proposed service area and shall specify the

¹If the service is to be financed wholly or partly from property tax revenues, some states may have to amend constitutional provisions requiring uniform tax rates within a county. See the suggested constitutional amendment that follows this suggested legislation.
types of services to be provided therein.

(2) Upon receipt of the petition and verification of the signatures thereon by the [county clerk], the county council shall, within [30] days following verification, hold a public hearing on the question of whether or not the requested subordinate service area shall be established.

(3) Within [30] days following the holding of a public hearing, the county council, by resolution [ordinance] shall approve or disapprove the establishment of the requested subordinate county service area. A resolution [ordinance] approving the creation of the subordinate service area may contain amendments or modifications of the area's boundaries or functions as set forth in the petition.

[Optional Subsection.]

(b) (1) The [governing body] of a municipality or municipalities, by resolution, or the citizens of a municipality or county, by petition of [ ] percent of the qualified electors of such unit, may identify a service rendered specially for the benefit of the property or residents in unincorporated areas and financed from countywide revenues and may petition the county council to develop an appropriate mechanism to finance such activity which either may be by taxes, special assessments, or service charges levied solely upon residents or property in the unincorporated area, by the establishment of a subordinate service area pursuant to this act, or by remitting the identified cost of service paid by the taxes levied upon property situated within the municipality or municipalities to the municipality or municipalities.

(2) The county council within [90] days shall file a response to such petition which shall either reflect action to develop appropriate mechanisms or reject said petition and state findings of fact demonstrating that the service does not specially benefit the property or residents of the unincorporated areas.]

SECTION 4. Publication and Effective Date. Upon passage of a resolution [ordinance] authorizing the creation of a subordinate county service area, the county council shall cause to be published [once] in [ ] newspapers of general circulation a concise summary of the resolution [ordinance]. The summary shall include a description of the territory to be included within the area, the type of service or services to be undertaken in the area, a statement of the means by which the service or services will be financed, and a designation of the county agency or officer who will be responsible for supervising the provision of the service or services. The service area shall be deemed established [30] days after publication or at such later date as may be specified in the resolution [ordinance].

[Optional Section.]

SECTION 5. Referendum.

(a) Upon receipt of a petition signed by [ ] percent of the qualified voters within the territory of

1See also Alternative 2 under Title IV of this act.
the proposed service area prior to the effective date of its creation as specified in Section 4, the crea-
tion shall be held in abeyance pending referendum vote of all qualified electors residing within the
boundaries of the proposed service area.

(b) The county council shall make arrangements for the holding of a special election not less
than [30] days nor more than [60] days after receipt of such petition within the boundaries of the pro-
posed taxing area. If a majority of those voting on the question favor creation of the proposed subor-
dinate service area, the area shall be deemed created upon certification of the vote by the [county
board of elections].

SECTION 6. Expansion of the Boundaries of a Subordinate Service Area. The county council,
on its own motion or pursuant to petition, may enlarge any existing subordinate county area pur-
suant to the procedures specified in Sections 2 through 5. All qualified voters residing in the proposed
new service area, including the existing, shall be eligible to vote in any election relating to such ex-
pansion.

SECTION 7. Financing. Upon adoption of the next annual budget following the creation of a
subordinate county service area, the county council shall include in such budget appropriate provi-
sions for the operation of the subordinate service area including, as appropriate, a property tax
levied only on property within the boundaries of the subordinate taxing area or by levy of a service
charge against the users of such services within the area, or by any combination thereof.

Title VI

SEPARABILITY AND EFFECTIVE DATE

SECTION 1. Separability. [Insert separability clause.]
SECTION 2. Effective Date. [Insert effective date.]
2.203.3 REMOVAL OF CONSTITUTIONAL BARRIERS TO FINANCING COUNTY SUBORDINATE AREAS

As mentioned earlier, some states may find it necessary to amend constitutional provisions requiring uniform tax rates within a county, if a service is to be financed wholly or partly from property tax revenues. The following amendment is offered for consideration in those states that have uniform tax rate provisions that constitute a barrier to financing county subordinate service areas.

Suggested Constitutional Amendment

[FINANCING COUNTY SUBORDINATE AREAS]

(Be it enacted, etc.)

1. Notwithstanding any provision of this constitution requiring uniform tax rates on real or personal property within a county, the [legislature] may authorize counties to:

2. (a) levy annually a tax on property within the boundaries of any county subordinate service area created pursuant to an act of the [legislature], which tax may be separate and in addition to the annual tax imposed on a countywide basis; and

3. (b) incur indebtedness on a countywide basis for the purpose of performing functions and providing facilities and services within such a county subordinate service area.

4. Any tax levied or indebtedness incurred under the authority of this section is subject to such limitations as may be established by the [legislature].
The relationship of local governmental units to the functions which they are expected to perform raises difficult questions. The burgeoning of governmental services and the changing demands of modern life have sometimes required functions to be administered within geographic units larger than, or at least not coincident with, the boundaries of existing political subdivisions. To a limited extent, municipal consolidations and annexations have taken place in an attempt to meet altered demographic situations. But the problem of devising appropriate local government areas remains. Often it is only a single function, or a limited number of functions, that should be performed on a different or consolidated basis. In these instances, the abolition of existing units is too extreme a remedy. On the other hand, special districts can and have been formed for such functions as education, fire protection, and public sanitation. Many of these districts are of great utility and doubtless will continue to be important. However, their creation usually requires special action from state authorities, and may result in the withdrawal of control over the function from the political subdivisions formerly responsible for it. In these circumstances, there may be a large number of situations in which joint or cooperative rendering of one or more services by existing political subdivisions is called for.

In recent years, states have been authorizing their political subdivisions to enter into interlocal agreements or contracts. Arrangements under which smaller communities send their high school pupils to the schools in adjacent larger cities, purchase water from a metropolitan supply system, receive police and fire protection from neighboring communities, or establish joint drainage facilities are becoming relatively frequent. However, legislation authorizing such arrangements has, almost without exception, been particularistic, related only to the peculiar requirements of a designated local activity. The suggested Interlocal Cooperation Act which follows authorizes joint or cooperative activities on a general basis. It leaves it up to the local governmental units to decide what function or functions might better be performed by them in concert. The act does not grant any new powers to localities; it merely permits the exercise of power already possessed by the subdivision in conjunction with one or more other local communities for a common end. By leaving this degree of initiative with the localities themselves, the act seeks to make it easier for them to enter upon cooperative undertakings.

Because local governments and subdivisions have responsibility for the administration of certain state functions, and because the state in turn bears certain responsibilities for its subdivisions, some degree of control over interlocal agreements is both necessary and desirable. The suggested act provides this control by specifying the basic contents of such agreements and by requiring review by the attorney general where an agreement includes as a party a state agency or a public agency of another state of the United States. Provision is also made for approval of other state officials in certain cases.

It is believed that legislation of this type will be most useful if drawn so as to apply to any local function. However, it is recognized that some activities may present special problems, and that states may wish to continue the practice of making special statutory provision for such types of interlocal cooperation. It would be quite possible for a state to enact this statute for use with reference to most types of interlocal cooperation and to make provision elsewhere in state law for types of interlocal functions requiring special handling.

However, such legislation by itself does not actively promote joint undertakings nor permit a positive state role. In addition, states should consider the enactment of legislation to actively encourage joint undertakings by local governments having common program objectives affecting the development of urban areas overlapping existing political boundaries. A Georgia act, enacted in 1963, authorizes state aid where political subdivisions establish joint undertakings. A New Jersey act, enacted in 1973, authorizes direct state


financial aid not only for joint program operation but also for feasibility studies involved in developing a joint undertaking. The New Jersey act, in addition, provides a state appeal for certain land use decisions affecting joint enterprises as a possible additional state incentive and assistance. These are several examples of how other states might actively encourage joint urban development efforts by two or more of their political subdivisions.

Alternative language is offered in Section 4 (a) which would provide a broad or narrow use of the joint agreement power. Without the language in brackets, the act permits two or more public agencies to exercise a power jointly or cooperatively as long as one of them possesses the power. For example, community A which has the power to build and maintain a public water supply system and community B which does not have such a power, could enter into an agreement for the joint or cooperative construction and maintenance of such a facility. Some states may wish to enact a statute of this breadth. However, others may wish to limit the statute to use in situations where all agreeing public agencies can exercise the power separately. Inclusion of the bracketed language would accomplish this limitation if desired.

It should be noted that the suggested act is drafted for use between or among communities whether or not they are located within a single state. Patterns of settlement often make it advantageous for communities at or near state lines to enter into cooperative relationships with neighboring subdivisions on the other side of the state boundary. It is clear that such relationships are possible when cast in the form of interstate compacts. Accordingly, the suggested act specifically gives interlocal agreements across state boundaries the status of compacts. However, the usual interstate compact is an instrument to which states are party. Since the contemplated interlocal agreements should be the primary creation and responsibility of the local communities, the act makes them the real parties at interest for legal purposes and places the state more in the position of guarantor. This compact status means that the obligation is enforceable against the state if necessary, so the state in turn is protected by the requirement of prior approval of the agreement by state authorities and by the provisions of Section 5 preserving the state’s right of recourse against a non-performing locality.

There has been much confusion concerning the need for congressional consent to interstate compacts. The wording of the Compact Clause of the Constitution has led some to believe that all compacts need congressional consent. However, this is clearly not the case. The leading case of Virginia v. Tennessee, 148 U.S. 503 (1893) makes it clear that only those compacts which affect the balance of the federal system or affect a power delegated to the national government require congressional consent. Such pronouncements as have come from state courts also take this position (Bode v. Barrett, 412 Ill. 204, 106 NE 2d 521 (1952); Dixie Wholesale Grocery Inc. v. Morton, 278 Ky. 705, 129 2d 184 (1939), Cert. Den. 308 U.S. 609; Roberts Tobacco Co. v. Michigan Department of Revenue, 322 Mich. 519, 34 NW 2d 54 (1948); Russell v. American Association, 139 Tenn. 124,201 SW 151 (1918)). Finally, it should be noted that the Southern Regional Education Compact to which a large number of states are party has been in full force and operation for many years even though it does not have the consent of Congress and when challenged, the compact was upheld (McCready v. Byrd, 195 Md. 131, 73 A 2d 8 (1950)). Except where very unusual circumstances exist, it seems clear that powers exercised by local governments either individually or in concert, lie squarely within state jurisdiction and so raise no question of the balance of our federal system. Accordingly, in the absence of special circumstances, it is clear that interlocal agreements between or among subdivisions in different states would not need the consent of Congress.

Some of the states have boundaries with Canada or Mexico. Therefore, it may be that some border localities in these states might have occasion to enter into interlocal agreements with communities in these neighboring foreign countries. The suggested act makes no provision for such agreements since it is felt that agreements with foreign governmental units may raise special problems. States having such boundaries might want to consider whether to devise means for extending the benefits of this suggested act to agreements between their subdivisions and local governments across an international boundary. Any state wishing to follow this course might add appropriate provisions to the suggested act at the time of passage or might amend its statute later after experience with the legislation within the United States has been gained.

Section 1 states the purpose of the act and Section 2 provides definitions of the terms used.

Section 3 authorizes interlocal contracts for the provision of any service, activity, or undertaking authorized by law between two or more public agencies, subject to approval by the governing bodies of each party.
Section 4 authorizes interlocal agreements for joint or cooperative action between any two or more public agencies, subject to authorization by ordinance, resolution, or other action by the governing bodies of the public agencies and approval by the attorney general. It also specifies what must be contained in the agreement.

Section 5 requires that any such authorized agreement be filed with the keeper of local public records and the secretary of state and, in the case that one or more of the public agencies are of another state or the Federal government, defines it as an interstate compact and gives the state, as a party to the agreement, authority to recoup damages or liability.

Section 6 mandates that any agreement dealing with the provision of services or facilities under statutory or constitutional control of a state officer or agency be subject to approval by such officer or agency, in addition to approval by the attorney general.

Section 7 provides for appropriation of funds and provision of personnel and services to the administrative or legal entity created to operate the undertaking by any of the public agencies party to the agreement.

Section 8 empowers the state and any of its agencies to furnish assistance to any public agencies providing for joint administration of any program of services, benefits, administration, or other undertaking and delineates what types of assistance may be provided.

Sections 9 and 10 provide for state grants for feasibility studies and implementation, respectively, of interlocal contracts, agreements, or transfers of function, subject to certain provisions.

Section 11 authorizes an appeal process at the state level similar to the one used in New Jersey, in the case of denial or lack of action by the governing body of a county or municipality in which a joint or consolidated program has applied for location and erection of sewage treatment or solid waste disposal facilities.

Sections 12 and 13 provide for separability and effective date clauses, respectively.
Suggested Legislation

[AN ACT TO PROVIDE FOR INTERLOCAL CONTRACTING AND JOINT ENTERPRISE WITH STATE ASSISTANCE THEREFOR]¹

(Be it enacted, etc.)

SECTION 1. Purpose. It is the purpose of this act to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

SECTION 2. Definitions. For the purpose of this act:
(a) "Public agency" means any political subdivision [insert enumeration, if desired] of this state; any agency of the state government or of the United States; and any political subdivision of another state.
(b) "State" means a state of the United States and the District of Columbia.

SECTION 3. Interlocal Contracts. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which [each public agency] or [any of the public agencies] entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purpose, powers, rights, objectives, and responsibilities of the contracting parties.²

SECTION 4. Interlocal Agreements.
(a) Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state [having the power or powers, privilege, or authority] and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this act upon a public agency.

¹Suggested short title: Interlocal Cooperation Act.
²Interlocal contracts for services raise some problems different than those raised by interlocal agreements for joint enterprises. Existing law governing contracts by local governments should be examined to relate this authorization to them, if necessary. Additional provisions may be needed or desirable in this section. Provisions similar to those in Section 4(f), the filing provisions of Section 5, and the additional approval in Section 6 could be considered in this connection.
(b) Any two or more public agencies may enter into agreements with one another for joint or co-
operative action pursuant to the provisions of this act. Appropriate action by ordinance, resolution,
or otherwise pursuant to law of the governing bodies of these participating public agencies shall be
necessary before any such agreement may enter into force.

(c) Any such agreement shall specify the following:

(1) its duration;
(2) the precise organization, composition, and nature of any separate legal or administrative
entity created thereby, together with the powers delegated thereto, which is hereby authorized to be
created with its governing body composed solely of local elected officials *ex officio* unless otherwise
provided by law;
(3) its purpose or purposes;
(4) the manner of financing the joint or cooperative undertaking, of establishing and maintain-
ing a budget therefor, and of accounting and keeping records thereof;
(5) the permissible method or methods to be employed in accomplishing the partial or com-
plete termination of the agreement and for disposing of property upon such partial or complete term-
ination; and
(6) any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint
or cooperative undertaking, the agreement shall, in addition to all items except (2) enumerated in sub-
section (c) hereof, contain the following:

(1) provision for an administrator or a joint board responsible for administering the joint or
cooperative undertaking. In the case of a joint board, the public agencies party to the agreement shall
be represented; and
(2) the manner of acquiring, holding, and disposing of real and personal property used in
the joint or cooperative undertaking.

(e) No agreement made pursuant to this act shall relieve any public agency of any obligation or
responsibility imposed upon it by law except that, to the extent of actual and timely
performance thereof by a joint board or other legal or administrative entity created by an agreement made here-
under, said performances may be offered in satisfaction of the obligation or responsibility.

(f) Every agreement made hereunder that includes as a party thereto an officer or agency of this
state or a public agency of another state or of the United States shall, prior to and as a condition
precedent to its becoming effective, be submitted to the [attorney general] who shall determine whether
the agreement is in proper form and compatible with the laws of this state. The [attorney general]
shall approve any agreement submitted to him hereunder unless he finds that it does not meet the
conditions set forth herein and shall detail in writing addressed to the governing bodies of the public
agencies concerned the specific respects in which the proposed agreement fails to meet the require-
ments of law. Failure to disapprove an agreement submitted hereunder within [ ] days of its sub-
mission shall constitute approval thereof.

SECTION 5. Filing, Status, and Actions. Prior to its entry into force, an agreement made purs-
suant to this act shall be filed with [the keeper of local public records in each participating jurisdic-
tion] and with the [secretary of state]. In the event that an agreement entered into pursuant to this act
is between or among one or more public agencies of this state and one or more public agencies of an-
other state or of the United States, said agreement shall have the status of an interstate compact, but
in any case or controversy involving performance or interpretation thereof, or liability thereunder, the
public agencies party thereto shall be real parties in interest and the state may maintain an action to
recoup or otherwise make itself whole for any damages or liability which it may incur by reason of
being joined as a party therein. Such action shall be maintainable against any public agency or agen-
cies whose default, failure of performance, or other conduct caused or contributed to the incurring of
damage or liability by the state.

SECTION 6. Additional Approval in Certain Cases. In the event that an agreement made purs-
suant to this act shall deal in whole or in part with the provision of services or facilities with regard to
which an officer or agency of the state government has constitutional or statutory powers of control,
the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or
agency having such power of control and shall be approved or disapproved by him or it as to all mat-
ters within his or its jurisdiction in the same manner and subject to the same requirements governing
the action of the [attorney general] pursuant to Section 4(f) of this act. This requirement of submission
and approval shall be in addition to and not in substitution for the requirement of submission to and
approval by the [attorney general].

SECTION 7. Appropriations, Furnishing of Property, Personnel, and Service. Any public agency
entering into an agreement pursuant to this act may appropriate funds and may sell, lease, give, or
otherwise supply the administrative joint board or other legal or administrative entity created to op-
erate the joint or cooperative undertaking by providing such personnel or services therefor as may be
within its legal power to furnish.¹

SECTION 8. State Assistance. The state and all departments, boards, bureaus, commissions, and
other agencies thereof are hereby authorized and empowered, within the limitations of the constitu-
tion, to furnish and make available services, assistance, funds, property, and other incentives to any
two or more counties, municipal corporations, public corporations, and other subdivisions of this
state, or any combination thereof, in connection with any program of services, benefits, administra-
tion, or other undertaking in which the state or any of its above named agencies participates by

¹Some states have constitutional provisions which may present barriers to this in interstate areas.
furnishing supervision, services, property, administration of funds, where such counties, municipal
 corporations, public corporations, or other subdivisions are thereby able and willing to provide for
 the consolidation, combining, merger, or joint administration of such program or any part or function
 thereof, by the two or more units, so as to effectuate efficiency, economy or simplification in the ad-
 ministration or financing thereof. In providing such assistance a public agency of this state is spe-
 cifically authorized, in addition to the above, to:

 (a) assume a greater share of, or the entire cost of, such participating program where funds are
 available and such is deemed feasible;
 (b) establish and maintain area offices for such combined, consolidated, or merged undertaking;
 (c) convene meetings of municipal, county, or other local officials to discuss ways of cooperating
 and providing more efficient and effective services;
 (d) grant additional priority to such participating programs in the allocation of funds and assist-
 tance; and
 (e) make available, if authorized, or recommend grants for studies of the feasibility of consoli-
 dated, merged, or other joint programs.

SECTION 9. State Grants for Study. The [department of community affairs or other appropriate
 state agency] is authorized to provide grants [subject to appropriations therefor] [not to exceed [$   ]
 per annum] for the purpose of conducting studies to consider the feasibility of an interlocal contract,
 agreement, or transfer under which a governmental function or service now performed or capable of
 being performed singly by the requesting parties would be performed by contract or transfer by one
 party for another or jointly. Grants may be made upon the following conditions being met:
 (a) two or more municipalities, other units of local government, or any combination thereof,
 having jointly requested such a study by appropriate resolution;
 (b) there is a strong indication that such a study will provide a proposal which will be im-
 plemented;
 (c) the function or service is presently [under study by a state agency pursuant to the Transfer of
 Functions Act (see Section 4 of Alternative 1) or] within the particular service or functional areas of con-
 centration established for the year by the [department]pursuant to a rule;
 (d) the results of the study will be generally useful for application throughout the state and will
 not be merely repetitive of work done elsewhere; and
 (e) the study proposal has been approved by the state executive department(s) which exercises
 jurisdiction over the performance of the services or function to be provided under the proposed pro-
 gram.

SECTION 10. State Grants for Implementation.
 (a) The [department of community affairs or other appropriate agency] is authorized to provide
grants to implement any interlocal contract, agreement, or transfer of function upon application by
a local governmental unit, provided that:

1. a feasibility study has been conducted by the [department] or [a third party approved by the
department], with an approved plan of operations constituting the final element;
2. all units of local government involved have adopted the necessary effectuating ordinances or resolutions as may be required;
3. the state or regional agencies, if any, with jurisdiction over the subject matter and area
have approved;
4. no neighboring local unit will be adversely affected, to a disproportionate degree as determined by the [department], by the joint program; and
5. no neighboring local unit which might benefit and who has adopted a resolution desiring inclusion within [30 days] after notification of the beginning of the feasibility study has been ex-
cluded unless such inclusion would so reduce benefits to others so as to make the program economi-
cally infeasible in the determination of the [department].

(b) The grants shall be for terms not to exceed [four years], subject to availability of state appro-
priations, and shall not exceed the greater of:

1. an amount equal to all extraordinary administrative and operating costs, which shall be
those non-capital costs incurred by a local unit for service or improved service provided through the
joint agreement, contract, or transfer in excess of the operating and administrative costs which it
would have incurred for the provision of its existing service had such joint agreement, contract, or
transfer not been implemented; or
2. an amount equal to 10 percent of the total operating and administrative costs and, if
there is no Federal or other state assistance available, capital costs incurred by the local unit as a result
of implementation of the joint program.

SECTION 11. State Appeal in Certain Cases. If the governing body of a county or municipality
in which a joint or consolidated program has applied for the location and erection of sewage treatment
or solid waste disposal facilities denies permission therefor or fails to take final action upon the ap-
application within [60] days of its filing, the head of the joint or consolidated program may, at any time
within [30] days following the date of such refusal or the date of expiration of said period of [60] days,
apply to the [appropriate state agency], which is hereby authorized, after hearing the head of the joint
program and the county or municipality affected, to grant, notwithstanding the aforesaid denial or
failure to act of the governing body, the application for the erection of the sewage treatment or dispo-
sal or solid waste treatment or disposal facilities upon being satisfied that the topographical and other
physical conditions existing in the local units comprising the joint program are such as to make the
erection of such facilities within their own boundaries impracticable as an improvement for the benefit
of the whole applying joint program.

SECTION 12. Separability. [Insert separability clause.]

SECTION 13. Effective Date. [Insert effective date.]
Intergovernmental service agreements at the local level are composed of the following three elements in ascending order of governmental organization and shifting of responsibility: interlocal contracting, interlocal agreements for joint action, and interlocal transfer of functions. All three are considered in the two bills on interlocal agreements and transfers of function. In its recent multivolume work on *Substate Regionalism and the Federal System*, the Commission recommends on page 20 in Volume IV, *Governmental Functions and Processes: Local and Areawide*, a jointly developed state-local assignment of functions policy and process. The recommendations call for additional state effort in this area, but also recognize that: "established local and regional institutions could still voluntarily assign or reassign functions to one or another local levels of government through the use of existing or expanded interlocal contracting or transfer and consolidation procedures." The following constitutional amendment and bill, coupled with the bill on interlocal contracts and agreements, are designed not only to provide additional state effort but also to enable local units of government in their joint efforts to best meet the service demands of their citizens.

The proposed constitutional amendment provides authority for local governmental units to initiate and complete voluntary transfers, and also provides authority to the state legislature to develop a systematic statutory approach to the assignment of functions. Then the following suggested state legislation provides a comprehensive state approach both to voluntary and mandated transfers of functions.

States should enact legislation authorizing the legislative bodies of municipalities and counties located within metropolitan areas to take mutual and coordinate action to transfer responsibility for specific governmental services from one unit of government to the other. Specifically, it is proposed that the states enact a statute authorizing voluntary transfer of functions between municipalities and counties within metropolitan areas to the extent agreed by the governing boards of these respective types of units. If desired, the statute could spell out the functions authorized for such voluntary transfer or provide exceptions not in order and eligible for transfer to make sure that responsibilities carried on by counties as agents of the state were not transferred to municipal corporations. Within a particular metropolitan area, for example, such statute would enable the board of county commissioners and the mayors and councils of municipalities collectively, to assess, the manner in which particular service type functions were being carried out. By concurrent action, the governing boards might have the county assume functions such as water supply or sewage disposal throughout the area, relieving the municipalities of their respective fragmented responsibilities in those functional areas. Conversely, they might agree that the county government should cease to carry on certain functions within the boundaries of the municipalities, with the municipalities assuming such responsibility on an exclusive basis.

Two alternative bills are suggested; the first one embodies a firm state rule as preferred by ACIR, while the second is voluntary among local units.

Section 1 of the first alternative bill suggested states the purpose of the act and Section 2 provides definitions of the terms used.

Section 3 sets out the means by which the transfer of a function or power from one or more governmental units to another may occur. The procedure to be followed if a transfer is terminated is also included.

Section 4 mandates the appropriate state agency to conduct a continuing study of the various governmental activities conducted and services provided by local governments in the state, considering Federal-state-local relationships and other enumerated criteria.

Section 5 authorizes the state and any of its departments, boards, or other agencies to provide services, assistance, funds, property, or other incentives, as enumerated, to any two or more units of local govern-

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ment effecting a transfer of a function or power. Grants for the study or implementation of a transfer are authorized if certain enumerated conditions are met. In the special case of a consolidated program for sewage treatment or solid waste facilities, the appropriate state agency may approve the application despite refusal or failure to act by the governing body of the county or municipality in which the facility will be located.

Sections 6 and 7 provide for separability and effective date clauses, respectively.
Section 1 of the second alternative bill suggested provides definitions of terms used in the act.
Section 2 authorizes two or more political subdivisions to enter into an agreement for the transfer of the responsibility for a function to any one of the subdivisions or some combination thereof. Section 3 sets out what must be included in the agreement.
Section 4 provides for revocation proceedings that may be initiated by a political subdivision which has transferred a function in the event it feels the function is not being provided as specified in the agreement.
Section 5 authorizes the appropriate state agency to provide technical and financial assistance, including grants-in-aid, to political subdivisions for the study or implementation of a functional transfer.
Sections 6 and 7 provide for separability and effective date clauses, respectively.

Suggested Constitutional Amendment

[TRANSFER OF POWERS]

(Be it enacted, etc.)

1 By law, ordinance, or resolution of the governing bodies of each of the governments affected, any
2 function or power of a county, municipality, or special district may be transferred to, or contracted to
3 be performed by another county, municipality, or special district as provided by law.¹

¹This provision can apply fully only to the extent that all units have equal authority to perform public functions, as under home rule applicable to all general governments. Otherwise the transfer is limited by the express powers of the receiving unit contained in draft amendment on Home Rule Powers of Local Government. Thus, a broad home rule provision as is needed.
Suggested Legislation

[Alternative 1.]

[AN ACT PROVIDING FOR TRANSFERS OF FUNCTIONS BETWEEN UNITS OF LOCAL GOVERNMENT AND STATE ASSISTANCE THEREFOR]

(Be it enacted, etc.)

SECTION 1. Purpose. It is the purpose of this act to authorize and permit units of local general government in this state to more efficiently and effectively serve the needs of their constituents by providing:

(a) full authority for both general and special purpose units to transfer any function or power assigned or authorized the unit to a general local government and authority for general local governments to accept and carry out any function or power so transferred, including those transferred from special purpose districts;

(b) continuing study on the part of the state of various functions, or parts thereof, and any recommendations for functional reassignments or transfers; and

(c) state assistance, both financial and technical, for local governments desiring to participate in voluntary transfers or required to transfer by state law.

SECTION 2. Definitions. As used in this act:

(a) "[Department]" means the [appropriate state agency].

(b) "Function" or "power" means any service or exercise of governmental power which may be authorized, by constitution or law, to a unit of local government.

(c) "Service function" as used herein is a local governmental service or group of closely allied local governmental services performed by a unit of local government for its inhabitants and for which, under constitutional and statutory provisions and judicial interpretations, the unit, as distinguished from the state, has primary responsibility for provision and financing. [Without in any way limiting the foregoing, the following are examples of such local service functions:

1. street and sidewalk maintenance;
2. trash and garbage collection and disposal;
3. sanitary and health inspection;
4. water supply;
5. sewage disposal;
6. police protection;
7. fire protection;
library services;

(9) planning and zoning;

(10) etc., if it is desired to list functions subject to transfer.]

(d) "Unit of local government" means any county or municipality [town or township] in this
state and, only for the purposes of transferring a function to a county or municipality, any special
purpose government established by law.

SECTION 3. Transfers of Functions; Authority and Methods.

(a) Whenever the governing bodies of any two or more units of local government in this state
shall determine, by the passage of identical resolutions, that duplication exists in the operations,
procedures, or functions of offices or agencies of such units, or portions thereof, or that such oper-
ations, procedures, or functions can be more efficiently and effectively exercised or provided as a con-
solidated activity performed by a single intergovernmental office or agency or by a single office or
agency of one of the participating units of local government, such governing bodies are hereby au-
thorized to consolidate any or all of the operations, procedures, or functions performed or carried on
by such offices or agencies or transfer any power or responsibility by the passage of identical resolu-
tions [ordinances] setting out the time, form, and manner of consolidation and designating the surviv-
ing office or agency or, in the case of a governmental power and responsibility, the unit assigned to
assume and perform such power and responsibility.

[Optional Subsection.]

(b) Whenever a petition, signed by not less than [10] percent of the qualified electors of any two
or more units of local government in this state, shall be filed with the governing bodies of such units
requesting that a proposition for the consolidation of specified operations, procedures, and functions
of designated offices or agencies of such units or transfer of any power or responsibility be submitted
to the electors thereof, the governing bodies shall submit such proposition at an election called and
held for such purpose in the manner provided by [appropriate state law].

[Optional Subsection.]

(c) The elimination of an elective office by consolidation under the provisions of this act shall
be subject to the approval of a majority of the electors of the political or taxing subdivisions served by
such office, voting at an election called and held for such purpose, in the manner provided by [appro-
priate state elections law].

(d) In the event that any consolidation agreement or transfer between units of local government
made pursuant to this act shall affect functions or services over which an officer or agency of the
state government has constitutional or statutory powers of control, the consolidation agreement or
transfer shall, as a condition precedent to its entry into force, be submitted to the state officer or
agency having such power of control and shall be approved or disapproved by him or it as to all mat-
ters within his or its jurisdiction.

(e) Except when otherwise specifically provided by the resolutions [or ordinances] for the consolidation of offices or agencies or the transfer of a power or function under the provisions of this act, the consolidated office or agency or the unit assuming the transferred power or responsibility shall be the successor in every way to the powers, duties, functions, and obligation now or hereafter granted to, or imposed by law upon, the offices or agencies so consolidated.

(f) Any political or taxing subdivision of this state entering into an agreement with any other such political or taxing subdivision pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply to any surviving office or agency designated by an agreement made hereunder such personnel or services therefor as may be within its legal power to furnish.

(g) A consolidation agreement or a transfer of power and responsibility, made pursuant to this act, shall operate to relieve the unit so transferring of any obligation or responsibility respecting the transferred function imposed upon it by law.

[Alternative 1.]

[(h) The consolidation agreement or transfer may only be terminated upon a finding that the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created pursuant to an agreement made hereunder, or if a power and responsibility is transferred by the unit assuming such power, does not meet the standards provided in the agreement or transfer. A finding by the unit of local government requesting termination shall be reviewable by the state agency having responsibility for such function or power at the state level, by an impartial third party as provided in the agreement or transfer, or by a court of competent jurisdiction prior to the termination becoming effective.]

[Alternative 2.]

[(h) When a political subdivision which has transferred a function is of the opinion that the function is not being performed as specified in the agreement, it may institute revocation proceedings. The political subdivision shall notify the designated arbitration body of the manner in which the performance of the function has not met agreed upon standards. If the arbitration body determines the complaint to be valid, it may allow the political subdivision or substate district organization performing the function up to [six months] to meet the prescribed standards. If the arbitration body finds, at the original determination or at the end of the allotted time period, that the political subdivision or substate district organization cannot or will not perform the function as agreed, it shall arrange for transfer of the function back to the original political subdivision.]

SECTION 4. Special Studies.

(a) The [department] shall, in consultation with the appropriate state and local agencies, conduct a continuing study of various governmental activities being conducted and services being provided by
local government in this state.

(b) The study of any function or activity shall consider the appropriate relationships of Federal-
state-local activity in the area and shall further consider the following criteria:
   (1) the geographic and legal adequacy of the local governmental response;
   (2) the degree of economic and social impact beyond the boundary of the local governmental
   unit involved in the activity or function;
   (3) the degree of citizen access and control necessary for appropriate governmental response;
   (4) the management and technical capability of the local governmental units involved in the
   function or activity; and
   (5) the degree of economic efficiency and fiscal equity involved in the function or activity and
   any proposals for change.

(c) When a specific study of an activity or function is undertaken by the [department], it shall no-
otify the legislative committees and state agencies with jurisdiction over the subject matter, representa-
tives of the state organizations of various local governmental units concerned, and any other person
who has filed a request for such notification. The [department] shall further establish an advisory
committee to review the study outline and any results or recommendations developing from such
study.

(d) the governor, or [legislature] through its presiding officer(s) [or appropriate committees], may re-
quest the [department] to study a specific activity or power which may be proposed for mandating
state assignment and transfer. In such case, the study shall further identify any extraordinary costs
associated with such transfer, any additional or expanded coverage, and any savings, and shall pro-
vide a method for financing both the cost of transfer, if any, and the continued operation.

(e) On or before [February 11] of each year, the [department] shall report to the governor and the
presiding officer(s) of [both houses of the legislature] concerning the status of the continuing study
and any specific studies undertaken pursuant to this section.

(f) The [department] is empowered to call on any state, county, special district, or municipal agen-
cy, department, bureau, or board for any and all information or assistance which may, in its judg-
ment, be of assistance administering, or preparing for the administration of, this act, and such state,
county, special district, or municipal agency, department, bureau, or board is hereby authorized, di-
rected, and required to furnish such information or assistance.

SECTION 5. State Assistance.

(a) The state and all departments, boards, bureaus, commissions, and other agencies thereof are
hereby authorized and empowered, within the limitations of the constitution, to furnish and make
available services, assistance, funds, property, and other incentives to any two or more units of local
government, in any combination thereof, in connection with any program of services, benefits, ad-
administration, or other undertaking in which the state or any of its above named agencies participates
by furnishing supervision, services, property, or administration of funds, where such units of local
government are thereby able and willing to provide for the consolidation or for the transferral of the
power and responsibility to a single jurisdiction of such program or any part or function thereof, by
the two or more units, so as to effectuate efficiency, economy, or simplification in the administration
or financing thereof. In providing such assistance, a public agency of this state is specifically author-
ized, in addition to the above, to:

(1) assume a greater share of, or the entire cost of, such participating program where funds
are available and such is deemed feasible;

(2) establish and maintain area offices for such combined, consolidated, or merged undertak-
ing;

(3) convene meetings of municipal, county, or other local officials to discuss ways of co-
operating and providing more efficient and effective services;

(4) grant additional priority to such participating programs in the allocation of funds and as-
sistance; and

(5) make available, if authorized, or recommend grants for studies into the feasibility of
consolidated, merged, or other joint programs.

(b) The [department] [or other appropriate state agency] is authorized to provide grants for the
purpose of conducting studies to consider the feasibility of a consolidation agreement or transfer un-
der which a governmental function or service now performed or capable of being performed singly by
the requesting parties would be consolidated or transferred. Grants may be made upon the following
conditions being met:

(1) two or more units of local government, in any combination thereof, having jointly re-
quested such a study by appropriate resolution;

(2) there is a strong indication that such a study will provide a proposal which will be im-
plemented;

(3) the function or service is presently under study pursuant to Section 4 or is presently
within the particular service or functional areas of concentration established for the year by the
[department] pursuant to a rule;

(4) the results of the study will not be merely repetitive of work done elsewhere; and

(5) the study proposal has been approved by the state executive department(s) which exer-
cises jurisdiction over the performance of the services or function to be provided under the proposed
program.

(c) The [department of community affairs] is authorized to provide grants to implement any con-
solidation agreement or transfer of function upon application by a local governmental unit, provided
that:

(1) a feasibility study has been conducted by the [department] or [a third party approved by the [department]] with an approved plan of operations constituting the final elements;

(2) all units of local government involved have adopted the necessary effectuating ordinances or resolutions as may be required;

(3) the state or regional agencies, if any, with jurisdiction over the subject matter and area have approved;

(4) no neighboring local unit will be adversely affected to a disproportionate degree, as determined by the [department], by the joint program; and

(5) no neighboring local unit which might benefit and who has adopted a resolution desiring inclusion within [30] days after notification of the beginning of the feasibility study has been excluded, unless inclusion would so reduce benefits to or adversely affect other units as to make the program economically infeasible in the determination of the [department].

(d) Grants pursuant to subsection (c) shall be for terms not to exceed four years, subject to availability of state appropriations, and shall not exceed the greater of:

(1) an amount equal to all extraordinary administrative and operating costs, which shall be those non-capital costs incurred by a local unit for service provided through the joint agreement, contract, or transfer in excess of the operating and administrative costs which it would have incurred for the provision of its existing service had such joint agreement, contract, or transfer not been implemented; or

(2) an amount equal to 10 percent of the total operating and administrative costs and, if there is no Federal or other state assistance available, capital costs incurred by the local unit as a result of implementation of the joint program.

(e) If the governing body of a county or municipality in which a joint or consolidated program has applied for the location and erection of sewage treatment or solid waste disposal facilities refuses permission therefor or fails to take final action upon the application within [60] days of its filing, the head of the joint or consolidated program may, at any time within [30] days following the date of such refusal or the date of expiration of said period of [60] days, apply to the [appropriate state agency], which is authorized, after having heard the head of the joint program and the county or municipality affected, to grant the application for the erection of the sewage treatment or disposal or solid waste treatment or disposal facilities, notwithstanding the aforesaid refusal or failure to act of the governing body, upon being satisfied that the topographical and other physical conditions existing in the local units comprising the joint program are such as to make the erection of such facilities within their own boundaries impracticable as an improvement for the benefit of the whole applying joint program.

SECTION 6. Separability. [Insert separability clause.]
SECTION 7. Effective Date. [Insert effective date.]

[OR]

[Alternative 2.]
[AN ACT TO AUTHORIZE THE TRANSFER OF FUNCTIONS BETWEEN
POLITICAL SUBDIVISIONS AND TO PROVIDE STATE TECHNICAL AND
FINANCIAL ASSISTANCE FOR SUCH TRANSFERS]

(Be it enacted, etc.)

SECTION 1. Definitions. As used in this act:

(a) "Political subdivision" means a county, city, town, or village, and, only for the purposes of
transferring but not receiving a function, school district, special district, or public authority.

(b) "Substate district organization" means a regional body which performs areawide compre-
hensive and functional planning, research, technical assistance, grant-in-aid review, [special district
oversight, interlocal contracting, environmental and developmental activities, and service delivery]
[and related responsibilities].

SECTION 2. Transfers Authorized. Two or more political subdivisions are authorized to enter
into an agreement with each other providing for transfer of the responsibility for a function to one
another or any combination thereof upon the consent of each political subdivision involved. Substate
district organizations are authorized to assume responsibility for a function under transfer arrange-
ments upon the consent of a majority of the member local governments representing at least [60] per-
cent of the substate district's population, and the consent of the political subdivision transferring the
function.¹

SECTION 3. Transfer Agreements.

(a) Prior to the transfer of a function, the parties shall enter into an agreement, which shall in-
clude:

(1) a description of the function to be transferred;

(2) measurable standards setting forth the level, quality, and scope of performance;

(3) designation of an arbitration body² to determine whether or not the function is being
performed in accordance with the terms of the transfer agreement;

(4) the manner in which employees engaged in the performance of the function will be trans-
ferred, reassigned, or otherwise treated;

(5) the manner in which real property, facilities, equipment, or other personal property re-
quired in the exercise of the function are to be transferred, sold, or otherwise disposed of;

(6) the method of financing to be used in performing the function;

(7) the effective date of the transfer; and

¹See the Advisory Commission on Intergovernmental Relations' model Statewide Substate Districting Act, Section 7(g).
²Possible arbitration bodies include the local government boundary commission, state advisory commission on intergovernmental
relations, department of community affairs, or substate district organization if it is not a party to the transfer.
(8) any other legal, financial, and administrative arrangements necessary to effect the transfer in an orderly and equitable manner.

(b) Immediately following approval by the parties, the transfer agreement shall be filed with [insert department of community affairs or other appropriate state agency].

SECTION 4. Revocation of Transfer. When a political subdivision which has transferred a function is of the opinion that the function is not being performed as specified in the agreement, it may institute revocation proceedings. The political subdivision shall notify the designated arbitration body of the manner in which the performance of the function has not met agreed upon standards. If the arbitration body determines the complaint to be valid, it may allow the political subdivision or substate district organization performing the function up to [six months] to meet the prescribed standards. If the arbitration body finds, at the original determination or at the end of the allotted time period, that the political subdivision or substate district organization cannot or will not perform the function as agreed, it shall arrange for transfer of the function back to the original political subdivision.

SECTION 5. State Assistance.

(a) The [insert department of community affairs or other appropriate state agency] is authorized to furnish technical and financial assistance to political subdivisions and substate district organizations studying the feasibility of a functional transfer. The [department] may reimburse the parties [ ] percent of the actual cost of the completed study.

(b) The [department of community affairs] is authorized to provide grants-in-aid to political subdivisions for non-recurring costs involved in a functional transfer, including the equalization of costs relating to debt maintenance, personnel expenses, benefits and pensions, and the acquisition or conversion of physical property. The political subdivision or substate district organization receiving the transferred function shall provide the [department] with documented evidence of costs incurred. The [department] may reimburse the parties [ ] percent of such costs.

(c) State appropriations are authorized in the amounts necessary for this section.

SECTION 6. Separability. [Insert separability clause.]

SECTION 7, Effective Date. [Insert effective date.]
A growing body of opinion points to the need for increasing citizen involvement in the governmental activities of neighborhoods within large cities and counties. Some observers believe that the disappearance of any meaningful sense of community among residents of large cities and counties in our metropolitan areas has been one of the major causes of the "crisis in the cities." The complaint is frequently voiced that the gap between the neighborhood and the city hall or the county building has lengthened continually until the distance seems astronomical rather than a few blocks or a few miles. Indianapolis has developed its "mini-government" management to overcome this concern. Boston and Honolulu have their "little city halls." Dayton, Detroit, the District of Columbia, and Pittsburgh are developing various responses to the demand for more "grass roots" government physically closer to the people.

States should consider legislation authorizing large cities and county governments in metropolitan areas to establish neighborhood subunits of government with limited powers of taxation and local selfgovernment. While the establishment of neighborhood centers is by no means the complete answer to the unrest which exists in many of our large urban areas, there is a definite need to stimulate individual areas to develop programs of neighborhood improvement and selfimprovement.

The following suggested legislation authorizes city and county governments to create neighborhood subunits of government with elected neighborhood governing bodies. The legislation provides that these subunits may be dissolved at will by the city or county governing body. The legislation is not intended to fragment local government structure further in metropolitan areas. However, it is designed to make it possible, through the neighborhood subgovernment device, for existing large units of local government to harness some of the resources and aspirations of their inner communities. The proposed legislation suggests a means through which a local government can actively involve one or more neighborhoods in the governmental process.

Section 1 declares that the purpose of the act is to encourage citizen participation by permitting limited selfgovernment through the establishment of neighborhood councils as legal entities of city or county governments. Section 2 defines a neighborhood service area and a neighborhood area council. Section 3 permits the establishment of neighborhood service areas, and authorizes neighborhood area councils to finance certain governmental services at a different level than the overall city or county tax rate, so that only recipients must pay for a particular service. It should be noted that a constitutional amendment may be necessary in some states in order to permit use of this device.

Section 4 defines the optional procedures for establishing individual neighborhood service units. One procedure emphasizes local initiative as reflected by the submission of a petition to the city or county by the neighborhood residents. The other procedure allows a city or county governing body unilaterally to create neighborhood service areas, including a citywide or countywide system of such areas. Section 4 also provides for a public hearing and final approval by the city or county governing body to establish these areas. Section 5 permits the extension of the boundaries of an existing neighborhood service area. Section 6 prescribes legislative standards for determining neighborhood service area boundaries, and Section 7 specifies the procedures for dissolution of a service area.

Section 8 provides for the election of council members and the filling of vacancies to serve unexpired terms. Section 9 sets forth council powers and functions. A council may exercise only those powers and functions that are authorized by the city or county governing body. A power may be transferred to a neighborhood council in its entirety or may be shared with the local governing body. Neighborhood councils are authorized to initiate and carry out such self help projects as supplemental refuse collection, beautification, street fairs and festivals, and cultural activities. Limited budget and finance authority, subject to city or county audit, may be shared or transferred to neighborhood councils for the acceptance of funds.
from public and private sources to meet overhead costs of administration and costs for services rendered. Neighborhood councils may also levy a uniform tax to finance certain special services.

Section 10 describes procedures for neighborhood council meetings and provides that members shall receive no compensation other than reimbursement for actual and necessary travel and other expenses incurred in the performance of their duties. Section 11 permits the council to employ a staff consultant, while Section 12 requires the council to make an annual report to the city or county.

Sections 13 and 14 provide for separability and effective date clauses, respectively.
Suggested Legislation

[AN ACT TO AUTHORIZE CITIES AND COUNTIES TO ESTABLISH NEIGHBORHOOD SERVICE AREAS TO ADVISE, UNDERTAKE, AND FINANCE CERTAIN GOVERNMENTAL SERVICES]

(Be it enacted, etc.)

SECTION 1. Purpose. It is the purpose of this act to encourage citizen involvement in government at the neighborhood level in urban areas by permitting limited self-government through the establishment of neighborhood councils as legal entities of the city or county government.

SECTION 2. Definitions. As used herein:
(a) "City" means any [insert appropriate classes of municipal government], located within a metropolitan area.
(b) "County" means any county located, in whole or in part, within a metropolitan area.
(c) "Metropolitan area" means an area designated as a Standard Metropolitan Statistical Area by the United States Bureau of the Census.¹
(d) "Neighborhood council" means a neighborhood area council created by Section 8 of this act to govern a neighborhood service area.
(e) "Neighborhood service area" means an area established pursuant to Sections (3), (4), (5), and

SECTION 3. Establishment of Neighborhood Service Areas. Any city [governing body] or county [governing body] of a city or county located within a metropolitan area may establish within its borders one or more neighborhood service areas.² There shall be only one such service area for any part of a city or county.

SECTION 4. Creation.
(a) A petition signed by [ ] percent of the [qualified voters] [residents] within any portion of a city or county may be submitted to the city [governing body] or county [governing body] requesting the establishment of a neighborhood service area to provide any service or services which the city or county is otherwise authorized by law to provide. The petition shall describe the territorial boundaries of the proposed neighborhood service area and shall specify the services to be provided.
(b) Upon receipt of the petition and verification of the signatures thereon, the city [governing body] or county [governing body], within [30] days following verification, shall hold a public hearing on the question of whether or not the requested neighborhood service area shall be established and, if an area has territory in more than one jurisdiction, the governing bodies may act jointly.

¹Particular states may find it necessary for constitutional reasons, or otherwise desirable, to apply a somewhat different definition, tailored to their special circumstances.
²Care should be taken in the drawing of the boundaries in order not to exacerbate intrajurisdictional disparities within the city or county.
(c) Within [30 days] following the public hearing, the city [governing body] or county [governing body], by resolution shall approve or disapprove the establishment of the requested neighborhood service area. A hearing may be adjourned from time-to-time, but shall be completed within [60] days of its commencement.

(d) A resolution approving the creation of the neighborhood service area may contain amendments or modifications of the area's boundaries or functions as set forth in the petition.

(e) A city [governing body] or county [governing body], acting singly or jointly, may establish neighborhood service areas on its own motion either for individual neighborhoods or for neighborhoods throughout its jurisdiction in order to provide citizen input on the administration of city or county services which have been decentralized.

SECTION 5. Boundary and Functional Changes of a Neighborhood Service Area. The city [governing body] or county [governing body], pursuant to a request from the neighborhood council, or pursuant to a petition signed by at least [ ] percent of the qualified voters living within the territory proposed to be added or deleted, or on its own motion, may enlarge, diminish, or otherwise alter the boundaries or functions of any existing neighborhood service area following the procedures set forth in Section 4(b), (c), (d), or (e).

SECTION 6. Considerations in Setting Boundaries. In establishing neighborhood service area boundaries and determining those services to be undertaken by the neighborhood area council, the city [governing body] or the county [governing body], shall study and take into consideration the following:

(a) the extent to which the area constitutes a neighborhood with common concerns and a capacity for local neighborhood initiative, leadership, and decision making with respect to city or county government;

(b) city or county departmental and agency authority and resources over functions that may be either transferred or shared with the neighborhood council;

(c) population density, distribution, and growth within a neighborhood service area to assure that its boundaries reflect the most effective territory for local participation and control;

(d) citizen accessibility to, electoral control of, and participation in, neighborhood service area activities and functions;

(e) means of minimizing intrajurisdictional disparities; and

(f) such other matters as might affect the establishment of boundaries and services which would provide for more meaningful citizen participation in city or county government.

SECTION 7. Dissolution of Neighborhood Service Area.

(a) A city [governing body] or county [governing body], after public hearing, may dissolve a neighborhood service area on its own initiative or pursuant to a petition signed by at least [ ] percent of
the qualified voters living within the neighborhood service area, or pursuant to a resolution of the
neighborhood council.

(b) The city [governing body] or county [governing body], shall give notice of a public hearing
in [ ] newspapers of general circulation in the neighborhood service area of its intention to hold a
public hearing on a proposed dissolution, the notice to be given not less than [30] days before the
date of the public hearing.

c) The city [governing body] or county [governing body], shall provide for disposition of the assets
and responsibilities and assumption of liabilities of the area so dissolved.

SECTION 8. Election of Neighborhood Council; Vacancies.

(a) The neighborhood council shall consist of [five to nine] members. The term of office of each
member shall be [four] years, and members shall serve until their successors are elected and qualified.¹

(b) The neighborhood council members shall be elected at-large by the voters of the neighborhood
service area at the time as provided by law for holding general elections. Members shall be residents of
the neighborhood service area who are qualified to vote in elections for local government officials.

c) A vacancy shall be filled by the [council] [city [governing body] or county [governing
body]]. Members so appointed shall serve for the remainder of the unexpired term.

SECTION 9. Neighborhood Council Powers and Functions. A neighborhood council may ex-
ercise any powers and perform any functions within the neighborhood service area which are held
by the city [governing body] or county [governing body], and which may be delegated to it specifical-
ly by the city [governing body] or county [governing body], including:

[Comment: Specifically delegated powers may include portions of the city or county budget and fi-
nance authority subject to city or county audit, as well as administrative functions. The following
may include some power which may differ from the power of the city or county and obviously could
not be delegated; however, they do provide an outline]:

[(a) advisory or delegated substantive authority, or both, with respect to such functions as com-
community facility development and operation; urban renewal; relocation, public housing, planning and
zoning actions, and other physical development programs; crime prevention and juvenile delinquency
programs; health services; code inspection; recreation; education; referral and complaint services;
and manpower training];

[(b) community self help projects, such as supplemental refuse collection, beautification, minor
street and sidewalk repair, establishment and maintenance of neighborhood community centers,
street fairs and festivals, cultural activities, recreation, referral and complaint services, and housing
rehabilitation and sale]; and

¹Some states may desire to set up staggered terms for members.
(c) budget and finance authority, subject to city or county audit, to apply for and accept funds from public and private sources including public subscriptions, and to expend moneys to meet overhead costs of council administration and support for community self help projects; and authority to raise revenue for special services by adoption of a uniform annual levy, not to exceed [five dollars ($5), on each [resident] [head of household] of the neighborhood service area.]

SECTION 10. Compensation; Meetings; Bylaws; Quorum.

(a) Members of a neighborhood council shall receive no compensation but may receive reimbursement of actual and necessary travel and other expenses incurred in the performance of official duties, up to a maximum of $ in any one calendar year.

(b) All meetings of a neighborhood council shall be open to the public, as provided in [cite state open meeting law].

(c) A neighborhood council shall adopt bylaws providing for the conduct of its business and the selection of a presiding officer and other officers.

(d) A majority of the members of a neighborhood council shall constitute a quorum for the transaction of business. Each member shall have one vote.

SECTION 11. Staff. The neighborhood council may employ staff, and consult and retain experts as it deems necessary. The neighborhood council may make agreements with local, state, or Federal agencies for temporary transfer, loan, or other cooperative use [with or without compensation] of their employees, or its employees.

SECTION 12. Annual Report. The neighborhood council shall make an annual report of its activities to the city or county.

SECTION 13. Separability. [Insert separability clause.]

SECTION 14. Effective Date. [Insert effective date.]
More than 23,000 "special districts" (other than school districts) existed in the United States in 1972, according to the Census of Governments. These districts provide valuable governmental services to the people. In 1972 their total expenditures exceeded $8.6-billion and their current revenues from their own sources, mostly from taxes and service and toll charges, exceeded $5.3-billion.

These financial data alone clearly indicate the impact of special districts upon local government in the United States. Despite this fact, the activities of special districts are frequently not coordinated with the activities of state government and units of general local government. In addition, adequate information concerning special district activities is often not available to the general public. Even where a special district is governed by elected officials, the turnout for district elections is extremely small and the availability of financial and other data relating to the district activities is often non-existent. This is true even in some states where statutes provide for a state agency to review, or at least be informed of, the financial operations of special districts. The 1964 report of the Advisory Commission on Intergovernmental Relations entitled The Problem of Special Districts in American Government noted, in a number of instances, the failure of both state supervisory agencies and special districts to comply with such requirements of state law. The Commission’s more recent report, Substate Regionalism and the Federal System, (six volumes — 1973 and 1974) detailed further complications in properly relating activities of special districts in both urban and rural areas.

The suggested act is designed to ensure that special district activities are related to those of general local government (i.e., counties, cities, and towns), as well as to ensure the availability of appropriate information concerning the activities of districts available to the general public.

Section 1 states the purpose of the act, and Section 2 provides definitions.

Section 3 requires the approval by either the municipality or the county, or both, of budgets, appropriations, land acquisitions, and other projects pursued by special districts located in the county or municipality and, where the activity engaged in by the district affects a state function, by the appropriate state agency.

Section 4 requires that notification be given a state official and a county official of activities of existing and newly created special districts.

Section 5 directs a state agency, to the extent feasible, to establish uniform fiscal years, to establish budget and account standards for all special districts, and to audit or approve private audits of district accounts. It also provides a means whereby the taxpayer can be informed of all special district property taxes and assessments he pays at the same time that he is informed of county and municipal taxes and assessments.

Section 6 directs counties and municipalities in preparing annual reports to include pertinent information on the activities of special districts operating within their territory.

Sections 7 and 8 provide for separability and effective date clauses, respectively.

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AN ACT TO COORDINATE SPECIAL DISTRICT ACTIVITIES
WITH THOSE OF OTHER GOVERNMENTS AND TO INSURE PUBLIC
AVAILABILITY OF INFORMATION RELATING TO SPECIAL
DISTRICT ACTIVITIES

(Be it enacted, etc.)

SECTION 1. Purpose and Policy. It is the purpose of this act to establish procedures to insure
that the activities of special districts are properly coordinated with those of other governmental units
within the state. Further, it is essential that special districts, as well as other governmental units, take
affirmative action to insure that the public is fully aware of the activities of all governmental entities
operating within a particular community.

SECTION 2. Definitions. As used in this act:
(a) "Governing body" means the body possessing legislative authority in a city, county, or special
district.
(b) "Special district" means a local unit of special government created pursuant to law for the
purposes of performing prescribed, specialized functions within limited boundaries, exclusive of
[school districts and] those units of local special government formed by county or municipal govern-
ment pursuant to their powers and governed, ex officio, by the governing body of such county or
municipality.

SECTION 3. Actions by Special Districts Subject to Approval.
(a) Prior to adoption of any budget, setting of any tax rates or other levies, appropriation of any
funds, or acquisition of title to any land by a special district authorized by law, the district shall sub-
mit to the city and/or county in which it is located a statement indicating its intention to take such ac-
tion. If the action affects two or more cities and/or counties, the statement shall be submitted to each
of them.
(b) The statement shall be in the form of a resolution adopted by the governing body of the dis-

trict, indicating the intention of the district to take such action and shall contain a brief but appropri-
ate identification of the action, and other information required by the city(s) and/or county(s).
(c) Within [30] days after receipt of the statement of intention, the governing bodies of the city
or county, or cities or counties shall by resolution indicate their approval or disapproval or the pro-
posed acquisition; a resolution disapproving the proposed acquisition shall state the reasons therefor.

Suggested short title: Coordination of Special District Activities Act.

Another approach is to have the governing body of the city or county also serve as the governing body of the special district. By this means, special district powers and beneficial financing procedures could be enjoyed without losing the benefits of program coordination.
(d) If the special district is performing a function which directly affects a program conducted by
the state, upon receiving approval for it pursuant to subsection (b), the local governing body shall
transmit a copy of its statement of intention and the approving resolution or resolutions to the [de-
partment of community affairs or the secretary of state] who shall immediately refer the material to
the state agency responsible for the administration of the state program involved. The state agency
shall, [30] days from receipt of the material, either approve or disapprove the proposed acquisition.
The agency shall approve the proposed action unless it finds that it would be inconsistent or in con-
flict with state policy or an approved state plan for providing governmental services. The state
agency’s action shall be communicated to the governing bodies of the district and the city(s) and
county(s) by an order signed by the head of the stage agency, and if the proposed acquisition is dis-
approved, the order shall state the reasons therefor.

(e) Upon receiving approvals required pursuant to this section, a special district may proceed
with the proposed action as otherwise authorized by law.

SECTION 4. Reporting the Creation of Special Districts.
The governing body of any existing special district shall, within [30] days after the adoption of
this act, notify the [department of community affairs or secretary of state] and the [clerk of the
county governing body or bodies] in which it is authorized to operate of its existence. The notifica-
tion shall include a citation to the statute pursuant to which it was created and a brief description of
its activities and service area.

SECTION 5. Special Districts; Financial Matters.
(a) The [appropriate state agency] is empowered and authorized to make such reasonable rules
and regulations regarding uniform fiscal years, audit standards, accounting practices and procedures,
and reporting requirements by special districts in this state, including a uniform classification of ac-
counts, as it deems necessary to assure the use of proper accounting and fiscal management tech-
niques by such units.

(b) The governing body of each special district, in accordance with its approved budget, shall
make appropriations for each fiscal year which, in any one year, shall not exceed the amount to be
received from taxation and other revenue sources. It shall be unlawful for any officer of a special dis-
trict to draw money from the [treasury] except in pursuance of appropriation by law.

(c) Every special district authorized by law to levy a property tax or a special assessment shall
annually inform each county and city within which it operates of the tax and/or special assessment
rate levied by the district and the assessed valuation of property against which the tax is levied and

1If there is an agency of state government exercising supervisory responsibility over the fiscal affairs or activities of local government,
this agency should be inserted. If no such agency exists, either the department of community affairs or the state audit agency should
be inserted.

2These rules and regulations should be the same as those which apply to cities and counties in order to facilitate coordination of spe-
cial district activities with those of cities and counties.
the basis for the assessment rate. The counties and cities so notified shall provide an itemization of
special district property taxes and assessments levied against the property when furnishing tax [bills]
or receipts] to property owners within their borders.

(d) Each special district shall make provision for annual post-audit of its financial accounts in
accordance with this section. The [appropriate state agency] annually shall audit the accounts of all
special districts operating within the state [or may approve annual private audit of the accounts of
special districts performed at the expense of the district]. The reports of private auditors [shall be trans-
mittted to the [appropriate state agency] and the reports of private auditors] and audits made by the
[appropriate state agency] shall be transmitted to the local government or governments within which
the special district is authorized to operate.

(e) Any word, sentence, phrase, or provision of any special act, municipal charter, or other law
that prohibits or restricts a unit of local government from complying with this section or any rules
or regulations, promulgated hereunder is hereby nullified and repealed to the extent of such conflict.

SECTION 6. City and County Annual Reports. The annual report of any county or city issuing
a report shall include, in addition to any other information required by law, pertinent information on
the activities of all special districts operating wholly or partially within the territory of the city or
county.

SECTION 7. Separability. [Insert separability clause.]

SECTION 8. Effective Date. [Insert effective date.]
2.3
Areawide Units
Continuing population growth and rapid technological change during the second half of the 20th century have produced major challenges to the structure of local government. Solutions to such problems as air and water pollution, outmoded transportation systems, and inadequate water and sewer facilities required a geographic base, administrative organization, and fiscal capacity that often surpassed those of individual counties and cities. Moreover, persistent jurisdictional fragmentation, resulting from reliance on special districts and the general failure to merge or modernize local governments, contributed to the inability of most local units to respond effectively to diverse areawide needs and problems.

A number of states experimented with substate districts in the late 1950s and early 1960s. Beginning in the mid-1960s, however, the Federal government assumed a major regional leadership role. Twenty-four Federal programs attempted to fill the institutional void at the substate level through requirements and incentives for areawide planning, grant-in-aid review, and administrative districting. These programs triggered the establishment by state and local governments of approximately 600 multifunctional regional councils of local elected officials; 1,800 single purpose, substate districts for health, manpower, law enforcement, air and water quality, transportation, and other activities; and many of the 500 substate districts for state planning and development purposes.

These areawide efforts of Federal, state, and local governments have occasionally coincided to produce a single body responsible for several functions. Usually, however, the wavering reliance of these governments on both single purpose and multipurpose regional agencies has contributed to a further fragmentation of the governance structure in both metropolitan and non-metropolitan areas. This ambivalence has resulted in overlapping boundaries, duplicating functions, and confusing responsibilities at the substate regional level.

Recently established areawide bodies are responsible basically for planning, communications, coordination, and grant administration. Their activities may be confined to a single function or may involve several. While many of these organizations have been successful in facilitating regional cooperation and communication, formulating comprehensive and functional plans, and coordinating development, they operate under severe constraints. Regional councils and substate districts are generally not able to bind their membership to decisions they make, implement the plans they prepare, deliver the public services they believe necessary, or raise the revenues they need to avoid heavy dependence on Federal funds. Furthermore, in many cases their policy board members are not accountable to the public.

To remedy these shortcomings, in the first volume of its report on Substate Regionalism and the Federal System, entitled Regional Decision-Making: New Strategies for Substate Districts, the Advisory Commission on Intergovernmental Relations adopted an integrated group of recommendations calling for the establishment of a single set of substate district boundaries with one overarching, multipurpose regional unit in each district. In the Commission's view, the use of a single set of geographic boundaries for virtually all Federal and state districting purposes would eliminate much of the present conflict, confusion, and overlap. Creation of one regional entity—an umbrella multijurisdictional organization—to perform all functional and comprehensive planning, exert policy control over special districts, ensure development in accordance with adopted regional plans, and undertake certain services, would link planning with implementation and produce more authoritative regional decisionmaking.

While the substate district organization established in the accompanying suggested state legislation would have significant influence over intergovernmental planning and development activities at the areawide level, it would be an agency of local government. Elected officials appointed by their general purpose local units would constitute a majority of representatives on the governing body. In addition, since the organization would perform certain decentralized state functions and would receive substantial finan-

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2.301 STATEWIDE SUBSTATE DISTRICTING ACT

cial assistance from this source, provision is made for the appointment of state government representatives to its governing body.

Four major features of the bill distinguish a substate district organization from a regional government; (1) there would be no direct election of governing body members, except under an optimal provision; (2) operating responsibility for certain areawide services could be assumed only after the affirmative vote of a majority of constituent localities; (3) no direct taxing powers could be exercised; and (4) the governor could veto certain actions conflicting with official statewide plans or with the plans, policies, or activities of another substate district organization.

Several other state legislative drafts should be considered in conjunction with this draft. Particular attention must be paid to the State Planning and Growth Management Act, the Umbrella Multijurisdictional Organizations for Interstate Areas Act, the Umbrella Multijurisdictional Organization for Specific Metropolitan or Multicounty Areas Act, the Regional Government Study Commissions Act, the Regional Transportation Planning Act, and Establishment of Regional Transportation Authorities.

At the same time, the Advisory Commission on Intergovernmental Relations recognizes that these organizations are no substitute for modernization of local governmental structure. Yet, the reform record to date suggests that reorganization is difficult to achieve. The approach taken in this suggested legislation — which embodies concepts contained in a number of state regional planning or substate districting statutes, or pending bills, including Florida, Georgia, Maine, Minnesota, and West Virginia — is designed to streamline the existing substate regional structure, to make it more authoritative, and to help overcome the present fragmented local governmental system.

Section 1 sets forth the purpose of the act and Section 2 provides definitions of the terms used.

Section 3 mandates the division of the state into substate districts for planning, administrative, development, and other regional purposes by the governor, enumerating criteria to be considered and providing a means for boundary changes.

Section 4 requires state agencies which divide the state for purposes of planning, administration, service delivery, environmental control, or development to conform their boundaries to those of the substate districts, except in special cases.

Section 5 authorizes the designation of a single organization within each substate district to carry out the provisions of the act. If none currently exists, the governor shall organize one which includes representatives from each unit of local government within the district.

Section 6 prescribes the membership of the substate district organization, authorizes it to hire an executive director, and requires it to promulgate rules of operation and to hold all meetings open to the public. An exception whereby a single unit of general local government is designated as the substate district organization negates all of the above. An alternate Section 6 creates a separate general purpose agency designated as a regional council and provides for election of members from districts.

Section 7 enumerates the specific powers and duties of the substate district organization.

Section 8 designates the substate district organization as the authorized agency in each district to receive Federal grants for areawide purposes and directs the state agencies to use the organization for areawide planning, program operations, coordination, development, and districting activities. It also provides for a state advisory council whose membership consists of the head of each substate district organization.

Section 9 provides for a gubernatorial veto of any action of a substate district organization in conflict with an officially adopted state development plan or officially adopted plans, policies, or actions of another substate district organization.

Section 10 provides for funding for the organization through local contributions and state grants and, in the case of non-contributing members, suspends the unit’s voting rights until its contribution is paid in full.

Section 11 requires each substate district organization to file an annual report with its member units, the governor, and the presiding officers of the legislature, and lists its contents.

Section 12 gives substate district organizations the legal status of agencies of local government and authorizes those general powers necessary to carry out their duties and responsibilities.

Section 13 and 14 provide for separability and effective date clauses, respectively.
(Be it enacted, etc.)

SECTION 1. Purpose. The purpose of this act is to encourage and permit local units of government to join and cooperate with one another to improve the health, safety, and general welfare of their citizens; to provide uniform boundaries in order to assist cooperative efforts with state and Federal agencies; to plan for the future development of communities, areas, and regions to the end that governmental services may be more efficiently and equitably provided; and that such communities, areas, and regions may grow with adequate transportation, utilities, health, education, recreation, and other essential facilities and services.

SECTION 2. Definitions.

(a) "Areawide" or "regional" means the geographic territory which encompasses the whole area of influence of a program or of impact of a problem to be addressed, usually transcending the boundaries of any single unit of general local government.

(b) "Comprehensive regional development plan" means a long range guide for physical, economic, and social development of a substate district which identifies regional goals, objectives, and opportunities and embodies the policies of a substate district organization.

(c) "Governing body" means the legislative or policymaking body of a unit of general local government, special district, regional planning body, or substate district organization.

(d) "Local elected official" means the chief elected executive or a member of the governing body of a unit of general local government.

(e) "Major capital facility" means any structure or physical facility which has an impact or effect on development of a substate district, including those which: are located on or near the boundaries between local jurisdictions; are part of an areawide system of public services or facilities, such as major highway, rapid transit, or water and sewer systems; are of a magnitude to establish new directions in the population or economic growth of the area; or are related to distribution of housing, employment, and other components of an officially adopted comprehensive regional development plan.

(f) "Population" means the number of inhabitants according to the latest special or decennial United States census. Unless otherwise indicated, for purposes of this act, county population includes

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1Suggested short title: [State] Statewide Substate Districting Act.
only the residents of unincorporated areas.

(g) "Regional planning body" means an organization engaged in areawide functional or comprehensive planning.

(h) "Special district" means a local unit of special government created pursuant to general or special law for the purpose of performing specialized functions within limited boundaries.

(i) "State agency" means any department, commission, board, or other administrative unit of state government.

(j) "State development plan" means a long range guide for physical, economic, and social development of the state which identifies statewide goals, objectives, and opportunities. It is based on the needs, policies, plans, and operations of every state agency and, to the extent practicable, on those units of general and special local government, [substate district organizations and] regional planning bodies, and the Federal government, and takes into account existing and prospective resources and capabilities of the state government. The plan and any revisions thereof, when approved by the legislature, become effective as state policy.

(k) "Substate district," "substate region," "region," or "district" means the geographic area within each set of boundaries delineated by the governor under Section 3.

(l) "[Substate district organization]" means an umbrella multipurpose regional body officially designated by the governor under Section 5 to perform areawide comprehensive and functional planning, research, technical assistance, grant-in-aid review, special district oversight, interlocal contracting, environmental and developmental activities, and service delivery responsibilities.

(m) "Unit of general local government" means cities and counties. [Enumerate other units of general local government.]

SECTION 3. Substate District Delineation.

(a) The governor shall divide the state into substate districts for planning, administrative, development, and other regional purposes.

(b) Prior to district boundary delineation, the governor shall make any necessary studies and surveys, consult with appropriate state officials [and the local government boundary commission], and convene meetings of local elected officials. At least one public hearing shall be held in each proposed substate district.

(c) In defining the districts, the governor shall take into account the following criteria:

1. preferences of affected units of general local government as expressed through resolutions;
2. community of interest;
3. geographic features and natural resources;
(4) patterns of communication and transportation;
(5) patterns of urban development and land use;
(6) interstate relationships and metropolitan area boundaries;
(7) interrelatedness of social and economic problems;
(8) boundaries of existing regional planning bodies and state planning and administrative
areas;
(9) utility of the proposed boundaries for the efficient and effective provision of areawide
services; and
(10) to the maximum extent practicable, no county or metropolitan area may be divided when
forming a district.

d) The governor, within [one year] of the effective date of this act, shall report to the legislature
and certify to the [secretary of state] the boundaries of each substate district. At the same time, the
governor shall notify the governing body of each unit of general local government, appropriate special
district, and regional planning body as to the district in which it has been placed.

e) When requested by units of general local government representing at least 60 percent of a
district’s population, and after each decennial census, the governor shall reconsider substate district
boundaries, and may make appropriate adjustments pursuant to the criteria and procedures set forth
in subsections (b) through (d) of this section. ¹

SECTION 4. State Agency Use of Substate District Boundaries.

(a) Each state agency which divides the state for purposes of planning, administration, service
delivery, environmental control, or development shall conform its boundaries to those of the substate
districts, except as provided in subsection (c) below.

(b) The governor shall monitor the boundary conformance process and shall allow the agencies
involved sufficient time to comply. In all cases conformance shall be accomplished within [two years]
of the effective date of this act.

c) If a state agency, due to the unique nature of its clientele or functional responsibilities, cannot
efficiently and effectively conform to substate district boundaries, it may petition the governor for
permission to maintain separate boundaries. The governor may grant the exception only if compliance
would be clearly detrimental to accomplishment of the purposes of the agency. Where exceptions are
granted, the governor may require that state agency research, analysis, budgeting, and reporting be
compiled on the geographic pattern of the official substate districts where these districts are basic
statistical units in a statewide system.

SECTION 5. [Substate District Organization] Designation.

¹If the state has a boundary commission law, this provision should be related to it. See suggested state legislation entitled Local
Government Creation, Dissolution, and Boundary Adjustments.
(a) In each substate district a single [organization] shall be designated by the governor, following completion of any necessary studies and surveys, consultation and meetings with appropriate local elected officials and their respective state associations, and at least one public hearing in the region.

(b) Existing regional planning bodies, including interstate ones, may be designated as [substate district organizations].

(c) If a single unit of general local government encompasses and is the major direct provider of services for [all] [90 percent] of the geographic area and population within a substate district, the unit shall be designated as the [substate district organization].

(d) If the governor finds that no regional planning body existing in a substate district possesses or has the potential for acquiring the basic powers, functional responsibilities, membership, staff, or other factors necessary to accomplish the purposes of this act, he shall convene a meeting of elected officials representing each unit of general local government within the district to organize a new regional body, which shall be designated as the [substate district organization].

(e) After designation of the [substate district organization], the governor shall convene a meeting of local elected officials in each region for the purpose of preparing and adopting bylaws. The bylaws shall be approved by the representatives of a majority of the units of general local government in the substate district encompassing at least 60 percent of the district's population. For purposes of this subsection, each unit of general local government shall be entitled to one vote.

SECTION 6. [Substate District Organization] Composition.

(a) All units of general local government within each substate region shall be members of the [substate district organization] for the area, with all the rights and responsibilities of membership stipulated in this act.

(b) The governing body of the [substate district organization] shall consist of local elected officials and state government representatives. At a minimum, 60 percent of the governing body membership shall be local elected officials. The governing body of each unit of general local government shall appoint at least one official as its representative. [The governor shall appoint the state representatives.] [The governor shall appoint the state representatives, at least [ ] percent of whom shall be legislators elected from within the substate district or a substantial portion thereof.] [State representatives shall be members of the legislature elected from within the district or a substantial portion thereof, and [ ] executive branch representatives appointed by the governor.]

(c) Each member local government shall be entitled to one vote in the governing body. The combined vote of the state representatives shall equal the state proportion of the total membership established in the bylaws of each [substate district organization]. State representatives may cast multiple or fractional votes.

(d) At times prescribed in the bylaws, any member local government may call a weighted voting
procedure into effect. Under this procedure local government representatives may cast a multiple or fractional votes. These votes shall bear the same proportion to the total local member vote as [the individual local government's population bears to the total population of the substate district] [the individual local government's population bears to the total population of the substate district, except that, in addition to unincorporated areas, county population shall consist of residents of:

(1) incorporated territory proportionate to the county's share of total direct local government expenditures in this territory; or

(2) incorporated territory proportionate to the county's share of total local taxes collected in this territory;]

[the individual local government's annual financial contribution bears to the total annual local government fiscal support for the [substate district organization]]. State representatives shall cast the same percentage of the total vote as provided in subsection (c).

(e) Local representatives shall serve on the [substate district organization] governing body until their successor qualifies or until they are removed and replaced by majority vote of their local governing body. State executive branch representatives shall serve at the pleasure of the governor. If any local or state official does not continue in office, his membership on the governing body terminates at the same time. Any vacancy on the governing body shall be filled for the unexpired term in the same manner as the original appointment.

(f) The governing body shall elect from among its membership a chairman and vice-chairman, and any other officers it deems necessary. The governing body may select an executive committee consisting of the chairman, vice-chairman, and other members as appropriate. The term of office of officers and executive committee members shall be set forth in the bylaws of each [substate district organization]. The governing body may authorize the executive committee to exercise any of its powers, provided that any action taken by the executive committee may be amended or repealed by the governing body.

(g) The governing body shall employ and set the compensation of an executive director, who shall serve at its pleasure. The executive director shall employ professional, technical, legal, clerical, and other staff as necessary and authorized, and may remove these personnel. The executive director may make agreements with state agencies, regional planning bodies, units of general local government, or special districts for temporary transfer, loan, or other cooperative use of staff employees. With the consent of or pursuant to procedures established by the governing body, the executive director may acquire the services of consultants and enter into contracts on behalf of the governing body.

(h) The governing body shall promulgate rules governing its operations, provided they are in accordance with the provisions of [insert state administrative procedures statute].

(i) All meetings of the governing body, or any committee thereof, at which public business is
discussed or formal action is taken, shall conform to [state open meeting act].

(j) If a single unit of general local government has been designated as the [substate district organization], the provisions of subsections (a) through (h) above do not apply. The governing body of this government shall exercise all of the powers and duties of a [substate district organization], provided that it shall establish procedures for obtaining the advice of state agencies and other general units of local government within the district on regional planning, coordination, and development matters.

[SECTION 6. [Substate District Organization] Composition — Direct Election Option.]

(a) There is hereby created within each substate region a general purpose agency as a separate legal entity, to be known and designated as the [name] regional council for such region.

(b) The governing body of the agency shall consist of [ ] members selected by the voters from individual election districts for [ ] year terms [except in time of reapportionment]. Members shall be qualified electors of the state and of a county in which all or part of the election district is located.

(c) The region shall be apportioned into districts as follows: [statement of district boundaries — in terms of voting boundaries — such as census tracts, state senatorial or house districts, or any other applicable method].

(d) (1) The governing body shall provide for reapportioned districts not later than [30 days] after state legislative reapportionment following each decennial census. The reapportioned districts shall be compact and contiguous and shall meet the standard of mathematical preciseness in equal population representation as provided by the [legislature] in its apportionment.

(2) If the governing body fails to provide such reapportioned districts within such time limit, any citizen of the region may bring action in [appropriate court] either to compel the performance of such duty or to provide said reapportioned districts for the region.

(e) (1) The election of members shall be by majority of votes cast, non-partisan, and held on the first Tuesday after the [ ] Monday in [ ] of [each odd numbered year]. If one candidate fails to receive a majority of the votes cast, the two candidates receiving the highest number of votes shall participate in a run-off election to be held on the second Tuesday following the first election day.

(2) Members shall assume office on the third Tuesday following the first election day. At the first meeting, members shall elect a presiding officer, a secretary [who need not be a member], and such other officers as they deem necessary.

[(3) For the first election following apportionment or reapportionment of districts, all members shall be subject to election with those in odd numbered districts being elected for two year terms — option for staggered four year terms.]

(f) Members shall continue in office until their successors qualify. Vacancies in the membership shall be filled by appointment of the governor if there is less than [12 months] of the term remaining;
otherwise, by a special election called for such purpose by the governing body.

(g) Members shall serve [with compensation, not exceeding [$100] per day, as provided by reso-

[...]

SECTION 7. Powers and Duties.

(a) Regional Planning, Research, and Technical Assistance. Each [substate district organiza-

[...]

(1) establish a comprehensive planning process and prepare, publish, and annually review

and, if necessary, revise a plan for the coordinated development of its district. The plan shall be based

on studies of governmental, social, economic, environmental, and physical conditions and trends, and

seek to promote the general health, welfare, convenience, and prosperity of the district's population.

It shall embody the policies of the [substate district organization], and include, but not be limited to:

(i) goals, objectives, standards, and principles to guide economic, social, environmental,

and human resource development;

(ii) alternative strategies for economic growth and population settlement;

(iii) land, water, and air transportation networks and communication facilities;

(iv) the need for and proposed general location of public and private works and facilities,

which by reason of their function, size, extent, or any other cause are of an areawide, as distinguished

from a purely local, concern; and

(v) the long range development, operation, and financing of capital projects and facilities.

The comprehensive regional development plan and any amendments thereto shall be officially

adopted by a majority vote of the governing body, after submission to the governor, [legislature,] and

[insert appropriate state agency] to the governing body of each unit of general local government with-

in the substate district for a period of not less than [30] days prior to public hearing to be held by the

[substate district organization] after adequate notice. The governor, [appropriate committee(s) of the

legislature and appropriate state agency] may make recommendations to the [organization] on or be-

fore the date of the hearing for modification of the proposed plan necessary to achieve conformity

with statewide plans and policies. Each unit of general local government may make recommendations

to the [organization] on the effect of the proposed plan, or portions thereof, on its jurisdiction on or

before the date of the hearing;

(2) prepare, publish, annually review and, if necessary, revise a program to implement the

policies contained in the officially adopted comprehensive regional development plan for the district.

The program shall contain, at a minimum, priorities for the undertaking of projects and methods for

obtaining necessary financing;

(3) coordinate regional planning with related plans and activities of state agencies and local
governments within the district, adjacent substate districts and interstate areas, and Federal departments and agencies;

(4) prepare and publish studies of the district's natural, human, financial, and other resources, and their relationship to existing and emerging problems such as those of industry, commerce, transportation, population, housing, agriculture, environment, health, education, welfare, public service, local governments, and any other matters related to regional planning;

(5) collect, process, and analyze social and economic statistics for the district and make the results available to the general public;

(6) participate with other governmental agencies, educational institutions, and private organizations in coordinating regional research and educational activities described in paragraphs (4) and (5) of this subsection;

(7) provide information on a periodic basis to the governor, [budget office], and appropriate committees of the [legislature] on its activities, for use in the preparation and consideration of the state budget; and

(8) cooperate with and furnish, upon request, technical assistance to local planning and development agencies within the district.

(b) Review of Certain Federally Assisted Projects. The [substate district organization] shall review all applications submitted by units of general local government, special districts, and private non-profit organizations within its boundaries for a loan or grant from a Federal department or agency for programs and purposes as required by Federal law or regulation. If the [organization] finds the application to be inconsistent with its officially adopted comprehensive regional development plan, it shall resolve these inconsistencies before submission of the application to the pertinent Federal department or agency for funding consideration.

(c) Review of State Plans and Projects.

(1) Each state agency shall submit to the [substate district organization] for review, comment, and recommendation all comprehensive plans and annual work programs that will have a significant effect within its boundaries. The [organization] shall have [30] days from the date of submission of these plans and programs to conduct its review and to make comments and recommendations, during which period the state agency shall take no action to implement the plans and programs.

(2) The [substate district organization] shall review any proposed state major capital facilities project to be located within its boundaries. If a proposed project clearly concerns the jurisdictional area of two or more [substate district organizations] but is not part of a uniform statewide program, as determined by the governor, joint receipt and review shall be undertaken. The [organization] shall advise the state agency within [30] days from the date of submission as to whether the proposed project is in conflict with its officially adopted comprehensive regional development plan and imple-
menting policies or is not properly coordinated with other existing or proposed projects within the
district. If the [organization] finds the proposed project conflicts with the plan or implementing
policies or lacks proper coordination, it shall resolve all inconsistencies before project initiation.

(d) Review of Local Plans and Projects.

(1) Upon adoption of the comprehensive regional development plan, each unit of general
local government located within the district shall submit to the [substate district organization] for
review, comment, and recommendation its comprehensive plans or any other plans or programs which,
in the judgment of the [organization], affect or are affected by the provisions of the comprehensive
regional development plan. The submission of a comprehensive plan or other plan or program by a
county government which includes the plans of other local units within the county may be considered
a consolidated submission and waive the submission requirement for these units. The [substate dis-
trict organization] shall have 1301 days from the date of submission of these plans or programs to
conduct its review and make comments and recommendations, during which period the unit of general
local government shall take no action to implement the plans or programs.

(2) The governing body of each unit of general local government within a district shall sub-
mit to the [substate district organization] for review all proposed major capital facility projects. The
[organization] shall advise the unit within [30] days from the date of submission as to whether the
proposed project has significance beyond local boundaries. If it lacks areawide significance, the
[organization] shall certify this finding. If it has areawide significance, the [organization] shall deter-
mine whether the proposed project is in conflict with the officially adopted comprehensive regional
development plan and implementing policies, or is not properly coordinated with other existing or
proposed projects within the district. If the [organization] finds the proposed project conflicts with
the plan or implementing policies or lacks proper coordination, it shall resolve all inconsistencies be-
fore project initiation.

e) Control Over Special Districts. The [substate district organization] may:

(1) review proposals for the formation of special districts which would operate within its
boundaries and, within [30] days, submit a report on the areawide significance of the proposed forma-
tion to the referring units of general local government [and to the local government boundary com-
mission];

(2) review and approve any plans, projects, or policies having an areawide impact of special
districts operating within its boundaries;

(3) serve as or appoint the governing body of any areawide special district operating entirely
within its boundaries, except school districts, and review and approve the budgets of these districts.

(f) Interlocal Contracts. The [substate district organization] may act as the administrator of a joint
exercise of powers agreement if requested by the parties to the agreement.
(g) Operating Authority. The [substate district organization] may perform any regional function or activity upon the affirmative vote of a majority of member local governments. The governments must represent at least 60 percent of the substate district's population, as determined in accordance with a formula specified in the bylaws. To finance the function or activity, the [substate district organization] may impose user charges and issue and sell revenue bonds in accordance with procedures prescribed in [insert appropriate state statutory citation], and accept grants or other payments from Federal, state, or local units of government.

SECTION 8. Federal and State Agency Use of [Substate District Organizations].

(a) The [substate district organization] shall be the authorized agency in each district to receive Federal grants-in-aid for areawide planning, coordination, and development purposes.

(b) All state agencies shall use the [substate district organization] in each region for any areawide planning, program operations, coordination, development, and districting activities in which they engage, except those state agencies exempted from conforming to substate district boundaries under Section 4(c).

(c) The head of each [substate district organization] meeting together shall constitute a [state] regional advisory council which the governor and state agencies shall use for advice on the administration of their regional programs.

(d) To avoid duplication of the staffs of various regional planning bodies assisted by the state and Federal governments, the [substate district organization] shall provide basic planning, administrative, and research services for all regional planning bodies heretofore or hereafter established in [state].

SECTION 9. Gubernatorial Veto. The governor, after making a finding, may veto any actions of a [substate district organization] that conflict with an officially adopted state development plan or with officially adopted plans, policies, or actions of another [substate district organization].

SECTION 10. Finances.

(a) Each [substate district organization] shall adopt an annual budget, a copy of which shall be submitted to each member governmental unit. Each member local government shall be provided an opportunity to comment on the budget before its adoption, and shall make financial contributions to the [substate district organization] in accordance with a formula established by the [organization’s] governing body as part of the budget. The formula may be based on the population, or on the equalized assessed valuation of each member local government, or on a combination thereof.

(b) To assist financially with the exercise of the powers and duties of [substate district organizations]. Grants shall be administered by the [specify state agency] and shall equal [33-1/3] [50] percent of the local contributions to the annual budget of the [substate district organization], but shall not exceed [$1 for any [organization] for any fiscal year. State grants may be used for the purpose...
of matching Federal assistance programs.

(c) If any member governmental unit fails to make financial contributions to the [substate district organization] in accordance with the adopted formula, the unit shall forfeit its voting rights in the governing body until these contributions have been paid in full.


(a) On or before [date] of each year, each [substate district organization] shall prepare an annual report and submit copies to its member governmental units and to the governor and the presiding officers of the [legislature]. Provision also shall be made for public availability of the report. To the extent practicable, the report shall include the following:

1. a consolidated statement of receipts and expenditures by category for the preceding fiscal year;
2. a consolidated, detailed budget for the current year, including an outline of programs for that period;
3. a description of the comprehensive regional development plan adopted for the district;
4. summaries of any studies and recommendations made for the district;
5. indicators of development progress;
6. a listing of plans and programs submitted by state agencies, units of general local government, and special districts, and actions taken thereon by the [organization];
7. a listing of applications for Federal grants or loans and proposals for major capital facilities projects, and actions taken thereon by the [organization];
8. the size and composition of the governing body and professional staff; and
9. recommendations regarding Federal and state programs, intergovernmental cooperation, funding, and legislative needs.

(b) To facilitate the exchange of information and provide [substate district organization] governing bodies with comparative data to use in evaluating their [organization's] activities, the [insert appropriate state agency] shall compile and distribute an annual report on statewide [substate district organization] operations.


(a) [Substate district organizations] have the legal status of agencies of local government.

(b) To facilitate the carrying out of their duties and responsibilities under this act, [substate district organizations] may:

1. adopt and have a common seal and alter it at pleasure;
2. sue and be sued;
3. adopt bylaws and make rules and regulations for the conduct of business;
4. establish committees, including citizen advisory committees;
(5) hold public hearings;
(6) borrow money and accept gifts; apply for and use grants or loans of money or other property from the Federal government, the state, a unit of general local government, a special district, or a private non-profit organization; enter into agreements necessary to obtain these funds; and hold, use, and dispose of moneys or property in accordance with the terms of the gift, grant, loan, or agreement;
(7) enter into all contracts and agreements necessary or incidental to the performance of its duties and responsibilities, including but not limited to:
   (i) intergovernmental contracts or joint exercise powers agreements; and
   (ii) contracts for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature;
(8) authorize reimbursement for members of the governing body of the [organization] for per diem, travel, and other reasonable expenses for meetings, hearings, and other official business;
(9) prescribe all terms and conditions for the employment of officers, employees, and other agents including but not limited to their classification, the fixing of compensation and benefits, and the filing of performance and fidelity bonds and policies of insurance as it may deem advisable. The compensation and other conditions of employment of officers and employees shall not be governed by any rule applicable to state employees in the classified service unless the [substate district organization] with the approval of [insert appropriate state official] so provides; and
(10) apply for coverage of its employees under the state retirement system in the same manner as if they were state employees, subject to necessary action by the [organization] to pay employer contributions into the state retirement fund.

SECTION 13. Separability. [Insert separability clause.]

SECTION 14. Effective Date. [Insert effective date.]
A number of states have established umbrella regional agencies in a few areas, primarily metropolitan, within the areas' own boundaries — without taking the approach statewide as suggested in the Substate Districting Act. Almost every state has one or more areas in which the various alternatives to, and options of, regional government are hotly debated. In recognition of the fact that local tradition plays a very strong role in governmental organization, as well as the varying level of desire and capacity between regions within a state, the Commission discussed and suggested various alternative arrangements which may not be uniform statewide; this allows local flexibility in decision making while still providing a responsive state structure and carefully coordinated approach.

The following suggested state legislation is tailored to meet and respond to a specific regional area. It further provides the necessary coordination with a statewide substate districting approach. The act is drawn mainly from a proposed Florida act and from acts in Minnesota, Michigan, and Ohio.

Section 1 states the findings and purpose of the act. Section 2 provides definitions for the terms used in the act.

Section 3 provides three alternative methods to create a regional council, and three ways to select the membership of its governing body.

Section 4 enumerates the regional council’s powers and duties, authorizes the council to employ an executive director who shall employ necessary staff, and requires the council to promulgate rules of operation.

Section 5 authorizes the regional council to establish a comprehensive planning and review process and requires it to prepare, publish, and review annually a guide for coordinated development of the region.

Section 6 mandates the regional council as the only authorized agency to receive state and Federal designations and/or grants for regional planning and coordination from specific programs, authorizes the council to provide basic administration, research, and planning for multicounty or regional planning and development agencies in the region, and requires the council to review and comment on any application of a unit of local government within the region to a state or Federal agency for financial assistance.

Section 7 provides for cooperation with other local, regional, and state agencies through exchange of data, loan of employees to the council from local, state, or Federal agencies, delegation of certain of the council’s powers and duties upon approval of the state’s chief planning officer, and cooperative planning agreements.

Section 8 requires the regional council to provide financial reports as prescribed by law; prepare and furnish an annual report on its activities to the governor, legislature, appropriate state agencies, presiding officer of the governing bodies of the units of local general purpose governments and appropriate regional agencies within its boundaries, and, for a fee, any interested person; adopt an annual budget as submitted by the executive director; and provide for an annual independent post-audit of its financial records. It also specifies the council’s fiscal year.

Section 9 authorizes the council to prepare and promulgate a plan creating a regional services district, delineates those purposes for which it may be established, and sets out the actions to be taken by the council upon promulgation of the service district plan and upon adoption of such a plan.

Section 10 enumerates those powers and duties to be exercised by the council in relation to any special district created and organized within the region.

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Section 11 deals with the funding of the regional council.
Section 12 deals with implementation of the act — when members are to be elected and the first meeting held, and the actions to be taken by the council.
Sections 13 and 14 provide for separability and effective date clauses, respectively.
[AN ACT PROVIDING AN UMBRELLA MULTIJURISDICTIONAL ORGANIZATION FOR [NAME] REGION WITH AUTHORITY TO DELIVER SERVICES UNDER CERTAIN CIRCUMSTANCES]¹

(Be it enacted, etc.)

SECTION 1. Findings and Purpose.

(a) The [legislature] finds and declares that in the [name] region:

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

(2) the proliferation of single purpose areawide agencies has resulted in duplication of effort and diffusion of responsibility, and has impeded the efforts of local governments to meet citizen needs;

(3) there is a need for a regional organization to provide a means for local governments to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain Federal and state grants-in-aid, coordinate development, and conduct other areawide activities; and

(4) the establishment of this regional organization does not deny the right of counties or municipalities to conduct local planning or deliver services.

(b) It is the purpose of this act to enhance the ability and opportunity of local governments in the [name] region to resolve issues and problems transcending their individual boundaries by establishing a general purpose regional agency with authority to:

(1) perform comprehensive regional planning;

(2) establish regional policy;

(3) enforce regional standards; and

(4) provide for [transportation, water resources, sewage treatment, solid waste disposal, and such other] regional functions as may be added through provisions of this act.

SECTION 2. Definitions. As used in this act, except where the context clearly indicates otherwise:

(a) "Agency" means [name] regional council.

(b) "Comprehensive regional development guide" means a long range plan identifying regional goals, objectives, and opportunities for physical, economic, and social development.

¹Suggested short title: UMO Act for [Individual Areas] [Specifically Named Area].
(c) "Governing body" means the legislative or policy making body of a unit of general local
government, special district, or the agency.
(d) "Local elected official" means the chief elected executive or a member of the governing body
of a unit of general local government.
(e) "Major capital facility" means any publicly financed structure or physical facility which
has an impact or effect on development of the region including those which: are located on or near
the boundaries between counties; are part of an areawide system of public services or facilities, such
as major highways, rapid transit, or water and sewer; are of a magnitude to establish new directions
in the population or economic growth of the region; or are related to the components of an officially
adopted comprehensive regional development guide.
(f) "Population" means the number of inhabitants according to the latest special or decennial
United States census.
(g) "Region" means the territory within a single substate district over which the agency has
jurisdiction.
(h) "Special district" means a local unit of special government created pursuant to gen-
eral or specific law for the purpose of performing specialized functions within limited boundaries.
(i) "State agency" means any department, commission, board, or other unit of the executive branch
of state government.
(j) "Unit of general local government" means [a county or municipality].

SECTION 3. Regional Agency; Creation; Membership.

[Alternative 1.]

(a) There is hereby created in the [name] region a general purpose agency as a separate legal
entity, to be known and designated as the [name] regional council who shall have jurisdiction over
[specify geographic jurisdiction].

[OR]

[Alternative 2.]

(a) Upon adoption of [ordinances] [resolutions] which are worded exactly the same by the governing
bodies of a [majority] of [units of general local government in a region, substate district, or interstate
metropolitan area] with combined jurisdiction of [two-thirds] of the population in such region, district,
or area, there shall be created a general purpose agency as a separate legal entity to serve the
purposes of this act. The [ordinance] [resolution] shall provide the method of selecting the
governing body of the agency [which shall be one of the alternatives provided in subsection
(b)], shall state the name of the agency, and shall provide the effective date and method of in-

1There are three alternative methods of creating the regional agencies: (1) by direct state action; (2) by action of the local govern-
ments; and (3) by petition and referendum.
implementation [as set forth in Section 12].]

[OR]

[Alternative 3.]

(a) (1) Upon petition of 10 percent of the citizens in an area which comprises greater than 50 percent of the population in any substate district, there shall be created in such area a general purpose agency as a separate legal entity. The petition shall provide the method of selecting the governing body of the agency [which shall be one of the alternatives provided in subsection (b)], shall state the name of the agency, and shall provide the effective date and method of implementation [as set forth in Section 12].

(2) The petition shall become effective only upon approval by referendum of the voters of the area proposed to be included within such agency. The counties which have jurisdiction over the area to be included shall, upon verification of the petition, provide for a referendum in the same manner as provided in [insert citation of an appropriate statute on local referendums].]

[End of three alternatives.]

[Alternative 1.]

(b) (1) The governing body of the agency shall consist of local elected officials and state government representatives. At a minimum, 60 percent of the governing body membership shall be local elected officials, with every unit of general local government in the region required to be a member. The governing body of each unit of general local government shall appoint at least one official as its representative. [The governor shall appoint the state representatives.] [The governor shall appoint the state representatives, at least [ ] percent of whom shall be legislators elected from within the sub-state district or a substantial portion thereof.] [State representatives shall be members of the [legislature] elected from within the district or a substantial portion thereof, and executive branch representatives appointed by the governor.]

(2) Each member local government shall be entitled to one vote in the governing body. The combined vote of the state representatives shall equal the state proportion of the total membership established in the bylaws of each [substate district organization]. State representatives may cast multiple or fractional votes.

(3) At times prescribed in the bylaws, any member local government may call a weighted voting procedure into effect. Under this procedure local government representatives may cast multiple or fractional votes. These votes shall bear the same proportion to the total local member vote as [the individual local government's population bears to the total population of the substate district] [the

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1There are three alternative methods of selecting the membership of the governing body: (1) local elected officials and state representatives; (2) bicameral chambers, one consisting of local elected officials, and the other consisting of directly elected members; and (3) a 100 percent directly elected body.
individual local government's population bears to the total population of the substate district, ex-
cept that in addition to unincorporated areas, county population shall consist of residents of:
   (i) incorporated territory proportionate to the county's share of total direct local govern-
   ment expenditures in this territory; or
   (ii) incorporated territory proportionate to the county's share of total local taxes col-
   lected in this territory] [the individual local government's annual financial contribution bears to the
   total annual local government fiscal support for the substate district organization]. State
   representatives shall cast the same percentage of the total vote as provided in paragraph (2).]

[OR]

[Alternative 2.]

(b) (1) The governing body of the agency shall consist of two chambers.
   (i) One chamber shall be composed of elected officials of constituent governments.
   Every unit of general local government in the region is required to be a member and shall appoint
   at least one official as its representative. Each member local government, in good standing, shall
   be entitled to one vote in the chamber.
   (ii) The other chamber shall be composed of [ ] members selected by the voters from
   individual election districts for [ ] year terms.¹
   (2) Any matter may originate in either chamber and upon passage by a majority of each
   chamber shall be effective ten days after final passage or as otherwise provided therein.]

[OR]

[Alternative 3.]

(b) (1) The governing body of the agency shall consist of [ ] members selected by the voters from
   individual election districts for [ ] year terms [except in time of reapportionment]. Members shall be
   qualified electors of the state and of a county in which all or part of the election district is located.
   (2) The region shall be apportioned into districts as follows: [statement of district bounda-
   ries — in terms of voting boundaries — such as census tracts, state senatorial or house districts, or
   any other applicable method].
   (3) (i) The governing body shall provide for reapportioned districts not later than [30 days]
   after state legislative reapportionment following each decennial census. The reapportioned districts
   shall be compact and contiguous and shall meet the standard of mathematical preciseness in equal
   population representation as provided by the legislature in its apportionment.
   (ii) If the governing body fails to provide such reapportioned districts within such time
   limit, any citizen of the region may bring action in [appropriate court] either to compel the performance

¹See Alternative 3 for details to provide.
of such duty or to provide said reapportioned districts for the region.

(4) (i) The election of members shall be by majority of votes cast, non-partisan, and held on the first Tuesday after the [ ] Monday in [ ] of each odd numbered year. If one candidate fails to receive a majority of the votes cast, the two candidates receiving the highest number of votes shall participate in a runoff election to be held on the second Tuesday following the first election day.

(ii) Members shall assume office on the third Tuesday following the first election day.

At the first meeting, members shall elect a presiding officer, a secretary (who need not be a member), and such other officers as they deem necessary.

(iii) For the first selection following apportionment or reapportionment of districts, all members shall be subject to election with those in odd numbered districts being elected for two year terms — option for staggered four year terms.]

[End of three alternatives.]

(c) Members shall continue in office until their successors qualify. Vacancies in the membership shall be filled [Alternatives 1 and 2 — in the same manner as the original appointment] [Alternative 3 — by appointment of the governor if there are less than 12 months of the term remaining; otherwise by a special election called for such purpose by the governing body].

(d) Members shall serve [with compensation, not exceeding $100 per day, as provided by resolution and per diem, travel, and other expenses] [without compensation; however, this shall not prohibit the payment of per diem, travel, and other expenses as provided in [applicable state law].

(e) If the agency is designated as a regional agency for the purpose of [applicable state law] or any other state or Federal law and the area covered by such designation exceeds the geographic boundaries of the regional council, the council may add such additional members to it or any of its committees as may be agreed upon by the designating agency and the governing body to provide equitable representation. The additional members shall be selected by the governing body of local general purpose government covering all or part of the additional area and shall be heard only with respect to issues for which such designation was made.

SECTION 4. Regional Agency; Duties and Powers.

(a) The agency shall have and exercise all powers necessary or convenient to enable it to carry out the duties and responsibilities which are hereby, or may hereafter be, imposed upon it by law. Without in any manner limiting or restricting the general powers conferred by this chapter, the agency may:

(1) adopt and have a common seal and alter it at pleasure;

(2) sue and be sued;

(3) adopt bylaws and make rules and regulations for the conduct of its business;

(4) establish committees, including citizen advisory committees, and divisions, and authorize
the staffing of same, as necessary, to carry out its powers;
(5) hold public hearings;
(6) borrow money, accept gifts, apply for and use grants or loans of money or other property from the United States, the state, a local unit of government, or any person, for any agency purpose, enter into agreements required in connection therewith, and hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto;
(7) enter into all contracts and agreements necessary or incidental to the performance of its duties and responsibilities, including but not limited to:
   (i) intergovernmental contracts or joint exercise of powers agreements;
   (ii) contracts for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature; and
   (iii) contracts, including bonds, for financing appropriate services;
(8) prescribe all terms and conditions for the employment of officers, employees, and other agents including but not limited to their classification, the fixing of compensation and benefits, and the filing of performance and fidelity bonds and policies of insurance as it may deem advisable; provide for adoption of qualifications, job descriptions; prescribe procedures for removal and appeal by employees;
(9) apply for coverage of its employees under the state retirement system in the same manner as if such employees were state employees, subject to necessary action by the agency to pay employer contributions into the state retirement fund;
(10) conduct studies of the region’s resources with respect to existing and emerging problems of industry, commerce, land use and water resources, transportation, population, housing, agriculture, public services, local government, relative tax effort and fiscal capacity of local governments, and any other matters which are relevant to regional planning;
(11) collect, process, and analyze at regular intervals the social, economic, and fiscal statistics for the region with the necessary planning studies, consistent with [applicable state law], and make the results available to the general public;
(12) provide information to officials and state departments, agencies, and instrumentalities, Federal and local governments, and the public at large in order to foster a public awareness and understanding of the objectives of the comprehensive regional development guide and its proposals and the nature of regional and local planning in order to stimulate public interest and participation in the orderly, integrated development of the region;

1In most states this general power would be restricted to short term notes with long term debt controlled by additional specific provisions of law.
(13) assume duties for additional areas pursuant to any state or Federal designation subject to providing additional equitable representation as provided in subsection (e) of Section 3 of this act; and

(14) execute any and all instruments, and do and perform any and all acts for things necessary, convenient, or desirable for its purposes or to carry out the powers expressly given in this section.

(b) The governing body shall employ and set the compensation of an executive director, who shall serve at the pleasure of the governing body. The executive director shall employ professional, technical, clerical, legal, or other staff, as may be necessary and authorized, and remove same. The executive director may make agreements with local planning or other public agencies, within the geographic boundaries of the region, for temporary transfer, loan, or other cooperative use of staff employees and, with the consent of the governing body, or pursuant to procedures established by the governing body, may acquire the services of consultants and enter into contracts on behalf of the agency.

(c) The agency shall promulgate rules governing its operation, provided that such rules shall be in accordance with the administrative procedure provisions of [applicable state law].

SECTION 5. Comprehensive Regional Development Guide; Planning and Review.

(a) (1) The agency shall establish a comprehensive planning process and prepare, publish, and annually review and, if necessary, revise, a guide for the coordinated development of the region. The guide shall be based on studies of governmental, social, economic, environmental, and physical conditions and trends, and shall seek to promote the general health, welfare, convenience, and prosperity of the region's population. It shall embody the policies of the agency, and include, but not be limited to:

(i) goals, objectives, standards, and principles to guide economic, social, environmental, and human resource development;

(ii) alternative strategies for economic growth and population settlement;

(iii) land, water, and air transportation networks, and communication facilities;

(iv) the need for, and proposed general location of, public and private works and facilities, which by reason of their function, size, extent or any other cause are of an areawide, as distinguished from a purely local, concern; and

(v) the long-range development, operation, and financing of capital projects and facilities.

(2) The comprehensive regional development guide, in part or in whole, and any amendments thereto, shall be officially adopted by a majority of the governing body, after submission to the governing body of each unit of general local government within the region for a period of not less than [30 days] prior to a public hearing to be held by the agency after adequate notice. Each unit
of general local government may make recommendations to the agency on the effect of the proposed plan, or portions thereof, on its jurisdiction on or before the date of the hearing.

(b) (1) The agency shall develop guidelines to determine developments of areawide concern [which shall include, but not be limited to, developments of regional impact pursuant to applicable state law].

(2) Any development of areawide concern shall not be considered by any unit of local government within the region until the agency and all affected local governmental units have been granted [30 days] advance notification. Any comment received from the agency or another unit of local government shall be placed on the local record and a response to any adverse comment must be made prior to any final decision.

(c) Upon adoption of the comprehensive regional development guide, each unit of local government located within the region and each state agency operating within the region shall submit to the agency for review, comment, and recommendation, its comprehensive plans or any other plans or programs which, in the judgment of the agency, affect or are affected by the provisions of the comprehensive regional development guide. The submission of a comprehensive plan or other plan or program by a county government which includes the plans of other local units within the county may be considered a consolidated submission and waives the submission requirement for the units included. The agency shall have [30 days] from the date of submission of these programs to conduct its review and make comments and recommendations, during which period the unit of general local government or state agency shall take no action to implement the plans or programs.

(d) (1) The governing body of each unit of general local government and each state agency operating within the region shall submit to the agency for review all proposed major capital facility projects. The agency shall advise the unit or state agency within [30 days] from the date of submission as to whether the proposed project has regional significance. If it lacks regional significance, the agency shall certify this finding. If it has regional significance, the agency shall determine whether the proposed project is in conflict with the comprehensive regional development guide and implementing policies or is not properly coordinated with other existing or proposed projects within the region. If the agency finds the proposed project conflicts with the guide or implementing policies or lacks proper coordination, all such inconsistencies shall be resolved to its satisfaction before initiation.

(2) The agency shall review and approve any application for a loan or grant from a state or Federal department or agency submitted by special districts or private non-profit corporations within its boundaries. If the agency finds the proposed application to be in conflict with the comprehensive development guide or implementing policies or is not properly coordinated with exist-

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1See Establishment of Regional Transportation Authorities and the State Planning and Growth Management Act.
ing or proposed projects within the region, the agency shall so inform the special district or private
non-profit corporation who shall, upon receipt of such notification, suspend its application until
resolution of the conflicts so noted.
(e) (1) The agency shall review proposals for the formation of special districts which would
operate within its boundaries and within [30 days] submit a report on the regional significance of the
proposed formation to the referring units of general local government [and boundary commission].¹
(2) Each special district not governed by the governing body of a unit of local general
government, ex officio or otherwise, located within the region shall submit to the agency all plans
and annual work programs which the agency determines to affect or be affected by the provisions
of the comprehensive development guide. The agency shall have [30 days] from the date of submis-
ion of plans to conduct its review and approval and to make comments and recommendations, dur-
ing which time the special district shall take no action to implement the plans or programs. If the
agency finds the proposed program conflicts with the comprehensive regional development guide or
implementing policies or lacks proper coordination, the special district shall resolve all inconsistenc-
ies and receive approval from the agency before project initiation.
SECTION 6. Federal and State Programs.
(a) The agency is the only authorized agency to receive state and Federal designations and/or
grants for regional planning and coordination purposes from the following programs²:
(1) Section 403 of the Public Works and Economic Development Act of 1965, as amended;
(2) Section 701 of the Housing Act of 1954, as amended;
(3) Omnibus Crime Control Act of 1968, as amended;
(4) Section 134 of the Federal Aid Highway Act, as amended; and
(5) for the following purposes to the extent feasible as determined by the governor;
   (i) Economic Opportunity Act of 1964, as amended;
   (ii) Comprehensive Health Planning Act of 1965, as amended;
   (iii) Section 208 of the Water Pollution Control Act Amendments of 1972, as amended;
   (iv) Federal regional manpower planning programs;
   (v) resource, conservation, and development districts; or
   (vi) any state and Federal programs providing funds for multicounty or regional plan-

(b) To avoid duplication of staffs for various multicounty or regional bodies assisted by state

¹See suggested state legislation entitled Local Government Creation, Dissolution, and Boundary Adjustments.
²Specific reference clarifies and strengthens the legislative intent; however, these specific program lists should be carefully checked
and updated periodically; see Chapter VI of Advisory Commission on Intergovernmental Relations, Regional Decision Making:
and Federal governments, the agency shall provide basic administration, research, and planning for
all multicounty or regional planning and development agencies heretofore or hereafter established in
the region. The agency may contract to obtain or perform services with state agencies, non-profit
multicounty or regional groups, substate districts organized as the result of Federal programs, coun-
cils of governments formed under [applicable state law] or any other law, and local units of govern-
ment.

(c) (1) The governing body of each unit of local government located wholly or partly within
the region shall submit to the commission for review and comment any application to agencies of
the state or Federal government for financial assistance.

(2) The agency shall advise the unit of local government, within [30 days] regardless of longer
periods permitted by Federal law from the date of the submission of the application, as to whether
or not the proposed project, for which funds are requested, has significance beyond the boundaries
of the applying unit of local government. If it does not have such significance, the agency shall certi-
fy that it is not of significance beyond the boundaries of the applying unit of local government. If
it does have such significance, the agency shall determine, within [30 days] from the date of the sub-
mission of the application, whether or not the application is in conflict with the regional development
plan or implementing policies thereof. In making such determination, it may also consider whether
the proposed project is properly coordinated with other existing or proposed projects within the dis-
trict. The agency shall resolve any adverse comments prior to approving such application for sub-
mission to a state or Federal agency for financial assistance.

SECTION 7. Cooperation with Other Agencies.

(a) The agency shall cooperate with other regional planning commissions, the legislative or ad-
ministrative bodies and officials of other districts or local governments within or without the region,
the division of state planning, and other appropriate state and local agencies. All state and local
agencies having information, maps, and data pertinent to the planning and development of the region
shall, at cost, and may without cost, make the same, together with services and funds, available for
use of the agency.

(b) Agencies of the Federal or state government and of local governmental units are authorized
and encouraged to detail or loan employees to the agency on either a reimbursable or non-reimburs-
able basis as may be mutually agreed by the state agency or governmental unit and the agency. Dur-
ing the period of loan or detail the person will continue to be an employee of the lending agency or
unit for purposes of salary, leave, retirement, and other personnel benefits but will work under the di-
rection and supervision of the agency. A loan or detail made pursuant to this section shall expire
at the end of [two years] or shorter time as agreed by the parties, but may be renewed by mutual con-
sent of the loaning or detailing agency or governmental unit and the agency.
(c) The agency may delegate any portion of its powers and duties, upon the approval of the chief planning officer of the state, to any multijurisdictional planning unit of local or state government within its boundaries pursuant to a mutual agreement entered into by the governing body of the unit and the agency for a term not to exceed three years.

(d) The agency shall enter into a cooperative planning agreement with any additional major state agencies having jurisdiction within the region. The terms of said agreement shall be approved by the governor and filed with the appropriate state official and the presiding officer of each house of the legislature.

SECTION 8. Reports; Fiscal Year; Budget and Audit.

(a) The agency shall provide financial reports, in such form and in such manner, as prescribed by appropriate state law.

(b) The agency shall prepare an annual report on its activities and shall furnish such to the governor and legislature, the appropriate state agencies, the presiding officer of the governing bodies of the units of local general purpose government and the appropriate regional agencies within its boundaries, and, upon payment of a fee if such be established by the agency, to any interested person. Such report shall include:

1. A financial statement in the form provided for financial reporting to the state;
2. The budget for the year in which the report is filed, including an outline of its programs, activities, and staffing arrangements for such period;
3. A description of the comprehensive regional development plan adopted by the region and indicators of development progress;
4. Summaries of any studies and the recommendations resulting therefrom made by the agency, and a listing of all applications for Federal and state loans or grants made by local units of government within the region, and a summary of the agency’s review and comments;
5. A list of plans or proposed capital facilities of units of local and state government submitted to the agency;
6. Recommendations regarding Federal and state programs, intergovernmental cooperation, funding, and legislative needs; and
7. Any other information deemed necessary by the agency or which the appropriate state agency may require pursuant to a rule promulgated pursuant to applicable state law.

(c) The fiscal year for the agency shall begin [insert date].

(d) Prior to [insert date] of each year, the executive director shall prepare and submit to the agency, to all units of local general purpose government in the region, and to the appropriate regional and state agencies, a proposed annual budget for the next fiscal year. Not later than [insert date], the governing body shall adopt its annual budget for the ensuing fiscal year.
(e) The agency shall make provisions for an annual independent post-audit of its financial records. The [appropriate state official] is hereby instructed and authorized to make such audit pursuant to [applicable state law]. The agency may, with the approval of the [appropriate state official], make provision for any annual post-audit of all or any of its accounts with an independent auditor authorized to do business in the state.


(a) The agency is authorized to prepare and promulgate a plan for creation of a service district for regional services at any time and, upon request of the governing bodies of at least one-half of the units of general local government located within the district or of the governing bodies representing at least 60 percent of the population of the district, it shall promulgate a plan for the service so requested within one year from the date of such request.

(b) For the purposes of this section, the population of county governments shall be computed on the basis of the population in the unincorporated areas of the county.

(c) (1) Service districts may be established for all or any of the following purposes:

(i) sewage treatment works, including any facilities covered by [appropriate state law];

(ii) facilities for the collection, treatment, and disposal of solid waste material;

(iii) facilities for water resources, including development of regional water supplies and integration of regional water distribution systems;

(iv) public transportation; and

(v) any program or function added by a two-thirds vote of the governing body.

(2) The geographic jurisdiction within the region for the exercise of any such purposes assumed by the agency or its designee shall be established and may be amended by the agency pursuant to the procedures established herein.

(d) (1) Upon promulgation of a plan for creation of a service district pursuant to this section, the agency shall submit such plan to the units of local general purpose government within the area of the proposed service district for adoption. Upon adoption of the plan by a majority of the units of local general purpose government affected, representing 60 percent of the population, the service district shall be created and the agency or its designee shall be authorized to assume all powers granted by this section for such purpose.

(2) As an alternative method for creation of a service district, the agency may propose in its plan the creation of such a service district pursuant to interlocal agreement under [appropriate state law] and, upon adoption of the agreement by the participating units, such service district shall be considered a special district subject to the provision of Section 10 of this act.

1See also, suggested state legislation entitled Regional Service Corporation.

2See also, suggested state legislation entitled Establishment of Regional Transportation Authorities.
A service district plan may be amended or repealed in the same manner as provided for its original adoption.

(e) (1) Upon creation of a service district, which shall be governed by the agency or its designee, the agency or its designee shall be authorized to assume and exercise all contractual and operational powers otherwise conferred by state law on units of local government within the proposed service district to plan, finance, undertake, and develop facilities and programs for the authorized purpose. With respect to any such power for which Federal or state government assistance is sought or received, the agency or its designee shall be the governing body of the service district area for purposes of such assistance. [The placement of any facility by such a service district shall be considered a development of regional impact with the service district as developer and subject to the procedures established in [appropriate state law].]

(2) To finance the function or activity, the agency may apply for and accept state, Federal, and local contributions, and issue and sell revenue bonds in accordance with procedures prescribed in [appropriate state statutory citation]. The agency may also raise, by user charge or fees authorized by a duly enacted resolution after adequate notice, amounts of money which are necessary for the conduct of its operations and may enforce this receipt and collection in the manner prescribed by resolution.

SECTION 10. Powers in Relation to Certain Special Districts.

(a) The agency shall exercise powers and duties set forth in this section in relation to any special district created and organized within the region.

(b) The governing body of any special district operating within the region shall submit, at least 160 days prior to adoption, the proposed annual budget for the ensuing fiscal year, any long term financial plan or program, and any other plans or programs of the special district for future operations.

(c) The agency shall review the proposed annual budget and any long term financial plan or program and make comments and recommendations thereon. Any other plans or programs of the special district for future operations shall be reviewed pursuant to the same procedure and to the same extent as the plans or programs of other units of local government pursuant to Section 5 of this act.

(d) In the case of special districts located within the region, an adverse review and comment as provided in (c) shall cause a suspension of such plan or program until such time as the agency determines the amended proposal to be in conformity with regional goals and policies.

SECTION 11. Regional Agency; Funding.

(a) The agency is authorized to apply for, contract for, receive, and expend for its purposes any

1See Establishment of Regional Transportation Authorities and the State Planning and Growth Management Act.
funds or grants from any participating local governmental unit or from the state, Federal government, or any other source.

(b) The agency shall be eligible for state financial assistance from funds appropriated by the legislature to the appropriate state agency for this purpose. Financial assistance provided hereunder shall be an annual grant of \(33\frac{1}{3}\%\) of local contributions to the annual budget of the agency but shall not exceed \(\$\) for any fiscal year. (In addition the agency shall receive 3 percent of all state revenue sharing funds distributed to units of local government within the region pursuant to appropriate state law.)

SECTION 12. Implementation.

(a) Alternatives 2 and 3 — The first election for members shall be held on the first Tuesday after the first Monday in [year].

(b) The first meeting of the governing body shall be held on the second Tuesday following the date of selection [set for the runoff election pursuant to this act]. At the first meeting, the governing body shall organize, elect a presiding officer, secretary (who need not be a member), and such other officers as it deems necessary. It shall further adopt its rules of procedure, employ an executive director, and, after a public hearing with at least seven days notice, adopt a budget for the initial fiscal period which shall be from [dates]. Any state or local agency having funds appropriated to it for the purpose of assisting the formation of the agency may expend such funds upon the request of the governing body at any time before [date] and thereafter as provided by the budget.

(c) The names of existing regional agencies established pursuant to appropriate existing state laws are hereby transferred on [date] [by a type of transfer as provided in appropriate state law] to the [name] regional council established pursuant to this act. All employees of such agency(s) shall continue as employees of the agency and shall retain all vested rights and benefits granted prior to [date].

SECTION 13. Separability. [Insert separability clause.]

SECTION 14. Effective date. [Insert effective date.]
A number of metropolitan regions in this country involve areas in more than one state. In order to provide umbrella multijurisdictional organizations for such areas, the following joint compact between the Federal and state governments is suggested.

Of course, the suggested act on interlocal contracting and joint enterprise, and an interstate compact between the states without Federal participation, also could be used to provide a useful regional organization for addressing metropolitan issues in interstate areas. Indeed, even non-profit corporations are being used for such purposes at the present time. However, interlocal agreements and non-profit charters cannot confer all of the powers recommended by ACIR for umbrella multijurisdictional organizations, and ordinary interstate compacts—which are still quite rare for metropolitan purposes—have not done so. Since a large share of metropolitan areawide activities are Federally supported, and since the Federal government is the only basic constitutional unit which spans the interstate metropolitan areas, ACIR believes that the Federal government has a responsibility to initiate, help to negotiate, and to participate actively as members of compacts for these areas.

The Commission's recommendation is for use of the Federal compact (multistate) approach; however, it has noted that both state and local action should be taken when this Commission preferred approach is not practicable. This can be done through suggested state legislation entitled Interlocal Contracting and Joint Enterprise, or Statewide Substate Districting Act, or Umbrella Multijurisdictional Organization for Specific Metropolitan or Multicounty Areas.

The suggested compact was adapted from interstate acts of Illinois/Missouri, Nevada/California, and Connecticut/New Jersey/New York.

Section I states the agreement of the states and the Federal government to the following compact.

Article I states the findings, purpose of the act, and definitions used in the act.

Article II creates a regional council and provides for its membership.

Article III enumerates the council's powers and duties, authorizes the council to employ an executive director who shall employ necessary staff, and requires the council to promulgate rules of operation.

Article IV requires the council to establish a comprehensive planning and review process and to prepare, publish, and review annually a comprehensive regional development guide.

Article V mandates the council as the only authorized agency to receive state and Federal designations and/or grants for regional planning and coordination from certain programs, authorizes the council to provide basic administration, research, and planning for multicounty or regional planning and development agencies in the region, and requires the council to review any application of a state agency or unit of local government for projects within the region which would receive state or Federal agency financial assistance.

Article VI provides for cooperation with other local, regional, and state agencies through exchange of data; loan of employees to the council from local, state, or Federal agencies; delegation of certain of the council's powers and duties, upon approval of the governors of each party state; and cooperative planning agreements.

Article VII requires the regional council to provide financial reports as prescribed by law or agreement of the governors of the party states; prepare and furnish an annual report on its activities to the governors, legislatures, appropriate state agencies, presiding officer of the governing bodies of units of local government.

purpose governments and appropriate regional agencies within its boundaries, and, for a fee, any interested person; adopt an annual budget as submitted by the executive director; and provide for an annual independent post-audit of its financial records. It also specifies the council's fiscal year.

Article VIII authorizes the regional council to prepare and promulgate a plan creating a regional service district, delineates those purposes for which it may be established, and sets out the actions to be taken by the council upon promulgation of the service district plan and upon adoption of such a plan.

Article IX enumerates those powers and duties to be exercised by the council in relation to any special district created and organized within the region.

Article X deals with the funding of the regional council.

Article XI authorizes the governors of the party states and the members of the regional council to proceed with the development of regional organization and programs in accordance with the articles of the compact and sets out when members are to be selected and the first meeting held, and the actions to be taken by the council.

Sections 2 and 3 provides for separability and effective date clauses, respectively.
Suggested Legislation

[AN ACT PROVIDING FOR A JOINT FEDERAL-MULTISTATE COMPACT TO CREATE AN UMBRELLA MULTIJURISDICTIONAL ORGANIZATION WITH SERVICE POWERS UNDER CERTAIN CONDITIONS]

(Be in enacted, etc.)

SECTION 1. Compact Between [States] and Federal Government. The state of [name] hereby agrees with the state(s) of [name] and with the government of the United States, upon enactment by each of them of legislation having the same effect as this section, to the following compact.

Article I

FINDINGS, PURPOSE, AND DEFINITIONS

(1) The [legislature] finds and declares that in the [name] regions:

(a) the problem of growth and development transcend the boundaries of individual units of general local and state government, and no single local or state unit can formulate plans or implement policies for their solution without affecting other units in their geographic area;

(b) the proliferation of single purpose areawide and less than areawide agencies has resulted in duplication of efforts and diffusion of responsibility, and has impeded the efforts of local and state governments to meet citizen needs;

(c) there is a need for a joint Federal-multistate organization in [region] to provide a means for the local, state, and Federal governments involved to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain Federal and state grants-in-aid, coordinate development, and conduct other areawide activities; and

(d) the establishment of this regional organization does not affect the right of counties or municipalities to conduct local planning or deliver local services.

(2) It is the purpose of this act to enhance the ability and opportunity of local governments in the [name] region to resolve issues and problems transcending their individual boundaries by establishing a general purpose regional agency with authority to:

(a) perform comprehensive regional planning;

(b) establish regional policy;

(c) enforce regional standards; and

1 Suggested short title: Interstate UMJO Compact.

2 This act is to be enacted also by the Federal government. For that purpose, this wording needs appropriate revision.
(d) provide for [transportation, water resources, sewage treatment, solid waste disposal, and such other] regional functions as may be added through provisions of this act.

(3) Definitions. As used in this act, except where the context clearly indicates otherwise:

(a) "Agency" means [name] regional council.

(b) "Comprehensive regional development guide" means a long range plan identifying regional goals, objectives, and opportunities for physical, economic, and social development.

(c) "Governing body" means the legislative or policy making body of a unit of general government, special district, or the agency.

(d) "Local elected official" means the chief elected executive or a member of the governing body of a unit of general local government.

(e) "Major capital facility" means any publicly financed structure or physical facility which has an impact or effect on development of the region including those which: are located on or near the boundaries between units of general local government; are part of an areawide system of public services or facilities, such as major highways, rapid transit, or water and sewer; are of a magnitude to establish new directions in the population or economic growth of the region; or are related to the components of an officially adopted comprehensive regional development guide.

(f) "Population" means the number of inhabitants according to the latest special or decennial United States census.

(g) "Region" means the territory within [specify area].

(h) "Special district" means a local or multistate unit of special government created pursuant to general or special law for the purpose of performing specialized functions within the region's boundaries [except school districts].

(i) "State agency" means any department, commission, board, or other unit of the executive branch of state government.

(j) "Unit of general local government" means [a county or municipality].

Article II
REGIONAL AGENCY CREATION AND MEMBERSHIP

(1) There is hereby created in the [name] region a general purpose interstate agency as a separate legal entity, to be known and designated as the [name] regional council.

(2) (a) The governing body of the agency shall consist of local elected officials, state, and Federal government representatives. At a minimum, 60 percent of the governing body membership shall be

1The rest of this section, while consistent with ACIR's suggested intrastate UMJO legislation, is merely suggested. The Commission recognizes the uniqueness of compact negotiations and did not take a specific position on the proportionate shares of representation for each level of government.
local elected officials, with every unit of general local government in the region required to be a member. The governing body of each unit of general local government shall appoint at least one official as its representative. The governor shall appoint representatives and, with the consent of Congress as provided in Article XII, the President shall appoint representatives.

(b) Each member local government shall be entitled to one vote in the governing body. The combined vote of the state representatives shall equal the state proportion of the total membership which shall be 20 percent. State and Federal representatives may cast multiple or fractional votes. The combined vote of Federal representatives shall equal the Federal proportion of the total membership which shall be 20 percent. State and Federal representatives may cast multiple or fractional votes.

(c) At times prescribed in the bylaws, any member local government may call a weighted voting procedure into effect. Under this procedure local government representatives may cast multiple or fractional votes. These votes shall bear the same proportion to the total local member votes as the individual local government’s population bears to the total population of the interstate district, except that in addition to unincorporated areas, county population shall consist of residents of:

(i) incorporated territory proportionate to the county’s share of total direct local government expenditures in this territory; or

(ii) incorporated territory proportionate to the county’s share of total local taxes collected in this territory, the individual local government’s annual financial contribution bears to the total annual local government fiscal support for the substate district organization. State and Federal representatives shall cast the same percentage of the total vote as provided in paragraph (b).

(3) Members shall continue in office until their successors qualify. Vacancies in the membership shall be filled in the same manner as the original appointment.

(4) Members shall serve with compensation, not exceeding $100 per day, as provided by resolution and per diem and travel] without compensation; however, this shall not prohibit the payment of per diem and travel as provided in [applicable state law].

(5) If the agency is designated as a regional agency for the purpose of [applicable state law] or any other state or Federal law and the area covered by such designation exceeds the geographic boundaries of the regional council, the council may add such additional members to it or any of its committees as may be agreed upon by the designating agency and the governing body to provide equitable representation. The additional members shall be selected by the governing body of local general purpose government covering all or part of the additional area and shall be heard only with respect to issues for which such designation was made.
Article III

REGIONAL AGENCY DUTIES AND POWERS

(1) The agency shall have and exercise all powers necessary or convenient to enable it to carry out the duties and responsibilities which are hereby, or may hereafter be, imposed upon it by law. Without in any manner limiting or restricting the general powers conferred herein, the agency may:

(a) adopt and have a common seal and alter it at pleasure;
(b) sue and be sued;
(c) adopt bylaws and make rules and regulations for the conduct of its business;
(d) establish committees, including citizen advisory committees, and divisions and authorize the staffing of same, as necessary to carry out its duties and exercise its powers;
(e) hold public hearings;
(f) borrow money, accept gifts, apply for and use grants or loans of money or other property from the United States, the state, a local unit of government or any person, for any agency purpose, and enter into agreements required in connection therewith, and hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto;
(g) enter into all contracts and agreements necessary or incidental to the performance of its duties and responsibilities, including, but not limited to:
   (i) intergovernmental contracts or joint exercise of powers agreements;
   (ii) contracts for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature; and
   (iii) contracts, including bonds, for financing appropriate services.
(h) prescribe all terms and conditions for the employment of officers, employees, and other agents including but not limited to their classification, the fixing of compensation and benefits, and the filing of performance and fidelity bonds and policies of insurance as it may deem advisable; provide for adoption of qualifications, job descriptions; prescribe procedures for removal and appeal by employees;
(i) apply for coverage of its employees under the state [or Federal] retirement system of any compact member in the same manner as if such employees were state [or Federal] employees, subject to necessary action by the agency to pay employer contributions into the state [or Federal] retirement fund;
(j) conduct studies of the region's resources with respect to existing and emerging problems of industry, commerce, land use and water resources, transportation, population, housing, agriculture, public services, local government, relative tax effort and fiscal capacity of local governments,

1In most states this general power would be restricted to short term notes with long term debt controlled by additional specific provisions of law.
and any other matters which are relevant to regional planning;

(k) collect, process, and analyze at regular intervals the social, economic, and fiscal statistics for the region with the necessary planning studies, consistent with [applicable state laws], and make the results available to the general public;

(l) provide information to officials and state departments, agencies and instrumentalities, to Federal and local governments, and to the public at large in order to foster a public awareness and understanding of the objectives of the comprehensive regional development guide and its proposals and the nature of regional and local planning in order to stimulate public interest and participation in the orderly, integrated development of the region;

(m) assume duties for additional areas pursuant to any state or Federal designation subject to providing additional equitable representation as provided in subsection (5) of Article II of this act; and

(n) execute any and all instruments, and do and perform any and all acts for things necessary, convenient, or desirable for its purposes or to carry out the powers expressly given in this section. 

(2) The governing body shall employ and set the compensation of an [executive director], who shall serve at the pleasure of the governing body. The [executive director] shall employ professional, technical, clerical, legal or other staff, as may be necessary and authorized, and remove same. The [executive director] may make agreements with local planning or other public agencies, within the geographic boundaries of the region, for temporary transfer, loan, or other cooperative use of staff employees and, with the consent of the governing body or pursuant to procedures established by the governing body, may acquire the services of consultants and enter into contracts on behalf of the agency.

(3) The agency shall promulgate rules governing its operation, provided that such rules shall be promulgated only after public hearing with notice.

Article IV

COMPREHENSIVE REGIONAL DEVELOPMENT GUIDE: PLANNING AND REVIEW

(1) (a) The agency shall establish a comprehensive planning process and prepare, publish, and annually review and, if necessary, revise a guide for the coordinated development of the region. The guide shall be based on studies of governmental, social, economic, environmental, and physical conditions and trends, and seek to promote the general health, welfare, convenience, and prosperity of the region's population. It shall embody the policies of the agency, and include, but not be limited to:

(i) goals, objectives, standards, and principles to guide economic, social, environmental, and human resource development;

(ii) alternative strategies for economic growth and population settlement;
(iii) land, water, and air transportation networks and communication facilities;
(iv) the need for and proposed general location of, public and private works and facilities, which by reason of their function, size, extent, or any other cause are of an areawide, as distinguished from a purely local, concern; and
(v) the long range development, operation, and financing of capital projects and facilities.

(b) The comprehensive regional development guide, in part or in whole, and any amendments thereto, shall be officially adopted by a majority vote of the governing body, after submission to the governing body of each unit of general local government within the region, as well as each participating state, and each appropriate Federal agency, for a period of not less than 30 days prior to a public hearing to be held by the agency after adequate notice. Each unit of government to which the plan is submitted may make recommendations to the agency on the effect of the proposed plan, or portions thereof, and on its jurisdiction on or before the date of the hearing.

(2) (a) The agency shall develop guidelines to determine developments of areawide concern [which shall include, but not be limited to, developments of regional impact pursuant to applicable state law].

(b) Any development of areawide concern shall not be acted upon by any unit of local government within the region or by any state or Federal agency until the regional agency created herein and all affected local governmental units have been granted 30 days advance notification. Any comment received from those notified shall be placed on public record and a response to any adverse comment must be made prior to any final decision.

(3) Upon adoption of the comprehensive regional development guide, each unit of local government located within the region and each state agency operating within the region shall submit to the agency for review, comment, and recommendation its comprehensive plans or any other plans or programs which, in the judgment of the agency, affect or are affected by the provisions of the comprehensive regional development guide. The submission of a comprehensive plan or other plan or program by a county government which includes the plans of other local units within the county may be considered a consolidated submission and waive the submission requirement for the units included. The agency shall have 30 days from the date of submission of these programs to conduct its review and make comments and recommendations, during which period the unit of general local government or state agency shall take no action to implement the plans or programs.

(4) (a) The governing body of each unit of general local government and each state and Federal agency operating within the region shall submit to the agency for review all proposed major capital facility projects. The agency shall advise the submitting unit or agency within 30 days from the date

See the Establishment of Regional Transportation Authorities and the State Planning and Growth Management Act.
of submission as to whether the proposed project has regional significance. If it lacks regional significance, the agency shall certify this finding. If it has regional significance, the agency shall determine whether the proposed project is in conflict with the comprehensive regional development guide and implementing policies or is not properly coordinated with other existing or proposed projects within the region. If the agency finds the proposed project conflicts with the guide or implementing policies or lacks proper coordination, all such inconsistencies shall be resolved to its satisfaction before project initiation.

(b) The agency shall review and approve any application for a loan or grant from a state or Federal department or agency submitted by special districts or private or non-profit corporations within its boundaries. If the agency finds the proposed application to be in conflict with the comprehensive development guide for implementing policies or is not properly coordinated with existing or proposed projects within the region, the agency shall so inform the special district or private non-profit corporation who shall, upon receipt of such notification, suspend its application until resolution of the conflicts so noted.

(5) (a) The agency shall review proposals for the formulation of special districts which would operate within its boundaries and within [30 days] submit a report on the regional significance of the proposed formation to the referring units of general local government [and boundary commission].

(b) Each special district not governed by the governing body of a unit of local general government, ex officio or otherwise, located solely within the region shall submit to the agency all plans and annual work programs which the agency determines to affect or be affected by the provisions of the comprehensive regional development guide. The agency shall have [30 days] from the date of submission of plans to conduct its review and approval and to make comments and recommendations, during which time the special district shall take no action to implement the plans or programs. If the agency finds the proposed program conflicts with the comprehensive regional development guide or implementing policies or lacks proper coordination, the special district shall resolve all inconsistencies and receive approval from the agency before project initiation.

(6) The governor of any participating state, or the President of the United States, upon making a written finding, may veto any actions of the [name] regional agency that conflict, respectively, with (a) an officially adopted state development plan or with officially adopted plans, policies, or actions of any adjoining [substate district organization], or (b) an official plan, policy, or action of the United States.

1See suggested state legislation entitled Local Government Creation, Dissolution, and Boundary Adjustment.
Article V

FEDERAL AND STATE PROGRAMS

(1) The agency is the only authorized agency to receive state and Federal designations and/or grants for regional planning and coordination purposes from the following programs:

(a) Section 403 of the Public Works and Economic Development Act of 1965, as amended;
(b) Section 701 of the Housing Act of 1954, as amended;
(c) Omnibus Crime Control Act of 1968, as amended; and
(d) Section 134 of the Federal Aid Highway Act, as amended;
(e) for the following purposes, to the extent feasible, and as mutually determined by the governors of the party states:

(i) Economic Opportunity Act of 1964, as amended;
(ii) Comprehensive Health Planning Act of 1965, as amended;
(iii) Section 208 of the Water Pollution Control Act Amendments of 1972, as amended;
(iv) Federal regional manpower planning programs;
(v) resource, conservation, and development districts; or
(vi) any state and Federal programs providing funds for multicounty or regional planning, coordination, and development purposes.

(2) To avoid duplication of staffs for various multicounty or regional bodies assisted by state and Federal governments, the agency shall provide basic administration, research, and planning for all multicounty or regional planning and development agencies heretofore or hereafter established in the region. The agency may contract to obtain or perform services with state agencies, non-profit multicounty or regional groups, substate districts organized as the result of Federal programs or state law, councils of governments formed under [applicable state law] or any other law, and local units of government.

(3) (a) The governing body of each unit of local government located wholly or partly within the region shall submit to the agency for review and comment any application to agencies of the state or Federal government for financial assistance.
(b) The agency shall advise the unit of local government, within [30 days] regardless of longer periods permitted by Federal law from the date of the submission of the application, as to whether or not the proposed project, for which funds are requested, has significance beyond the

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boundaries of the applying unit of local government. If it does not have such significance, the agency shall certify that it is not of significance beyond the boundaries of the applying unit of local government. If it does have such significance, the agency shall determine, within [30 days] from the date of submission of the application, whether or not the application is in conflict with the regional development plan or implementing policies thereof. In making such determination, it may also consider whether the proposed project is properly coordinated with other existing or proposed projects within the district. The agency shall resolve any adverse comments prior to approving such application for submission to a state or Federal agency for financial assistance.

Article VI

COOPERATION WITH OTHER AGENCIES

(1) The agency shall cooperate with other regional planning commissions, the legislative or administrative bodies and officials of other districts or local governments within or without the region, the [division of state planning,] and other appropriate state and local agencies. All state and local agencies having information, maps, and data pertinent to the planning and development of the region shall, at cost, and may, without cost, make the same, together with services and funds, available for use of the agency.

(2) Agencies of the Federal or state government and of local governmental units are authorized and encouraged to detail or loan employees to the agency on either a reimbursable or non-reimbursable basis as may be mutually agreed by the stage agency or governmental unit and the agency. During the period of the loan or detail the person will continue to be an employee of the lending agency or unit for purposes of salary, leave, retirement, and other personnel benefits but will work under the direction and supervision of the agency. A loan or detail made pursuant to this section shall expire at the end of [two years] or shorter time as agreed by the parties, but may be renewed by mutual consent of the loaning or detailing agency or governmental unit and the agency.

(3) The agency may delegate any portion of its powers and duties, upon the approval of the governor of each party state, to any multijurisdictional planning unit of local or state government within its boundaries pursuant to a mutual agreement entered into by the governing body of the unit and the agency for a term not to exceed [three years].

(4) The agency shall enter into a cooperative planning agreement with [specify any additional major state agencies having jurisdiction with the region]. The terms of said agreement shall be approved by the governor of each party state and filed with the [appropriate state official] and the [presiding officer of each house of the legislature] in each party state.
Article VII
REPORTS, FISCAL YEAR, BUDGET, AND AUDIT

(1) The agency shall provide financial reports, in such form and in such manner, as prescribed by [appropriate state law] [or as may be mutually agreed by the governors of the party states].

(2) The agency shall prepare an annual report on its activities and shall furnish such to the governor and legislature, the [appropriate state agencies], the presiding officer of the governing bodies of the units of local general purpose government and the [appropriate regional agencies] within its boundaries and, upon payment of a fee if such be established by the agency, to any interested person. Such report shall include:

(a) a financial statement in the form provided for financial reporting to the state;

(b) the budget for the year in which the report is filed, including an outline of its programs, activities, and staffing arrangements for such period;

(c) a description of the comprehensive regional development plan adopted by the region and indicators of development progress;

(d) summaries of any studies and recommendations resulting therefrom made by the agency, a listing of all applications for Federal and state loans or grants made by local units of government within the region, and a summary of the agency's review and comments;

(e) a list of plans or proposed capital facilities of units of local and state government submitted to the agency;

(f) recommendations regarding Federal and state programs, intergovernmental cooperation, funding, and legislative needs; and

(g) any other information deemed necessary by the agency.

(3) The fiscal year for the agency shall begin [specify].

(4) Prior to [specify date] of each year, the [executive director] shall prepare and submit to the agency, to all units of local general purpose government in the region, and [to the appropriate regional and state agencies], a proposed annual budget for the next fiscal year. Not later than [specify date], the governing body shall adopt its annual budget for the ensuing fiscal year.

(5) The agency shall make provisions for an annual independent post-audit of its financial records. The auditor shall be chosen by mutual agreement of the governors of each party state, or otherwise by the governing body of the agency. The audits shall be in such form as mutually prescribed by the governors of the party state, or otherwise the governing body of the agency, and shall be filed with the [appropriate state official] of each party state.
Article VIII
REGIONAL AGENCY AUTHORIZATION TO ASSUME CERTAIN SERVICE POWERS

(1) The agency is authorized to prepare and promulgate a plan for creation of a service district for regional services at any time and, upon request of the governing bodies of at least one-half of the units of general local government located within the district or of the governing bodies representing at least 60 percent of the population of the district, it shall promulgate a plan for the service so requested within one year from the date of such request.

(2) For the purposes of this section, the population of county governments shall be computed on the basis of the population in the unincorporated areas of the county.

(3) (a) Service districts may be established for all or any of the following purposes:
   
   [(i) sewage treatment works, including any facilities covered by [appropriate state law];
   (ii) facilities for the collection, treatment, and disposal of solid waste material;
   (iii) facilities for water resources, including development of regional water supplies and integration of regional water distribution systems;
   (iv) public transportation; and
   (v) any program or function added by a two-thirds vote of the governing body.]

   (b) The geographic jurisdiction within the region for the exercise of any such purposes assumed by the agency or its designee shall be established and may be amended by the agency pursuant to the procedures established herein.

(4) (a) Upon promulgation of a plan for creation of a service district pursuant to this section, the agency shall submit such plan to the units of local general purpose government within the area of the proposed service district for adoption. Upon adoption of the plan by a majority of the units of local general purpose government affected, representing a majority of the population, the service district shall be created and the agency or its designee shall be authorized to assume all powers granted by this section for such purpose.

   (b) As an alternative method for creation of a service district, the agency may propose in its plan the creation of such a service district pursuant to interlocal agreement under [appropriate state law] and, upon adoption of the agreement by the participating units, such service district shall be considered a special district subject to the provision of Article IX of this compact.

   (c) A service district plan may be amended or repealed in the same manner as provided for its original adoption.

(5) Upon creation of a service district, which shall be governed by the agency or its designee, the agency or its designee shall be authorized to assume and exercise all contractual and operational powers otherwise conferred by state law on units of local government within the proposed service district.
to plan, finance, undertake, and develop facilities and programs for the authorized purpose. With respect to any such power for which Federal or state government assistance is sought or received, the agency or its designee shall be the governing body of the service district area for purposes of such assistance. [The placement of any facility by such a service district shall be considered a development of regional impact\(^1\) with the service district as developer and subject to the procedures established in the [appropriate state law].] To finance the function or activity, the agency may apply for and accept Federal, state, and local contributions and issue and sell revenue bonds in accordance with procedures prescribed in [appropriate state statutory citation]. The agency may also raise, by user charges or fees authorized by a duly enacted resolution after adequate notice, amounts of money which are necessary for the conduct of its operations and may enforce this receipt and collection in the manner prescribed by resolution. The governor, by executive order, may suspend or alter such procedures in order to provide compatibility with the law of a party state.

Article IX

POWERS IN RELATION TO CERTAIN SPECIAL DISTRICTS

(1) The agency shall exercise the powers and duties set forth in this section in relation to any special district created and organized within the region.

(2) The governing body of any special district operating within the region shall submit, at least [60 days] prior to adoption, the proposed annual budget for the ensuing fiscal year, any long term financial plan or program, and any other plans or programs of the special district for future operations.

(3) The agency shall review the proposed annual budget and any long term financial plan or program and make comments and recommendations thereon. Any other plans or programs of the special district for future operations shall be revised pursuant to the same procedure and to the same extent as the plans or programs of other units of local government pursuant to Article IV of this compact.

(4) In the case of special districts located within the region, an adverse review and comment as provided in (3) shall cause a suspension of such plan or program until such time as the agency determines the amended proposal to be in conformity with regional goals and policies.

\(^1\)See the Establishment of Regional Transportation Authorities and the State Planning and Growth Management Act.
Article X

REGIONAL AGENCY FUNDING

(1) The agency is authorized to apply for, contract for, receive, and expend for its purposes any funds or grants from any participating local governmental unit or from the state, Federal government, or any other source.

(2) The agency shall be eligible for state financial assistance from funds appropriated by the [legislature] to the [appropriate state agency] for this purpose. Financial assistance provided hereunder shall be an annual grant of [33⅓] [50] percent of local contributions to the annual budget of the agency, but shall not exceed [$] or an amount equal to the expenditures of other party states divided by their population in the region, whichever is lesser, for any fiscal year. [In addition the agency shall receive 3 percent of all state revenue sharing funds distributed to units of local government within the region pursuant to [appropriate state law].]

Article XI

IMPLEMENTATION

(1) The President, governors, and, when available, members of the agency are authorized and directed to proceed with the development of the regional organization and programs in accordance with the articles of this compact as rapidly as may be economically practicable and are vested with all necessary and appropriate powers, not inconsistent with the constitution or the laws of the United States or of participating states, to effectuate the same, except the power to levy direct taxes or assessments upon the citizens of the district.¹

(2) The agency shall render such advice, suggestion, and assistance to all local and state officials as will permit all local and municipal improvements, so far as practicable, to fit in with the plan.

(3) The first selection of members shall take place prior to [date] and after passage of similar legislation by the state(s) of [name] and the Federal government.

(4) The first meeting of the governing body shall be held on the second Tuesday following the date of selection. At the first meeting, the governing body shall organize, elect a presiding officer, secretary (who need not be a member), and such other officers as it deems necessary. It shall further adopt its rules of procedure, employ an [executive director], and, after a public hearing with at least seven days notice, a budget for the initial fiscal period which shall be [dates]. Any state or local agency

¹See the suggested Establishment of Regional Transportation Authorities for examples of direct tax authorizations which could be included here.
having funds appropriated to it for the purpose of assisting the formation of the agency may expend
such funds upon the request of the governing body at any time before [date] and thereafter as pro-
vided by the budget.

(5) The [names of pre-existing agencies] established pursuant to [appropriate existing state
laws] are hereby transferred on [date] [by a type of transfer as provided in appropriate state law] to the
[name] regional council established pursuant to this act. All employees of such agencies shall continue
as employees of the agency and shall retain all vested rights and benefits granted prior to the ef-
fective date of this compact.

SECTION 2. Separability. [Insert separability clause.]

SECTION 3. Effective date. [Insert effective date clause.]
A notable phenomenon of the past several decades has been the proliferation of local public "authorities" or "special districts," generally created to provide a single type of governmental service or facility; e.g., housing, some phase of natural resources activity, sewage disposal, parks, hospital service, water supply, or other utility services. The spread of functional authorities has caused concern among public administrators, scholars, and political leaders in regions and in metropolitan areas. The authority approach has been denounced as "supergovernment," arrogant and irresponsible. The severity with which particular authorities are condemned is frequently correlated directly with their size, success, and power.

Three principal arguments are advanced against the use of functional authorities: (1) It is a piecemeal approach to regional or metropolitan problems. The practice of pulling out single functions for independent handling could, if carried to its logical conclusion, lead to a whole "nest" of powerful authorities, each operating with respect to a particular function and each unrelated in planning, programming, and financial management to all of the others. (2) The creation of authorities adds to the number of local units of government within a regional area, where there are already too many. (3) Authorities, being typically governed by a board of directors of private citizens appointed for staggered terms, are not directly responsive to the will of the people and to a considerable extent are beyond the reach of any one level of government.

The problems and limitations of the authority device, as it has been widely used, cannot be taken lightly. They need to be recognized and avoided in any legislation designed to permit regions and metropolitan areas to utilize this device where it seems more desirable or feasible than alternative changes in the existing pattern of local government. Accordingly, the draft legislation which follows, providing for the permissive establishment of regional service corporations, contains safeguards against the three arguments most often cited against authorities. The regional service corporation proposed could be a multifunctional type that would meet the argument that the authority inevitably leads to a piecemeal and fragmented approach. In the form proposed, it would be susceptible, if the area residents so chose, of handling numerous areawide services and functions. Secondly, by providing for a board of directors made up of members, *ex officio*, from boards of county commissioners, city councils, and mayors, the affairs of the corporation would be kept in the hands of elected officials and not entrusted to an independent "untouchable" body. Poor performance of the corporation would carry the possibility of retribution at the polls for its board of directors. Third, the corporation could at the most result in the addition of a single unit of government in any given region or metropolitan area, while holding the potentiality of absorbing the functions and responsibilities of a considerable number of separate organizational units within the existing units of local government in the area.

In summary: (1) the draft bill would authorize the establishment of a "regional service corporation" on the basis of a majority vote in the area to be served by the corporation, pursuant to an election resulting either from resolution of the governing bodies of major local governments or from petition. (2) The corporation would be empowered by statute, subject to local voter approval, to carry on one or more of several areawide functions, such as sewage or solid waste disposal, water supply, transportation, or planning. If the function of comprehensive planning were voted to the corporation, performance on a regionwide basis would be required, in contrast to permission for a smaller "service area" in the case of other functions.

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2 This legislation would not, obviously, provide for all the problems involved where an authority is needed to serve a regional or metropolitan territory in two or more states. However, some of the principles expressed in this proposed statute might well be extended to any legislation or compacts providing explicitly for such agencies.

3 See also Advisory Commission on Intergovernmental Relations proposed legislation, *Regional Government Study Commissions*.

4 See also Advisory Commission on Intergovernmental Relations proposed legislation, *Umbrella Multijurisdictional Organization for Specific Metropolitan or Multicounty Areas*.
(3) The corporation would be governed by a council consisting of representatives from the boards of county commissioners, and from the mayors and councils of component cities. (4) The corporation would have power to impose service charges and special benefit assessments, to impose sales, income, and property taxes, and to issue bonds. The use of sales, income, or property taxes would be appropriate where a corporation has responsibility for functions that cannot be financed solely through special assessments. The areawide territory encompassed by a regional service corporation would overcome some of the objectionable features of administering “local” non-property taxes. By authorizing areawide sales or income taxes, states can to some extent reduce the fiscal disparities between contiguous local units. Where possible such taxes should be “piggybacked” on state or local taxes to simplify administration.

The text of the suggested legislation is based on the provisions of Chapter 213, Laws of 1957, state of Washington.

Section 1 states the purpose of the legislation as being to provide people in the regions or metropolitan areas in the state the means of obtaining essential services not adequately provided by existing local government agencies. Section 2 deals with definitions.

Section 3 outlines the service area and functions of a regional service corporation. Section 4 sets forth the method of establishing and modifying a regional service corporation.

Section 5 provides for the organization and the method of selecting a governing body for a regional service corporation; Section 6 outlines the duties of the corporation; Section 7 sets forth the grant of general powers to the corporation; and Section 8 sets forth the scope of the corporation’s financial powers.

Sections 9 and 10 provided for separability and effective date clauses, respectively.

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1See also Advisory Commission on Intergovernmental Relations proposed legislation, Umbrella Multijurisdictional Organization for Specific Metropolitan or Multicounty Areas.

2See also Advisory Commission on Intergovernmental Relations proposed legislation, Regional Home Rule Charters.
Suggested Legislation

[AN ACT PROVIDING FOR THE CREATION AND OPERATION OF REGIONAL SERVICE CORPORATIONS TO PROVIDE AND COORDINATE CERTAIN SPECIFIED PUBLIC SERVICES AND FUNCTIONS FOR PARTICULAR AREAS]

(Be it enacted, etc.)

SECTION 1. Purpose. It is hereby declared to be the public policy of this state to provide for the people of the state the means of obtaining essential services not adequately provided by existing agencies of local government. The growth of population and the movement of people into various areas has created problems of sewage and solid waste disposal, water supply, public transportation, planning, parks, and parkways which extend beyond the boundaries of individual cities, counties, and special districts. For reasons of topography, the location and movement of population, land conditions, and development, one or more of these problems cannot be adequately met by the individual cities, counties, and special districts in regions of this state. It is the purpose of this act to enable cities and counties to act jointly to meet these common problems in order that the proper growth and development of all areas of the state may be assured and the health and welfare of the people residing therein may be secured.

SECTION 2. Definitions.

(a) "Authorized regional function" means an areawide function which a regional service corporation shall have been authorized to perform in the manner provided in this act.

(b) "Central city" means the city with the largest population in a service area.

(c) "Central county" means the county containing the city with the largest population in a service area.

(d) "City" means an incorporated city or town.

(e) "City council" means the legislative body of any city or town.

(f) "Component city" means an incorporated city or town within a service area.

(g) "Component county" means a county of which all or part is included within a service area.

(h) "Metropolitan area" as used herein is an area designated as a Standard Metropolitan Statistical Area by the United States Office of Management and Budget.$^1$

(i) "Population" means the number of residents as shown by the figures released from the most recent official U.S. Census of Population or official estimate thereof.

(j) "Region" means those areas of the state designated pursuant to executive order or statute

$^1$Particular states may find it appropriate and desirable to apply a somewhat different definition from this, tailored to their particular circumstances. For example, a 1961 enactment in Colorado (House Bill 221) defines a metropolitan area as "a contiguous area consisting of one or more counties in their entirety, each of which has a population density of at least 15 persons per square mile."
which establishes the statewide substate district areas].

(k) "Regional service council" means the legislative body of a regional service corporation.

(l) "Regional function" means any of the functions of government named in Section 3 of this act.

(m) "Regional service corporation" means an organization created pursuant to Section 4 of this act.

(n) "Service area" means the area contained within the boundaries of an existing or proposed regional service corporation.

(o) "Special district" means a local unit of special government created pursuant to law for the purposes of performing prescribed, specialized functions within limited boundaries, exclusive of school districts and those units of local special government formed by county or city governments pursuant to their powers, and governed, ex officio, by the governing body of such county or city.

SECTION 3. Areas and Functions of a Regional Service Corporation.

(a) A regional service corporation may be organized to perform certain regional functions, as provided in this act, for a service area consisting of contiguous territory which comprises all or part of a region or an area which includes the entire area of two or more cities or counties, of which a central city, if cities only are involved, has a population of [50,000] or more; but if a regional service corporation shall be authorized to perform the function of regional comprehensive planning it shall exercise such power, to the extent found feasible and appropriate, for the entire region rather than only for some smaller service area. No regional service corporation shall have a service area which includes only a part of any city, and every city shall be either wholly included or wholly excluded from boundaries of a service area. No territory shall be included within the service area of more than one regional service corporation, except where a regional service corporation with comprehensive planning powers has been created for a region with subsidiary service corporations for less than regionwide services.

(b) A regional service corporation shall have the power to perform any one or more of the following functions, when authorized in the manner provided in this act:

(1) regional comprehensive planning;

(2) regional sewage treatment and disposal;

(3) regional water supply and quality control;

(4) regional public transportation;

(5) regional solid waste disposal;

(6) regional parks and parkways;

(7) [ ]; or

If the regional service corporation assumes this function, it should have all powers and responsibilities specified in the umbrella multijurisdictional organizations and substate districting draft bills.

If the regional service corporation assumes this or other specified areawide service functions, it should be subordinate to the regional UMJO as provided in the UMJO and regional transportation authority draft bills.
(c) With respect to each function it is authorized to perform, a regional service corporation shall make services available throughout its service area on a uniform basis; provided however that services may vary among parts of the service area subject only to classifications or distinctions which are applied uniformly throughout the service area and which are reasonably related to such relevant factors as population density, topography, types of users, and volume of services used. As among various parts of the service area, no differentiation shall be made in the nature of services provided, or in the conditions of their availability, which is determined only by the fact that particular territory is located within or outside of a component city.

(d) In the event that a component city shall annex territory which, prior to such annexation is outside the service area of a regional service corporation, such territory shall by such annexation become a part of the service area.

SECTION 4. Establishment and Modification of a Regional Service Corporation.

(a) A regional service corporation may be created by vote of the qualified electors residing in a region in the manner provided in this act. An election to authorize the creation of a regional service corporation may be called pursuant to either a resolution or a petition, as follows:

(1) a resolution or concurring resolutions calling for such an election may be adopted by either:
   (i) the city council of a central city, or
   (ii) the city councils of two or more component cities, or
   (iii) the [board of commissioners] of a central county,
   (iv) the [board of commissioners] of two or more component counties; or

(2) (i) a petition calling for such an election shall be signed by at least [4] percent of the qualified voters residing within the region or within a service area which includes all of a metropolitan area, and shall be filed with the [appropriate official] of the central county,
   (ii) any resolution or petition calling for such an election shall describe the boundaries of the proposed service area, name the regional function or functions which the regional service corporation shall be authorized to perform in the service area;

(3) (i) a certified copy of such resolution or petition or certified copies of such concurring resolutions shall be transmitted to the [board of commissioners] of the central county,
   (ii) after the filing of a first petition or resolution with such county [official] or [board of commissioners] respectively, action by such [official] or [board] shall be deferred on any subsequent petition or resolution until after the election has been held pursuant to such first petition or resolution;

(4) upon receipt of such a petition or resolution(s), the [official] shall examine the same and certify to the sufficiency of the signatures thereon. Within 30 days following the receipt of such petition or resolution(s), the [official] shall transmit the same, together with his certificate as to the suf-
ficiency thereof, to the legislative body of each county and city within the proposed service area.

(b) The election on the formation of the regional service corporation shall be conducted by the [appropriate official] of the central county, with the assistance of the [appropriate official] of each component city and county, in accordance with the general election laws of the state, and the results thereof shall be canvassed by the county [canvassing board] of the county [and of the other component counties], which shall certify the result of the election to the [board of county commissioners] of the central county [and, if any, other component counties], and shall cause a certified copy of such canvass to be filled in the office of the [secretary of state]. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless he is a qualified voter under the laws of the state in effect at the time of such election. The ballot proposition shall be substantially in the following form:

(1) FORMATION OF REGIONAL SERVICE CORPORATION
Shall a regional service corporation be established for the area described in [here insert either a resolution of the [board of commissioners] of [name] county adopted on the [day of [ ] 19[ ]], or a petition filed by [ ] percent of voters to the county [board of commissioners] of [name]] to perform the metropolitan functions of [here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution]?

YES .............................................. [ ]

NO .............................................. [ ]

(2) If a majority of the persons voting on the proposition residing within the service area shall vote in favor thereof, the regional service corporation shall thereupon be established and the [board of commissioners] of the central county shall adopt a resolution setting a time and place for the first meeting of the regional council which shall be held not later than 30 days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular regional functions authorized.

(c) (1) A regional service corporation may be authorized to perform one or more regional functions in addition to those which it has previously been authorized to perform, with the approval of the voters at an election, conducted in the manner provided by subsections (a) and (b) of this section, concerning an election on the original formation of a regional service corporation. The regional service council by resolution may submit the proposal in the same manner as the governing body of a central city or county.

1In a state where this procedure might face constitutional difficulties, provision should be made, instead, for individual county canvassing, and certification to the central county or the secretary of state (or other appropriate state official).
(2) If a majority of the persons voting on the proposition shall vote in favor thereof, the regional service corporation shall be authorized to perform such additional metropolitan function or functions.

(d) The service area of a regional service corporation may be extended, subject to the general geographical conditions stated in Section 3, in the manner provided in this section.

(1) The regional service council of a regional service corporation may make or authorize studies to ascertain the desirability and feasibility of extending the service area of the corporation to include particular additional territory within the region, or the metropolitan area served, which is contiguous to the existing service area of the corporation. If such studies appear to justify, the regional service council may adopt a resolution stating that it has formally under consideration the annexation of certain territory to the service area. The resolution shall clearly describe the area or areas concerned, and shall specify the time and place of a public hearing to be held on the matter by the regional service council. Such resolution shall be published in one or more newspapers having general circulation in the area proposed to be served, at least 30 days before the date set for the public hearing.

(2) the regional service council shall hold the public hearing so announced, to receive testimony on the question of extending the boundaries of the service area, and it may hold further public hearings on the matter, subject in each instance to published notice in a newspaper having general circulation in the area, at least 3 days in advance.

(3) Following such hearings, the regional service council may, by resolution, authorize the annexation to the service area of all or any portion of the territory which was considered for annexation in accordance with the foregoing paragraphs of this section. Such resolution shall clearly describe the area or areas to be annexed and shall specify the effective date of the annexation, which shall in no event be sooner than either:

(i) [six] months from the date when such resolution is published; or

(ii) [one] month after the date of the next regular primary or general election to be held throughout the metropolitan area. The resolution shall be published in one or more newspapers having general circulation in the metropolitan area.

(4) Any annexation to the service area of a regional service corporation which is authorized in the manner provided above shall become effective on the date specified unless nullified pursuant to a popular referendum conducted as follows.

(i) To be sufficient, a petition calling for a popular referendum on the prospective annexation of particular territory to the service area of a regional service corporation shall be signed by at least either:

(a) [4] percent of the qualified voters residing within the entire service area of the corporation as prospectively enlarged; or
(b) [20] percent of the qualified voters residing within the territory concerning which a referendum is proposed.

(ii) the petition shall indicate such territory, in terms of any one or more entire areas specified for annexation by the regional service council resolution which is described in paragraph (3).

(iii) Such petition shall be filed with the [appropriate official] of the central county within [30] days of the publication of the annexation resolution by the regional service council. The [official] shall examine the same and certify to the sufficiency of the signatures thereon.

(iv) If a sufficient petition is filed, the question specified by such petition shall be submitted at the next regular primary or general election held throughout the service area. If, at such election, a majority of the vote cast on the question within the service area of the regional service corporation, as prospectively enlarged, shall vote against the annexation of a particular area or areas, the action of the regional service council with respect to such area or areas shall thereby be nullified.


(a) A regional service corporation shall be governed by a regional service council composed of the following:2

(1) one member selected by, and from, the [board of commissioners] of each component county;

(2) one member who shall be the mayor of the central city;

(3) one member from each of the three largest component cities other than the central city, selected by, and from, the mayor and city council of each of such cities;

(4) [ ] members representing all component cities other than the four largest cities to be selected from the mayors and city councils of such smaller cities by the mayors of such cities in the following manner: the mayors of all such cities shall meet on the second Tuesday following the establishment of a metropolitan service corporation and thereafter on [date] of each even numbered year at [ ] o'clock at the office of the [board of county commissioners] of the central county. The chairman of such board shall preside. After nominations are made, ballots shall be taken and the [ ] candidate[s] receiving the highest number of votes cast shall be considered selected; and

(5) one member, who shall be chairman of the regional service council, selected by the other members of the council. He shall not hold any additional public office other than that of notary public or member of the military forces of the United States or of this state, not on active duty.

(b) At the first meeting of the regional service council following the formation of a regional service corporation, the mayor of the central city shall serve as temporary chairman. As its first official

¹An alternative type of referendum requirement may be found desirable by some states.

²Numbers of members coming from cities as contrasted to counties, as well as the total size of the regional service council should, of course, be adjusted in terms of the general pattern of local government prevalent within the regional or metropolitan areas of the particular state. See also Advisory Commission on Intergovernmental Relations proposed legislation, Regional Home Rule Charters, and Umbrella Multijurisdictional Organization for Specific Metropolitan or Multicounty Areas.
act, the council shall elect a chairman. The chairman shall be a voting member of the council and shall
preside at all meetings. In the event of his absence or inability to act, the council shall select one of its
members to act as chairman pro tempore. A majority of all members of the council shall constitute a
quorum for the transaction of business. A smaller number of council members than a quorum may
adjourn from time-to-time and may compel the attendance of absent members in such manner and
under such penalties as the council may provide. The council shall determine its own rules and order
of business, shall provide by resolution for the manner and time of holding all regular and special
meetings and shall keep a journal of its proceedings which shall be a public record. Every legislative
act of the council of a general or permanent nature shall be by resolution.

(c) The chairman shall hold office until \[date\] of each even numbered year and may, if reelected,
serve more than one term. Each member of a regional service council selected under the provisions of
subsection (a) (1) and (3) of this section shall hold office at the pleasure of the body which selected
him. No member, other than the chairman, may hold office after he ceases to hold the position of
mayor, commissioner, or councilman.

(d) A vacancy in the office of a member of the regional service council shall be filled in the same
manner as provided for the original selection. The meeting of mayors to fill a vacancy of the member
selected under the provisions of subsection (a) (4) of this section shall be held at such time and
place as shall be designated by the chairman of the regional service council after ten days’ written
notice mailed to the mayors of each of the cities specified in subsection (a) (4) of this section.

(e) The chairman of the regional service council shall receive such compensation as the other
members of the council shall provide. Members of the council other than the chairman shall receive
compensation for attendance at regional service council or committee meetings of \$\text{ per diem}\)
but
not exceeding a total of \$\text{ in any one month, in addition to any compensation which they may}
receive as officers of component cities or counties; but officers serving in such capacities on a
full-time basis shall not receive compensation for attendance at regional service council or committee
meetings, other than reimbursement for expenses actually incurred by them in the conduct of official
business for the regional service corporation.

(f) The name of a regional service corporation shall be established by its regional service council.
Each regional service corporation shall adopt a corporate seal containing the name of the corporation
and the date of its formation.

(g) All the powers and functions of a regional service corporation shall be vested in the regional
service council unless expressly vested in specific officers, boards, or commissions by this act. With-
out limitation of the foregoing authority, or of other powers given it by this act, the regional service
council shall have the following powers:

(1) to establish offices, departments, boards, and commissions in addition to those provided
by this act which are necessary to carry out the purpose of the regional services corporation, and to
prescribe the functions, powers, and duties thereof;

(2) to appoint or provide for the appointment of, and to remove or to provide for the re-
moval of, all officers and employees of the regional service corporation except those whose appoint-
ment or removal is otherwise provided for by this act [subject to the civil service provisions of [cite
appropriate civil service statute provisions]];

(3) to fix the salaries, wages, and other compensation of all officers and employees of the
regional service corporation except those otherwise fixed in this act [subject to the civil service pro-
visions of [cite appropriate civil service statute provisions]]; and

(4) to employ such engineering, legal, financial, or other specialized personnel as may be nec-
essary to accomplish the purposes of the regional service corporation.

SECTION 6. Duties of a Regional Service Corporation.

(a) As expeditiously as possible after its authorization to undertake additional regional func-
tions, the regional service corporation shall develop plans with regard to the extent and nature of the
services it will initially undertake with regard to each authorized regional function, and the effective
dates when it will begin to perform particular functions. Such initial basic plans shall be adopted by
resolution of the regional service council.

(b) The regional service corporation shall plan for such adjustment or extension of its initial as-
sumption of responsibilities for particular authorized functions as is found desirable, and the regional
service council may authorize such changes by resolution.

(c) It shall be the duty of a regional service corporation to prepare comprehensive plans for the
service area with regard to present and future public facility requirements for each of the regional
functions it is authorized to perform.

(d) If a regional service corporation shall be authorized to perform the functions of regional com-
prehensive planning, it shall have the following duties, in addition to the other duties and powers
granted by this act:

(1) to prepare a recommended comprehensive land use plan and public capital facilities plan
for the regional area as a whole;

(2) to review proposed zoning ordinances and resolutions or comprehensive plans of compo-
nent cities and counties and make recommendations thereon. Such proposed zoning ordinances and
resolutions or comprehensive plans must be submitted to the regional service council prior to adop-
tion and may not be adopted until reviewed and returned by the regional service council. The regional
service council shall cause such ordinances, resolutions, and plans to be reviewed by the planning

1The corporation shall cover the entire region for this function and shall assume the function of an UMJO. See also draft bills on sub-
states districting and UMJO for additional specific details relating to this power.
staff of the regional service corporation and return such ordinances, resolutions, and plans, together
with their findings and recommendations thereon, within 90 days following their submission; and
(3) to provide planning services for component cities and counties upon request and upon
payment therefor by the cities or counties receiving such service.

(e) A regional service corporation shall offer to employ every person who on the date such cor-
poration acquires a regional facility is employed in the operation of such facility by a component
city or county or by a special district. Where a regional service corporation employs a person em-
ployed immediately prior thereto by a component city or county, or by a special district, such employ-
ee shall be deemed to remain an employe of such city, county, or special district for the purposes of
any pension plan of such city, county, or special district, and shall continue to be entitled to all rights
and benefits thereunder as if he had remained as an employee of the city, county, or special district,
until the regional service corporation has provided a pension plan and such employee has elected, in
writing, to participate therein. Until such election, the regional service corporation shall deduct from
the remuneration of such employee the amount which such employee is, or may be, required to pay in
accordance with the provisions of the plan of such city, county, or special district and the regional
service corporation shall pay to the city, county, or special district any amounts required to be paid
under the provisions of such plan by employer and employee.

SECTION 7. General powers of a Regional Service Corporation.

(a) In addition to the powers specifically granted by this act, a regional service corporation shall
have all powers which are necessary to carry out the purposes of the regional service corporation and
to perform authorized regional functions.

(b) A regional service corporation may sue and be sued in its corporate capacity in all courts
and in all proceedings.

(c) A regional service corporation shall have power to adopt, by resolution of its regional ser-
vice council, such rules and regulations as shall be necessary or proper to enable it to carry out auth-
orized regional functions and may provide penalties for the violation thereof. Actions to impose or
enforce such penalties may be brought in the appropriate court in the central county.

(d) A regional service corporation shall have power to acquire by purchase, condemnation, gift,
or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the
use of facilities requisite to its performance of authorized regional functions, together with all lands,
properties, equipment, and accessories necessary for such facilities. Facilities which are owned by
a city or special district may, with the consent of the legislative body of the city or special districts
owning such facilities, be acquired or used by the regional service corporation. Cities and special
districts are hereby authorized to convey or lease such facilities to a regional service corporation or to
contract for their joint use on such terms as may be fixed by agreement between the legislative body.
of such city or special district and the regional service council, without submitting the matter to the
voters of such city or district.

(e) A regional service corporation shall have power to acquire by purchase and condemnation
all lands and property rights, both within and without its service area, which are necessary for its
purposes. Such right of eminent domain shall be exercised by the regional service council in the same
manner and by the same procedure as is, or may be, provided by law [for cities of the [ ] class, or
[other appropriate law]], except insofar as such laws may be inconsistent with the provisions of this
act.¹

(f) A regional service corporation shall have power to construct or maintain regional facilities
in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights-of-way
without first obtaining a franchise from the county or city having jurisdiction over them; but such
facilities shall be constructed and maintained in accordance with the ordinances and resolutions of
the city or county relating to construction, installation, and maintenance of similar facilities in such
public properties.

(g) Except as otherwise provided herein, a regional service corporation may sell or otherwise dis-
pose of any real or personal property acquired in connection with any authorized regional function
and which is no longer required for the purposes of the regional service corporation in the same
manner as provided [for cities and the [ ] class, or [other appropriate law]]. When the regional serv-
vice council determines that a regional facility or any part thereof which has been acquired from a
component city or county without compensation is no longer required for regional purposes, but is
required as a local facility by the city or county from which it was acquired, the regional council shall
by resolution transfer it to such city or county.

(h) A regional service corporation may contract with the United States or any agency thereof, any
state or agency thereof, any other regional service corporation, any county, city, special district, or
other governmental agency for the operation by such entity of any facility or the performance on its
behalf of any service which the regional service corporation is authorized to operate or perform, on
such terms as may be agreed upon by the contracting parties.


(a) A regional service corporation shall have power to set and collect charges for services it sup-
plies and for the use of regional facilities it provides.

(b) A regional service corporation shall have the power to issue bonds for any authorized cap-
ital purpose of the regional service corporations; but a proposition authorizing the issuance of such
bonds shall have been submitted to the electors of the regional service corporation at a special election

¹For additional methods of locating property in certain critical service areas, such as sewage treatment and solid waste disposal, see
the draft legislation on interlocal contracting and joint enterprises.
and assented to by a majority of the persons voting on said proposition at said election.¹

(c) The regional service corporation shall have the power to levy special assessments payable over a period [not exceeding | years] on all property within the service area specially benefited by an improvement, on the basis of special benefits conferred, to pay in whole or in part the damages or costs of any such improvement.

(d) (1) A regional service corporation may levy a property tax within its area on all taxable property after a referendum on the proposition authorizing the property tax has been conducted by the [election officials] of the component counties in accordance with the general election laws of the state and a majority of the persons voting on the proposition assent to the imposition of the tax. The results thereof shall be canvassed by the [county canvassing board] of the central county, which shall certify the result of the election to the [insert name of governing body] of the central county, which shall cause a certified copy of such canvass to be filed in the office of the [secretary of state]. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless he has been a qualified voter under the laws of the state in effect at the time of such election for at least 30 days preceding the date of the election. The expenses of the referendum shall be prorated among all the counties according to each county’s share of the total population of the area.

(2) The regional service corporation shall annually fix the amount of money necessary to be raised by taxation upon the taxable property in its area. Annually before [insert date] the [assessor] of each [insert name of collection unit performing assessment] shall transmit to the corporation a written statement showing the taxable value of all property within the jurisdiction of the [insert local unit performing assessment] which lies within the area. The value shall be ascertained from the [assessment records] for the years [as equalized and corrected by the state [property tax review agency]]. On [insert date] the corporation shall fix the tax rate [not to exceed | ], based upon the aggregate of equalized values transmitted by the [assessor]. On [insert date] the tax rate shall be certified to the governing bodies of the counties within the area and taxes shall be certified to the governing bodies of the counties within the area and taxes shall be levied and collected for the corporation in the same manner as taxes levied for other purposes.

(e) A regional service corporation may impose within its area by reference to the state sales and use tax act, a sales and use tax at a rate not to exceed [ ] percent of the state sales and use tax paid.

(f) A regional service corporation may impose within its area a tax on income, as defined by reference to the provisions of [the state income tax act], and at a rate not to exceed [ ] percent of any tax-

¹Additional provisions concerning borrowing power and procedures will commonly be found desirable, with their nature depending upon other laws and practices of the state. Such state consideration should carefully review the bonding power granted to the service corporation as it relates to general local debt limitations and general local bonding authority.
payers' liability under the [state income tax act].

(g) The [state tax department] shall administer a sales and use tax, or an income tax adopted under this act. The [state tax commissioner] may prescribe forms and reasonable rules and regulations, for the purpose of making returns and for the ascertainment, assessment, and collection of a tax imposed under this act. The rules and regulations promulgated in accordance with the state income or sales tax act shall apply to the taxes adopted under this act, except when, in the judgment of the [tax commissioner], such rules would be inconsistent or not feasible of proper administration. The [state tax department] shall keep full and accurate records of all moneys received and distributed under this act.

(h) All sums received or collected on behalf of a regional service corporation from income and sales taxes, levied pursuant to this act, shall be deposited to a special fund which is hereby established in the [state treasury]. The amount collected on behalf of a regional service corporation shall be paid within [ten] days after collection to the regional service corporation after deducting the amount of refunds, and the amount necessary to defray the cost of collecting and administering the tax.

(i) A regional service corporation shall have the power, when authorized by a majority of all members of the regional service council, to borrow money from any component city or county and such cities or counties are hereby authorized to make such loans or advances on such terms as may be mutually agreed upon by the regional service council and the legislative bodies of such component city or county.

(j) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them, or within their control, in any bonds or other obligations issued by a regional service corporation pursuant to this act. Such bonds and other obligations shall be authorized security for all public deposits in this state.

(k) A regional service corporation shall have the power to invest its funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which [mutual savings] banks may legally invest funds.

SECTION 9. Separability. [Insert separability clause.]

SECTION 10. Effective date. [Insert effective date]
The variation in social and economic conditions and local traditions across the nation argue against any suggestion of a single ideal structure of regional government. In many states, regional special districts or interlocal contractual arrangements are providing several basic services of local government, including public transportation services, environmental control, health, water and sewer facilities, and solid waste disposal. Yet, these agencies are hampered in their service delivery efforts by a lack of priority setting strengths and governmental structures encouraging politically responsible leadership.

A number of states have also established umbrella regional planning agencies in a few areas, primarily metropolitan, within their boundaries without taking the approach statewide as suggested in ACIR’s suggested Statewide Substate Districting Act. Almost every state has one or more areas in which the various alternatives to, and options of, regional government are hotly debated. In recognition of the fact that local tradition plays a very strong role in governmental organization, as well as the varying level of desire and capacity between regions within a state, the Commission discussed and suggested various alternative arrangements which may not be uniform statewide but which may allow local flexibility in decision making within a responsive state structure to ensure a carefully coordinated approach.

The following suggested state legislation is tailored to meet and respond to a specific regional area. It further provides the necessary coordination with a statewide substate districting approach. It provides a very strong regional governmental alternative to existing fragmented efforts at establishing a viable upper tier government responsive to regional needs and solutions.  

Section 1 sets forth the purpose of the legislation and Section 2 provides definitions of terms used.  

Section 3 authorizes a charter study in an area consisting of two or more counties. This study would be prepared by a council of local governments, a special charter study commission, or an existing regional planning council or multipurpose regional agency.  

Section 4 provides for a home rule charter government, and delineates its powers and authority and required charter provisions.  

Section 5 requires the council or commission to report its findings within 18 months, and provides for the plan to be placed before the voters in the affected area.  

Section 6 sets out the means by which the boundaries of the charter form of government may be extended.  

Section 7 provides for assistance and grants, while Sections 8 and 9 provide for separability and effective date clauses, respectively.

[AN ACT PROVIDING PROCEDURES FOR ESTABLISHING A REGIONAL HOME RULE OPTION CHARTER GOVERNMENT]

(Be it enacted, etc.)

SECTION 1. Purpose. The purpose of this act is to allow local governments and citizens within a physically, economically, and socially interrelated region [as determined by the appropriate state official or law] to adopt a regional home rule charter in order to resolve their common problems. The charter shall further establish the necessary priorities for efficient governmental functions as well as recognize existing local governmental units. This act is in addition to any authority presently granted by law and shall not prohibit the adoption of any other optional regional framework consistent with the law specifically providing for such option.

SECTION 2. Definitions. As used in this act, except where the context clearly indicates otherwise:

(a) "Governing body" means the legislative or policy making body of a unit of general local government, special district, or regional home rule charter government.

(b) "Population" means the number of inhabitants according to the latest special or decennial United States census.

(c) "Regional home rule charter government" means a government established pursuant to a charter adopted under this act which may exercise powers concurrently with any existing unit of general local governments and may provide coordination of regional services but may preempt units of general local government only in those areas specified in the charter.

(d) "Unit of general local government" means [a county or municipality].


(a) A regional home rule charter government may be established, after study and adoption as provided in this act, for any area consisting of two or more counties within a region of the state [as designated by appropriate state official or law].

(b) A charter study may be conducted either by:

(1) a council of local governmental officials or a regional home rule charter study commission established and authorized to conduct such a study by resolution of the governing bodies of a majority of the units of general local government representing a majority of the population within the area proposed to be studied; or

(2) a regional home rule charter study commission established through a petition of [10] per-

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1See suggested legislation entitled Statewide Substate Districting Act.
cent of the voters of the area. Members of such commission shall be in such number and selected in
such way as provided in the petition; or

(3) an existing regional planning council or multipurpose regional agency having jurisdic-
tion over the area proposed to be studied.

(c) The cost of such study shall be determined by the council, agency, or commission, as the case
may be, and shall be assessed to each unit of general local government based upon its respective pro-
portion to the population of the area to be studied [in an amount not to exceed one dollar per capita].

(d) The council, agency, or commission may employ and fix the compensation of an executive di-
rector who may employ other persons, including contractors, as may be necessary and authorized by
the council, agency, or commission. It may further exercise all the powers granted a corporation pur-
suant to [applicable state law] as a public body corporate and politic.

(e) The council, agency, or commission shall adopt rules for its organization and procedure to be
followed under this act, provided that all meetings shall be open to the public and that at least one
public hearing shall be held prior to the council’s, agency’s, or commission’s final report.

(f) The council, agency, or commission shall study the existing structure of local and regional
government and procedures for the delivery of regional governmental services within the region, and
compare them with the regional home rule charter government authorized by this act. If it determines
that establishment of a regional home rule charter government would make the administration of
regional services more efficient and effective or more responsive and accountable to the people, it shall
draw up a detailed plan of regional government embodied in a proposed charter consistent with Sec-
tion 4 of this act and subject to adoption as provided by Section 5 of this act.


(a) (1) A regional home rule charter government for the region shall have all powers of regional
self-government except those expressly preempted or prohibited by the state constitution, by general
[or special] law, or by the charter creating it. The regional home rule charter government may not
preempt the exercise of power by units of general local government, but shall rather exercise such
powers concurrently, except for preemptive areas specified in the charter, as required by Section
4(c)(3) of this act.

(2) A regional home rule charter government may raise, by taxation and licenses authorized
by the constitution or general law, or by user charges or fees authorized by resolution, amounts of
money which are necessary for the conduct of the government of the region, and may enforce their
receipt and collection in the manner prescribed by resolution not inconsistent with law. The governing
body of the home rule charter government shall also:¹

¹See draft legislation, Improved and Standardized Accounting, Auditing, and Reporting and Citizen Participation in the Budget
Process.
(i) report its finances annually as provided by [general law];
(ii) make provision for establishing a fiscal year [dates];
(iii) make appropriations for each fiscal year which, in any one year, shall not exceed
the amount to be received from taxation or other revenue sources. It shall be unlawful for any of-
icer of the regional government to draw money from the [treasury] except in pursuance of appropri-
ation made by law; and
(iv) make provision for annual post-audit of its financial accounts in accordance with
the rules of the [appropriate state official].

(b) The charter shall provide:
(1) the form of government which clearly defines the responsibility for legislative and execu-
tive functions;
(2) a regional council to exercise its legislative powers and consisting of one of the follow-
ing alternatives:

[i] The governing body of the regional home rule charter government shall consist of
[Alternative 1.]

[i] members selected by the voters from individual election districts for [ ] year terms [except in time of
reapportionment]. Members shall be qualified electors of the state and of a county in which all or part
of the election district is located.

(ii) The region shall be apportioned into districts as follows: [statement of district boun-
dries — (in terms of voting boundaries) — such as census tracts, state senatorial or house districts,
or any other applicable method].

(iii) (1) The governing body shall provide for reapportioned districts not later than [30
days] after state legislative reapportionment following each decennial census. The reapportioned dis-
tricts shall be compact and contiguous and shall meet the standard of mathematical preciseness in
equal population representation as provided by the [legislature] in its apportionment.

(2) If the governing body fails to provide such reapportioned districts within such
time limit, any citizen of the region may bring action in [appropriate court] either to compel the per-
formance of such duty or to provide said reapportioned districts for the region.

(iv) (1) The election of members shall be by majority of votes cast, non-partisan, and held on
the first Tuesday after the [ ] Monday in [ ] of each odd numbered year. If one candidate fails to receive
a majority of the votes cast, the two candidates receiving the highest number of votes shall participate
in a runoff election to be held on the second Tuesday following the first election day.

(2) Members shall assume office on the third Tuesday following the first election
day. At the first meeting, members shall elect a presiding officer, a secretary (who need not be a mem-
ber), and such other officers as they deem necessary.
(3) For the first selection following apportionment or reapportionment of districts, all members shall be subject to election with those in odd numbered districts being elected for two year terms.\textsuperscript{1}

\textit{Alternative 2.}

(i) The legislative body of the regional home rule charter government shall consist of \textit{[ ]} members selected by the voters from individual election districts for \textit{[ ]} year terms [except in time of reapportionment]. The regional home rule charter government shall also have a chief executive officer selected by the voters of the region for a \textit{[ ]} year term. The chief executive officer and members of the legislative body shall be qualified electors of the state or of a county in which all or part of the election district is located.

(ii) The region shall be apportioned into legislative districts as follows: \textit{[statement of district boundaries – (in terms of voting boundaries) – such as census tracts, state senatorial or house districts, or any other applicable method]}. 

(iii) (1) The legislative body shall provide for reapportioned legislative districts not later than \textit{[30 days]} after state legislative reapportionment following each decennial census. The reapportioned districts shall be compact and contiguous and shall meet the standard of mathematical preciseness in equal population representation as provided by the \textit{[legislature]} in its apportionment. 

(2) If the legislative body fails to provide such reapportioned districts within such time limit, any citizen of the region may bring action in \textit{[appropriate court]} either to compel the performance of such duty or to provide said reapportioned legislative districts for the region.

(iv) (1) The election of the chief executive officer and legislative members shall be by majority of votes cast, non-partisan, and held on the first Tuesday after the \textit{[ ]} Monday in \textit{[ ]} of each odd numbered year. If one candidate fails to receive a majority of the votes cast, the two candidates receiving the highest number of votes shall participate in a runoff election to be held on the second Tuesday following the first election day.

(2) The chief executive officer and legislative members shall assume office on the third Tuesday following the first election day. At the first meeting, legislative members shall elect a presiding officer, a secretary (who need not be a member), and such other officers as they deem necessary unless otherwise provided in the charter.

(3) for the first selection following apportionment or reapportionment of legislative districts, all members shall be subject to election with those in odd numbered districts being elected for two year terms.\textsuperscript{1}

(v) The chief executive officer shall be the chief executive of the regional home rule char-

\textsuperscript{1}This optional language provides for staggered four year terms.
[Alternative 3.]¹

(i) The governing body of the regional home rule charter government shall consist of two chambers.

(a) One chamber shall be composed of elected officials of constituent governments. Every unit of general local government in the region is required to be a member and shall appoint at least one official as its representative. Each member local government, in good standing, shall be entitled to one vote in the chamber.

(b) The other chamber shall be composed of members selected by the voters from individual election districts for year terms.²

(ii) Any matter may originate in either chamber and upon passage by a majority of each chamber shall be effective ten days after final passage or as otherwise provided therein.] [End of three alternatives.]

(3) the extent to which the exercise of powers by the regional home rule charter government shall preempt the exercise of power by any county, municipality, or special district government having jurisdiction over the same area, whether generally or in specified areas, functions, powers, or duties, and the manner of exercising such preemptive powers;

(4) a method for the citizens or units of local general purpose government within the region to require the assumption of a function or a portion thereof, by the regional agency; and

(5) an effective date.

(c) The regional home rule charter government also shall have the authority to assume, and if provided in the charter shall assume, the duties and responsibilities of any special district located solely within its boundaries and upon such assumption to transfer all the special district’s statutory powers, duties and functions, records, personnel, property, debts, balances, tax levies, allocations, or other funds, assets, or liabilities. The transfer of segregated funds shall be made in such a manner that the relation between program and revenue source as provided by law is retained. The governing body of such special district is abolished unless the regional home rule charter government specifically retains it with advisory powers only.

¹Bicameralism as provided in this alternative may be used to meet both the one man-one vote principle, and the traditional local government patterns of participation in regional affairs in particular cases.
²See Alternative 1 for details in providing this directly elected chamber.
SECTION 5. Adoption.

(a) The council, agency, or commission shall report to the various units of general local government and the public its findings and proposed regional home rule charter, if any, within 18 months of its establishment or in the case of an existing agency, beginning a study pursuant to this act. The commission shall be discharged upon the filing of its final report or on the day after its final report is voted on pursuant to a referendum under this section.

(b) A referendum on the question of whether to adopt the regional home rule charter shall be held not less than 30 days nor more than 90 days after the plan is submitted to the public. The complete text of the proposed optional plan and final report of the council or commission, or summary thereof, shall be published at county expense in a newspaper of general circulation within each county to be included in the regional charter government at least once during two different calendar weeks, within the 30 day period immediately preceding the date of the referendum. If a majority of those voting approve the plan, then the regional home rule charter government shall be instituted in accordance with the terms of the charter.

(c) When a proposed charter has been approved by the voters, the county clerk shall immediately file a certified copy of the charter with the secretary of state. The approved charter shall then become the organic act for the government of the region and shall be a public record open to public inspection and judicially noticeable by all courts.

(d) Authorized provisions of a regional home rule charter duly adopted by the voters supersede any conflicting laws, ordinances, or resolutions.

SECTION 6. Extension of Boundaries. The boundaries of any regional home rule charter government established hereunder may be extended to cover any additional area within the same region as designated by the appropriate state official or law by such extension being proposed through resolution of the unit of local general purpose government having jurisdiction over the additional area, through petition of 10 percent of the voters of the additional area or by resolution of the regional charter governing body, approved by a majority of the electors in the area to be included voting in the next general election or an election called for such purpose.

SECTION 7. State Assistance and Grants.

(a) The insert state department of community affairs or other appropriate state agency may furnish, upon request, any regional home rule charter government study commission created under this act or existing agency acting pursuant to this act with information and technical assistance relating to the work of the commission.

(b) The director of the state department of community affairs or other appropriate state agency shall reimburse any local government, which has participated in a regional home rule charter government study, [ ] percent of the total funds provided by the participating jurisdictions to the council,
agency, or commission.

(c) The [director of the state department of community affairs or other appropriate state agency] shall reimburse any county, which has held a referendum as required in Section 5, [ ] percent of the total funds spent by such county for holding the referendum and notice thereof.

(d) State appropriations are authorized in the amounts required for this title.

SECTION 8. Separability. [Insert separability clause.]

SECTION 9. Effective Date. [Insert effective date.]
The Advisory Commission on Intergovernmental Relations' reports, entitled *Governmental Structure, Organization, and Planning in Metropolitan Areas* and *The Challenge of Local Government Reorganization* contain statements affirming that state constitutions and statutes should permit the people residing in regions to examine and, if they so desire, to change their local and regional government structure to meet their needs for effective regional, as well as local government. It was further recommended that states enact legislation authorizing the establishment of locally initiated study commissions to develop proposals for revising and improving local and regional government structure and services in the area concerned. The suggested legislation which follows is designed to carry out these recommendations. In any state which has a boundary adjustment commission, this legislation may be unnecessary, at least in part.

Many studies of governmental problems in rural and urban areas have been made in recent years, some authorized by state and local governments, some by interested citizen groups. These studies frequently have produced greater public awareness of need for readjustment among the local and regional units of government, but frequently authority has been lacking for the formal submission of resulting proposals to the voters of the area. Moreover, many of the studies have not been conducted to determine areawide needs but rather have confined themselves to individual problems of a municipality or an urban function, resulting in piecemeal approaches to the problem.

The draft legislation is directed toward permitting broad consideration of problems of local and regional government services and structure in metropolitan and non-metropolitan areas by residents of the area as a whole, acting on their own initiative. The formal status accorded the study commissions and the procedure for submission of their recommendations provide a basic assurance that areawide problems can be brought before the voters of the area affected, while guarding against irresponsible and precipitous action.

The legislation provides that a study commission may be brought into existence by a resolution of the governing bodies of the local units of government of the area, or by petition of the voters. Representation on a commission is designed to assure equitable recognition of population groups and governmental constituencies. Commission members are appointed by governing bodies of counties, the mayor and council of each city, and the governing bodies of other units of government acting jointly. A final member, the chairman, is chosen by the other members. Officials and employees of local government are not allowed to be commission members so that power to determine matters of basic governmental structure and authority may be exercised by the citizens directly rather than by their elected or appointed local representatives.

The commission is required to determine the boundaries within which it proposes that one or more regional services be provided and within two years of its establishment must prepare a comprehensive program for furnishing such metropolitan services as it deems desirable. Its recommendations may include proposals for carrying out the program, such as transfers of functions between local units; provision of regional services by reformed county governments; consolidation of municipalities, cities and counties, or special districts; creation of a permanent regional council of local officials or a regional service corporation; and adoption of a regional home rule charter government. Public hearings are required on the commission’s program. Appeal may be had to the courts for any grievance arising from the adjustment of property and debts proposed as part of the program.

To become effective, commission proposals for creation of a new unit of government such as a special district, a regional home rule charter government must be approved at a referendum by a majority of those voting on the issue in the jurisdiction of the proposed unit. Other proposals, such as abolishing or consolidating existing units, changing boundaries, or providing a new areawide service, require approval by a majority of those voting on the issue in the area affected.

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2 See ACIR suggested state legislation entitled *Local Government Creation, Dissolution, and Boundary Adjustment*, Title II.
Local units of government in the region are authorized to appropriate funds for the commission’s activities. A state agency is authorized to provide up to 50 percent (50%) matching funds as an encouragement to the study commissions and in recognition of the state’s overall interest in the product of their deliberations.


Section 1 sets forth a declaration of policy and purpose for the proposed legislation, and Section 2 enumerates the definitions used.

Sections 3, 4, 5, 6, and 7, respectively, provide for the following: establishment of regional study commission; the method of selecting commission members; time of appointment of members; meetings of the commission; vacancies created by and compensation of members; open meetings; quorums; and rules of the commission.

Section 8 sets out the method of determining regional service boundaries and Section 9 sets forth considerations to be undertaken in setting the boundaries.

Section 10 provides for the preparation, by the commission, of a comprehensive program for the furnishing of services to these areas. Section 11 sets out recommendations for implementation of the program.

Section 12 provides that the commission shall determine the value and amount of all property used in performing any regional service and all bonded and other indebtedness of units of local government, and shall provide in its comprehensive program an equitable adjustment of such property and debts.

Section 13 provides for the holding of public hearings on the proposed comprehensive program, and Section 14 authorizes the commission to submit its proposals or recommendations contained in the program to the governing body of the affected units of local government and to referendum. Section 15 provides for the effective date of any approved proposal, and Section 16 sets forth the method of resubmitting a rejected program or the submission of a new program.

Section 17 enumerates additional powers and duties of the commission, and Sections 18 and 19 provide for funding of the commissions.

Section 20 limits the lifetime of a commission to a maximum of four years or sooner upon completion of its duties.

Section 21 and 22 provide for separability and effective date respectively.
Suggested Legislation

[AN ACT PROVIDING FOR THE CREATION OF REGIONAL STUDY COMMISSIONS TO STUDY AND PROPOSE MEANS OF IMPROVING ESSENTIAL GOVERNMENTAL SERVICES IN URBAN AND RURAL AREAS]

(Be it enacted, etc.)

SECTION 1. Declaration of Policy; Purpose.

(a) It is hereby declared to be the public policy of this state to provide for the residents of the metropolitan areas in the state and other regions the means of improving their local governments so that they can provide essential services more effectively and economically. The growth of urban population, the movement of people into suburban areas, spreading commuter patterns for employment, shopping, and services in both urban and rural areas, as well as changing patterns of economic growth and natural resource use all are trends which have created problems relating to water supply, sewage disposal, transportation, parking, parks and parkways, police and fire protection, refuse disposal, health, hospitals, welfare, libraries, air pollution control, housing, urban renewal, planning and zoning, and other community services. These problems when extending beyond the boundaries of individual units of local government frequently cannot be adequately met by such individual units.

(b) It is the purpose of this act to provide a method whereby the residents of the metropolitan areas and other regions may adopt local solutions to these common problems in order that proper growth and development of the state’s regions may be assured and the health and welfare of the people residing therein secured.

SECTION 2. Definitions. As used in this act:

(a) “Central city” means the city having the largest population in the [substate district] according to the latest Federal decennial or special census.

(b) “Central county” means the county in which the greatest number of inhabitants of a [substate district] reside.

(c) “Commission” means a regional study commission established pursuant to Section 3 of this act.

(d) “Component county” means a county having territory within the [substate district].

(e) “Component city” means a city having territory within the [substate district].

(f) “Region” means the [substate district designated by the appropriate state law or official] or an area encompassing at least [60 percent] of the population of such district.

(g) “Regional service area” means an area the boundaries of which are determined by a regional study commission pursuant to Sections 8 and 9 of this act.
Regional services means any one or more of the following services when provided for all or substantially all of an entire region or an entire region exclusive of one or more of the incorporated cities lying therein:

1. planning;
2. sewage disposal;
3. water supply;
4. parks and recreation;
5. public transportation;
6. fire protection;
7. police protection;
8. health;
9. welfare;
10. hospitals;
11. refuse collection and disposal;
12. air pollution control;
13. libraries;
14. housing;
15. urban renewal; and
16. [other].

(i) "Unit of local government" means a county, city, or [insert name of other units of general government, such as village, township, or borough] lying, in whole or part, within a region which is providing one or more governmental services listed in subsection (h) of this section.

SECTION 3. Establishing a Regional Study Commission.

(a) A regional study commission may be established by a resolution or petition in the following manner:

1. a joint resolution establishing such a commission may be adopted by a majority of the governing bodies of the counties, cities, [insert names of other types of units of government exercising general government powers] representing a majority of the population having any jurisdiction within the region. A certified copy of such resolution or certified copies of such concurring resolutions shall be transmitted to the [governing body] of the central county; or

2. a petition requesting such an election shall be signed by at least [ ] percent of all the qualified voters residing within the region, and shall be filed with the [appropriate official] of the central county. Upon receipt of such a petition, the [appropriate official] shall examine the source and certify to the sufficiency of the signatures thereon. Within 30 days following receipt of such petition, the [appropriate official] shall transmit the same to the [governing body] of the central county to-
(b) Only one commission may be established in each region at any one time.

SECTION 4. Selection of Regional Study Commission.

(a) Any study commission established pursuant to this act for a region shall consist of members to be selected as follows:

(1) one member selected by the [insert name of governing body] of each component county;

(2) one member selected by the mayor and city council of each component city of at least 2,500 population, but any city having more than [ ] population by the last official United States census shall be entitled to one more member for each additional [ ] of population or fraction thereof;

(3) one member representing all cities under 2,500 population and [insert name of other types of units of general government] to be selected by the [insert name of chief elected official, such as mayor or council president] of such cities and [insert name of other units]; but if the combined population of such cities and [insert name of other units] exceeds [ ], they shall be entitled to one more member for each [ ] additional population or fraction thereof. The members from such cities and [insert name of other units] shall be elected as follows: The [insert name of chief elective official] of all such units of government shall meet on the second Tuesday following the establishment of a regional study commission and thereafter on [date] of each even numbered year at [ ] o’clock at the office of the [insert name of governing body] of the central county. The [chairman] of such [county governing body] shall preside. After nominations are made, ballots shall be taken and the [ ] candidate[s] receiving the highest number of votes cast shall be considered elected;¹ and

(4) one member, who shall be chairman of the regional study commission, and may also be a member otherwise selected, selected by the other members of the commission.

(b) Each member selected under the provisions of subsection (a) (1) and (2) of this section shall reside at the time of appointment in the [insert name of unit] by which appointed and each member selected under paragraph (3) shall reside at the time of appointment in one of the cities [or other types of units] participating in the selection.

(c) No member shall be an official or employee of any unit of local government.

SECTION 5. Time of Appointment. The members of a regional study commission shall be appointed within 60 days after the election establishing the commission.


(a) Not later than 80 days after the election establishing a commission, the members of a commission shall meet and organize at a time which shall be set by the governing body of the central

¹If it is desired that each type of general government unit — for example, villages or townships — have separate representation a separate subsection may be provided for each, with the same general provisions as in paragraph (3).
county.
(b) At the first meeting of each commission the member appointed by the [insert name of governing body] of the central county shall serve as temporary chairman. As its first official act the commission shall elect a chairman. The commission shall also elect a vice-chairman from among its members.
(c) Further meetings of the commission shall be held upon call of the chairman, the vice-chairman in the absence or inability of the chairman, or a majority of the members of the commission.

SECTION 7. Vacancies, Compensation, Open Meetings, Quorum, Rules.
(a) In case of a vacancy for any cause, a new member shall be appointed in the same manner as the member replaced to fill the unexpired term.
(b) Members of a commission shall receive no compensation but shall receive actual and necessary travel and other expenses incurred in the performance of official duties.
(c) All meetings of a commission shall be open to the public.
(d) A majority of the members of the commission shall constitute a quorum for the transaction of business.
(e) Each member shall have one vote. A favorable vote by not less than a majority of the entire commission shall be necessary for any action permitted by Section 14 of this act, but other actions may be by a majority of those present and voting. Each commission may adopt such other rules for its proceedings as it deems desirable.

SECTION 8. Regional Service Boundaries. A commission shall determine the boundaries within which it proposes that one or more regional services be provided. Such boundaries shall be fixed by the commission within the boundaries of the region but need not include the whole region. The boundaries proposed by the commission shall not include part of any city, [insert names of other units of general government, excluding county] unless the whole city, [repeat previous insertion] is included, and shall not divide any existing water, sanitary, park and recreation, fire protection, or other special service district unless the comprehensive program, prepared by the commission pursuant to Section 11 of this act, will include provisions for the continuance of such service in that part of any such district not included within the boundaries as determined by the commission.

SECTION 9. Considerations in Setting Boundaries. In recommending boundaries and determining the need for furnishing regional services, a commission shall study and take into consideration:
(1) the area within which regional services are needed at the time of establishment of the commission and for orderly growth of the region;

1In states that have adopted a boundary commission pursuant to the Advisory Commission on Intergovernmental Relation’s draft bill, State Boundary Adjustment Commission, (see Title II of Local Government Creation, Dissolution, and Boundary Adjustment), this function of the regional study commission should be made subservient to such state commission.
(2) the extent to which needed services are or can be furnished by existing units of local
government and the relative cost to the taxpayer and user of such services of having them provided
by existing units of local government or as regional services;
(3) the boundaries of existing units of local government;
(4) population density, distribution, and growth;
(5) the existing land use plan within the region, including the location of highways and
natural geographic barriers to, and routes for, transportation;
(6) the true cash value of taxable property and differences in valuation under various pos-
sible boundaries for a region;
(7) the area within which benefits from regional services would be received and the costs
of services borne;
(8) maintenance of citizen accessibility to, controllability of, and participation in local gov-
ernment;
(9) such other matters as might affect provision of regional services on an equal basis
throughout the area, and provide more efficient and economical administration thereof.

SECTION 10. Comprehensive Program. The commission shall prepare a comprehensive program
for the furnishing of such regional services as it deems desirable in the region.

SECTION 11. Recommendations to Implement Program. In preparing its comprehensive pro-
gram for furnishing regional services, a commission may recommend one or more of the following op-
tions1, to take effect at the same or at different times, in accordance with approval procedures pro-
vided in the appropriate laws and in Sections 13 and 14:

(a) an umbrella multijurisdictional agency [as authorized in appropriate state laws];2
(b) a consolidation of counties or of a municipality, or municipalities within the county, with
the county and the merger of existing special districts, including any existing umbrella multijuris-
dictional organizations contained solely within the boundaries of the area, with the new government
and the establishment of such neighborhood governments as may be provided in the charter establish-
ing such consolidation [as authorized in appropriate state law];3
(c) the establishment of a modernized county governmental operation under a charter [as auth-
orized in appropriate state law];4
(d) a regional home rule charter government [as authorized in appropriate state law].5

1 The Challenge of Local Governmental Reorganization, p. 153.
2 See draft legislation, Umbrella Multijurisdictional Organizations.
3 See draft legislation, Local Government Consolidation.
4 See draft legislation entitled County Modernization.
5 See draft legislation, Regional Home Rule Charters.
the establishment of a regional service corporation which shall have merged with it all exist-
ing special districts which operate in [more than one] jurisdiction in the area to be served and shall
have such powers as provided in the charter establishing it [and as further authorized in appropriate
state law];

(f) the creation of a permanent regional council, consisting of members of governing bodies of
units of local government within the region;

(g) any other change it considers desirable involving creation, dissolution, or consolidation of
units of local government in the region or involving alteration of their boundaries, powers, and re-

SECTION 12. Adjustment of Property and Debts.

(a) The commission shall determine the value and amount of all property used in performing any
regional service and all bonded and other indebtedness of units of local government attributable to
the acquisition of such property and affected by its comprehensive program for regional services, and
shall determine and provide in its comprehensive program an equitable adjustment of such property
and debts of each unit of local government.

(b) After the hearings provided for in Section 13 of this act and the adoption by the commission
of its comprehensive program, any person aggrieved by the provisions of the program relating to
equitable adjustment of property and debts as provided for in subsection (a) of this section may ap-

(c) When the regional study commission submits its report prior to hearings as provided in Sec-
[Optional Section.]
SECTION 13. Public Hearings on Proposed Program. Within two years after the date of its organization, a commission shall complete the preparation of its preliminary determination of boundaries and program for furnishing regional services, and shall provide for adequate publication and explanation of the program. The commission shall fix the dates and places for public hearings on the program. Notice of hearings shall be published once each week for at least two weeks preceding a hearing, in at least one newspaper of general circulation in each component county. The notice of hearing shall state the time and place for the hearing.

SECTION 14. Submission of Recommendation. After public hearing, the commission may submit proposals contained in its comprehensive program for approval as follows.

(a) Proposals including charters, charter amendments, or any other necessary legal instrument for creation of a new unit of local government shall require approval by a majority of eligible voters thereon in the jurisdiction of the proposed new unit.

(b) Proposals for abolishing or consolidating existing units of local government, or changing their boundaries, shall require approval by a majority of the eligible voters voting in the proposed consolidated area.

(c) Any other proposals which are submitted by the commission and which under existing law can be carried into effect by action of the governing bodies of the units affected, shall be effective if approved by the governing body of each of the units affected.

(d) Where required, referendums shall be held at the next state general or primary election, occurring not sooner than 60 days after submission of the proposals by the commission.

SECTION 15. Effect of Approval. Any proposal approved pursuant to Section 14 shall take effect at the time fixed in the proposal, and all laws and charters, and parts thereof, shall be superseded by any proposals adopted under provisions of this act to the extent that they are inconsistent with the proposals adopted.

SECTION 16. Resubmission and New Program. If any election directed by a commission pursuant to Section 14 of this act results in a negative vote, the commission may:

(a) direct the resubmission of the same issue at a new election in those areas which rejected the issue to be held not earlier than one year from the date of the election at which such negative vote was
cast; or
(b) withdraw its comprehensive program, or that part thereof rejected at such election, and devise a new program which the commission believes will be more acceptable and proceed thereon as specified in Sections 13 and 14 of this act.

SECTION 17. Additional Powers and Duties. A commission shall have the following additional powers and duties:
(a) to contract and cooperate with such other agencies, public or private, as it considers necessary for the rendition and affording of such services, facilities, studies, and reports to the commission as will best assist it to carry out the purposes for which the commission was established. Upon request of the chairman of a commission, all state agencies and all counties and other units of local government, and the officers and employees thereof, shall furnish such commission such information as may be necessary for carrying out its functions and as may be available to, or procurable by, such agencies or units;
(b) to consult and retain such experts, and to employ such clerical and other staff as, in the commission's judgment, may be necessary;
(c) to accept and expend moneys from any source, including the Federal government. All moneys received by the commission shall be deposited with the [county treasurer] of the central county. The [county treasurer] is authorized to disburse funds of the commission on its order; and
(d) to do any and all other things as are consistent with and reasonably required to perform its functions under this act.

SECTION 18. Appropriations. The units of local government of any region having a regional study commission established under this act may appropriate funds for the necessary expenses of the commission.

SECTION 19. State Matching Funds. In order to encourage and assist in the establishment and operation of regional study commissions, the [appropriate state agency] is authorized to enter into contracts to make grants to regional study commissions to help finance their activities. The amount of any such grant may equal but not exceed the amount of funds appropriated by local units of government pursuant to Section 18.

SECTION 20. Term of Commission. All commissions shall terminate four years from the date of their establishment. However, a commission, upon completion of its duties, may terminate earlier by a vote of three-fourths of the members favorable to such earlier termination.

SECTION 21. Separability. [Insert separability clause.]

SECTION 22. Effective Date. [Insert effective date.]

1Preferably an office of local government, a department of community affairs, or a state boundary commission.
COMMISSION MEMBERS

PRIVATE CITIZENS
Robert E. Merriam, Chairman, Chicago, Illinois
Robert H. Finch, Los Angeles, California
John H. Altorfer, Peoria, Illinois

MEMBERS OF THE UNITED STATES SENATE
Ernest F. Hollings, South Carolina
Edmund S. Muskie, Maine
William V. Roth, Delaware

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
L. H. Fountain, North Carolina
Clarence J. Brown, Jr., Ohio
James C. Corman, California

OFFICERS OF THE EXECUTIVE BRANCH, FEDERAL GOVERNMENT
James M. Cannon, Assistant to the President for Domestic Affairs
James T. Lynn, Office of Management and Budget
Vacancy

GOVERNORS
Richard F. Kneip, South Dakota
Daniel J. Evans, Washington
Robert D. Ray, Iowa
Philip W. Noel, Rhode Island

MAYORS
Richard G. Lugar, Vice Chairman, Indianapolis, Indiana
Jack D. Maltester, San Leandro, California
John H. Poelker, St. Louis, Missouri
Vacancy

STATE LEGISLATIVE LEADERS
John H. Briscoe, Speaker, Maryland House of Delegates
Robert P. Knowles, Senator, Wisconsin
Charles F. Kurfess, Minority Leader, Ohio House of Representatives

ELECTED COUNTY OFFICIALS
Conrad M. Fowler, Shelby County, Alabama
John H. Brewer, Kent County, Michigan
William E. Dunn, Salt Lake County, Utah
what is acir?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, state, and local government and the public. The Commission is composed of 26 members — nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20 — three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from states nominated by the National Governors’ Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House. Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and as specific as state taxation of out-of-state depositories; as wide ranging as sub-state regionalism to the more specialized issue of local revenue diversification. In selecting items for the work program, the Commission considers the relative importance and urgency of the problem, its manageability from the point of view of finances and staff available to ACIR and the extent to which the Commission can make a fruitful contribution toward the solution of the problem.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.