



Sub. H.B. 544*

123rd General Assembly

(As Reported by H. Local Government & Townships)

Rep. Peterson

BILL SUMMARY

- Authorizes a regional or county planning commission to send certain notices by electronic mail.
- Requires regional or county planning commissions to send notice to all townships at least 30 days before a public hearing on the adoption or amendment of its rules.
- Changes the composition of county planning commissions and permits the appointment of alternates for commission members.
- Extends the period of time over which property owners may pay special assessments for county road improvements from 10 to 20 years.
- Specifies that the procedures for adopting resolutions in the Limited Home Rule Township Law apply only to resolutions adopted under a township's limited home rule powers.
- For a period of 30 days after the bill's effective date, permits a township to transfer surplus funds from a township artificial lighting fund to another township fund.
- Declares an emergency.

** This analysis was prepared before the report of the House Local Government and Townships Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

County and regional planning commissions

Background law

County and regional planning commissions carryout a wide range of planning activities and review and approve plats for their county or region. These commissions can adopt rules governing plats and the subdivision of land. The purpose of those rules is to secure and provide for the proper arrangement of streets or highways in relation to existing or planned streets or highways or to the county or regional plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting equipment, recreation, light, and air, and for the avoidance of congestion of population. Those rules also may require the county department of health to review and comment on a plat and require proof of compliance with any applicable zoning resolutions as a basis for plat approval. (Sec. 711.10.)

Changes proposed by the bill

A county or regional planning commission's rules are adopted or amended only after the conduct of a public hearing. The bill requires that notice of a rule adoption or amendment hearing be sent to *all townships* in the county or region by regular or electronic mail at least 30 days before the hearing. The bill also permits a county or regional planning commission to provide notice of meetings scheduled to consider the approval of submitted plats by *electronic mail*, or as under current law by regular mail, to the clerk of the board of township trustees of the township in which the proposed plat is located. (Sec. 711.10.)

County planning commission members

Existing law

Currently, county planning commissions consist of eight members appointed by the board of county commissioners plus the board members themselves. This results in a total membership of 11 on a county planning commission. Appointments to the commission by the board generally must be made as follows (sec. 713.22(A)):

(1) *Municipal corporations*: If the population of the portion of any city in the county exceeds 50% of the total population of the county, then at least three of the appointed members must be selected from persons nominated by the planning commission of that city. Otherwise, three members must be appointed from municipal corporations in the county.

(2) *Townships*: Three members from the unincorporated area of the county must be selected from persons nominated by the townships in the county. If there are one or more *limited home rule government townships* in the county, then at least one of the three township appointees must be selected from persons nominated by a limited home rule government township.

(3) *Public members*: Two citizens must be selected in the board's discretion from residents of the county, and one of them must reside in the unincorporated area of the county and represent townships and the other must reside in the incorporated area of the county and represent municipal corporations.

An *exception* to those appointment procedures exists if a county contains two or less townships with unincorporated territory. In that case, there are eight citizen members on the county planning commission, who generally are appointed by the board of county commissioners in their discretion, plus the commissioners themselves. However, if the population of the portion of any city located in the county exceeds 50% of the total population of the county, then at least three of those appointed members must be selected from persons nominated by that city's planning commission. (Sec. 713.22(B).)¹

Changes proposed by the bill

Appointment scenarios. The bill continues the requirement that a county planning commission consist of 11 total members: *eight appointed members* plus the three members of a board of county commissioners (sec. 713.22(A)). However, it changes who the appointed members represent, as follows (sec. 713.22(B)(1), (2), (3), and (4)):

(1) *If the population of the portion of any city located in the county exceeds 50% of the total population of the county and if the county also contains three or more townships with unincorporated territory*, the board of county commissioners must select **three** members from persons nominated by the planning commission of that city. Then, the board generally must appoint **three** members from the unincorporated territory from persons recommended by the townships; but, if any of those townships is a limited home rule government township (hereafter, "home rule township"), the board must appoint at least one of those three township representatives from persons recommended by a home rule township. The remaining **two** members must be selected at the board's discretion from county residents, and one of them must reside in the unincorporated territory of the county

¹ *The existing law relative to county planning commission members was recently enacted by Am. Sub. H.B. 187 of the 123rd General Assembly (effective September 20, 1999).*

and represent townships and the other of them must reside in the incorporated territory of the county and represent municipal corporations. (Sec. 713.22(B)(1).)

(2) *If a county does not contain the portion of any city with at least 50% of the county's total population but does contain three or more townships with unincorporated territory, and if one or more of those townships are home rule townships, **one** of the eight members must be a resident of a home rule township selected in the board of county commissioners' discretion from persons recommended by a home rule township. **One** member must be a resident of the municipal corporation with the largest population contained within the portion of the municipal corporation in the county, selected in the board's discretion from persons recommended by the municipal corporation. The **six** remaining members must be appointed at the board's discretion from persons residing in the county.* (Sec. 713.22(A)(2).)

(3) *If a county does not contain the portion of any city with at least 50% of the county's total population but does contain three or more townships with unincorporated territory, and if there are no home rule townships in the county, the board of county commissioners in its discretion must appoint any **eight** residents of the county to the county planning commission (sec. 713.22(A)(3)).*

(4) In any county that contains *two or less townships with unincorporated territory*, the board of county commissioners must appoint **eight** residents of the county selected in the board's discretion, except that, if the population of the portion of any city located in the county exceeds 50% of the county's total population, at least three of the appointive members must be selected from persons nominated by that city's planning commission (sec. 713.22 (B)(4)).

Implementation provisions. If at anytime *a change occurs* within a county so that the population of a portion of a city within the county exceeds or no longer exceeds 50% of the county's total population, or a township becomes a limited home rule government township, thus creating a situation where the county planning commission's membership should be altered to comply with the membership requirements explained above, within 30 days of the occurrence of either of those changes, the board of county commissioners, in its discretion, may make changes on the commission by resolution so that its membership representation complies with those membership requirements. If the board does not adopt a resolution to make such changes, the board must phase-in the necessary changes in the commission's membership by waiting until a member's term of office expires and appointing new members so as to meet the representation requirements as soon as possible without interfering with any member's term of office. (Sec. 713.22(F).)

As to the membership of a county planning commission that does not meet the bill's membership requirements *on the bill's effective date*, the changes to the composition of the commission are to be implemented so that any member serving on the commission on the bill's effective date serves out the member's term of office, even if the membership would not meet the bill's representation requirements, unless the board of county commissioners within 30 days after the bill's effective date determines by resolution that the commission's membership should comply with the bill's representation requirements. If the board determines that those requirements should apply, the board may remove members from the commission and appoint members to the commission whose appointments comply with those requirements. Otherwise, as new members are appointed to the commission, those members will be required to meet the bill's representation requirements as soon as possible without interfering with any member's term of office. (Section 3.)

Alternate members

The bill permits alternates for any member of a county planning commission, all of whom must be county residents. For *county commissioners*, an alternate can be designated by sending a letter of appointment to the alternate and delivering a copy of that letter to the clerk of the board of county commissioners. Then, at the next regular meeting of the board, the clerk must inform the board of the designation and it will be entered on the board's journal. (Sec. 713.22(A).)

In the case of *any other member* of the planning commission, the member must send to the clerk of the board of county commissioners a letter of appointment designating an individual to serve as the member's alternate. At the next regular meeting of the board, the clerk must inform the board of the designation, and the board can either approve or disapprove that individual to serve as the alternate. The board's decision must be entered on its journal, and, if the alternate is approved, the name of the alternate also must be journalized. The clerk must notify the commission member of the board's action, and that member must inform the individual. (Sec. 713.22(A).)

Alternates for county planning commission members serve at the pleasure of the member who designates them. Removal of an alternate must be made by a letter of removal, delivered and journalized by the same method that designated the alternate. (Sec. 713.22(A).)

Once an alternate is designated, if the commission member is absent from a commission meeting, the alternate has the right to vote and participate in all proceedings and actions of the commission at that meeting as if that alternate were the commission member (sec. 713.22(A)).

County road improvements

Existing law

Currently, a county is authorized to improve its county roads, including the construction or reconstruction of necessary bridges and culverts. These improvements can be paid for by a variety of methods, such as tax levies or special assessments upon real estate abutting or within one-half to two miles of an improvement (depending upon the specific situation). (Secs. 5555.06 and 5555.41, not in the bill.)

If assessments are made for a county road improvement, the principal of those assessments must be paid in not more than *20 semiannual installments* extending over a period of not more than *ten years*. In addition, if bonds are issued to pay the compensation, damages, and expenses incident to the improvement, the principal sum of the assessments must be payable in the number of semiannual installments that will provide a fund for the redemption of those bonds. The "assessments . . . [must] bear interest from the date of and at the same rate as the bonds, and the interest . . . [must] be collected in like manner as the principal of . . . [the] assessments." (Sec. 5555.46.)

Changes proposed by the bill

The bill changes the maximum number of permissible semiannual assessment installments from 20 to 40 and, correspondingly, increases the maximum period over which the installment payments may be made from ten years to 20 years (sec. 5555.46).

Limited home rule township procedure

The current Limited Home Rule Township Law contains a procedure for the passage of resolutions and motions that requires a majority vote of the trustees for passage, unless a measure is an emergency resolution, which instead requires a unanimous vote of the trustees. Emergency resolutions and resolutions that appropriate money, submit a question to the electorate, determine to proceed with an election, or provide for revision, codification, recodification, rearrangement, or publication of resolutions are effective within ten days after the date they are filed with the clerk of the township, unless the resolution indicates a later time. All other resolutions become effective 30 days after being filed with the clerk. (Sec. 504.11(A) and (B).)

The Limited Home Rule Township Law also currently provides that resolutions must be recorded and copies of them be made available to the public.

Failure or refusal of a township clerk to sign a resolution does not invalidate an otherwise properly enacted resolution. (Sec. 504.11(A) and (C).)

The bill adds a statement to the of Limited Home Rule Township Law that states that the voting procedures in it mentioned above "apply only to resolutions adopted pursuant to a township's limited home rule powers as authorized by [the Law]." Without court interpretation, it is unclear what actions of a limited home rule township are taken under that Law and which, if any, are not. (Sec. 504.11(D).)

Transfer from township artificial lighting fund to another township fund

The bill permits for a 30-day period after its effective date, the clerk of any township that has created a fund for the deposit of special assessments for artificial lighting to transfer any surplus in that fund to another township fund under both of the following conditions (Section 4):

(1) The surplus in the artificial lighting fund occurred due to overcharges by the company providing the artificial lighting.

(2) The board of township trustees adopts a resolution (a) finding that the surplus has occurred, (b) indicating the exact amount of the surplus, and (c) requesting the clerk to transfer the surplus to another fund within the township treasury specified in that resolution.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-13-00	pp. 1515-1516
Reported, H. Local Government & Townships	---	pp. ---

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