

Council of Government (COG)

(from the DCED Handbook and PA Council of Government Association)

What? Creation of a Council of Government (COG) by the 5 Mt Penn Preserve Municipalities composed of officials appointed by the municipalities – County, Reading, Lower Alsace, Alsace and Mt. Penn

Why? The Mt. Penn Preserve Master Plan is a document that identifies numerous initiatives that will make the Preserve a much sought after destination by County residents and visitors which will benefit all participating municipalities.

The COG will

1. explore and implement the initiatives in the Mt. Penn Preserve Master Plan and report regularly to the participating municipalities
2. develop one set of regulations that will apply to the Preserve area
3. develop event calendar for the area for improved coordination
4. promote events scheduled in the Preserve area
5. improve coordination of police activities in the Preserve area

How? Each of the 5 participating need to adopt an ordinance creating the COG along with an attached Memorandum of Understanding (MOU) that defines the COGs abilities, reporting, etc.

When? Adopt a COG ordinance and MOU by November 1, 2017.

I. WHAT IS A COG

As Pennsylvania local governments look to the future, the changes they confront will require the use of a regional approach for more effective public services. Issues relating to the environment, land use, crime, roadways, traffic, etc. cut across municipal boundaries and jurisdictions with the constant movement of people. Recent studies indicate that cities and their suburbs are not distinct economies, rather they function as an interdependent region – their fiscal well-beings are linked together.

To successfully address multi-municipal needs, local government officials should develop mechanisms capable of addressing regional issues that affect their communities. Building on the collective strengths of their member municipalities, Councils of Governments - COGs - can effectively and efficiently coordinate and direct public resources to respond to the region's concerns by joining existing public officials to work cooperatively with their colleagues in neighboring communities. This commitment to collective action permits municipalities to lower expenditures and provide a faster and higher level of service than they could individually achieve.

As forums for discussion, COGs offer a neutral arena where officials can meet to discuss mutual and regional problems and policies to address concerns.

COGs are generally defined as voluntary associations of public officials from most or all of the governments in a region, formed to accomplish some regional mission(s).

Reasons why municipalities form COGs may include the following:

- To produce local government services or regulations on a regional basis.
- To coordinate planning and regulatory activities.
- To provide a neutral forum to discuss issues of common concern.
- To articulate common positions on major issues.
- To spread costs of local programs or equipment among a number of users.

As producers of public services, COGs have two main advantages over typical individual municipally operated departments: lower cost and greater service. COGs may lower the cost of producing public services by reducing redundancy and overlap. By cooperating through a COG, a municipality can avoid duplicating personnel, facilities and equipment available in neighboring jurisdictions. For example, consider a case where four municipalities operate individual code administration programs. Each one requires a code official, office space and vehicles. In contrast, a COG program serving the same four communities requires a single code official, one office and one vehicle. Additional savings may be attributable to the economies of scale that COGs can achieve by increasing the area served.

As coordinators of planning and regulatory activities among geographic neighbors, the COG assists with the development and adoption of compatible ordinances and planning documents such as the following:

- Model municipal ordinances for regulating false emergency alarms, managing storm water, and administering building and fire code standards developed by a COG establish a single uniform standard, which may lower costs by eliminating variations in regulations due to conflicting municipal codes. By adopting uniform regional regulations, enforcement activities are more readily organized and accomplished.
- Regional plans for controlling land use and development, such as regional or multi-municipal comprehensive plans, Act 537 Sewage Facility Plans and Transportation Management Plans.
- Regional plans for providing emergency services, such as emergency management plans, fire apparatus replacement schedules and fire company reorganization proposals.

All COGs share the following characteristics:

- They have no taxing powers.
- Their organizational structure, including voting representation, is a matter of local choice of the participating agencies.
- They are established by adoption of ordinances by the member municipalities.
- They have an agreement that outlines their responsibilities and capabilities that is approved by the member municipalities.

Revenues

There are three sources of revenue for COGs: municipal contributions, user fees and grants-in-aid. Municipal contributions are the main source of income for many COGs. These are the assessments on the municipalities for the services received from or provided by the COG. Each community shares in the cost of operating the COG.

In some COGs municipal contributions or “shares” are considered dues and entitle each municipality to participate in all COG programs. In other COGs all the municipalities share in administrative costs, but fund only those COG programs in which they participate. COGs can offer a “menu” of services from which municipalities are free to choose. In those cases, the “shares” vary significantly depending on the package of programs the municipality decides to purchase. A COG for the Mt. Penn Preserve could base the municipal contribution on the amount of property or facilities owned by the municipality within the Preserve, in the manner similar to that used in the Wyomissing Creek Watershed area for MS4.

User fees can represent income paid to the COG from individuals who receive service from the COG. In some COGs, user fees account for more than 30 percent of the operating revenues. These payments come in many forms, such as entrance fees, memberships, events, etc. The COG's legislative body decides whether user fees should be implemented and if so, at what level.

To implement a user fee, the following conditions must be present:

- It must be possible to identify the specific individual benefitting from the service.
- The implementation of a fee must be legally authorized. For instance, the state Library Code prohibits a COG-sponsored library from charging fees to use basic library services.
- The fee should relate to the cost of the service provided - both direct costs and indirect costs such as administrative and overhead costs.
- The fee should reflect the public values of the community. For some programs, the municipal elected officials may want to charge residents only a portion of the

cost of the service with the balance paid by municipal contributions or fees charged to non-residents. The imposition of user fees provides COGs with an alternative to relying exclusively on municipal contributions.

This diversity of revenue sources strengthens the COG's financial status and permits it to absorb some fluctuations in the level of municipal support.

II. LEGAL BACKGROUND

The first Intergovernmental Cooperation Act was adopted in 1943 by the General Assembly. In 1972 the Intergovernmental Cooperation Act was amended (Act 180) and used the same language as the Pennsylvania Constitution: "A municipality ...may...cooperate... or agree in the exercise of any function, power or responsibility with ...one or more...municipalities...". Act 180 of 1972 permits municipal governments to jointly cooperate with other municipalities in the exercise of their governmental "functions, powers, or responsibilities." The Act has generated hundreds of cooperative activities including Councils of Governments, municipal leagues, regional police departments, joint purchasing agreements and many other forms of municipal cooperation.

Interestingly, Act 180, which has been amended several times, does not mention Councils of Governments or any other specific form of intergovernmental cooperation in its text. This exclusion has both advantages and disadvantages for COGs. The main problem is that it does not provide specific guidance to municipalities in establishing and operating COGs. The main advantage is that municipalities have the flexibility to tailor the COG organization to the specific needs and preferences of the local community.

In 1986 the Act was amended to recognize COGs as eligible to apply for state grants/financial aid.

In 1996, Act 177 revised the Intergovernmental Cooperation Act again and expanded the contents to include such topics as definitions, content of ordinances, joint purchases, and joint cooperation agreements. The Intergovernmental Cooperation Law is commonly referred to as Act 177.

Act 13 of 2001 added Section 2316 to the Intergovernmental Cooperation Law, and established COGs as legal entities by stating, "All Commonwealth departments and agencies in the performance of their administrative duties shall deem a council of governments, consortiums or other similar entities, established by two or more

municipalities under this sub-chapter as a legal entity.” Some COGs are incorporated as nonprofit corporations, and others are classified as governments that are instrumentalities of the Commonwealth of Pennsylvania. A variation of the second option is for the COG to exist as a subunit of a member municipality for insurance and employee pension purposes, but to function as a political instrumentality for all other activities. The choice is the prerogative of the officials of the participating municipalities.

The full Act is attached in Exhibit A beginning on page 9. The types of COGS used in Pennsylvania are attached in Exhibit B.

III. WHY A COG WOULD WORK FOR THE MT. PENN PRESERVE

The Mt. Penn Preserve is a region extending across four municipalities – Reading, Lower Alsace, Alsace and Mt. Penn. The Mt. Penn Preserve Master Plan created for this area establishes five (5) focus areas across the area: Skyline, Central Mountain, Mountain Village, Antietam and Gravity Railroad. The Skyline area is located within Reading, Alsace and Lower Alsace Townships. The Antietam area is located within Lower Alsace and Alsace Townships. Central Mountain is located with the Lower Alsace and Reading areas.

Through the Master Plan process the consultant obtained public input that created a list of initiatives for the entire Preserve area and for each of the five focus areas. Some examples for the entire Preserve are copied in below. Establishing a COG across the Preserve with representatives selected by each participating municipality would ease the exploration and implementation of the suggested initiatives to make the Mt. Penn Preserve an attractive destination that would benefit all participating municipalities.

6.5 Programming Interactive App Develop an interactive app for events, activities and places on Mount Penn 1. High

6.5 6.6 Physical Improvement E-Bike Program Explore Electric Bike (E-Bike) share programs throughout the Mount Penn Preserve and adjacent municipalities 3. Low

6.6 6.7 Physical Improvement / Programming Decrease Conflicts between Pedestrians and Vehicles Implement safety improvements and education programs that decrease vehicular and trail user conflicts 1. High

6.8 6.9 Programming Create the 'Mount Penn Preserve Partnership' Implement an organizational structure to set priorities for physical improvements and programs, and to organize and disperse information about all events and activities in the Mount Penn Preserve 1. High

6.9 6.10 Signage and Wayfinding Wayfinding Develop uniform signage standards and locate wayfinding signage at key locations, intersections and trailheads 1, High

6.10 6.11 Physical Improvement Regional Trail Connections Plan Conduct a trails plan for the Preserve that also explores connections to adjacent destinations and regional trail systems 2. Medium

6.11 6.12 Signage and Wayfinding / Programming Mount Penn Branding Establish a brand for the Mount Penn Preserve with the creation of a logo and through the use of social media (#mtpennpreserve). Establish identities for individual areas within the Preserve 1 High
6.12 6.13 Physical Improvement Photo Stops Create 'photo stops' at different locations through the preserve

Each municipality has individual laws, regulations, permitting procedures, etc. Establishing a COG with representatives from each municipality, would create the means to define the parameters for the entire Preserve region.

Using a COG it would be easier to schedule, coordinate and promote events. Currently two municipal police departments and the State Police (for Alsace Twp) provide services to the Mt. Penn Preserve while the County Park Rangers patrol the Antietam Park area from dusk to dawn. A COG would help to better organize police services for the Preserve area and create one set of laws and regulations that govern the Preserve area.

Each participating municipality, including the County of Berks would adopt an ordinance authorizing their participation in the COG through Articles of Agreement which addresses the:

- Conditions of the agreement
- Duration of the agreement
- Purpose and objectives of the agreement, including the powers and scope of authority delegated to the COG
- Manner and extent of financing the agreement
- Organizational structure necessary to implement the agreement
- Manner in which property, real or personal, shall be acquired, licensed or disposed of
- Statement empowering the COG to enter into contracts for group insurance and employee benefits, including social security, for its employees

The Articles of Agreement would define the composition of the COG Board. Some Board composition possibilities are below, with each municipality choosing their representative(s).

COG Board 1 – 2 elected officials from each municipality, 1 elected County Commissioner, 1 representative from the Visitor's Bureau

COG Board 2 – 2 elected officials from each municipality, 1 elected County Commissioner, 1 representative from an organized community group and a business connected to the Preserve area

COG Board 3 – 1 elected official from each municipality, 1 elected County Commissioner, 1 municipal secretary/administrator from each municipality

IV. TYPES OF COGS THAT WOULD WORK FOR THE MT. PENN PRESERVE:

Recreation; Tourism Promotion; Park Maintenance; Community Development, possibly combined with regional policing

EXHIBIT A

ACT 180 of 1973, ACT 177 of 1996 and ACT 13 of 2001

Intergovernmental Cooperation Law, Pennsylvania Consolidated Statutes, Title 53, Municipalities Generally, Sub-chapter A “Intergovernmental Cooperation.” (Also known as Act 180 of 1972, Act 177 of 1996, and Act 13 of 2001.)

SUBPART D

AREA GOVERNMENT AND INTERGOVERNMENTAL COOPERATION

Chapter

- 23. General Provisions
- 25. Environmental Improvement Compacts

CHAPTER 23

GENERAL PROVISIONS

Subchapter

- A. Intergovernmental Cooperation
- B. Environmental Advisory Councils
- C. Regional Planning

Enactment. Chapter 23 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A

INTERGOVERNMENTAL COOPERATION

Sec.

- 2301. Scope of subchapter.
- 2302. Definitions.
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- 2315. Effect of joint cooperation agreements.
- 2316. Recognition by Commonwealth departments and agencies.
- 2317. Agreements for fire protection services in cities of the second class.

Cross References. Subchapter A is referred to in sections 5611, 6103, 8002 of this title; sections 1122, 1201.3, 1202, 1316, 1402, 1903, 2021, 2701, 2708 of Title 8 (Boroughs and Incorporated Towns); sections 11804.1, 12419, 12434, 13115, 14204 of Title 11 (Cities); section 8501 of Title 42 (Judiciary and Judicial Procedure); section 2107 of Title 68 (Real and Personal Property).

2301. Scope of subchapter.

This subchapter applies to all local governments.

2302. Definitions.

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

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

2303. Intergovernmental cooperation authorized.

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

(b) Joint agreements.--For the purpose of carrying the provisions of this subchapter into effect, the local governments

or other entities so cooperating shall enter into any joint agreements as may be deemed appropriate for those purposes.

2304. Intergovernmental cooperation.

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

2305. Ordinance.

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

2306. Initiative and referendum.

(a) Initiative.--An initiative under this subchapter shall be commenced by filing with the appropriate election officials at least 90 days prior to the next primary or general election a petition containing a proposal for referendum signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial election in each local government or area affected. The applicable election officials shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at the election. Initiative on a similar question shall not be submitted more often than once in five years.

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

2307. Content of ordinance.

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

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

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

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

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

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

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

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

2308. Bids for certain joint purchases.

(a) Notice.--All joint purchases involving an expenditure of more than a base amount of \$18,500, subject to adjustment under subsection (b), shall be made by contract, in writing, only after notice for bids once a week for two weeks in at least one and not more than two newspapers of general circulation in the joining local governments. All contracts shall be let to the lowest responsible bidder. Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(b) Adjustments.--Adjustments to the base amounts specified under subsection (a) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsection (a).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest

\$100 to determine the new final adjusted base amounts for purposes of subsection (a).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a) for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

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

2309. Direct purchases.

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

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

(2) Any local government desiring to participate in purchase contracts shall file with the county purchasing agency

and with the county solicitor a certified copy of an ordinance or resolution of its governing body requesting that it be authorized to participate in purchase contracts of the county and agreeing that it will be bound by the terms and conditions as the county prescribes and that it will be responsible for payment directly to the vendor under each purchase contract.

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

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

2310. Joint purchases with private educational establishments.

Any local government may, by ordinance, authorize joint purchases of materials, supplies and equipment with any private school, parochial school, private college or university or nonprofit human services agency within the local government. The ordinance shall require that the school, college or agency shall be bound by the terms and conditions of purchasing agreements which the local government prescribes and that the school, college or agency shall be responsible for payment directly to the vendor under each purchase contract. Schools, colleges and agencies shall be exempt from any existing statutory requirements governing competitive bidding and execution of contracts with respect to purchases under this section.

2311. Written or telephonic price quotations required.

(a) **Amount.**--Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of \$10,000, subject to adjustment under subsection (b), but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price, written price quotations, written records of telephonic price quotations, and memoranda shall be retained for a period of three years.

(b) Adjustments.--Adjustments to the base amounts specified under subsection (a) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsection (a).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsection (a).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which written or telephonic price quotations are required under subsection (a), for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative

explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

2312. Division of transactions provided.

No local government shall evade the provisions of section 2308 (relating to bids for certain joint purchases) as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under a base amount of \$18,500, subject to adjustment under section 2308(b), upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than a base amount of \$18,500, subject to adjustment under section 2308(b). This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below such price when in either case the transaction involved should have been made as one transaction for one price.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

2313. Penalty.

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

2314. Required review of specified agreements.

(a) **General rule.**--An agreement between a local government and the Federal Government, the Commonwealth, any other state or government of another state under the provisions of this subchapter shall, prior to and as a condition precedent to

enactment of an ordinance, be submitted to the Local Government Commission for review and recommendation.

(b) Commission review.--

(1) The commission shall, within 90 days of receipt of the agreement, provide to the local government or other party submitting the agreement an advisory written response of its review of, and any recommended changes to, the agreement with regard to form and compatibility with the laws of this Commonwealth.

(2) If an agreement has been submitted to the commission for review as required by this subsection, the failure of the commission to provide an advisory written response within 90 days of receipt of the agreement shall not bar or impede the effectiveness or implementation of the agreement.

(c) Exceptions.--This section shall not apply to the following contracts, agreements or transactions:

(1) Contracts or agreements between a local government and the Commonwealth that are of a routine nature or are performed on a periodic basis, such as those for public improvements or maintenance.

(2) State grants and loans that are administered by the Commonwealth pursuant to statute or regulation.

(3) Contracts or agreements for cooperative purchasing.

(4) Contracts, agreements or memoranda of understanding between the Commonwealth and a local government that are expressly authorized by statute or regulation and by which the Commonwealth delegates all or a portion of its enforcement duties or responsibilities to a local government.

(5) Contracts or agreements between the Commonwealth and a local government that are expressly authorized by statute or regulation and through which the local government provides a service on behalf of the Commonwealth.

(6) Contracts or agreements relating to the purchase, right to capacity, sale, exchange, interchange, wheeling, pooling, transmission or development of electric power and associated energy and related services.

(July 5, 2012, P.L.910, No.92, eff. 60 days)

2315. Effect of joint cooperation agreements.

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

2316. Recognition by Commonwealth departments and agencies.

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

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

2001 Amendment. Act 13 added section 2316.

2317. Agreements for fire protection services in cities of the second class.

(a) Absorption of certain firefighters.--Notwithstanding the provisions of the act of May 23, 1907 (P.L.206, No.167), entitled "An act to regulate and improve the civil service of the cities of the second class in the Commonwealth of Pennsylvania; making violations of its provisions to be misdemeanors, and providing penalties for violations thereof," and the act of June 27, 1939 (P.L.1207, No.405), entitled, as amended, "An act regulating the appointment, promotion, suspension, reduction, removal, and reinstatement of employes (except chiefs and chief clerks) in bureaus of fire and fire alarm operators and fire box inspectors in bureaus of electricity, in cities of the second class; defining the powers and duties of Civil Service Commissions for such purpose in said cities; and repealing inconsistent legislation," in the case of an original appointment of a full-time firefighter in a borough with a population between 18,000 and 19,500 according to the 2000 census that is located in a county of the second class and is contiguous with a city of the second class, when the full-time firefighter is absorbed by appointment into the classified service in the bureau of fire of a city of a second class under an intergovernmental cooperation agreement for fire protective services, the full-time firefighter shall be:

- (1) Subject only to a physical examination of the scope given for promotion.
- (2) Subject to a probationary period of six months.
- (3) Appointed from outside a certified eligibility list.
- (4) Exempted from an eligibility examination.
- (5) Exempted from a residency requirement at the time of original appointment. The firefighter shall be required, however, to become a bona fide resident of the city of the second class on or before the first anniversary of the original appointment.

(b) Eligible lists and appointments.--Under this section only, the civil service commission of the city of the second class shall not be required to generate eligible lists or indicate appointment thereon, and no individual who is on an existing eligibility list for original appointment into the

classified service of the bureau of fire of a city of a second class shall have a right to be appointed until the eligible full-time firefighters of the borough are appointed under the intergovernmental cooperation agreement.

(Oct. 27, 2010, P.L.895, No.93, eff. Jan. 1, 2011)

2010 Amendment. Act 93 added section 2317.

SUBCHAPTER B

ENVIRONMENTAL ADVISORY COUNCILS

Sec.

2321. Scope of subchapter.

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2321. Scope of subchapter.

This subchapter applies to all municipal corporations.

2322. Establishment of environmental advisory council.

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

2323. Composition and organization of council.

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

(b) Term of office.--Council members shall serve for three years except that initial appointments shall be so staggered

that the terms of approximately one-third of the membership shall expire each year, the terms of their successors to be of three years each.

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

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

2324. Powers and duties of council.

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

(1) Identify environmental problems and recommend plans and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within its territorial limits.

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

(3) Promote a community environmental program.

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

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

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

2325. Records and reports.

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

2326. Appropriations for expenses of council.

The governing body of any municipal corporation establishing an environmental advisory council may appropriate funds for the expenses incurred by the council. Appropriations may be expended for those administrative, clerical, printing and legal services

as may be required and as shall be within the limit of funds appropriated to the council. The whole or any part of any funds so appropriated in any year may be placed in a conservation fund and allowed to accumulate from year to year or may be expended in any year.

2327. Status of existing agencies unaffected.

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

2328. Assistance from State Conservation Commission.

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

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

2329. Assistance from Department of Community and Economic Development.

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

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

SUBCHAPTER C
REGIONAL PLANNING

Sec.

2341. Short title and scope of subchapter.

2342. Definitions.

2343. Declaration of policy.

2344. Establishment and organization of regional planning commission.

2345. Finances, staff and program.

2346. Commission to prepare master plan.

2347. Cooperation between commission, municipalities and others.

2348. Interstate participation.

2341. Short title and scope of subchapter.

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

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

2342. Definitions.

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

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

"Governing body." The body or board authorized by law to enact ordinances or adopt resolutions for the municipality.

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

2343. Declaration of policy.

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

2344. Establishment and organization of regional planning commission.

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

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

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

2345. Finances, staff and program.

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

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

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

2346. Commission to prepare master plan.

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

2347. Cooperation between commission, municipalities and others.

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

2348. Interstate participation.

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

EXHIBIT B

TYPES OF COGS USED IN PA

Intergovernmental Cooperation Cable TV

Cambria-Somerset; Capital Region; Erie Area; Mercer County Regional; Twin Rivers

Intergovernmental Cooperation Code Enforcement (BOCA and UCC)

Beaver County Regional; Cambria-Somerset; Capital Region; Central Keystone; Central Susquehanna; Central Westmoreland; Centre Region; Eastern Bradford County; Eastern Delaware County; Greater Jefferson Area; Huntingdon County; Indiana-Westmoreland; Jefferson-Morgan Regional; Lancaster Inter-Municipal Committee; Lawrence County Regional; Mercer County Regional; Moshannon Valley Mountain; Northern Wayne County; Oil Region; Perry County; Pottstown Area Slate Belt; Sullivan County; Susquehanna County; Twin Rivers; Warren Co Intergovernmental Co-op; Western Bradford County; Western Cumberland

Intergovernmental Cooperation Drug and Alcohol Testing

Bucks County Consortium; Cambria-Somerset; Capital Region; Eastern Bradford County; Twin Rivers; Western Bradford County; Intergovernmental Cooperation Emergency Management; Centre Region; Eastern Bradford County; Erie Area Nazareth Area; Slate Belt; Two Rivers; Pottstown Area

Intergovernmental Cooperation GIS

Mountain; SEDA; Steel Valley

Intergovernmental Cooperation Police (Regional)

Abington; Beaver County Regional; Central Keystone; Mercer County Regional Pottstown Area

Intergovernmental Cooperation Purchasing

Back Mountain Community Partnership; Beaver County Regional; Bucks County Consortium; Butler County; Cambria-Somerset; Capital Region; Central Keystone; Central Susquehanna; Central Westmoreland; Erie Area; French Creek; Greater Jefferson; Huntingdon County; Indiana-Westmoreland; Jefferson-Morgan Regional; Lawrence County Regional; Mercer County Regional; Moshannon Valley Mountain; Nazareth Area; Northern Schuylkill; Northern Wayne County; Oil Region; Perry County; Pocono Mountains; Saucon Valley; Steel Valley; Sullivan County; Twin Rivers; Warren County Intergovernmental Co-op; Western Cumberland

Intergovernmental Cooperation Recycling

Centre Region; French Creek; Nazareth Area; Saucon Valley; Slate Belt; Twin Rivers; Two Rivers

Intergovernmental Cooperation Stormwater, Flood Control & Sewage

Central Keystone; Central Susquehanna; French Creek; Erie Area; Greater Jefferson; Mercer County Regional; Susquehanna County; Turtle Creek Valley; Warren County Intergovernmental Co-op

Intergovernmental Cooperation Street Signs

Back Mountain Community Partnership; Butler County; Central Keystone; Indiana-Westmoreland; Lancaster Inter-Municipal Committee; Sullivan County; Susquehanna County; Upper Pine Creek

Intergovernmental Cooperation Training

Beaver County Regional; Bucks County Consortium; Butler County; Capital Region; Greater Jefferson; Lancaster Inter-Municipal Committee; Lawrence County Regional; Moshannon Valley; Pocono Mountains; Steel Valley; Susquehanna County; Twin Rivers; Western Cumberland

Intergovernmental Cooperation Zoning Administration

Cambria-Somerset; Central Keystone; Jefferson-Morgan Regional; Pottstown Area

Circulation and Ownership Map



- Legend**
- road
 - parcel line
 - municipalities
 - study area
 - water
 - - - existing trail
 - - - existing major trail
 - Earl Trust Lands
- Ownership**
- City of Reading
 - Berks County
 - Berks Nature
 - Reading Water Authority
 - Mount Penn Borough Municipal Authority
 - Reading School District

