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Metropolitan Planning?

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METROPOLITAN PLANNING?

WILLIAM R. GROVE, JR.*

I propose that a series of demonstrations in effective metropolitan planning be undertaken promptly. . . . I shall impose on the new Department of Housing and Urban Development the continuing responsibility to stimulate effective planning. If local governments do not plan cooperatively and sufficiently in advance of inevitable urban growth, even adequate funds and an aggressive determination to improve our cities cannot succeed.

Lyndon B. Johnson
President's Message on Cities
January 26, 1966

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I. INTRODUCTION

What is it? Who does it? Is it necessary? This article is devoted to a clarification of the relatively new concept of metropolitan planning, the context in which it finds application, and some of its implications for state legislatures.

The author wishes to focus attention mainly on the interaction between the concept of planning and the concept of local government. To

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gain perspective an admittedly sketchy, but hopefully adequate, picture of the evolution of both of these concepts will be developed. However, analysis would take place in a vacuum if external elements which impinge on these concepts, causing them to grow or decline, function well or poorly, become innovative or obsolete, are overlooked. Therefore, legal frameworks, financial conditions, changes in public preferences, growth and urbanization of the population, attitudes on the allocation of governmental responsibilities, and the like, will be introduced in a very general way with the intent that their influence will be better appreciated and somewhat clarified.

Comprehensive metropolitan planning as a concept is not new but as a reality it is truly in its infancy. It has found increased application in this day primarily because of necessity although it is meritorious in itself. Its entrance on the urban scene is coming more and more to be through the courtesy of a conditional requirement for a federal grant-in-aid which in turn has been prompted by the inability of government units in politically fragmented areas to harmonize their interests and pocketbooks to an extent sufficient to make concerted attacks on problems which should be solved for their common benefit. To both of these concepts have been attached at some time in their evolution certain anticomplementary myths which have made planning performed by local governments in the past often a waste of time and effort and which persists in sufficient degree in many citizen's minds to inhibit completely voluntary reforms today.

II. Some Myths in an Evolutionary Process

A. *The Myth of "Planning"*

The word "planning" continues to elicit irrational and emotional responses from many American citizens. Apparently many Americans have nearly inextricably associated "planning" with rigid authoritarian decision-making by the powerful central governments of some contemporary totalitarian nations. Planning might be described in layman's terms as systematically considering the most desirable acts to perform today to be prepared for tomorrow, based on a reasonable expectation of what the future will require. It is a natural pursuit of any well organized intelligence and should not be irrationally discarded because an international competitor has found it extremely useful in challenging our nation's world position.

Long- and short-range planning has been enthusiastically adopted by American businessmen. It is the acme of modern management to perform forecasting, project analysis, evaluation of investment alternatives and capital expenditure budgeting. However, in public, even before a select group of business associates, top executives feel apologetic for bringing up the subject, attempt to distinguish business planning from

the governmental variety and lastly, continue to express their desire that government be prevented from application of the same device which in the next breath they intend to extol.[1]

Planning is a neutral tool which can be applied by democratic governments as well as authoritarian ones. Many nations in Western Europe have demonstrated this. However, planning, so far, has won only grudging acceptance in the United States. Even where it has been accepted, its full contribution has been lessened by the "individualistic bias of American law"[2] which is not irreversible but will require a major and coordinated effort in the years ahead to undo.

Planning the future physical environment was accepted as a legitimate function of American local governments in the early 20th century. "Great impetus was lent to erecting a legal framework for land planning by the United States Department of Commerce, which, through its Advisory Committees, promulgated and popularized standard enabling legislation for city planning and zoning."[3] Florida shares the dubious distinction of being one of the very few states which never enacted general planning and zoning enabling legislation.

B. *The Reform Aspect of Early Planning Efforts*

The city planning movement which got under way in the United States in the early part of this century was a reform movement. William Doebele has pointed out that the reformers were concerned with "minimizing the abuses of the city of the nineteenth and early twentieth century —the city of noisy and dirty factories, of overcrowded tenements, of

1. The following is an excerpt from a speech entitled "Long-Term Planning" by Mark W. Cresap Jr., Vice President and Assistant to the President, Westinghouse Electric Corporation, in 1953:

> I am well aware of the fact that the terms "planning" and "planner," particularly the latter, stir up strong and unfavorable emotional reactions because of their association with the more bureaucratic aspects of modern government and with the techniques of totalitarian states. Certainly the Number One dictator currently strutting the world stage has employed planning as a keystone of his "administration," if this term can be used to connote the type of operation in question. Dictatorships and bureaucrats have no copyright on the word "plan" and its derivatives. Any similarity between their kind of planning and the kind I discuss is purely coincidental. The two can be easily distinguished by their respective purposes. The dictator-bureaucrat species is aimed at a central masterminding of rigid blueprints for the regimentation of men, money, and materials toward the relentless achievement of arbitrary and ruthless goals. The variety of planning employed by free enterprise differs from such a process as much as the democratic and totalitarian forms of government differ from each other. Business planning, to be effective, cannot be arbitrary or rigid and does not require regimentation to achieve its purpose . . . .
>
> The uncertainty of tomorrow is no license to management to forget about tomorrow . . . .

Cresap, *Long-Term Planning*, 29 ADVANCED MANAGEMENT J. 73 (1964).

2. Mandelker, *The Role of Law in the Planning Process*, 30 LAW & CONTEMP. PROB. 26, 27 (1965).

3. Haar, *The Master Plan: An Impermanent Constitution*, 20 LAW & CONTEMP. PROB. 353 (1955).

poorly lighted workshops and offices, and of devastating fires."[4] They chose the police power as the instrument for dealing with these abuses and building codes, tenement laws, restrictions on heights of buildings and zoning and subdivision regulations embodied their reforms. But, he contends, "the police power devices, as we have come to know them for thirty years, are not the appropriate instruments to deal with the most troubling and important aspects of contemporary urbanization."[5]

He suggests that the major problems of our time are different in kind: municipal fragmentation, municipal bankruptcy, the growing presence of particularly difficult minority pressures in our central cities, and the emergence of super-cities.[6] Under such changed circumstances it is no wonder that existing planning bodies of the 1920 mold are now being faced with problems that are simply beyond the institutional and jurisdictional context for which the body was invented and established.

C. *The Myth of the Self-Sufficient Local Government*

The root of an adequate solution to today's urban problems lies deeper than the creation of an up-to-date planning institution. Rather, it lies in the myth of a self-sufficient local government. There was a time in American history when the jurisdictional boundaries of cities were expanding at about the same rate as the geographic spread of the urbanized areas. The political motivation for these annexations was not an endearment of the suburbs for the adjacent central city but, in most cases, the simple necessities of the situation. The new urbanization needed services that only the adjacent city could provide. The city's price for the services was incorporation and the extension of its governmental control.

This major 19th century trend was, however, untimely terminated by the invention in Boston in 1873 of a new institution which has come to be known as a special service district.[7] Eventually, almost every metropolitan area in the United States came to have major special districts to furnish utilities in fringe areas. During the depression years of the 1930's urban governments were by and large bankrupt. In this setting another powerful prop for local autonomy was created—the inauguration of state grants-in-aid to localities, and corresponding federal grants to states. Grants-in-aid from both state and federal governments have continued to

4. Doebele, *Key Issues in Land Use Controls, Planning*, 1963 ASPO NAT'L PLANNING CONFERENCE 5 (1963).

5. *Id.* at 6.

6. *Id.* at 12.

7. A series of special purpose districts created in the 1880's and 1890's eventually became the Metropolitan District Commission which was to provide sewage facilities, water works and parks. In 1952 the Massachusetts Legislature authorized the Commission to develop a metropolitan system of refuse disposal and to build, maintain, and operate five incinerators for seventeen cities and towns, including Boston.

mount until today almost one-third of a municipality's revenue comes from sources outside its jurisdiction. Thus, for better or worse, today's municipality maintains unto itself a large share of the traditional attributes of governmental policy formulation and regulation of conduct while deriving a larger and larger share of its revenue, and hence, its services from others.[8]

It should be noted that some of the "governmental" acts we have continued to expect of our municipalities—the acts of policy making, regulation, and the provision of local services—may not be completely harmonious. In general, it may be summarized that American bias has been toward keeping as much of the policy-making aspect of government organized on as small a geographic unit as possible, *i.e.*, the closer decisions are to home, the easier it is to keep them under control, and hence, from the point of view of conventional democratic doctrine, the better.

On the other hand, the American bias with respect to the provision of basic services has tended to be at odds with the ideal of small municipal government, since both technological and fiscal considerations have theoretically favored organization of such services on a relatively large population and economic base.

1. THE CHARACTER OF GOVERNMENTAL SERVICES

Although there appears to be substantial agreement among experts[9] on a desirable allocation of governmental services between local versus areawide organization, economist George Break has supplied a sample of how one may go about allocating service functions on the basis of three criteria.[10] He suggests one economic, one public finance, and one political standard respectively:

1. Economy of Scale: The unit of government should have a large enough area to permit realization of the economies of scale. This economic concept describes a situation in which the unit cost of providing a service would be lower if the output of services were increased.
2. Benefits Spillout: The governmental jurisdiction responsible for providing any service should be large enough to enable the benefits from that service to be consumed primarily within the jurisdiction. The benefits from the service and the

8. See this evolution developed by Doebele, *Evolution in Intergovernmental Relations, Planning*, 1964 ASPO NAT'L PLANNING CONFERENCE 244, 245-47 (1964).

9. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS [hereinafter ACIR] REP. No. M-21, *Performance of Urban Functions: Local and Areawide* 42-43 (1963); Perloff, *Commentary on Metropolitan Planning: The Past and the Future*, ISSUES & PROBLEMS OF BOSTON METROPOLITAN AREA DEVELOPMENT 36 (Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University, ed., [hereinafter Joint Center] 1965).

10. Break, *Intergovernmental Fiscal Relations in the United States* (maunscript chap. V, pp. 16-20, to be published by Brookings in 1967).

social cost of failing to provide it should have a minimum of "spillover" into other jurisdictions.

3. Political Proximity: This is a composite of political criteria.[11]

Break's classification of functions is as follows:

KEY: + favors areawide control because economies of scale are important, or benefit spillouts are significant, or political proximity is unimportant
0 favors local control for the opposite reasons
= favors joint control
X indicates that allocation yields a debatable result

Function	*Economy of Scale*	*Benefits Spillout*	*Political Proximity*	*Resultant*
	FAVORING AREAWIDE CONTROL			
Transportation	(+	+	+)	+
Police (Spec Serv)	(+	+	0)	+
Health & Hosp.	(+	+	+)	+
Water Supply	(+	+	+)	+
Sewage Disposal	(+	+	+)	+
Refuse Disposal	(+	+	+)	+
Libraries (Spec)	(+	+	+)	+
Air & Water Poll.	(+	+	+)	+
Urban Planning	(+	+	X)	+
	FAVORING JOINT CONTROL			
Local Schools	(X	+	X)	=
Public Welfare	(0	+	0)	=
Parks & Recrea.	(0	+	X)	=
Public Housing	(0	+	0)	=
Urban Renewal	(X	+	X)	=
	FAVORING LOCAL CONTROL			
Police Service	(0	0	0)	0
Fire Service	(0	0	0)	0
Refuse Collection	(0	0	+)	0
Libraries (Basic)	(0	0	0)	0

The purpose in presenting Break's classification of functions into favoring areawide, joint, or local control is not to take issue with his classification but to help catalogue the character of functions which lend themselves to more efficient servicing on an areawide rather than a local basis. In general, it might be said that the more technical the problem to be dealt with, the more indirect the local control could be.

11. Such political criteria may include:

a. The unit of government carrying on a function should have a geographic area of jurisdiction adequate for effective performance;
b. The unit of government performing the function should have the legal and administrative ability to perform services assigned to it;
c. Every unit of government should be responsible for a sufficient number of functions so that it provides a forum for resolution of conflicting interests, with significant responsibility for balancing governmental needs and resources;
d. The performance of functions by a unit of government should remain controllable by and accessible to its residents; and
e. Functions should be assigned to that level of government which maximizes the conditions and opportunities for active citizen participation and still permits adequate performance.

Taking a more microscopic look at the functions favoring areawide control, further analysis can be made. A useful distinction in the character of governmental services can be made between what might be called the skeletal items, those that hold a large area together as a unit of interrelated functions and thereby favor areawide servicing, as compared to what might be called cellular items, or those functions that are associated with given sizes of population and are repeated over and over again as population increases—such as elementary and secondary schools, fire and police services, small local hospitals and libraries. The skeletal items are essentially utility-type or systems-flow type in nature, including transportation, communications, water, sewage, electric power, and the like. A second category are the natural resources—environmental setting items. These cover the watershed of the area and the problems of large-scale water supply, flood control, and water pollution, the question of fresh air and air pollution, and the question of open and space-consuming recreation. A third category are the highly specialized services or facilities which can be supported only on an areawide basis. These include higher education, the specialized hospitals and the specialized cultural and recreational activities. A final category are those services which provide efficiency and savings through cooperation as in the case of certain types of police and library services.

One might be appalled at the range of functions which the classifications suggest may be more adequately provided on an area scale exceeding the legal and political jurisdictions of most local governments and prompted to retort: if this be true, explain how local governments have been able to get along so far. The answer, of course, is too complex to make any generalizations; however, it must be apparent to some, as to the author, that they have not been getting along as well as we might like. First, local governments have continued to provide services, but at a scale less than the economically efficient scale and as many new suburbs can attest,[12] the price paid can be a high one.[13] Second, there have been significant "benefit spillouts" for most municipalities in an urban area with the seemingly most controversial being that of the benefits provided

12. The worst feature of suburban sprawl is the way in which each improperly located residential development can force an entire community to pay higher taxes without any return for those taxes. The net result, of course, is a reduced standard of services for all. Bagby, *This is Caldwell Township, Essex County, N.J.*, A COMPREHENSIVE PLAN 4 (Upper Montclair, N.J. 1950). See the research results confirming high costs in MACE, MUNICIPAL COST-REVENUE RESEARCH IN THE UNITED STATES 71-123 (1961).

13. *Contra*, THOMPSON, URBAN ECONOMICS 213 (1963) where he discloses:

> What is all too conspicuous by its absence is any quantification of the purported economics foregone and-or the public service quality presumably sacrificed by retaining fragmented local government, and this is a glaring gap in the case for bigness because political consolidation can not rest easily on some *trivial* gain in scale economies.

Another analyst has also suggested that efficiency considerations may not warrant across-the-board consolidation of metropolitan area governments. See Hirsch, *Expenditure Implications of Metropolitan Growth and Consolidation*, REV. ECONOMICS & STATISTICS 240 (1959).

by central cities and reaped by suburban dwellers.[14] Third, at an alarming rate municipalities have been unloading many "areawide" type functions to single-function special districts at the expense of democratic control. Fourth, the level and quality of local government services has just failed to keep pace with the desires of the citizenry. And fifth, local governments have been subsidized by an increasing number and amount of state and federal grants-in-aid. Thus, burdened and institutionally geared to the traditional but mythical concept of the single and discrete community, each self-sufficient within its own boundaries, very little thought or provision has been made for governing the actual urban entity of today, a metropolitan area which spreads with complete abandon, unmindful of city, county and special district lines.

2. SOME PROGNOSES OF THE FUTURE

In an era when Americans are beginning to live in many overlapping "communities," and when geographic "community" may be judged of less value than vocational, social, or recreational community, old notions of the single self-sufficient community no longer jibe with living patterns.

The answer to the question of where the old, clearly defined, self-governing community will be in 2000 A.D. is simply that it will be lost in the shuffle of the intergovernmental megalopolity,[15] at least for a vast majority of people. New definitions of community will have to be developed. Wilburn has pointed out, "where patterns of urban living spread over the landscape, 'community' is hardly unitary, and self government must probably be as complex as our interrelationships."[16]

George Blair has suggested[17] that America is experiencing a decline in its rural population without much decline in its rural shibboleths about "big city government"—that it is more impersonal and less human, less subject to popular control, more "politics-ridden," more irresponsible, inflexible, bureaucratic, and less democratic generally than "rural, grass-roots government." Thus, it may well be that people will continue to talk about the local community somewhere in megalopolis long after sociologists have concluded that the territorially-based community has ceased to exist. Unfortunately the dogged persistence of these agrarian myths in

14. The extension of activities across jurisdictional boundary lines makes it more and more difficult to relate benefits and taxes at the local government level. In the modern metropolitan community, a family may reside in one jurisdiction, earn its living in one or more others, send the children to school in another, and shop and seek recreation in still others. But to a considerable extent, the American local financial system still reflects the presumption that these various activities are concentrated in one governmental jurisdiction. Fitch, *Metropolitan Financial Problems*, THE ANNALS 67 (1957).

15. "Megalopolis" has been coined by Jean Gottman to describe the urbanized northeastern seaboard of the United States. The Twentieth Century Fund sponsored his monumental study entitled "Megalopolis" which was published in 1961.

16. WILBURN, THE WITHERING AWAY OF THE CITY 123 (1964).

17. BLAIR, AMERICAN LOCAL GOVERNMENT 590 (1964).

popular political attitudes continue to be believed and reflected in voting patterns.

3. THE RURAL BIAS LEGAL FRAMEWORK AND THE RISE OF SPECIAL DISTRICT GOVERNMENTS

Study has revealed that in many respects, municipal law has been restrictive,[18] not permissive; designed to tolerate urban growth, not to direct and control it; directed to the laissez-faire climate of an earlier day, rather than to the interdependent society which has evolved in the United States. Judicial construction,[19] express constitutional restrictions[20] and express statutory restrictions[21] have all contributed to limiting the effectiveness of general purpose local governments.[22] And the ineffectiveness of our local institutions to cope with present-day needs is evident in the rapid increase of single-function special districts. Between 1957 and 1962, the United States added 2,200 new special districts, representing an increase of about 15 percent.[23]

In the latter year, 5,400 special districts of a total of 18,323 were in metropolitan areas, most of them being single rather than multi-function districts providing services such as fire protection, sewage disposal and water service. The states varied greatly in their use of this institution, *e.g.* California, Pennsylvania and Illinois lead with 894, 879 and 704 respectively in their metropolitan areas, compared to only one in Delaware and two in Mississippi and South Dakota.[24] Unfortunately friction and rationalization appear to be more important than fact or reason in their establishment. One study[25] indicates that the reasons for the popularity of this institution are essentially negative in character:

---

18. Municipal corporations were likened to private corporations. Doubts about municipal power have been resolved in favor of the whole people of the state, the public. Since little care was exercised in how charter privileges were granted, delegated powers were to be strictly construed. The Dillon rule was formulated in an era when farm-dominated legislatures were jealous of their power and when city scandals were notorious.

19. See ACIR REP. No. A14, *State Constitutional and Statutory Restrictions upon the Structural, Functional and Personal Powers of Local Government* 23-27 (1962).

20. *Id.* at 33-41.

21. *Id.* at 43-61.

22. Such restrictions continue to send local governments to state legislatures seeking grants of additional powers, cause local officials to doubt their power, and may tend to halt local governmental programs from developing fully.

23. This adjusts for a change in definition in 1962 which materially increased the number of governmental units classified as special districts. Without much adjustment the reported number increased from 14,424 in 1957 to 18,323 in 1962. U.S. BUREAU OF THE CENSUS OF GOVERNMENTS, 1 GOVERNMENTAL ORGANIZATION 15, 27 (1962). It should be noted that the school districts are not included in the class of governments under discussion.

24. ACIR REP. No. A-22, *The Problem of Special Districts in American Government* 29 (1964).

25. *Id.* at 53-63. To strengthen democratic control, the commission recommends establishment of city-county agencies to review all proposals for the creation, consolidation, merger or dissolution of such districts.

1. To avoid tax and debt limitations imposed on local governments;
2. To circumvent other limitations on the powers of local governments such as their authority to contract with each other for services or to operate joint public enterprises;
3. To avoid civil service restrictions on the hiring of people with specialized (and hence expensive) talents;
4. To provide services requiring an area that overlaps the boundaries of existing general-purpose governments;
5. To avoid the controversy and long delays that often characterize attempts at more fundamental organizational reforms; and
6. To escape the budgetary controls to which ordinary governmental programs are subject.

Thus, the increasing proliferation of single and multi-function special districts attests to the inability of our financially bankrupt general purpose, local governments to provide needed services.

D. *Aspects of Florida's Evolution*

The pattern of local government in Florida is very similar to that prevailing in most other states. Florida is divided into 67 counties which have constitutional status. It is exceedingly difficult to change, consolidate, or abolish counties. In addition to the counties, Florida has municipal corporations in most urbanized areas and more than 264 special district governments, such as sanitation and flood control districts, port authorities, expressway authorities, garbage disposal districts, fire districts, and the like. The general pattern of local government is set up by the Florida Constitution of 1885 which grants the state legislature the power to create, alter, and abolish cities and other local governments.[26]

Generally speaking most Florida cities have been organized under charters granted by special acts of the legislature. This method creates a situation where the state legislature at each of its sessions must act on numerous requests for "local bills" to alter municipal charters or to handle some phase of local problems. By legislative courtesy these "local bills" are almost always passed unanimously at the request of the legislators from the local area. Historically, too, there has been a pronounced tendency on the part of the Florida Legislature to try to solve difficult problems by means of creating special district governments. The result is an extremely complex patchwork of laws and constitutional provisions relating to local government in Florida.

The patchwork pattern of local government in Florida keeps changing and growing constantly. In 1942 Florida had 503 different local govern-

26. FLA. CONST. art. 8, § 1.

ments functioning; by 1952 the number had risen to 616; by 1957 the number was 671 and by 1962, 764.

Units of Local Government in Florida[27]

	1957	*1962*
Counties	67	67
School Districts	67	67
Municipalities	310	366
Special Districts	227	264
	671	764

The evolutionary picture would not be complete without some Florida growth statistics. Most Floridians are well aware of the affects of growth about them and have a rough picture of the future; but far fewer have considered the impact of this growth on existing legal and political institutions. To gain a perspective in this vein, consider the population of the State of Florida at the time of its entry into the Union in 1845, at the time it adopted its last constitution in 1885, and a few other estimates and projections.

Growth of Population in Florida

year	*population*	
1845	70,000	
1880	269,493	
1940	1,897,714	
1950	2,771,305	
1960	4,952,000	
	low	*high*
1964 Estimates	5,650,000[28]	5,871,600[29]
1970 Projections	6,770,000[30]	7,416,000[31]
1975	7,533,000[32]	8,181,000
1980	8,428,000	9,573,000
1985	9,276,000	11,028,000

There are twenty times the number of people now living in the state

27. See FLORIDA DEVELOPMENT COMMISSION, FLORIDA TAXES 18 (1964).

28. FLORIDA DEVELOPMENT COMMISSION, ESTIMATES AND PROJECTIONS OF POPULATION (1965).

29. Estimate of Sales Management, *Survey of Buying Power* 278-90 (1965). Both estimates claim to be based on Current Population Reports of the Bureau of the Census, however, inter-census estimates are always difficult and results often depend on the assumptions of the estimator as well as his approximation techniques. More than one source is presented to illustrate that prediction is not an exact science and that the "right order of magnitude" may be somewhere near the reported estimates and projections.

30. FLORIDA DEVELOPMENT COMMISSION, POPULATION TRENDS BY COUNTY 1960-1975 (1965).

31. COUNCIL OF STATE GOVERNMENTS, STATE-LOCAL FINANCES, 1970 (in process).

32. A high and low projection are given for 1975, 1980 and 1985 based on different assumptions on migration and fertility by the FLORIDA DEVELOPMENT COMMISSION, ESTIMATES AND PROJECTIONS OF POPULATION (1965).

as compared to the population in 1885, when the last Florida Constitution was adopted. In 1940, Florida was the least populated of the twelve southeastern states. By 1959 it ranked first among the same group. In the twelve years from 1950 to 1962, the population of the state doubled and today it is the ninth most populated state in the United States, with a good chance of surpassing New Jersey to become the eighth by 1970.[33] Not only has the quantity changed so drastically over a short span of years, but also the distribution; the population has urbanized into metropolitan concentrations and most of the growth has taken place there. The 212 areas recognized as "metropolitan" by the United States Census (a county containing a city of over 50,000 population and contiguous counties socially and economically related to the central city)[34] in 1960 accounted for 84 percent of the increase in the nation's population during the 1950-60 decade. In 1960 there were seven metropolitan areas in Florida which met the above definition. Within these seven (SMSA's[35]) resided 65.6 percent[36] of Florida's population.[37] A more recent survey shows that Leon County has already fulfilled the definition of an SMSA and that Alachua, Sarasota, and Volusia are potential SMSA's.[38]

E. *Impact of Urbanization on Governmental Institutions*

Over the years many attempts have been made to restructure local government to accommodate the strains of increased urbanization but

33. Florida is "projected to have the third highest population and income growth in the nation over the next decade. This growth is closely tied to the heavy net migration of older people and the growing government expenditures on space and related activities." National Planning Association, *U.S. Regional Growth Over the Next Decade*, LOOKING AHEAD 5 (Jan. 1966).

34. This is a simplified definition.

35. SMSA stands for Standard Metropolitan Statistical Area.

36. Calculated from U.S. BUREAU OF THE CENSUS, GENERAL POPULATION CHARACTERISTICS OF THE 1960 CENSUS OF POPULATION.

37. The names of the SMSA's are designated by the largest city within the area: Miami, St. Petersburg-Tampa, Jacksonville, Fort Lauderdale, Orlando, West Palm Beach, and Pensacola.

38. Florida's Most Urbanized Areas as of December 31, 1964 from *Survey of Buying Power*, *supra* note 29.

Counties	*Central City*	*City Population* (in thousands)	*County Population*	*Urban Population*
Dade	Miami	334.7	1,120.2	1,071.5
Duval	Jacksonville	201.9	517.7	434.0
Hillsborough	Tampa	316.7	456.4	364.8
Pinellas	St. Petersburg	215.2	449.0	409.2
Broward	Ft. Lauderdale	116.0	420.7	403.8
Orange	Orlando	101.1	315.0	244.2
Palm Beach	West Palm Beach	63.8	282.3	168.3
Polk	Lakeland	44.5	222.0	135.0
Escambia	Pensacola	61.1	200.4	145.0
Volusia	Daytona Beach	43.6	150.2	90.6
Sarasota	Sarasota	41.8	94.8	64.7
Alachua	Gainesville	55.1 [college]	88.3	55.1
Leon	Tallahassee	55.7	86.5	55.7

few have been successful. City-county consolidation would appear on its face to be a logical and perhaps ideal solution, yet it has failed. Metropolitan growth does not stop at county lines; and about half the metropolitan areas in the United States spread across more than one county. Whenever this solution has been attempted, new suburbs and new fringe developments arise and refuse to enter the central city-county. In Florida, constitutional authority has been given to the citizens of Duval County[39] and of Monroe County[40] to abolish the county governments and to merge Jacksonville with Duval County and Key West with Monroe County. Despite the power, the voters have never approved the idea. Miami failed to win approval by a majority of the voters in three attempts at city-county mergers between 1945 and 1953.

Most recently the 1965 legislature has presented to the voters of Florida a proposed constitutional amendment which, if adopted in November 1966, "will allow Hillsborough electors to vote on a charter substantially merging the county and city of Tampa governments into a single unit required to have separate executive, legislative and judicial branches."[41] Tampa attorney Paul W. Danahy, Jr. recently has reviewed[42] the alternative approaches to reform of local governments and recorded the Florida and national experiences with each. For example, the Dade electorate chose the alternative of "metropolitan federation" under a charter adopted pursuant to home rule powers granted by the people of Florida in 1956.[43]

In considering Florida's counties, it is important to understand that the structure of county government has not changed substantially since Florida became a state in 1845. The simple government of the nineteenth century American county was composed in the main of the circuit judge, the clerk of the court, the coroner, the sheriff at the county seat, and the justices of the peace and the constables in the rural districts. The county was an organization created to be the conservator of the peace. Under the Constitution of 1885 counties were granted the limited functions of tax assessment and collection, rural road maintenance and preservation of law and order. As Danahy explains:

> Unlike the municipal government, county government is without ordinance-making power to deal with the many wholly local problems which occur during the two-year wait between sessions of the legislature. It was not then, and is not now, structurally organized to efficiently provide and properly finance the increased demand for municipal-type services. Rather, it is com-

39. FLA. CONST. art 8, § 9.

40. FLA. CONST. art. 8, § 10.

41. Danahy, *Local Government for Florida's Metropolitan Areas*, 40 FLA. B.J. 16, 24 (1966).

42. *Id.* at 20-24.

43. FLA. CONST. art. 8, § 11.

> posed of autonomous, loosely coordinated boards and officers without overall executive direction and responsibility.[44]

Many solutions have been proposed[45] yet none has operated well enough to make it the obvious answer. As with most governmental problems, there probably is no one "correct" answer suitable for all metropolitan areas.

Robert Wood has pointed out that the competitive position of local governments within metropolitan areas frequently forecloses the opportunity for policymaking on an areawide basis. Consequently, what he terms an "embryonic coalition" of politicians, editors, businessmen, and labor leaders must often take the lead in tackling areawide problems—usually on a piecemeal basis, problem by problem. In conclusion he observed:[46]

> However active and well intentioned, none of the present spokesmen for the region at large, public or private, individually or collectively, can be said to be providing coordinated policy leadership. First of all, even though they may speak for important interests in the regions, these groups still represent only a small minority of the area's population. More important, they lack what effective policy-making requires; an adequate institutional base, legal authority, direct and regularized relationships with the metropolitan constituency, and established processes for considering and resolving issues as they emerge.
>
> Lacking these things, they are not governments and they do not speak with the voice of governments. For the most part, the leaders of the interlocking directorate of metropolitan civic activities appear in the role of political diplomats, agitators, and brokers. Regional policy is bootlegged into existing councils of state, where its reception is uncertain and its application dependent on voluntary acceptance.

The question must arise: Whose responsibility is it to make order out of, and increase the effectiveness of, the current chaotic[47] situation? The implication to be drawn from one current observation is not to look

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44. See *supra* note 41, at 19.

45. See ACIR REP. No. A-11. *Alternative Approaches to Governmental Reorganization in Metropolitan Areas* 11 (1962); *Dixon, New Constitutional Forms for Metropolis: Reapportioned County Boards; Local Councils of Governments*, 30 LAW & CONTEMP. PROB. 57 (1965).

46. WOOD, METROPOLIS AGAINST ITSELF 38 (1959).

47. *E.g.*, WOOD, 1400 GOVERNMENTS 1 (1961):

> On the eastern seaboard of the United States, where the state of New York wedges itself between New Jersey and Connecticut, explorers of political affairs can observe one of the great unnatural wonders of the world: that is, a governmental arrangement perhaps more complicated than any other mankind has yet contrived or allowed to happen. A vigorous metropolitan area, the economic capital of the nation, governs itself by means of 1467 distinct political entities (at last count), each having its own power to raise and spend the public treasure, and each operating in a jurisdiction determined more by chance than design.

to local governments for a solution. Thompson[48] has viewed political fragmentation as monopolistic competition. He sees many residents of large metropolitan areas as having chosen to devote part of their rising incomes to the luxury of buying small local government and feels that there is no reason to be "shocked" by a preference for high-cost, small local government over low-cost metropolitan government; this is to say that small local governments offer some very high "style" features such as easier political participation by the citizens and greater responsiveness of the public officials to the desires of the local residents. He even suggests that such a preference may be income elastic, *i.e.* rising per capita incomes would increase the preference for small local governments with each passing year.

No, the responsibility lies on the doorstep of the States and it has been accepted in word if not in deed by the admonitions of their own Council of State Governments in its 1956 study for the Governors' Conference:

> Although the roles of local governments and the National Government are indispensable, the States are the key to solving the complex difficulties that make up the general metropolitan problem. To achieve adequate results the State Governments—the legislative and executive branches and the people—need to exert positive, comprehensive, and sustained leadership in solving the problem and keeping it solved.[49]

Governor Rockefeller, in his 1962 Godkin lectures at Harvard, threw down the gauntlet to the states:

> In concrete terms: if a state government lacks the political courage to meet the needs of its people . . . the leadership of the state puts itself in an exceedingly poor position to weep over the growth of federal power. The preservation of states' *rights*—in short—depends on the exercise of states' responsibilities.[50]

As the federal government has attempted to alleviate the gap due to state inaction, the cries of "federal interference into local affairs" are renewed. Yet, recall that local governments did not object to federal grants-in-aid during the depression and have tenaciously held and increased their shares as it circuitously flowed through the state coffers. More likely than not it has been when appeals have gone substantially unheard by their legislatures that cities have turned to direct dealings with the national government.

Be aware, however, that the states continue to administer the follow-

48. THOMPSON, URBAN ECONOMICS 213 (1963).
49. Council of State Governments, *The States and the Metropolitan Problem* 132 (1956).
50. ROCKEFELLER, THE FUTURE OF FEDERALISM 50-51 (1964).

ing eleven federal programs of financial assistance affecting urban development and related activities: hospitals and related medical facilities;[51] waste treatment facilities;[52] school construction in federally impacted areas;[53] highways;[54] area redevelopment;[55] urban planning assistance;[56] National Guard facilities;[57] fish and wild life restoration;[58] civil defense;[59] disaster relief;[60] and airport construction,[61] in cases where a state requests channeling.

It is true that in some instances the federal government has used grants-in-aid and low interest rates as a means of "purchasing" state and local powers of eminent domain; however, these powers—whether used for federally-assisted airports, public housing, urban renewal, or otherwise—have been exercised by, and under the supervision of local public agencies. Often the abuses which have occurred resulted from local ineptitude or avarice, rather than errors by federal officials. In many instances, the maligned "federal interference" has consisted of attempts to make local authorities face up to their own problems and responsibilities, so that federal funds would not be poured down the drain.

Moreover, it should be remembered, before hurling such invectives, that in many instances the local agency which is established to work with the federal government is itself a creature of the state legislature. Also, there are often legislative provisions in the federal program which grant authority for the state to participate if it so chooses. With this perspective it is noticed that while claims are made that a situation has developed to the detriment of the state and against the state's wishes, legally, it may have happened with the legislature's blessing.

Before turning to the concept of planning it must be noted that some first steps have been taken by the 1963 and 1965 legislatures to modernize local government in Florida. The fifteen-member local Government Study Commission for Hillsborough County[62] reported its findings to the 1965 legislature and also achieved passage of several local laws. Recognizing the need for more extensive reforms, similar citizens studies financed with

51. 42 U.S.C. § 291 (1964), as amended; see Florida Development Commission, *Florida 1965 Fiscal Year Plan for Construction of Hospitals and Related Medical Facilities* (1964).

52. 33 U.S.C. § 406 (1965), as amended.

53. 20 U.S.C. §§ 631-645 (1950), as amended.

54. 23 U.S.C. §§ 101-103 (1965), as amended.

55. 42 U.S.C. § 2507 (1961), as amended. This act terminated on August 31, 1965. The Public Works and Economic Development Act of 1965, administered by the Department of Commerce, has taken over this general area.

56. 40 U.S.C. § 461 (1965), as amended.

57. 10 U.S.C. § 2236(b) (1956).

58. 16 U.S.C. § 669 (1939); 16 U.S.C. § 777 (1950).

59. 50 U.S.C. §§ 2251-2297 (1951), as amended.

60. 42 U.S.C. § 1855 (1950), as amended.

61. 49 U.S.C. §§ 1101-1119 (1958), as amended.

62. Fla. Laws 1963, ch. 1404, at 1309.

local funds were provided for Duval,[63] Orange,[64] Palm Beach,[65] Escambia,[66] and Sarasota[67] counties. Their reports will be made to the 1967 legislature for action on local government reform.

III. THE CONCEPT OF METROPOLITAN PLANNING

A. *Definition*

Labels are not nearly as important as the character of planning performed. All operational definitions of business planning, governmental program planning, city planning or national economic planning are not congruent. Yet, there may be greater agreement as to the general content of the above varieties of planning than there is agreement regarding the general content of metropolitan planning. Nevertheless, in the author's judgment a number of labels in current usage in planning literature do represent approximately the same concept of planning *e.g.* "metropolitan planning," "metropolitan area planning," "areawide planning," "area planning," and "urban regional planning."

The concept of "regional planning" has been defined by planning authority Luther Gulick. He envisions that regional planning has the purpose of

> break[ing] down into meaningful geographic components the global factors of national plans and national economic and social accounts and projections so that they may be focused on a limited local geographic area, and may be combined and "tested" as a single comprehensive whole, in combination with the physical and functional elements of a traditional city plan.
>
> The essential element of regional planning is that the planning is not tied to any existing limited geographical area, or to a given existing local political jurisdiction, but includes in its geographic scope a problem, or a composite of problems, which is as wide as modern technology and theory require for a valid analysis and plan of action.[68]

Gulick, however, has adopted a rather modern definition and although he would say "regional" applies to urban areas if they fit his definition it is believed that the body of planners continue to reserve the term "region" for a large territory such as a major valley, watershed, coastal plain, or mountain system or to a wide territory of similar economic development, such as "an agricultural region" or an "industrial region" and also may not agree that regional plans necessarily reflect a subcom-

63. Fla. Laws 1965, ch. 1502, at 9923. Fla. Laws 1965, ch. 1488, at 965.
64. Fla. Laws 1965, ch. 2018, at 2796.
65. Fla. Laws 1965, ch. 718, at 174.
66. Fla. Laws 1965, ch. 1516, at 1030.
67. Fla. Laws 1965, ch. 1179, at 825.
68. Gulick, *The Concept of Regional Planning*, 12 PUBLIC POLICY 97, 102 (1963).

ponent of national economic plans. They would prefer to refer to a major urban center and its associated suburban and satellite communities with a word other than "region"; the word gaining a great following is "metropolitan."

In 1965 the Board of Governors of the American Institute of Planners approved the following statement:

> [M]etropolitan planning is comprehensive planning for areas containing a large urban concentration where the dominant economic, social and physical factors over-arch local and, in some cases, even state boundaries. While the standard metropolitan statistical area using county boundaries is a rational approach by federal agencies to the need for defining such areas geographically, the planning agencies' area is not always identical nor should it necessarily be so.[69]

The concept of "comprehensiveness" is demonstrated by the number of elements the metropolitan planning unit is expected to coordinate in its physical development plan for the area:

> [T]he metropolitan area development plan includes multi-community action programs involving land use, resource development, transportation, water supply, storm water and sanitary sewage disposal systems, garbage and rubbish disposal, recreation and open space, major public buildings and services such as hospitals, libraries, police and fire facilities. River basins and watershed areas are recognized and treated as significant elements in the metropolitan planning program.[70]

Perhaps this definition will aid in standardization of terminology; however, many of the old labels are now in use and probably will continue to be used for some time in the future. Perhaps the only sound advice is to examine closely an inventory of the planning undertaken rather than the name of the planning body. For example, the Committee on the "Regional" Plan of New York and its Environs, the precursor of the New York Regional Plan Association, Inc., plans figuratively for an area with a fifty mile radius around Times Square. More recently a considerable number of public and quasi-public bodies have included "regional planning" in their titles, but few of these were actually concerned with solving problems of regional scale. From Baltimore, Pittsburgh, Detroit, Milwaukee, and Denver to Los Angeles,[71] more of these bodies have been concerned with areas demarcated by county lines for such *ad hoc* purposes

69. American Institute of Planners, *The Role of Metropolitan Planning*, 54 NAT'L CIVIC REV. 618 (1965).

70. *Id.* at 619.

71. *E.g.* Baltimore Regional Planning Council; Pittsburgh Regional Planning Association; Detroit Metropolitan Area Regional Planning Commission; Milwaukee, Wisconsin Regional Planning Department; Denver Regional Planning Association; Los Angeles Regional Planning Commission.

as schools, transport, health services or flood control and irrigation. Most of these were actually metropolitan planning bodies.

B. *The Federal Executive's Concept of Metropolitan Planning*

The metropolitan planning envisaged by the federal government according to Dr. Robert Weaver, Secretary of the newly created Department of Housing and Urban Development, is carried on by a board or commission authorized by state law and made up of representatives of at least the more important governmental units in the area. He suggests that unlike city planning boards, it will not report to a single executive or legislative body, but the plans that it develops will be made available to the officials of all of the political units in the area. He sees it as being primarily an advisory body, but suggests that it could be delegated limited powers such as approval of street and lot layouts or review of changes in zoning codes. "Its recommendations may be accepted or rejected by any or all of the political units in its planning area. Success in seeing its plans adopted depends not on legal authority but on inherent merit and persuasive presentation."[72]

Dr. Weaver indicates that it should not be assumed that metropolitan planning has been undertaken only in response to the offer of federal grants, for the major metropolitan areas mentioned above[73] carried on this type of planning years before federal assistance was available. But he replies:

> Because metropolitan planning involves cooperation between different jurisdictions, often between urban and rural or suburban units with different outlooks, it is much more difficult to organize a metropolitan program than one for a single unit such as a city. It is partly for that reason that federal funds have been available, since the Housing Act of 1954, to help finance such programs .... [and] federal grants are likely to be increasingly important in inducing metropolitan planning in the years immediately ahead.[74]

C. *The Evolving Federal Policy on Metropolitan Planning*

The Kennedy Administration's Housing Act of 1961 broke new ground when it provided for federal grants or loans to localities for open space[75] and mass transportation.[76] Very significantly, aids under these programs continue to be available only to localities or groups of localities in metropolitan areas which are engaged in planning. "By September, 1963," Dr. Weaver noted, "these planning requirements were paying off.

72. WEAVER, THE URBAN COMPLEX 144 (1964).
73. See note 71 *supra*.
74. WEAVER, *op. cit. supra* note 72, at 146-47.
75. 42 U.S.C. § 1500 (1965), as amended.
76. 42 U.S.C. § 1492 (1955), as amended.

They seemed to be facilitating a new level of formal intergovernmental cooperation on a regional basis."[77] He documents this with the following: twenty intergovernmental agreements had been completed or were being developed incident to the open space program by the above date and six of the agreements represented open space arrangements in urban areas containing approximately 30 percent of the nation's population. Then came the Federal-Aid Highway Act in 1962 which established the requirement that all urban highway projects must be, beginning July 1, 1965, based on a "continuing comprehensive transportation planning process" in metropolitan areas.

The experience of the Housing and Home Finance Agency (HHFA) over recent years has demonstrated the bottlenecks resulting in attempting to provide facilities in urban areas which have not planned on a metropolitan scale. Hence, the requirement of comprehensive metropolitan planning as a condition for federal funds has just about become "boiler plate" in federal legislation relating to urban problems.[78] Recently Dr. Weaver has indicated that the comprehensive planning requirement is the

> one key way in which the federal government can insure that programs which affect large areas (such as open space, mass transportation, land development, and basic facilities) are carefully coordinated and integrated through the comprehensive planning process.[79]

The slow but definite increase since 1961 in the requirement of metropolitan planning is a signpost to future extension of these requirements to other programs which are part of the metropolitan context. The existing federal programs with such requirements include urban mass transportation,[80] basic water and sewer facilities,[81] open space land,[82] neighborhood facilities[83] and urban beautification,[84] urban planning,[85] mortgage insurance for land development,[86] grants for advance acquisition of land and advances for public works planning.[87] There are others for outdoor recrea-

77. WEAVER, *op. cit. supra* note 72, at 147.

78. See the new planning requirements added by the Housing and Urban Development Act of 1965 in notes 81 through 87.

79. Weaver, *The Emerging Federal Program for Cities*, 36 THE APPRAISAL J. 9, 15 (1966).

80. See 42 U.S.C. § 1492 (1965), as amended (loans for mass transportation facilities and equipment); 40 U.S.C. § 461 (1965), as amended (grants to assist mass transportation planning) and 49 U.S.C. § 1601 (Federal financial assistance for urban mass transportation —the Urban Mass Transportation Act of 1964).

81. Housing and Urban Development Act § 702(c), 42 U.S.C. 3102 (1965).

82. 42 U.S.C. § 1500 (1965) as amended; Housing and Urb. Dev. Act of 1965 § 905.

83. Housing and Urban Development Act § 703(c), 42 U.S.C. § 3103 (1965).

84. Housing and Urban Development Act § 906, 42 U.S.C. § 1500 (1965).

85. 40 U.S.C. § 461 (1965), as amended; Housing and Urban Development Act § 1102(a)-(c), 40 U.S.C. § 461.

86. Housing and Urban Development Act § 201(a), 12 U.S.C. § 1749(aa)-1749(bb) (1965).

87. Housing and Urban Development Act § 704(c), 42 U.S.C. §§ 3104 (1965).

tion, notably in the Department of the Interior, which are subject to the same requirements.

In 1963 Senator Muskie of Maine, along with Senators Humphrey, Mundt, and Williams, drafted legislation to provide for more effective utilization of certain federal grants by encouraging better coordinated local review of state and local applications for such grants. This bill, whose purpose, *inter alia*, was to encourage state and local governments to establish or improve facilities for coordinating metropolitan development, provided that all applications made after June 30, 1965 for federal grants to assist in carrying out urban renewal activities or for the construction of hospitals, airports, water supply and distribution facilities, sewerage facilities and waste treatment works, urban highways, and public housing within any metropolitan area defined by the Bureau of the Budget as a standard metropolitan statistical area shall be accompanied: (1) by the comments and recommendations thereon of an official state, metropolitan, or regional planning agency empowered under state and local laws or interstate compact to perform metropolitan or regional planning for the metropolitan area within which the assistance is to be used; and (2) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application.[88] Legislative hearings[89] were held on the desirability of requiring comments and recommendations by metropolitan planning agencies before federal funds would be made available.

In 1965 the 89th Congress' bill entitled the Intergovernmental Cooperation Act of 1965 was introduced.[90] This Act would require comments and recommendations by an "areawide agency designated to perform metropolitan or regional planning for the area"[91] within which the assistance is to be used, and which is, to the greatest practical extent, "composed of or responsible to the elected officials of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning." It would apply to

> Federal loans or grants to assist in carrying out urban renewal and open-space land projects or for the construction of hospitals, airports, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facili-

88. *Hearings on S. 855 before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations*, 88th Cong., 1st Sess. 4 (1963).

89. *Ibid.*

90. See *Hearings on the Intergovernmental Cooperation Act of 1965 before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations*, 89th Cong., 1st Sess. 5-13 (1965).

91. Notice that S. 561 (Intergovernmental Cooperation Act of 1965) unlike S. 855 before it does not provide that state level planning agencies may be the body to review and comment unless it is the agency which performs the planning in the area. Also, S. 561 does not define the boundaries of the planning area to be that of an SMSA as does its predecessor.

> ties, water development and land conservation within any metropolitan area.[92]

This bill, S. 561 or the "Muskie bill" as it is popularly referred to, passed the Senate in August 1965, and this year has become one of the Administration's legislative proposals. Thus, there has been a commitment on the part of the President in support of the development of metropolitan planning which is seen in the role of a necessary catalyst for the Great Society's urban programs.

An important purpose of the metropolitan planning requirement is to produce coordination between local governments in urban areas. So far as coordination between federal level departments, agencies, and bureaus, Secretary Weaver assures that:

> A key role of the new Department [Department of Housing and Urban Development] will be Interdepartmental Coordination. This will be the beginning of what I am sure will be a continuing effort to formalize the meshing together of federal programs affecting cities. It is not so essential that all such programs be operated from under the same tent as it is that all of them work toward a common set of objectives . . . .[93]

As an incentive to spur planning at the metropolitan scale, a number of federal programs provide grants-in-aid assistance to support the costs of the planning activity.[94] Dr. Weaver has testified that:

> The goals and objectives underlying comprehensive plans prepared under the urban planning assistance program are always locally determined—we do not attempt to substitute our judgment of what is good planning in a given community for that of the local citizens. Our concern is more in the direction of assuring that the planning process is truly representative of the community's desires and that the means and facilities exist for carrying out the planning.[95]

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92. Hearings *supra* note 90, at 10.

93. Weaver, *The Emerging Federal Program for Cities*, 36 THE APPRAISAL J. 9, 16 (1966).

94. *E.g.*, Urban planning grants under section 701(b) of the Housing Act of 1954 (40 U.S.C. § 461 (1965), as amended). The Housing and Urban Development Act of 1965 made some amendments providing (1) to increase the authorization of appropriations for urban planning grants from 105 million to 230 million dollars (2) to permit up to 5 percent of funds appropriated for urban planning grants to be used for studies, research, and demonstration projects, for the development and improvement of techniques and methods for comprehensive planning and (3) to authorize the Housing Administrator to make grants to organizations composed of public officials who are found to be representative of political jurisdictions within the metropolitan area or urban region to assist them to undertake studies, collect data, develop regional plans and programs, and engage in other activities desirable for the solution of their metropolitan or regional problems. The grants cannot exceed two thirds of the cost of the work for which they are given. See also advances for public works planning available under 40 U.S.C. § 462 (1965), as amended.

95. *Hearings on the Role of the Federal Government in Metropolitan Areas before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations*, 87th Cong., 2d Sess. 69 (1962).

He has cited the example of coordination at the federal level through the joint use of urban planning assistance funds provided by the former HHFA and the Bureau of Public Roads. "As a matter of standard procedure, whenever either federal agency receives a request to finance a planning or transportation study in a region, the possibilities of a common undertaking are investigated."[96]

D. *Who Should Do Metropolitan Planning?*

The federal position has been expressed by Dr. Weaver on several occasions:

> We certainly do not deem it appropriate for us to specify to any metropolitan area what type of governmental forms it should have for the performance of planning and other local functions. At the same time, it is important that a Federal grant go to a representative metropolitan planning group which will make an appropriate contribution to metropolitan area development . . . . The complexity of the large metropolitan area is such that planning will be meaningful only if related to decision-makers and decision-making processes. If political leaders of the localities are not represented or consulted in the planning process, it is not likely that their communities will take planning very seriously. A proper balance must, therefore, be maintained between a completely standoffish process as to community organization, and the establishment of requirements for a responsible and responsive metropolitan structure.[97]

The proposed Intergovernmental Cooperation Act and Mass Transportation program have also expressed a preference for elected officials to participate in the planning body. For example, the latter's program planning requirements specify certain basic organizational standards for the planning process:

1. Local governments covered by the planning program need to be represented on the planning body. Such representation should generally be through elected officials or their designees.
2. Provision needs to be made for participation in planning by key public and private operating agencies, including special districts and authorities, affecting the development of the area. In the field of transportation, this means public mass transportation agencies and private companies, state and local highway agencies, traffic engineering agencies, and other appropriate bodies.
3. Responsibility for the transit development program needs to be lodged principally in those public agencies and private

96. *Id.* at 67.
97. *Id.* at 70; WEAVER, THE URBAN COMPLEX 155-56 (1964).

> companies which provide the local and regional mass transportation services.[98]

These three criteria are performance standards, *i.e.*, basic organizational standards established administratively in the office of the Assistant Administrator for Metropolitan Development, Victor Fischer, in the old Housing and Home Finance Agency. Fischer explains these requirements saying, "no specification is made as to type or location of transit and other facilities, only that they be developed through a rational process and within the proper context."[99]

This office in mid-1965 was working to establish policy guidelines "to strengthen the metropolitan planning function." The guidelines receiving specific attention were reported to be: (1) the political responsiveness of metropolitan planning; (2) coordination with local units of government; and (3) technical standards for conducting metropolitan planning.[100]

It must be noted, however, that in establishing such performance standards, the federal government is, in fact, specifying to metropolitan areas the type of governmental form it *should* have for the performance of planning.

E. *Additional Aspects of the Federal Commitment*

The organization plan of the Department of Housing and Urban Development reflects the creation of an Assistant Secretary position for Metropolitan Development who will be responsible

> for such present or proposed programs affecting the urban area and its outlying, expanding regions, as urban planning, water and sewer facilities, outlying open space land, urban mass transportation, and support of planned community development and the execution of sound metropolitan plans.[101]

The newly-appointed Assistant Secretary is Charles M. Haar who has been Professor of Law at Harvard University and a leading expert on city and regional planning law for many years. In 1964 he submitted an exhaustive report, *The Effectiveness of Metropolitan Planning*, to Senator Muskie, Chairman of the Subcommittee on Intergovernmental Relations of the Senate Committee on Governmental Operations. He reports that:

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98. Fischer, *The Future of Metropolitan Planning*, ISSUES & PROBLEMS OF BOSTON METROPOLITAN AREA DEVELOPMENT 21, 32 (Joint Center ed. 1965).

99. *Ibid.*

100. Ives, *The Emerging Function of Metropolitan Planning*, ISSUES & PROBLEMS OF BOSTON METROPOLITAN AREA DEVELOPMENT 1, 3 (Joint Center ed. 1965).

101. Memorandum from Secretary Weaver to the President on the Organization of the Department, Feb. 25, 1966 in *Weekly Compilation of Presidential Documents* (February 28, 1966).

> The shortcomings of our present system of urban development have not been disastrous, but they have nevertheless been serious .... [U]nless we strengthen means for metropolitan wide policy-making and governmental coordination—such as more effective metropolitan planning—this "muddling through" approach will leave us with a mounting accumulation of unsolved problems ....[102]

His attitude concerning metropolitan planning is again expressed in this concluding passage:

> The burden of the evidence we have accumulated indicates that the complications in the consensus building process do not outweigh the probable benefits to be derived from metropolitan planning. The problems in making metropolitan planning effective do not sound as signals of impending failure, nor do they appear to be insurmountable. It would seem, therefore, that now is the time to move ahead in encouraging the growth of the existing embryonic system into a more permanent and responsive structure for metropolitan planning.[103]

Since he will be the coordinator of the judging process as to whether the federal planning requirement is met, his conception of planning is a valuable one:

> The metropolitan planning that is envisioned is not that of a hypothetical supergovernment laying down sweeping plans, nor that of an agency which amalgamates all local points of view into a broad consensus, but that of a representative body working with a competent technical staff to provide a factual context for the consideration of policy questions, to study the implications of alternative development choices, and to promote consideration of two currently neglected points of view: the areawide rather than the local, and the long-range rather than the immediate.[104]

Thus, from the President down—through Secretary Weaver, Undersecretary Wood and Assistant Secretary Haar we find four extremely able men publicly committed to and desirous of the success of the metropolitan planning concept. What is more, they are in key positions to exert an influence to make it work.

Here then, the questions of: What is it? Who does it? and Is it necessary? have been surveyed. Now, what should Florida do, if anything, about it?

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102. Prepared by the Joint Center for the Committee on Government Operations, 88th Cong., 2d Sess., *The Effectiveness of Metropolitan Planning* 18-19 (Comm. Print 1964).

103. *Id.* at 38.

104. *Id.* at 1.

IV. Implications for the State Legislature

A. *The Arthur D. Little Report*

In this respect, how important is planning to the citizens and the State of Florida? The Florida Development Commission, the state planning agency, commissioned the Arthur D. Little Company, one of the nation's most respected private research organizations to survey the strengths and weaknesses of the Florida economy. The 1960 report[105] was organized in only two sections and one of these was prepared specifically to draw attention to state and local government responsibilities. Two needs were spelled out for action by the Florida governments:

I. The Need for Planning and Regulation of Real Estate Subdivisions

II. The Need for Planning Legislation

Their survey presented findings that:

> Cities and towns may enact zoning ordinances by the terms of Chapter 176 of the General Statutes, but counties have no general zoning authority. While 33 of Florida's 67 counties have special enabling legislation, permitting them to undertake zoning, only a handful of these counties have taken advantage of the provisions of such legislation.[106]

The consultants displayed considerable concern about the inadequate state of Florida law, about failure to set aside adequate land for parks, recreation and beaches for the future, of great opportunities for pollution of the water table so close to the surface, and of developers who are able to sell lots without providing for sewage disposal. After discussing several failings of the current enabling legislation relating to subdivision regulation by counties and municipalities and some abuses by land development companies, it ventures its experienced conclusion and recommendation:

> Planning, zoning, subdivision control, and building codes are all complementary and equally necessary for sound development. Some communities and counties especially in the major urbanized areas of the state, are well equipped under special acts of the legislature to guide development within their borders. On the periphery of these communities and in the large areas of the state where these controls do not exist or are barely enforced, sound development is hardly possible. Some developers beyond the range of such regulations have voluntarily subscribed to sound planning and building principles. Such voluntary restraint, com-

105. Little, Review of Major Segments of the Florida Economy and a Report on the Public Aspects of Land Development Practices (1960).

106. *Id.* at 20.

mendable in itself, is not, in our opinion, an acceptable substitute for far reaching general enabling legislation adopted by local governments to protect the citizens within their jurisdictions.[107]

B. *The Current Status of Metropolitan Planning*

1. NATIONALLY

In recent years a national survey of metropolitan planning was prepared by the HHFA.[108] Existing metropolitan planning agencies were classified into three groupings, all of which are found in operation in Florida:

1. The *multi-jurisdictional* planning agency category includes those agencies which cover two or more counties.
2. *City-county planning agencies* are those which cover a county and its central city.
3. The *county planning agency.*

Certain characteristics of 126 metropolitan planning bodies reported in the survey became apparent; a few of these are particularly important in view of the current federal attitude concerning the characteristics of metropolitan planning they view as desirable.

The metropolitan planning commission tends to be larger than its city counterpart, ranging from an average of 23 members for multi-jurisdictional agencies to 13 for county agencies. The officials generally serve for terms ranging from three to five years, with appointments often staggered.

The responsibility for the selection of the commission members varies by type of agency. In each case, power to appoint usually rests with the legislative body. The county board almost always picks the members of the county planning commission. For city-county planning agencies, the responsibility is jointly exercised by the city and county governments. In the larger multi-jurisdictional agencies, each government represented on the commission is given some authority to select members. In a few instances, the state or local planning boards may exercise appointive power. Only one-third of the commissions reported their composition; of these, almost all indicated that elected public officials were on their commissions. Counties and cities appear to be much more frequently represented than are states or special districts.

Nearly half the reporting agencies indicate that they cover territories conterminous with an SMSA. The bulk of these are county and city-county agencies, although, a sizable portion (40%) of these two classifications covered areas smaller than the SMSA. Younger multi-jurisdictional agen-

107. *Ibid.*

108. *National Survey of Metropolitan Planning*, 88th Cong. 1st Sess. Committee print prepared by HHFA for Subcommittee on Intergovernmental Relations of the Committee on Government Operations, U.S. Senate, Dec. 16, 1963.

cies appear to be better structured to handle metropolitan development problems, for three out of four have responsibilities for areas larger than a single SMSA. Two-thirds of such agencies report that they serve more than 500,000 people.

With respect to power, they have little. Basically, whatever influence they exert stems from their ability to persuade through suggestion and recommendation. The study shows that there is the absence of widespread authority held by metropolitan agencies to review local plans, codes, or capital improvement programs in the context of how they conform to metropolitan development policy. Only a quarter of all the agencies indicate that local governments must refer such proposals to them for review and comment, but half of the city-county agencies reported that local plans must be referred to them. It is felt that this is in part attributable to their unique structures; they serve as the sole planning bodies for both the central cities and the county governments.

Nearly half the agencies claim they have authority to review or comment on local, state or federally supported projects. Here also the city-county agencies are highest with four out of five reporting such authority. As far as power and authority are concerned, the multi-jurisdictional agencies are in the weakest position, and they have expressed concern over their tenuous position. They have less of a mandate than city-county and county agencies to adopt comprehensive plans, to have other area-wide agencies adopt their plans, to review and comment on local government plans and proposals, or to review and comment on federal or state-supported projects.

The survey also included information concerning financing of the planning activity, characteristics of the agency staff, technical planning studies undertaken, local technical assistance and many other characteristics which are well worth study and evaluation.

2. FLORIDA

"All SMSA's have some type of metropolitan planning agency but details vary according to authorizing legislation."[109] Multi-jurisdictional agencies in Florida are organized under the enabling legislation providing for the establishment of regional planning councils found in Chapter 160 of Florida Statutes. The Florida Development Commission indicates that four agencies, three of which are SMSA's, operate under this act: Tampa Bay Regional Planning Council, East Central Florida Regional Planning Council (Orlando), Pensacola-Escambia County Regional Planning Council, and Fort Pierce - St. Lucie County Regional Planning Council.[110]

109. Letter by Florida Development Commission to author, April 5, 1966.
110. *Ibid.*

City-county agencies are represented by authorities such as: Jacksonville-Duval Area Planning Board and Broward County Area Planning Board.

County agencies include Metropolitan Dade County Planning Department, Pinellas County Planning and Zoning Department, Brevard County Planning Department and many others.

Below is a summary of some past and present planning agencies in the state of Florida. Only certain characteristics of the agencies are set forth and as there are continuous changes being made in this area, the summary should be considered strictly illustrative in nature.

C. *Some State Legislative Considerations*

1. THE UNDERLYING PHILOSOPHY OF THE ENABLING ACT

In the early days of planning, provisions were quite conservative to overcome the fear of the unknown; moreover, there existed a scarcity of institutional patterns. Today, a multitude of models exist, but great care must be taken if the eclectic method is used in constructing an enabling act. Without appropriate care a drafter may select the same conservative provisions, the same inadequate substantive and procedural provisions which today are obsolete and tomorrow will be anachronistic. A drafter should not discount the successful or unsuccessful operating experiences of the wide array of planning institutions, in their respective political and legal contexts. Nor should he forfeit to this method the opportunity to permeate the complete act with an intent and spirit which can be reflected in cohesive phraseology. Haar suggests that the overriding policy injected should be "to foster a metropolitan perspective on development policies, with a view to maximizing the general well-being of the people of the State." He recommends these specific policies to be incorporated into any enabling act:

1. The creation of a planning unit to encompass the metropolitan area is desirable as an instrument to assure prosperity and rational development in the State.
2. The goals of planning and the means of implementing them should be determined by democratic processes within the area of their prospective direct operation.
3. The procedures for adoption, administration, and review of the metropolitan plan should accord with general standards of due process.[111]

An enabling act confers power to act but it does not impose any duty to exercise the power. Just as the Little report indicates, even when half of Florida's counties went so far as to acquire the power to zone through

111. *The Effectiveness of Metropolitan Planning* 74, 88th Cong. 2d Sess. Committee print prepared by the Joint Center for Subcommittee on Intergovernmental Relations of the Committee on Government Operations, U.S. Senate, June 30, 1964.

SELECTED FLORIDA METROPOLITAN PLANNING AGENCIES

Metropolitan Area	Name	Source of Authority for Establishment	Name of Area of Jurisdiction	Governments Represented	Planning Commission Size	Planning Commission Composition	Planning Commission Term of Office	Planning Commission Members Selected By	Legally Required to Adopt Comprehensive Plan	Authority to Review Other Agency's Project in Area: Locally Financed	Authority to Review Other Agency's Project in Area: State or Federally Sponsored
Miami	Metropolitan Dade County Planning Department	local ordinance under Dade Cty. Home Rule Charter §4.07	Metropolitan Dade County	1 county 1 city	11		3 years	county board	yes	yes plan is advisory only	no
Jacksonville	Jacksonville Duval Area Planning Board	State act Ch. 61-2329 as amended	Jacksonville Duval Area	1 county 1 city	7	1 city commissioner 1 county commissioner 5 citizens	4 years	governor (5)	no	no	n.a.
Tampa	Tampa City-County-	State acts Ch. 59-1363 61-2361 63-1407	Area outside municipal limits of all but participating members	1 county 1 or more cities	7+	4 (Tampa) 3 (County) 1 (every other city)	4 years	Tampa City Council (4) County Commission (3) Each other city (1)	no	no	no
Orlando	East Central Florida Regional Planning Council	local resolution under Fla. Stat. 160	East Central Florida	6 counties	12	n.a.	2 or 3 years	county commission participating	no	no	no
Fort Lauderdale	Broward County Area Planning Board	State act Ch. 59-1154 as amended	Broward County	1 county 5 cities	12	n.a.	n.a.	county commission (5) municipalities (5) bd. of education (1) port authority (1)	yes	no	no
Pensacola	Escambia Pensacola County Joint Planning Commission	State act Ch. 61-2123	Escambia County	1 county 1 city	10	n.a.	5 years	county commission (5) city commission (5)	only recommend for adoption	yes	yes

special legislation, only a handful exercised this helpful developmental tool. This permissive approach also allows smaller localities within the larger area to exercise planning and regulatory powers often detrimental, even if unintended, to the areas surrounding the localities. An argument can be made that the state is an interested party adversely affected by this result. If the state is the source of the power, and it delegates this planning power, then it is the loser when the benefits of joint planning and implementation go unrealized. The state should be considered vicariously responsible for any injurious effects. Does not the expansion of the state as reflected in the prior population projections justify or even dictate more positive action to bring about metropolitan planning than merely to allow it? Where an urban area now suffers from the lack of such planning, why shouldn't planning be made mandatory, possibly with state incentives to facilitate planning efforts?

Haar believes that the better view is that the state should require metropolitan planning and he adds:

> It is also believed that some policies to be sought in planning should be set forth by the State legislature. Issues which require such articulation are population density, dwelling type, transportation, industrial development, total exclusion of uses, relocation, impact of uses on municipal services, pollution controls, water supply, open space, and architectural design.[112]

There is too much remoteness from the democratic process under most existing enabling legislation which provides that the governing body of the metropolitan planning commission be appointed. The dilution in political responsibility is accentuated when the term and timing of planning board membership are arranged to minimize any control the elected official might otherwise have exerted over them. Florida legislation as well as most other legislation in this field has skirted this subject.

The courts should be considered in the legislation. Several years ago Professor Haar recommended that the judiciary would be aided significantly by according a metropolitan master plan the attributes of an "impermanent constitution." He has explained this concept in the following way:

> Courts inevitably do lend weight to expertise . . . . [T]he existence of a master plan . . . indicates in a more satisfactory fashion that this expertise has really been put to work on the particular problem before the court. In this oblique manner the master plan principle may affect planning litigation. Hence, the value of making a master plan both as a basis for winning community consent to any proposed regulation, as well as enhancing the chances for judicial approval of a particular regulation.

112. *Id.* at 78.

> If the plan is regarded not as the vest-pocket tool of the planning commission, but as a broad statement to be adopted by the most representative municipal body—the local legislature—then the plan becomes a law through such adoption. A unique type of law, it should be noted, in that it purports to bind future legislatures when they enact implementary materials. So far as impact is concerned, the law purports to control the enactment of other laws (the so-called implementary legislation) solely. It thus has the *cardinal characteristic of a constitution.* But unlike that legal form it is subject to amendatory procedures not significantly different from the course followed in enacting ordinary legislation. (Emphasis added.)[113]

Likewise, liberal provision for public hearings should be provided. Not only adhering to the standards of due process, it will tend to increase the authority of the master plan. To a judicial body, the wider the participation of the general public, the more the resulting document takes on a presumption of reasonableness and the character of a social contract.

2. SOME LEGISLATIVE CHOICES[114]

Planning Area Choices: (1) The legislature may define any area as a planning area, so long as its choice is not so arbitrary as to contravene either state or Federal constitutional provisions. (2) The legislature may delegate the authority to the local units which agree to establish a metropolitan commission. (3) The legislature may delegate the authority to the executive or to an administrative body. Drawing boundaries is more than a technical decision; it is political and determinable by bargaining. It may be desirable to require that public hearings be held at which interested parties may offer evidence and argument.

Planning Commission Choices: Five basic methods of establishing a metropolitan planning commission have been suggested: (1) Voluntary cooperative—The legislature may pass an enabling act which permits localities to plan jointly and to set up a metropolitan agency to do so. (2) Mandatory cooperative—The legislature may require localities to enter into metropolitan planning relationships with sanctions provided in the event of failure to do so. This has much the same effect as the voluntary cooperative method. (3) Cooperative, with establishment from above upon failure by the localities to do so—the legislature may authorize or require the local units to establish a metropolitan planning relationship, specifying that on failure to do so within a certain time a state agency will set one for them. (4) Direct legislative establishment—The legislature may establish a metropolitan planning commission simply by declaration.

113. Haar, *The Master Plan: An Impermanent Constitution*, 20 LAW & CONTEMP. PROB. 353, 375 (1955).

114. See *The Effectiveness of Metropolitan Planning*, *supra* note 111 for thorough treatment, at 81-99.

Note that by the other four methods the legislature may authorize *any* metropolitan planning arrangement, may set minimum or exact requirements for membership, internal organization, finances, powers and duties of the commission. (5) Legislative delegation to the state executive or an administrative agency of the establishment function.

Choices as to who appoints or selects the members, qualification of members and the appointment of voting and veto power allow for a great variety of combinations. Some recently created authorities are worth examination. The Maryland Legislature in 1963 established a regional planning council for the Baltimore metropolitan area. Council membership includes representatives from the cities and counties, the Director of the State Department of Planning, and the State Highway Administrator. Incidentally, upon completion of a development plan for the area, no local physical development project which affects more than a single unit of government may be authorized until the Council has had an opportunity to review and comment on its consistency with general development plans for the area.

The current composition of the Metropolitan Area Planning Council of the Commonwealth of Massachusetts, a planning council for 57 cities and towns in the Boston metropolitan area, is composed of 10 representatives of cities and towns, the heads of two special districts,[115] the heads of three state departments[116] and five citizen members.

Lastly, consider the many legislative choices possible when determining how locally initiated physical development projects and land use regulations may be made to conform with the specifications and standards of the metropolitan master plan:

1. Localities may adopt the metropolitan master plan.
2. Localities may adopt the metropolitan plan, but if they do not, the agency will be permitted to review proposals of metropolitan significance.
3. Localities must consider the metropolitan plan in the preparation or amendment of local plans.
4. Localities must consider the metropolitan plan and hold hearings on it, insofar as it pertains to the locality.
5. Localities must give written reasons if they depart from pertinent portions of the metropolitan plan.
6. Localities can depart from the metropolitan plan only by extraordinary vote.
7. Local plans must conform to the metropolitan plan.
8. The localities must adopt recommendations by the metropolitan agency.

115. These authorities are the Metropolitan District Commission mentioned earlier in this article and the Massachusetts Bay Transportation Authority.

116. These departments are the Department of Natural Resources, the Massachusetts Department of Public Works and the Department of Commerce and Development.

9. The metropolitan master plan supersedes local plans where the two conflict, giving the metropolitan plan the legal effect of a comprehensive plan for the locality.

D. *Needed: Immediate Legislative Consideration*

In 1961 the Advisory Commission on Intergovernmental Relations published a report concerning governmental structure, organization, and planning in metropolitan areas.[117] Within this excellent document, two ideas of immediate concern were strongly recommended. The first of these was the recommendation that states enact legislation authorizing the establishment of metropolitan area planning bodies to comprise representatives from the political subdivisions of the metropolitan area.[118] On the latter point, it had this to say:

> [T]he Commission doubts the efficacy of constituting area planning commissions as independent bodies, comprised solely of part-time commissioners, and dominated by professional planning staff. Rather, a body including as exofficio members a small number of mayors, councilmen, and county commissioners in the metropolitan area, as well as private citizens, with adequate authority and funds to employ the requisite planning staff, is believed to be a preferable pattern. If the planning group is to be an integrated part of the political processes of the governments in the area it cannot be an insulated, independent group. Authority, responsibility, and responsiveness must go hand in hand . . . . To be worthwhile and to serve a useful rather than an academic purpose, the respective facets of metropolitan planning must be closely geared into the practical decision making process regarding land use, tax levies, public works, transportation, welfare programs, and the like.[119]

Secondly, it strongly recommended that the federal government enact legislation to require that after a specified date all applications for certain specified Federal grants-in-aid "bear evidence of having been commented upon—not necessarily approved—by a legally constituted metropolitan planning agency."[120]

> Under the Commission's proposal, the metropolitan planning agency would not have a veto power over a Federal grant application; the Federal agency concerned could still approve the grant in the face of a negative recommendation by the planning agency.[121]

117. ACIR for the Committee on Government Operations, 87th Cong., 1st Sess., *Governmental Structure, Organization, and Planning in Metropolitan Areas* (Comm. Print 1961).
118. *Id.* at 33-34.
119. *Ibid.*
120. *Id.* at 49.
121. *Id.* at 50-51.

The advisory commission[122] is a permanent body, highly respected, and its annual reports[123] indicate that its recommendations have been taken very seriously and have spurred a significant amount of state and federal legislation. The above recommendations are on the verge of becoming requirements through federal enactment[124] or administrative performance standards.[125] Some may argue that such proposals invade the prerogatives of the state or that it forces cooperation where the desire to cooperate may not exist. Such arguments may be justifiably made. However, if these recommendations do become a reality, and that probability is very high, in what way can Florida benefit from the new situation?

Since 1959 Regional Planning Councils may be established under Chapter 160 of Florida Statutes. The East Central Florida Regional Planning Council was created in February 1962 by local resolutions under this enabling act. Section 160.01 is the relevant provision with respect to representation on the council:

> Any two or more counties and municipalities are hereby authorized and empowered to create and to establish a regional planning council to be composed of two representatives appointed thereto by each county commission and municipal legislative body desiring representation on such council . . . In addition, each governmental unit shall be entitled to appoint one additional representative for each fifty thousand population residing within the boundaries of the municipality or county. Participating governmental units may designate to membership ex-officio and without vote their chief planning officer and/or engineer.

Under the above formula the Orange-Seminole Joint Planning Commission, which is composed of two counties and eighteen municipalities and plans for a population of approximately 400,000, would have well in excess of forty council members. Yet there is not even a suggestion that any elected officials or representatives of relevant special districts be included.

The Palm Beach Area County Planning Board, established by special act of the legislature in 1965,[126] provides that of its 7 member board, one representative is to be appointed by the Central and Southern Florida Flood Control District and another member by the Board of Public Instruction of Palm Beach County. Similarly the Broward County Area Planning Board provides that of its twelve member board the Board of Education and the Port Authority shall each have a representative. Such representation is recommended as a sound approach.

122. See generally Wright, *The Advisory Commission on Intergovernmental Relations: Unique Features and Policy Orientation*, 25 PUB. ADMIN. REV. 193 (1965).

123. 7 ACIR ANN. REP. 17-26; 6 ACIR ANN. REP. 7-12.

124. See the Intergovernmental Cooperation Act of 1965 in the text at note 90 *supra*.

125. Such a standard is presented in the text at note 98 *supra*.

126. Fla. Laws 1965, ch. 2063, § 3, at 2969.

The Palm Beach Area County Planning Board, on the other hand provides that, "No elected public official shall hold office on the board." It is not uncommon to find restrictions on the number of elected public officials in acts establishing county planning commissions. For example two acts were enacted by the 1963 legislature empowering Brevard County and Osceola County to plan. The former provided, "No more than a minority of such members shall be paid or elected office holders of any of the jurisdictions served."[127] The latter provided, "The planning commission shall have ten members and no more than a minority of such members shall be paid or elected office holders of said county."[128] On the other hand the Jacksonville-Duval Area Planning Board is set up to include one city commissioner and one county commissioner out of a Board of seven.[129] The National Survey of Metropolitan Planning discussed earlier showed a decided pattern with respect to elected or official members of local governments. Most multi-jurisdictional commissions included a substantial number of elected representatives while a few were composed entirely of elected representatives. Fewer city-county commissions which were generally smaller in size included elected members, and purely county planning commissions showed the fewest.

The Advisory Commission on Intergovernmental Relations, as part of its 1966 State Legislative Program, recommends a model enabling act for metropolitan area planning commissions.[130] This same act is included in the Council of State Governments' "Suggested State Legislation." In addition, the following organizations have taken formal action in support of the act: National League of Cities, National Association of Counties, United States Conference of Mayors, Governors' Conference and the National Legislative Conference. The pertinent portion of the relevant provision recommended is:

> *Section 4. Membership and Organization.* Except as provided below, membership of the commission shall consist of representatives from each participating government or stipulated combinations thereof, in number and for a term to be specified in the agreement. *Such representatives shall consist of elected officials,* except that the Commission may appoint not to exceed [ ] members from the public, such members to have demonstrated outstanding leadership in community affairs. A representative of the state government may be designated by the Governor to attend meetings of the commission . . . .[131]

While there is always a risk of undesirable parochialism and advancement of local self-interest with the participation of local political leaders,

127. Fla. Laws 1963, ch. 1144, § 5(a), at 211.
128. Fla. Laws 1963, ch. 1731, § 4(l), at 2666.
129. Fla. Laws 1961, ch. 2329, at 2104.
130. ACIR, *1966 State Legislative Program* 237-49 (1965).
131. *Id.* at 242 (Emphasis added).

other bodies such as state legislatures have continued to function successfully with many local interest representatives. On the positive side, political representatives are aware and familiar with local problems and interests as well as obstacles in adopting and implementing a metropolitan plan. If they exert sufficient political leverage in their own localities, they may help the planning body to become a forum for political bargaining. At the least, they may help to initiate local implementary action by funneling back planning information to their constituency. Full membership or ex-officio membership by the chief planning officers of the participating governments (the latter is suggested in Florida Statute Chapter 160), is highly desirable to promote a better understanding between planners and politically elected members. Certainly, the membership of the planning council, their qualifications, their number, who they represent, and who appoints them should not be taken lightly if action and results are expected.

Not only does the state legislature enjoy the power to set certain minimum standards relating to membership in its enabling legislation, but provision could be made for the adoption of metropolitan area plans by local units of government, and conversely, for advisory review and comment by the metropolitan area planning commission of local plans and projects.

Examination of the latter possibility finds that Florida's metropolitan planning bodies are ill-equipped to face the consequences of the Muskie Bill. These bodies just do not have the authority to review and comment upon local applications for federal-aid. In addition, the practical effects of channeling of applications for federal functional grants-in-aid through metropolitan planning agencies is to require the establishment of an area-wide planning agency in each metropolitan area of the state. Although the Florida enabling act does not address itself to this substantive power, the model act recommends the following provisions:

> Section 6. *Powers and Duties.* The metropolitan area planning commission shall:
>
> (h) Receive and review for compatibility with metropolitan area plans all proposed comprehensive land use, circulation, and public facility plans and projects, zoning and subdivision regulations, official maps and building codes of local governments in the geographic area and all amendments or revisions of such plans, regulations and maps, and make recommendations for their modification where deemed necessary to achieve such compatibility.
>
> (i) Review participating local government applications for capital project financial assistance from state and federal governments, and comment upon their consistency with the metropolitan development plan; and review and comment upon state

> plans for highways and public works within the area to promote coordination of all intergovernmental activities in the metropolitan area on a continuing basis.[132]

Chapter 160 of Florida Statutes stands today as the Florida enabling act for the metropolitan planning type of institution which encompasses "any two or more counties and municipalities." In comparison to the much more comprehensive and complete model act recommended by the Council of State Governments and the Advisory Commission on Intergovernmental Relations, the former could stand improvement in many areas and particularly the two areas of "membership" and "review and comment" discussed above. The present special act procedure which has produced Florida's many city-county and county planning commissions in effect, finds the state legislature somewhat blindly creating institutions which shape the future development of part of the state on the basis of legislative courtesy. With the likelihood that the state may well double in population within the next twenty years, the Florida Legislature might do well to consider establishing some development policies as has the state of New York,[133] and promoting at least as an interim measure the establishment of effective metropolitan planning. Such steps are necessary to prepare the state for its role just around the corner. It is the state which already possesses ample legal powers and reasonably adequate financial powers, which has been turned to more and more in matters involving state-wide services, which is presently a regional government with effective jurisdiction and an adequate degree of legitimacy. As the eastern and western coasts of the state become continuous strips of interdependent development, the state government may well become the closest facsimile of a metropolitan-wide government. The average citizen does not view the state government as any more distant than a metropolitan government, and considering its legitimacy imbedded in the traditions of America, democratic policy-making will likely follow the path of least resistance and end up at the statehouse door.

V. SUMMARY

The concept of the self-sufficient local government has been seen to be breaking down due to the internal conflict between its service functions and its political and regulatory functions. The concept of metropolitan planning has been seen to be something of a federally induced alternative, providing at least long range and areawide comprehensive planning, when it was recognized that larger general purpose metropolitan governments were not likely to develop. Federal legislation relating to urban areas increasingly requires project applications for federal grants-in-aid to be con-

132. *Id.* at 246.

133. *E.g.*, State of New York Department of Commerce, *Local Planning and Zoning* (1964); Office for Regional Development of the State of New York, *Change, Challenge, Response—A Development Policy for New York State* (1964).

sistent with comprehensive areawide planning. The 1967 year will likely see legislation to the effect that many local government applications for federal grants and loans must be reviewed locally by a metropolitan planning body before consideration in Washington. Also there may be as part of the administration's program new legislation pertaining to "demonstrations in effective metropolitan planning." The current Florida enabling act for multi-jurisdictional planning was enacted in 1959, but already needs reconsideration. Undersecretary Wood recently has stressed that "experience has been built up" and that "the state of art permits a comprehensive and coordinated program."[134] These experiences will soon be reflected in administrative program standards if not through Federal legislative requirements. Thus, it behooves Florida to immediately reassess its development policies in the light of the changing conditions in Florida and the evolving federal policies relating to metropolitan development.

134. Address by Undersecretary Wood, *The New Look at HUD* (1966 Nat'l Student Planning Conference, Washington, D.C., Mar. 11, 1966).