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## Recent Trends in State Planning Legislation: A Selective Survey

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Section II:

The fact of disqualification under this statute shall entitle a teacher to an order to show cause as a matter of right.

DAVID R. PFALZGRAF

RECENT TRENDS IN STATE PLANNING LEGISLATION:  
A SELECTIVE SURVEY

Air pollution, population shifts, floods, research duplication, sewerage, inadequate recreational facilities, transportation patterns, economic stability, . . . on and on runs the growing list of critical problems, both big and small, facing every level of modern government. Each individual problem falls to some person, some group, or some agency, whose duty it is to provide a satisfactory policy for future control. Unfortunately there exists a tremendous degree of overlap among these various problems, and the individual solution-seekers are often frustrated by conflicting policies, needless duplication, and ever-present fiscal limitations. The community's answer has been what may be loosely termed "planning," a word of many meanings,<sup>1</sup> but which may be broadly described in this context as an attempt to recognize and overcome such problems in a manner designed to promote the optimum physical, economic and social growth of the community. Planning in the United States generally began in the cities and slowly spread to the village, town, and county levels;<sup>2</sup> more recently, aided by the substantial thrust of various federal aid programs, planning on a regional basis is becoming an organized reality.<sup>3</sup> Current trends indicate that we are in the process of making the next obvious, logical, and perhaps necessary step, which is the creation of effective planning organizations at the state level.

AN HISTORICAL INTRODUCTION

The history of formalized state planning dates back more than three decades.<sup>4</sup> Some forty-six states enacted state planning legislation in the post-depression era of the mid-1930's, mainly due to the encouragement of the National Resources Planning Board.<sup>5</sup> The immediate objective of many of these

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1. See generally, Seeley, *What is Planning? Definition and Strategy*, 28 J. of the American Institute of Planners [hereinafter cited J. Am. Inst. of Planners] 91 (1962).

2. The history of municipal planning over a span of some four centuries is developed in Reps, *Making of Urban America: A History of City Planning in the United States* (1965). For an analysis of the present organizational posture of local planning, see Law and Land: Anglo-American Planning Practice (Haar ed. 1964); International City Manager's Ass'n, *Local Planning Administration* (3rd ed. 1959).

3. See generally, Wise, *Current Developments in Regional Planning in the United States*, in American Society of Planning Officials, *Planning* 1965, at 47 (1965). For a special issue devoted to regional planning, see 30 J. Am. Inst. of Planners (Friedmann ed. May 1964).

4. See generally, Black, *State Planning as an Established Procedure*, 2 J. Am. Inst. of Planners 85 (1936).

5. Committee on State Planning, *State Planning: Its Function and Organization*, 25 J. Am. Inst. of Planners 207, 210 (1959).

agencies was to coordinate the various public works programs which were developed to combat the severe unemployment problem,<sup>6</sup> and the state planning function "featured natural resource conservation themes, along with rural development."<sup>7</sup> Federal support and the employment crisis gradually disappeared in the face of World War II, and many of the infant planning agencies were forced to attach themselves to one of the operating agencies of the state in order to justify budget requests.<sup>8</sup> By the early 1940's nearly all the states had either abolished the state planning agency outright or had transferred its functions to some other agency, most frequently one concerned with the economic development of the state;<sup>9</sup> thus the dreams of independent centralized agencies carrying on comprehensive planning at the state level were, at least temporarily, quite dead. The first appearance of state planning objectives in the modern sense is found in the Model State and Regional Planning Law,<sup>10</sup> published in 1955. In 1960 the American Institute of Planners offered a committee report on the function and organization of state planning<sup>11</sup> and followed it up with the *Survey of State Planning Agencies: 1960*.<sup>12</sup> The survey indicated that very few agencies were involved with the overall state planning function at that time, and the state planning budget in most states was either non-existent or woefully inadequate.<sup>13</sup> Shortly thereafter the Council of State Governments, subsequent to the appointment of a Subcommittee on State Planning at the 1961 Governor's Conference,<sup>14</sup> prepared and published *State Planning—A Policy Statement*. Pointing out that the state is an established and financially powerful political entity,<sup>15</sup> it was suggested that the state must assume a key position in the planning process for "there are no alternatives to state planning for the future. . . ."<sup>16</sup> The report goes on to outline a twenty-point program of desirable goals and objectives, most of which are substantially in line with corresponding recommendations of the Model State Planning Law.<sup>17</sup>

6. *Ibid.*

7. Dyckman, *State Development Planning: The California Case*, 30 Am. Inst. of Planners 144 (1964).

8. Committee on State Planning, *supra* note 5, at 210.

9. Gray, *Survey of State Planning Agencies, 1960*, 27 J. Am. Inst. of Planners 325, 326 (1961).

10. National Municipal League, Model State and Regional Planning Law (1955) [hereinafter cited Model State Planning Law].

11. Committee on State Planning, *supra* note 5.

12. Gray, *supra* note 9.

13. *Id.* at 326.

14. Council of State Governments, *State Planning—A Policy Statement* [hereinafter cited Policy Statement] *Foreword* at vii (1962).

15. Policy Statement 5.

16. *Ibid.*

17. Contrasting stands are taken, however, on two of the four topics singled out for discussion. The Model State Planning Law does not provide for legislative approval of the state development plan, feeling that to do so would restrict the flexibility required for future growth and would tend to encourage false security in the existing plan. Model State Planning Law 12-13. The Policy Statement suggests that legislative commitment to the state development plan is desirable, but advocates the adoption of only those "general policy statements" which are incorporated into the plan. Policy Statement at 24. The intended distinction is discussed in text where the attempt will be shown, in California particularly, to build

This survey will be primarily concerned with the enabling legislation in those states, perhaps a dozen in number, which have created planning agencies at the state level somewhat in the spirit of the goals and objectives set forth in these reports.<sup>18</sup> Certainly state planning exists and functions in many forms beyond the scope of this review;<sup>19</sup> furthermore, enabling legislation in and of itself frequently indicates very little of the actual functioning realities of even the organized planning unit.<sup>20</sup> A legislative survey does serve to contrast the various organizational possibilities though, seemingly a logical starting point from which to examine, organize or re-organize the planning process on the state level. While each state must provide for its own unique physical, economic, and social factors in drafting its planning legislation, nevertheless there are several broad subject areas which are of universal concern in the state planning function. Four of these, the legal posture of the state planning agency, the comprehensive development plan, the planning-budgetary relationship, and the advisory planning committee, will be singled out for particular analysis.

#### LEGAL POSTURE AND FUNCTIONS OF THE STATE PLANNING AGENCY

It is generally recommended that the state planning agency be organized as a central unit, advisory in nature, distinct from other operating departments of the state.<sup>21</sup> The basic function of the planning agency is to serve in a direct advisory capacity to the governor,<sup>22</sup> hence the agency is established most often

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flexibility into the development plan by defining the plan to include statements of policy and objectives upon which the physical planning is based. Thus accepted physical parts of the plan can be constantly adjusted to keep pace with the dynamic policy goals of the entire comprehensive development plan.

The Model State Planning Law also advocates the formation of an advisory planning committee, composed at least in part of interested citizens not officially connected with the government; it is indicated, however, that considerable controversy was involved in this proposal. Model State Planning Law 18-20. The Policy Statement makes no advisory committee recommendations, implying that state planning requires a strong, professional organization, responsible only to the chief executive.

18. Primary emphasis has been placed on legislation in California, Delaware, Hawaii, Maryland, Minnesota, New Mexico, New York, North Dakota, South Dakota, Utah, Virginia, and Wisconsin.

19. For an insight into the various organizational aspects of functioning state planning agencies, see The Council of State Governments, *The State Planning Process and the Executive* (1965), a collection of papers describing the state planning process in New Jersey, New York (under the old law), and Delaware; see also Hand, *Current Status and Existing Trends of the State Planning Function in State Government: The Pennsylvania Experience*, a paper presented at the Conference on State Planning at Cornell University (March 23, 1966).

20. "A favorable combination of circumstances and personalities can make anything operate. Many examples may be cited such as New Jersey, Wisconsin, and Illinois. Personal observation leads to the conclusion, however, that state planning in these states occurs in spite of the form of governmental organization—not because of it." Bivins, *State Planning As a Function of a Separate Department Within State Government—Delaware's Experience*, in Council of State Governments, *op. cit. supra* note 19, at 15.

21. Policy Statement 10-11. This survey will be concerned primarily with legislative policy in those states which have created centralized planning agencies of this nature, with California and Wisconsin providing the most notable exceptions. In California the Planning Office is situated in the Dep't of Finance, which in turn passes on the budgets of all the other operating agencies. If the state planning process *must* be attached to an operating agency, the finance department would seem to be the most logical and useful partner for the marriage.

22. *E.g.*, Del. Code Ann. tit. 29, § 4904(a) (Supp. 1964); N.M. Stat. Ann. § 4-20-2 (1966). *Contra*, Cal. Gov't Code §§ 65012.1, 65013.1 (Deering Supp. 1966).

within the executive branch of the government.<sup>23</sup> Since the function of the state planning unit is primarily to coordinate and advise, there is no authority to eliminate or curtail development planning in the line agencies or at other governmental levels;<sup>24</sup> indeed, quite the opposite is true for the state agency must actively encourage such planning.<sup>25</sup>

In nearly all state planning organizations the director is appointed by the governor and serves at his pleasure.<sup>26</sup> An interesting exception is found in Minnesota, where the director is "selected on the basis of a nationwide examination"<sup>27</sup> and is to be "in the classified service of the state civil service."<sup>28</sup> There is a strong check on the director's powers, however, since the governor himself serves as the nominal "state planning officer" through whom the department's powers are channeled.<sup>29</sup>

### *The Comprehensive Development Plan*

Perhaps the greatest single goal of many central planning agencies is the preparation of a statewide comprehensive development plan, broadly aimed at establishing and maintaining a "comprehensive, long-range, general set of recommendations for the orderly, coordinated growth of the state."<sup>30</sup> Such plan "shall be based on studies of physical, social, economic and governmental factors, conditions, and trends . . .,"<sup>31</sup> a concept seemingly far beyond the familiar "master plan" typically seen at the city, town, and village levels.<sup>32</sup> The term "comprehensive planning" has been defined to include the coordination of related intergovernmental activities, fiscal planning, and the appraisal of pertinent administrative and regulatory problems, all in addition to the general physical planning involved.<sup>33</sup> Thus the planning unit is forced to anticipate the financial and legal difficulties involved in the physical execution of the plan, thereby reducing the advocacy of impractical dream-plans such as lie scattered in discarded obscurity on the American planning landscape.

An excellent description of the many diverse elements which should be in-

23. *Ibid.*

24. *E.g.*, Md. Ann. Code art. 88C, § 1 (1957); N.D. Cent. Code § 54-34.1-03 (Supp. 1965).

25. *E.g.*, Cal. Gov't Code §§ 65013.2, 65015.3 (Deering Supp. 1966); N.Y. Exec. Law § 548(2); Pa. Stat. Ann. tit. 71, § 1049.3(5) (1962).

26. *E.g.*, Del. Code Ann. tit. 29, § 4905(a) (Supp. 1964); N.Y. Exec. Law § 547; Wis. Stat. Ann. § 109.02 (Supp. 1967).

27. Minn. Stat. Ann. § 4.11(2) (Supp. 1966).

28. *Ibid.*

29. Minn. Stat. Ann. § 4.11(1) (Supp. 1966).

30. Policy Statement 13-14.

31. Cal. Gov't Code § 65015.1 (Deering Supp. 1966).

32. See generally, Pfretzschner, *Planning—City to Nation*, 50 Nat'l Civic Rev. 417 (1961).

33. "The term 'comprehensive planning' . . . includes but is not limited to (a) preparation of long-range general physical plans with respect to land use, traffic, transportation, and the provision of public facilities, together with long-range fiscal plans for such development, (b) programming and financing plans for capital improvements, (c) coordination of related plans, (d) inter-governmental coordination of related planned activities, and (e) preparation of regulatory and administrative measures in support of the foregoing." Del. Code Ann. tit. 29, § 4901 (Supp. 1964).

corporated into the completed state plan is found in the California statutes, which stipulate that general statements of policy and objectives, based on the analysis of existing and projected factual data, shall be an integral part of the State Development Plan itself.<sup>34</sup> This is an attempt to provide for a needed degree of flexibility, the most vital single factor in the preparation of any long-range comprehensive plan. Much criticism of modern planning centers around the argument that so-called "master plans" are frequently obsolete even prior to their completion, and tend to retard future development due to their inflexibility.<sup>35</sup> The California approach indicates a desire to perform physical planning within the framework of the changing factual and policy standards which are inevitable in a dynamic society, thereby permitting the plan to parallel rather than restrict future growth potential. This is a fine example of carefully prepared legislation in a difficult area, from which a workable compromise might well evolve.<sup>36</sup> Somewhat similar legislation is found in Delaware<sup>37</sup> and Maryland,<sup>38</sup> while general plans of a more traditional nature are defined in the statutes of Hawaii<sup>39</sup> and Tennessee.<sup>40</sup>

These problems notwithstanding, the statewide comprehensive development plan does include detailed physical plans to as great an extent possible;<sup>41</sup> the Hawaiian statutes are explicit on this matter, providing for small-scale development plans which may be fitted into the state general plan.<sup>42</sup> The state planning

34. Cal. Gov't Code § 65015.4 (Deering Supp. 1966) provides that: The State Development Plan shall [contain] concise statements in written and graphic form concerning and including, but not limited to, the following:

(a) A statement including principal findings of fact and delineating physical growth and development problems and potentialities of the State.

(b) A statement of the major objectives and principals and a summary of the proposals expressed in this plan.

(c) Recommendations for the most desirable general pattern of land use and circulation within the State, and for the most desirable use and development of land resources of the State, all considered in respect to: present and future growth and trends and forecasts thereof; climate, water resources and other relevant natural or environmental factors; the need to conserve and develop special types of land and water resources of statewide significance including, but not limited to, areas especially suited for agriculture, forestry, mining, recreation and fish and wildlife; all other factors and conditions deemed to be relevant by the office.

(d) Recommendations concerning the need for, and the proposed general location of, major public and private works and facilities. . . .

See Dyckman, *supra* note 7.

35. See generally Pfretzschner, *supra* note 32.

36. Dyckman, *supra* note 7, at 150-52.

37. Del. Code Ann. tit. 29, § 4908(a) (Supp. 1964).

38. Md. Ann. Code art. 88C, § 2(b) (1957).

39. "'General plan' means a long-range, comprehensive plan which serves as a guide for the future physical and economic development of the State. Such plan shall include but not be limited to a map of each county with a statement of development objectives including (1) a land use element, (2) a transportation element, (3) a public facility element, and (4) a population density element." Hawaii Rev. Laws § 98F-2(g) (Supp. 1963). For a review of Hawaii's general plan, see Heyman, *Planning Legislation: 1963*, 30 J. Am. Inst. of Planners 247 (1964).

40. Tenn. Code Ann. § 13-103 (1956).

41. *E.g.*, Cal. Gov't Code §§ 65015.1, 65015.3, 65015.4(d) (Deering Supp. 1966).

42. "'Development plan' means a relatively detailed scheme for the placement of

agency may participate actively in the detailed planning of large public works programs or other projects essentially of state interest,<sup>43</sup> but for the most part finely-detailed physical development plans will originate in other agencies or governmental planning units and will find their way into the state plan following advisory review and comment by the central planning organization.<sup>44</sup> It is emphasized that the basic function of state planning is to advise and coordinate development planning at all levels, and that planning powers pre-existing in other bodies will not be usurped by the central agency.<sup>45</sup>

There is also the problem, still far in the future for most states, of just what to do with a statewide plan as part or all of it becomes a physical reality. California provides that the completed State Development Plan shall be submitted to the Governor and the legislature for approval.<sup>46</sup> Pending completion, a public report on the current status of the plan is to be prepared prior to the convening of each general session of the legislature.<sup>47</sup> Several other states call for the same general procedure except that legislative approval is not required.<sup>48</sup> Hawaii was the first state to actually complete a statewide development plan,<sup>49</sup> and the plan is kept current by the unusually strict requirement that heads of operating departments file quarterly written reports outlining the status of the general plan within their respective agencies.<sup>50</sup> Somewhat similar legislation is found in South Dakota<sup>51</sup> while other states, including New York, have made no formal provision for the approval or public distribution of completed statewide development plans.

New York, in further contrast to those states setting out detailed requirements for the state development plan, simply specifies the preparation of "development plans for the various areas and regions of the state, and a comprehensive development plan for the state."<sup>52</sup> Equally naked legislation is found in the statutory duties assigned the state planning offices in New Jersey<sup>53</sup> and North Dakota.<sup>54</sup> It will be interesting to observe the development of the planning

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specific facilities within a defined area so as to insure the most beneficial use of such area. A development plan is within the framework of the general plan." Hawaii Rev. Laws § 98F-2(e) (Supp. 1963).

43. E.g., Md. Ann. Code art. 88C, § 2(b) (4) (1957).

44. "The State Development Plan shall embody proposed plans of the State Government, . . . the Federal Government, and the major aspects of master or general plans of regional and local agencies of government." Cal. Gov't Code § 65015.3 (Deering Supp. 1966). See also S.D. Sess. Laws 1966, ch. 226, § 4(3); Va. Code Ann. § 2-57.03(b) (2) (Supp. 1966).

45. E.g., Del. Code Ann. tit. 29, §§ 4904(c), 4908(g) (Supp. 1964); N.Y. Exec. Law §§ 548(2), (3), 549(1).

46. Cal. Gov't Code § 65015.8 (Deering Supp. 1966).

47. Cal. Gov't Code § 65015.9 (Deering Supp. 1966).

48. Del. Code Ann. tit. 29, § 4904 (Supp. 1964); Md. Ann. Code art. 88C, § 8 (1957).

49. Policy Statement 14-15.

50. Hawaii Rev. Laws § 98F-5 (Supp. 1963).

51. S.D. Sess. Laws 1966, ch. 226, § 6.

52. N.Y. Exec. Law § 548(4).

53. N.J. Rev. Stat. § 13:1B-15.52(a) (2) (Supp. 1966).

54. N.D. Cent. Code § 54-34.1-04(1) (Supp. 1965).

function in these states which depend upon very broad and simply-defined enabling legislation.<sup>55</sup>

*Planning and the Budget*

Many states make formal provision for the participation of the state planning agency in the budgetary process, particularly in the area of capital improvements programming.<sup>56</sup> Identical legislation paralleling the Model State Planning Law recommendations<sup>57</sup> is found in Delaware<sup>58</sup> and Maryland,<sup>59</sup> where the planning departments must prepare annually a six-year prospective program of major capital improvement projects potentially of state undertaking. The program recommends a time schedule based on the classification of projects according to urgency,<sup>60</sup> construction and maintenance costs, as well as anticipated revenues, are also included.<sup>61</sup> The completed program serves no formal function, however, leaving it as simply an advisory recommendation presumably for the use of the chief executive. Essentially the same procedure is followed in Hawaii except that the planning director then presents to the members of the legislature a report construing accordance of the proposed projects with the general plan, and his personal recommendations on the proposed capital budget.<sup>62</sup> Similar provisions are present in South Dakota, where the agency evaluates all plans prepared by other departments<sup>63</sup> and suggests subsequent "comments and recommendations to the Governor and the State Budget officer."<sup>64</sup> The most extensive legislation on capital improvements programming is found in New Mexico, where the preparation of a ten-year program is required.<sup>65</sup> The state office must also maintain a rather detailed analysis of capital improvement project data for the preceding ten-year period,<sup>66</sup> all in cooperation with the various departments and other agencies of the state.<sup>67</sup> In stark contrast stands California legislation requiring only that the state planning office assist in the preparation of both annual and long-range capital budgets.<sup>68</sup> New York authorizes the planning director simply "to attend all hearings for the preparation of the capital budget. . . ."<sup>69</sup> Formal provision for state planning participation in the budgetary process is not

55. The agencies are of too recent origin to allow evaluative study, particularly in New York where the Office of Planning Coordination was created June 7, 1966.

56. "[C]omprehensive physical planning leans heavily on two instruments: *one*, land use controls and *two*, public capital budgeting. At the local planning level, land use controls are the more important; at the state planning level, capital budgeting overshadows land use controls." Dyckman, *supra* note 7, at 145.

57. Model State Planning Law 36-37.

58. Del. Code Ann. tit. 29, § 4910 (Supp. 1964).

59. Md. Ann. Code art. 88C, § 9 (1957).

60. Del. Code Ann. tit. 29, § 4910 (Supp. 1964); Md. Ann. Code art. 88C, § 9 (1957).

61. *Ibid.*

62. Hawaii Rev. Laws § 98F-4 (Supp. 1963).

63. S.D. Sess. Laws 1966, ch. 226, § 4(3).

64. S.D. Sess. Laws 1966, ch. 226, § 6.

65. N.M. Stat. Ann. § 4-20-6(A) (1966).

66. N.M. Stat. Ann. § 4-20-6(B) (1966).

67. N.M. Stat. Ann. § 4-20-6(C) (1966).

68. Cal. Gov't Code § 65013.2(b) (Deering Supp. 1966).

69. N.Y. Exec. Law § 549(2)(b).

found at all in many other states, including Minnesota, North Dakota, Utah, and Wisconsin, and is mentioned only indirectly in Virginia.<sup>70</sup>

It would seem that capital improvements programming such as several of these states provide would be a most logical way to formally involve the state planning agency in the planning process. The submission of proposed projects to the planning unit provides an opportunity to discover conflicts as quickly as possible, which is certainly a prime function of state planning.<sup>71</sup> The completed report prepared by the agency indicates how each particular project fits into the present and long-range coordinated development of the state, thus enabling the chief executive, the legislature and the operating agencies themselves to evaluate the project within a much more extensive frame of reference than was previously possible. Certainly there are problems to be overcome, such as how the director is to derive a workable "urgency standard" by which proposals may be classified without causing undue friction among the operating agencies involved. Such problems seem minor, however, in view of the tremendous planning potential to be realized through the physical coordination of proposed major capital projects, and the promulgation of state planning awareness throughout the governmental network.

#### *The Advisory Planning Committee*

The advisory planning committee has been a traditional fixture in the American planning process, and the Model State Planning Law, while admitting considerable controversy in the reaching of its decision,<sup>72</sup> nevertheless does recommend the inclusion of such a body in the state planning organization.<sup>73</sup> The planning council should be made up of seven to fifteen members, appointed by the chief executive for four-year terms, at least seven of whom should not be officials of the state.<sup>74</sup> The Policy Statement, in contrast, makes no provision whatever for an advisory planning body.

The advisory commission has been included in the state planning function in most states, however, and the organizational variety in this area is perhaps more diverse than in any other single aspect of the planning process. Tennessee, still functioning within a legislative framework first established in the 1930's,<sup>75</sup> places all of its powers in a nine-member State Planning Commission including the governor and eight appointed citizens who are not employees or officials of the state.<sup>76</sup> Here, as in all such advisory bodies, the members receive no com-

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70. Va. Code Ann. § 2-57.03(b)(1) (Supp. 1966).

71. Cal. Gov't Code § 65016.3 (Deering Supp. 1966).

72. Model State Planning Law 18-20.

73. Model State Planning Law 34.

74. *Ibid.*

75. Tennessee is one of the few states in which state planning has functioned continuously since the mid-1930's. For an early analysis of the influence of TVA on state planning in Tennessee, see Gimre, *Interrelationships of Regional and State Planning in Theory and Practice*, 3 J. Am. Inst. of Planners 142 (1937).

76. Tenn. Code Ann. § 13-101 (1955).

## COMMENTS

pensation beyond travel and other minimum expenses.<sup>77</sup> The commission appoints an executive director who serves at the direction and discretion of the Planning Commission,<sup>78</sup> a provision similar to that found in Pennsylvania.<sup>79</sup> Many other states have retained a committee composition made up at least in part of "interested citizens," as such non-official members have come to be known. Delaware<sup>80</sup> and Wisconsin<sup>81</sup> provide for fifteen-member "interested citizen" committees, chosen on the basis of geographic and political distribution as well as diverse professional qualifications. Maryland's nine-member commission includes seven citizens representing geographic, economic, and social interests, plus one member each from the House of Delegates and the senate.<sup>82</sup> Legislative representation is also stipulated in Minnesota, where the advisory committee includes three members each from the senate and the house of representatives in addition to not more than eleven other members, who may include governmental officials.<sup>83</sup> California requires that its eleven-man body consist of officials and planning commission members at the county and city levels, plus a county superintendent of schools.<sup>84</sup> A different tack is taken in Hawaii,<sup>85</sup> South Dakota,<sup>86</sup> and Utah<sup>87</sup> where advisory committees are composed basically of representatives from various operating agencies of the state. New Mexico directs the formation of temporary committees in various areas as needed,<sup>88</sup> while other states, again including New York, have made no statutory provision for advisory planning bodies.

The legislative duties of advisory councils are frequently expressed in broad generalities such as furnishing "advice and guidance to the State Office of Planning in the planning function."<sup>89</sup> Delaware<sup>90</sup> and Maryland,<sup>91</sup> again following the Model State Planning Law,<sup>92</sup> enumerate several specific advisory functions of the committee, none of which involve regulatory powers of suggestion or review. Some states call for only two meetings annually<sup>93</sup> while other bodies meet at the discretion of the governor or state planning official.<sup>94</sup> Hawaii offers the strongest legislative device in the advisory council area, requiring each mem-

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77. *Ibid.*

78. Tenn. Code Ann. § 13-102 (1955).

79. Pa. Stat. Ann. tit. 71, § 751-1(2) (1962).

80. Del. Code Ann. tit. 29, § 4906(a) (Supp. 1966).

81. Wis. Stat. Ann. § 109.07 (Supp. 1967).

82. Md. Ann. Code art. 88C, § 6(a) (1957).

83. Minn. Stat. Ann. § 4.14 (Supp. 1966).

84. Cal. Gov't Code § 65020.2 (Deering Supp. 1966).

85. Hawaii Rev. Laws § 98F-5 (Supp. 1963).

86. S.D. Sess. Laws 1966, ch. 226, § 5.

87. Utah Code Ann. § 63-28-5 (Supp. 1965).

88. N.M. Stat. Ann. § 4-20-5 (1966).

89. Cal. Gov't Code § 65020.3 (Deering Supp. 1966).

90. Del. Code Ann. tit. 29, § 4906(c) (Supp. 1966).

91. Md. Ann. Code art. 88C, § 7 (1957).

92. Model State Planning Law 35-36.

93. *E.g.*, Del. Code Ann. tit. 29, § 4906(b) (Supp. 1966).

94. *E.g.*, Wis. Stat. Ann. § 109.07(c) (Supp. 1967).

ber to prepare a written quarterly report concerning the status of the general plan within his respective agency or area.<sup>95</sup>

An analysis of the legislation dealing with the advisory planning committee suggests that an "interested citizens" council, meeting only once or twice annually and endowed with no particular functional powers, probably will make little positive contribution to the planning process, particularly in those states providing for a competent, professional planning organization which functions primarily at the direction of the chief executive. The citizens committee contributes significantly to the planning process at many lower levels,<sup>96</sup> but such contribution grows out of each member's intimate contact with the physical, economic and social factors of his particular planning environment. It is doubtful that an equal intimacy with the complex structural elements of an entire state can ever be developed by the "interested citizen." On the other hand, there would seem to be some merit in the advisory council whose membership is drawn from operating agencies, the legislature, and officials at other levels of government. These are the action-men, directly responsible for tending the operating machinery of the government; their acceptance and understanding are imperative if the central planning process is to amount to anything more than a hollow pipe-dream. An advisory committee composed of these individuals, similar to those found in Hawaii<sup>97</sup> and South Dakota,<sup>98</sup> provides a basic starting point for the furtherance of this objective. Each council member can play a personal part in the general evaluation of proposals originating within the area of his particular interests, and development plans within his defined area should be better prepared as the result of a working familiarity with the coordinated policies of the state planning process. Presumably some good must evolve simply from the personal relationships inevitably developed through the systematic functioning of such a body.

#### *Other Powers and Duties*

Certainly there are many functions of planning at the state level other than those few which have been singled out thus far for particular analysis. The Delaware<sup>99</sup> and Maryland<sup>100</sup> statutes define numerous and detailed duties while New Jersey,<sup>101</sup> New York,<sup>102</sup> and North Dakota<sup>103</sup> planning policies are expressed primarily in broad, general terms. Legislation in most states falls some-

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95. Hawaii Rev. Laws § 98F-5 (Supp. 1963).

96. For a thorough inquiry into the organizational and functional aspects of the local planning board, see Pa. Bureau of Community Development, *Procedural Guide for Planning Commissions* (1964).

97. Hawaii Rev. Laws § 98F-5 (Supp. 1963) provides that the council membership shall include the chief executive in each of several operating departments, a representative from the University of Hawaii, and various officials representing the counties of Hawaii plus the city of Honolulu.

98. S.D. Sess. Laws 1966, ch. 226, § 5.

99. Del. Code Ann. tit. 29, § 4908 (Supp. 1966).

100. Md. Ann. Code art. 88C, §§ 2 and 7 (1957).

101. N.J. Stat. Ann. § 13:1B-15.52 (Supp. 1966).

102. N.Y. Exec. Law § 548.

103. 10 N.D. Cent. Code § 54-34.1-04 (Supp. 1965).

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where in between. There are several fundamental objectives of the state planning process which seem common to many of the states, however, despite the lack of uniformity in legislative technique:

First, long-range planning requires the gathering, analysis, and forecasting of factual data of all kinds, and it is frequently directed that this task be coordinated and performed at the state level to as great an extent possible.<sup>104</sup> Minnesota requests the accomplishment of this activity through the facilities of its university, in an attempt to limit the size of its permanent planning staff.<sup>105</sup>

Second, the state agency may act as a central clearing house for the dissemination of all types of information. This function may include the dispersal of general information designed to foster understanding and awareness of state planning objectives,<sup>106</sup> information issued upon specific request,<sup>107</sup> or other information intended to promote public interest in some particular aspect of the state, such as tourist attractions or commercial advantages.<sup>108</sup>

Third, the state office should encourage and assist the planning process in other agencies and at all other levels of government. Such assistance may be financial,<sup>109</sup> advisory,<sup>110</sup> or very general in nature.<sup>111</sup> It is frequently provided that some contribution to the central office will be required in return for assistance rendered to local governments or other planning groups, and the state director may demand an annual audit of the planning budget in these bodies.<sup>112</sup> In Hawaii each agency must consult with the planning director to insure that all planning expenditures are in accordance with the general plan; state funds may be withheld by the governor until this requirement is satisfied.<sup>113</sup>

In addition, a great many unique functions are delegated to the individual state planning agencies, indicating the necessity for each state to assess its own special needs in drafting planning legislation. Hawaii is concerned with the reclamation of submerged lands<sup>114</sup> while the New Mexico<sup>115</sup> and Utah<sup>116</sup> agencies must provide planning assistance to Indian governments. Arizona requires its planning division to "make regular inspections of all projects and improvements during the course of construction"<sup>117</sup> and in Delaware "the economical and efficient expenditure of tax revenue" is a subject of state planning interest.<sup>118</sup> Several states direct the state office to plan for the promotion and publicity of

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104. *E.g.*, N.Y. Exec. Law § 548(10).

105. Minn. Stat. Ann. § 4.11(4) (Supp. 1966).

106. *E.g.*, Del. Code Ann. tit. 29, § 4908(i) (Supp. 1966).

107. *E.g.*, Del. Code Ann. tit. 29, § 4908(h) (Supp. 1966).

108. *E.g.*, Wis. Stat. Ann. § 109.06 (Supp. 1967).

109. *E.g.*, Md. Ann. Code art. 88C, § 10 (1957).

110. *E.g.*, Md. Ann. Code art. 88C, § 2(h) (1957).

111. N.D. Cent. Code § 54-34.1-04(2) (Supp. 1965).

112. *E.g.*, Del. Code Ann. tit. 29, § 4911 (Supp. 1964).

113. Hawaii Rev. Laws § 98-4 (Supp. 1963).

114. Hawaii Rev. Laws 98F-6(a) (Supp. 1963).

115. N.M. Stat. Ann. § 4-20-3.1 (1966).

116. Utah Code Ann. § 63-28-4(7) (Supp. 1965).

117. Ariz. Rev. Stat. Ann. § 35-131.02(A) (4) (Supp. 1966).

118. Del. Code Ann. tit. 29, § 4903(a) (Supp. 1966).

economic, recreational and tourist attractions.<sup>119</sup> Planning agencies in New Mexico<sup>120</sup> and Utah<sup>121</sup> seek federal aid specifically for the development of outdoor recreational resources within their respective states while Maryland directs its planning department to maintain a detailed listing of all publicly owned land and real property in the state.<sup>122</sup>

PLANNING IN OTHER ENVIRONMENTS

This survey has been limited for the most part to an examination of more recent enabling legislation in those states which have created state planning agencies independent of other operating departments; planning legislation in other environments, however, frequently is quite similar with regard to statutory language.

Pennsylvania exemplifies those few states where the state planning process functions nicely within an "older" statutory framework.<sup>123</sup> The basic legislation dates back to 1949<sup>124</sup> but the Planning Board was reorganized in 1955,<sup>125</sup> resulting in the powers and duties being split between the Department of Commerce and an advisory board transferred directly to the Governor's Office.<sup>126</sup> The Board consists of fifteen citizens in addition to the Secretaries of Commerce, Forests and Waters, and Highways, and is authorized to appoint an executive director to carry out the functions of the Board.<sup>127</sup> These functions are quite similar to those found in "newer" legislation and include data analysis and research,<sup>128</sup> the preparation of development plans,<sup>129</sup> the coordination of development plans originating from other sources,<sup>130</sup> and long-term public works programming and budgeting.<sup>131</sup>

New Jersey has created a Division of State and Regional Planning within its Department of Conservation and Economic Development.<sup>132</sup> Powers and duties are expressed in broad terms and include assembling and analyzing factual data,<sup>133</sup> preparing a comprehensive guide plan and long-term capital improvement program,<sup>134</sup> coordinating development activities in other departments,<sup>135</sup> and

119. *E.g.*, Hawaii Rev. Laws § 98F-1 (Supp. 1963); Wis. Stat. Ann. § 109.06 (Supp. 1967).

120. N.M. Stat. Ann. § 4-20-3(c) (1966).

121. Utah Code Ann. §§ 63-28-6, 63-28-7, 63-28-8, 63-28-9 (Supp. 1965).

122. Md. Ann. Code art. 88C, § 2(1) (1957).

123. See Hand, *Current Status and Existing Trends of the State Planning Function in State Government: The Pennsylvania Experience*, a paper presented at the Conference on State Planning at Cornell University (March 23, 1966).

124. Pa. Stat. Ann. tit. 71, § 1049.1 (1962).

125. Pa. Stat. Ann. tit. 71, § 751-1(1) (1962).

126. Pa. Stat. Ann. tit. 71, § 751-1(3) (1962).

127. Pa. Stat. Ann. tit. 71, § 751-1(2) (1962).

128. Pa. Stat. Ann. tit. 71, § 1049.3(1) (1962).

129. Pa. Stat. Ann. tit. 71, § 1049.3(2) (1962).

130. Pa. Stat. Ann. tit. 71, § 1049.3(3) (1962).

131. Pa. Stat. Ann. tit. 71, § 1049.3(4) (1962).

132. N.J. Rev. Stat. § 13:1B-5 (Supp. 1966).

133. N.J. Rev. Stat. § 13:1B-15.52(a)(1) (Supp. 1966).

134. N.J. Rev. Stat. § 13:1B-15.52(a)(2) (Supp. 1966).

135. N.J. Rev. Stat. § 13:1B-15.52(a)(3) (Supp. 1966).

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encouraging planning activities at other levels.<sup>136</sup> The state planning process has assumed an important position in New Jersey despite the fact that the planning office is situated within an operating department geared to a variety of diverse functions.<sup>137</sup>

Indiana has provided for a division of planning within its recently-formed Department of Commerce.<sup>138</sup> The functions assigned the planning division include the consideration of interstate development problems<sup>139</sup> as well as the preparation of a comprehensive state plan,<sup>140</sup> the coordination of development planning at other levels,<sup>141</sup> and long-range programming relating to the development of state resources.<sup>142</sup> The Department of Commerce itself, however, is primarily concerned with assuring "a balanced economy and continued economic growth for Indiana"<sup>143</sup> and the planning legislation must be examined with an eye to the possible limitations imposed in functioning within an economically-oriented climate.

## CONCLUSION

In summary it may be said that current trends point to a rebirth of planning at the state level, in line for the most part with the principal recommendations of the Model State Planning Law and the Policy Statement. It is likely that many states will create or re-organize the state planning process in the near future, due partly to the current promulgation of state planning awareness and partly to the increasing number of federal aid programs which require projects to be evaluated within the framework of a long-range comprehensive plan. While there is a great deal of diversity in the statutory treatment accorded the state planning process, nevertheless there is a general tendency toward unelaborate legislation designed to provide the state agency with a maximum amount of operational flexibility.<sup>144</sup>

The legislation creating New York's new Office of Planning Coordination<sup>145</sup> is typical of this trend, particularly in the important areas of comprehensive plan preparation<sup>146</sup> and involvement in the budgetary process.<sup>147</sup> Already great strides have been taken with regard to these two basic functions, despite a complete absence of legislative definition and direction. The state's governmental activities have been divided into ten fundamental topics for purposes of developmental

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136. N.J. Rev. Stat. § 13:1B-15.52(a)(4) (Supp. 1966).

137. See Stansfield, *State Planning As the Function of a Division Within a State Department of Economic Development*, in Council of State Governments, *The State Planning Process and The Executive* (1965).

138. Ind. Ann. Stat. § 60-1229 (Supp. 1966).

139. Ind. Ann. Stat. § 60-1229(d) (Supp. 1966).

140. Ind. Ann. Stat. § 60-1229(b) (Supp. 1966).

141. Ind. Ann. Stat. § 60-1229(c) (Supp. 1966).

142. Ind. Ann. Stat. § 60-1229(b) (Supp. 1966).

143. Ind. Ann. Stat. § 60-1225 (Supp. 1966).

144. The "older" state planning legislation in California, Delaware, and Maryland is much more detailed than "newer" legislation found in states such as Minnesota, New York, South Dakota, Utah, and Virginia.

145. N.Y. Exec. Law §§ 545-49 (eff. June 7, 1966).

146. N.Y. Exec. Law § 548(4).

147. N.Y. Exec. Law § 549(2)(b).

studies and the establishment of meaningful goals,<sup>148</sup> and state agencies will have access in the coming fiscal year to over 500,000 dollars with which to engage in "research preparatory to the development of a comprehensive plan."<sup>149</sup> There is also "systematic and continuing liaison with the Division of Budget,"<sup>150</sup> accomplished through a planning/programming/budgeting system probably unique among the states.<sup>151</sup>

Thus it is evident that legislation alone does not tell the complete state planning story, and the planning process may in fact develop more freely in the flexible environment created by plain and simple statutory treatment. Regardless of legislative techniques, however, there are several fundamental provisions which might well be included in any statutory scheme, for the state planning agency should function most effectively within a structure providing for:

1. a centralized organization responsible directly to the chief executive;
2. the preparation of a dynamic comprehensive development plan embodying statements of policy and objectives as well as physical plans;
3. inclusion of the planning agency in both the annual and long-range budgetary process;
4. a power of review and comment on all plans originating at other levels of the governmental structure; and
5. some device, such as an advisory planning board, which requires the action agencies of the state to take an active role in the planning process.

Once again it should be emphasized that carefully prepared legislation alone is no guarantee of effective planning from a functional standpoint, for the other necessary ingredients in the state planning formula are financial support, competent personnel, and a great deal of cooperation and enthusiasm among the various elements of the governmental network.

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148. See Crangle, *Planning For a State*—, 31 N.Y. State Planning News 1, 7 (Jan.-Feb. 1967).

149. *Ibid.*

150. *Ibid.*

151. "The annual executive budget is the primary need by which priorities are given affirmation and legitimacy, and it is the fiscal plan by which activities and special plans are implemented. Through a jointly operated Planning/Programming/Budgetting [*sic*] system, the Division of Budget and the Office of Planning Coordination's functional studies section can maintain a continuing inventory of agency plans and activities, measure accomplishment toward goals, and evaluate agency activities as they relate to functional plans. New York's P.P.B.S. is, to the best of our knowledge, the only such system operative in the nation other than the federal program." *Ibid.*