

50-8-1 G

*** CODE SECTION *** 12/31/98

50-8-1.

The Department of Community Affairs is created as a department of the executive branch of state government. The Department of Community Affairs, as it existed immediately prior to July 1, 1989, shall continue to exist as a department of the executive branch of state government in accordance with this article. From and after July 1, 1989, the Department of Community Affairs shall have the duties, responsibilities, functions, power, and authority set forth in this article and otherwise provided by law.

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50-8-2.

(a) As used in this article, the term:

(1) "Board" means the Board of Community Affairs.

(2) "Commissioner" means the commissioner of community affairs.

(3) "Comprehensive plan" means any plan by a county or municipality covering such county or municipality or any plan by a regional development center covering the center's region proposed or prepared pursuant to the minimum standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans, established by the department in accordance with this article.

(4) "Conflict" means any conflict, dispute, or inconsistency arising:

(A) Between or among comprehensive plans for any counties or municipalities, as proposed, prepared, proposed to be implemented, or implemented;

(B) Between or among comprehensive plans for any regions, as proposed, prepared, proposed to be implemented, or implemented;

(C) Between or among comprehensive plans for any counties or municipalities and comprehensive plans for the region which includes such counties or municipalities, as such plans may be proposed, prepared, proposed to be implemented, or implemented;

(D) With respect to or in connection with any action proposed to be taken or taken by any county, municipality, or other local government relating to or affecting regionally important resources, as defined by the department pursuant to this article; or

- (E) With respect to or in connection with any action proposed to be taken or taken by any county, municipality, or other local government relating to or affecting developments of regional impact, as defined by the department pursuant to this article.
- (5) "Constitution" means the Constitution of the State of Georgia.
- (6) "Contract" means any contract, agreement, or other legally binding arrangement.
- (7) "Coordinated and comprehensive planning" means planning by counties and municipalities and by regional development centers in accordance with the minimum standards and procedures. Coordinated and comprehensive planning is one of the local government affairs for which the department is authorized to assist in the performance of local government services.
- (8) "County" means any county of this state.
- (9) "Department" means the Department of Community Affairs.
- (10) "Eligible recipient" means any local government, school district, or other government entity which may be eligible to receive funds from the department pursuant to terms for eligibility established by the department or those established by the government or other source which makes the funds available to the department.
- (11) "Government" means any governmental unit on the federal, state, or local level and any department, agency, or authority of any such governmental unit and shall include all local governments, school districts, state agencies, and state authorities.
- (12) "Local government" means any county, municipality, or other political subdivision of the state; any regional development center; any public agency or public authority, except any state agency or state authority, created under the Constitution or by Act of the General Assembly; and shall include public agencies and public authorities which are created or activated pursuant to the Constitution or Act of the General Assembly or by action of the governing body of any county, municipality, or other political subdivision of the state, separately or in any combination, and shall include any group of counties or municipalities which forms the group to carry out jointly any of their lawful purposes but shall not include school districts.
- (13) "Local government affairs" means all matters involving or affecting local governments including, but not limited to, coordinated and comprehensive planning in which the state is or may become empowered or authorized to perform any duties, responsibilities, or functions or to exercise any power or authority.
- (14) "Local government services" means the activities performed or authorized to be performed by the department including, but not limited to, its performance of duties, responsibilities, and

functions in local government affairs and its exercise of power and authority in local government affairs.

(15) "Minimum standards and procedures" means the minimum standards and procedures, including the minimum elements which shall be addressed and included, for preparation of comprehensive plans, for implementation of comprehensive plans, and for participation in the coordinated and comprehensive planning process, as established by the department in accordance with this article. Minimum standards and procedures shall include any elements, standards, and procedures for such purposes prescribed by a regional development center for counties and municipalities within its region and approved in advance by the department, in accordance with this article.

(16) "Municipality" means any municipal corporation of the state and any consolidated city-county government of the state.

(17) "Necessary" means necessary, desirable, or appropriate, as determined by the commissioner, unless the context clearly indicates a different meaning.

(18) "Qualified local government" means a county or municipality which:

(A) Has a comprehensive plan in conformity with the minimum standards and procedures;

(B) Has established regulations consistent with its comprehensive plan and with the minimum standards and procedures; and

(C) Has not failed to participate in the department's mediation or other means of resolving conflicts in a manner which, in the judgment of the department, reflects a good faith effort to resolve any conflict.

(19) "Region" means the territorial area within the boundaries of operation for any regional development center, as such boundaries shall be established from time to time by the board in accordance with the provisions of subsection (f) of Code Section 50-8-4.

(20) "Regional development center" means a regional development center established under Article 2 of this chapter.

(21) "Rural area" means any nonurban area in the state as defined in rules and regulations of the department.

(22) "School district" means any school district, independent school system, or other local school system in the state.

(23) "State" means the State of Georgia.

(24) "State agency" means any department, agency, commission, or other institution of the executive branch of the government of the State of Georgia.

(b) A reference to the terms of any contract or writing or to the terms under which any funds are made available shall be construed as a reference to all terms, conditions, covenants, representations, warranties, and other provisions.

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50-8-3.

(a) The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The natural resources, environment, and vital areas of the state are also of vital importance to the state and its citizens. The state has an essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas. The purpose of this article is to provide for the department to serve these essential public interests of the state by developing, promoting, sustaining, and assisting local governments, by developing, promoting, and establishing standards and procedures for coordinated and comprehensive planning, by assisting local governments to participate in an orderly process for coordinated and comprehensive planning, and by assisting local governments to prepare and implement comprehensive plans which will develop and promote the essential public interests of the state and its citizens. This article shall be liberally construed to achieve its purpose. This article is enacted pursuant to the authority granted the General Assembly in the Constitution of the State of Georgia, including, but not limited to, the authority provided in Article III, Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

(b) The department shall serve as the principal department in the executive branch of state government for local government affairs. The department shall perform the state's role in local government affairs by carrying out the state's duties, responsibilities, and functions in local government affairs and by exercising its power and authority in local government affairs. Without limiting the generality of the purposes served by the department, the department shall:

(1) Develop, promote, sustain, and assist local governments;

(2) Provide a liaison between local governments and other governments, including the state government and the federal government;

(3) Act as the state's principal department for local government affairs and local government services generally and for programs, functions, and studies in local government affairs and local government services and act as the coordinator on the state government level for such programs, studies, and functions

provided by the department and for those provided by others;

(4) Act as the state's principal department for developing, promoting, maintaining, and encouraging coordinated and comprehensive planning;

(5) Develop, promote, sustain, and assist local governments in the performance of their duties and responsibilities under law to their citizens, including among such duties and responsibilities of local governments coordinated and comprehensive planning; the provision of infrastructure and other public works and improvements; the development, promotion, and retention of trade, commerce, industry, and employment opportunities; the provision of transportation systems; and the promotion of housing supply;

(6) Serve as the representative of the Governor to local governments and in local government affairs on a regular basis and on special assignments as authorized by the Governor;

(7) Assist the Georgia Housing and Finance Authority for any purpose necessary or incidental in the administration and performance of the Georgia Housing and Finance Authority's duties, powers, responsibilities, and functions as provided in Chapter 26 of this title; and

(8) Assist the Georgia Music Hall of Fame Authority for any purpose necessary or incidental in the administration and performance of the Georgia Music Hall of Fame Authority's duties, powers, responsibilities, and functions as provided in Part 10 of Article 7 of Chapter 3 of Title 12.

50-8-7 G

*** CODE SECTION *** 12/31/98

50-8-7.

(a) The department shall perform the duties, responsibilities, and functions and may exercise the power and authority described in this Code section. The department shall undertake and carry out such planning and technical assistance activities as the board or the commissioner may deem necessary for performing local government services and as may be specified by law. Such planning and technical assistance activities may include, but shall not be limited to, the following:

(1) The department may provide technical assistance to local governments. This assistance may be directed to any and all activities of local government including, but not limited to, preparation and implementation of a comprehensive plan, community and economic development, and governmental administration, finance, management, and operations;

(2) The department may provide planning assistance to local governments. This assistance may include assistance with respect to preparation or implementation of a local government's

comprehensive plan and participation in the process for coordinated and comprehensive planning. This assistance may also include long-range planning relevant to one or more local governments to identify the needs of such local governments or planning with respect to downtown development and the redevelopment and revitalization of downtown areas and central business districts;

(3) The department may assist local governments in planning for the consequences or other results of decisions or actions by any government which have an impact on local governments or on any of their citizens;

(4) The department may provide planning assistance to any local government or any state agency or state authority in connection with housing and dwelling places for citizens of the state. This assistance may include planning with respect to the availability of single-family, multifamily, and other types of housing units, the anticipated changes in such availability, the potential occupants for such housing, and the anticipated changes in such potential occupants. This assistance may also include planning with respect to homeless persons and the shelter needs of homeless persons; and

(5) The department's planning and technical assistance activities may include planning, technical assistance, analysis, recommendations for policies or action, and related activities and services with respect to any lawful purpose or activity of a local government.

(b) The department shall undertake and carry out, and shall coordinate with other state agencies and local governments in undertaking and carrying out, such gathering of information, such distribution of information, and such studies and recommendations as the board or the commissioner may deem necessary for performing local government services and as may be specified by law. Such coordinating, gathering, and distribution of information and studies may include, but shall not be limited to, the following:

(1) The department shall coordinate and participate in compiling, and other state agencies and local governments shall participate in compiling, a Georgia data base and network to serve as a comprehensive source of information available, in an accessible form, to local governments and state agencies. The Georgia data base and network shall collect, analyze, and disseminate information with respect to local governments, regional development centers, and state agencies. The Georgia data base and network shall include information obtained or available from other governments and information developed by the department. To maintain the Georgia data base and network, the department shall make, and shall coordinate with other state agencies and local governments in making, comprehensive studies, investigations, and surveys of the physical, social, economic, governmental, demographic, and other conditions of the state and of local governments and of such other aspects of the state as may be necessary to serve the purposes of the department. The department shall make available the Georgia data base and network, or provide access to the Georgia data base and network, to other state

agencies, local governments, members of the General Assembly, and residents of the state;

(2) The department shall maintain a strategic rural economic development plan in cooperation with the regional development centers, the university system of the state, other state agencies and departments, and local governments. The plan shall include, without being limited to, identifying industries for which the rural areas of the state have a comparative advantage, exploring resources for venture capital for the rural areas of the state, and providing state financial assistance to support local initiatives for rural economic development in rural areas;

(3) The department may assist the Governor, the General Assembly, any committees of the General Assembly, any state department, any state agency, any state authority, or any local government with studies, surveys, investigations, maps, reports, plans, recommendations, advice, and information prepared, developed, or obtained by the department;

(4) The department may undertake studies, investigations, and surveys to identify potential physical, social, economic, governmental, demographic, or other problems and opportunities in the urban, suburban, and rural areas of the state and to assist local governments in preparing to avoid the consequences of such problems or to take advantage of such opportunities; and

(5) The department may write, draft, prepare, or publish any studies, surveys, investigations, maps, reports, plans, recommendations, advice, and information with respect to local government affairs. The department may distribute or otherwise disseminate any such studies, surveys, investigations, maps, reports, plans, recommendations, advice, and information to any government, any state authority or state agency, or any private entity.

(c) The duties, responsibilities, and functions of the department and the power and authority of the department described in this Code section are cumulative with, and in addition to, all other duties, responsibilities, and functions and power and authority of the department and are not intended to, and shall not be construed to, conflict with any other duties, responsibilities, or functions or any other power or authority of the department, including, but not limited to, the duties, responsibilities, and functions and the power and authority described in Code Section 50-8-7.1.

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50-8-7.1.

(a) The department shall perform the duties, responsibilities, and functions and may exercise the power and authority described in this Code section. The department, utilizing the comprehensive plans of

qualified local governments, shall undertake and carry out such activities as may be necessary to assist the Governor in encouraging, coordinating, developing, and implementing coordinated and comprehensive planning. Such activities may include, but shall not be limited to, the following:

(1) The department, utilizing the comprehensive plans of qualified local governments, shall assist the Governor in coordinated and comprehensive planning on the state level and throughout the state, including, but not limited to, assistance in the development of a comprehensive plan for the state;

(2) The department, utilizing the comprehensive plans of qualified local governments, shall assist the Governor in defining the state's long-term goals, objectives, and priorities and implementing those goals, objectives, and priorities through coordinated and comprehensive planning;

(3) The department shall examine and analyze plans of state agencies, comprehensive plans of regional development centers, and comprehensive plans of municipalities and counties, undertaken as part of the coordinated and comprehensive planning process, and advise the Governor with respect to those plans; and

(4) The department shall serve as policy liaison for the Governor, with respect to coordinated and comprehensive planning, with and among state agencies and local governments.

(b) The department shall establish in accordance with the provisions of Code Section 50-8-7.2 minimum standards and procedures for coordinated and comprehensive planning, including standards and procedures for preparation of plans, for implementation of plans, and for participation in the coordinated and comprehensive planning process. The department shall undertake and carry out such activities as may be specified by law. Such activities may include, but shall not be limited to, the following:

(1) As part of such minimum standards and procedures, the department shall establish minimum elements which shall be addressed and included in comprehensive plans of local governments which are prepared as part of the coordinated and comprehensive planning process. These elements shall include, but shall not be limited to, housing, human services, natural resources, the environment, vital areas, historic resources, infrastructure, land use other than zoning, recreation, transportation, and economic development;

(2) The department shall establish minimum standards and procedures which shall be used by local governments in developing, preparing, and implementing their comprehensive plans. The department shall incorporate the minimum standards and procedures with respect to natural resources, the environment, and vital areas of the state established and administered by the Department of Natural Resources pursuant to Code Section 12-2-8. In establishing such minimum standards and procedures, the department shall be authorized to differentiate among local governments and among regions based upon factors which the department determines

merit differentiation, such as total population, density of population, geographic features, the size of tax base, the type and character of services furnished by local governments, the size of budget, and other factors;

(3) The department shall develop planning procedures with respect to regionally important resources, for planning with respect to developments of regional impact, and for encouraging interjurisdictional cooperation among local governments. The department shall determine, in its judgment and for each region, what shall constitute developments of regional impact. Such determinations by the department shall be made for each region after receiving any necessary information from the regional development center for the region, from local governments within the region, and from others within the region. The department's determinations shall be publicly promulgated, using such means as the commissioner may determine, so that all local governments within a region will receive notice of the department's determinations affecting that region; and

(4) The department shall establish and shall promulgate procedures for obtaining input from, and participation by, local governments and the public in establishing, amending, and updating from time to time the minimum standards and procedures.

(c) The department shall undertake and carry out such activities as the board or the commissioner may deem necessary for supervising regional development centers and as may be specified by law. Such activities may include, but shall not be limited to, the following:

(1) The department shall recommend to the board from time to time the boundaries for the regions for each of the regional development centers; and

(2) The department shall review and comment on comprehensive plans prepared by, and coordinated and comprehensive planning activities undertaken by or under the direction of, regional development centers.

(d) The department shall undertake and carry out such activities as may be necessary to mediate, or otherwise assist in resolving, conflicts. Such activities may include, but shall not be limited to, the following:

(1) The department may establish such procedures and guidelines for mediation or other forms of resolving conflicts as the commissioner may deem necessary. The procedures and guidelines shall specify the times within which steps in the mediation or other form of conflict resolution shall take place and shall provide that such times shall not exceed, in the aggregate, 90 days from the date on which mediation or other conflict resolution begins. The department shall promulgate and make public all such procedures and guidelines;

(2) The department may act to mediate or otherwise assist in resolving conflicts upon written request from any regional development center or local government or may act, without any

such request, on its own initiative;

(3) The department may establish rules and procedures which require that local governments submit for review any proposed action which would, based upon guidelines which the department may establish, affect regionally important resources or further any development of regional impact. Any such proposed action by a local government (other than a regional development center) shall be submitted for review to the local government's regional development center. Any such proposed action by a regional development center shall be submitted for review to the department. Review shall be in accordance with rules and procedures established by the department. The review shall result in a public finding by the regional development center or the department, as the case may be, that the action will be in the best interest of the state or that it will not be in the best interest of the state;

(4) Any conflict which remains after review pursuant to the procedures established under paragraph (3) of this subsection shall be submitted to mediation or such other form of resolving conflicts as the commissioner may deem necessary; and

(5) The department may decline to certify a local government as a qualified local government or may take or recommend action which would reduce state or other funding for a regional development center if such local government or regional development center, as the case may be, is a party to a conflict but fails to participate in the department's mediation or other means of resolving conflicts in a manner which, in the judgment of the department and a majority of the Board of Community Affairs, reflects a good faith effort to resolve the conflict.