

MODELS OF SMART GROWTH REFORM¹

1. Rhode Island

Rhode Island's model is home rule-friendly. The executive office encourages establishing priority areas for growth. In 2002, the state passed municipal planning legislation enabling growth centers. The priorities for growth centers would allow increased density and mixed-use development. In selected areas the state encourages affordable housing creation, pedestrian-friendly and transit oriented development. In others it designates farmlands, woodlands, environmental and historic preservation. Since 2002, the state created a technical assistance

¹ This is an anecdotal survey of growth management leaders and a brief literature review of documents in five states prepared for the Policy and Programs Committee of 1000 Friends of Connecticut. The goal was to learn the essence of smart growth reforms and the political stories behind them. The review is by no means comprehensive but may provide some helpful history to guide policy recommendations going forward. The New Jersey summary was prepared by Steve Sasala who helped create the New Jersey model while working there.

program to assist municipalities planning for growth centers. To date, this is their only incentive.

The Governor convened a Growth Center Planning Council. Its charges were to inventory all state programs, policies and expenditures to evaluate their effects on sustainable development and recommend changes. The council's charge was to: 1) recommend change through administrative action, 2) assume no new financial resources, 3) create no additional bureaucracy, 4) be bottom up where feasible and 5) recognize that planning is locally controlled. In essence, it was to bring smart growth to Rhode Island without making significant structural change.

Currently, the council is working to draft a report on property taxes and development. (Sixty percent of Rhode Island's education funding is contingent on local property tax financing.) It is refining strategic investment policies for the state. The council is also examining water supply and infrastructure relating to compact growth development.

Members of the planning council include: the state's departments of environmental management and economic development, the statewide planning program, department of public utilities, transportation, the economic policy council, the senate, house and the office of the Governor, the bankers association, the planning association, capital resources management, housing finance office, Rural Lands, the department of education, AFL/CIO, South Providence Development Corporation, department of health, the Nature Conservancy, the home builders, National Grid, the Airport Corporation, Water Resources, public expenditures council, public transit, Save the Bay, the League of Cities, and Grow Smart Rhode Island.

It appears it hasn't met since January 2005.

2. Pennsylvania

In 2000, Pennsylvania passed changes in the state's comprehensive planning law to allow for regional planning. Until then, municipalities were each required to plan for all uses, which encouraged significant sprawling development. The smart growth legislation was metropolitan in orientation, allowed for tax revenue sharing and for multi-municipal planning. The multi-municipal units are required to plan for all uses but there is no requirement to plan for housing affordable at all income levels.

As a result of the legislation, 600 of the state's 2,500 municipalities have started planning regionally. There has been little other result, however. The legislation doesn't include funding priorities. The Pennsylvania Department of Transportation functions on a "fix it first" model with a transit priority. There is an interagency taskforce convened by the Governor's senior policy advisor that acts as a smart growth steering committee.

A Brookings report, "Back to Prosperity," was helpful in getting Governor Ed

Rendell's attention. It pushed for investing in urbanized areas, mapped the disorganization of state grant making, and created priority funding guidelines to steer state funding.

The driving force behind the legislative effort was an objective, rational, bi-partisan, broad-based coalition that included environmentalists, municipal officials, planners, land trust and open space advocates speaking with one voice for the public interest on land use. They avoid all partisan issues and have maintained good relationships with the administration and the legislature. They have significant expertise in land use law, planning, development issues and environmental issues. Though local property tax is the source of education funding, they are not considering getting involved in tax reform. Since it passed, they've been predominantly fighting defensive battles to protect land use planning legislation with little teeth.

3. Maryland

Maryland passed its land use legislation – the Neighborhood Conservation Act --

through the considerable political capital of a strong governor. The legislation was drafted and worked by a broad coalition of grass roots and grass tops interests. They under promised, over delivered, and kept the issue in the press perpetually. The bill was languishing in committee, so the governor held the state's budget hostage until it passed. The press stayed in the room for the entire 10-hour mark up and the day of the final vote, a columnist ran the home phone numbers of legislators in the paper. It's a great story!

Planning in the Maryland model is conducted at the county level. The legislation included reform of historic tax credits to incent common sense rehabilitation not complete code compliance (smart codes), live near work subsidies and brownfield revitalization. The state provides capital dollars for projects that are planned smart and won't provide dollars if not done right. They had the momentum to pass small meaningful reforms because the Governor supported them and the citizens were behind them.

4. New Jersey

The Interagency Smart Growth Team serves as a sub-cabinet deliberative and decision making body that meets, as needed, based on the criticality and volume of smart growth-related issues. A major purpose of the team is to create a united interagency front, which will serve to inform decision making at other levels including the State Planning Commission and its committees and the Governor's Cabinet and their agencies represented on the team.

Member organizations include: the Departments of Community Affairs, Transportation, Environmental Protection, Agriculture, and Commerce as well as New Jersey Transit, the Board of Public Utilities, the New Jersey Economic Development Authority and the Office of the Governor.

The Office of Smart Growth housed within the NJ Department of Community Affairs, with the assistance of the Interagency Smart Growth Team, has developed the definition of Smart

Growth Area to include an area classified as one of the following:

- Metropolitan Planning Area (PA1)
- Suburban Planning Area (PA2)
- A designated center
- An area identified for growth as a result of either an initial or advanced petition for plan endorsement that has been approved by the SPC
- A smart growth area [pdf 301k] and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission
- A Pinelands Regional Growth Area, Pinelands Village or Pinelands Town as designated by the New Jersey Pinelands Commission

5. Florida

Florida makes land use decisions on the local level, unincorporated municipalities plan at the county level, local plans must agree with regional plans which must be congruent with the state plan of development. The Bureau of Economic

Research receives census data and projections and creates the state plan to accommodate growth that is consistent with those trends.

The system is organized and bureaucratic. Municipal plans are submitted to the state in transmittal form for approvals, if the state rejects a plan, it must make recommendations back. (Most plans are returned to the municipalities with 80 to 100 pages of recommendations.) The municipality can adopt the plan with the recommendations or appeal it to a separate agency for an administrative hearing. The municipality can also choose to adopt the rejected plan without appealing but they face the sanction of the governor and the cabinet – sanctions include withdrawing infrastructure and education funding. Updates to plans are mandatory every 7 years and submitted to the state for approval. If approval is not granted, the municipality faces a new set of sanctions. There are strict citizen participation requirements through the entire process. The state may give the municipality technical assistance in

preparing its plans and has staff stationed around the state and dedicated to helping municipalities with planning and zoning.

There are regional planning councils, but they have very limited resources. Their authority is over large scale development that has a regional impact. They also have planning authority over unincorporated areas.

Plans contain public facilities capacity standards (roads, water, sewer, parks). Municipalities can reject a developer's proposal due to inadequate public facilities capacity. If the development is rejected there are four choices: 1) The developer can wait. 2) The developer can pay to upgrade the municipality's capacity. 3) The municipality can improve the capacity by issuing bonds or levying fees. 4) The municipality can lower the level of service.

There is a three-year window for capacity upgrades. When the legislation was approved, a sales and service tax to create a \$400 million trust fund for state matching or grants was created. The tax

was repealed but the capacity requirement was not, the legislation did not include growth boundaries so it's pushed development into undeveloped areas and encouraged sprawl. In addition, capacity definition for transportation was tied to cars. Municipalities receive no credit for bike lanes, buses and rail, which has encouraged the development of more lane miles.

It's created a litigious system. There's a vested rights issue, all previously approved subdivisions must be accommodated in the plans. Much of the current sprawl is due to approvals granted before 1985. There's a private property rights law that obligates municipalities to compensate property owners if zoning changes result in a decrease in property values. Residents sue towns if they approve development that seems inconsistent with their plans – if they win, the development comes down. Residents sue towns if their property values have been compromised. Towns sue the state over plan rejections. (1000 Friends of Florida often brings suit on behalf of residents.) Still, the reforms

have been popular since 1985. Politically the towns can be the good guy with developers and blame the bad guy state and still control development they don't like.

The legislation passed with the support of a progressive governor. The municipalities liked it because they wanted to be bailed out of bad decisions and the developers liked it because it made the development process more transparent and fair. Growth is so aggressive in Florida and the natural resources so delicate, there continues to be real consensus that comprehensive, integrated planning makes sense.

Key lessons they've learned in Florida are: 1) you must have state land acquisition funding and the state has to partner with the municipalities. One third of their land acquisition funds are awarded to the municipalities to administer. 2) affordable housing is critical. They appropriate \$500 million a year to affordable housing. There's a permanent affordable housing trust fund paid for by a real estate transfer tax.

3) the big one they're working on now is reforming transfer of development rights. TDRs don't work when people give away density for free.

6. Massachusetts

Governor Romney created an umbrella state agency with a staff of seven to coordinate transportation, housing, community development and environmental activities. The agency – the Office of Commonwealth Development – articulates areas for development and awards state spending only for those areas. The prevailing policy is a “Fix it First” policy where upkeep outweighs new development. The agency implemented one online application for all four agencies with a clear scoring system with points for smart growth goals. The program is new and the results aren't in yet, but the model looks ripe for replication, especially in the coordination of multiple state agencies with clearly articulated goals. There should be some variations. Commercial development, for instance, is exempted from Commonwealth Development criteria. The new agency

only has seven staff and very limited capacity.

The loudest critics of the Mass model are environmentalists who say the open space the state is concentrating on preserving is urban open space – parks and community gardens - and maintaining existing state land. They see this as not being proactive in protecting the most critical habitats and doing little to prevent and maybe actually exacerbating edge effects.

Community development professionals aren't fans because the legislation gives incentives to municipalities, but municipalities don't do development. Infill is expensive, and developers need more subsidy. In addition, the reforms concentrate revitalization in first and second cities. The disincentives aren't strong enough to stop fiscal zoning and sprawling market rate development in more rural areas. The focus of the programs is on residential development, so it has little effect on commercial and industrial sprawl. It's a multi-year strategy, but the next phase hasn't been

well articulated and critics are afraid the administration is content with what's been done to date. There is also a transparency problem and the Romney administration is seen by many environmental, farmlands and affordable housing interests as disingenuous – this could be little more than a partisanship problem, still transparency is key. There is consensus that the transportation reforms are very positive. Also positive is new legislation that reimburses municipalities for the education costs related to new affordable housing development. ✨

Policies to Replicate

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| <ul style="list-style-type: none">▪ Pennsylvania and Massachusetts’ Fix it First – transportation, infrastructure and parks policies;▪ Rhode Island Planning Model with planning at the local level and an interagency taskforce to inventory all state programs and guide overarching goals;▪ Maryland’s common sense rehabilitation codes and strong | <p>incentive/disincentive structure to target development;</p> <ul style="list-style-type: none">▪ Florida’s infrastructure capacity requirements with articulated growth boundaries and expanded transportation definitions;▪ Pennsylvania’s tax revenue sharing and multi-municipal planning. |
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ALL POSITIVE REFORMS REQUIRE

- ✓ State planning capacity;
- ✓ Technical assistance to increase local planning ;
- ✓ Mapping capacity to facilitate visual communication;
- ✓ Cooperation between municipal planning staff and zoning boards;
- ✓ Coordination of jobs, housing, transportation and environment;
- ✓ Educating local decision makers;
- ✓ A strong handle on demographic trends in the state;
- ✓ An enforcement mechanism to employ when local zoning decisions violate the local, state and regional plans;
- ✓ A strong, broad-based, nonpartisan advocate to push for reforms and to defend them once instituted.