

LAND USE STUDY COMMITTEE

Report to the Legislative Council  
and the Members of the  
Second Session of the Sixty-sixth General Assembly  
State of Iowa  
1976

F I N A L R E P O R T  
LAND USE STUDY COMMITTEE

November, 1975

Senate Concurrent Resolution 51, introduced during the 1975 Session of the Sixty-sixth General Assembly, requested that the Legislative Council establish a study committee for the purpose of planning a legislatively sponsored public forum for the comprehensive analysis of House File 505 and the land use issues involved in House File 505. In response to this resolution, the Legislative Council established a Land Use Study Committee and authorized the Study Committee three meetings to carry out its responsibilities. The Legislative Council appointed the following ten legislative members to the Study Committee:

Senator Steve Sovern, Co-chairperson  
Representative Mary O'Halloran, Co-chairperson  
Senator Hilarius L. Heying  
Senator Milo Merritt  
Senator William N. Plymat  
Senator Roger J. Shaff  
Representative Don W. Spencer  
Representative Semor C. Tofte  
Representative Andrew Varley  
Representative Russell L. Wyckoff

Preceding Land Use Study Committees

The 1975 Land Use Study Committee was preceded by two similar Study Committees created by the Legislative Councils of the Sixty-fourth General Assembly in 1971 and the Sixty-fifth General Assembly in 1973. The 1971 Study Committee was subsequently extended during the 1972 interim and the 1973 Study Committee was also extended during the 1974 interim.

The 1971-72 Study Committee began its study of land use by requesting testimony from private persons and governmental agencies relating to current land use practices, current and potential land use problems, and the need for a state land use policy. In December, 1971, the Study Committee issued a Progress Report which summarized some of the basic reasons given in the testimony favoring a state land use policy and, because of time limitations, requested that the Study Committee be continued during the 1972 interim to proceed with the land use study and draft appropriate land use legislation. During the 1972 interim, the Study Committee cooperated with the Iowa League of Women Voters in sponsoring a two-day Land Use Policies Conference in Des Moines and conducted five regional public hearings throughout the state. In December, 1972, the Study Committee concluded its study and recommended the enactment of a bill to create a land use policy commission which was introduced during the 1973 Session of the Sixty-fifth General Assembly as House File 65.

During the 1973 interim, a second Land Use Policies Study Committee was created. The Study Committee reviewed the findings of the 1971-72 Study Committee, reviewed the provisions of S. 268, "The Land Use Policy and Planning Assistance Act" which had been passed by the United States Senate, and proceeded to draft new land use legislation to provide for the preparation and implementation of a state land use policy. After completing the proposed bill draft, the Study Committee held four regional public hearings in January, 1974, to receive testimony specifically on the proposed bill draft. Following the public hearings, the final draft of the proposed bill was completed and recommended for enactment as House File 1422. House File 1422 was amended and passed by the House of Representatives during the 1974 Session of the Sixty-fifth General Assembly. During the 1974 interim, the Study Committee was extended to continue review of the amendments proposed and adopted to House File 1422 and to prepare a revised bill draft for introduction during the 1975 Session of the Sixty-sixth General Assembly. The bill draft recommended by the 1974 Study Committee was introduced as House File 58. After further review and study by the Committee on Natural Resource of the House of Representatives, a new bill draft, House File 505, was introduced and subsequently amended and passed by the House.

#### 1975 Land Use Study Committee

The 1975 Land Use Study Committee held four one-day meetings during the interim. The fourth meeting was requested by the Study Committee and approved by the Legislative Council in October, 1975.

At its first meeting held on September 4, 1975, the Study Committee elected Senator Steve Govern and Representative Mary O'Halloran as Co-chairpersons of the Study Committee. The Study Committee adopted rules of procedure and agreed not to request the appointment of nonlegislative members. After discussion of the scope and priorities of the Study Committee's responsibility, the Study Committee also agreed to review and discuss the major issues and differences which are presented in four land use proposals introduced or filed during the 1975 Session of the Sixty-sixth General Assembly. The four proposals selected for comparison include House File 505 as amended, Senate Amendment S-3988, Senate Amendment S-4147 and House Amendment H-3465. In addition, the Study Committee considered House Amendment H-3506 which specifically amends provisions of House File 505 relating to an intermediate land use policy commission.

At its second, third and fourth meetings, the Study Committee proceeded to discuss the various major differences between the four land use proposals presented before the 1975 General Assembly and voted to obtain a consensus on proposed recommendations to the Legislative Council and the 1976 Session of the Sixty-sixth General Assembly.

The major differences discussed by the Study Committee included the following:

1. Three of the proposals provide for the creation of an independent state land use agency and one proposal provides for the reorganization of the Department of Soil Conservation into the Department of Soil Conservation and Land Use. The Study Committee recommends the reorganization of the Department of Soil Conservation.

2. Each of the four proposals provide for a different number of state commission members with widely varying qualifications for membership. The Study Committee recommends the memberships and qualifications as provided in House File 505 as amended except that a member may not be an appointed or an elected officer or employee of the federal or state government.

3. Three of the proposals provide for four-year overlapping terms of office and one proposal provides for a six-year overlapping term. The Study Committee recommends a six-year overlapping term.

4. Three of the proposals provide for limitations of the number of voting members of the state commission that may belong to the same political party. One proposal provides no restrictions. The Study Committee recommends that not more than eight members shall be members of the same political party.

5. Three of the proposals provide for a \$40 per diem and necessary expenses for commission members who are not otherwise in the full-time employment of a public agency. The fourth proposal provides for no per diem or expenses. The Study Committee recommends a \$40 per diem and expenses for members who are not full-time public employees.

6. Two of the proposals provide that the state land use policy commission must submit recommended provisions for a state land use policy and state land use policy guidelines and criteria for the designation of state critical areas, key facilities, mining operations and large scale developments to the general assembly for adoption. The other two proposals provide for adoption of a state land use policy and state land use policy guidelines and designation of specific land use areas by administrative rule of the state commission. Additional differences were discussed relating to the procedures for review and approval of county land use policy guidelines, review and approval of comprehensive plans of state agencies, cities, and counties and the procedure for issuing or approving state planning and citing permits for the development or use of state permit areas. The Study Committee recommends the adoption of the state commission's recommendations by the General Assembly.

7. Two proposals provide for the appointment of the director of the state agency by the state land use policy commission without

senate confirmation. The remaining two proposals require confirmation of the appointment by the Senate. The Study Committee recommends appointment of the director by the state commission without Senate confirmation.

8. Two proposals provide for an intermediate land use agency on the county level. One proposal has no provision for an intermediate land use policy agency and the remaining proposal provides for a regional intermediate land use agency. An additional alternative, H-3506, provides that the board of supervisors of a county may authorize a metropolitan or regional planning commission, council of governments, or other public agency to carry out the powers and duties of the intermediate land use agency. In addition, differences relating to the membership of the intermediate land use agency were also discussed. The Study Committee recommends the creation of county level agencies with membership requirements as provided in House File 505 as amended.

9. The four proposals have differing provisions relating to compliance by local governments and differing procedures to be followed if comprehensive plans and supporting regulations are not prepared and carried out. The Study Committee recommends compliance provisions as provided in House File 505 as amended.

10. The Study Committee also discussed the differences in possible funding requirements of the four proposals and the sources of public funding provided by each of the proposals. The Study Committee recommends state funding of intermediate land use agencies.

A copy of the Summaries of House Amendment H-3465, House File 505 as amended, Senate Amendment S-4147, Senate Amendment S-3988, the Comparative Summary of the Four Land Use Proposals, and Minutes of the Study Committee meetings are available upon request at the Legislative Service Bureau.

#### Final Recommendations

1. The Land Use Study Committee recommends that House File 505, as amended, passed and reprinted by the House, be amended as provided in the attached recommended amendment and enacted by the 1976 Session of the Sixty-sixth General Assembly.

The following are the substantive provisions of the recommended amendment:

a. The thirteen voting members of the state commission shall not be officers or employees of the federal or state government.

b. Each county land use policy commission shall, within one hundred and twenty days after the effective date of this Act, conduct a public hearing, receive testimony from any interested citizen relating to what provisions should be included in the

initial recommendations of the state commission for a land use policy and state land use policy guidelines, and transmit such testimony to the state commission. The purpose of this amendment is to provide that any interested citizen of the state shall be given an opportunity to recommend provisions to be included in the initial state land use policy and the state land use policy guidelines.

c. The state commission shall be required to hold at least ten regional public hearings throughout the state to receive testimony and comments related to a policy or guideline change only if the proposed change is substantive.

d. Criteria recommended by the state commission to be used in designating state critical areas, must be adopted by the general assembly. The state commission shall not designate more than five percent of the total area of the state as state critical areas.

e. Additional wording changes are recommended by the Study Committee in various sections of House File 505 as amended to provide clarification.

A copy of the recommended amendment to House File 505, as amended, passed and reprinted by the House is attached to and by this reference made a part of this Report.

2. The Land Use Study Committee recommends that if the Property Tax Study Committee recommends a change in the method of assessing agricultural land for tax purposes, the affect of such change on land use should be considered.

Respectfully submitted,

LAND USE STUDY COMMITTEE  
Senator Steve Govern, Co-chairperson  
Representative Mary O'Halloran, Co-chairperson

Amendment recommended by  
the Land Use Study Committee

- 1 Amend House File 505, as amended, passed and  
2 reprinted by the House, as follows:
- 3 1. Page 5, line 22, by striking the word "five"  
4 and inserting in lieu thereof the word "voting".
  - 5 2. Page 5, lines 23 and 24, by striking the words  
6 "appointed under paragraphs d, e, f, and g of this  
7 subsection" and inserting in lieu thereof the words  
8 "of the state commission".
  - 9 3. Page 5, line 25, by striking the words "govern-  
10 ment or the state government" and inserting in lieu  
11 thereof the words "or state government".
  - 12 4. Page 6, line 35, by inserting after the word  
13 "Act" the words "and recommendations received from  
14 public hearings held by the county commissions as  
15 provided in section sixteen (16) of the Act".
  - 16 5. Page 7, line 8, by inserting before the word  
17 "revision" the word "substantive".
  - 18 6. Page 9, line 8, by inserting after the word  
19 "Recommend" the word "criteria".
  - 20 7. Page 9, line 8, by inserting after the word  
21 "Assembly," the word "for".
  - 22 8. Page 9, by striking lines 9 through 14, inclu-  
23 sive, and inserting in lieu thereof the following:  
24 "designation of state critical areas by the state  
25 commission. Each administrative order issued by the  
26 state commission designating a state critical area  
27 shall include a statement specifying the reasons for  
28 the designation, the physical boundaries of the desig-  
29 nated area, the damages that would result from uncon-  
30 trolled development within the area, and the state  
31 regulations to be applied to the area. The total  
32 area of all designated state critical areas shall  
33 not exceed five percent of the area of this state."
  - 34 9. Page 9, line 15, by striking the word  
35 "Establish" and inserting in lieu thereof the word  
36 "Recommend".
  - 37 10. Page 9, line 18, by striking the word  
38 "Establish" and inserting in lieu thereof the word  
39 "Recommend".
  - 40 11. Page 9, line 27, by striking the word  
41 "Establish" and inserting in lieu thereof the word  
42 "Recommend".
  - 43 12. Page 20, by inserting after line 23, the  
44 following:  
45 "Sec. 16. INITIAL RECOMMENDATIONS TO STATE COM-  
46 MISSION.  
47 1. It is the intent of the general assembly that,  
48 under the provisions of subsection two (2) of this  
49 section, interested citizens of this state be given  
50 an opportunity to recommend provisions to be included

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1 in the initial state land use policy and state land  
 2 use policy guidelines.  
 3 2. Each county commission shall, within one hundred  
 4 twenty days after the effective date of this Act,  
 5 conduct a public hearing, receive testimony from any  
 6 interested person relating to what provisions should  
 7 be included in the initial recommendations of the  
 8 state commission for a state land use policy and state  
 9 land use policy guidelines, and transmit such testimony  
 10 to the state commission. The county commission shall  
 11 give public notice of the date, time and location  
 12 of the public hearing in a newspaper having general  
 13 circulation within the county not later than two weeks  
 14 before the date of such hearing."  
 15 13. Page 25, line 20, by striking the word "until"  
 16 and inserting in lieu thereof the word "unless".  
 17 14. By renumbering sections and internal references  
 18 to sections to conform to this amendment.

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