

LINKING TRANSPORTATION AND LAND USE BY FOSTERING  
INTER-JURISDICTIONAL COOPERATION:  
Enabling Legislation in Eight States

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# I. INTRODUCTION

## Background

Progressive transportation activists and officials are often stymied in their efforts to provide alternatives to highways, to stop sprawl, and to protect natural areas. One significant reason for this is a virtual absence of institutional mechanisms to adequately coordinate transportation and land use authority at the local, regional and state level. Our research<sup>1</sup> has shown that at the regional or sub-regional level, multi-jurisdictional cooperation offers a practical approach to healing the institutional disconnect which separates land use powers from transportation authority across most of America.

There are two legal impediments to such coordinated land use and transportation planning. The first is that land use planning and zoning generally exists at the local government level while transportation infrastructure, corridors, and impacts extend across multiple jurisdictions. A second impediment is that, even when regional land use planning is allowed by law, the agencies that exercise that power are seldom authorized to coordinate their planning with regional transportation planning agencies. While regional transportation planning is federally mandated by the Intermodal Surface Transportation Efficiency Act (ISTEA), the legislation only requires that transportation planning take land use into consideration when establishing transportation plans. ISTEA does not give transportation planning agencies the legal power to link efforts with land use plans.<sup>2</sup>

To accomplish comprehensive planning for transportation corridors, one of two things must occur. Either local governments must be empowered to cooperate in making land use and transportation decisions or new, regional agencies must be created which possess the

power to do both land use and transportation planning on a regional basis.

As many as a dozen states including Florida, Oregon, Georgia, and Washington have statewide growth management laws which, to varying degrees, integrate transportation and land use planning and development. Most other states do not have such statewide mandates for comprehensive planning. Nonetheless, local ingenuity and desire to resolve transportation and land use issues have led to the creation of innovative transportation and land use commissions and authorities in non-growth management states. Most notable are examples in Kentucky and California.

In both of these states, local cities, counties, and other public entities such as ports, have used existing state enabling legislation to make the transportation/land use connection. In Kentucky, the city of Paris, the Lexington-Fayette combined city and county, and the county of Bourbon formed the Paris Pike Commission under a state law which permits inter-local agreements. This new Commission was empowered to develop a corridor-wide land use plan as part of an agreement to widen the historic Paris Pike. The construction of the new road and the new zoning to protect the area are proceeding hand in hand.

In California, Los Angeles County, the ports of Long Beach and Los Angeles and a dozen cities along the fourteen mile rail corridor connecting the two ports formed a new entity, the Alameda Transportation Corridor Authority. Its purpose was to develop a grade separated freight rail line, freeing up the surface land for light rail, and other community and economic development. The transportation authority, as well as three others like it, were created under the state's Joint Exercise of Powers Act of 1949 (JEPa). The California law allows existing public, private and nonprofit entities to come together, negotiate an agreement, and then share their existing powers, offering a very flexible tool for responsible and creative transportation and land use management.

Creating a multi-jurisdictional authority with coordinated transportation and land use powers is an effective way to implement

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<sup>1</sup> See *Transportation Corridor Management: Are We Linking Transportation and Land Use Yet?*, by Daniel Carlson and Don Billen, 1996, Institute for Public Policy and Management, University of Washington.

<sup>2</sup> Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240 (Public Law number 240 of the 102nd Congress).

holistic transportation concepts which protect natural areas and result in sustainable built environments.<sup>3</sup> But examples appear to be limited and the state laws which might allow or even promote such efforts are neither well known, understood, nor utilized.

## Purpose

The purpose of this report is to examine existing state laws in eight states which may foster inter-jurisdictional cooperation and which can be utilized to coordinate transportation and land use. The eight states have been identified by the Surface Transportation Policy Project<sup>4</sup> as having an activist and progressive transportation network which could readily employ this information. Five of these states have activity in a major metropolitan area (in parentheses); the latter three offer more statewide and rural partnership opportunities.

The states include:

- New York (New York City)
- Illinois (Chicago)
- Colorado (Denver)
- Florida (Tampa Bay)
- Missouri (Kansas City)
- Virginia
- Wisconsin
- Montana

## Approach

Our research approach was to review state legislation enabling the delegation of state powers to plan, zone, and inter-relate among

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<sup>3</sup> See Carlson, Wormser & Ulberg, *At Road's End: Transportation and Land Use Choices for Communities*, 1995.

<sup>4</sup> The Surface Transportation Policy Project works to ensure that transportation policy and investments help conserve energy, protect environmental and aesthetic quality, strengthen the economy, promote social equity, and make communities more livable, emphasizing the needs of people rather than vehicles.

local municipalities. We identified state laws which pertained to inter-jurisdictional cooperation and which dealt with the power to plan, implement, and finance. These powers were grouped into three categories of institutional form: cooperation, delegation, and creation of a new entity. We have used these groupings of power sharing characteristics to describe our findings for each state in a Summary Chart of Inter-governmental Power Sharing Enabling Legislation that relates powers to institutional form for each state. (See figure 1 on page 6)

After identifying what laws existed, we endeavored to find examples where these laws were put into action. Whenever possible we have cited implementation examples in each state and related their existence and usefulness to specific state laws. As a final exercise, we examined both the laws and the implementation examples looking for those factors that have fostered inter-jurisdictional cooperation. These factors are arrayed in a matrix in section IV of the report.

The review of state statutes was accomplished through electronic, and text-based searches of applicable laws in each state coupled with interviews with legal and legislative professionals.

We identified examples of implementation through interviews with state and local officials, transportation and legal activists, and academic policy analysts. To supplement those interviews, we reviewed media coverage of transportation and land use issues.

We looked for answers to a series of questions:

- Are there legal tools in place which allow local governments to cooperate? If such cooperation is possible, what forms can this cooperation take?
- Can we identify examples of intergovernmental power sharing in that state?
- Do these examples illustrate how the enabling laws have improved the process? Can these examples be replicated elsewhere?

- What factors led to the successes, and what conclusions can we draw from that success?

The end product of the research is available in two forms. The first is a summary with examples for a single state. The second, is a compendium of summaries for all eight states. In both cases an introduction and overview plus a summary of state laws which could provide useful models are included.

## II. THE LEGAL BASIS FOR INTER-GOVERNMENTAL COOPERATION

### The Power to Plan and Zone

All states currently grant the power to do planning and zoning to their local governments. A *plan* is the statement of a government's long-range goals and objectives for both the public and private lands within the government's jurisdiction. *Zoning* is the application of that plan to private property through regulations and ordinances.

Both planning and zoning fall under the state's *police power*. This power to regulate for the common good was reserved to the states by the United States Constitution. For a state to transfer or delegate its power to zone or plan to its local governments, either the state's constitution must grant those powers directly to local government or the state legislature must enact legislation specifically enabling such a transfer.

When a state delegates these powers to a local government, that government cannot transfer, delegate, or share its powers with another government without explicit authorization from the state. This restriction gives rise to the need for state-level enabling legislation allowing local governments to jointly exercise land use and transportation powers delegated to them by the state. Without such legislation, or a constitutional provision enabling cooperation, local governments cannot work together in the ways necessary to create a coordinated land use and transportation system.

A possible exception to the need for state approval of local cooperation occurs in *home rule* states. A home rule state grants general police power directly to its local governments through the state constitution. Because the local governments are granted the power to zone and plan by the state constitution, they may be able to enact joint power agreements without enabling legislation. This report does not examine the issue of home rule states in any detail because all states, even those with home rule, have passed legislation enabling cooperation between local governments, making it unnecessary to examine this second source of inter-jurisdictional power.

### The Continuum of State and Local Planning Authority

A state may choose to delegate all, part, or none of its inherent planning and zoning powers to its local governments. Depending on the amount of power delegated by the state, different issues will be raised by inter-jurisdictional power sharing. This section examines three ways in which a state may choose to delegate power to its local governments.

*Full Local Control.* If a state chooses to delegate all of its planning and zoning powers to its local governments, each local government's legislative body (e.g. city council), has full control over all aspects of planning and zoning within its jurisdiction.<sup>5</sup> Even with these broad powers, the local government generally has to depend on separate state enabling legislation to be able to share these powers with other local governments.

*Regional Planning.* States may also decide to only delegate part of their planning and zoning powers to their local governments. The powers retained by the states are then delegated to newly created or existing regional agencies. These agencies develop regional plans which local governments may adopt. In some cases, the regional agency may have the power to require local governments' zoning and planning rules to comply with the regional plan, but generally the plan is advisory. The local governments may adopt or reject the plan at their discretion.

*State-Wide Planning.* Some states have retained the power to regulate land use through comprehensive state land use planning. Such a plan dictates what kind of development can occur anywhere in the state. When the state retains the power to plan, it normally allows the local governments to plan and zone, but reviews local plans to see if they conform to state law. Those plans which do not meet state goals are rejected.

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<sup>5</sup> The local government's ordinances must still comply with state and federal law, but within those constraints, the local government would have full control over planning and zoning.

Even when state or regional planning exists, it does not necessarily mean that local governments will coordinate their planning and zoning activities. Each local government is responsible for meeting the same planning goals, but often acts alone unless separate enabling legislation exists which permits and/or encourages the governments to share or delegate their planning and zoning powers.

## ISTEA and Land Use Planning

The passage of ISTEA in 1991 mandated both state-wide and regional transportation planning as a condition for receiving federal transportation funds. The regional planning was focused around metropolitan areas with the requirement for Metropolitan Planning Organizations (MPOs) to develop a long-range transportation plan for the area. ISTEA required MPOs to take land use into account when preparing the transportation plan for their areas, but it stopped short of creating a federal mandate for land use planning.

## Ways to Share Land Use and Zoning Powers

In the course of examining the ways in which states allow their local governments to work together, we identified three general categories of power, the power to *plan*, *implement*, and *finance*. More specifically, we identified six distinct powers which local governments can draw upon to create and implement a coordinated land use and transportation process. These powers are:

- Transportation planning
- Operating a transit agency
- Land use planning
- Zoning
- Raising taxes
- Issuing bonds

It is not necessary for a single government to possess all six of these powers to create a coordinated land use and transportation process, but it is necessary that some government in-

involved in the coordinated process be able to exercise each of these six powers.

There are three ways in which these powers can be shared by local governments: cooperation, delegation, and creation of a new entity.

*Cooperation.* Enabling laws can allow local governments to work together to adopt and implement a common plan. Each government retains all of its own powers and agrees to use those powers in cooperation with other governments. Such cooperation legislation allows local governments to work together to plan for regional growth, but each government must implement the plan separately. Cooperation can include contracts between municipalities, coordination agreements, cities adopting county land use plans, and regional planning authorities whose findings are only advisory.

*Delegation.* A second way to share power is for one local government to delegate power to another government. The government which delegates the power gives up control of one or more of its functions and the government which receives the power exercises it within the jurisdictions of both governments. An example of this would be a county which agrees to let a city extend its zoning regulations beyond the city limits to create uniform zoning with in an urban area.

*Create New Entity.* A third way in which enabling laws can allow local governments to share power is by creating new entities. The local governments may create a multi-jurisdictional agency and delegate their powers to that agency.

While states commonly create new, regional agencies, this category in the report is expressly limited to new agencies which are created by the local governments themselves. These new entities usually can exercise their powers within the boundaries of all of the governments participating in the agreement.

Creating a matrix of the six transportation and land use powers and the three types of power sharing allows us to see what inter-governmental cooperation is possible under a given state's laws (figure 1, below).

## A Note on Common Powers

Most state laws which enable inter-governmental power sharing only allow local governments to share *common powers*. This is an important limitation on the extent to which local governments may work together. A common power is one which all of the governments participating in an inter-governmental agreement possess independent of the inter-governmental agreement.

A city and a county could share the power to zone through an inter-governmental agreement because both of them had the power to zone before they signed the agreement. A city and a fire district could not share the power to zone because fire districts generally do not have the power to zone, and consequently, zoning is not a power common to both governments.

Institutional Form → Powers ↓	Cooperation	Delegate Power	Create New Entity
Transportation Planning			
Operate Transit Agency			
Land Use Planning			
Zoning			
Taxing			
Issue Bonds			

**Figure 1: A Matrix for Inter-governmental Power Sharing Legislation**

Local governments exercise six kinds of transportation and land use powers as listed on the vertical axis of the matrix. These powers are related to three forms of power-sharing

listed on the horizontal axis of the matrix. The matrix visually displays what kinds of inter-governmental cooperation is possible under a given state's laws.

### III. TWO MODELS OF INTER-JURISDICTIONAL COOPERATION LEGISLATION: WASHINGTON AND CALIFORNIA

Inter-jurisdictional cooperation laws in the states of California and Washington represent two models of power sharing legislation which could be used to craft similar laws in other states. Washington's Interlocal Cooperation Act is a short, basic statute which provides for the joint exercise of power between local governments in Washington. It gives little detail about the scope of powers which may be shared, concentrating instead on how to structure the inter-jurisdictional agreement.

California's Joint Exercise of Powers Act (JEPA) is more comprehensive and more explicit about the powers which local governments can share in California and the manner in which they may do so. The statute addresses a number of issues not mentioned in the Washington statute, including issuing revenue bonds and the manner of purchasing capital equipment.

#### Washington

The purpose of Washington State's Interlocal Cooperation Act<sup>6</sup> is to allow "local governmental units to make the most efficient use of their powers by enabling them to cooperate...to provide services and facilities in a manner...that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities."<sup>7</sup>

Local governments<sup>8</sup> may form agreements among themselves to jointly exercise "[a]ny power or powers, privileges, or authority exercised or capable of exercise by a public agency..."<sup>9</sup> provided that the powers are common to all of the governments participating in the agreement. While the statute grants local governments a broad mandate to work

together, it does not specify which powers are included or excluded from power sharing agreements. The only statement in the Act about the scope of governmental powers, aside from specific sections on mass transit and electric power, is in Section 100 which states that nothing in the Act limits a government's pre-existing powers.<sup>10</sup> This lack of a specific description of which powers may be shared requires anyone interested in power sharing in Washington to search for, and examine, all of the Washington statutes which may bear on the power in question.<sup>11</sup>

*Mass Transit.* In addition to local government's general ability to share common powers under the Interlocal Cooperation Act, Section 85 of the Act directly addresses inter-jurisdictional agreements for mass transit.<sup>12</sup> Local governments may enter into agreements to allow neighboring governments to operate bus service within their jurisdiction, provided that the service does not conflict with existing bus service authorized by the state utilities and transportation commission.

*Forms of Power Sharing.* The Interlocal Cooperation Act allows for power sharing in two of the ways described in Section II of the report: cooperation and the formation of new entities.

*Cooperation.* The Act allows local governments to cooperate by undertaking joint operations which are controlled by either a separate administrator or a joint board.

Along with setting out which powers are to be shared, the interlocal agreement must include provisions on property used in the joint operation and on financing. Local governments "may appropriate funds and may sell, lease, give, or otherwise supply property, per-

<sup>6</sup> RCW 39.34. For an explanation of how to locate state laws, see Appendix A.

<sup>7</sup> RCW 39.34.010.

<sup>8</sup> The governments which may participate in an interlocal agreement include municipal corporations, quasi-municipal corporations, special purpose districts, local service districts, state agencies, federal agencies, Indian tribes, and political subdivision of other states. RCW 39.34.020.

<sup>9</sup> RCW 39.34.030.

<sup>10</sup> RCW 39.34.100.

<sup>11</sup> This lack of specificity in state inter-jurisdictional enabling legislation is relatively common. Our research into the laws of the report's eight target states often required us to consult a number of statutes to get a picture of the extent to which local governments in those states could share power.

<sup>12</sup> RCW 39.34.085.

sonnel, and services”<sup>13</sup> to the joint board. To finance the joint operations, the governments may “accept loans or grants of federal, state or private funds ...provided each of the participating public agencies is authorized by law to receive such funds,”<sup>14</sup> but there is no express authority in the Act for local governments to issue bonds or to raise taxes to pay for joint operations.

Local governments also may cooperate under the Interlocal Cooperation Act by contracting to provide services for one another, provided that both the government providing the service and the government receiving the service are authorized to perform that service.

*Creation of a new entity.* Interlocal agreements may also be used to create a new entity to exercise those powers common to the participating governments in a similar manner to those agreements establishing joint operations. Agreements creating new entities must include provisions on how such an entity will be financed, but again the statute does not address any specific funding mechanisms. There is no express authority for new entities to issue bonds or to raise taxes.

## California

Under California’s Joint Exercise of Powers Act,<sup>15</sup> “two or more public agencies by agreement may jointly exercise any power common to the contracting parties.”<sup>16</sup> The joint powers agreement (JPA) may provide for the mutual exchange of services without payments, and one party to the agreement may provide services to the rest of the participating governments.

JEPA allows the participating governments broad latitude in designating a party to administer the JPA. “The agency or entity provided by the agreement to administer or

execute the agreement may be one or more of the parties to the agreement or a commission or board constituted pursuant to the agreement or a *person, firm or corporation*, including a nonprofit corporation, designated in the agreement.”<sup>17</sup>

When the parties to a JPA have different legal restrictions on how they can use a common power that they are sharing through the JPA, the joint powers agency may exercise that power to the extent that the most powerful participating government possesses that power.<sup>18</sup> This latter provision is a significant differentiation between the two states’ laws.

*Mass Transit.* JEPA addresses the formation of a number of specialized JPAs, ranging from hazardous waste disposal to state fairs. One type of specialized power under a JPA which is particularly applicable to this report is the acquisition of transit equipment. The joint powers agency of a JPA can finance the acquisition or transfer of transit equipment in a manner “customarily used by a private corporation engaged in the transit business,”<sup>19</sup> even if the participating governments to the agreement did not have the power to acquire the equipment in that manner.

*Power to Issue Revenue Bonds.* Any joint powers agency, either pre-existing or newly created, may issue revenue bonds and short-term notes<sup>20</sup> to pay for streets, roads, bridges,

<sup>13</sup> RCW 39.34.060.

<sup>14</sup> RCW 39.34.070.

<sup>15</sup> CAL. GOV’T CODE §§ 6500-6599.1.

<sup>16</sup> CAL. GOV’T CODE § 6502. Public agencies include, federal departments or agencies, the state of California, any other state and its agencies, counties, county boards of education, county superintendent of schools, cities, public corporations, public districts, and regional transportation commissions. CAL. GOV’T CODE § 6500.

<sup>17</sup> CAL. GOV’T CODE § 6506 (emphasis added). The administrator of the agreement is called the “joint powers agency” in the statute regardless of whether it is one of the participating governments, a newly created entity or a person.

<sup>18</sup> CAL. GOV’T CODE § 6509. “Such power is subject to the restrictions upon the manner of exercising the power of one of the contracting parties, which party shall be designated by the agreement.” *Id.* Simply choosing the government with the broadest powers as the designated party maximizes the power of the joint powers agency.

<sup>19</sup> CAL. GOV’T CODE § 6518.

<sup>20</sup> “Any entity which shall have been authorized to exercise the power to issue revenue bonds pursuant to this article shall have the further additional power to incur other forms of indebtedness...[which] may consist of a note, warrant or other evidence of indebtedness” CAL. GOV’T CODE § 6547.1. This also specifically applies to newly created entities. CAL. GOV’T CODE § 6547.6.

or mass transit facilities and vehicles.<sup>21</sup> When a joint powers agency issues bonds, that debt does not “constitute a debt, liability or obligation of any of the public agencies who are parties to the agreement creating such entity.”<sup>22</sup>

These bonds may be repaid through two mechanisms: revenue from operations of JPA facilities or payments from the participating governments to the joint powers agency. Bonds which are to be repaid by the participating governments cannot be issued “until authorized by the parties to that agreement....”<sup>23</sup> Some JPAs are structured so that only some of governments participating in the agreement pledge funds to repay the bonds, but “only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of the revenue bonds.”<sup>24</sup>

Along with paying for the acquisition, construction and financing of projects, revenue bonds issued by a JPA agency may be used to pay for incidental expenses related to the project including “engineering, inspection, legal and fiscal agents’ fees, costs of the issuance and sale of said bonds, working capital, reserve fund, and bond interest estimated to accrue during the construction period and for a period of not to exceed 12 months after completion of construction.”<sup>25</sup>

*Forms of Power Sharing.* JEPAs allow for power sharing in all three of the ways described in Section II of the report.

*Cooperation.* JEPAs allow several types of cooperation between local governments. The

parties to a JPA can cooperate by creating a joint powers agency which consists of the participating government. The governments can also allow “[o]ne or more of the parties...to provide all or a portion of the services to the other parties in the manner provided in the agreement.”<sup>26</sup>

*Delegation.* While JEPAs do not specifically mention delegation of powers, several ways in which a JPA can be structured are similar to delegation. JEPAs allow the parties to a JPA to select an outside firm, corporation, or individual to administer the agreement. This can be seen as delegation because the governments have turned over their power to an outside entity for the duration of the JPA.<sup>27</sup>

*Creation of a New Entity.* The governments participating in a JPA can create a new entity to administer the agreement. That entity has the same status as any other joint powers agency and can exercise any powers common to the governments participating in the JPA which are delegated to it. It may hire employees, make contracts, “acquire, construct, manage, maintain or operate any building, works or improvements, ...acquire, hold or dispose of property, ...incur debts, ...[and] sue and be sued in its own name.”<sup>28</sup>

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<sup>21</sup> CAL. GOV’T CODE § 6546. JEPAs specifically authorized the Alameda Corridor Transportation Authority to issue revenue bonds to pay the cost of acquiring land for a transportation corridor and to design, construct, and improve that project. CAL. GOV’T CODE § 6546.13. Sources of revenue which can be pledged to repay these bonds include revenues from the ports of Long Beach and Los Angeles, truck and railroad fees, and pledges from other public and private sources. See Carlson and Billen, *supra* note 1 for a description of the Alameda Corridor.

<sup>22</sup> CAL. GOV’T CODE § 6547.1.

<sup>23</sup> CAL. GOV’T CODE § 6547.

<sup>24</sup> *Id.*

<sup>25</sup> CAL. GOV’T CODE § 6548.

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<sup>26</sup> CAL. GOV’T CODE § 6505.

<sup>27</sup> This arrangement could also be seen as a contract for service, but firms and corporations do not have the inherent power necessary to carry out the activities they would undertake as joint powers agencies. That power must come from the governments participating in the JPA and transfers to the joint power agency through delegation.

<sup>28</sup> CAL. GOV’T CODE § 6508.

## IV. INTER-GOVERNMENTAL COOPERATION IN EIGHT STATES

The eight states in this report have been identified by the Surface Transportation Policy Project as having an activist and progressive transportation network which could readily employ this information on inter-jurisdictional power sharing. Five of these states have activity in a major metropolitan area (in parentheses); the latter three offer more statewide and rural partnership opportunities. The states are:

- Colorado (Denver)
- Florida (Tampa Bay)
- Illinois (Chicago)
- Missouri (Kansas City)
- Montana
- New York (New York City)
- Virginia
- Wisconsin

# COLORADO

<b>COLORADO</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	Yes. <sup>4</sup> Governments may cooperate or contract together to provide any function, service, or facility lawfully authorized to each of them. <i>CRS 29-1-203 (1)</i> . <sup>5</sup> County or regional planning commissions have power to do transportation planning and are to coordinate the plan with adjacent counties or regions. <i>CRS 30-28-106</i> .	No. Delegating or transferring powers not mentioned in the legislation authorizing cooperation. <i>CRS 29-1-203</i> .	Probably. Any contract under <i>CRS 29-1-203 (1)</i> may provide for joint exercise of power, including establishment of a new entity to do so. <i>CRS 29-1-203 (4)</i> . See Cooperation, <i>left</i> .
<b>Operate Transit Agency</b>	Yes. Counties have the power to develop and operate mass transit systems and may do so jointly with local governments or created entities. <i>CRS 30-11-101</i> .	No. See Transportation Planning, <i>above</i> .	Yes. One or more counties can create a special district to operate a transit system. <i>CRS 32-1-1004</i> . That district can form agreements under <i>CRS 29-1-203 (4)</i> to jointly operate the system.
<b>Land Use Planning</b>	Yes. Local governments may cooperate to jointly exercise planning power, including mutually binding comprehensive development plans. <i>CRS 29-20-105</i> .	No. See Transportation Planning, <i>above</i> .	Probably. <i>CRS 29-20-105</i> does not mention creating new planning agencies, but under <i>CRS 29-1-203</i> 's more general power to create a new entity, local governments may be able to do so.
<b>Zoning</b>	Yes. Local governments may cooperate to jointly exercise zoning power. <i>CRS 29-20-105</i> . Local governments may contract for a single, mutually binding, zoning plan for all governments. <i>CRS 29-20-105</i> .	No. See Transportation Planning, <i>above</i> .	Yes. <i>CRS 29-20-105</i> specifically allows local governments to do zoning together under <i>CRS 29-1-203 (4)</i> (see Transportation Planning, <i>above</i> ). Local governments have power to do zoning. <i>CRS 29-20-104</i> .
<b>Taxing</b>	Yes. See Transportation Planning, <i>above</i> . This includes sharing costs, taxes, or incurring debt. <i>CRS 29-1-203 (1)</i> .	No. See Transportation Planning, <i>above</i> .	Yes. Special district created under <i>CRS 32-1-1004</i> can collect taxes. <i>CRS 32-1-1101</i> .
<b>Issue Bonds</b>	Yes. See Transportation Planning, <i>above</i> . This includes sharing costs, taxes, or incurring debt. <i>CRS 29-1-203 (1)</i> .	No. See Transportation Planning, <i>above</i> .	Yes. Special district created under <i>CRS 32-1-1004</i> can issue bonds. <i>CRS 32-1-1101</i> .

**How to Use This Table**

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Colorado Revised Statutes, Title 29, Article 1, Section 203, Part 1. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

The primary legal basis for inter-jurisdictional cooperation in Colorado is Title 29, Article 1 of the Colorado Revised Statutes (CRS 29-1), which permits local governments to work together through contracts or other agreements and to exercise any power that all of the parties to the agreement possess. Title 29, Article 20 (CRS 29-20) specifically sets out inter-jurisdictional powers in the areas of land use planning and zoning.

Counties also have the power to operate mass transit systems, either by themselves or jointly with municipalities located within their borders.

Delegating or transfer of powers is not mentioned in any way in the legislation enabling inter-governmental cooperation. Considering the detail that the statutes go into, such an omission would seem to imply that delegation would not be allowed.

Local governments may create new agencies in most areas of authority. The only area of power where new agencies might not be allowed is land use planning. The legislation specifically allowing for cooperation in that area does not mention creating new agencies, but the more general power to create new agencies through contracts between governments may control in this situation.

There are two ways to create a new entity. First, power sharing and cooperation contracts may include provisions creating new entities in a manner very similar to the Joint Exercise of Powers Act in California. These entities may exercise any power that all of the parties to the agreement possess, including zoning. The second way to create a new entity is by a referendum vote establishing a special district. Many of these districts are formed as a way to foster development which would otherwise not be allowed under existing local land use ordinances. A special district can also be created to operate a transit system. Special district powers include the ability to form cooperation agreements with other governments as well as to collect taxes and issue bonds.

### Examples of Power Sharing Between Local Governments

There are numerous examples of inter-jurisdictional land use and transportation cooperation in Colorado which utilize Title 29, but many of these are in the early, planning stages and have not been fully implemented.

Inter-jurisdictional agreements in Colorado have taken a number of forms, but the two examples described in this section of the report best illustrate how municipal governments in Colorado have worked together to create a coordinated process encompassing both land use and transportation.

#### - *Metrovision 2020* -

The Metrovision 2020 plan was developed by the Denver Regional Council of Governments (DRCOG) to look at land use, mass transit, and urban growth boundaries in a comprehensive way. The area covered by the plan will eventually encompass 700 square miles of the greater Denver urban area. The plan features urban growth centers located along rapid transit corridors.

Metrovision 2020 calls for regional planning, but local implementation. Participation in the plan by local governments is voluntary which helps to alleviate possible concerns over the regional government becoming too powerful.

The Denver Regional Council of Governments controls the distribution of federal transportation money within the region. To encourage local governments to implement Metrovision 2020, the Regional Council allocates federal dollars to the governments based on the degree to which they comply with plan objectives. Those local governments which best meet the goals of the plan get bonus points which allow them to get more of the money to spend.

#### - *Fort Collins* -

In conjunction with the North Front Range Transportation and Air Quality Planning Council, Fort Collins has developed an integrated land use, transportation, and air quality plan whose primary goals are to limit the rate of growth of the use of automobiles to no more than the rate of population growth and to shift ten percent of all single occu-

pancy vehicle trips to alternative modes of travel by the year 2015.

Relying heavily on citizen input, the plan created by Fort Collins calls for the development of a land use plan conducive to pedestrians, bicycles, and transit usage. Future development will be channeled into shopping and business “activity centers” and surrounding high density housing.

As one way of measuring the effectiveness of the plan, the North Front Range Transportation and Air Quality Planning Council has begun giving the region a biannual Mobility Report Card which includes not only traffic and congestion statistics, but also measures land use patterns and demographics.

### Factors Which Fostered Cooperation

Along with the laws which permit inter-jurisdictional cooperation, the people that we interviewed in Colorado identified several policy-related factors which have helped local governments to put those laws into effect. These include;

- State and regional governments offering monetary incentives for local governments to cooperate.
- Support of inter-jurisdictional cooperation by state officials.
- Recognition by the public that there are land use and transportation problems in the state which need inter-jurisdictional solutions.

# FLORIDA

<b>FLORIDA</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	<p>Yes.<sup>4</sup> Local governments may share any common power through inter-local agreements. <i>FS 163.01.</i><sup>5</sup></p> <p>Local government comprehensive plans are to include transportation elements. <i>FS 163.3177(6)(b).</i></p>	<p>Probably. Any power of a local government may be transferred to another government. <i>Fl. Const. art VIII § 4.</i></p> <p>One or more parties to an inter-local agreement may administer the agreement or provide the services in the agreement. <i>FS 163.01.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Yes. Inter-local agreement may create new agency to administer agreement. <i>FS 163.01.</i></p> <p>A county and the municipalities located in the county may consolidate into single government with all powers of county and the municipalities. <i>Fl. Const. art VIII § 3.</i></p> <p><i>See Cooperation, left.</i></p>
<b>Operate Transit Agency</b>	<p>Yes. <i>See Transportation Planning, above.</i></p> <p>Counties may operate public transportation systems. <i>FS 125.01.</i></p> <p>Local governments can operate transit. <i>FS 341.011-061.</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Yes. Any two or more contiguous counties, municipalities, or combinations thereof may form a regional transportation authority to operate mass transit. <i>FS 163.567.</i></p>
<b>Land Use Planning</b>	<p>Yes. Incorporated municipalities and counties can adopt comprehensive plans and may do so jointly. <i>FS 163.3167.</i></p> <p>Any group of local governments may jointly adopt comprehensive plans. <i>FS 163.3171.</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p><i>See Cooperation, left.</i></p>
<b>Zoning</b>	<p>Yes. Incorporated municipalities and counties can adopt zoning regulations and may do so jointly. <i>FS 163.3167(1).</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Probably not. <i>FS 163.3167(1)</i> does not mention the creation of new entities. <i>See Cooperation, left.</i></p> <p><i>But see Transportation Planning, above.</i></p>
<b>Taxing</b>	<p>Probably. <i>See Transportation Planning, above.</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p>	<p>No. New inter-local agencies cannot levy taxes. <i>FS 163.01.</i></p> <p>But, regional transportation authorities can levy taxes. <i>FS 163.570.</i></p>
<b>Issue Bonds</b>	<p>Probably. <i>See Transportation Planning, above.</i></p>	<p>Probably. <i>See Transportation Planning, above.</i></p>	<p>No. New inter-local agencies cannot issue bonds in their own name. Bonds can be issued in name of the participating governments. <i>FS 163.01.</i></p> <p>But, transportation authorities may issue bonds. <i>FS 163.571.</i></p>

### How to Use This Table

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Florida Statutes, Chapter 163, Section 1. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

Florida has both a constitutional provision and a state statute which permit general forms of inter-governmental power sharing. Between these two sources of inter-jurisdictional power, local governments may share power in all three of the ways described in this report. Article eight, section four of the Florida Constitution allows local governments to transfer any of their powers to other governments.

Chapter 163 of the Florida Statutes allows local governments to cooperate in the exercise of common powers through interlocal agreements. These agreements may be in the form of either cooperation between governments or the creation of a new entity to exercise the powers delegated in the agreement by the parties. The only exceptions to this vesting of power in a new entity is that inter-governmental agencies cannot issue bonds in their own name or levy taxes.

There are also explicit laws allowing cooperation in comprehensive planning (which includes land use planning and transportation planning for municipalities over 50,000 population) and in adopting zoning regulations.

### Factors Which Fostered Cooperation

Along with the laws which permit inter-jurisdictional cooperation, the people that we interviewed in Florida identified several policy-related factors which have helped local governments to put those laws into effect. These include;

- State government giving technical support to local governments attempting to form inter-jurisdictional agreements.
- Support of inter-jurisdictional cooperation by state officials.

# ILLINOIS

<b>ILLINOIS</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	<p>Yes.<sup>4</sup> Municipalities and counties may enter into inter-jurisdictional agreements to cooperate in land use planning. <i>50 ILCS 805/6.</i><sup>5</sup></p> <p>Those agreements described above may include transportation elements. <i>50 ILCS 805/4.</i></p> <p>Local governments may share any common powers. <i>5 ILCS 220/3.</i></p>	<p>Probably not. Delegation of powers is not discussed in <i>50 ILCS 805/6.</i></p> <p>Transfers of power between governments are generally not allowed under <i>5 ILCS 220/3.</i> <i>5 ILCS 220/3 note 2.</i></p>	<p>Probably not. Creation of new entities are not discussed under either <i>5 ILCS 220</i> or <i>50 ILCS 805/6.</i></p> <p><i>See Cooperation, left.</i></p>
<b>Operate Transit Agency</b>	<p>Yes. Local governments may work together through contract or agreements to own and operate transit systems. <i>5 ILCS 225/3.</i></p>	<p>Probably not. <i>5 ILCS 225/3</i> does not discuss delegating powers. <i>5 ILCS 225/3.</i></p> <p><i>See Transportation Planning above.</i></p>	<p>Yes. Creation of a regional transit agency did not violate the state constitution. <i>Ill. Const. annotated, art. 7 §10, note 5.</i></p>
<b>Land Use Planning</b>	<p>Yes. Municipalities and counties may enter into inter-jurisdictional agreements to cooperate in land use planning. <i>50 ILCS 805/6.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>
<b>Zoning</b>	<p>Yes. Municipalities and counties may enter into inter-jurisdictional agreements to cooperate in zoning, regardless of any other statutory limitations on municipal or county zoning. <i>50 ILCS 805/6.</i></p>	<p>No. Transfers of zoning power not allowed. <i>5 ILCS 220/3 note 4.</i></p> <p><i>See Transportation Planning above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>
<b>Taxing</b>	<p>Probably. <i>See Transportation Planning above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p> <p>An agreement for a city to give a county part of the sales tax revenue from property annexed to the city was not valid. <i>5 ILCS 220/3 note 3.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>
<b>Issue Bonds</b>	<p>Probably. <i>See Taxing, above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>

### How to Use This Table

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Illinois Compiled Statutes, Chapter 50, Act 805, Section 6 (West 1998). See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

Illinois law allows local governments to share powers through cooperation, but does not appear to allow either delegation of power or the creation of new entities. The one area in which local governments in Illinois can share power through the creation of a new entity is in the operation of public transit systems.

There are two general bases for inter-jurisdictional cooperation in Illinois. The state Constitution contains an inter-jurisdictional cooperation section (Const art VII § 10), and the Inter-governmental Cooperation Act (ILCS 220 et seq.) allows local governments to share “any power or powers, privileges or authority exercised” by that government with any other government, even if only one of the governments has that power. There are also laws which specifically permit power sharing in the areas of land use planning and mass transit.

# MISSOURI

<b>MISSOURI</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	Probably. <sup>4</sup> Contiguous counties may jointly perform any common function or service. <i>RSMo 70.010.</i> <sup>5</sup> County master plans may include transportation elements. <i>RSMo 64.040.</i>	Probably. Contiguous counties may delegate common powers. <i>RSMo 70.010.</i> <i>See Cooperation, left.</i>	Probably. Joint exercise of power agreements between municipalities can establish new entities to exercise power. <i>RSMo 70.260.</i> Local governments may create new entities to do transportation planning. <i>RSMo 238.205 &amp; 207.</i>
<b>Operate Transit Agency</b>	Probably. <i>See Transportation Planning, above.</i> First class counties may operate mass transit, and may contract with municipalities for service. <i>RSMo 238.400-412.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Yes. Multi-jurisdictional Districts may be created to operate mass transit. <i>RSMo 238.205 &amp; 207.</i>
<b>Land Use Planning</b>	Probably. <i>See Transportation Planning, above.</i> First class counties with charter governments may plan. <i>RSMo 64.010.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>
<b>Zoning</b>	Probably. Municipalities are empowered to zone. <i>RSMo 89.020.</i> Municipalities may jointly exercise any common powers. <i>RSMo 70.220.</i> First class counties with charter governments can zone. <i>RSMo 64.090.</i> <i>See Transportation Planning, above.</i>	Probably. Counties may delegate powers and have the power to zone. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i> Municipalities may contract to transfer powers to other governments. <i>RSMo 70.280.</i>	Probably. Municipalities may create new entities and have the power to zone. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>
<b>Taxing</b>	Probably. <i>See Transportation Planning, above.</i> County transportation authorities may raise taxes. <i>RSMo 238.410.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Yes. Transportation districts may raise taxes. <i>RSMo 238.227.</i>
<b>Issue Bonds</b>	Probably. <i>See Transportation Planning, above.</i> County transportation authorities may issue bonds. <i>RSMo 238.402.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Yes. New, joint powers agencies may issue bonds. <i>RSMo 70.260.</i> Transportation districts may issue bonds. <i>RSMo 238.240.</i>

**How to Use This Table**

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
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3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Missouri Revised Statutes, Chapter 70, Section 70.010. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

In Missouri, the inter-jurisdictional power sharing legislation often addresses either power sharing between counties or power sharing between municipalities. This is different from the other states examined in this report which generally treat all levels of local government the same.

Counties can share power among themselves through either cooperation or delegation (RSMo 70.010). They have the power to operate mass transit systems, plan for land use and transportation, and pass zoning regulations, but state law does not specifically state that counties can share these powers.

A separate section of the state statutes addresses inter-jurisdictional power sharing between municipalities (RSMo 70.220). They can jointly exercise any common powers, but Missouri law does not give municipalities the broad powers of counties. Cities may zone, they may contract for transit services from counties which operate mass transit systems, and they may consolidate with the county, but they do not have explicit power to plan or to operate mass transit.

# MONTANA

<b>MONTANA</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	<p>Yes.<sup>4</sup> Municipalities may contract with any other local governments to perform any service which any of them has power to perform. <i>MCA 7-11-104.</i><sup>5</sup></p> <p>Counties and municipalities have the power to do comprehensive planning, and may do so jointly or cooperatively with other governments. <i>MCA 76-6-109 and 110.</i></p> <p>Comprehensive planning includes planning for transportation facilities. <i>MCA 76-6-104.</i></p>	<p>Probably not. The statute authorizing cooperation does not mention transferring power between governments. <i>MCA 7-11-104.</i></p>	<p>Yes. Counties may create joint boards, districts, or commissions through interlocal agreements. <i>MCA 7-1-201.</i></p> <p>Any city, county, or city-county planning board may form joint or consolidated planning board with any other planning board or boards. <i>MCA 76-1-112.</i></p>
<b>Operate Transit Agency</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>A municipality may operate a bus system if not served by a regional system. <i>MCA 7-14-4401.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p> <p>The statute authorizing municipal bus service does not mention transferring power between governments. <i>MCA 7-14-4401.</i></p>	<p>Yes. Counties may create urban transportation districts to supply transportation services. <i>MCA 7-14-201.</i></p>
<b>Land Use Planning</b>	<p>Yes. <i>See Transportation Planning, above.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>	<p>Yes. <i>See Transportation Planning, above.</i></p>
<b>Zoning</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>Municipalities may pass zoning regulations. <i>MCA 76-2-301.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p> <p>Nothing in title 76, chapter 2 implies the transfer of zoning powers.</p>	<p>Probably not. Counties may only zone in areas not covered by municipal zoning laws. <i>MCA 76-2-101.</i></p> <p>Nothing in title 76, chapter 2 implies the creation of a new agency with zoning powers.</p>
<b>Taxing</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>Municipalities may raise taxes to pay for bus services. <i>MCA 7-14-4404.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>	<p>No. The county can levy taxes within the transportation district to fund its operation, but the district has no taxing powers. <i>MCA 7-14-232.</i></p>
<b>Issue Bonds</b>	<p>Yes. Counties and municipalities have the power to borrow funds, and to do so jointly or cooperatively. <i>MCA 76-6-109.</i></p>	<p>Probably not. <i>See Transportation Planning, above.</i></p>	<p>Yes. A transportation district may issue bonds. <i>MCA 7-14-235.</i></p>

### How to Use This Table

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
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4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Montana Code Annotated, Title 7, Chapter 11, Section 104. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

The Montana Constitution grants local governments the power to cooperate in the performance of any function or power and to delegate functions or powers to one another, but this ability to cooperate can be prohibited through state law or local charter. Even though silence by the legislature would have been enough to allow cooperation, Montana Code authorizes local governments to contract between themselves to exercise any power which any party to the agreement has the power to legally provide. Along with this general authorization for cooperation, specific pieces of legislation grant governments the power to cooperate in the areas of comprehensive planning, transportation planning, and issuing bonds.

In general, local governments in Montana can cooperate to exercise any transportation or land use power. They can transfer power among themselves in the areas of planning, and can create new entities to do planning and to operate transit systems. New entities created to operate transit systems can issue bonds, but they cannot raise taxes.

# NEW YORK

## NEW YORK

### Summary of Inter-Governmental Power Sharing Enabling Legislation

Institutional Form → Powers ↓	Cooperation <sup>1</sup>	Delegate Power <sup>2</sup>	Create New Entity <sup>3</sup>
<b>Transportation Planning</b>	Probably. <sup>4</sup> Local governments may jointly develop land use plans. <i>NYCL ch. 24, art. 5-G, § 119-u.</i> <sup>5</sup> Comprehensive plans may include transportation elements. <i>NYCL ch. 62, art. 16, § 272-a; NYCL ch. 64, art. 7, § 7-722; NYCL ch. 21, art. 3, § 28-a.</i>	Probably. <i>See Cooperation, left.</i> Counties and municipalities within the county may transfer powers to each other. <i>NYCL ch. 36-A, art. 4, § 33-a (1).</i>	Yes. A county alone or with municipalities within the county or with adjacent counties may establish a regional planning board. <i>NYCL ch. 24, art. 12-B, § 239-b.</i> The planning board can do transportation planning. <i>NYCL ch. 24, art. 12-B, § 239-d.</i>
<b>Operate Transit Agency</b>	Probably. Municipalities may jointly exercise any common power. <i>NYCL ch. 24, art. 5-G, § 119-o.</i> Local governments have the power to own and operate transit facilities. <i>NY Const. Art. 9, § 2(c) (7); NYCL ch. 24, art. 5-G, § 119-r.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	No. Regional transportation agencies are not created by local governments, they are created by the state legislature as public authorities. <i>NYCL ch. 43-A, art. 5.</i>
<b>Land Use Planning</b>	Yes. Local governments with the power to plan may jointly develop land use plans. <i>NYCL ch. 24, art. 5-J, § 119-u.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Yes. Municipalities may create a consolidated planning board to produce a comprehensive plan. <i>NYCL ch. 24, art. 5-J, § 119-u.</i> <i>See Transportation Planning, above.</i>
<b>Zoning</b>	Yes. Municipalities may jointly develop zoning regulations, but adoption of the joint regulations is optional. <i>NYCL ch. 24, art. 5-J, § 119-u.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	No. Municipalities may create a consolidated planning board to produce a comprehensive plan, but municipalities may reject plan. <i>NYCL ch. 24, art. 5-J, § 119-u.</i>
<b>Taxing</b>	Yes. Municipalities may raise taxes to pay for joint services. <i>NYCL ch. 24, art. 5-G, § 119-o.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Yes. Local governments can form a regional planning board. <i>NYCL ch. 24, art. 12-B, § 239-b.</i> The planning board is empowered to finance its operations. <i>NYCL ch. 24, art. 12-B, § 239-d.</i>
<b>Issue Bonds</b>	Probably. Municipalities may finance capital and operating costs for joint services. This implies issuing bonds. <i>NYCL ch. 24, art. 5-G, § 119-o.</i>	Probably. <i>See Transportation Planning, above.</i> <i>See Cooperation, left.</i>	Probably. Local governments can form a regional planning board. <i>NYCL ch. 24, art. 12-B, § 239-b.</i> The planning board is empowered to finance its operations. <i>NYCL ch. 24, art. 12-B, § 239-d.</i>

#### How to Use This Table

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. New York Consolidated Laws, Chapter 24, Article 5-G, Section 119-u. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

Local governments in New York can cooperate with each other in all six areas of power discussed in this report. A county and the municipalities located within the county can also delegate any of their powers to one another.

Local governments can form new entities to do regional planning. The newly created agencies can plan for both land use and transportation. They may finance their operations—implying that they can raise taxes and issue bonds—but local governments retain control over zoning. New agencies can be formed by the state legislature to operate regional transit systems, but local governments cannot form these agencies. Generally, local governments retain the greatest control over zoning, while being able to work together in almost any way they choose.

### Factors Which Fostered Cooperation

Along with the laws which permit inter-jurisdictional cooperation, the people that we interviewed in New York identified several policy-related factors which have helped local governments to put those laws into effect. These include;

- State and regional governments offering monetary incentives for local governments to cooperate.
- Support of inter-jurisdictional cooperation by state officials.

# VIRGINIA

## VIRGINIA

### Summary of Inter-Governmental Power Sharing Enabling Legislation

Institutional Form → Powers ↓	Cooperation <sup>1</sup>	Delegate Power <sup>2</sup>	Create New Entity <sup>3</sup>
<b>Transportation Planning</b>	<p>Yes.<sup>4</sup> Local planning commissions may cooperate with each other to coordinate planning and development. <i>C.V. § 15.2-2211.</i><sup>5</sup></p> <p>Local planning commissions have the power to do transportation planning. <i>C.V. § 15.2-2224.</i></p>	<p>Yes. Any town may designate the county planning commission as the town's local planning commission. <i>C.V. § 15.2-2218.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Yes. Local governments may participate in regional or inter-jurisdictional planning districts. <i>C.V. § 15.2-2210.</i></p> <p>Regional planning districts may plan for transportation. <i>C.V. § 15.2-4209.</i></p>
<b>Operate Transit Agency</b>	<p>Probably. Local governments may jointly exercise any common power. <i>C.V. § 15.2-1300.</i></p> <p>Any county or city not part of a transportation district may create and operate a public transportation system. <i>C.V. § 15.2-947.</i></p> <p>Local governments may also create special districts to provide transit service. <i>C.V. § 15.2-2400 &amp; 2403.</i></p>	<p>Yes. Local governments can join existing transportation districts and thereby delegate their power to operate transit services. <i>C.V. § 15.2-947.</i></p>	<p>Yes. Multi-jurisdictional transportation districts can be created to operate transit facilities. <i>C.V. § 15.2-4504.</i></p> <p>Those districts may also do transportation planning. <i>C.V. § 15.2-4515.</i></p>
<b>Land Use Planning</b>	<p>Probably. Every locality shall create a local planning commission. <i>C.V. § 15.2-2210.</i></p> <p><i>See Transportation Planning, above.</i></p>	<p>Yes. <i>See Transportation Planning, above.</i></p> <p><i>See Cooperation, left.</i></p>	<p>Yes. Adjacent counties or municipalities may create a joint planning commission that has the powers of a local commission in all participating jurisdictions. <i>C.V. § 15.2-2219.</i></p>
<b>Zoning</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>But, nothing in the zoning statutes authorizes any type of power sharing. <i>C.V. § 15.2-2200.</i></p>	<p>Probably not. Nothing in the zoning statute authorizes any type of power sharing. <i>C.V. § 15.2-2200.</i></p>	<p>Probably not. Nothing in the zoning statute authorizes any type of power sharing. <i>C.V. § 15.2-2200.</i></p>
<b>Taxing</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>But, nothing in any statute authorizes power sharing in taxing.</p>	<p>Probably not. Nothing in any statute authorizes power sharing in taxing.</p>	<p>Probably not. Nothing in any statute authorizes power sharing in taxing.</p>
<b>Issue Bonds</b>	<p>Probably. <i>See Transportation Planning, above.</i></p> <p>But, nothing in any statute authorizes cooperation in issuing bonds.</p>	<p>Probably not. Nothing in any statute authorizes delegation in issuing bonds.</p>	<p>Yes. Transportation districts can issue revenue bonds. <i>C.V. § 15.2-4519.</i> <i>See Operate Transit Agency, above.</i></p> <p>But, there is nothing in any other statute about bonds for newly created agencies.</p>

#### How to Use This Table

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Code of Virginia, Title 15.2, Chapter 22, Section 11. See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

In December 1997, Virginia repealed Title 15.1 of the state code, which dealt with counties, cities, and towns, and enacted Title 15.2 in its place. Along with other various changes, Chapter 13 of Title 15.2 addresses “Joint Actions by Localities.” This part of the new law broadens the powers of Virginia’s local governments to work together. Its structure is similar to Washington’s Interlocal Cooperation Act in that it allows local governments to share any common power, but it does not specifically identify what those powers are.

Prior to the passage of Title 15.2, local governments’ ability to work together had to be explicitly included in the statutes granting those governments the power to act in a certain area of authority. In the areas of transportation planning, land use planning, and operating transit systems, local governments already had the power to work cooperate, to delegate and to create new entities. Local governments could not work together in any way in the areas of zoning, taxing or issuing bonds, except that transportation districts (which are newly created agencies) could issue bonds. The new grant of inter-jurisdictional powers made under Title 15.2 appears to allow local governments to work together in all areas of power, but the extent of this power will not be clear until the broad language of Title 15.2, Chapter 13 is interpreted by the legislature or the state courts.

## Factors Which Fostered Cooperation

Virginia’s new inter-jurisdictional cooperation law codifies the policy of state financial support for inter-governmental cooperation. The law empowers the legislature to establish an “incentive fund” to “reward regional strategic economic development planning and joint activities...,”<sup>29</sup> including both land use and transportation. Because state financial support of inter-governmental cooperation was cited by individuals in several other states in the study as fostering cooperation, we chose

to include this section of Virginia’s law as a factor which fosters cooperation.

- Financial support of inter-jurisdictional cooperation by the state.

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<sup>29</sup> CV § 1308.

# WISCONSIN

<b>WISCONSIN</b>			
<b>Summary of Inter-Governmental Power Sharing Enabling Legislation</b>			
Institutional Form → Powers ↓	<b>Cooperation<sup>1</sup></b>	<b>Delegate Power<sup>2</sup></b>	<b>Create New Entity<sup>3</sup></b>
<b>Transportation Planning</b>	Probably. <sup>4</sup> Unless prohibited by other laws, municipalities may jointly exercise any power. If their powers vary, each may act to the extent of its powers. <i>WIS. STAT. Ch. 66.30 (2)</i> . <sup>5</sup> Municipalities can adopt county land use plans which may contain transportation elements. <i>WIS. STAT. Ch. 59.69</i> .	Probably not. Chapter 6630 does not mention delegation of powers. <i>WIS. STAT. Ch. 66.30</i> In a related area of power, a county was not allowed to take over law enforcement functions for municipalities. <i>Wisconsin Attorney General's Opinion 66 Atty. Gen. 54</i> .	Probably not. Chapter 6630 does not mention the creation of new entities except those created for educational purposes. <i>WIS. STAT. Ch. 66.30 (2g)</i> . But, local governments may petition state to create regional planning commissions. <i>WIS. STAT. Ch. 66.945 (2)</i> . The commission may plan for transportation. <i>WIS. STAT. Ch. 66.945 (9)</i> .
<b>Operate Transit Agency</b>	Probably. <i>See Transportation Planning, above</i> .	Probably not. <i>See Transportation Planning, above</i> .	Yes. Counties may create transportation authorities. <i>WIS. STAT. 66.94 (9)</i> .
<b>Land Use Planning</b>	Probably. <i>See Transportation Planning, above</i> . But, creation of multi-county authority limits power of county planning commission. <i>WIS. STAT. Ch. 66.945 (2)(c)</i> .	Probably not. <i>See Transportation Planning, above</i> .	Probably not. <i>See Transportation Planning, above</i> .
<b>Zoning</b>	Probably. <i>See Transportation Planning, above</i> .	Probably not. <i>See Transportation Planning, above</i> .	Probably not. <i>See Transportation Planning, above</i> . Also, local government are not required to adopt regional plans. <i>WIS. STAT. Ch. 66.945 (12)</i> .
<b>Taxing</b>	Probably. <i>See Transportation Planning, above</i> .	Probably not. <i>See Transportation Planning, above</i> .	No. Transportation Authority cannot levy taxes for any reason. <i>WIS. STAT. 66.94 (21)</i> .
<b>Issue Bonds</b>	Yes. Municipalities allowed to issue bonds or other financing may do so jointly. <i>WIS. STAT. Ch. 66.30 (2g)</i> . But, bonds are discussed in context of housing projects without specific limitation to housing.	Probably not. <i>See Transportation Planning, above</i> .	Yes. Transportation Authority can issue revenue bonds and may issue them jointly with other municipalities. <i>WIS. STAT. Ch. 66.94 (15)</i> .

**How to Use This Table**

1. Coordination of activities between local governments (e.g. city and county agree to separately adopt same zoning regulations). Each government retains its full powers.
2. Delegation of powers to one of the governments to act for all of them.
3. Power transferred from participating governments to newly created entity with power over all participating jurisdictions.
4. A *Yes* answer indicates that the statute specifically allows that activity. A *Probably* answer indicates that the statute appears to allow the action or allows a similar activity.
5. Wisconsin Statutes, Chapter 66, Section 30 (2). See Appendix A for discussion of how to locate state statutes.

## Summary of Enabling Legislation and Constitutional Provisions

The primary legal basis for local governments to share power in Wisconsin is Section 66.30 of the Wisconsin Statutes. It permits local governments to cooperate in all areas of land use and transportation powers, but it does not allow for delegation of powers or the creation of new entities.

Wisconsin law also allows for the creation of regional agencies to operate transit systems. Those agencies can issue bonds but they cannot levy taxes for any reason. Regional planning is controlled by state-created planning commissions, and the plans written by those agencies are advisory; local governments do not have to adopt them.

## Examples of Power Sharing Between Local Governments

### - *Dane County's Vision 2020* -

Vision 2020 is a cooperative effort between the Dane County Regional Planning Commission (RPC), Dane County, the City of Madison, and the Wisconsin Department of Transportation to develop a county-wide land use and transportation plan. The initial planning process culminated in the creation of the Dane County Land Use and Transportation Plan in 1997. The plan's goals include fostering transportation alternatives and concentrating development in activity centers located along public transit corridors.

The plan has two main components: land use and transportation. The land use plan calls for development to be focused in urban areas rather than allowing new development in the county's rural areas. The plan recommends that large scale developments, such as shopping malls, be located along transit routes. One of the transit routes targeted for future growth is a proposed east-west transit corridor extending through the center of the county.

Along with the east-west transit corridor, the transportation plan includes a number of other mass transit, bicycle, and pedestrian projects to be developed over the next 25 years. The plan attempts to strike a balance between existing automobile-based transportation and new public transportation projects by

including highway and street improvements, particularly in areas which won't be served by public transit.

*Power Sharing under Vision 2020.* The Dane County plan discusses a number of laws that the participating governments may use to implement Vision 2020's goals. Among other strategies, the plan discusses cooperative agreements. The planning documents propose that local governments use Section 66.30 (inter-governmental agreements) and Section 59.69 (cooperative planning between counties and municipalities) of the Wisconsin Statutes as ways of sharing those powers necessary to achieve the plan's goals.

## Factors Which Fostered Cooperation

Along with the laws which permit inter-jurisdictional cooperation, the people that we interviewed in Wisconsin identified several policy-related factors which have helped local governments to put those laws into effect. These include;

- Support of inter-jurisdictional cooperation by state officials.
- Public involvement in the land use and transportation process.

## Factors Influencing Cooperation

	Policy & Legislation			Political & Implementation			
	Cooperate	Delegate	Create New Agency	Support from Key Elected Officials	Technical Help from State	Public Support	Monetary Support from State
Colorado	■		■	■		■	■
Florida	■	■	□	■	■		
Illinois	■						
Missouri	■	■	■				
Montana	■		□				
New York	■	■	□	■			■
Virginia	■	□	□				■
Wisconsin	■		□	■		■	
		■ State allows power sharing in at least 5 of the 6 power areas. □ State allows power sharing in at least 2 of the 6 power areas.		■ Factor which fosters power sharing was identified as being present in the state.			

**Figure 2: Factors Influencing Cooperation**

Our research identified laws in each state which could foster inter-jurisdictional cooperation, characterizing legislation by the types of institutional form and power areas they addressed. At the same time we learned of various factors which translated enabling laws into actions linking transportation and land use. These factors, which came from interviews and news sources,

generally relate to the political and institutional support from state and local agencies and the public at large. In Figure 2, we attempt to show in a simplified, graphic way the inter-relationship between the existence of enabling laws and the political and implementation factors which lead to action, offering a snapshot of the eight states in relation to one another.

## APPENDIX A. LEGAL RESEARCH

State laws generally appear in two forms: session laws, which are the laws passed in any given session of the state legislature, and codes, which are the state's laws organized by topic for easy reference.

Session laws are generally published at the end of each session of the state legislature and contain all of the laws passed in that session in chronological order. While session laws are not available until the end of the session, they are available in *slip* form during the session from various state and private sources. Session laws reflect the latest changes in the state's laws.

The code is the compilation of all of the state's laws organized by topic rather than by chronology. If the legislature has not addressed a given topic during its session, the existing state laws remain in effect. If the state government has passed a law on a topic, that law is incorporated into the state's code.

### Understanding the State Code Citation System

Each state has its own particular way of organizing and naming its laws, but most state codes have certain features in common.

Codes are organized in a hierarchy. Washington state's code (the Revised Code of Washington or RCW) is organized into titles which are subdivided into chapters. The chapters are further divided into sections. The beginning of Washington's Interlocal Cooperation Act (RCW 39.34.010) is located at Revised Code of Washington Title 39, Chapter 34, Section 010.

California's laws are organized into 29 separate codes, one for each general area of government authority (e.g. Business and Professions Code, Commercial Code, Education Code, Family Code, etc.). Each code is subdivided into Titles which are divided into divisions, chapters, articles, and sections. In spite of these multiple levels of organization, California law is cited by code and section. The first section of the Joint Exercise of Powers Act (CAL. GOV'T CODE § 6500) is located at Section 6500 of the Government Code.

Codes generally have an index of topics. To find out about the zoning regulations in a state, the fastest way to know where to look is the index. One state may put all of its land use laws together in one code and another may organize land use laws under the governments which do the zoning (i.e. county zoning laws are part of the county code while municipal zoning laws are under the municipal code).

Codes are available either with or without annotations. Annotated codes have short descriptions of pertinent court decisions, state attorney general opinions, and law journal articles following many sections of the code. This material helps show how the law is actually being applied in practice.

### Finding State Laws

There are a number of sources for finding state laws. Most states publish official codes. These generally are not annotated, but along with being available in legal libraries, they are often available over the internet.<sup>30</sup> Legal publishing companies also publish state codes. These codes are annotated, but are generally only available at libraries or over proprietary legal networks such as Lexis and Westlaw.

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<sup>30</sup> There is a wealth of state law information available over the Internet. State codes are generally made available on-line by either state governments or universities, but it is difficult to determine which site will have a particular piece of information.

There are a number of Web Pages which maintain lists of links to state law sites that organize the information for easier searching. Three sites that we used in preparing this report are Find Law (a private, sponsor supported site: <http://www.findlaw.com/>), Fedlaw (maintained by the federal government's General Services Administration: <http://www.legal.gsa.gov/>), and Thomas (maintained by the Library of Congress: <http://thomas.loc.gov/>).

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