

Taking On Smart Growth By Force: The North Carolina Sustainable Communities Task Force

Elizabeth Turgeon

Introduction: A Task Force is Born

On June 30, 2010, the North Carolina General Assembly passed S.L. 2010-31, and Governor Beverly “Bev” Perdue signed it into law.¹ The Current Operations and Capital Improvements Appropriations Act of 2010 (hereinafter the Appropriations Act of 2010) outlines the State’s budget for the fiscal year 2010-2011.² The Appropriations Act of 2010 also establishes the North Carolina Sustainable Communities Task Force and Grant Fund under the Department of Natural Resources (DENR) in Ch. 13, § 13.5, which will be codified as an amendment to N.C. Gen. Stat. Art. 7, § 143B-344.³ The passage of this legislation makes North Carolina “the latest state to recognize the connections between cross-agency governance at the state level, coordination with stakeholders at the local level, and sustainable communities on the ground.”⁴ The law is also important in that it recognizes “a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians”⁵—in other words, a need for sustainable development. Thus, the Task Force legislation takes great strides in redefining how North Carolina conceptualizes its development, situating such development in the forward-thinking mindset of smart growth and environmental justice.

¹ Appropriations Act of 2010, 2010 N.C. Sess. Laws 31.

² Current Operations and Capital Improvements Appropriations Act of 2010, ch. 1, sec. 1.1-2, 2009 N.C. Sess. Laws 1.

³ *Id.* at ch. 13, sec. 13.5(a), 2009 N.C. Sess. Laws 112.

⁴ Chelsea Allinger, *North Carolina Passes Sustainable Communities Task Force Legislation*, SMART GROWTH AROUND AMERICA BLOG (July 19, 2010), <http://blog.smartgrowthamerica.org/2010/07/19/north-carolina-passes-sustainable-communities-task-force-legislation/>.

⁵ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.34(a), 2009 N.C. Sess. Laws 112.

The Task Force comprises a thirteen-member body.⁶ The law requires representation from various State agencies including the Departments of Commerce, Environment and Natural Resources, Transportation, Administration, and Health and Human Services, as well as the North Carolina Housing Finance Agency.⁷ The seven remaining members are chosen by the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives.⁸ These latter appointees serve a maximum four-year term⁹ and represent county and city governments, the building and banking industries, nonprofit organizations involved in sustainable development, councils of government or regional collaborative organizations, and members of the North Carolina Chapter of the American Planning Association.¹⁰ This wide-ranging team “reflect[s] the diversity of the State” and ensures that many different perspectives will take part in the sustainable development conversation.¹¹

The Task Force is charged with several duties intended to promote sustainable development in North Carolina.¹² Half of these duties may be categorized in terms of policy recommendations.¹³ First, the Task Force will “develop a common local government sustainable practices scoring system”, which it will utilize in its review of applicants for funding.¹⁴ The Task Force will also report to the Governor, General Assembly, and Secretaries of its constituent Departments to advocate policies for sustainable development as well as the “legislation necessary to implement” and the requisite appropriations to fund such policies.¹⁵ These policy-related duties thus aim to improve and promote sustainable development at both State

⁶ *Id.* at 113.

⁷ *Id.* at § 143B-344.36(a), 2009 N.C. Sess. Laws 113.

⁸ *Id.* at § 143B-344.36(a), 2009 N.C. Sess. Laws 113-4.

⁹ *Id.* at § 143B-344.36(b), 2009 N.C. Sess. Laws 114.

¹⁰ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.36(a), 2009 N.C. Sess. Laws 114.

¹¹ *Id.* at 113.

¹² *Id.* at § 143B-344.35, 2009 N.C. Sess. Laws 113.

¹³ *Id.* at § 143B-344.35(5-8), 2009 N.C. Sess. Laws 113.

¹⁴ *Id.* at § 143B-344.35(7), 2009 N.C. Sess. Laws 113.

¹⁵ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.35(5-6), 2009 N.C. Sess. Laws 113.

government and community levels. The Task Force’s second group of duties focuses on the funding needed to effectuate these policies.¹⁶ On top of the \$250,000 that the State has allocated to the Task Force for sustainable development in the 2010-2011 fiscal year,¹⁷ it will seek out and obtain additional funding from a variety of sources on behalf of North Carolina.¹⁸ In this way, the Task Force will be proactive and self-sustaining. It will also help “agencies, local governments, nonprofits or regional collaborations, partnerships” and other organizations in applying for and managing funding for sustainable development.¹⁹ The Task Force thus serves as a valuable tool and an incentive for these entities to get the funding they need to develop sustainable communities.

In addition to these duties, the Task Force will administer the North Carolina Sustainable Communities Grant Fund, also created by the Appropriations Act of 2010.²⁰ The Fund exists to “provide funding to regional bodies, cities, or counties to improve regional planning efforts . . . to increase capacity to improve land use and zoning and to provide up to fifty percent . . . of any required local matching funds for . . . federal grants related to sustainable development.”²¹ In order to ensure that the Fund will be used toward this specific aim, the entity seeking funding must meet certain stipulations outlined in S.L. 30-2010.²² First, the applicant must be a metropolitan region of the State. Eleven metropolitan regions, or “Statistical Area[s] defined by the United States Census Bureau,”²³ are enumerated, but the legislation also allows for “[a]ny other Metropolitan Statistical Area that includes counties of the State and that has a population of

¹⁶ *Id.* at § 143B-344.35(1-4), 2009 N.C. Sess. Laws 113.

¹⁷ GEN. ASSEMBLY OF N.C., THE JOINT CONFERENCE COMMITTEE REPORT ON THE CONTINUATION, EXPANSION, AND CAPITAL BUDGETS, S.L. 2010-31, at H-8 (2010).

¹⁸ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.35(1), 2009 N.C. Sess. Laws 113.

¹⁹ *Id.* at § 143B-344.35(2, 4), 2009 N.C. Sess. Laws 113.

²⁰ *Id.* at § 143B-344.37(a), 2009 N.C. Sess. Laws 114.

²¹ *Id.* at § 143B-344.37(b), 2009 N.C. Sess. Laws 114.

²² *Id.* at § 143B-344.37(b), 2009 N.C. Sess. Laws 114.

²³ Appropriations Act of 2010, ch. 13, sec. 13.5(a), §143B-344.38(b), 2009 N.C. Sess. Laws 115-6.

100,000 or more within the State.”²⁴ In addition, the applicant must belong to a “regional sustainable development partnership” including “Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.”²⁵ The partnership must also “submit a work plan” detailing the object of the requested funding, as well as a description of the “public comment process by which [sustainable development] activities are selected and prioritized.”²⁶ Finally, the partnership’s members must “have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.”²⁷ These stipulations on the part of the applicants themselves ensure that the Fund will be allocated for truly legitimate sustainable development purposes, and that an applicant is sufficiently organized to utilize the funding properly. In addition to these requirements, the Task Force also uses the aforementioned common local government sustainable practice scoring system as well as the availability of matching funds by a partnership in determining the eligibility of an applicant for funding.²⁸

The last major responsibility of the Task Force is to report annually “to the Governor; the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee; and the Joint Legislative Commission on Governmental Operations.”²⁹ These reports give the Task Force an opportunity to voice “policy recommendations, suggested legislation, and recommended appropriations” for sustainable development.³⁰ The report will also provide valuable data in the form of an analysis and “25-year” forecast of the

²⁴ *Id.* at §143B-344.38(b)(12), 2009 N.C. Sess. Laws 116.

²⁵ *Id.* at § 143B-344.37(b)(1), 2009 N.C. Sess. Laws 114.

²⁶ *Id.* at § 143B-344.37(b)(2), 2009 N.C. Sess. Laws 114.

²⁷ *Id.* at § 143B-344.37(b)(3), 2009 N.C. Sess. Laws 114.

²⁸ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.37(c), 2009 N.C. Sess. Laws 114.

²⁹ *Id.* at § 143B-344.38(a), 2009 N.C. Sess. Laws 114.

³⁰ *Id.* at § 143B-344.38(a)(1), 2009 N.C. Sess. Laws 115.

socioeconomic climate and trends within “each metro[politan] region of the State.”³¹ Additionally, the Task Force will analyze existing “State policies and programs” with regard to their positive or adverse effect on sustainable development in North Carolina.³² The final portions of these reports essentially involve record-keeping: the Task Force must provide a list of what funding it “applied for and received” that year;³³ an accounting of the sustainable development projects that received funding and which the Task Force aided in seeking funding;³⁴ the amount of funds left over as well as the grants allocated to partnerships,³⁵ and finally, “an overview of all State funding initiatives...used to support housing, infrastructure, water quality, and land preservation” with regard to their funding and contribution to sustainable development.³⁶ This report is an incredibly comprehensive and powerful tool providing valuable information that the State can utilize to make the best possible decisions for sustainable development.

The burden to report on sustainable development activities does not rest solely on the Task Force, however. The Departments from which the Task Force’s members are appointed must also report annually to the “chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee and the Joint Legislative Commission of Governmental Operations.”³⁷ This report details “each Department’s progress” in furthering the goals of the Task Force, thus holding each Department accountable to a collaborative effort toward sustainable development.³⁸

Common Goals: The Task Force and the Federal Partnership

³¹ *Id.* at § 143B-344.38(a)(2), 2009 N.C. Sess. Laws 113-4.

³² *Id.* at § 143B-344.38(a)(3), 2009 N.C. Sess. Laws 115.

³³ Appropriations Act of 2010, ch. 13, sec. 13.5(a), § 143B-344.38(a)(4), 2009 N.C. Sess. Laws 115.

³⁴ *Id.* at § 143B-344.38(a)(5, 6), 2009 N.C. Sess. Laws 115.

³⁵ *Id.* at § 143B-344.38(a)(7), 2009 N.C. Sess. Laws 115.

³⁶ *Id.* at § 143B-344.38(a)(8), 2009 N.C. Sess. Laws 115.

³⁷ *Id.* at sec. 13.5(c), 2009 N.C. Sess. Laws 116.

³⁸ Appropriations Act of 2010, ch. 13, sec. 13.5(c), 2009 N.C. Sess. Laws 116.

The Appropriations Act of 2010 enumerates six overarching principles that govern the Task Force’s activities and “describe sustainable development for North Carolina’s communities.”³⁹ These sustainability principles are “(1) [b]etter transportation choices, . . . (2) [e]quitable, affordable housing, . . . (3) [e]nhanced economic competitiveness, . . . (4) [s]upport of existing communities, . . . (5) [c]oordination and leverage of State policies and investment, . . . (6) [recognition] and support [to] communities and neighborhoods.”⁴⁰ Although the Task Force is a state initiative, the language of its goals mirrors the “Livability Principles” of the federal Interagency Partnership for Sustainable Communities.⁴¹ The federal Livability Principles are virtually identical to the North Carolina Task Force’s sustainability principles, excepting the last two tenets; here, the federal principles are to “[c]oordinate and leverage *federal* policies and investment” and “*value* communities and neighborhoods.”⁴² Jointly run by the U.S. Department of Housing and Urban Development, Department of Transportation and Environmental Protection Agency, the federal partnership acts as a tool for States, communities, and other entities in seeking funding for sustainable development, much in the same way North Carolina’s Task Force does on the state level.⁴³ By sharing common goals with the federal partnership, the Task Force remains consistent with federal aims for sustainable development while accommodating North Carolina’s unique needs.

Success Stories: Task Forces in Other States

The influence of the federal partnership appears in other states’ sustainable development legislation and initiatives as well. Maryland, like North Carolina, is one such state that has

³⁹ *Id.* at sec.13.5(a), § 143B-344.34(b), 2009 N.C. Sess. Laws 112.

⁴⁰ *Id.* at § 143B-344.34(b)(1-6), 2009 N.C. Sess. Laws 112, 112-3.

⁴¹ U.S. ENVIRONMENTAL PROTECTION AGENCY, *Livability Principles*, <http://www.epa.gov/dced/partnership/index.html#livabilityprinciples> (last updated Oct. 26, 2010).

⁴² *Id.*

⁴³ U.S. ENVIRONMENTAL PROTECTION AGENCY, *Background*, <http://www.epa.gov/dced/partnership/index.html#background> (last updated Sept. 29, 2010).

adopted sustainable development legislation with the federal partnership's principles in mind. In 2007, it created a "21-member Task Force on the Future for Growth and Development."⁴⁴ The Maryland Task Force was given similar responsibilities as the North Carolina Task Force, including making policy recommendations for sustainable development.⁴⁵ The Maryland Task Force went beyond the requirements of the North Carolina Task Force legislation, however, in its duty to "[s]erve as an advisory board to the Governor's Smart Growth Subcabinet, providing advice and guidance *at least twice annually*" (emphasis added).⁴⁶ The Maryland Task Force was recently reestablished as the Maryland Sustainable Growth Commission.⁴⁷ The new "permanent Commission" is intended to provide "a broader and more established forum to consider and make recommendations on growth and development issues."⁴⁸

Other East Coast states have enacted similar legislation creating new divisions of government, task forces and commissions to address sustainable development. New Jersey, for instance, established its Office of Smart Growth in 1986 to "[develop] and [implement] the State Development and Redevelopment Plan and to pursue other activities to improve intergovernmental coordination and cooperation as defined by the State Planning Act."⁴⁹ The Office defines smart growth as

the term used to describe well-planned, well-managed growth that adds new homes and creates new jobs, while preserving open space, farmland, and environmental resources. Smart Growth supports livable neighborhoods with a variety of housing types, price ranges and multi-modal forms of transportation. Smart Growth is an approach to land-use planning that targets the State resources and funding in ways that enhance the quality of life for residents...Smart Growth

⁴⁴ MARYLAND DEPARTMENT OF PLANNING, *Task Force on the Future for Growth and Development*, http://planning.maryland.gov/YourPart/773/Task_Force.shtml (last updated Sept. 2, 2010).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ MARYLAND DEPARTMENT OF PLANNING, *2010 Sustainable Communities Legislation*, <http://planning.maryland.gov/YourPart/SustainableCommunities.shtml>.

⁴⁸ MARYLAND DEPARTMENT OF PLANNING, *SB 278 –Maryland Sustainable Growth Commission*, http://planning.maryland.gov/PDF/773/20100503/MD_Sustainable_Growth_Commission.pdf.

⁴⁹ NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, *About OSG*, <http://www.nj.gov/dca/divisions/osg/about/>.

principles include mixed-use development, walkable town centers and neighborhoods, mass transit accessibility, sustainable economic and social development and preserved green space.⁵⁰

Smart growth is thus an equivalent term for sustainable development.⁵¹ Indeed, New Jersey's principles echo some of the federal partnership and North Carolina Task Force's principles in their focus on transportation, housing, communities and neighborhoods.

Rhode Island published its "Land Use 2025: Rhode Island State Land Use Policies and Plan" in 2006.⁵² Its objectives are "(1) to prepare strategic and systems plans for the state; (2) to coordinate activities of the public and private sectors within this framework of policies and programs; (3) to assist local governments in management, finance, and planning; and (4) to advise the Governor and others concerned on physical, social, and economic topics."⁵³ These objectives also comport with the federal partnership and North Carolina Task Force's principles, especially in their directive to come up with policies, bring together public and private initiatives, aid municipalities, and offer advice on sustainable development.

Conclusion

Between the enabling legislation and funding in the Appropriations Act of 2010 and the opportunity for support on the federal level, the North Carolina Sustainable Communities Task Force has the arsenal to potentially effect positive change for sustainable development in our State. Because it can be used as a source both for guidance and funding, the Task Force will also provide a great incentive for North Carolina communities and partnerships to promote smart

⁵⁰ NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, OFFICE OF SMART GROWTH, SMART GROWTH, *available at* <http://www.nj.gov/dca/divisions/osg/smart/>.

⁵¹ *See id.*

⁵² RHODE ISLAND DEPT. OF ADMINISTRATION, DIVISION OF PLANNING, LAND USE 2025, *Rhode Island State Land Use Policies and Plan*, <http://www.planning.ri.gov/landuse/121/landuse2025.pdf>.

⁵³ *Id.*

growth locally. In sum, the North Carolina Task Force may hold great promise for the future of sustainable development in our state.