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Managing Regional Growth: Is There a Role for Congress?

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Summary

Regional growth management is largely addressed at the local and state levels, driven by a myriad of concerns. Many of these concerns are associated with the concept of sprawl, and pit expansion of suburban development against protection of open space, agricultural activities, and amenity values. Local and state policies to respond to these concerns are also diverse.

Many federal activities, policies, and programs affect rates and patterns of growth, and the ability of local and state governments to address them. Periodically, the question arises as to whether Congress should examine how current federal activities affect growth, recognizing that a plethora of federal actions affect development decisions, and that there is no way to totally eliminate the effects of these actions. Congress has many policy options that could support local and state efforts to respond to growth management concerns, including: providing information; providing financial and other assistance; using disincentives to discourage undesirable activity; and regulation. Any initiatives Congress might decide to take in this area would likely generate lively debate. This report will be updated as events warrant.

Regional Growth Management Issues

Growth management issues are numerous. Issues may arise in response to:

- losses of farmland, rural landscapes, and related amenity values as development extends further from older central cities and new urban centers;
- changes in traditionally rural areas fostered by factors such as the dispersion of computer technology and the spread of large "factory" farm operations;
- increases in highway congestion and air pollution as commuting distances grow;
- the loss of a sense of community identity as very large and undifferentiated developments and shopping centers proliferate; and

- growing financial burdens on local government as new residents in more dispersed development demand high levels of public services.

These issues are generally addressed by local or state governments. Their responses are varied, both because they usually address specific problems rather than underlying issues, and because the responses reflect the structures of local and state governments and the available tools.[1] Often, they respond to undesirable situations rather than act in anticipation. These situations can be difficult to anticipate because they are viewed differently from person to person. In November 1998, voters in many areas passed ballot measures that address these issues, providing large sums of money to protect valued resources, and voted out office holders who disagreed.[2] The results of the November 2000 election were more mixed.

One theme that binds these issues is they generally deal with patterns of land development that are frequently referred to as "sprawl." Sprawl encompasses varied circumstances that have been widely covered in the media. The volume of this coverage suggests greater public interest in addressing them. But perspectives over appropriate actions reflect differing views about the origins of these conditions. Some view these issues as the collective results of countless rational individual decisions -- the market place at work -- and see very little, if any, need for government interference, especially at the federal level. Some supporters of this view believe that efforts to manage growth could ultimately quash economic prosperity. Others view these issues as resulting from poorly organized, uncoordinated, or misguided planning and decision making, often involving multiple jurisdictions, and believe the federal government could assist in addressing some of them.

Most growth management issues are raised in terms of net public costs. Some cost issues are questions of magnitude; others are questions of distribution or timing. These costs have been documented in numerous studies, although their magnitude, timing, and distribution are subjects of vigorous debate. Costs may be thought of in resource terms, such as water allocations in arid areas, or in environmental terms, such as reduced air and water quality, but most frequently, they are viewed as the additional public expenditures on infrastructure, including roads, sewer and water systems, and schools that strain the local tax base. Some of these expenditures have a significant federal component.[3]

These costs vary within urban areas, and even within single jurisdictions. In some larger suburban counties, such as Fairfax, Virginia near Washington, DC, the portion of

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[1] Structure refers to variations in how responsibilities are distributed between state and local levels. The availability of tools differs, as does the attitudes about how they should be used. For example, zoning is a widely-used system for organizing the use of land, but application is not uniform, and restrictions are not always enforced or adhered to.

[2] See, for example, State Resource Strategies, *1998 Elections; The Voters Speak Out on Resource Conservation, Community Quality, and Sprawl*. November 4, 1998.

[3] Many who are concerned about growth management view the transportation reauthorization (P.L. 105-178), which provides $218 billion between FY1998 and FY2003 for surface transportation projects, as a prime example of how the federal government can contribute to sprawl. However, this law does include $12 billion for projects to address the environmental impacts of transportation and can be viewed as measures to ameliorate congestion.

the county closest to the city needs infrastructure rehabilitated and a changing mix of services while the outer portion needs new services. Maryland Governor Glendening reportedly stated that while 63 Baltimore area schools were closed over 20 years because of declining enrollment, 67 schools (at an average cost of $12 million) had to be built in nearby areas; yet the total number of students declined by 10,000.[4] A Maine study showed that the number of public school students declined by 27,000 between 1970 and 1995, but the state spent $338 million to build new schools in suburban areas.[5]

Demand for some services arise before the tax base has expanded to pay for them. Also, some forms of development, such as new single family homes, can generate more demand for services than tax revenues. Under these circumstances, the pressure is substantial to attract development that serves local demand and grows the tax base.

Growth management has been a national public policy issue in the past. In the early 1970s, it was associated with efforts in states such as Florida, California, Oregon, and Vermont to address rapid and large-scale growth beyond local government's capabilities. Congress considered and the Senate twice passed legislation to assist these state planning efforts.[6] In the late 1970s, it was associated with responses to the energy crisis. The House Banking Committee issued a report on the role that compact cities could play in saving energy. The report made recommendations on ways that Congress, states, and localities could reduce incentives for sprawl and encourage more compact cities.[7]

Why Now?

The activities that give rise to concern about managing growth are always with us, so why is it resonating today with the public at many locations? One explanation may be the inability of local jurisdictions to cooperate to resolve regional problems. Greater Denver is an example of a place where local jurisdictions have proliferated and the urban area has expanded to encompass 8 counties, 44 municipalities, and 450 special purpose governments. A second is that at times of economic prosperity, growth management controversies may emerge as more situations where amenities and other non-economic factors, sometimes referred to as "quality of life", become important to more people. One agricultural example of such a challenge is factory farms, which raise concerns about odor, water pollution, and air pollution. Many citizens, including other farmers, see these new farms as being fundamentally different than agriculture as they understand it, and believe that they make poor neighbors.

While many of the costs of growth can be measured (and debated) in financial terms, those dealing with the quality of life generally can not. Yet many decisions by individuals and businesses are made based on a perception that the quality of life is better in one place

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[4] Cited in a February 26, 1998 article in the *St Louis Post Dispatch* titled "Cost Concerns Build Anti-Sprawl Momentum".

[5] "Who Pays for Sprawl?" U.S. News and World Report, April 27, 1998, p. 23.

[6] It passed S. 632 in the 92nd Congress and S. 268 in the 93rd Congress.

[7] House Committee on Banking, Finance, and Urban Affairs, Subcommittee of the City. *Compact Cities: Energy Saving Strategies for the Eighties.* Report. 96th Congress, 2nd Session. 1980. 86 p. Committee Print 96-15.

than in another because of the nature of growth. In an ironic example of these types of tradeoffs, the national headquarters of the American Automobile Association (AAA) -- once located along Washington DC's beltway at a Fairfax County exit where it was visible and easily accessible to motorists -- moved out of the area in the mid 1980s because of congestion and a deteriorating commute for employees.[8]

Public Response

The public response has taken many forms. Sprawl Watch Clearinghouse, which supports growth management efforts, observed: "People want their communities to change by choice, not chance. The 1998 election was a high water mark of voter willingness to pay for open space and revitalized communities." The Clearinghouse stated that more than 100 initiatives were passed in 1998 to control sprawl, and characterized as victories the passage of 18 of 23 ballot measures on which it provided more information.[9] These initiatives and related legislation were not only adopted in states that have actively addressed growth management issues, but also in states that have shown little prior interest.

Many of these initiatives have significant price tags. If all the approved ballot initiatives are fully funded, the public commitment will approach $7 billion, raised through the sale of bonds and lottery tickets, and increased taxes.[10] New Jersey voters, for example, approved higher taxes to provide almost $1 billion over the next decade to preserve open space, farmland, and historic sites. One possible explanation for this magnitude of support is the expanded acceptance of using tools that have greater fiscal flexibility and that allow alternatives to purchasing land outright and locking it away.[11]

Most of these programs compensate voluntary participants. A remaining question is what role, if any, regulation should play. Growth management advocates debate whether more regulation is needed. Some approaches to managing growth, such as the use of urban growth boundaries in Oregon, are debated as to whether they are regulation. Oregon has used this approach for more than 20 years, but Ventura County, in suburban Los Angeles, approved this approach in a 1998 ballot initiative. Developers will have to seek public approval they can proceed outside several defined areas.

Administration Response

The Clinton Administration responded to these issues through its "smart growth initiative," coordinated by the Environmental Protection Agency. Smart growth was intended to move the debate away from making choices between pro- and anti-growth to one that supports sensible growth, acceptable to all interested parties, and coordinates

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[8] Land Use Planning Report, *Pipelines*. vol 12, no. 4. January 30, 1984. P. 30.

[9] Sprawl Watch Clearinghouse. *Americans Demand Smart Growth at the Polls.* press release, November 6, 1998. P. 1.

[10] Land Letter. *Enviros Applaud Open-Space Ballots, Developers Seek Other Solutions to Sprawl, Urbanization*. November 30, 1998. P. 6.

[11] See, for example, Hunt, Constance (ed.) *Conservation on Private Lands: An Owner's Manual*. World Wildlife Fund. 1997, 353 p.

concerns for the community, the economy, and the environment over how best to grow. It emphasized the benefits of regional planning, and values an integrated consideration of urban, suburban, and exurban concerns. Maryland enacted smart growth legislation in 1998. Under this initiative, state spending to assist development has been concentrated both to revitalize approved urban areas and to preserve open space. It also developed a "lands legacy initiative," which Congress supported in FY2000 and FY2001, to provide increased funding to selected resource protection programs. It is unclear whether or how the Bush Administration might continue or alter these initaitives.

Congressional Options

Popular interest in growth management appears to be widespread and building. Many congressional candidates in recent elections from both parties stated preferences for managing growth in one form or another in areas where growth management and improving or protecting the quality of life were major issues.

If Congress decides to consider growth management issues, a number of policy options are available. These options can be placed in four broad categories, from less involvement to more. The least involvement would emphasize providing information to localities and states, and include fostering exchanges of knowledge and experiences among governments. Greater involvement would be to offer financial assistance to places that voluntarily wish to address issues. It could more directly intervene by creating disincentives through tax policies or limits on federal spending. The highest level of intervention would be to apply regulation. The federal government already uses each of these levels to address topics that are components in the growth management debate.[12]

The federal government has collected, compiled, and provided information for decades that describes resource conditions and informs decision makers. Examples include the soil surveys, conducted by the Natural Resources Conservation Service (NRCS), and water data compiled by the U.S. Geological Survey. An example of a more active information effort is a farmland protection provision in the 1981 farm act that requires all federal agencies to report annually on how their activities affect the conversion of farmland to other uses.[13] While this provision has never been effectively implemented, it still could be used to track how federal programs are affecting the rate and pattern of farmland conversions.

The federal government frequently provides financial incentives to encourage voluntary participation. For example, the 1972 Coastal Zone Management Act (P.L. 92-583) provides grants to states to develop and implement coastal management programs. These programs balance conservation, preservation, and development pressures in a coordinated fashion. While appropriations are limited to about $60 million per year, 34 of the 35 eligible states and territories participate. A much older example is the NRCS Conservation Technical Assistance Program, which provides conservation planning and

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[12] The General Accounting Office has examined these questions in two recent reports: *Extent of Federal Influence on "Urban Sprawl is Unclear*, April, 1999, GAO/RCED-99-87; and *Local Growth Issues – Federal Opportunities and Challenges*, September 2000, GAO/RCED-00-178.

[13] The law also stated that these provisions could not serve as a basis for a legal challenge to a federal activity that might affect farmland, and that it is not to affect private property rights.

implementation assistance to farmers who request it. The availability of this assistance, at little or no cost to farmers, is thought to encourage them to practice conservation.

Disincentives are less widely used than incentives outside of the tax code, where provisions, such as tax credits and depreciation rates, discourage some actions and encourage others. The Coastal Barrier Resources Act of 1982 (P.L. 97-348) is a disincentive program that prohibits federal assistance, such as flood insurance and federal infrastructure funding to enhance development on designated coastal barriers because they are likely to suffer significant storm damage periodically. In such areas, assistance is available only for maintenance and for post-disaster restoration. This law does not prohibit actions by private parties, but the federal government will neither pay any costs nor assume additional risks at these places. A second example are two agriculture compliance programs, conservation compliance and swampbuster. These programs eliminate access to most federal farm program benefits to producers who cultivate highly erodible soils without a conservation program, or who alter wetlands to make agricultural production possible, respectively. Producers who do not participate in federal farm programs are not affected. Agencies administering both programs try to work with violators, and critics emphasize that very few producers lose benefits.

Federal regulations deal with elements of some growth management issues, including wetland protection, air quality, and water quality. The §404 program under the Clean Water Act of 1972 requires landowners to obtain a permit from the U.S. Army Corps of Engineers before they can alter wetlands by disposing of dredge and fill material. An estimated 80,000 actions require permits each year. Violators can be fined or jailed. The actual effectiveness of the program is a subject of debate because it protects most, but not all, wetlands from some, but not all, activities. Many landowners complain that this program is complicated and confusing, as well as intrusive.

Each approach may be appropriate under some circumstances when addressing growth management. There are many views on when these circumstances might occur, ranging from a minimal federal role with no new or expanded regulations to an expanded federal role with greater use of disincentives and regulation. While these roles are being debated, it is also clear that ongoing federal policies and programs will continue to have significant impacts on local and state efforts to manage growth. Recent debates over aspects of military base closings, including which bases will be closed and how facilities abandoned by the military might be used, capture many points about the current federal role and about federal relations with local and state government.

Pressure on local and state government to address growth management questions continues to spread. In some instances, this pressure and its resolution is entirely local. However, in many instances, the federal government is viewed as either a significant contributor to the problem, or a significant part of a potential solution. If Congress chooses to review how federal activities contribute to growth and growth management, and how it might involve the federal government in this debate without impinging on local and state prerogatives, it will be able to draw on many relevant experiences.