S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

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Opinion No. 01-017

Metropolitan Form of Government

QUESTIONS

A Metropolitan Charter Commission has been established in Coffee County to develop a charter for a metropolitan government.

1. The establishment of a metropolitan government entails combining the largest city, in this case, the City of Tullahoma, and the remaining parts of Coffee County. Tullahoma extends into Franklin County. Can a metropolitan government be created combining Coffee County and Tullahoma even though Tullahoma extends into Franklin County?

2. The metropolitan government would include the City of Manchester and the City of Tullahoma. Under a metropolitan government, could these territories comprise two separate urban services districts subject to different property tax levies to accommodate the outstanding debt and assets of each city prior to the establishment of the metropolitan government?

3. There are three existing school districts in the territory that would be combined under the proposed metropolitan charter: Tullahoma City Schools, Manchester City Schools, and Coffee County Schools. Can three existing school districts be combined under a metropolitan form of government?

4. The consolidated government would include students who reside outside Coffee County but within the city limits of Tullahoma. These students would be eligible to attend the combined school system. Can general services district taxes be levied on parcels located within the largest city but outside the county?

OPINIONS

1. Assuming that the majority of the territory of Tullahoma is in Coffee County, this consolidation appears to be authorized under Tenn. Code Ann. § 7-1-112, subject to the conditions in that statute. Neither Coffee County nor Franklin County is excluded from the operation of this statute under Tenn. Code Ann. § 7-1-112(d).

2. The statutory scheme does not appear to authorize this arrangement.

3. Under Tenn. Code Ann. § 7-2-108(a)(18), a metropolitan charter is required to provide for the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education. Under Tenn. Code Ann. § 7-3-302(1), a metropolitan government may take over the functions and liabilities of any school district whose services are performed within the geographical jurisdiction of the government.

4. Under Tenn. Code Ann. § 7-1-112(c), the metropolitan government may levy the urban services tax, but not the general services tax, on such parcels.

ANALYSIS

This opinion responds to your request for advice on several issues under the metropolitan government laws, Tenn. Code Ann. §§ 7-1-101, *et seq.* The request indicates that a Metropolitan Charter Commission has been established in Coffee County to develop a charter for a metropolitan government. We assume your question refers to metropolitan government under Tenn. Code Ann. §§ 7-1-101, *et seq.*, and not to consolidation under the Charter Government Unification Act, Tenn. Code Ann. §§ 7-21-101, *et seq.*

1. Consolidation of a County and a City Located in Different Counties

This opinion addresses several questions about consolidation of Coffee County with the cities located within the county under Tenn. Code Ann. §§ 7-1-101, *et seq.* Coffee County includes the City of Tullahoma, the largest city, and the City of Manchester. Tullahoma is located partly in Coffee County and partly in Franklin County. The first question is whether a metropolitan government combining Coffee County and Tullahoma may be created even though Tullahoma extends into Franklin County. Assuming that the majority of the city's territory is in Coffee County, Tenn. Code Ann. § 7-1-112 expressly authorizes such consolidation, subject to the conditions prescribed in that statute. Neither Coffee County nor Franklin County appears to fall within the counties excluded from operation of the statute under Tenn. Code Ann. § 7-1-112(d).

2. Separate Urban Services Districts

The second question is whether the proposed metropolitan government could include two separate urban services districts — one for the City of Manchester and one for the City of Tullahoma — subject to different property tax levies to accommodate the outstanding debt and assets of each city prior to the establishment of the metropolitan government. The statutory scheme does not appear to authorize this arrangement. In order to explain this issue fully, it is necessary to outline the process by which a third local government — in this case, Manchester, the smaller of the two Coffee County cities — would be included within a metropolitan government. Under Tenn. Code Ann. §§ 7-1-101, *et seq.*, a county and the principal

city within the county may consolidate governmental functions. "Principal city" means the city with the largest population in a particular county. Tenn. Code Ann. § 7-1-101(7). The charter must be approved by a majority of voters within the principal city and also a majority of those voting in the county outside of the principal city. Tenn. Code Ann. § 7-2-106(b). Under Tenn. Code Ann. § 7-2-107, a smaller city within the county may also be included in the proposed consolidation. Terms proposed by the charter commission with respect to the smaller city must be filed and published separately as an appendix to the metropolitan charter proposed with respect to the principal city, and must be submitted independently in a special referendum. The appendix must be approved by a majority of those voting in the small city and those voting in the county outside the smaller city.

Under Tenn. Code Ann. § 7-2-108(a)(5), a metropolitan charter must provide for two service districts within the geographical limits of the metropolitan government: a general services district and an urban services district. The urban services district consists originally of the total area of the principal city at the time of the filing of the proposed charter with the county election commission, together with such area of any smaller cities as may be specified in an appendix duly ratified and adopted under Tenn. Code Ann. § 7-2-107. If the charter approving the consolidation between the county and the principal city is approved, a smaller city that is not included in a metropolitan government by appendix becomes part of the general services district within the metropolitan government, but may not be included within the urban services district. Tenn. Code Ann. § 7-2-107(e).

Thus, in order for the City of Manchester to be included in a metropolitan urban services district, its consolidation would have to be approved by the voters of the city as required under Tenn. Code Ann. § 7-2-107. But assuming that this consolidation is so approved, the statutory scheme provides for only a single urban services district. The metropolitan government may set different tax rates for the general services district and the urban services district. Tenn. Code Ann. § 7-2-108(a)(8) & (9). In addition, the charter must include a determination, as between the general services district and the urban services district, or proportionate responsibility for the existing county bonded indebtedness, both countywide and district, and for the existing municipal indebtedness. The statutes do not authorize the charter to establish more than one urban services district or to set different tax levels within the urban services district. Under Tenn. Code Ann. § 7-2-108(c), a metropolitan charter may provide for special service districts within the general services district to furnish one or more services provided within the urban services district, and this district can be taxed at a different rate. But when "substantial urban services" are offered within a special service district, it must become part of the urban services district. Tenn. Code Ann. § 7-2-108(c)(5). Therefore, the statute regarding special service districts appears to apply to areas where the government wishes to extend one or more urban services, not to an area already receiving city services.

3. Consolidating School Districts

The next question is whether three existing school districts in the territory — Tullahoma City Schools, Manchester City Schools, and Coffee County Schools — may be consolidated under a metropolitan form of government. Clearly, consolidation of the Tullahoma and the Coffee County school

districts would be authorized under a metropolitan charter. Under Tenn. Code Ann. § 7-2-108(a)(18), a metropolitan charter must provide:

> For the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education, which board may be vested with power to appoint a director of schools[.]

In addition, under Tenn. Code Ann. § 7-3-302, a metropolitan government may assume and take over the functions and property of any school district all of whose public functions are performed within the geographical jurisdiction of the metropolitan government. Even if its consolidation with the metropolitan government has not been separately approved under Tenn. Code Ann. § 7-2-107, the entire City of Manchester would be within the general services district of the metropolitan government. Therefore, Tenn. Code Ann. § 7-3-302 appears to authorize consolidation of the Manchester City Schools with others within the county regardless of whether the city's consolidation is separately approved.

4. Taxation of Residents of City Living Outside the County

The last question is whether a metropolitan government may levy general services taxes on parcels located within the principal city, but outside the county. Under Tenn. Code Ann. § 7-1-112, the metropolitan government may levy the urban services tax, but not the general services tax, on such parcels.

PAUL G. SUMMERS
Attorney General

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Doyle Lewis, Jr.

State Representative
108 War Memorial Building
Nashville, TN 37243-0147