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Opinion No. 07-41

Largest Chamber of Commerce under the Growth Law

QUESTIONS

Tenn. Code Ann. § 6-58-104(a)(1) establishes a coordinating committee within each county. The committee is authorized to develop a countywide growth plan. Under Tenn. Code Ann. § 6-58-104(a)(1)(G), one member of the committee is to be selected by the "largest chamber of commerce, to be appointed after consultation with any other chamber of commerce within the county."

1. Where more than one chamber of commerce is located in a county, and one chamber has businesses as members, with the businesses located throughout the county, and another chamber is located within one of the cities within the county, and has both individual and business members, is the largest chamber determined by total membership, total area served, or diversity of business and industrial interests?

2. If the chambers of commerce within a county cannot agree on which is the "largest chamber," may the county coordinating committee determine which chamber will appoint the member and resolve seating disputes through by-laws or rules of order?

3. If the chambers of commerce within a county cannot agree as to which is the largest, and are unable to agree upon a member to serve on the coordinating committee, will that seat on the coordinating committee remain vacant?

4 Assuming the member to be appointed by the largest chamber of commerce is never selected, may the coordinating committee still be established and fulfill its duties with its remaining authorized membership?

OPINIONS

1. In the context of the statute, we think the term "largest" refers to the chamber of commerce having the largest number of members in the county, regardless of their status as individuals or businesses.

2. A coordinating committee is not given the authority to interpret the statutes governing its membership, nor may it pass any by-laws that are inconsistent with those statutes.

3. As discussed above, we think the statute authorizes the chamber of commerce with the largest number of members in the county, regardless of their status, to appoint a member after consulting with the other chambers of commerce in the county. The statute does not require the chambers to agree. If, however, the largest chamber of commerce does not appoint a member, then that seat will remain vacant.

4. Yes. The statute does not require every position on the committee to be filled before the committee may act, as long as the committee has a quorum.

ANALYSIS

1. "Largest Chamber of Commerce"

This opinion concerns the formation of a coordinating committee authorized to develop a countywide growth plan under Tenn. Code Ann. §§ 6-58-101, *et seq.* Tenn. Code Ann. § 6-58-104(a)(1) describes the membership of the coordinating committee as follows:

> Except as otherwise provided pursuant to subdivision (a)(9), effective September 1, 1998, there is created within each county a coordinating committee, which shall be composed of the following members:
>
> (A) The county mayor or the county mayor's designee, to be confirmed by the county legislative body; provided, that a member of the county legislative body may serve as such designee subject to such confirmation;
>
> (B) The mayor of each municipality or the mayor's designee, to be confirmed by the municipal governing body;
>
> (C) One (1) member appointed by the governing board of the municipally owned utility system serving the largest number of customers in the county;
>
> (D) One (1) member appointed by the governing board of the utility system, not municipally owned, serving the largest number of customers in the county;
>
> (E) One (1) member appointed by the board of directors of the county's soil conservation district, who shall represent agricultural interests;
>
> (F) One (1) member appointed by the board of the local education agency having the largest student enrollment in the county;
>
> (G) One (1) member appointed by the largest chamber of commerce, to be appointed after consultation with any other chamber of commerce within the county; and

> (H) Two (2) members appointed by the county mayor and two (2) members appointed by the mayor of the largest municipality, to assure broad representation of environmental, construction and homeowner interests.

Tenn. Code Ann. § 6-58-104(a)(1). Section 6-58-104(a)(9)(B) provides:

> Instead of the coordinating committee created pursuant to subdivision (a)(1), if the county legislative body and the governing body of each municipality located therein all agree that another entity shall perform the duties assigned by this chapter to the coordinating committee, then such other entity shall perform such duties of the coordinating committee, and such coordinating committee shall not be created or continued, as the case may be.

Under Tenn. Code Ann. § 6-58-104(d)(1), a city or county may propose an amendment to a growth plan already adopted. The county mayor and the city mayors within the county must then take appropriate action to reconvene or re-establish the coordinating committee.

The first question is what criteria should be used to determine the "largest" chamber of commerce in a county where more than one chamber of commerce is located. The request suggests three possibilities: number of members, diversity of membership, or size of the geographic area the chamber serves. In the context of the statute, we think the term "largest" refers to the chamber of commerce having the largest number of members in the county, regardless of their status as individuals or businesses. For example, the statute designates the public and private utilities with the largest number of customers in the county. Similarly, the term "largest municipality" clearly refers to the city with the largest population. *See, e.g.*, Tenn. Code Ann. § 6-58-104(a)(9)(A) (applying to counties "in which the largest municipality comprises at least sixty percent (60%) of the population of the entire county").

2. Coordinating Committee By-Laws

The next question is whether, assuming the chambers of commerce within a county cannot agree on which is the "largest chamber," the county coordinating committee may determine which chamber will appoint the member and resolve seating disputes through by-laws or rules of order. While the coordinating committee is not given rule-making authority, presumably it has the same authority as any board or committee to regulate its internal proceedings through by-laws. Op. Tenn. Att'y Gen. 99-092 (April 13, 1999). But the committee is not given the authority to interpret the statutes governing its membership, nor may it pass any by-laws that are inconsistent with those statutes.

3. Failure of Chambers of Commerce to Agree

The next question is whether, if the chambers of commerce within a county cannot agree as to which is the largest, and are unable to agree upon a member to serve on the coordinating committee, that seat on the coordinating committee will remain vacant. As discussed above, we think the statute authorizes the chamber of commerce with the largest number of members in the county, regardless of their status, to appoint a member after consulting with the other chambers of commerce in the county. The statute does not require the chambers to agree. If, however, the largest chamber of commerce does not appoint a member, then that seat will remain vacant.

4. Effect of Vacancy

The last question is, assuming the member to be appointed by the largest chamber of commerce is never selected, may the coordinating committee still be established and fulfill its duties with its remaining authorized membership. While the statute provides that the committee "shall" have the members listed, it does not require that every position on the committee be filled before the committee may act or prohibit the committee from acting where one position is vacant. Thus, the committee may act, as long as it has a quorum.

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