

Testimony of Jeff Fleming, City of Kingsport to the
Tennessee Advisory Commission on Intergovernmental Relations
August 22, 2013

Thank you for the opportunity. I respect and admire the job you do for Tennessee and I appreciate your willingness to serve.

My name is Jeff Fleming. I'm in my 29th year of service to the City of Kingsport working my way through the ranks to my current position of Assistant City Manager for Development. Perhaps I bring a unique background in that my master's thesis was based on the topic of annexation. My first job duty in 1985 was literally going door to door selling the benefits of being annexed, analyzing personal financial implications, collecting signatures, and establishing boundaries based on the results of that polling. I've seen just about every form of annexation during my tenure. Kingsport has annexed nearly 20,000 people in all socioeconomic groups and has faithfully invested millions and millions of dollars into urban services like water, sewer, schools, sanitation, police and doubled the number of fire stations staffed round the clock with firefighters and paramedics.

Annexation should not be about cherry-picking higher income neighborhoods. It should be about figuring out the most efficient way to provide urban services to all neighborhoods.

I represent a subgroup of TML charged with reviewing Public Chapter 1101. Our subgroup is made up of a cross section of elected and appointed officials from all three grand divisions

I know that as a city official, you can predict what I'm going to say to you about annexation – and you're right. But, I hope I'm able to reframe the issue so you can view it through a different lens.

I love selling Tennessee as a high quality, low cost place to live, work, play, raise a family, develop a career, retire and spend their lifetime of accrued wealth here. In fact, Tennessee continues to win award after award for all of these attributes. More than 3,000 families from all 50 states have relocated to my community alone during the past 7 years. Imagine how that multiplies statewide. I often hear about the incredible affordability of property taxes, utilities, housing, and many more. They are leaving states with fragmented government, duplication of effort, inefficient provision of services, severely diminished economies of scale, unionized labor and many more attributes that we do not want to emulate.

The state's growth policy sets the framework that will either improve Tennessee's competitive position or will continue to become like every other state. Limiting annexation to referendum sounds so simple on the surface, but the ripples will have lasting consequences.

County government historically exists to provide state government services at a local level (courts, deeds, licenses, jails, schools, roads, etc.).

Cities exist to provide the additional urban services that are required when people willingly choose to live in close proximity to one another. Services like water, sewer, fire protection, police protection, sanitation, etc. These services are absolutely necessary to facilitate economic growth. And for most Tennesseans, cities are the ones who provide these services.

This layering of responsibilities explains why city taxpayers also pay county taxes and I staunchly defend that when taxpayers ask me why they must pay both.

As rural areas became urban, the logical and efficient provision of services – and who provides them – becomes a necessary policy decision of state legislators. Some states chose utility districts, townships, and multiple layers of government and special districts. Tennessee chose to allow existing cities to grow (within reason). The result is that Tennessee has one of the lowest costs-of-living and is one of the most business-friendly states in the union. The flexibility afforded in 1101 ensured the voices of the residents of every county and municipality were represented and that the growth plans adopted reflected the priorities and preferences of each county. Complicating a city's ability to grow and provide urban services will lead our state down a path chosen by many other states – and to the associated higher costs to provide services.

Whether or not an urbanized/urbanizing area needs urban services is not a question of the current property owner. It should be orderly, planned and non-emotional because it will impact any family who ever lives in the house/neighborhood long after the existing voter. Hence some time ago Robert Lovelace, consultant for the University of Tennessee said that residents, “have already ‘voted’ in the most significant way—in choosing the location of their domiciles”. There must be a logical, orderly progression to plan for growth and extension of services. Otherwise, Tennessee will erode its highly desirable status and risk its competitive advantage.

Before 2000, annexation in Tennessee was contentious, litigious, and divisive. Counties sued cities, annexed residents sued cities, larger cities and smaller cities were at odds, ‘tiny towns’ attempted to incorporate, and judges/juries decided what was or was not reasonable on a case-by-case basis. None of the interested parties could operate or plan with any certainty. The result was fragmentation and inefficiency. Both ordinance and referendum methods were used. Corridor annexations and piecemeal referendums were common. Lengthy stretches of roadway were annexed to “stake a claim” for future growth. Some cities used “people planning” (term from a court case) to accommodate those desiring annexation and exclude those who did not – on a house-by-house basis. Services were intentionally afforded or denied based on annexation status. In some cases, pavement stickers were distributed to identify those “in” and “out” of city limits in an effort to sort out the provision of services. By human nature, residents are simply unwilling to vote affirmatively in a referendum unless they are faced with a problem that can't be solved individually. When the situation erodes to that point, the cost is exponentially more than it would have been if an orderly plan existed for financing and planning for the provision of services. It's not unlike maintaining your house. If you stay on top of it, you can prevent small problems from becoming large ones and it's always better to address a situation in a timely fashion before it becomes a crisis.

Public Chapter 1101 was intended to resolve conflicts, establish logical growth boundaries, encourage joint planning for economic development, and determine where/if new cities could be created. One of the important objectives of the Act was to place annexation by municipalities in the context of their growth planning. Planning for the extension of urban services is critical to the state's long term economic future and ability to attract/sustain jobs. By and large, cities provide those urban services. Therefore, cities' ability to grow and extend services becomes a key component of Tennessee's economic future. So, what's the logical extent of an existing city's ultimate limit? What is the most logical, orderly, and accountable way for them to get there? What happens when conflicts arise

between cities, counties, and those wishing to incorporate new cities? All of these were admirably addressed in Public Chapter 1101 in a visionary manner that has worked well.

Public Chapter 1101 required that all cities and counties sit down together and plan for their collective future. After careful negotiation, lengthy deliberation, and very few forced mediations, Tennessee's sweeping new growth law resolved the conflicts previously associated with annexation. Instead of dictating from the top down, these complex issues were resolved by officials at the local level by those with extensive local experience. The process for changing these formally-approved boundaries was clearly outlined. If a city asked that its urban growth boundary be modified, it required approval from the county and all other cities in the county. If any one of those entities said "no", then the boundaries remained "as is".

Once and for all, every property in Tennessee fit into an "urban growth", "planned growth" or "rural area". Cities could not be accused of "land grabs" without properly planning and financing the provision of services in a succinct time frame.

Public Chapter 1101 provides a logical way to allow existing cities to grow within pre-defined boundaries. It also provides ways to amend (or not) those boundaries at the local level. The beauty of PC1101 is that decisions are made by effected local governments who intimately understand the issues, budgets, and implications. Those local governments are elected by the people at arguably the purest level of government. Even though they may not have had a referendum on annexation, annexed residents ultimately become part of the elected leadership. In Kingsport, for example, with the exception of one person all 12 of the elected members of the Board of Mayor & Alderman and Board of Education live in annexed areas. One cannot assume that the issues of Chattanooga are the same as Memphis, or those of Medina are the same as Johnson City. The existing law works for cities and counties of all sizes – from rural counties to metropolitan governments. But the right to a popular vote on every growth issue will cripple this state economically. Is there a popular vote on every budget decision? Every capital project?

In addition to the flexibility afforded each county and its municipalities to develop and adopt its own growth plan, the law also maintained the prerogative granted municipalities in the 1950's -- the exclusive authority to annex property by ordinance.

Restricting annexation to referendum-only is an easy path -- it's popular. We had a CEO in town who talked about "leadership moments". I believe that's where we are right now. This is a crossroads for Tennessee. When we look back in 20 years, what will we see? More fragmented government? Higher cost of living due to duplication of effort and sprawl? Or will we hurry as fast as we can to pattern our laws after those states that people and businesses are leaving.

Generations of Tennessee leaders on both sides of the aisle have worked diligently to position this state for the economic success and quality of life that residents are currently enjoying.

We currently have 13 years of city-county cooperation under our belts through Public Chapter 1101. We are one of the most desirable states in the union for businesses and residents.

And we got here with the existing legislation.

Recently in my city we had a \$1.6 billion investment by Eastman Chemical Company. The CEO said the most important thing we can do is make ours a place where global talent wants to live. So far, I'd say we've all done a pretty good job statewide. Let us continue to do so.

In closing, please be mindful that cities and counties are the building blocks of Tennessee's collective economic future. If cities and counties flourish economically, then the state flourishes economically.

While the current proposal may seem like a minor tweak to the law, it will have far reaching effects. Public Chapter 1101 has worked. Please allow it to continue to do so.

Thank you.

TACIR Members:

- Senator Douglas Henry, District 21, D-Nashville, part of Davidson County
- Senator James Kyle, District 30, D-Memphis, part of Shelby County
- Senator Mark Norris, District 32, R-Collierville, Tipton County and part of Shelby County
- Senator Jim Tracy, District 14, R-Shelbyville, Bedford, Lincoln, Marshall, Moore and parts of Rutherford Counties
- Representative Mike Carter, District 29, R-Ooltewah, Part of Hamilton County
- Representative Ryan Haynes, District 14, R-Knoxville, Part of Knox County
- Representative Gary Odom, District 55, D-Nashville, Part of Davidson County
- Senator Randy McNally, District 5, R-Oak Ridge, Anderson, Loudon and part of Knox Counties
- Justin Wilson, Comptroller of Treasury
- Representative Charles Sargent
- Paula Davis, Assistant Commissioner, Administration, Economic & Community Development
- Iliff McMahan, Regional Director, Northeast Tennessee Region, Economic & Community Development
- Ernest Burgess, Rutherford County Mayor
- Jeff Huffman, County Executive, Tipton County
- Kenny McBride, Mayor, Carroll County
- Larry Waters, Mayor, Sevier County
- Tommy Bragg, Mayor, Murfreesboro
- Troy Beets, Mayor, Kingston
- Tom Rowland, Mayor, Cleveland
- Kay Senter, Councilwoman, Morristown
- Charles Cardwell, County Officials Association of Tennessee
- Brent Greer, Mayor, Henry County
- Rozelle Criner, Private Citizen, Ripley
- Tommy Schumpert, Private Citizen, Knoxville