

FOR DISCUSSION PURPOSES ONLY

Discussion Document for Report on Municipal Boundary Changes and Growth Planning in Tennessee

This document was created to serve as a basis for discussion by the Commission at its December 11 meeting. It has not been reviewed by the Commission and represents neither the consensus of the Commission nor the views of its staff.

Annexation disputes amongst counties, cities, and affected residents have been a recurring theme in Tennessee's history. Twice in the late 1990s, the General Assembly passed legislation relaxing the requirements for creating new cities to allow communities to incorporate in order to avoid annexation. Both acts were challenged in the courts.¹ Tennessee's Growth Policy Act (Public Chapter 1101, Acts of 1998) was an effort to resolve these disputes by requiring local governments in each of the state's 92 non-metropolitan counties to adopt 20-year growth plans limiting where future incorporations and annexations could occur. Fifteen years have passed since the Growth Policy Act was adopted, and there is a sense among stakeholders that a thorough review is needed—to ask whether it has served its intended purpose and whether the annexation and growth planning processes can be improved.

A large number of bills addressing annexation and growth planning issues were considered by the 108th General Assembly in its first legislative session. The one that drew the most attention would have required all annexations in Tennessee to be by consent in the form of referendums. That bill became Public Chapter 441, Acts of 2013,² which places a moratorium through May 15, 2014, on annexation by ordinance without consent of territory being used primarily for residential or agricultural purposes and requires the Tennessee Advisory Commission on Intergovernmental Relations to review and evaluate the efficacy of state laws³ on comprehensive growth plans and on changing municipal boundaries, including

- expanding city boundaries by annexation,
- deannexation of territory from cities,
- merger of cities, and
- mutual adjustment of city boundaries.

¹ City of Oakland v. McCraw, et al., No. 11661 (1997); Tennessee Municipal League v. Thompson, 958 S.W.2d 333 (1997).

² See appendix A.

³ Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan).

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In addition to Public Chapter 441, the legislature sent several related bills to the Commission for study.⁴ These bills focused on

- annexation methods,
- informational meetings and public hearings,
- notice requirements,
- annexation of agricultural property, and
- growth plan amendments.

Changing Municipal Boundaries

While the study required by Public Chapter 441 includes all statutes governing municipal boundary changes, annexation by referendum was the topic of the original bill and the focus of discussion. Before passage of Tennessee's Growth Policy Act, referendums were authorized but not required. The Act changed that, giving residents of certain areas the right to vote on whether to be annexed. Even so, annexation by referendum in Tennessee was and continues to be rare.

The Growth Policy Act called for three types of areas to be established, two of which would require referendums for annexations:

- Urban Growth Boundaries (UGBs)—areas contiguous to cities in which cities can annex by ordinance and outside of which they cannot.
- Planned Growth Areas (PGAs)—areas outside cities and their UGBs where new cities may be incorporated and in which existing cities can only annex with the consent of residents within those areas.
- Rural Areas (RAs)—areas not included within UGBs or PGAs where cities cannot be incorporated and existing cities cannot annex except by consent.

Some counties did not establish PGAs, and some did not designate RAs. Although many public hearings were required and held before the plans establishing UGBs were adopted, it is not clear that the general public or residents of those areas fully understood the implications for them of being included or excluded from those areas.

⁴ See appendix A.

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DISCUSSION POINT:

The consensus of the Commission is that Tennessee should adopt a more participatory process, one that gives people more control over whether and when they are annexed. Three clearly distinguishable options are

- annexation by consent only, for example, by referendum, inside urban growth boundaries as well as outside them;
- approval of the urban growth boundary itself by popular vote after which unilateral annexation could continue; or
- petition for removal from annexed areas and/or from within urban growth boundaries provided that removal does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services.

Any one of these options could be made a statewide requirement, or counties could be allowed to choose among them by popular vote.

Participation could be through voting in person or by mail or by petition without a vote. If by voting in person, then the referendum should take place during a primary or general election in order to reduce costs and ensure that the decision represents the widest possible consensus. Any referendum should otherwise follow the process laid out in current law for annexation by referendum.

Annexation Methods

Tennessee is one of a dwindling number of states where cities have broad authority to annex without consent. Many bills calling for a more participatory process were introduced before the Growth Policy Act was adopted in 1998, and many have been introduced since then. Some of those were sent to the Commission for study, but none have been recommended. The main argument for unilateral (i.e., nonconsensual) annexation is that cities need that authority in order to facilitate economic development and prevent disorganized growth. The main argument against it is that people should have a choice in whether they are taken into cities.

The 108th General Assembly sent the Commission two bills that would require referendums for all or nearly all annexations. Issues raised by these bills were incorporated into the general review called for by Public Chapter 441. House Bill 590 by Van Huss [Senate Bill 869 by Crowe] would require referendums for all annexations within urban growth boundaries. Senate Bill 731 by Watson [House Bill 230 by Carter] would require referendums for all annexations within urban growth boundaries *under an amended growth plan*. The original version of the bill that became Public Chapter 441 (Senate Bill 279 by Watson; House Bill 475 by Carter) would have done basically the same thing.

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Most states require a more participatory process for most annexations, generally by referendum. See appendix B, chart 1 and chart 3. Referendums may be called for by cities seeking to annex or by residents seeking either to be annexed or to avoid annexation. Referendums may be held in person, by mail-in ballot, or through a petition process. They are generally decided in one of three ways:

- Voters in the territory approve the annexation.
- Voters in the city and the territory approve the annexation. The votes are counted separately.
- Voters in the city and the territory approve the annexation. The votes are counted together.

Annexing Noncontiguous Property

One rationale for unilateral annexation is the difficulty of reaching willing owners of noncontiguous properties. Most often, the desired parcels are proposed to be or are already used for commercial or industrial purposes. The concern here is balancing the economic development interests of the communities with the desire of landowners between those areas and the municipal boundary to remain outside the city. The Growth Policy Act struck that balance by requiring every city to establish urban growth boundaries within which they could continue to annex without consent and outside of which they could not. Even inside their UGBs, some cities make it a practice to annex only those parcels whose owners wish to be annexed, which may require creative line drawing. Bypassing unwilling landowners often means annexing narrow corridors along roads, rivers, or other avenues to reach property that is not contiguous to cities' corporate boundaries. In time, this practice tends to create pockets of unincorporated areas that are nearly or entirely surrounded by cities. County highway officials have expressed concern about this practice. Annexing roads but not the adjoining property, or vice versa, can create confusion about who is responsible for maintenance and emergency services. Annexing only part of a right-of-way, leaving responsibility for the road or bridge to the county, creates similar problems.

Fourteen states prohibit corridor annexation outright or otherwise restrict it through case law or by statute. Five states allow cities to annex noncontiguous territory under limited circumstances. Allowing for annexation of some noncontiguous territory may reduce the occurrence of corridor annexation, which has long been a contentious practice in Tennessee. Cities in Indiana can annex noncontiguous parcels for industrial development with the owner's consent. Other states generally limit this to city-owned land. Laws dealing with annexation of noncontiguous property are summarized in appendix B, chart 1.

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DISCUSSION POINT:

While recognizing that it will create islands surrounded by unincorporated parcels, in order to avoid the problems created by corridor or "strip" annexation, the Commission supports allowing cities to annex certain non-contiguous areas, including government-owned property and property for commercial or industrial development, with the owner's consent. The general requirements for plans of services should apply to the annexed areas, and the plans should address the unique problems created by annexing them, including provision for road and bridge maintenance and for emergency services both for the annexed area and for the public infrastructure leading to the area.

Notice Period and Method

Notice requirements in Tennessee depend on the annexation method. If the annexation is by referendum, notice must be given by mail 14 days in advance of a public hearing on that referendum and posted in six public places 7 days in advance of the hearing. Three of the places must be in the city; three must be in the area to be annexed. Neither notice by mail nor by posting in public places is required for unilateral annexation. In all cases, whether by referendum or by ordinance without consent, notice must be published in a newspaper 7 days in advance of the public hearing. Legislation to change these requirements has been introduced many times.

The minimum notice requirements of other states range from 6 to 60 days before public hearings. The five other states with broad unilateral annexation authority require as little as 1 week (Kansas) to 60 days (Indiana) notice before public hearing. Ten states require a minimum of 14 or 15 days' notice, five states require a minimum of 10 days' notice, and nine states require a minimum of between 20 and 30 days. Four states other than Tennessee require a minimum of 7 days, and Arizona requires just 6. Georgia is the only state other than Tennessee to require different notice periods depending on whether the annexation is by unilateral or by referendum, requiring 21 days if cities are annexing by referendum, but only 14 days' notice otherwise.

Eight states, two of which (Idaho and Kansas) give broad authority for unilateral annexation, require notice both by mail and by newspaper. Nineteen states, including two (Nebraska and Texas) with broad unilateral annexation powers, require notice only by newspaper. Three states, including Indiana, which allows unilateral annexation, require notice of public hearings only by mail.

Two bills sent for study by committees of the 108th General Assembly focus on notice of annexation, not notice of hearings. One of them specifies a period without identifying the event that occurs at the end of that period. Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would require any city proposing to annex territory within the city's UGB to mail notice to any property owners within that UGB 90 days before the date the annexation becomes

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effective. House Bill 590 by Van Huss [Senate Bill 869 by Crowe] would require 90 days' notice by mail, return receipt requested. It does not specify what that is 90 days in advance of. The House Local Government Committee changed the period from 90 days to 180 days.

Notice is required in some other states at different points in the annexation process. The minimum public notice requirement for intent to annex in other states ranges from 7 to 30 days before beginning their annexation process. The minimum notice requirement before a referendum ranges from 4 to 30 days. See appendix B, chart 4.

DISCUSSION POINT:

The consensus of the Commission is that the notice period and method for referendums under current law should apply to unilateral annexation as well, that is by mailing a copy of the resolution in the case of referendum or a copy of the proposed ordinance in the case of unilateral annexation 14 days in advance of the public hearing.

Public Hearings and Informational Meetings

Current law in Tennessee requires one public hearing before annexation, whether by ordinance or by consent. Thirty-one other states, including the four of the five besides Tennessee with broad unilateral annexation, also require only one. The sixth state with broad unilateral annexation authority requires two. Three other states also require two. No state requires more than two. No informational meetings are required in Tennessee, though many cities hold them. North Carolina, which now allows annexation only by consent, is the only state that requires an informational meeting. North Carolina is also one of the four states that require two public hearings.

North Carolina's informational meeting statute requires explanation of the plan adopted by the city for extending services to the newly annexed area, including the cost of those services and how to request them, a summary of the annexation process and time lines, and distribution of forms for requesting services. Property owners and residents of the area proposed for annexation, as well as residents of the city, must be given an opportunity to ask questions and receive answers about the annexation. Tennessee also requires cities to adopt a plan of services for newly annexed territory before annexation can occur, and the plan of services must be presented at a public hearing. The public hearing requirement in Tennessee does not specify what must occur at that hearing.

Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would add three informational meetings before annexing by ordinance to inform property owners of "the potential impacts of the annexation." The House Local Government Committee amended the bill, reducing the number of informational meetings to one "to allow for questions from property owners . . . and provide information regarding the planned annexation." Current law requires one public hearing before annexation by ordinance or by referendum. No informational meetings are

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required, but many cities hold them. North Carolina, which since 2012 no longer allows unilateral annexation, is the only state that requires an informational meeting before annexation to provide information about the process, the services to be provided, and the reason the city is interested in annexing the area. See appendix B, chart 5.

DISCUSSION POINT:

The Commission recommends adding a second public hearing for unilateral annexations and holding an informational meeting for all annexations. Informational meeting requirements similar to those in North Carolina could be combined with the existing requirement for a public hearing on the plans of services adopted by cities for newly annexed areas instead of requiring an additional meeting.

Providing Municipal Services

Tennessee's current law requires annexing cities to develop plans of services for newly annexed areas that include, at a minimum, fire, police, water, electrical, and sanitary sewer services, as well as services related to solid waste collection, street construction and repair, recreation facilities and programs, street lighting, and zoning. Plans must be adopted before annexation can occur and include "a reasonable implementation schedule." The level of service must match that provided to current city residents and cities must publish in a newspaper an annual report on progress toward extending the services.

While no bills dealing with plans of services were sent to the Commission for study during the most recent session, a small number of bills adding requirements to Tennessee's plans of services have been introduced over the years.⁵ The original version of Senate Bill 1054 by Kelsey, House Bill 1263 by Carr, D., which was amended before being passed, included sections that would have added some requirements for the plan of services including standards for delivering the services and information on the financial ability of the city to provide services to the territory proposed to be annexed. Most other states also require a plan of services before annexation. Fifteen, including three of the other unilateral annexation states, require that budget or financial information be provided in plans of services.

Tennessee's requirement of a "reasonable implementation schedule" does not provide a clear deadline. Other states, including Kansas and Nebraska, which allow unilateral annexation, require that the annexing city specify a timeline for implementing services. Nine others, including Indiana and Texas, which also allow unilateral annexation, set a specific timeline in statute. The timelines range from three to ten years.

⁵ Senate Bill 1054 by Kelsey, House Bill 1263 by Carr, D. See appendix A.

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DISCUSSION POINT:

The Commission recommends establishing a deadline of five years for provision of the required services and inclusion of information about the city's financial ability to provide those services in its plan.

Extension of Utilities Beyond Municipal Boundaries

Tennessee law allows cities to extend utility lines beyond their corporate limits.⁶ Many cities have done so to encourage economic development or in anticipation of future annexation. Some local officials are concerned that without the ability to annex by ordinance, cities may not be able to annex areas served by their utilities and recoup their utility investments outside their corporate boundaries. It must be noted that the law in Tennessee requires public utilities to be self-supporting, funded by ratepayers. They also argue that requiring a referendum for annexation could slow economic development and hinder Tennessee's competitiveness. Without the certainty of being able to annex territory, cities may be unwilling to extend services beyond their borders, which may make it difficult to attract business and industry to areas where counties and utility districts are unable to provide the necessary infrastructure. Idaho has addressed this problem by making consent to annexation implied in an area connected to a city water or sewer system if the connection was requested by the owner before July 1, 2008.⁷

DISCUSSION POINT:

The Commission opposes adopting a similar provision for Tennessee.

Vesting of Pre-annexation Development Rights

Currently in Tennessee, annexed property is immediately subject to the zoning and subdivision regulations, as well as the building codes, of the annexing city or imposed on the city by state or federal regulations. Developments begun before annexation occurs must comply with city standards, which may be substantially different from the standards under which it was approved. The new standards may be costlier to meet. The Homebuilders Association of Tennessee has requested the ability to complete the development under the original standards. Cities would suggest resolving the problem by requiring all land within urban growth boundaries to be developed to municipal standards.

⁶ Tennessee Code Annotated Section 7-51-401.

⁷ Idaho Code Section 50-222.

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DISCUSSION POINT:

The consensus of the Commission is that the same standards should apply before and after annexation, whether they are the standards of the municipality or those of the county.

Allocation of Tax Revenue after Annexation

Since the Growth Policy Act, when territory is annexed, local option sales tax and wholesale beer tax revenue generated in the annexed area continues to go to the county for 15 years after the date of the annexation. Increases above this “hold harmless” amount are distributed to the annexing city. Some county officials have expressed concern about the sudden loss of these revenues at the end of the 15-year period and would like to see a gradual reduction instead. Tennessee is the only state that holds counties harmless for these taxes following annexation, but every state’s tax structure is unique. Some states do not authorize these two taxes for both cities and counties, and those that do may not have the same earmarks Tennessee has, notably the one requiring half of the local sales tax to be divided among the counties’ school systems.

Moreover, partly because of a lack of data on retail beer sales in annexed areas, all of the beer wholesale tax has gone to the annexing cities since the hold harmless provision went into effect, not just the increases. Recent changes in reporting requirements may make it possible for the Tennessee Department of Revenue to identify beer retailers among the lists of annexed businesses and request beer wholesalers selling to these businesses to provide the tax payment information necessary to calculate the hold harmless amounts.

DISCUSSION POINT:

The Commission finds the current hold harmless provisions adequate except that the law establishing the process for collecting, reporting, and remitting these revenues should be changed to make the hold harmless provision easier to implement including by requiring beer wholesalers to provide information specific to individual retailers.

Annexation of Agricultural Land and Other Open Space

Tennessee has always allowed cities to annex property used for agricultural purposes but requires cities to allow those uses to continue. The only constraint is a temporary one, a moratorium placed by Public Chapter 441 on annexing agricultural and residential land except by consent. This moratorium expires next May. The only other constraint in current law on annexing open space within cities’ urban growth boundaries is Public Chapter 1033, Acts of 2008, which requires certain conditions to be met before annexing state parks or natural areas

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including public hearings and a report by the Department of Environment and Conservation on the effects of annexation.

Bills to prohibit annexation of land subject to conservation easements have been introduced twice. The only bill related to open space currently pending in the General Assembly is Senate Bill 1316 by Bowling, House Bill 1249 by Van Huss. This bill would prohibit annexation of land in UGBs that is zoned for agricultural use until a change in use is triggered by a request for a non-agricultural zoning designation or by sale of the land for a different use.

Only eight states restrict annexation of agricultural lands. Several prohibit annexation of agricultural or rural land. Two states allow owners of annexed agricultural land to request deannexation. In Idaho, owners of annexed agricultural land greater than five acres petition the court for deannexation. Ohio also allows owners of unplatted farmland to petition the court for deannexation. See appendix B, chart 7.

DISCUSSION POINT:

The consensus of the Commission is that land used primarily for agricultural purposes, as well as state and federally owned open lands, should be subject to annexation only by consent. Moreover, any such lands currently inside cities' corporate limits should be allowed to be deannexed on petition by the owner provided that it does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services.

Deannexation

While no specific legislation was introduced to amend the statutes governing deannexation, Public Chapter 441 required the Commission to review these laws. Tennessee provides two methods for deannexation, both of which can be initiated only by cities. One puts the question directly to voters in an election and requires a two-thirds majority to pass; the other begins with adoption of an ordinance but allows a simple majority of residents in the area proposed for deannexation to overturn it. There is no provision for residents to initiate deannexation, although they can certainly request it.

Thirteen states authorize only property owners to initiate deannexation, while nine authorize only cities to do so, and fourteen authorize both property owners and cities to initiate. A majority of states require a referendum or consent to complete the deannexation. See appendix B, chart 8.

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DISCUSSION POINT:

The Commission recommends giving property owners the right to initiate deannexation provided that it does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services.

Mutual Adjustment of Corporate Boundaries

The study required by Public Chapter 441 also includes laws on mutual adjustment of city borders. In Tennessee, cities may adjust their mutual boundaries by contract to align them with easements, rights-of-way, and lot lines “to avoid confusion and uncertainty about the location of the contiguous boundary or to conform the contiguous boundary” to these lines. There is no provision for residents or property owners to participate in these decisions.

Ten other states have specific laws authorizing cities to adjust their mutual boundaries, usually through a simultaneous process where one city deannexes property that the other city annexes. Three of those states, like Tennessee, provide no opportunity for residents or property owners to participate in their boundary-adjustment processes. In three of the other seven states, cities initiate the process, but the people can either stop or must approve the transfer. The other four states allow individuals to petition for a boundary adjustment with various processes for determining whether that change will occur, including the possibility of a referendum in one state. See appendix B, chart 9.

DISCUSSION POINT:

Consistent with its recommendation to create a more participatory process for annexation in general, the Commission recommends that a public hearing be required before any adjustment of corporate boundaries.

Merger of Cities

Public Chapter 441 also required the Commission to review laws governing city mergers. Two or more contiguous cities located in the same county in Tennessee can merge into one city, and mergers can be initiated either by resolution of the cities or by petition of registered voters. Regardless of who initiates the merger, it must be approved by majorities of those voting in separate referendums in each of the cities. Thirty-six states have similar laws. Thirty-three require a referendum before the merger can be finalized. See appendix B, chart 10.

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DISCUSSION POINT:

The Commission finds existing laws governing merger sufficient.

Comprehensive Growth Policy

The review of Tennessee's growth policy laws called for by Public Chapter 441 included analysis of two referred bills dealing with amending plans as well as more general aspects of the law, including the status of the growth plans after 20 years, coordinating committees, and joint economic and community development boards (JECDBs). The purpose stated by the General Assembly for Tennessee's comprehensive growth policy statutes is to

- eliminate annexation or incorporation out of fear;
- establish incentives to annex or incorporate where appropriate;
- more closely match the timing of development and the provision of public services;
- stabilize each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and
- minimize urban sprawl.

The Growth Policy Act sought to structure decisions about service levels and development, including annexation, in a local but comprehensive process. Decisions about annexation powers are decisions about local government service levels and economic development potential that have countywide implications. The areas established by the urban growth boundaries, by definition, were to be capable of and appropriate for urban services provided by a city within a 20-year planning horizon. The law requires representation of many key stakeholder interests through the mandatory composition of the coordinating committee, the public hearing process, and the required approvals of the local governmental legislative bodies. Other than through public hearings, there is no direct participation by affected residents and property owners. The Growth Policy Act does not require popular approval of the decisions reflected in the designation of rural areas, planned growth areas and urban growth boundaries in the growth plans.

Status and Revision of the Plans

Plans were adopted starting in 2000, and the oldest are now 13 years old. Most are maps depicting the agreed-upon urban growth boundaries (UGBs) and planned growth areas (PGAs) or rural areas (RAs). Twenty-five plans have been amended.⁸ The amendment process is spelled out in the law.⁹ A city or county mayor may propose an amendment by filing notice

⁸ Ninety-two counties are required to have plans. The state's three metropolitan counties are exempt from the law.

⁹ Tennessee Code Annotated Section 6-58-104(d)(1).

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with the county mayor and with each city mayor. Upon receipt of the proposal, the county mayor is required to reconvene the county coordinating committee. The coordinating committee must submit the amended plan to the respective legislative bodies within six months of the date of its first meeting to consider the amendment. After approval by the legislative bodies and the state Local Government Planning Advisory Committee, the amendment becomes a part of the county growth plan.

Both of the referred bills would have changed the current process. Senate Bill 613 by Yager [House Bill 135 by Keisling] would have revised the procedure for amending growth plans, providing a detailed, step-by-step process. Senate Bill 732 by Watson [House Bill 231 by Carter] would have prohibited a municipality that has not annexed all territory within its UGB to propose an amendment to the growth plan and to serve on the coordinating committee.

Because the plans were required to consider where growth would occur over the first 20 years of the plan, concerns have been raised about the status of the growth plans at the end of 20 years and whether they should be reviewed or amended periodically. While the plans were based on 20-year growth projections, there is no indication that they would expire at the end of this period. The law does not address what happens to the growth plans at the end of 20 years, and there is no requirement to revise or update them. Most other states require cities to review or revise their comprehensive plans every two to ten years, but most other states' plans are more comprehensive than Tennessee's growth plan maps.

A lot has changed since the first plans were adopted. Projections are always tentative. The population projections that were used at that time have already been changed several times. The economic downturn changed the economy in ways that are affecting growth and development. Some counties are growing faster than projected while others are growing more slowly. Plans based on outdated information may not be useful today.

DISCUSSION POINT:

The consensus of the Commission is that all growth plans should be reviewed and either revised or readopted within two years and every five years thereafter. The Commission also recommends allowing cities on their own initiative to unilaterally retract their urban growth boundaries and allowing individual property owners to be removed from within urban growth boundaries by petition to the city, so long as removal does not create non-contiguity or unincorporated islands or cause problems with delivering urban services.

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DISCUSSION POINT:

Moreover, because urban growth boundaries create areas in which unilateral annexation is allowed, the Commission recommends making the revision process a more participatory one. The following process is an example of a way to link popular approval of growth plans to the annexation method so that unilateral annexation may continue where urban growth boundaries receive voter approval:

1. Growth plans adopted by the coordinating committees are submitted to the local legislative bodies for approval according to current provisions in the law.
2. Counties hold general, countywide elections to approve the growth plans adopted by the local legislative bodies.
3. If the voters approve the new plan, then annexation within any voter-approved urban growth boundary continues under current law; otherwise the existing plan remains in place and annexation can occur only by consent.
4. The same sanctions applicable to local governments that did not timely adopt an initial growth plan are reinstated in any county that does not have a voter-approved growth plan.
5. The moratorium imposed by Public Chapter 441, Acts of 2013, continues in each county until the revised approval process is completed there.

Coordinating Committees

The initial plans were required to be approved by coordinating committees and adopted by local governments. The make-up of these committees is complex. They consist of representatives from the cities and the counties, soil conservation districts, utilities, local education agencies, chambers of commerce, and others representing environmental, construction, and homeowner interests. Amending the plans requires the same process and approvals as the initial plans.

Local officials and other interests have expressed concerns about the composition of coordinating committees. They do not want to have to seek approval from other local governments before adjusting their boundaries. This is especially true for the local governments that went beyond the basic requirements of the Act in developing their boundaries. The Growth Policy Act said that “a growth plan may address land-use, transportation, public infrastructure, housing, and economic development.”¹⁰ Only a few counties’ growth plans included these optional planning criteria. Further, farming interests

¹⁰ Tennessee Code Annotated Section 6-58-107.

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have argued that the membership is skewed in favor of cities in counties with multiple cities and does not give adequate consideration to their concerns.

It is important to remember that Tennessee's growth plans are not the comprehensive plans required in other states. Consequently, other states' laws cannot be looked to for guidance.

DISCUSSION POINT:

The Commission recommends no changes to the composition of the coordinating committees.

Joint Economic and Community Development Boards

Tennessee is also unique with respect to its joint economic and community development boards (JECDBs). The intent of the boards is to engage in long-term planning, but there is no specific function for the boards laid out in the law. The concept for these boards arose from discussions during development of the Growth Policy Act about the need to ensure that economic development issues were a part of the growth planning process and to have a mechanism for continuing cooperation and coordination among county and city officials. The existing JECDB in Wilson County was the model.

The makeup of the JECDB is determined by an interlocal agreement but must, at a minimum, include the county mayor or executive, the city mayor or city manager of each city in the county, and one person who owns land classified under the greenbelt law. The boards can define their own function. No other state requires local governments to have such boards.

It has been suggested that allowing the JECDB to serve as the coordinating committee could streamline the growth planning process and the process for amending growth plans, but the JECDBs are not as broadly representative as the coordinating committees. Ensuring adequate representation of all parties currently represented on coordinating committees would require a different makeup for the JECDBs.

DISCUSSION POINT:

The Commission recommends allowing local governments to decide how often the JECDBs and their executive committees should meet and whether to move their functions to the coordinating committees responsible for developing the growth plans.