



TENNESSEE CODE ANNOTATED  
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Title 6 Cities And Towns  
Municipal Government Generally  
Chapter 58 Comprehensive Growth Plan

*Tenn. Code Ann. § 6-58-101 (2013)*

**6-58-101. Chapter definitions.**

As used in this chapter, unless the context otherwise requires:

- (1) "Calendar quarter" means any one (1) of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31;
- (2) "Committee" means the local government planning advisory committee established by § 4-3-727;
- (3) "Council" means the joint economic and community development council established by § 6-58-114;
- (4) "Growth plan" means the plan each county must file with the committee by July 1, 2001, as required by § 6-58-107;
- (5) "National flood insurance program (NFIP)" means the insurance program administered by the federal emergency management agency, as authorized by the National Flood Insurance Reform Act, compiled in 42 U.S.C. § 4001 et seq.;
- (6) "Planned growth area" means an area established in conformance with § 6-58-106(b) and approved in accordance with the requirements of § 6-58-104;
- (7) "Rural area" means an area established in conformance with § 6-58-106(c) and approved in accordance with the requirements of § 6-58-104;
- (8) "Special flood hazard area" means the land area covered by the floodwaters of the base flood on NFIP maps; and
- (9) "Urban growth boundary" means a line encompassing territory established in conformance with § 6-58-106(a) and approved in accordance with the requirements of § 6-58-104.

**HISTORY:** Acts 1998, ch. 1101, § 1; 2005, ch. 245, § 1; 2010, ch. 1091, § 2.

**NOTES: Compiler's Notes.**

For the Preamble to the act concerning state government efforts to provide secure and efficient processing of information through call centers, please refer to Acts 2010, ch. 1091.

**Section to Section References.**

This chapter is referred to in § 6-51-103.

This part is referred to in § 4-10-109.

This section is referred to in § 13-16-207.

**Law Reviews.**

Growth and Its Implications: An Evaluation of Tennessee's Growth Management Plan, *67 Tenn. L. Rev.* 983 (2000).

Property Rights vs. Public Use: Analyzing Tennessee's Response to Kelo Eminent Domain Ruling (Scott Griswold), *43 Tenn. B.J.* 14 (2007).

**Attorney General Opinions.**

Extraterritorial zoning by cities under county growth plan, OAG 99-218 (11/4/99).

Right of municipality to separate planning region designation; right of municipality to provide zoning and subdivision regulations outside corporate limits but within urban growth boundaries, OAG 99-227 (12/6/99).

Applicability of county growth plan to federally owned property, OAG 00-018 (2/10/00).

Effect and enforcement of growth plan, OAG 00-022 (2/15/00).

1998 Tenn. Pub. Acts Ch. 1101 does not require the local government planning advisory committee to automatically expand the planning region of a municipal planning commission to encompass the entire area of that city's urban growth boundary; however, if the committee determines that such an expansion, as a policy matter, is appropriate in all cases, the committee may approve it, subject to the requirements in T.C.A. § 13-3-102, including the city's acceptance of the expansion, OAG 01-092 (6/4/01).

An ordinance annexing parcels of land connected to the city limits only by a strip of land such as a highway is not per se invalid under the annexation statutes; however, such an ordinance may be invalid under T.C.A. § 6-51-102 because the annexed territory does not adjoin the existing city limits, or is unreasonable under the same statute or T.C.A. § 6-51-103 because it does not further orderly city development, OAG 03-158 (12/08/03).

**Cited:**

*City of Alcoa v. Tenn. Local Gov't Planning Advisory Comm.*, 123 S.W.3d 351, 2003 Tenn. App. LEXIS 502 (Tenn. Ct. App. 2003); *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009).

**Collateral References.**

Municipal Corporations 268

Zoning and Planning 414

***Tenn. Code Ann. § 6-58-102 (2013)***

**6-58-102. Purpose of chapter.**

With this chapter, the general assembly intends to establish a comprehensive growth policy for this state that:

- (1) Eliminates annexation or incorporation out of fear;
- (2) Establishes incentives to annex or incorporate where appropriate;
- (3) More closely matches the timing of development and the provision of public services;
- (4) Stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and
- (5) Minimizes urban sprawl.

**HISTORY:** Acts 1998, ch. 1101, § 3.

**NOTES: Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98).

**Cited:**

*City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009); *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

***Tenn. Code Ann. § 6-58-103 (2013)***

**6-58-103. Applicability of chapter to counties with metropolitan governments.**

This chapter does not apply to any county having a metropolitan form of government; provided, that each such county shall receive full benefit of all incentives available pursuant to § 6-58-109, and each such county shall escape the sanctions imposed by § 6-58-110; and provided further, that any municipality that lies within a county having a metropolitan form of government and another county must establish an urban growth boundary in conjunction with the county containing the territory that is not within the county having a metropolitan form of government.

**HISTORY:** Acts 1998, ch. 1101, § 4; 2008, ch. 818, § 1.

**First of 2 versions of this section**

**6-58-104. Coordinating committee -- Recommended growth plan -- Hearings -- Submission for ratification -- Rejection and revision -- Final plan.** [Effective until July 1, 2014. See the version effective on July 1, 2014.]

(a) (1) 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.

(2) It is the duty of the coordinating committee to develop a recommended growth plan not later than January 1, 2000, and to submit such plan for ratification by the county legislative body and the governing body of each municipality. The recommended growth plan shall identify urban growth boundaries for each municipality within the county and shall identify planned growth areas and rural areas within the county, all in conformance with § 6-58-106. In developing a recommended growth plan, the coordinating committee shall give due consideration to such urban growth boundaries as may be timely proposed and submitted to the coordinating committee by each municipal governing body. The coordinating committee shall also give due consideration to such planned growth areas and rural areas as may be timely proposed and submitted to the coordinating committee by the county legislative body. The coordinating committee is encouraged to utilize planning resources that are available within the county, including municipal or county planning commissions. The coordinating committee is further encouraged to utilize the services of the county technical assistance service, and the municipal technical advisory service.

**(3)** Prior to finalization of the recommended growth plan, the coordinating committee shall conduct at least two (2) public hearings. The county shall give at least fifteen (15) days advance notice of the time, place and purpose of each public hearing by notice published in a newspaper of general circulation throughout the county.

**(4)** Not later than January 1, 2000, the coordinating committee shall submit its recommended growth plan for ratification by the county legislative body and by the governing body of each municipality within the county; provided, that, notwithstanding any provision of this chapter to the contrary, if a municipality is completely contiguous to and surrounded by one (1) or more municipalities, then the corporate limits of the surrounded municipality shall constitute the municipality's urban growth boundaries and such municipality shall not be eligible to ratify or reject the recommended growth plan. Not later than one hundred twenty (120) days after receiving the recommended growth plan, the county legislative body or municipal governing body, as the case may be, shall act to either ratify or reject the recommended growth plan of the coordinating committee. Failure by such county legislative body or any such municipal governing body to act within such one hundred twenty-day period shall be deemed to constitute ratification by such county or municipality of the recommended growth plan.

**(5)** If the county or any municipality therein rejects the recommendation of the coordinating committee, then the county or municipality shall submit its objections, and the reasons therefor, for resolution in accordance with subsection (b). In resolving disputes arising from disagreements over which urban growth boundary should contain specific territory, due consideration shall be given if one of the municipalities is better able to efficiently and effectively provide urban services within the disputed territory. Due consideration shall also be given if one of the municipalities detrimentally relied upon priority status conferred under prior annexation law and, thereby, justifiably incurred significant expense in preparation for annexation of the disputed territory.

**(6) (A)** A municipality may make binding agreements with other municipalities and with counties to refrain from exercising any power or privilege granted to the municipality by this title, to any degree contained in the agreement including, but not limited to, the authority to annex.

**(B)** A county may make binding agreements with municipalities to refrain from exercising any power or privilege granted to the county by title 5, to any degree contained in the agreement including, but not limited to, the authority to receive annexation date revenue.

**(C)** Any agreement made pursuant to this subdivision (a)(6) need not have a set term, but after the agreement has been in effect for five (5) years, any party upon giving ninety (90) days written notice to the other parties is entitled to a renegotiation or termination of the agreement.

**(7) (A)** Notwithstanding any provisions of this chapter or any other provision of law to the contrary, any annexation reserve agreement or any agreement of any kind either between municipalities or between municipalities and counties setting out areas reserved for future municipal annexation and in effect on May 19, 1998, are ratified and remain binding and in full force and effect. Any such agreement may be amended from time to time by mutual agreement of the parties. Any such agreement or amendment may not be construed to abrogate the application of any provision of this chapter to the area annexed pursuant to the agreement or amendment.

**(B)** In any county with a charter form of government, the annexation reserve agreements in effect on January 1, 1998, are deemed to satisfy the requirement of a growth plan. The county shall file a plan based on such agreements with the committee.

**(8)** No provision of this chapter shall prohibit written contracts between municipalities and property owners relative to the exercise of a municipality's rights of annexation or operate to invalidate an annexation ordinance done pursuant to a written contract between a municipality and a property owner in existence on May 19, 1998.

**(9) (A)** Instead of the coordinating committee created under subdivision (a)(1), in any county in which the largest municipality comprises at least sixty percent (60%) of the population of the entire county and on May 19, 1998, there is no other municipality in the county with a population in excess of one thousand (1,000), according to the 1990 federal census or any subsequent federal census, the coordinating committee in such county shall be the municipal planning commission of the largest municipality and the county planning commission, if the county has a planning commission. The mayor of the largest municipality and the county mayor of such county may jointly appoint as many additional members to the coordinating committee as they may determine. Notwithstanding the provisions of this subsection (a) with respect to the adoption or ratification of the recommended growth plan, in any county to which this subdivision (a)(9)(A) applies, upon adoption of a recommended growth plan, the coordinating committee shall submit its recommendation to the county legislative body for ratification. The county legislative body may only disapprove the recommendation of the coordinating committee if it makes an affirmative finding, by a two-thirds (2/3) vote, that the committee acted in an arbitrary or capricious manner or abused its official discretion in applying the law. If the county legislative body disapproves the recommendation of the coordinating committee, then the dispute resolution process of this section shall apply.

**(B)** 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.

**(b) (1)** If the county or any municipality rejects the recommended growth plan, then the coordinating committee shall reconsider its action. After such reconsideration, the coordinating committee may recommend a revised growth plan and may submit such revised growth plan for ratification by the county legislative body and the governing body of each municipality. If a recommended growth plan or revised growth plan is rejected, then the county or any municipality may declare the existence of an impasse and may request the secretary of state to provide an alternative method for resolution of disputes preventing ratification of a growth plan.

**(2)** Upon receiving such request, the secretary of state shall promptly appoint a dispute resolution panel consisting of a minimum of one (1) member and a maximum of three (3) members. The secretary of state shall have the discretion to determine the size of the panel. Each member of the panel shall be appointed from the ranks of the administrative law judges employed within the administrative procedures division. Each member shall possess formal training in the methods and techniques of dispute resolution and mediation. Panel members and their spouses and immediate family shall not be residents, property owners, officials or employees of the county or any municipality within the county.

**(3)** The panel shall attempt to mediate the unresolved disputes. If, after reasonable efforts, mediation does not resolve the disputes, then the panel shall propose a non-binding resolution. The county legislative body and the municipal governing bodies shall be given a reasonable period in which to consider the proposed resolution. If the county legislative body and the municipal govern-

ing bodies do not accept and approve the resolution, the secretary of state shall appoint a new panel of administrative law judges, composed and selected in the same manner specified in subdivision (b)(2), for the purpose of adopting a growth plan. The panel may initiate formal proceedings, if they are necessary to obtain sufficient information for adopting a growth plan. These proceedings shall be conducted subject to the open meetings provisions of title 8, chapter 44, but need not be in compliance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The panel may consult with experts in urban planning, growth and development, and may commission or contract for additional studies and reports on population growth and projections, land utilization and needs, environmental impacts, and the development and production of maps adequate for the use of the panel in mediating a dispute or in adopting a growth plan. The costs associated with obtaining the services of experts, the production of studies, reports, maps and other documents shall be a reasonable and necessary cost associated with the panel's development of the growth plan.

(4) The secretary of state shall certify the reasonable and necessary costs incurred by the dispute resolution panel, including, but not necessarily limited to, salaries, supplies, travel expenses and staff support for the panel members. The county and the municipalities shall reimburse the secretary of state for such costs, to be allocated on a pro rata basis calculated on the number of persons residing within each of the municipalities and the number of persons residing within the unincorporated areas of the county; provided, that if the dispute resolution panel determines that the dispute resolution process was necessitated or unduly prolonged by bad faith or frivolous actions on the part of the county and/or any one (1) or more of the municipalities, then the secretary of state may, upon the recommendation of the panel, reallocate liability for such reimbursement in a manner clearly punitive to such bad faith or frivolous actions.

(5) If a county or municipality fails to reimburse its allocated or reallocated share of panel costs to the secretary of state after sixty (60) days notice of such costs, the department of finance and administration shall deduct such costs from such county's or a municipality's allocation of state shared taxes.

(c) (1) No later than July 1, 2001, the growth plan recommended or revised by the coordinating committee and ratified by the county and each municipality therein or alternatively adopted by a dispute resolution panel shall be submitted to and approved by the local government planning advisory committee.

IF urban growth boundaries, planned growth areas and rural areas were recommended or revised by a coordinating committee and ratified by the county and each municipality therein;

THEN the local government planning advisory committee shall grant its approval, and the growth plan shall become immediately effective.

In addition, in any county with a charter form of government, the annexation reserve agreements in effect on January 1, 1998, are deemed to satisfy the requirement of a growth plan, and the local government planning advisory committee shall approve such plan.

In all other cases:

IF the local government planning advisory committee determines that such urban growth boundaries, planned growth areas and rural areas conform with the provisions of § 6-58-106 ;

THEN the local government planning advisory committee shall grant its approval and the growth plan shall immediately become effective;

HOWEVER, IF the local government planning advisory committee determines that such urban growth boundaries, planned growth areas and/or rural areas in any way do not conform with the provisions of § 6-58-106;

THEN the committee shall adopt and grant its approval of alternative urban growth boundaries, planned growth areas and/or rural areas for the sole purpose of making the adjustments necessary to achieve conformance with the provisions of § 6-58-106.

Such alternative urban growth boundaries, planned growth areas and/or rural areas shall supersede and replace all conflicting urban growth boundaries, planned growth areas and/or rural areas and shall immediately become effective as the growth plan.

(2) After the local government planning advisory committee has approved a growth plan, the committee shall forward a copy to the county mayor who shall file the plan in the register's office. The register may not impose a fee on the county mayor for this service.

(d) (1) After the local government planning advisory committee has approved the county's initial growth plan, the plan shall stay in effect for not less than three (3) years absent a showing of extraordinary circumstances. After the initial three-year period, a growth plan may be amended as often as deemed necessary by the county and cities. Any time after the expiration of the initial three-year period, the mayor of any municipality in the county or the county mayor or county executive may propose an amendment to the growth plan by filing notice with the county mayor or county executive and with the mayor of each municipality in the county. Upon receipt of such notice, the county mayor or county executive shall take appropriate action to reconvene or reestablish the coordinating committee within sixty (60) days of the receipt of the notice. Except as provided for in this subdivision (d)(1), the procedures for amending the growth plan shall be the same as the procedures in this section for establishing the original plan. The burden of proving the reasonableness and necessity of the proposed amendment shall be upon the party proposing the change. It is the duty of the coordinating committee to submit the proposed amendment with its recommendation either for or against the amendment to the county legislative body and to the governing body of each municipality within the county for their approval or disapproval within six (6) months of the date of the coordinating committee's first meeting on the proposed amendment. After the proposed amendment is approved by the county legislative body and the governing body of each municipality and by the local government planning advisory committee, the amendment shall become part of the county's growth plan.

(2) In any county with a charter form of government with annexation reserve agreements in effect on January 1, 1998, any municipality or the county may immediately file a proposed amendment after May 19, 1998, in accordance with this subsection (d).

(e) (1) Notwithstanding any other provision of this section to the contrary, a municipality may expand its urban growth boundaries to include any tract of land that is ten (10) acres or smaller, if and only if:

(A) The tract is contiguous to a tract of land that has the same owner and has already been annexed by the municipality;

(B) The tract is being provided water and sewer services; and

(C) The owner of the tract consents to being included within the urban growth boundaries.

(2) If a municipality amends its urban growth boundaries pursuant to this subsection (e), it shall not be necessary for the coordinating committee to reconvene and it shall not require approval from the county or any other municipality within the county. Approval of an amendment to the urban growth boundary under this subdivision (e)(2) shall only be required from the governing body of the municipality involved. After the proposed amendment is approved by governing body of the municipality, the amendment shall become part of the county's growth plan.

(3) This subsection (e) is repealed on July 1, 2014.

**HISTORY:** Acts 1998, ch. 1101, § 5; 2003, ch. 90, § 2; 2005, ch. 278, §§ 1, 2; 2009, ch. 374, § 1; 2010, ch. 1026, § 1; 2011, ch. 509, § 6; 2012, ch. 863, § 1.

**NOTES: Compiler's Notes.**

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Amendments.**

The 2011 amendment deleted "the local planning office of the department of economic and community development," preceding "the county technical assistance service" in the last sentence of (a)(2).

The 2012 amendment substituted "July 1, 2014" for "July 1, 2012" in (e)(3).

**Effective Dates.**

Acts 2011, ch. 509, § 7. July 1, 2011.

Acts 2012, ch. 863, § 2. May 1, 2012.

**Section to Section References.**

This section is referred to in §§ 6-58-101, 6-58-105, 6-58-107, 6-58-111, 6-58-112.

**Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98).

Utility systems whose governing boards entitled to appoint committee members, OAG 98-0149 (8/12/98).

Non-member as chair of coordinating committee, OAG 99-092 (4/13/99).

A county growth plan must remain in effect for at least three years, absent a showing of extraordinary circumstances, before it can be amended, OAG 00-135 (8/22/00).

Amending a growth plan, OAG 03-154 (12/01/03).

"Largest chamber of commerce" defined, OAG 07-041 (4/3/07).

**Cited:**

*City of Alcoa v. Tenn. Local Gov't Planning Advisory Comm.*, 123 S.W.3d 351, 2003 Tenn. App. LEXIS 502 (Tenn. Ct. App. 2003); *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006).

## **NOTES TO DECISIONS**

1. Boundaries. 2. Amendment Required for Annexation.

### **1. Boundaries.**

Trial court erred in concluding that former T.C.A. § 6-58-111(d)(1) [repealed] required that a municipality seeking to annex by ordinance territory laying outside of its approved urban growth boundary had to amend its urban growth boundary following the procedure in T.C.A. 6-58-104. Plaintiff had qualified to annex by ordinance under former T.C.A. § 6-58-111(d)(1) [repealed]. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009), rev'd, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

### **2. Amendment Required for Annexation.**

T.C.A. § 6-58-111 required a larger city to obtain an amendment to the county growth plan before it could effect an annexation of territory beyond its urban growth boundary by ordinance. A smaller city successfully held an annexation referendum pursuant to § 6-58-111(d)(2) and annexed the territory. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

***Tenn. Code Ann. § 6-58-104 (2013)***

### **Second of 2 versions of this section**

**6-58-104. Coordinating committee -- Recommended growth plan -- Hearings -- Submission for ratification -- Rejection and revision -- Final plan.** [Effective on July 1, 2014. See the version effective until July 1, 2014.]

**(a) (1)** 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.

**(2)** It is the duty of the coordinating committee to develop a recommended growth plan not later than January 1, 2000, and to submit such plan for ratification by the county legislative body and the governing body of each municipality. The recommended growth plan shall identify urban growth boundaries for each municipality within the county and shall identify planned growth areas and rural areas within the county, all in conformance with § 6-58-106. In developing a recommended growth plan, the coordinating committee shall give due consideration to such urban growth boundaries as may be timely proposed and submitted to the coordinating committee by each municipal governing body. The coordinating committee shall also give due consideration to such planned growth areas and rural areas as may be timely proposed and submitted to the coordinating committee by the county legislative body. The coordinating committee is encouraged to utilize planning resources that are available within the county, including municipal or county planning commissions. The coordinating committee is further encouraged to utilize the services of the county technical assistance service, and the municipal technical advisory service.

**(3)** Prior to finalization of the recommended growth plan, the coordinating committee shall conduct at least two (2) public hearings. The county shall give at least fifteen (15) days advance notice of the time, place and purpose of each public hearing by notice published in a newspaper of general circulation throughout the county.

**(4)** Not later than January 1, 2000, the coordinating committee shall submit its recommended growth plan for ratification by the county legislative body and by the governing body of each municipality within the county; provided, that, notwithstanding any provision of this chapter to the contrary, if a municipality is completely contiguous to and surrounded by one (1) or more municipalities, then the corporate limits of the surrounded municipality shall constitute the municipality's urban growth boundaries and such municipality shall not be eligible to ratify or reject the recommended growth plan. Not later than one hundred twenty (120) days after receiving the recommended growth plan, the county legislative body or municipal governing body, as the case may be, shall act to either ratify or reject the recommended growth plan of the coordinating committee. Failure by such county legislative body or any such municipal governing body to act within such one hundred twenty-day period shall be deemed to constitute ratification by such county or municipality of the recommended growth plan.

**(5)** If the county or any municipality therein rejects the recommendation of the coordinating committee, then the county or municipality shall submit its objections, and the reasons therefor, for resolution in accordance with subsection (b). In resolving disputes arising from disagreements over which urban growth boundary should contain specific territory, due consideration shall be given if one of the municipalities is better able to efficiently and effectively provide urban services within the disputed territory. Due consideration shall also be given if one of the municipalities detrimentally relied upon priority status conferred under prior annexation law and, thereby, justifiably incurred significant expense in preparation for annexation of the disputed territory.

**(6) (A)** A municipality may make binding agreements with other municipalities and with counties to refrain from exercising any power or privilege granted to the municipality by this title, to any degree contained in the agreement including, but not limited to, the authority to annex.

**(B)** A county may make binding agreements with municipalities to refrain from exercising any power or privilege granted to the county by title 5, to any degree contained in the agreement including, but not limited to, the authority to receive annexation date revenue.

**(C)** Any agreement made pursuant to this subdivision (a)(6) need not have a set term, but after the agreement has been in effect for five (5) years, any party upon giving ninety (90) days written notice to the other parties is entitled to a renegotiation or termination of the agreement.

**(7) (A)** Notwithstanding any provisions of this chapter or any other provision of law to the contrary, any annexation reserve agreement or any agreement of any kind either between municipalities or between municipalities and counties setting out areas reserved for future municipal annexation and in effect on May 19, 1998, are ratified and remain binding and in full force and effect. Any such agreement may be amended from time to time by mutual agreement of the parties. Any such agreement or amendment may not be construed to abrogate the application of any provision of this chapter to the area annexed pursuant to the agreement or amendment.

**(B)** In any county with a charter form of government, the annexation reserve agreements in effect on January 1, 1998, are deemed to satisfy the requirement of a growth plan. The county shall file a plan based on such agreements with the committee.

**(8)** No provision of this chapter shall prohibit written contracts between municipalities and property owners relative to the exercise of a municipality's rights of annexation or operate to invalidate an annexation ordinance done pursuant to a written contract between a municipality and a property owner in existence on May 19, 1998.

**(9) (A)** Instead of the coordinating committee created under subdivision (a)(1), in any county in which the largest municipality comprises at least sixty percent (60%) of the population of the entire county and on May 19, 1998, there is no other municipality in the county with a population in excess of one thousand (1,000), according to the 1990 federal census or any subsequent federal census, the coordinating committee in such county shall be the municipal planning commission of the largest municipality and the county planning commission, if the county has a planning commission. The mayor of the largest municipality and the county mayor of such county may jointly appoint as many additional members to the coordinating committee as they may determine. Notwithstanding the provisions of this subsection (a) with respect to the adoption or ratification of the recommended growth plan, in any county to which this subdivision (a)(9)(A) applies, upon adoption of a recommended growth plan, the coordinating committee shall submit its recommendation to the county legislative body for ratification. The county legislative body may only disapprove the recommendation of the coordinating committee if it makes an affirmative finding, by a two-thirds (2/3) vote, that the committee acted in an arbitrary or capricious manner or abused its official discretion in applying the law. If the county legislative body disapproves the recommendation of the coordinating committee, then the dispute resolution process of this section shall apply.

**(B)** 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.

**(b) (1)** If the county or any municipality rejects the recommended growth plan, then the coordinating committee shall reconsider its action. After such reconsideration, the coordinating committee may recommend a revised growth plan and may submit such revised growth plan for ratification by the county legislative body and the governing body of each municipality. If a recommended growth plan or revised growth plan is rejected, then the county or any municipality may declare the existence of an impasse and may request the secretary of state to provide an alternative method for resolution of disputes preventing ratification of a growth plan.

**(2)** Upon receiving such request, the secretary of state shall promptly appoint a dispute resolution panel consisting of a minimum of one (1) member and a maximum of three (3) members. The secretary of state shall have the discretion to determine the size of the panel. Each member of the panel shall be appointed from the ranks of the administrative law judges employed within the administrative procedures division. Each member shall possess formal training in the methods and techniques of dispute resolution and mediation. Panel members and their spouses and immediate family shall not be residents, property owners, officials or employees of the county or any municipality within the county.

**(3)** The panel shall attempt to mediate the unresolved disputes. If, after reasonable efforts, mediation does not resolve the disputes, then the panel shall propose a non-binding resolution. The county legislative body and the municipal governing bodies shall be given a reasonable period in which to consider the proposed resolution. If the county legislative body and the municipal governing bodies do not accept and approve the resolution, the secretary of state shall appoint a new panel of administrative law judges, composed and selected in the same manner specified in subdivision (b)(2), for the purpose of adopting a growth plan. The panel may initiate formal proceedings, if they are necessary to obtain sufficient information for adopting a growth plan. These proceedings shall be conducted subject to the open meetings provisions of title 8, chapter 44, but need not be in compliance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The panel may consult with experts in urban planning, growth and development, and may commission or contract for additional studies and reports on population growth and projections, land utilization and needs, environmental impacts, and the development and production of maps adequate for the use of the panel in mediating a dispute or in adopting a growth plan. The costs associated with obtaining the services of experts, the production of studies, reports, maps and other documents shall be a reasonable and necessary cost associated with the panel's development of the growth plan.

**(4)** The secretary of state shall certify the reasonable and necessary costs incurred by the dispute resolution panel, including, but not necessarily limited to, salaries, supplies, travel expenses and staff support for the panel members. The county and the municipalities shall reimburse the secretary of state for such costs, to be allocated on a pro rata basis calculated on the number of persons residing within each of the municipalities and the number of persons residing within the unincorporated areas of the county; provided, that if the dispute resolution panel determines that the dispute resolution process was necessitated or unduly prolonged by bad faith or frivolous actions on the part of the county and/or any one (1) or more of the municipalities, then the secretary of state may, upon the recommendation of the panel, reallocate liability for such reimbursement in a manner clearly punitive to such bad faith or frivolous actions.

**(5)** If a county or municipality fails to reimburse its allocated or reallocated share of panel costs to the secretary of state after sixty (60) days notice of such costs, the department of finance and administration shall deduct such costs from such county's or a municipality's allocation of state shared taxes.

**(c) (1)** No later than July 1, 2001, the growth plan recommended or revised by the coordinating committee and ratified by the county and each municipality therein or alternatively adopted by a dispute resolution panel shall be submitted to and approved by the local government planning advisory committee.

IF urban growth boundaries, planned growth areas and rural areas were recommended or revised by a coordinating committee and ratified by the county and each municipality therein;

THEN the local government planning advisory committee shall grant its approval, and the growth plan shall become immediately effective.

In addition, in any county with a charter form of government, the annexation reserve agreements in effect on January 1, 1998, are deemed to satisfy the requirement of a growth plan, and the local government planning advisory committee shall approve such plan.

In all other cases:

IF the local government planning advisory committee determines that such urban growth boundaries, planned growth areas and rural areas conform with the provisions of § 6-58-106;

THEN the local government planning advisory committee shall grant its approval and the growth plan shall immediately become effective;

HOWEVER, IF the local government planning advisory committee determines that such urban growth boundaries, planned growth areas and/or rural areas in any way do not conform with the provisions of § 6-58-106;

THEN the committee shall adopt and grant its approval of alternative urban growth boundaries, planned growth areas and/or rural areas for the sole purpose of making the adjustments necessary to achieve conformance with the provisions of § 6-58-106.

Such alternative urban growth boundaries, planned growth areas and/or rural areas shall supersede and replace all conflicting urban growth boundaries, planned growth areas and/or rural areas and shall immediately become effective as the growth plan.

**(2)** After the local government planning advisory committee has approved a growth plan, the committee shall forward a copy to the county mayor who shall file the plan in the register's office. The register may not impose a fee on the county mayor for this service.

**(d) (1)** After the local government planning advisory committee has approved the county's initial growth plan, the plan shall stay in effect for not less than three (3) years absent a showing of extraordinary circumstances. After the initial three-year period, a growth plan may be amended as often as deemed necessary by the county and cities. Any time after the expiration of the initial three-year period, the mayor of any municipality in the county or the county mayor or county executive may propose an amendment to the growth plan by filing notice with the county mayor or county executive and with the mayor of each municipality in the county. Upon receipt of such notice, the county mayor or county executive shall take appropriate action to reconvene or reestablish the coordinating committee within sixty (60) days of the receipt of the notice. Except as provided

for in this subdivision (d)(1), the procedures for amending the growth plan shall be the same as the procedures in this section for establishing the original plan. The burden of proving the reasonableness and necessity of the proposed amendment shall be upon the party proposing the change. It is the duty of the coordinating committee to submit the proposed amendment with its recommendation either for or against the amendment to the county legislative body and to the governing body of each municipality within the county for their approval or disapproval within six (6) months of the date of the coordinating committee's first meeting on the proposed amendment. After the proposed amendment is approved by the county legislative body and the governing body of each municipality and by the local government planning advisory committee, the amendment shall become part of the county's growth plan.

(2) In any county with a charter form of government with annexation reserve agreements in effect on January 1, 1998, any municipality or the county may immediately file a proposed amendment after May 19, 1998, in accordance with this subsection (d).

(e) [Deleted by 2010 amendment, effective July 1, 2014.]

**HISTORY:** Acts 1998, ch. 1101, § 5; 2003, ch. 90, § 2; 2005, ch. 278, §§ 1, 2; 2009, ch. 374, § 1; 2010, ch. 1026, § 1; 2011, ch. 509, § 6; 2012, ch. 863, § 1.

**NOTES: Compiler's Notes.**

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Amendments.**

The 2010 amendment, as amended by Acts 2012, ch. 863, § 1, effective July 1, 2014, deleted (e) which read: "(e)(1) Notwithstanding any other provision of this section to the contrary, a municipality may expand its urban growth boundaries to include any tract of land that is ten (10) acres or smaller, if and only if:

"(A) The tract is contiguous to a tract of land that has the same owner and has already been annexed by the municipality;

"(B) The tract is being provided water and sewer services; and

"(C) The owner of the tract consents to being included within the urban growth boundaries.

"(2) If a municipality amends its urban growth boundaries pursuant to this subsection (e), it shall not be necessary for the coordinating committee to reconvene and it shall not require approval from the county or any other municipality within the county. Approval of an amendment to the urban growth boundary under this subdivision (e)(2) shall only be required from the governing body of the municipality involved. After the proposed amendment is approved by governing body of the municipality, the amendment shall become part of the county's growth plan.

"(3) This subsection (e) is repealed on July 1, 2014."

The 2011 amendment deleted "the local planning office of the department of economic and community development," preceding "the county technical assistance service" in the last sentence of (a)(2).

**Effective Dates.**

Acts 2011, ch. 509, § 7. July 1, 2011.

Acts 2012, ch. 863, § 2. May 1, 2012.

### **Section to Section References.**

This section is referred to in §§ 6-58-101, 6-58-105, 6-58-107, 6-58-111, 6-58-112.

### **Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98) .

Utility systems whose governing boards entitled to appoint committee members, OAG 98-0149 (8/12/98).

Non-member as chair of coordinating committee, OAG 99-092 (4/13/99).

A county growth plan must remain in effect for at least three years, absent a showing of extraordinary circumstances, before it can be amended, OAG 00-135 (8/22/00).

Amending a growth plan, OAG 03-154 (12/01/03).

"Largest chamber of commerce" defined, OAG 07-041 (4/3/07).

### **Cited:**

*City of Alcoa v. Tenn. Local Gov't Planning Advisory Comm.*, 123 S.W.3d 351, 2003 Tenn. App. LEXIS 502 (Tenn. Ct. App. 2003); *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006).

## **NOTES TO DECISIONS**

1. Boundaries. 2. Amendment Required for Annexation.

### **1. Boundaries.**

Trial court erred in concluding that former T.C.A. § 6-58-111(d)(1) [repealed] required that a municipality seeking to annex by ordinance territory laying outside of its approved urban growth boundary had to amend its urban growth boundary following the procedure in T.C.A. 6-58-104. Plaintiff had qualified to annex by ordinance under former T.C.A. § 6-58-111(d)(1) [repealed]. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009), rev'd, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

### **2. Amendment Required for Annexation.**

T.C.A. § 6-58-111 required a larger city to obtain an amendment to the county growth plan before it could effect an annexation of territory beyond its urban growth boundary by ordinance. A smaller city successfully held an annexation referendum pursuant to § 6-58-111(d)(2) and annexed the territory. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

**Tenn. Code Ann. § 6-58-105 (2013)**

**6-58-105. Judicial review of growth plan.**

**(a)** The affected county, an affected municipality, a resident of such county or an owner of real property located within such county is entitled to judicial review under this section, which shall be the exclusive method for judicial review of the growth plan and its urban growth boundaries, planned growth areas and rural areas. Proceedings for review shall be instituted by filing a petition for review in the chancery court of the affected county. Such petition shall be filed during the sixty-day period after final approval of such urban growth boundaries, planned growth areas and rural areas by the local government planning advisory committee. In accordance with the provisions of the Tennessee rules of civil procedure pertaining to service of process, copies of the petition shall be served upon the local government planning advisory committee, the county and each municipality located or proposing to be located within the county.

**(b)** Judicial review shall be de novo and shall be conducted by the chancery court without a jury. The petitioner shall have the burden of proving, by a preponderance of the evidence, that the urban growth boundaries, planned growth areas and/or rural areas are invalid because the adoption or approval thereof was granted in an arbitrary, capricious, illegal or other manner characterized by abuse of official discretion. The filing of the petition for review does not itself stay effectiveness of the urban growth boundaries, planned growth areas and rural areas; provided, that the court may order a stay upon appropriate terms if it is shown to the satisfaction of the court that any party or the public at large is likely to suffer significant injury if such stay is not granted. If more than one (1) suit is filed within the county, then all such suits shall be consolidated and tried as a single civil action.

**(c)** IF the court finds by a preponderance of the evidence that the urban growth boundaries, planned growth areas and/or rural areas are invalid because the adoption or approval thereof was granted in an arbitrary, capricious, illegal or other manner characterized by abuse of official discretion;

THEN an order shall be issued vacating the same, in whole or in part, and remanding the same to the county and the municipalities in order to identify and obtain adoption or approval of urban growth boundaries, planned growth areas and/or rural areas in conformance with the procedures set forth within § 6-58-104.

**(d)** Any party to the suit, aggrieved by the ruling of the chancery court, may obtain a review of the final judgment of the chancery court by appeal to the court of appeals.

**HISTORY:** Acts 1998, ch. 1101, § 6.

**NOTES: Attorney General Opinions.**

*T.C.A. § 6-58-105* provides the exclusive method for judicial review of a county growth plan and its urban growth boundaries, planned growth areas, and rural areas, OAG 00-135 (8/22/00).

**NOTES TO DECISIONS**

1. Intervention.

## **1. Intervention.**

Where the city and its airport authority were entitled to bring an action for review of a county's growth plan under *T.C.A. § 6-58-105(a)*, they were entitled to intervene in judicial review of the plan and the trial court erred in relying on the Tennessee Local Government Planning Advisory Committee's (LGPAC) admission that the plan was illegal because the allegation raised an issue of material fact and should have been resolved in an evidentiary hearing. *City of Alcoa v. Tenn. Local Gov't Planning Advisory Comm.*, 123 S.W.3d 351, 2003 Tenn. App. LEXIS 502 (Tenn. Ct. App. 2003), appeal denied, -- S.W.3d --, 2004 Tenn. LEXIS 18 (Tenn. 2004).

### ***Tenn. Code Ann. § 6-58-106 (2013)***

#### **6-58-106. Urban growth boundaries -- Proposal -- Hearing -- Rural areas.**

**(a) (1)** The urban growth boundaries of a municipality shall:

**(A)** Identify territory that is reasonably compact yet sufficiently large to accommodate residential and nonresidential growth projected to occur during the next twenty (20) years;

**(B)** Identify territory that is contiguous to the existing boundaries of the municipality;

**(C)** Identify territory that a reasonable and prudent person would project as the likely site of high density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical characteristics; if available, professional planning, engineering or economic studies, or any of these studies, may also be considered;

**(D)** Identify territory in which the municipality is better able and prepared than other municipalities to efficiently and effectively provide urban services; and

**(E)** Reflect the municipality's duty to facilitate full development of resources within the current boundaries of the municipality and to manage and control urban expansion outside of such current boundaries, taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

**(2)** Before formally proposing urban growth boundaries to the coordinating committee, the municipality shall develop and report population growth projections; such projections shall be developed in conjunction with the University of Tennessee. The municipality shall also determine and report the current costs and the projected costs of core infrastructure, urban services and public facilities necessary to facilitate full development of resources within the current boundaries of the municipality and to expand such infrastructure, services and facilities throughout the territory under consideration for inclusion within the urban growth boundaries. The municipality shall also determine and report on the need for additional land suitable for high density, industrial, commercial and residential development, after taking into account all areas within the municipality's current boundaries that can be used, reused or redeveloped to meet such needs. The municipality shall examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the urban growth boundaries and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

**(3)** Before a municipal legislative body may propose urban growth boundaries to the coordinating committee, the municipality shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the municipality not less than fifteen (15) days before the hearing.

**(b) (1)** Each planned growth area of a county shall:

**(A)** Identify territory that is reasonably compact yet sufficiently large to accommodate residential and nonresidential growth projected to occur during the next twenty (20) years;

**(B)** Identify territory that is not within the existing boundaries of any municipality;

**(C)** Identify territory that a reasonable and prudent person would project as the likely site of high or moderate density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical characteristics; (if available, professional planning, engineering and/or economic studies may also be considered);

**(D)** Identify territory that is not contained within urban growth boundaries; and

**(E)** Reflect the county's duty to manage natural resources and to manage and control urban growth, taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

**(2)** Before formally proposing any planned growth area to the coordinating committee, the county shall develop and report population growth projections; such projections shall be developed in conjunction with the University of Tennessee. The county shall also determine and report the projected costs of providing urban type core infrastructure, urban services and public facilities throughout the territory under consideration for inclusion within the planned growth area as well as the feasibility of recouping such costs by imposition of fees or taxes within the planned growth area. The county shall also determine and report on the need for additional land suitable for high density industrial, commercial and residential development after taking into account all areas within the current boundaries of municipalities that can be used, reused or redeveloped to meet such needs. The county shall also determine and report on the likelihood that the territory under consideration for inclusion within the planned growth area will eventually incorporate as a new municipality or be annexed. The county shall also examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the planned growth area and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

**(3)** Before a county legislative body may propose planned growth areas to the coordinating committee, the county shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county not less than fifteen (15) days before the hearing.

**(c) (1)** Each rural area shall:

**(A)** Identify territory that is not within urban growth boundaries;

**(B)** Identify territory that is not within a planned growth area;

**(C)** Identify territory that, over the next twenty (20) years, is to be preserved as agricultural lands, forests, recreational areas, wildlife management areas or for uses other than high density commercial, industrial or residential development; and

**(D)** Reflect the county's duty to manage growth and natural resources in a manner that reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

**(2)** Before a county legislative body may propose rural areas to the coordinating committee, the county shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county not less than fifteen (15) days before the hearing.

**(d)** Notwithstanding the extraterritorial planning jurisdiction authorized for municipal planning commissions designated as regional planning commissions in title 13, chapter 3, nothing in this chapter shall be construed to authorize municipal planning commission jurisdiction beyond an urban growth boundary; provided, that in a county without county zoning, a municipality may provide extraterritorial zoning and subdivision regulation beyond its corporate limits with the approval of the county legislative body.

**HISTORY:** Acts 1998, ch. 1101, § 7.

**NOTES: Section to Section References.**

This section is referred to in §§ 6-58-101, 6-58-104, 6-58-111, 6-58-116.

**Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98).

Extraterritorial zoning by cities under county growth plan, OAG 99-218 (11/4/99).

Right of municipality to separate planning region designation; right of municipality to provide zoning and subdivision regulations outside corporate limits but within urban growth boundaries, OAG 99-227 (12/6/99).

**Cited:**

*City of Alcoa v. Tenn. Local Gov't Planning Advisory Comm.*, 123 S.W.3d 351, 2003 Tenn. App. LEXIS 502 (Tenn. Ct. App. 2003); *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006); *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009).

**NOTES TO DECISIONS**

1. Amendment of Growth Plan Required for Annexation.

**1. Amendment of Growth Plan Required for Annexation.**

T.C.A. § 6-58-111 required a larger city to obtain an amendment to the county growth plan before it could effect an annexation of territory beyond its urban growth boundary by ordinance. A smaller city successfully held an annexation referendum pursuant to § 6-58-111(d)(2) and annexed the territory. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

*Tenn. Code Ann. § 6-58-107 (2013)*

**6-58-107. Approved plan required -- Land use decisions to be consistent with plan.**

Not later than July 1, 2001, a growth plan for each county shall be submitted to and approved by the local government planning advisory committee in accordance with § 6-58-104. After a growth plan is so approved, all land use decisions made by the legislative body and the municipality's or county's planning commission shall be consistent with the growth plan. The growth plan shall include, at a minimum, documents describing and depicting municipal corporate limits, as well as urban growth boundaries, planned growth areas, if any, and rural areas, if any, approved in conformance with § 6-58-104. The purpose of a growth plan is to direct the coordinated, efficient, and orderly development of the local government and its environs that will, based on an analysis of present and future needs, best promote the public health, safety, morals and general welfare. A growth plan may address land-use, transportation, public infrastructure, housing, and economic development. The goals and objectives of a growth plan include the need to:

- (1) Provide a unified physical design for the development of the local community;
- (2) Encourage a pattern of compact and contiguous high density development to be guided into urban areas or planned growth areas;
- (3) Establish an acceptable and consistent level of public services and community facilities and ensure timely provision of those services and facilities;
- (4) Promote the adequate provision of employment opportunities and the economic health of the region;
- (5) Conserve features of significant statewide or regional architectural, cultural, historical, or archaeological interest;
- (6) Protect life and property from the effects of natural hazards, such as flooding, winds, and wildfires;
- (7) Take into consideration such other matters that may be logically related to or form an integral part of a plan for the coordinated, efficient and orderly development of the local community; and
- (8) Provide for a variety of housing choices and assure affordable housing for future population growth.

**HISTORY:** Acts 1998, ch. 1101, § 8.

**NOTES: Section to Section References.**

This section is referred to in § 6-58-101.

**Attorney General Opinions.**

Effect and enforcement of growth plan, OAG 00-022 (2/15/00).

A final growth plan need not include a planned growth area and, therefore, a county commission need not include one in its proposal to the coordinating committee or in any subsequent proposals, OAG 00-184 (12/13/00).

A growth plan cannot be used to nullify a previously adopted county zoning ordinance, but might be used to nullify a subsequently adopted zoning ordinance if that ordinance was inconsistent with the growth plan, OAG 00-184 (12/13/00).

A growth plan may include only municipal boundaries, urban growth areas, and rural areas, OAG 00-184 (12/13/00).

A growth plan may include explicit definitions of "low density" and "high density," OAG 00-184 (12/13/00).

A decision by a city department or board does not fall within *T.C.A. § 6-58-107*, OAG 01-096 (6/12/01).

A decision to extend a sewer line to a rural area is probably not, *per se*, inconsistent with a county growth plan, OAG 01-096 (6/12/01).

**Cited:**

*City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009); *Depot Prop. v. Town of Arlington*, -- S.W.3d --, 2011 Tenn. App. LEXIS 34 (Tenn. Ct. App. Jan. 31, 2011).

**NOTES TO DECISIONS**

1. Not Inconsistent With Growth Plan. 2. Amendment Required for Annexation.

**1. Not Inconsistent With Growth Plan.**

Decision of the members of the board of mayor and aldermen denying a homeowner's application to have his house in a single-family residential area rezoned for office use was not inconsistent with the alleged growth plan within the meaning of *T.C.A. § 6-58-107* as the map attached to the town's land use plan indicated only that, at some undetermined point in the future, the area in which the homeowner's property was located may be zoned commercial; however, the plan did not state when such a change in zoning would occur. Indeed, the board discussed how the area was currently appealing to families living there and future potential residents. *Depot Prop. v. Town of Arlington*, -- S.W.3d --, 2011 Tenn. App. LEXIS 34 (Tenn. Ct. App. Jan. 31, 2011).

**2. Amendment Required for Annexation.**

*T.C.A. § 6-58-111* required a larger city to obtain an amendment to the county growth plan before it could effect an annexation of territory beyond its urban growth boundary by ordinance. A smaller city successfully held an annexation referendum pursuant to § 6-58-111(d)(2) and annexed the territory. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

***Tenn. Code Ann. § 6-58-108 (2013)***

**6-58-108. Annexation by ordinance -- Growth plan required for incorporation of new city.**

**(a) (1)** After May 19, 1998, a municipality may not annex by ordinance upon its own initiative territory in any county other than the county in which the city hall of the annexing municipality is located, unless one (1) of the following applies:

**(A)** A municipality that is located in two (2) or more counties as of November 25, 1997, may annex by ordinance in all such counties, unless the percentage of the municipal population residing in the county or counties other than that in which the city hall is located is less than seven percent (7%) of the total population of the municipality;

**(B)** A municipality may annex by ordinance with the approval by resolution of the county legislative body of the county in which the territory proposed to be annexed is located; or

**(C)** A municipality may annex by ordinance in any county in which, on January 1, 1998, the municipality provided sanitary sewer service to a total of one hundred (100) or more residential customers, commercial customers, or a combination thereof.

**(2)** Subdivision (e)(1) shall not affect any annexation ordinance adopted on final reading by a municipality prior to May 19, 1998, if such ordinance annexed property within the same county where the municipality is located or annexed property in a county other than the county in which the city hall is located if the property is used or is to be used only for industrial purposes.

**(b)** After January 1, 1999, a new municipality may only be incorporated in accordance with this section and with an adopted growth plan.

**HISTORY:** Acts 1998, ch. 1101, § 9; 2003, ch. 90, § 2; 2008, ch. 818, § 2.

**NOTES: Code Commission Notes.**

Former § 6-58-108 (f)(3), concerning any territory with not less than two hundred twenty-five (225) residents that acted pursuant to Chapter 98 of the Public Acts of 1997 or Chapter 666 of the Public Acts of 1996 from January 1, 1996 through November 25, 1997, and held an incorporation election, was held unconstitutional by *Town of Huntsville v. Duncan*, 15 S.W.3d 468 (Tenn. Ct. App. 1999), and was deleted by the code commission in 2005.

**Compiler's Notes.**

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Section to Section References.**

This section is referred to in § 6-58-116.

**Attorney General Opinions.**

Constitutionality of subdivision (f)(3)(A), OAG 98-0146 (8/12/98).

Standing to contest city annexation ordinance, OAG 99-076 (4/5/99).

**Cited:**

*Town of Oakland v. Town of Somerville*, 298 S.W.3d 600, 2008 Tenn. App. LEXIS 778 (Tenn. Ct. App. Dec. 30, 2008).

**NOTES TO DECISIONS**

1. Constitutionality.
2. Limitations.

## **1. Constitutionality.**

Former T.C.A. § 6-58-108(f)(3) (deleted) contravenes the general law pertaining to incorporation of municipalities. *Town of Huntsville v. Duncan*, 15 S.W.3d 468, 1999 Tenn. App. LEXIS 665 (Tenn. Ct. App. 1999), review or rehearing denied, -- S.W.3d --, 2000 Tenn. LEXIS 49 (Tenn. Jan. 24, 2000).

Former T.C.A. § 6-58-108(f)(3) (deleted) does not pass constitutional muster as there is no rational basis to discern between the Hellenwood community, which the statutory language precisely applies to, and the hundreds of other small communities in Tennessee that are prohibited from seeking incorporation because their communities lack 1,500 or more citizens and/or are too close to an existing incorporated municipality. *Town of Huntsville v. Duncan*, 15 S.W.3d 468, 1999 Tenn. App. LEXIS 665 (Tenn. Ct. App. 1999), review or rehearing denied, -- S.W.3d --, 2000 Tenn. LEXIS 49 (Tenn. Jan. 24, 2000).

## **2. Limitations.**

Where property owners filed a quo warranto action against a city eight years after an annexation ordinance was passed, the action was time-barred under T.C.A. § 6-51-102 and T.C.A. § 6-51-103 because: (1) The operative date for purposes of pursuing the cause of action was thirty days after final passage of the annexation ordinance; and (2) Even if T.C.A. § 6-58-108 modified the limitations period, the property owners did not file the action within ninety days of final passage of the annexation ordinance. *Highwoods Props. v. City of Memphis*, -- S.W.3d --, 2006 Tenn. App. LEXIS 789 (Tenn. Ct. App. Dec. 14, 2006).

### ***Tenn. Code Ann. § 6-58-109 (2013)***

#### **6-58-109. Increased allocation of certain funds for counties and municipalities with approved growth plans.**

**(a)** Upon approval of the growth plan by the local government planning advisory committee but beginning no earlier than July 1, 2000, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner of economic and community development in any evaluation formula for the allocation of private activity bond authority and for the distribution of grants from the department of economic and community development for the:

- (1)** Tennessee industrial infrastructure program;
- (2)** Industrial training service program; and
- (3)** Community development block grants.

**(b)** Upon approval of the growth plan by the local government planning advisory committee but beginning no earlier than July 1, 2000, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner if permissible under federal requirements in any evaluation formula for the distribution of grants from the department of environment and conservation for state revolving fund loans for water and sewer systems; provided, that no such preferences shall be granted if prohibited by federal law or regulation.

(c) Upon approval of the growth plan by the local government planning advisory committee but beginning no earlier than July 1, 2000, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the executive director in any evaluation formula for the distribution of HOUSE or HOME grants from the Tennessee housing development authority or low income tax credits or private activity bond authority; provided, that no such preferences shall be granted if prohibited by federal law or regulation.

**HISTORY:** Acts 1998, ch. 1101, § 10.

**NOTES: Section to Section References.**

This section is referred to in § 6-58-103.

**Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98).

*Tenn. Code Ann. § 6-58-110 (2013)*

**6-58-110. Certain grants unavailable to counties and municipalities without approved growth plan as of July 1, 2001.**

Effective July 1, 2001, the following loan and grant programs shall be unavailable in those counties and municipalities that do not have growth plans approved by the local government planning advisory committee, and shall remain unavailable until growth plans have been approved:

- (1) Tennessee housing development agency grant programs;
- (2) Community development block grants;
- (3) Tennessee industrial infrastructure program grants;
- (4) Industrial training service grants;
- (5) Intermodal Surface Transportation Efficiency Act funds or any subsequent federal authorization for transportation funds; and
- (6) Tourism development grants.

**HISTORY:** Acts 1998, ch. 1101, § 11.

**NOTES: Compiler's Notes.**

The Intermodal Surface Transportation Efficiency Act, referred to in this section, is compiled primarily in U.S.C., title 49.

**Section to Section References.**

This section is referred to in § 6-58-103.

*Tenn. Code Ann. § 6-58-111 (2013)*

**6-58-111. Annexation procedure -- Quo warranto action to challenge annexation.**

**(a)** A municipality possesses exclusive authority to annex territory located within its approved urban growth boundaries; therefore, no municipality may annex by ordinance or by referendum any territory located within another municipality's approved urban growth boundaries. Within a municipality's approved urban growth boundaries, a municipality may use any of the methods in chapter 51 of this title to annex territory; provided, that if a quo warranto action is filed to challenge the annexation, the party filing the action has the burden of proving that:

**(1)** An annexation ordinance is unreasonable for the overall well-being of the communities involved; or

**(2)** The health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation.

**(b)** In any such action, the action shall be tried by the circuit court judge or chancellor without a jury.

**(c) (1)** Prior to a municipality annexing by ordinance territory outside its existing urban growth boundary whether the territory desired for annexation is within another municipality's urban growth boundary or a county's planned growth area or rural area, it must first amend the growth plan by having its desired change to the urban growth boundary submitted to the coordinating committee and then receive a recommendation for or against the amendment from the coordinating committee, the coordinating committee then must submit the proposed amendment with its recommendation to all the legislative bodies for approval. If the amendment to the growth plan is approved by the legislative bodies or by the dispute resolution panel, it is then submitted to the local government planning advisory committee for its approval. This amendment process must follow the procedure as outlined in § 6-58-104 and the criteria for establishing an urban growth boundary as delineated in § 6-58-106.

**(2)** As an alternative to a municipality annexing in a county's planned growth area or rural area by first amending the growth plan as described in subdivision (c)(1), a municipality may annex within a county's planned growth area or rural area, but the annexation must be by referendum only and not by ordinance. The municipality must follow the referendum process as provided for in §§ 6-51-104 and 6-51-105.

**HISTORY:** Acts 1998, ch. 1101, § 12; 2005, ch. 246, §§ 1, 2; 2010, ch. 917, §§ 1-3.

**NOTES: Section to Section References.**

This section is referred to in § 6-58-116.

**Attorney General Opinions.**

Applicability of annexation priorities, OAG 98-0148 (8/12/98).

Annexation after growth plan adopted, OAG 00-036 (3/6/00).

## **NOTES TO DECISIONS**

1. Constitutionality. 2. Construction. 3. Burden of Proof. 4. Proper Procedure.

### **1. Constitutionality.**

Landowners were not entitled to a jury trial in a quo warranto proceeding under *T.C.A. § 6-58-111(b)* because: (1) The quo warranto action is a remedy created after the formation of the Tennessee constitution, and thus *Tenn. Const. art. I, § 6* does not guarantee a jury trial in such a proceeding; and (2) *Tenn. R. Civ. P. 38.01* only guarantees the right to a jury to the extent that this right is granted by the Constitution or the existing laws of the state. *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 922 (Tenn. 2006).

Because *T.C.A. § 6-58-111(b)* is not an attempt to create a rule that applies only to one or a few chosen local governments, it does not rise to the evil which *Tenn. Const. art. XI, § 9* was intended to remedy. *T.C.A. § 6-58-111(b)* does not violate the Municipal Boundaries Clause. *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 922 (Tenn. 2006).

### **2. Construction.**

A disjunctive construction of the word "or" in *T.C.A. § 6-58-111(a)(1)-(2)* does not render *T.C.A. § 6-58-111* and *T.C.A. § 6-51-103* irreconcilable because the burdens of proof established in these statutes are not applied simultaneously in that *T.C.A. § 6-58-111(a)* applies to annexations of territory within a municipality's approved urban growth boundary, and *T.C.A. § 6-51-103(a), (c), and (d)* apply to annexations that occur in counties without an approved growth plan. These sections are reconciled because they apply to different situations, and are not ambiguous. *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 922 (Tenn. 2006).

Interpreting *T.C.A. § 6-58-111(a)(2)* in conjunction with *T.C.A. § 6-51-102(a)(1)* leads to the conclusion that proving lack of material retardation necessarily requires proof that annexation will not materially benefit the municipality and territory. *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 922 (Tenn. 2006).

### **3. Burden of Proof.**

Where a city sought to annex territory that was an enclave surrounded by city, the landowners did satisfy their burden of proof under *T.C.A. § 6-58-111(a)(2)* that annexation would not materially benefit the welfare of the citizens and property owners of the city and the affected territory because the territory would receive better city services, and annexation would benefit the city as well because there was confusion regarding the extent of city services in the area. *State ex rel. Tipton v. City of Knoxville*, 205 S.W.3d 456, 2006 Tenn. App. LEXIS 29 (Tenn. Ct. App. 2006), appeal denied, -- S.W.3d --, 2006 Tenn. LEXIS 922 (Tenn. 2006).

Plaintiffs did not meet their *T.C.A. § 6-58-111(a)* burden as the annexed residents would be benefitted by an annexation as: (1) they would gain more efficient police and fire service; (2) the likelihood of serious jurisdictional confusion in emergency situations would be lessened; and (3) the children in the area would be eligible to attend defendant's grammar school; defendants' residents would benefit from the greater uniformity in the City boundary, and the lessening of the jurisdic-

tional problems facing defendant's emergency services. *State Ex Rel. Grooms v. City of Newport*, -- S.W.3d --, 2011 Tenn. App. LEXIS 561 (Tenn. Ct. App. Oct. 17, 2011), appeal denied, *State ex rel. Grooms v. City of Newport*, -- S.W.3d --, 2012 Tenn. LEXIS 112 (Tenn. Feb. 15, 2012).

#### **4. Proper Procedure.**

Trial court erred in concluding that T.C.A. § 6-58-111(d)(1) [repealed] required that a municipality seeking to annex by ordinance territory laying outside of its approved urban growth boundary had to amend its urban growth boundary following the procedure in T.C.A. 6-58-104. Plaintiff had qualified to annex by ordinance under § 6-58-111(d)(1) [repealed]. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2009 Tenn. App. LEXIS 877 (Tenn. Ct. App. Dec. 28, 2009), rev'd, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

T.C.A. § 6-58-111 required a larger city to obtain an amendment to the county growth plan before it could effect an annexation of territory beyond its urban growth boundary by ordinance. A smaller city successfully held an annexation referendum pursuant to § 6-58-111(d)(2) and annexed the territory. *City of Harriman v. Roane County Election Comm'n*, -- S.W.3d --, 2011 Tenn. LEXIS 576 (Tenn. June 9, 2011).

Alleged landowners' were not entitled to challenge a city's annexation by declaratory judgment, wherein the landowners claimed the city exceeded its authority in annexing the area, because the landowners' claim was expressly raised in a prior quo warranto action; the dismissal of the first action for the landowners' failure to prosecute was of no consequence. *Cochran v. City of Memphis*, -- S.W.3d --, 2013 Tenn. App. LEXIS 182 (Tenn. Ct. App. Mar. 19, 2013).

Alleged landowners' failed to sufficiently plead a declaratory judgment claim against a city, wherein the landowners claimed the city's annexation was prohibited by law, T.C.A. § 6-51-102(b)(5), because the landowners' complaint contained no allegations: (1) concerning the nature of the alleged default; (2) the default existed at the time the area was annexed; (3) the residents of the area had filed suit to compel the city to perform the plan of services; or (4) a court had determined the city had failed to comply with the plan of services without cause. *Cochran v. City of Memphis*, -- S.W.3d --, 2013 Tenn. App. LEXIS 182 (Tenn. Ct. App. Mar. 19, 2013).

#### ***Tenn. Code Ann. § 6-58-112 (2013)***

**Legislative Alert:** LEXSEE 2013 Tn. HB 1288 -- See section 1.

#### **6-58-112. New municipalities -- School systems -- Property tax -- Incorporation election.**

**(a) (1)** After January 1, 1999, a new municipality may only be created in territory approved as a planned growth area in conformity with the provisions of § 6-58-104;

**(2)** A county may provide or contract for the provision of services within a planned growth area and set a separate tax rate specifically for the services provided within a planned growth area; and

**(3)** A county may establish separate zoning regulations within a planned growth area, for territory within an urban growth boundary or within a rural area.

**(b) (1)** An existing municipality that does not operate a school system or a municipality incorporated after May 19, 1998, may not establish a school system.

**(2)** From and after the effective date of the transfer of the administration of the schools in a special school district to the county board of education pursuant to § 49-2-502(b), the restrictions imposed by subdivision (b)(1) on creation of municipal school districts no longer apply within such county.

**(c)** A municipality, incorporated after May 19, 1998, shall impose a property tax that raises an amount of revenue not less than the amount of the annual revenues derived by the municipality from state-shared taxes as estimated by the department of revenue on or before July 1. The municipality shall levy and provide for the administration and collection of a property tax in the required amount before the municipality may receive state-shared taxes. Furthermore, the provisions of § 6-51-115(b), shall apply within the territory of such newly incorporated municipality as if such territory had been annexed rather than incorporated. For purposes of levying a property tax, the incorporation of a municipality shall be effective on January 1 following the election at which the incorporation is approved.

**(d) (1)** If the residents of a planned growth area petition to have an election of incorporation, the county legislative body shall approve the corporate limits and the urban growth boundary of the proposed municipality before the election to incorporate may be held.

**(2)** Within six (6) months of the incorporation election, the municipality shall adopt by ordinance a plan of services for the services the municipality proposes to deliver. The municipality shall prepare and publish its plan of services in a newspaper of general circulation distributed in the municipality. The rights and remedies of § 6-51-108 apply to the plan of services adopted by the municipality.

**HISTORY:** Acts 1998, ch. 1101, § 13; 1999, ch. 169, §§ 1, 2; 2012, ch. 970, § 1.

**NOTES: Amendments.**

The 2012 amendment added (b)(2).

**Effective Dates.**

Acts 2012, ch. 970, § 2. May 10, 2012.

*Tenn. Code Ann. § 6-58-113 (2013)*

**6-58-113. Monitoring and reporting by advisory commission on intergovernmental relations.**

The Tennessee advisory commission on intergovernmental relations (TACIR) shall monitor implementation of this chapter and shall periodically report its findings and recommendations to the general assembly. Each agency of the executive branch, each municipal and county official, each local government organization, including any planning commission and development district, shall cooperate with the commission and provide necessary information and assistance for the commission's reports. TACIR reserve funds may be expended for the purpose of performing duties assigned by this section.

**HISTORY:** Acts 1998, ch. 1101, § 14; 2002, ch. 594, § 1.

**NOTES: Cross-References.**

Reporting requirement satisfied by notice to general assembly members of publication of report, § 3-1-114.

*Tenn. Code Ann. § 6-58-114 (2013)*

**6-58-114. Joint economic and community development board.**

**(a)** It is the intent of the general assembly that local governments engage in long-term planning, and that such planning be accomplished through regular communication and cooperation among local governments, the agencies attached to them, and the agencies that serve them. It is also the intent of the general assembly that the growth plans required result from communication and cooperation among local governments.

**(b)** There shall be established in each county a joint economic and community development board, which shall be established by interlocal agreement pursuant to § 5-1-113. The purpose of the board is to foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.

**(c)** Each joint economic and community development board shall be composed of representatives of county and city governments, private citizens, and present industries and businesses. The final makeup of the board shall be determined by interlocal agreement but shall, at a minimum, include the county mayor and the city mayor or city manager, if appropriate, of each city lying within the county and one (1) person who owns land qualifying for classification and valuation under title 67, chapter 5, part 10; provided, that in cases where there are multiple cities, smaller cities may have representation on a rotating basis as determined by the interlocal agreement.

**(d)** There shall be an executive committee of the board, which shall be composed of members of the joint economic and community development board selected by the entire board. The makeup of the executive committee shall be determined by the entire joint economic and community development board but shall, at a minimum, include the county mayor and the city mayors or city managers of the larger municipalities in the county.

**(e)** The terms of office shall be determined by the interlocal agreement, but shall be staggered, except for those positions held by elected officials whose terms shall coincide with the terms of office for their elected positions. All terms of office shall be for a maximum of four (4) years.

**(f)** The board shall meet, at a minimum, four (4) times annually, and the executive committee of the board shall meet at least four (4) times annually. An executive committee meeting shall be held once each calendar quarter. Minutes of all meetings of the board and the executive committee shall be documented by minutes kept and by certification of attendance. Meetings of the joint economic and community development board and its executive committee are subject to the open meetings law.

**(g) (1)** The activities of the board shall be jointly funded by the participating governments. The formula for determining the amount of funds due from each participating government shall be determined by adding the population of the entire county as established by the last federal decennial census to the populations of each city as determined by the last federal decennial census, or special

census as provided for in § 6-51-114, and then determining the percentage that the population of each governmental entity bears to the total amount.

(2) If a special census has been certified pursuant to § 6-51-114, during the five-year period after certification of the last federal decennial census, the formula shall be adjusted by the board to reflect the result of the special census; provided, that the board shall only make such an adjustment during the fifth year following the certification of a federal decennial census.

(3) The board may accept and expend donations, grants and payments from persons and entities other than the participating governments. The board is authorized to transfer or to donate funds from participating governments or outside sources to other public or nonprofit entities within the county to be used for economic or industrial development purposes.

(4) If, on May 19, 1998, a county and city government have a joint economic and community development council that has an established funding mechanism to carry out a unified economic and community development program for the entire county, such funding mechanism shall be utilized in lieu of the formula established in this subsection (g).

(h) An annual budget to fund the activities of the board shall be recommended by the executive committee to the board, which shall adopt a budget before April 1 of each year. The funding formula established by this act shall then be applied to the total amount budgeted by the board as the participating governments' contributions for the ensuing fiscal year. The budget and a statement of the amount due from each participating government shall be immediately filed with the appropriate officer of each participating government. In the event a participating government does not fully fund its contribution, the board may establish and impose such sanctions or conditions as it deems proper.

(i) When applying for any state grant a city or a county shall certify its compliance with the requirements of this section.

(j) If there exists within a county a similar organization on May 19, 1998, that organization may satisfy the requirements of this section. The county mayor shall file a petition with the committee, which shall make a determination whether the existing organization is sufficiently similar to the requirements of this section. When the committee has made its determination, an affected municipality or county may rely upon that status of the existing organization to satisfy the certification requirements of subsection (i).

(k) The county mayor and the mayor, or city manager, if appropriate, of each city lying within the county are authorized to designate an alternate representative, who shall have full authority to vote and participate in all activities of the joint economic and community development board and its executive committee. An alternate appointed to serve on the joint economic and community development board or its executive committee shall have experience or education in the fields of public administration, economic and community development or planning, and be able to speak for the entity represented.

**HISTORY:** Acts 1998, ch. 1101, § 15; 2003, ch. 90, § 2; 2005, ch. 245, §§ 2, 3; 2006, ch. 608, § 1.

**NOTES:** Compiler's Notes.

Acts 2003, ch. 90, § 2, directed the code commission to change all references from "county executive" to "county mayor" and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Section to Section References.**

This section is referred to in § 6-58-101.

**Attorney General Opinions.**

Meetings of county economic development board during which it carries out its function as a joint economic and community development board under T.C.A. § 6-58-114 are subject to the Open Meetings Act, OAG 03-091 (7/24/03).

Municipality that is not participating in or helping fund local joint economic and community development board would not be eligible for a grant, OAG 05-109 (7/11/05).

Authority of a joint economic development board the board to acquire an industrial building and lease it to a private business on behalf of all of its constituent members, OAG 05-176 (12/13/05).

Compliance with T.C.A. § 6-58-114, OAG 06-151 (10/2/06).

Applicability of the Public Records Act to records of a county economic development agency, OAG 07-170 (12/21/07).

*Tenn. Code Ann. § 6-58-115 (2013)*

**6-58-115. Applicability to pending annexation ordinances.**

This chapter shall not apply to any annexation ordinance that was pending, but not yet effective, on November 25, 1997.

**HISTORY:** Acts 1998, ch. 1101, § 16.

*Tenn. Code Ann. § 6-58-116 (2013)*

**6-58-116. Airport -- Annexation-free zone.**

Notwithstanding the provisions of §§ 6-58-106, 6-58-108 and 6-58-111, the property of an airport with regularly scheduled commercial passenger service that is located in a county other than the county where the creating municipality is located, except upon approval by resolution of the legislative body of the creating municipality, shall be and remain in an annexation-free zone.

**HISTORY:** Acts 2002, ch. 572, § 1.

*Tenn. Code Ann. § 6-58-117 (2013)*

**6-58-117. Flood insurance rate map or flood hazard boundary map -- Requirements for participation in the national flood insurance program.**

**(a)** In cooperation with the department of economic and community development, all counties and municipalities in this state that have an effective flood insurance rate map or flood hazard boundary map published by the federal emergency management agency that identifies a special flood hazard area within the political boundaries of the county or municipality shall meet the requirements for participation in the national flood insurance program authorized by *42 U.S.C. § 4001 et seq.* and administered by the federal emergency management agency on or before June 30, 2012.

**(b)** If a county or municipality does not currently have an effective flood insurance rate map or flood hazard boundary map published by the federal emergency management agency that identifies a special flood hazard area within the political boundaries of county or municipality, the county or municipality shall have twenty-four (24) months from the effective date of any future flood insurance rate map or flood hazard boundary map published by the federal emergency management agency to meet the requirements for participation in the national flood insurance program.

**HISTORY:** Acts 2010, ch. 1091, § 3.

**NOTES: Compiler's Notes.**

For the Preamble to the act concerning state government efforts to provide secure and efficient processing of information through call centers, please refer to Acts 2010, ch. 1091.