



## TENNESSEE FARM BUREAU FEDERATION

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July 24, 2013

Tennessee Farm Bureau Federation  
Statement for TACIR  
Rhedona Rose, Executive Vice President

We appreciate the opportunity to make comments today.

We also appreciate the leadership of Representative Mike Carter and Senator Bo Watson for getting us to this point with Public Chapter 441. PC 441 is the first annexation reform passed since the adoption of Public Chapter 1101, the Growth Policy Act of Tennessee.

Public Chapter 1101 was bold and out of the box thinking with the best intentions in 1998. Following the passage of PC 1101, lawmakers and various organizations on both sides of the annexation debate held to a truce of no more annexation related bills until PC 1101 was given time to work. That truce has been in place for 15 years. A generation of Tennesseans has started and finished K-12 in the 15 years since PC 1101 has been in place. Only 14% of the 133 Tennessee lawmakers who were serving when PC 1101 passed in 1998 are members of the General Assembly today (*15 house members and 4 senators*). We do not advocate that the age or number of years a law has been in place should be the indicator of whether it is time to revisit the law but we do believe it is important to consider the feedback and implementation success. It would be prudent to question if the law fully accomplished its intended purpose when many of the same complaints heard in 1998 are relevant again in 2013.

In 1998, Farm Bureau members, through our grassroots, developed policy directing us to advocate for the "right to vote". That particular provision was simply not in the cards in 1998. We did support PC 1101 because of the inclusion of zoning restrictions on agricultural activities within municipal limits and because of the designated agricultural representative on the coordinating committee.

However, many believed the Urban Growth boundaries were drawn excessively large and now as more areas want to amend their growth plans Farm Bureau members are questioning the fairness of the process.

From the very beginning we heard complaints from counties with multiple municipalities. In these areas, our rural members believed the balance of the Coordinating Committees were skewed toward the municipalities. In addition, such areas displayed more municipal competitiveness toward staking claim to future areas of annexation.

Landowners, both before and after the implementation of PC 1101, believed the advantage is in favor of municipal governments. Farmers often comment that municipalities have access and funding for legal resources the property owners do not have.

### **Looking Forward**

But now let's look forward. Today our mission is to take what we have learned from PC 1101 and look forward as it relates to annexation.

Our Farm Bureau policy still advocates, *"citizens in the area affected should have the right to vote to be annexed or to remain outside the municipality."*

Why is Tennessee one of a few states where citizens do not have the right to vote on the annexation of their property by a municipality?

The fact that PC 441 establishes a 13-month moratorium on the “forced annexations” of farm and residential properties speaks volumes in acknowledging a problem of unwanted annexation is still occurring.

Many property owners consciously choose to live beyond municipal boundaries and Tennessee’s annexation policy overrides the wishes of these property owners.

We often hear our members compare a forced annexation to condemnation through eminent domain. With eminent domain one actually loses his or her land while with annexation one may see limitations imposed through land use restrictions and regulations while also incurring a substantial increase in expenses. These expenses are to pay for services the landowner consciously chose not to purchase when he or she made the decision to locate outside of the municipal limits.

### **Stability and Predictability**

Farmers need stability and predictability when it comes to government regulations and taxes. Farming has enough natural risk involving weather, disease and price fluctuation without adding government regulations.

### **Cost of Community Service Study**

It is true that farms do not pay as much in taxes as other properties. But, they also do not require as much in services. A few years ago, Farm Bureau along with Cumberland Region Tomorrow, and the American Farmland Trust (AFT) conducted a Cost of Community Services (COCS) study to find the current net fiscal impact of existing land uses in three Tennessee counties, Tipton, Robertson and Blount Counties. The studies analyze revenues and expenditures on a land use basis for fiscal year 2005 (July 2004 to June 2005). It examined revenues by land use and the financial demands of public services (e.g., public safety, government administration, schools, courts, etc.) and showed the cost of providing these services to residential, commercial, industrial, and farmland uses.

The study focused on the county budget revenues and expenditures but there is a similar relationship on municipal services.

### **In the case of the Robertson County COCS:**

- 82 percent of revenue in fiscal year 2005 was generated by residential land uses; 16 percent was generated by commercial and industrial land uses; and 2 percent by farm and forest land;
- 96 percent of county expenditures were used to provide services for residential land use compared with 3 percent for commercial and industrial uses and 1 percent for farm and forest land.

In other words, for each \$1 of revenue received from residential properties in fiscal year 2005, Robertson County spent \$1.15 providing services to those lands. For each \$1 from commercial and industrial land uses, the county spent 20 cents; and for each \$1 received from farmland, the county spent 26 cents providing services.

## **LAND USE PLANNING**

Farm Bureau members believe any erosion of private property rights weakens all other rights guaranteed to individuals by the Constitution. Once property is annexed into a city it becomes very difficult to continue farming the property. Landowners incur all types of additional challenges and regulations. We receive questions related to the *Right to Farm* statute within cities. Can a city impose an animal ordinance? If a city grandfather's a livestock farm and the farmer rotates the animals to another location how long can the land be void of animals without losing the grandfather status? What expansion options does the farmer have?

Farm Bureau is not anti-planning. Several local communities have used zoning very effectively in accomplishing orderly growth and designating land use to certain areas. Local planning can save tax dollars and protect landowners when local people make decisions.

We are sensitive to local governments using zoning as a tool to regulate agricultural practices. PC 1101 included language to prevent such from occurring with annexed land. However, in a 2010 Attorney General's opinion the AG opined that TCA 6-54-126 does not prohibit a municipality from charging for a building permit for land being used for agricultural purposes. The AG responded that TCA 6-54-126 is concerned only with a municipality's power to regulate the use of land and not with that municipality's ability to require building permits. Whereas the limitation of county zoning powers on agricultural land is within TCA 13-7-201(a) (1) and clearly does apply to both the land and the buildings and confirmed by more than one AG opinion. Therefore, a municipality has the power to charge a fee for a building permit on agricultural land but a county does not. Our experience has shown when a municipality requires a permit it also requires the building to be built to certain specifications.

### **Farm Bureau Suggestions**

1. Allow citizens the right to vote.
2. Exempt bona fide farms.
3. Address the areas that were grandfathered in PC 1101.

### **Allow Citizens the Right to Vote**

Landowners feel powerless and become resentful when the actions by officials they did not help elect make annexation decisions that affect the landowner.

### **Exempt Bona Fide Farms**

Our neighbor to the East, North Carolina, just completed a major annexation reform. North Carolina exempts bona fide farms from annexation unless the municipality obtains consent of the owner or owners of the parcel. Tennessee should do likewise.

In addition, within North Carolina's Extraterritorial Jurisdictions (ETJ), which is typically 1 – 3 miles beyond the municipal limits, farms cannot be zoned or taxed by the municipality.

The vast majority of services provided by municipalities do not benefit production agricultural land. Farm acreage does not typically use or need streetlights, sidewalks, water, police and fire protection. To a farmer interested in continuing to farm the land, increasing the "value of the land" from a development perspective is not a plus.

If farmland is annexed, no city property taxes should be collected as long as the land remains in production agriculture. Working family farms within the city limits are an asset to the livelihood of the cities' citizens. Every effort should be made to preserve these working farms when the

landowner wants to continue to farm. Farm owners should always be consulted as to their intent to continue farming before annexing into a city limit. We encourage local governments to voluntarily work more closely with farmers to develop incentives to promote the continuation of family farms.

### **Evaluate the Municipal Areas without Services Grandfathered in 1998**

PC 1101 grandfathered areas without service requirements. How many of those areas have been provided services as of today?

Our members believe the primary motivations for annexation are economic and financial and often premature. Cities that have still not provided services to areas annexed prior to 1998 should be prevented from any further annexation until such areas are fully serviced.

Committee members, thank you for your time. The challenge of balancing the interests of the rural and urban, city and county, farmer and nonfarm stakeholders is not an easy challenge.