

Draft Research Plan: Municipal Boundary Changes and Comprehensive Growth Plans

Research Manager: Leah Eldridge

Lead Research Associate: Kerri Courtney

Support: Bill Terry and Bob Moreo

Deputy Executive Director Approval: Initial:  Date: 31 May 2013

Executive Director Approval: Initial:  Date: 31 May 2013

Purpose:

Public Chapter 441, Acts of 2013, directs the Commission to complete a comprehensive review and evaluation of the efficacy of state policies set forth in Title 6, Chapters 51 and 58.

Two bills were referred by the Senate State and Local Government Committee and by the House Finance, Ways and Means Subcommittee:

Senate Bill 1316 by Bowling, **House Bill 1249** by Van Huss prohibits a municipality from annexing any land within its urban growth boundary that is zoned for agricultural use until there is a change in use triggered by a request for a non-agricultural zoning designation or by sale of the territory for use other than agricultural purposes.

Senate Bill 1381 by Bowling, **House Bill 1319** by Van Huss requires any municipality proposing to annex territory within the municipality's urban growth boundary to mail notice to any property owners within that urban growth boundary 90 days prior to the date of proposed annexation and to hold at least three public, informational meetings.

Three additional bills were referred to the Commission for study by the Senate State and Local Government Committee:

Senate Bill 613 by Yager [**House Bill 1035** by Keisling] revises the procedure for amending growth plans; establishes procedures for adoption of a revised growth plan.

Senate Bill 731 by Watson [**House Bill 230** by Carter] requires all annexations within a municipality's urban growth boundaries under an amended growth plan to be by referendum only and not by ordinance.

Senate Bill 732 by Watson [**House Bill 0231** by Carter] places restrictions on the ability of the mayor of a municipality that has not annexed all territory within its urban growth boundaries to propose an amendment to the growth plan and to serve on the coordinating committee reconvened or reestablished to amend the growth plan.

And one additional bill was referred by the House Finance, Ways and Means Subcommittee:

House Bill 590 by Van Huss [**Senate Bill 869** by Crowe] requires, prior to a municipality annexing within its urban growth boundary, the approval of a majority vote of qualified voters in the territory proposed for annexation.

Public Chapter 441 requires that the Commission report back to the Speaker of the Senate and the Speaker of the House on or before January 14, 2014. The Senate State and Local Government Committee also directed the Commission to report back on Senate Bill 613, Senate Bill 731, Senate Bill 732, Senate 1316, and Senate Bill 1381 by January 14, 2014.

Another annexation bill, **Senate Bill 1054** by Kelsey, **House Bill 1263** by Carr, D., was amended and passed by the General Assembly this year. Sections 5 and 6 of the original bill, which were deleted from the amended version of the bill, would have simplified the plan of services requirement imposed on annexing municipalities, deleting provisions that have been in the law since the 1970s, thereby easing the annexation burden on cities. These bill sections are related to the annexation issues the Commission will be studying.

The study of these bills will be incorporated with research initiated earlier this year by the Commission, which directed the staff to review the legal status of local governments' 20-year growth plans, determine the legal status of plans at the end of 20 years, and analyze potential improvements to the planning process. The study will also include an examination of how counties will be affected by the Public Chapter 1101 provision that enables a county to receive a municipality's wholesale beer and local option sales tax revenues from annexed territory for 15 years after an annexation.

Step 1. Define the Problem

Annexation disputes amongst counties, cities, and affected residents have been a recurring theme in Tennessee's history. Tennessee's Growth Policy Act (Public Chapter 1101, Acts of 1998,) was an effort to resolve these disputes by requiring counties to prepare a 20-year growth plan laying out where future growth and annexation could occur. It has been 15 years since the passage of the Act and questions remain whether it has served its intended purpose and whether there are other improvements that could be made to the annexation and growth planning processes.

The problem statement will be revised as needed throughout the research process to accurately reflect any new considerations and information.

Step 2. Assemble Some Evidence

- Review committee hearing on the bill and record comments and concerns of committee members, the bill sponsor, and others speaking for or against the bill.

Change of Municipal Boundaries (Title 6, Chapters 51 and 58)

- What laws in other states govern changes in municipal boundaries?
 - What do their laws authorize/require?
 - What is the predominant means in actual practice?
 - How has that changed in the last ten years?
- What have experts said about the different approaches to changing municipal boundaries?
 - What other ideas are out there that no one's doing but might be worth considering?
 - Old ones
 - Tried but not still done—why?
 - Never tried—why?
 - New ones
- How often have contiguous municipalities mutually agreed to adjust their corporate boundaries since the passage of Tennessee Code Annotated 6-51-302?
- How often have municipalities de-annexed territory since the since the 1970s?
- How often have municipalities merged since the passage of the law authorizing the merger of cities in Title 6, Chapter 51, Part 4?
- How often have municipalities negotiated for public utility functions provided by another entity pursuant to Tennessee Code Annotated 6-51-301?
- How many different ways have we tried to change municipal boundaries in Tennessee?
 - Means adopted and still in place
 - Means adopted and later abandoned—why?
 - Means proposed but never adopted—why?

Annexation

- How much have the number of annexations in Tennessee increased or decreased since adoption of Public Chapter 1101? By type?

- How much has the amount of land annexed by municipalities increased or decreased since the 1970s? Since the passage of Public Chapter 1101?
- How much more or less do municipalities in Tennessee annex than municipalities in other states with similar laws? Different laws?
- What do different interest groups in Tennessee and elsewhere think about annexation? How do their opinions differ and why? How does annexation affect the fiscal stability of the cities and counties involved?
- How are taxes affected by annexation?
- How will counties be affected by the Public Chapter 1101 provision that enables a county to receive a municipality's wholesale beer and local option sales tax revenues from annexed territory for 15 years after an annexation?

Annexation by Referendum

- How often have municipalities in Tennessee annexed by referendum since the 1970s? Since the passage of Public Chapter 1101?
- What are Tennessee's and other states' laws on annexation by referendum?
- What have experts said about annexation by referendum?

Annexation of Agricultural Land

- What are Tennessee's and other states' laws on annexing property that is zoned for agricultural use?
- What effects could a prohibition against annexation of agricultural lands have on municipalities? Agricultural property owners? Other municipal residents?

Notice of Annexation

- What is the purpose of notification requirements in annexation?
- What are the notice requirements in Tennessee and other states?
- What changes in Tennessee law have been proposed? What changes have been adopted?
- What issues are raised by the length of the notice period? Are there different issues related to different purposes of notification?
- What have experts said about annexation notice requirements?

Plan of Services

- What are the plan of service requirements in Tennessee and other states?
- What have experts said about plan of service requirements?

Comprehensive Growth Planning (Title 6, Chapter 58)

- How many different ways have we tried doing it in Tennessee?
 - Means adopted and still in place.
 - Means adopted and later abandoned—why?
 - Means proposed but never adopted—why?
- How do other states do it?
 - What do their laws authorize/require?
 - What is the predominant means in actual practice?
 - How has that changed in the last ten years?
- What do different interest groups in Tennessee and elsewhere think about growth planning? How do their opinions differ and why?
- What have experts said about the growth planning?
 - What other ideas are out there that no one's doing but might be worth considering?
 - Old ones
 - Tried but not still done—why?
 - Never tried—why?
 - New ones
- How does growth planning affect the fiscal stability of the cities and counties involved?

Amending Growth Plans

- What are the procedures for amending growth plans in Tennessee and other states?
- What have experts said about the procedures for amending growth plans?

Step 3. Construct Alternatives

Staff will develop a list of possible alternatives based on the information gathered in Step 2. Alternatives will be based on

- a. current law,

- b. proposed changes to current law, and
- c. any additional alternatives drawn from research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

Staff will use the following criteria to evaluate the outcomes generated in Step 5:

- Efficiency
- Fairness and Equity
- Cost
- Political feasibility

Additional criteria may be identified in Step 2.

Step 5. Project Outcomes

For each alternative constructed in Step 3, the staff will

- Determine whether it will enable county and municipal governments to operate more efficiently
- Determine how equitable it is to different interest groups
- Identify any constitutional issues
- Estimate its cost
 - Public
 - Property owners
- Estimate the receptiveness of
 - Legislators
 - State and local officials who will be required to implement the alternative (i.e., ability and willingness of the administration to implement)
 - Members of the public

Step 6. Confront Trade-offs

- What are the pros and cons of the potential solutions?
- What are the “best bets” for this particular situation?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission

Revisit Steps 5-8.

- Revise and edit the draft to reflect comments of the Commission
- Submit final report to the Commission for approval

