

A Commission Report to the
102nd General Assembly

Tennessee's Growth Policy in 2001: Promises and Progress

The Tennessee Advisory Commission
on Intergovernmental Relations

June 2002



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State of Tennessee
Tennessee Advisory Commission on Intergovernmental Relations

June 1, 2002

The Honorable John S. Wilder
Speaker of the Senate

The Honorable Jimmy Naifeh
Speaker, House of Representatives

Members of the General Assembly

State Capitol
Nashville, TN 37243

Ladies and Gentlemen:

We are transmitting our study of the implementation of Public Chapter 1101 of 1998. In the Act, the Tennessee Advisory Commission on Intergovernmental Relations was directed to monitor the implementation of this Act and to report its findings to the General Assembly. This report is the result of a year of extensive monitoring of developments across the state.

A major finding of this report is that all but three counties required to develop countywide growth plans have secured approval of their plans by the Local Government Planning Advisory Committee prior to the July 1, 2001 deadline. This represents a major achievement in public policy in Tennessee and something we can all be proud of.

Sincerely,

Senator Robert Rochelle
Chairman

Harry A. Green, Ph.D.
Executive Director

**A Commission Report to the
102nd General Assembly**

**Tennessee's Growth Policy In 2001:
Promises and Progress**

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Intergovernmental Relations**

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IMPLEMENTATION DEVELOPMENTS - PUBLIC CHAPTER 1101

The major implementation developments for Public Chapter 1101 in calendar year 2001 are as follows:

- Fifteen counties secured approval of their growth plans by Local Government Planning Advisory Committee (LGPAC) in 2001 bringing the total number of counties with approved growth plans to ninety counties (98% of those required) by June 30, 2001;
- Two counties and their municipal governments (Fayette and Polk) failed to reach agreement on countywide growth plans by June 30, 2001 and are ineligible to receive selected state grants. These counties are now engaged in the arbitration process administered by the Secretary of State's office;
- Sullivan County, Blount County and Shelby County dealt with lawsuits which challenged their growth and a lawsuit was initiated challenging annexations in Knoxville;
- Seventeen counties obtained LGPAC determination of their existing countywide boards as "sufficiently similar" to meet the requirements as Joint Economic and Community Development Boards (JECDBs). A total of twenty-five counties now have obtained this status. In addition sixty-five counties have self-certified that they have created new JECDBs yielding a total of ninety counties. A question that rises is whether or not self-certification produces the results intended in P.C. 1101;
- Four state agencies announced policies for the imposition of sanctions against counties and municipalities without approved growth plans, beginning in FY 2002; these are the Department of Transportation, the Department of Tourism, the Department of Economic and Community Development and the Tennessee Housing Development Agency;
- Voters in Coffee County rejected a proposed metropolitan government charter; and,
- The Attorney General issued two opinions on various aspects of the act: LGPAC is not required to approve the expansion of a municipality's planning region to encompass all of its urban growth boundary, and the impact of a growth plan on a decision to extend sewer service for development into an area designated as part of a rural area under a county growth plan could only be determined by a court of competent jurisdiction after considering all of the relevant facts.

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This report provides information on the progress made by Tennessee's counties and municipalities in the implementation of P.C. 1101 of 1998 (T.C.A. § 6-58-101 *et seq.*) This Act (P.C. 1101) establishes the requirements for the development of countywide growth plans covering a twenty-year planning horizon, and includes the establishment of countywide Joint Economic and Community Development Boards (JECDBs) intended to foster ongoing communication and cooperation between county and municipal governments. It also establishes a new set of requirements for municipal annexations and incorporations, as well as for the consolidation of local governments.

Pursuant to T.C.A. § 6-58-113, the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) monitors the implementation of P.C. 1101 and periodically reports its findings to the General Assembly. This report is one of the primary means by which the TACIR fulfills this responsibility. This report is the fourth implementation report issued by the Commission, and focuses on implementation actions for the calendar year 2001.¹

The Monitoring Effort

The information provided in this report has been generated through a monitoring effort conducted throughout 2001. During that time TACIR has:

- conducted informal surveys of, and exchanged correspondence with, local government officials and planners, and various state agencies;
- scanned press reports and collected press newspaper clippings from across the state on P.C. 1101 related stories;
- reviewed court decisions and Tennessee Attorney General opinions;
- maintained records of written and oral queries concerning various aspects of the implementation effort and/or the meaning of provisions of P.C. 1101;
- attended mediation and arbitration hearings concerning pending growth plans in several counties; and
- attended meetings of the Local Government Planning Advisory Committee (LGPAC).

The TACIR appreciates the assistance that it has received from all stakeholders in the P.C. 1101 process. It assumes sole responsibility for the accuracy of the material contained in this report.

¹ The first report was entitled Implementation of Tennessee's Growth Policy Act: The History of P.C. 1101 and the Early Stages of its Implementation (March 1999). The second report, entitled Tennessee's Growth Policy Act: A Vision for the Future, was published in April 2000. The third report was entitled Implementation of Tennessee's Growth Policy Act in CY 2000: A Year of Progress, and published in January 2001. These reports are available on the TACIR web site at www.state.tn.us/tacir.

A. PROGRESS TOWARD THE DEVELOPMENT OF GROWTH PLANS

Background

P.C. 1101 (T.C.A. § 6-58-106) provides for Tennessee's counties and their municipal governments to develop countywide growth plans. These plans are to establish Urban Growth Boundaries (UGBs) for municipalities, as well as Planned Growth Areas (PGAs) and Rural Areas (RAs) for counties, and are intended to guide the future growth and development within each county over the next twenty years. Once approved, all land use decisions made by the municipal or county legislative bodies or planning commissions are required to be consistent with the approved growth plan.

These plans are to be developed by coordinating committees made up of representatives from all of the affected local governments in that county. The recommended growth plans developed by these coordinating committees are then to be submitted to the county commissions and the governing bodies of the municipalities within the county for their approval. The legislative bodies of the counties and their municipalities may then either reject or ratify those plans. Ratified plans are submitted to the Local Governmental Planning Advisory Committee (LGPAC) for approval. Details of these provisions are provided in Appendix One.

Progress in Calendar Year 2001

Calendar Year (CY) 2001 was critical to the plan development process because counties and municipalities which did not secure the approval of their growth plans by June 30, 2001 would become ineligible for a number of state grant and loan programs. While in CY 2000, incentives in the form of bonus points were available for those counties that

secured approval of countywide growth plans, CY 2001 marked the first time that local governments in Tennessee would face the loss of state funds for not developing growth plans meeting minimum state standards.

Fifteen counties had growth plans approved by LGPAC in 2001 (see Table 1). When combined with those counties with previously approved plans, this yields a total of ninety counties, (or 97%) of the ninety-three counties² subject to the requirements of P.C. 1101 that secured approval of ratified plans by the LGPAC on or before the June 30, 2001 cut-off date in order to remain eligible to receive state grants. LGPAC has not considered any growth plans since its June 27, 2001 meeting. A complete listing of the status of all of Tennessee's 95 counties regarding P.C. 1101 is included in Appendix 5 at the end of this report.

In most cases, these counties secured approval by LGPAC via the submission of maps outlining the UGBs, PGAs or RAs within the counties accompanied by certifications signed by officials of the affected jurisdictions. All of these plans were submitted to the LGPAC after ratifications by all the affected county and municipal governments. Thus, the LGPAC automatically approved them, as required by the Act, without regard to the extent to which the requirements in Section 5 (pertaining to the overall political process to be followed) and Section 7 (pertaining to the planning process) were met.

² Counties refer to both the county and the municipal governments within counties.

The one exception to this pattern was Blount County whose growth plan was developed through the mediation process administered by the Secretary of State's office. LGPAC subsequently modified this plan prior to its

approval. The Blount County case is discussed in greater detail in Section E of this report since there is a lawsuit pending challenging this plan.

**TABLE 1
P.C. 1101 GROWTH PLANS
LGPAC APPROVALS - 2001**

County	Date Approved
Anderson County	6/27/01
Blount County	6/27/01
Campbell County	1/24/01
Hamblen County	1/24/01
Hamilton County	6/27/01
Hancock County	6/27/01
Hawkins County	6/27/01
Knox County	4/25/01
Rhea County	4/25/01
Roane County	4/25/01
Robertson County	4/25/01
Sevier County	6/27/01
Union County	6/27/01
Williamson County	6/27/01
Wilson County	1/24/01

Status of the Remaining Counties

There are six counties that either do not have approved growth plans or are exempt from the requirements of the Act by statute. Their status is described briefly here and summarized in Table 2 below.

Three counties that have metropolitan governments are statutorily exempt from developing growth plans under P.C. 1101. These are Davidson County, Moore County, and Trousdale County.³

There are currently three counties that are not statutorily exempt from the requirements of P.C. 1101 but have still not yet adopted growth plans. These are:

- Fayette County is currently without a growth plan and is in arbitration with the Secretary of State's office and the conflict is unresolved.
- Polk County has rejected the non-binding resolution offered by the administrative law panel. The Secretary of State's office has received a request for arbitration but is awaiting additional requested information.
- Warren County is in the process of developing a growth plan. Warren County has until June 30, 2002 to come into compliance with P.C. 1101 due to a previous attempt at adopting a metropolitan form of government that was not approved by the voters.

**TABLE 2
STATUS OF REMAINING COUNTIES
REGARDING P.C. 1101 GROWTH PLANS**

County	Status
Davidson County	Metro: Exempt
Fayette County	In Arbitration
Moore County	Metro: Exempt
Polk County	Awaiting Arbitration
Trousdale County ³	Metro Charter approved 11/07/00: Exempt
Warren County	Metro government disapproved by voters 09/21/2000; deadline for growth plan 07/01/02

³ Trousdale County developed a growth plan that was approved by LGPAC on June 28, 2000 prior to adopting a metro charter.

Impasse Status and the Administrative Law Judge Process

P.C. 1101 provides that a county governing body or the governing body of a municipality may declare an impasse at any time after the failure of either entity to ratify a plan recommended by the coordinating committee in the county. Either may request that the Secretary of State appoint a dispute resolution panel, composed of administrative law judges, to resolve the dispute.

In preparation for those sessions, the Administrative Services Division of the Secretary of State's office announced that panels of one to three judges would conduct an initial round of mediation. If that effort did not succeed in resolving the conflicts, an arbitration effort would be initiated and a plan would be imposed on the parties.

One significant difference between the growth plans developed by the coordinating committees at the county level and those developed through the administrative law process is how these plans may be reviewed by LGPAC. Plans recommended by the county coordinating committee and approved by the legislative bodies of the county and all of its municipalities are reviewed and automatically approved by LGPAC provided that certain minimum mapping requirements are met. Those plans that have come through the administrative law process have the potential to be modified by LGPAC subject to the requirements of Section 7 of the Act. In the case of those plans that are developed in arbitration, the administrative law judges have announced in the first arbitration case that the Section 7 criteria detailing the process for determining the appropriate size of the UGBs, PGAs and RAs will be followed in developing growth plans.

In 2001, the Secretary of State's office conducted its first set of arbitration proceedings under P.C. 1101, attempting to produce a growth plan for Fayette County. Prior to entering arbitration, the Secretary of State's office attempted to produce a mediated agreement for Fayette County and its municipalities. Despite these efforts, the county and all of the municipalities were unable to reach an agreement over the size of the county's PGA and the UGB of the City of Pipeston. There have been four groups of hearings conducted in Nashville with the administrative law panel still without resolution.

Polk County has also requested arbitration and had been scheduled to begin its arbitration hearing in January 2002. Those proceedings have been postponed until some additional materials requested by the law panel have been received.

State Department Policies Regarding Incentives and Sanctions

P.C. 1101 (T.C.A. § 6-58-110 and § 6-58-111) provides for incentives on certain grants and loans administered by the State of Tennessee for those counties that adopted growth plans prior to July 1, 2000, and sanctions for those counties that have not adopted growth plans by July 1, 2001.⁴

The administration of these programs involved four separate state agencies: the Tennessee Housing Development Agency (THDA), the Tennessee Department of Economic and Community Development (ECD), the Tennessee Department of Transportation (TDOT), and the Tennessee Department of Tourism. Each of these state agencies has announced some type of policy concerning counties and municipalities that either do or not have approved growth plans.

⁴ These programs are outlined in Appendix Three.

Department of Economic and Community Development

The ECD implemented the 5 percent bonus points in its FY 2000, non-economic development Community Development Block Grant Program (CDBG) by increasing the base points earned by any project by 5 percent.

In September 2000, the ECD announced that CDBG economic development grants, CDBG “regular round” grants, Tennessee Industrial Infrastructure Program (TIIP) grants, and Industrial Training Service Program (ITS) grants will be unavailable to counties (and municipalities therein) that do not have approved growth plans or which cannot certify that they have JECDBs in place by July 1, 2001. It delayed the application of this policy for one year in those communities that had created a metropolitan charter commission but had failed to ratify the charter by July 1, 2001.

Tennessee Housing Development Agency

The THDA is mandated under P.C. 1101 to give five additional points or a comparable percentage increase on evaluation formulas for the loans and grants that it administers.

THDA announced that it would:

- Award 14 additional points in the HOME evaluation formula for FY 2001 HOME grant applications received from counties and municipalities with growth plans approved by LGPAC by July 1, 2000, but prior to the HOME grant application deadline of March 2001;
- Deny HOME grants in FY 2002 to any county or municipality which

does not have a growth plan approved by LGPAC by July 1, 2001;

- Award 20 additional points (based on a scale of 5 points per 100) for tax credit developments under its 2001 Low Income Housing Tax Credit Qualified Allocation Plan proposed in counties or municipalities that have growth plans approved by LGPAC on or after July 1, 2000; and
- Award additional points (based on a scale of 5 points per 100) under its 2001 allocation plan for private activity bond authority for multi-family developments proposed in counties or municipalities that have growth plans approved by LGPAC on or after July 1, 2000, if such an allocation plan is developed by THDA.

Tennessee Department of Transportation

The TDOT announced that effective July 1, 2001 counties and municipalities without approved growth plans would not be eligible to receive Intermodal Surface Transportation Efficiency Act (ISTEA) funds, or any subsequent federal authorization for transportation funds. This ISTEA program has since been continued or replaced by the Transportation Equity Act for the 21st Century (TEA-21). TDOT has not, however, made any announcements concerning the certification of a JECDB as required in Section 15 of the act (TCA § 6-58-114).

Tennessee Department of Tourism

The Department of Tourism has announced that counties and municipalities that do not have approved growth plans by July 1, 2001 are ineligible for funding. Counties and municipalities must also certify existence of their JECDBs to receive funding.

TABLE 3
Tennessee State Department Policies Concerning Sanctions

Grant Program	Growth Plans	JECDBs
Tennessee Housing Development Agency's (THDA) HOME Grants	THDA will deny HOME grants to counties and municipalities without approved plans in place by July 1, 2001 in fiscal year 2002.	Certification of JECDB not required since Home grants are federal grants not specifically referenced in the act.
Tennessee Department of Economic and Community Development's Community Development Block Grants, TN Industrial Infrastructure Program Grants, Industrial Training Service Grants	The grants will be unavailable in counties and municipalities that do not have an approved growth plan by July 1, 2001.	Counties and municipalities must certify compliance with JECDB requirement to receive funding.
Tennessee Department of Transportation's TEA-21 Grants (formerly ISTEAs)	Those counties and municipalities without approved growth plans as of July 1, 2001 will not be eligible to receive grants or loans utilizing ISTEAs funds or any other subsequent federal authorization for transportation funds.	No stated policy.
Tennessee Department of Tourism's Development Grants	Counties and municipalities that do not have approved growth plans by July 1, 2001 are ineligible for funding.	Counties and municipalities must certify existence of JECDB to receive funding.

B. STATUS OF THE EFFORTS TO ESTABLISH JOINT ECONOMIC AND COMMUNITY DEVELOPMENT BOARDS

Background

Section 15 of P.C. 1101 (T.C.A. § 6-58-114) provides that counties and their municipalities are to establish Joint Economic and Community Development Boards (JECDBs). These boards are established to “*foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.*”

The Act provides that a county may seek to use an existing board that is “sufficiently similar,” subject to approval by the LGPAC. As an alternative, the county may establish a new board. Appendix 4 contains a detailed description of the characteristics of a JECDB that would address all of requirements and purposes listed in P.C. 1101.

The Act contains provisions for sanctions by state agencies against counties and municipalities which do not establish JECDBs. All counties and municipalities are to certify that they have such boards in applications for state grants. Those that are not able to do so may not be eligible for state grants.

Progress in CY 2001

1. “Sufficiently Similar” Applications

Seventeen counties had existing boards approved as “sufficiently similar” by LGPAC in 2001. These counties are Anderson, Cocke, Giles, Greene, Hardin, Hickman, Knox, McMinn, McNairy, Maury,

Putnam, Rhea, Roane, Sevier, Unicoi, Washington, and Williamson (see Table 4).

2. New Joint Economic and Community Development Boards

At least eight counties established new Joint Economic and Community Development Boards. These new boards are in Montgomery, Clay, Dickson, Hawkins, Haywood, Houston, Humphreys, and Rutherford Counties.

Given the fact that there is no requirement for a county or municipality to inform any state agency of the establishment of a new board, there may be more than eight counties that have created new boards. In fact, the Tennessee Department of Economic and Community Development has received statements certifying the existence of a JECDB from every county with an approved growth plan that has applied for CDBG funds. However, the accuracy of these statements has not been verified and TACIR believes that the total number of such boards falls far short of the number of approved growth plans.

TACIR Efforts

In the CY 2000, TACIR issued a staff information report entitled *Joint Economic and Community Development Boards: A Guide for Future Action* (February 2000). This report was designed to answer a number of questions that had risen locally concerning the requirements of creating

JECDBs. A copy of this report is available on the TACIR web site.

State Agency Concerns Regarding the JECDB Requirement For Certifying Compliance

It has become clear to many concerned parties in the state that counties and municipalities had not addressed their responsibilities in forming acceptable JECDBs. TACIR staff concluded in 2000 that fewer than fifty percent of the required boards had been established.

In order to stimulate compliance with the provisions of the Act concerning JECDBs, member agencies of the Ad Hoc Implementation Steering Committee communicated their concerns over the lack of compliance.

- In October 2000, Dr. Harry Green, TACIR Executive Director, wrote a letter to all county executives and the mayors of the larger cities in each county advising them that the JECDB requirement might affect grants after July 1, 2001.
- The University of Tennessee's County Technical Assistance Service (CTAS) notified its county clients that failure to develop a JECDB by July 1, 2001 could jeopardize the receipt of state grants.
- Tom Ballard, UT Vice-President and Ad Hoc Steering Committee Chair, wrote a letter to the Governor's office on behalf of the committee. He asked for a coordinated administrative response on the timing of sanctions that could be imposed by state agencies on counties and cities for non-

compliance with the provisions of the Act pertaining to JECDBs. This letter was based upon the assumption that greater compliance would follow in the wake of a clear statement on sanctions. The Steering Committee hoped this action would remove confusion over the date on which state agencies may impose such sanctions.

Based on the most recent information, it appears that only Fayette and Polk Counties, which also do not yet have approved growth plans, are the only counties without an acceptable JECDB. According to the Tennessee Department of Economic and Community Development, every county in Tennessee that is required to have a growth plan and has had a plan approved has either certified that they have a JECDB or has had a designation of "sufficiently similar" approved by LGPAC (see Appendix 6).

While this may in fact be the case, TACIR staff is concerned that some of the counties that have self-certified the existence of their JECDB may not have boards in place that meet the minimum standards as specified in the act. While the Act does specify a review and approval process by LGPAC for the designation of an existing board as "sufficiently similar", there is not any provision for the review and approval of newly created JECDBs. This may be an area that the General Assembly may wish to address in the future.

TABLE 4
COUNTIES ESTABLISHING
JOINT ECONOMIC AND
COMMUNITY DEVELOPMENT BOARDS
BY SUFFICIENTLY SIMILAR DESIGNATION IN 2001

County	Sufficiently Similar Determinations Approved by LGPAC in 2001
Anderson County	June, 2001
Cocke County	January, 2001
Giles County	April, 2001
Greene County	April, 2001
Hardin County	January, 2001
Hickman County	June, 2001
Knox County	June, 2001
McMinn County	January, 2001
McNairy County	June, 2001
Maury County	June, 2001
Putnam County	January, 2001
Rhea County	October, 2001
Roane County	June, 2001
Sevier County	April, 2001
Unicoi County	April, 2001
Washington County	January, 2001
Williamson County	April, 2001

C. FORMATION OF METROPOLITAN GOVERNMENTS

Background

P.C. 1101 (T.C.A. § 7-2-101) provides that a charter commission for a metropolitan government may be created within a county by a petition of at least ten percent of the number of votes cast in the county in the last gubernatorial election.

The Act (T.C.A. § 6-18-103 (b)) also provides that counties and municipalities actively pursuing the establishment of a metropolitan government will have until July 1, 2002 to adopt a growth plan, before facing sanctions in the form of denial of selected state grant and loan programs. These sanctions are discussed elsewhere in this report.

Developments in CY 2001

Warren County

In June 2000, the Warren County Charter Commission completed a metropolitan charter and submitted it to the public for ratification. However, voters in Warren County rejected the metropolitan charter in a referendum on September 21, 2000. P.C. 1101 provides that counties and municipalities that have a metropolitan charter rejected or otherwise not ratified by voters prior to July 1, 2001 will have until July 1, 2002 to have a growth plan approved by LGPAC before sanctions are applied. This means that Warren County has additional time to develop a growth plan and have it approved by LGPAC. A coordinating committee has been formed in the county, and it is in the process of developing a growth plan.

Coffee County

Coffee County is the only county in the state that attempted to form a metropolitan government in 2001. Citizens in Coffee County created a charter commission in 1999 using the voter petition method from P.C. 1101.⁵ The Coffee County Metropolitan Charter Commission completed a final draft of the metropolitan charter and submitted it to the public in March 2001. Voters rejected the metropolitan charter by a 2 to 1 margin on August 2, 2001. However, Coffee County already has an approved growth plan and thus is in compliance with the requirements of P.C. 1101.



⁵ TCA § 7-2-101

D. ATTORNEY GENERAL OPINIONS IN 2001

Public Chapter 1101 has generated a number of Attorney General's opinions. Many of the opinions have come from particular county and city concerns, or from questions raised during the implementation of the Act. Brief summaries of the opinions from 2001 are provided. Readers should consult the opinions for a more thorough and authoritative discussion of the issues.

1. Attorney General Opinion No. 01-092

Regional Planning and Urban Growth Boundaries

- Public Chapter 1101 does not require the Local Government Planning Advisory Committee to approve the expansion of the planning region of a municipal planning commission to encompass the entire area of the city's urban growth boundary in all cases.
- If, as a policy matter, the Committee (LGPAC) determines that the

expansion of the planning region of a municipal planning commission to encompass the entire area of the city's urban growth boundary is appropriate in all cases, the Committee may approve it, subject to the requirements in T.C.A. § 13-3-102.

2. Attorney General Opinion No. 01-096

Impact of Growth Plan on Extension of Sewer Service into a Rural Area

- The impact of a growth plan on a decision to extend sewer service for development of an area designated as part of a rural area under a county growth plan could only be determined by a court of competent jurisdiction after considering all the relevant facts and circumstances.

E. LEGAL DEVELOPMENTS IN 2001

There have been a number of lawsuits filed across the state challenging various aspects of some of the growth plans. Some of these suits have challenged various aspects of a county's growth plan. Some of these suits have been initiated specifically in response to annexations by municipal governments of property within their designated UGBs.

Identifying these lawsuits in any systematic fashion is difficult since there are no requirements for these annexations to be reported or reviewed by any state agency. Based on a review of press clippings and verbal accounts from members of the commission, staff has identified some of the more prominent lawsuits that have been active in 2001. These are reported below.

Suit Challenging the Blount County Growth Plan

On August 23, 2001, the City of Alcoa filed suit in Chancery Court challenging the legality of the Blount County growth plan as amended and approved by LGPAC. The City of Alcoa alleged that LGPAC illegally amended the Blount County Growth Plan submitted by the Secretary of State's Office to LGPAC by removing the Metropolitan Knoxville Airport Authority property not currently incorporated into the City of Alcoa from the City of Alcoa's designated Urban Growth Boundary (UGB), instead designating that property as part of the Blount County Planned Growth Area (PGA). The suit names LGPAC and all of the municipalities within Blount County as respondents.

The Blount County Growth Plan was approved by LGPAC on June 27, 2001. Unlike most of the other county growth plans, however, the Blount County plan was developed through the dispute resolution process administered by the Secretary of State's office, specified under TCA § 6-58-104, between March and June 2001. As a result of the mediation process, Blount County and its municipal governments were eventually able to reach agreement on a countywide growth plan, which was then submitted to LGPAC for approval.

At its June 27, 2001 meeting, however, LGPAC heard testimony from representatives of the City of Knoxville and the Metropolitan Knoxville Airport Authority objecting to the inclusion of the airport property within the UGB of the City of Alcoa. Subsequently, LGPAC voted to amend the growth plan as submitted by removing the airport authority property from the City of Alcoa's UGB and designating this property within the PGA of Blount County. The suit is currently pending.

Comment

This case is noteworthy for several reasons. First, the Blount County Growth Plan is the only growth plan approved under P.C. 1101 thus far that has been amended or modified by LGPAC prior to its approval. All of the other growth plans have been approved by LGPAC as submitted. This is due to the requirement in P.C. 1101 that those growth plans recommended or revised by the coordinating committee and ratified by the county and each of its municipalities shall be approved by LGPAC (TCA § 6-58-104). On the other hand, those

growth plans that have been developed via the administrative law process (mediation or arbitration) are subject to review and possible revision or modification by LGPAC in order to achieve conformance with the provisions detailed in Section 7 of the Act (TCA § 6-58-106).

Second, this case also illustrates how some issues related to the growth and development needs of a metropolitan region can and often do cross county lines. Since the growth plans developed under P.C. 1101 focus only on individual counties without consideration for issues that may be related to the larger metropolitan regions in the state, these kind of cross-county development issues and concerns may not be easily addressed within the current statute.

Suit Challenging the Shelby County Growth Plan

In Shelby County, a lawsuit challenging some aspects of the Shelby County growth plan was initiated in August 2000 by a group of property owners known as the Rural Action Group (RAG). In their petition, RAG has requested that the Shelby County Coordinating Committee be required by the chancery court to reconvene in order to amend the county's adopted growth plan to have an area currently designated within the UGB of Shelby County changed to a designation as a Rural Area (RA). This suit is currently pending.

Suits Challenging Annexations by the City of Knoxville

There have been a number of lawsuits (estimated at 20-25) against the City of Knoxville stemming from the city's annexation of various parcels of land within Knoxville's approved UGB into its corporate city limits. These lawsuits were originated by the owners of the affected

parcels stating that their properties were annexed without their consent. These suits, all filed by the same attorney, have also included challenges to the constitutionality of P.C. 1101 alleging that the act is unconstitutionally vague. The Attorney General's office has stepped forward to intervene and join the City of Knoxville in the defense of these suits because of their challenge to the constitutionality of the state law (P.C. 1101). These cases are pending.

Suit Against the Sullivan County Growth Plan

"We the People", a citizens' group, filed suit in chancery court against the approved Sullivan County growth plan in August 2000. The group alleged insufficient notice of public hearings, a failure to follow the Act's guidelines on boundaries of designated areas, maps were altered without public hearings, a misuse of population projections provided by the University of Tennessee, and a misunderstanding or deception by coordinating committee members on boundaries. The Chancellor dismissed most of the charges and defendants in the case.

At the final hearing on July 10, 2001, Kingsport and Bristol were the only remaining defendants in the case. "We the People" alleged that Kingsport and Bristol were required to use the UT population projections, rather than locally generated population projections when developing their UGBs. The Chancellor held that Bristol and Kingsport did nothing wrong when they used locally generated population projections rather than the UT projections when drafting their UGBs. The Chancellor held that the UT projections should be used "as a starting point but not necessarily the final decision."

F. AREAS OF CONTINUED CONCERN

The enactment of P.C. 1101 has provided Tennessee's communities with some of the tools necessary for working cooperatively towards managing their future growth and development. Growth plans have been developed and approved across the state in almost all of those counties required to do so by the act.

Despite these successes, many consider P.C. 1101 as an important first step in a process that is still unfolding as county and municipal governments begin working within the parameters of the plans they have developed. During the course of its monitoring efforts, TACIR staff has observed a number of areas where questions or difficulties of implementation of some of the provisions of the act have emerged. Staff has provided brief descriptions of some of these issues. The list is not intended to be exhaustive, but rather to elucidate some of the more important areas that have come up thus far.

Extraterritorial Planning and Zoning Authority

There is continued controversy over the granting of extraterritorial planning authority by LGPAC to those municipal planning commissions that have been designated as regional planning commissions. Under Tennessee law, a municipal planning commission designated as a regional planning commission may be granted extraterritorial planning authority by LGPAC up to the limits of its UGB. This planning authority has the ability to create and administer subdivision regulations. These regional planning commissions may also be able to create zoning regulations outside the city but

within their UGBs provided that the county doesn't have zoning and agrees to allow the city to exercise zoning powers in the area outside the city limits but within the UGB.

There is a lack of a shared understanding of the extension of extraterritorial planning authority and/or zoning authority. There has been controversy over the lack of a standard for public notification in the statute. Instead, it has been left to LGPAC to determine the method of notification of interested parties.

One provision of P.C. 1101 concerns the granting of extraterritorial planning authority to a municipal government over areas outside of its incorporated city limits. Under Title 13 of Tennessee state law, a municipal planning commission that has been designated as a regional planning commission by LGPAC may be granted planning authority over a designated region that includes territory outside of its municipal boundaries. These planning regions are designated and defined by LGPAC. Extraterritorial planning authority existed prior to P.C. 1101. However, subsequent to the adoption of P.C. 1101, the limits of these extraterritorial planning regions may not extend any further than the limits of the municipality's UGB, as defined in the approved county growth plan, and still requires LGPAC approval.

Extraterritorial planning authority was designed to give a municipality some control and influence over the type and nature of new development that might occur in areas that it may eventually annex within its corporate city limits. A planning commission that has been granted

extraterritorial planning authority has the power to review and approve subdivision plats, but does not necessarily have the ability to zone lands within this region. Subdivision authority allows the planning commission to approve the subdivision of land and to set the standards for the provision of public infrastructure necessary to support these newly created lots. Zoning authority may be granted as a separate matter, provided that there is not county zoning in place and that the county agrees.

There is continued controversy over the granting of extraterritorial planning authority by LGPAC to those municipal planning commissions that have been designated as regional planning commissions. First, there is a lack of shared understanding about what constitutes extraterritorial planning authority and how it is determined. The distinction between subdivision regulations and zoning regulations is not well understood by many communities, or by many people in the legal community. There have been concerns raised by people living or owning property in areas outside of the city limits that may be affected by this designation about not having representation on the planning commission.

Cross County Boundary Growth Issues

P.C. 1101 in its current incarnation focuses on each county as a separate entity. P.C. 1101 has established a mechanism for local governments to address growth-planning issues within each individual county. This focus on individual counties as discrete planning entities does not address growth issues that extend across county boundaries, such as in the major metropolitan areas of the state where growth issues are most pressing and multi-county in nature (e.g. Nashville, Memphis and the Tri-Cities).

Consistency of Land Use Decisions

Section 8 of the Act provides that after the growth plan is approved, all land use decisions made by local legislatures and municipal or county planning commissions shall be consistent with the growth plan. This provision known as the “consistency clause” is vague. The term “land use decision” is not defined in Public Chapter 1101. In an opinion, the Attorney General’s office opined that “*as a general matter, used in the context of the statutory scheme, the term “land use decisions” includes any decision regarding the use of land within the jurisdiction of the legislative body or the planning commission.*”⁶ This means the term could apply to anything from subdivision regulations to specific use permits. It is also possible that decisions regarding the placement of infrastructure could fall within the definition of the term.

Furthermore, P.C.1101 does not provide guidelines for determining whether or not a land use decision is consistent with a growth plan. Many of the growth plans are nothing more than maps delineating the limits of UGBs, PGAs and RAs and do not include land use plans. It would be difficult for anyone to determine if a land use decision is consistent with a growth plan based solely on a map that does not include a land use plan.

The vagueness of the consistency clause will make it difficult for it to be put into effect in many municipalities and counties. The ability to enforce this clause will be further hindered by the fact that the Act does not clarify what remedies are available to parties to enforce this clause and what parties would have standing to enforce the clause. Hopefully, the courts will help to further

⁶ Attorney General’s Opinion No. 00-22.

define the parameters of the consistency clause in the future.

It should also be noted that under Tennessee law there is no requirement for a local government to have any planning or zoning regulations. Thus, the consistency clause in P.C.1101 may be of little significance in those municipalities and counties with no planning or zoning regulations.

Coordination with State Agency Policies

There is no requirement under the current statute for locally developed and adopted growth plans to be coordinated with state governmental plans, programs, or policies. This may result in conflicts between locally adopted growth plans and state plans, programs or policies (e.g. air quality, water supply and quality, storm water management and state transportation policies).

Plan Approval Process

Under P.C. 1101, LGPAC is given the responsibility for approving each of the proposed comprehensive growth plans. In addition, P.C. 1101 specifies that the coordinating committee in each county should consider a specified list of factors affecting future growth and development expected to occur over a 20 year time frame, and each county's growth plan is required to meet a set of specified criteria identified within Section 7 of the act.

The minimum standard for an acceptable growth plan is for any proposed plan to include the existing municipal boundaries within the county along with any proposed urban growth boundaries (UGB) or planned growth areas (PGA). However, in the event that the legislative bodies of the county and all of the municipalities within the county

are able to reach agreement on a countywide growth plan, LGPAC is to approve the proposed plan as submitted without any type of evaluation or review of the specifics of the plan.

There are a number of concerns with this process. First, LGPAC has very limited authority to review the content of the plans it is responsible for approving. The lack of any type of external review creates the possibility that many of the plans approved may not have adequately addressed the areas detailed in Section 7 of the Act. Also, because these countywide growth plans must be approved by all of the local governments of each county, there exists the possibility that a single local government could exercise a veto power over an otherwise worthwhile and well conceived plan.

Amending Growth Plans under Extraordinary Circumstances

Once a growth plan is approved by LGPAC, the plan shall stay in effect for three years absent a showing of extraordinary circumstances.⁷ The statute does not provide any guidance on what qualifies as an extraordinary circumstance. It also fails to define what entity determines when an extraordinary circumstance exists. This lack of consistency in the definition of an extraordinary circumstance could create problems if a number of counties or cities want to amend their growth plans before the three-year time limit. Local governments could amend the plans at their whim before the growth plans have been given a chance to work.

⁷ TCA § 6-58-104 (e)(1)

Density Not Defined

Density is an important concept in any discussion of growth policy and land use planning issues. It generally relates to the amount or intensity of development that either already has or may occur on a given parcel of land or within a given area. This concept is especially important in P.C. 1101 since it is used in delineating areas of “high,” “moderate,” and “low” density within each county. These distinctions between high, moderate and low density form the basis for deciding which areas of a county are best suited for designation within a city’s urban growth boundary (high density), a county’s planned growth area (moderate), or within areas of a county designated as rural (low).

However, within P.C. 1101, the concept of density is not defined, nor are there any guidelines for determining how the coordinating committees or legislative bodies charged with formulating countywide growth plans should come up with operational definitions of density.

The lack of any standards or parameters pertaining to density also makes it difficult to understand what intensity of development may be allowed in each area after growth plans are adopted. While there may be some growth plans where density is defined, most plans do not do so.

Formation of JECDBs

An important component of P.C. 1101 is the requirement for counties and their municipalities to form Joint Economic and Community Development Boards (JECDBs). These boards, modeled after a board formed in Wilson County, were

conceived as providing a mechanism and forum for promoting ongoing cooperation and planning among the local governments in each county.

The composition of these boards is detailed in Section 15 (TCA § 6-58-114) of the Act, and TACIR has produced a model that would produce a JECDB that would meet P.C. 1101 minimum requirements included in Appendix 4 of this report. It was anticipated that in some counties, existing boards would be utilized to meet this requirement, while in other cases, new boards would need to be formed. When applying for any state grant, a city or county is directed to certify that they have a JECDB meeting the requirements of the act.

There are at least two concerns with the current statutory mechanisms governing these boards. First, there currently is not any mechanism for insuring that newly formed boards, unlike those deemed to be “sufficiently similar” by LGPAC meet the minimum requirements of the Act. Counties forming new boards are not required to supply any documentation of interlocal agreements detailing the membership or structure of the board. On the other hand, those counties wishing to use existing boards are required to submit documentation to LGPAC for review and may then be granted a designation of their existing board as “sufficiently similar” by LGPAC. Secondly, there is no mechanism in the Act for JECDBs to document or verify that they have met the minimum ongoing meeting requirements specified in the Act.

G. TACIR MONITORING AND RESEARCH ACTIVITIES

Statutorily Mandated Monitoring of P.C. 1101

TACIR is required under Section 14 of Tennessee P.C.1101 to monitor the implementation of this Act across the state and to periodically report its findings to the General Assembly. To this end, TACIR has initiated a variety of work activities in order to monitor the implementation of this legislation. This includes monitoring the following:

- Development and adoption of local growth plans across the state.
- Approval and creation of the required Joint Economic Community Development Boards (JECDB) across the state.
- Mediation and arbitration process for those counties unable to reach agreement in developing growth plans.
- Local government consolidation efforts (Metropolitan Government).
- Activities of the Local Government Planning Advisory Committee (LGPAC) related to P.C. 1101 plan approval, JECDB approval, and related issues, such as the granting of extra-territorial planning authority.
- Lawsuits related to P.C. 1101 growth plans and growth plan implementation across the state.

- Local government conflicts related to P.C. 1101 growth plan provisions, such as infrastructure development, annexations, etc.

Consulting Contracts

In addition to the minimum statutory requirements for monitoring of the P.C. 1101 planning process, TACIR has also initiated a number of related studies dealing with the dynamics of growth and the impact of growth on state and local governments. These include the following:

Geographic Information System Demonstration Study

This study is being conducted by Susan Roakes, Assistant Professor at the University of Memphis School of Urban and Regional Planning. This study is a demonstration project designed to use the emerging technology of Geographic Information Systems (GIS) in helping local governments develop growth monitoring and prediction tools.

Internet Web-Portal

TACIR has recently launched a unique and innovative Internet website highlighting growth policy issues and challenges in Tennessee. This website was developed at TACIR's request by the University of Tennessee's Department of Urban and Regional Planning. One key element of the website is a discussion forum, maintained by U.T., that will provide policymakers and concerned citizens from across the state with a readily accessible venue for discussing

growth policy and related issues. TACIR will obtain periodic reports from U.T. based on the comments posted to the forum and the related Listserv. This website also includes material taken from various TACIR reports on P.C. 1101, growth policy, as well as a wide array of links to other websites with information about growth policy issues across the country.

This website can be accessed at <http://www.state.tn.us/tacir/portal/default.html>. A link to the website now appears on the TACIR home page and several other pages throughout the “Tennessee Anytime” web portal, as well as several of the Tennessee Development District Association’s web sites.

Legislative Initiatives for Growth Management

This report by Dr. Mary English of the Energy, Environment and Resources Center at the University of Tennessee will identify existing growth management legislation in the state. It will explore other strategies for local growth management and make recommendations for legislative initiatives in the state that will better enable local governments to implement growth management strategies.

Defining State Interests in Growth Management

This report by Dr. Mary English of the Energy, Environment and Resources Center at the University of Tennessee will identify the state programs affected by growth. It also contains an inventory of growth indicators. The report will examine the relationship between growth and state programs.

Costs of Growth/Use of Impact Fees Study

This report examines the experiences of those local governments in Tennessee that adopted impact fees, adequate facilities taxes, and/or development taxes. Dr. Ed Young, formerly with Tennessee State University, is managing this project.



CONCLUSION

The year 2001 has been one of tremendous achievement by many local governments across the state in developing growth plans and forming JECDBs meeting the requirements of P.C. 1101. That over 98% of all the counties and their municipalities produced growth plans prior to the sanctions deadline of June 30, 2001 is an example of this accomplishment. These plans provide the potential for county and municipal governments to deal more effectively with the demands that new growth and development place on them. This accomplishment is magnified when measured against the small amount of time available to produce these results within the framework of a new process that was largely unfamiliar. The promise for the future, of course, will be realized to the extent that these growth plans are utilized and implemented in future land use planning and infrastructure location decisions that will be made in response to new growth pressures.

Nonetheless, TACIR has a number of concerns about the adequacy of the growth plans in the context of the goals of minimizing sprawl, and realizing the planning goals contained in Sections 7 and 8 of the Act. It also remains to be seen to what extent these plans will be actively viewed as expressions of local growth policy in ongoing implementation activities, or simply as an external requirement. In this regard, our assessment of the adequacy of the plans and supporting proposals in light of the planning goals established in the Act is still incomplete. Ultimately, the answers to these questions will only be known over time. It also remains to be seen how effectively the local JECDBs will be used in promoting ongoing cooperation and planning between the counties and their municipalities

The Commission staff is also concerned about the extent to which the implementation of these plans via effective land use decisions, timely annexations, and development of realistic plans for urban services to annexation areas, etc., will proceed in a manner that is consistent with the approved plans or the broader principles contained in the Act. We also attempted to list some of these areas of continued concern that have been expressed by various parties thus far, including areas where there is some ambiguity within the existing legislation, including the documentation of the interlocal agreements governing the creation of the JECDBs.

It is anticipated that staff will know a great deal more about these matters after CY 2002. Through TACIR's ongoing sponsored research activities, including the newly launched Internet web portal and discussions with people across the state, we hope to generate some lively and informed discussions about the potential and promise of P.C. 1101 in positively shaping the state's future. There is also likely to be continued annexation activity and requests for the extension of local government planning (or zoning) authority over the newly created UGBs. By the end of 2002, TACIR should be able to make informed judgments about the adequacy of the Act's major provisions in light of the overall implementation effort. Finally, TACIR staff has no specific recommendations concerning any potential modifications to the existing statute. Rather, we suggest that TACIR staff continue with our current monitoring activities and discussions with state and local government leaders and planners in Tennessee.

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APPENDIX 1

OVERVIEW OF P.C. 1101⁸

P.C. 1101 signaled a substantial change in the way growth planning, annexation and incorporation could be accomplished in counties and municipalities around the state. The major provisions of this Act are summarized below. The following summary descriptions focus on the actions that are required or authorized by P.C. 1101. These descriptions are offered in order to provide a basis for understanding the provisions of the Act, as they outline mandatory and authorized actions that serve as the basis for TACIR's monitoring efforts. They are not offered, and should not be interpreted as, authoritative or complete interpretations of the P.C. 1101⁹

A. Countywide Growth Planning

Development of a Recommended Growth Plan

P.C. 1101 requires⁹ that a coordinating committee be established in each non-metropolitan county.¹⁰ Each coordinating committee is required to develop a comprehensive growth plan that outlines expected development in the next 20 years.² Each plan is to identify three distinct areas: an "urban growth boundary," a "planned growth area" and a "rural area." The "urban growth boundary" (UGB) territory contains the corporate limits of a municipality and the adjoining territory where growth is expected. The "planned growth area" (PGA) includes sections outside current municipalities and UGBs where growth is expected. The "rural area" (RA) includes land that is to be preserved for agriculture, recreation, forest, wildlife and uses other than high-density commercial or residential development. There may be one or more of these areas designated in each plan.

In each county, the county and each municipality in the county may³ propose boundaries for consideration by the coordinating committee in the development of its recommended growth plan. Each committee must give due consideration to these proposed areas in the development of a recommended plan. After two public hearings, the committee must send a recommended growth plan to the county and municipalities⁴ for ratification, no later than January 1, 2000.⁵ The county and each municipality in the county, following receipt of the recommended growth plan, must either ratify or reject the plan within 120 days, and specify the grounds for its rejection. Failure of the

⁸ This Appendix is a verbatim version of Section II of the April 2000 implementation report by TACIR entitled *Tennessee's Growth Policy Act: A Vision for the Future*.

⁹ Throughout this report the terms "requires", "required", "must" and "mandates" reflect the fact that the described action is prefaced in the Act by the word "shall".

¹ T.C.A. §6-58-104(a)(1)

² T.C.A. §6-58-104(a)(1)

³ In this report the word "may" denotes that the Act authorizes but does not require a specific action.

⁴ In this section of the report, the term county refers to the county legislative body and the term municipality refers to the governing body of each municipality.

⁵ T.C.A. §6-58-104(a)(2)

county or municipality to act within the 120 day time period constitutes ratification of the plan on the part of that county or municipality. The coordinating committee must reconsider any rejected plan and may revise it to meet stated objections.⁶

Once the county and each of the municipalities within it have ratified the plan, the coordinating committee must submit the plan to the LGPAC for approval. LGPAC must approve such a plan.⁷

Any county or municipality rejecting a recommended plan or a revised plan may declare an impasse and request that the Secretary of State's office appoint a panel of administrative law judges to mediate the conflict.⁸ Any such panel must attempt to mediate the disputes leading to the impasse. The affected county and municipalities may agree to ratify the recommended plans through this process. If the panel cannot mediate an agreement, the panel must adopt a plan, following the provisions of T.C.A. §6-58-106. The panel must submit the adopted plan to the LGPAC, which must review the plan to see that it conforms to the requirements of T.C.A. §6-58-106.

B. Incentives and Sanctions

Incentives are provided for counties and municipalities to adopt growth plans in a timely manner.⁹ A county whose growth plan has been approved by the LGPAC by July 1, 2000 will get additional points for certain grants and loans. The county and all municipalities in the county will get five additional points on a scale of one hundred or a comparable percentage increase. Metropolitan governments will receive additional points for these programs as well.

Those counties and municipalities in the county whose growth plans have not been approved by the LGPAC by July 1, 2001 will not be eligible for certain loans and grant programs, until such time as they have an approved plan.

Metropolitan governments will not be subject to sanctions. Also, sanctions will be delayed for one year in any county that has formed a metropolitan government charter commission and voters have either rejected or failed to ratify the plan by July 1, 2001.

C. Annexation

One of the important objectives of P.C. 1101 is to place annexation by municipalities in the context of their growth planning. In order to accomplish this, T.C.A. §6-58-108 establishes provisions for annexation by a municipality both prior to and after the effective date of an approved growth plan.

Before the Growth Plan is Approved

P.C. 1101 provides that a municipality may annex by referendum or by ordinance before the recommended plan is approved by the LGPAC.¹⁰ If annexation is by ordinance, the county legislative body may vote to disapprove the action. Any county which disapproves such an

⁶ T.C.A. §6-58-104(b)(1)

⁷ T.C.A. §6-58-104(d)(1)

⁸ T.C.A. §6-58-104(b)

⁹ T.C.A. §6-58-109

¹⁰ T.C.A. §6-58-108(a)(1)

annexation, and which is petitioned by a majority of the property owners in the territory to be annexed, is authorized to file suit to contest the annexation. If it does so, it must carry the burden of proof that the annexation is unreasonable for the overall well being of the communities involved, or the health, safety, and welfare of the citizens and property owners of the municipality will not be materially retarded in the absence of the annexation.

After the Growth Plan is Approved

After the plan is adopted, a municipality may annex by any statutory method, including annexation by referendum or annexation by ordinance, within its UGB. Outside its UGB, a municipality may annex only by referendum or by amending its UGB through procedures outlined in the statute.

D. Plan of Services

Any newly incorporated municipality must adopt by ordinance a plan of services for the services the municipality proposes to deliver.¹¹

Any municipality planning annexation must adopt a plan of services, which establishes the services to be provided and their projected timing.¹² It must submit this plan of services to the local planning commission for study. It must hold a public hearing on the plan of services before it is adopted.

E. Incorporation

P.C. 1101 contains several provisions affecting incorporations. After January 1, 1999, a town may incorporate only within a PGA, and the county must approve its UGB and municipal limits.¹³

It also establishes priority of any incorporation of such a territory over any prior or pending annexation ordinance of an existing municipality, which encroaches upon any territory of the new municipality. A new municipality must comply with the requirements of T.C.A. §6-58-112(c).

F. Tax Revenue Implications

There are provisions in P.C. 1101 that minimize revenue losses associated with the loss of tax base through annexation or incorporation that might otherwise be experienced by a county.¹⁴ Specifically, a county is “held harmless” for the loss of wholesale beer tax revenue and local option sales tax revenue after any new annexation or incorporation. A county will continue to receive this revenue for fifteen years following any new annexation or incorporation.

The amount received by the county annually will be roughly equal to the revenue amount the county received in the twelve months preceding the effective date of the annexation or incorporation. The Department of Revenue (DOR) considers the effective date of an annexation to

¹¹ T.C.A. §6-58-112(d)(2)

¹² T.C.A. §6-51-102

¹³ T.C.A. §6-58-112

¹⁴ T.C.A. §6-51-118

be thirty days after the final passage of the annexation.¹⁵ Any increases over this amount are distributed to the municipality.

If the wholesale beer tax or local option sales tax is repealed, the county will not continue to receive the revenue due under this provision. Also, if a change in the distribution formula of wholesale beer tax or local option sales tax reduces the amount of revenue received by local governments, the revenue that a county is set to receive under this provision will be reduced accordingly.

G. Joint Economic And Community Development Boards

Each county is required to establish a joint economic and community development board (JECDB).¹⁶ The purpose of the JECDB is “to foster communication relative to economic and community development between and among governmental entities, industry and private citizens.”¹⁷

H. Metropolitan Government

P.C. 1101 provides a new method for the creation of a metropolitan charter commission. The Act provides that a metropolitan charter commission may be created upon receipt of a petition.¹⁸ In any county in which a metropolitan charter commission is created but the metropolitan charter is not ratified by July 1, 2001, sanctions will be delayed until July 1, 2002.

¹⁵ Telephone Interview with Karen Blackburn, Tennessee Department of Revenue; January 13, 2000.

¹⁶ T.C.A. §6-58-114

¹⁷ T.C.A. §6-58-114(b)

¹⁸ T.C.A. §7-2-101

APPENDIX 2

IMPORTANT MILESTONES 1998 Public Chapter 1101

July 20, 1998	Municipalities must adopt a plan of services for any annexations not final on November 25, 1997.
September 1, 1998	Coordinating committee is created within each county. Composed of members specified in statute.
January 1, 1999	A new municipality may be incorporated only within a county's PGA and in accordance with other requirements in the act.
Before January 1, 2000	Counties and municipalities may propose UGBs, PGAs, and RAs to coordinating committee for inclusion in the growth plan.
January 1, 2000	By this date, the coordinating committee of each county is required to develop a recommended growth plan and submit it to the governing bodies of the county and each municipality for ratification.
May 2000 (approximate) – Within 120 days after county and cities receive growth plan from coordinating committee	County and cities must ratify or reject proposed growth plan. Failure to act within 120 days constitutes ratification.
July 1, 2000	Point incentives for grant programs become available for counties and municipalities that have adopted a growth plan.
July 1, 2001	By this date the growth plan must be submitted to the Local Government Planning Advisory Committee (LGPAC).
July 1, 2001	Sanctions are imposed upon those cities and counties without an approved growth plan.
July 1, 2002	Delayed sanctions are imposed upon counties and cities that formed a metropolitan charter commission but did not adopt a metro charter, if they have no approved growth plan by this date.
July 2004 (approximate) – Three years after growth plan approval.	Growth plan may be amended 3 years after approval, barring extraordinary circumstances.

APPENDIX 3

Grant and Loan Programs Affected by Public Chapter 1101 Provisions on Growth planning

P.C. 1101 provides an additional 5 points on a scale of 100 points, or a comparable percentage increase on evaluation forms, for certain grant and loan programs for counties and municipalities that have their growth plans approved by July 1, 2000.¹⁹ It also makes certain grants unavailable to counties and municipalities that do not have an approved growth plan by July 1, 2001.²⁰ What follows is a brief description of each program affected by these provisions of P.C. 1101.

A. Programs of the Department of Economic and Community Development

Tennessee Industrial Infrastructure Program

This program provides funds for infrastructure improvements. The funds may only be used in projects where there is a commitment by certain private sector businesses to locate or expand in the state and to create or retain jobs for the state's citizens. The activities funded under the program are limited to those services that are normally provided by local governments and their implementing agencies to businesses that are locating, expanding or operating in Tennessee such as water systems and transportation systems.

Industrial Training Service Program

This program provides training assistance for employees as an incentive for new industry planning to relocate in the state or for existing industry to expand business operations in the state. The funds are intended to support manufacturing and industry-type organizations.

Community Development Block Grants

These funds support economic development and the creation of employment opportunities for individuals of low and moderate incomes. The funds are awarded as grants for public infrastructure and as loans for industrial buildings and equipment.

B. Programs of the Tennessee Housing Development Agency

HOME Grants

This program provides federal funds to expand the supply of decent, safe, sanitary and affordable housing for low-income households. The types of activities eligible for funding under this program include homeowner or rental housing rehabilitation programs, new construction of rental housing units, and acquisition and/or rehabilitation of rental housing units.

House Grants

Housing Opportunities Using State Encouragement (HOUSE) is a state-funded program designed to fund local housing programs that promote the production, preservation and

¹⁹ T.C.A. §6-58-109

²⁰ T.C.A. §6-58-110

rehabilitation of affordable housing for targeted households. This program will not be available for fiscal year 2000, since the Legislature redirected the dedicated tax revenue for the state-funded HOUSE program to the State General Fund for FY 2000.

Low Income Tax Credit

The credit supports the development of low income housing through a credit against federal income tax liability each year for 10 years for owners and investors. The amount of tax credits is based on the reasonable costs of development and the number of qualified low-income units.

C. Programs of the Department of Tourist Development

Tourism Development Grants

The funds provided by this program are to be used to finance tourism promotion and development projects. Types of projects that might be eligible for this funding include promotional publications; advertising, events, hospitality training, educational seminars, photography, feasibility studies, research, Websites, tourism promotional videos, and tourism-related trade show booth fees and exhibit materials.

D. Programs of the Department of Transportation

Intermodal Surface Transportation Efficiency Act

This act, passed in 1991, provided a means of financing activities that go beyond the traditional elements of a transportation improvement project. The Transportation Equity Act for the 21st Century (TEA-21) continued the program. Local communities may apply for funds to finance transportation enhancement activities. Examples of eligible transportation enhancement activities include provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, preservation of abandoned railway corridors, historic preservation and control, and removal of outdoor advertising.

APPENDIX 4

Characteristics of a Model Joint Economic Community Development Board

The model JECDB shown below was provided to assist local governments in the development of their JECDBs. It is based in part upon JECDBs created in Wilson and Decatur Counties. This model meets all of the requirements of Section 15 of the act (TCA §6-58-114) and incorporates provisions regarded by these communities or the TACIR staff as useful in meeting the intent of the law.

CATEGORY	REQUIRED AND SUGGESTED CHARACTERISTICS (Characteristics listed in bold are minimum requirements)
Membership	<ul style="list-style-type: none"> • County Executive • Two County Commissioners • The Mayor or City Manager of each city in a county • Mayors of smaller cities on a rotating basis • Three City Commissioners, Aldermen, or administrators • A member of private sector selected by the Executive Committee of the largest Chamber of Commerce • A member of private sector selected by next largest association of businesses in the county • A member of private sector selected by the other non-Executive Committee members of the Board • Three private citizens, at least one of which owns Greenbelt property²¹
Terms of Office	<ul style="list-style-type: none"> • The County Executive and Mayors serve by virtue of their executive positions in government. • The remaining positions are staggered four-year terms . The persons first selected to “even number positions” shall have an initial two-year term, thereafter serving for four-year terms. The “odd numbered positions” are for four years from the onset. Vacancies occur for elected officials at the point that person ceases to be a member of that body. All vacancies shall be filled for the remainder of the term. • Members shall be eligible for re-selection, if otherwise eligible for that position. • Terms shall begin on the first day of January of the applicable year.
Activation	<ul style="list-style-type: none"> • Upon election of a majority of the Board, the interlocal agreement becomes effective, with the County Executive calling the time and place of the first organizational meeting. Provision is made for election of a temporary Chairman and Secretary pending ratification of the interlocal agreement by all participating governments.

²¹ Greenbelt property is on the forms of property addressed for tax purposes in T.C.A. §. 67-5-1004 under the category of “open land.”

Characteristics of a Model Joint Economic Community Development Board

CATEGORY	REQUIRED AND SUGGESTED CHARACTERISTICS (Characteristics listed in bold are minimum requirements)
Ex-Officio Members	<p>It may be desirable for a JECDB to include certain ex-officio members to serve in a non-voting, advisory capacity for communication and coordination purposes by virtue of their positions. Possible ex-officio members include:</p> <ul style="list-style-type: none"> • Executive Director of the Largest Chamber of Commerce • Executive Director of the 2nd Largest Chamber of Commerce • The Superintendent of the County School System • The Superintendent of the Largest City School System or Special School District • Representative(s) from local institutes of higher education • The Chairman of the Industrial Development Board • Additional ex-officio non-voting members on such terms and conditions as the Board deems desirable
Responsibilities of the Board	<ul style="list-style-type: none"> • To set policy and priorities • To approve an annual operating budget and request funds from participating governmental bodies • To hire and/or terminate the director of the organization • To develop and maintain a strategic, long-range economic and community development plan • To coordinate economic and community development activities with existing governmental agencies • To make periodic progress and status reports to appropriate governmental bodies • To hold regular meetings, the frequency of which should be at least quarterly • To elect officers • To annually designate private sector and private citizen members to serve on Executive Committee • To appoint ad hoc committees, advisory groups, and ex-officio members as deemed desirable • To establish a job description for the director of the organization
Composition of Executive Committee	<ul style="list-style-type: none"> • County Executive • The Mayor or City Manager of each city in county (Section 15 requires at least the mayors or city managers of the larger municipalities in the county) • A member of the private sector serving on the board; selected by other private sector members of the board • A private citizen serving on the board; selected by the other private citizen members of the board

Characteristics of a Model Joint Economic Community Development Board

CATEGORY	REQUIRED AND SUGGESTED CHARACTERISTICS (Characteristics listed in bold are minimum requirements)
Responsibilities of Executive Committee	<ul style="list-style-type: none"> • To administer policies of the Board • To recommend an annual operating budget to the board • To recommend the hiring or termination of the director • To supervise the daily operations of the organization and director • To hold regular meetings (minimum of eight meetings per year) • To meet on call as needed (in addition to monthly meetings) • To select officers of the Executive Committee
Funding and Budgets as outlined in P.C. 1101, Section 15(g)(1) &(2)	<ul style="list-style-type: none"> • Jointly funded by all participating governments, based on population percentage times the budget need • Precise funding formula and revision based on special census as outlined in Act • Board may accept and expend donations, grants, and payments from persons and entities other than the participating governments

APPENDIX 5

STATUS OF P.C. 1101 GROWTH PLAN APPROVALS BY COUNTY

County	LGPAC Approval 2001	LGPAC Approval 2000	Status of Other Counties
Anderson County	6/27/2001		
Bedford County		4/26/2000	
Benton County		4/26/2000	
Bledsoe County		1/26/2000	
Blount County	6/27/2001		
Bradley County		6/28/2000	
Campbell County	1/24/2001		
Cannon County		4/26/2000	
Carroll County		6/28/2000	
Carter County		4/26/2000	
Cheatham County		6/28/2000	
Chester County		1/26/2000	
Claiborne County		6/28/2000	
Clay County		4/26/2000	
Cocke County		6/28/2000	
Coffee County		6/28/2000	Voters rejected a Metro Charter in August 2001.
Crockett County		1/26/2000	
Cumberland County		6/28/2000	
Davidson County			Metro: Exempt
Decatur County		4/26/2000	
DeKalb County		4/26/2000	
Dickson County		6/28/2000	
Dyer County		6/28/2000	
Fayette County			In Arbitration
Fentress County		4/26/2000	
Franklin County		6/28/2000	
Gibson County		1/26/2000	
Giles County		6/28/2000	

County	LGPAC Approval 2001	LGPAC Approval 2000	Status of Other Counties
Grainger County		6/28/2000	
Greene County		6/28/2000	
Grundy County		4/26/2000	
Hamblen County	1/24/2001		
Hamilton County	6/27/2001		
Hancock County	6/27/2001		
Hardeman County		6/28/2000	
Hardin County		6/28/2000	
Hawkins County	6/27/2001		
Haywood County		4/26/2000	
Henderson County		1/26/2000	
Henry County		1/26/2000	
Hickman County		6/28/2000	
Houston County		4/26/2000	
Humphreys County		1/26/2000	
Jackson County		4/26/2000	
Jefferson County		6/28/2000	
Johnson County		4/26/2000	
Knox County	4/25/2001		
Lake County		4/26/2000	
Lauderdale County		4/26/2000	
Lawrence County		6/28/2000	
Lewis County		4/26/2000	
Lincoln County		6/28/2000	
Loudon County		6/28/2000	
McMinn County		4/26/2000	
McNairy County		1/26/2000	
Macon County		4/26/2000	
Madison County		1/26/2000	
Marion County		6/28/2000	
Marshall County		4/26/2000	
Maury County		4/26/2000	
Meigs County		1/26/2000	

County	LGPAC Approval 2001	LGPAC Approval 2000	Status of Other Counties
Monroe County		4/26/2000	
Montgomery County		4/26/2000	
Moore County			Metro: Exempt
Morgan County		4/26/2000	
Obion County		1/26/2000	
Overton County		4/26/2000	
Perry County		1/26/2000	
Pickett County		4/26/2000	
Polk County			In Arbitration
Putnam County		4/26/2000	
Rhea County	4/25/2001		
Roane County	4/25/2001		
Robertson County	4/25/2001		
Rutherford County		4/26/2000	
Scott County		6/28/2000	
Sequatchie County		1/26/2000	
Sevier County	6/27/2001		
Shelby County		6/28/2000	
Smith County		6/28/2000	
Stewart County		1/26/2000	
Sullivan County		6/28/2000	
Sumner County		4/26/2000	
Tipton County		4/26/2000	
Trousdale County		6/28/2000	Metro Charter approved 11/07/00
Unicoi County		4/26/2000	
Union County	6/27/2001		
Van Buren County		6/28/2000	
Warren County			Metro disapproved by voters 09/21/2000; deadline for plan 07/01/02
Washington County		6/28/2000	

County	LGPAC Approval 2001	LGPAC Approval 2000	Status of Other Counties
Wayne County		4/26/2000	
Weakley County		1/26/2000	
White County		4/26/2000	
Williamson County	6/27/2001		
Wilson County	1/24/2001		

APPENDIX 6

STATUS OF JOINT ECONOMIC AND COMMUNITY DEVELOPMENT BOARDS BY COUNTY

County	"Sufficiently Similar" Determinations Approved by LGPAC	Newly Formed JECDBs as of November 2001*	Status of Remaining Counties
Anderson County	June-01		
Bedford County		X	
Benton County		X	
Bledsoe County		X	
Blount County		X	
Bradley County	October-00		
Campbell County		X	
Cannon County		X	
Carroll County	July-99		
Carter County	October-00		
Cheatham County		X	
Chester County		X	
Claiborne County		X	
Clay County		X	
Cocke County	January-01		
Coffee County		X	
Crockett County		X	
Cumberland County		X	
Davidson County			METRO: EXEMPT
Decatur County		X	
DeKalb County		X	
Dickson County		X	
Dyer County		X	
Fayette County			In Arbitration, JECDB certification not submitted.
Fentress County		X	

County	"Sufficiently Similar" Determinations Approved by LGPAC	Newly Formed JECDBs as of November 2001*	Status of Remaining Counties
Franklin County		X	
Gibson County		X	
Giles County	April-01		
Grainger County		X	
Greene County	April-01		
Grundy County		X	
Hamblen County		X	
Hamilton County		X	
Hancock County		X	
Hardeman County		X	
Hardin County	January-01		
Hawkins County		X	
Haywood County		X	
Henderson County		X	
Henry County		X	
Hickman County	June-01		
Houston County		X	
Humphreys County		X	
Jackson County		X	
Jefferson County		X	
Johnson County		X	
Knox County	June-01		
Lake County		X	
Lauderdale County		X	
Lawrence County		X	
Lewis County		X	
Lincoln County	January-00		
Loudon County	October-00		
McMinn County	January-01		
McNairy County	June-01		
Macon County		X	
Madison County	June-00		
Marion County		X	

County	"Sufficiently Similar" Determinations Approved by LGPAC	Newly Formed JECDBs as of November 2001*	Status of Remaining Counties
Marshall County		X	
Maury County	June-01		
Meigs County		X	
Monroe County		X	
Montgomery County		X	
Moore County			METRO: EXEMPT
Morgan County		X	
Obion County		X	
Overton County		X	
Perry County		X	
Pickett County		X	
Polk County			Awaiting Arbitration, JECDB certification not submitted.
Putnam County	January-01		
Rhea County	October-01		
Roane County	June-01		
Rutherford County		X	
Scott County		X	
Sequatchie County		X	
Sevier County	April-01		
Robertson County		X	
Shelby County		X	
Smith County		X	
Stewart County		X	
Sullivan County	October-00		
Sumner County		X	
Tipton County		X	
Trousdale County			METRO: EXEMPT
Unicoi County	April-01		
Union County		X	

County	"Sufficiently Similar" Determinations Approved by LGPAC	Newly Formed JECDBs as of November 2001*	Status of Remaining Counties
Van Buren County		X	
Warren County		X	
Washington County	January-01		
Wayne County		X	
Weakley County		X	
White County		X	
Williamson County	April-01		
Wilson County	April-99		

Source: LGPAC

*Data based on telephone conversation 11/28/2001 with Mike McGuire, Asst. Commissioner,
TN Dept of Economic and Community Development.

