

The seal of the State of Tennessee is faintly visible in the background, featuring a central figure holding a plow and a sheaf of wheat, surrounded by the text "THE GREAT SEAL OF THE STATE OF TENNESSEE" and the date "1796".

Forming a Metropolitan Government

The Hows and Whys of Local Government
Consolidation in Tennessee

Tennessee Advisory Commission on Intergovernmental Relations
Staff Information Report
September 2003



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Staff Information Reports, Staff Briefs, Staff Technical Reports and Staff Working Papers and TACIR Fast Facts are issued to promote the mission and objectives of the Commission. These reports are intended to share information and research findings relevant to important public policy issues in an attempt to promote wider understanding.

Only reports clearly labeled as “Commission Reports” represent the official position of the Commission. Others are informational.

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Staff Information Report

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September 2003

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Preface

The General Assembly created the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) in 1978 in recognition of the need for a permanent state agency to monitor the operation of federal-state-local relations and make recommendations for improvements. The TACIR is a future-oriented organization concerned with issues and problems that impact the efficiency and effectiveness of governments involved in the intergovernmental process. Often called a “think-tank” or “think and do-tank” by some, the TACIR seeks to identify and diagnose public policy problems that loom on the horizon.

TACIR’s enabling legislation directs it to study, report on, and make recommendations concerning:

- the current pattern of local government structure and its viability;
- the powers and functions of local governments, including fiscal powers;
- the relationships between and among local governments and the state;
- the role of the state as the creator of local government entities;
- the allocation of state and local fiscal resources; and
- ways to foster better relations between state and local government.

As part of its Government Modernization initiative, the TACIR has devoted a great deal of resources to the study of barriers to consolidation and other impediments to local government reform. In 1996, legislative members of the TACIR introduced legislation to increase the options available to create a metropolitan government charter commission. That legislation would have allowed the creation of a charter commission upon petition of 20 percent of the number of votes cast in the county for governor in the last gubernatorial election. That particular piece of legislation passed in the Senate but failed in the House in 1996. However, a few years later, the petition option for forming a metropolitan government charter commission was included in legislation that became Public Chapter No. 1101, Acts of 1998.

In this law, Tennessee’s landmark “growth policy act,” a charter commission was allowed to be formed....upon receipt of a petition, signed by qualified voters of the county, equal to at least 10 percent of the number of votes cast in the county for governor in the last gubernatorial election. Thanks to this law, there are now three options for forming a charter commission. All of these are discussed in this report.



Forming a Metropolitan Government

Introduction

Since November 3, 1953, when Tennesseans amended their state constitution to allow for local government consolidation, the option of metropolitan government has existed. Yet, in nearly half a century, just a handful of counties have attempted to merge – and only three succeeded.

In 1998, the Tennessee General Assembly made local government consolidation a little bit easier by allowing a citizen-driven petition to launch the consolidation process. That's why the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) has published this booklet – to educate Tennessee residents and local government officials about consolidation and metropolitan government and to explain the state's consolidation laws and their amendments.

Tennessee Public Chapter 1101 of 1998 did a whole lot more than make consolidation more attainable. This groundbreaking legislation requires unprecedented local government teamwork. The law outlines a strategy for cities and counties to cooperatively plan for their futures. If ever the time was ripe for communities to consider whether consolidation is right for them, it's now.



Forming a Metropolitan Government

A History Lesson

Back in 1953, Tennessee voters adopted several constitutional amendments, including changes to one section on local government affairs. As amended, the final paragraph of Article XI, Section 9 reads as follows:

The General Assembly may provide for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located; provided, such consolidations shall not become effective until submitted to the qualified voters, residing within the municipal corporation and in the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation.

That paragraph wasn't self-executing, which meant that the General Assembly needed to pass laws to allow for consolidation of counties and those necessary statutes are now codified in Tennessee Code Annotated (T.C.A.) Sections 7-1-101, et seq. The statutes refer to a government formed under this general law as a metropolitan government; however, the actual name of the consolidated government in a particular charter may be something else [T.C.A. Section 7-2-108 (a)(3)(D)].

T.C.A. defines a metropolitan government as "the political entity created by consolidation of all, or substantially all, of the political and corporate functions of a county and a city or cities." Here's how the National Association of Counties defines a city-county consolidation: "A city-county consolidation or merger involves the unification of the governments of one or more cities with the surrounding county. As a result of the consolidation, the boundary lines of the jurisdictions involved become conterminous. However, certain incorporated jurisdictions may opt to be excluded from the consolidation." Conterminous? That means the boundaries are the same for all the involved jurisdictions.

Perhaps because the first – and for many years, only – city-county consolidation in Tennessee involved Nashville and Davidson County, many Tennesseans have been under the misconception that only big counties may consolidate. But that's not the case. Any county in Tennessee may merge with its largest municipality [T.C.A. Section 7-2-101]. For example, the voters of diminutive Moore County and Lynchburg consolidated those local governments in 1987.

The wording of Tennessee's Constitution that you read above is cited as the predominant reason most consolidation votes fail in this state. A



consolidation can occur only if the voters in the county who live outside the principal city approve. That means two sets of votes are compiled. It also means that a majority of all those who vote may whole-heartedly endorse consolidation, yet the merger still fails if there isn't a majority in favor both inside and outside the city.

Despite Tennesseans' past reluctance to consolidate cities and counties, the concept continues to be studied and promoted by those who see in the current Tennessee local government structure serious structural weaknesses.

In recent years, TACIR has had county modernization as an ongoing agenda issue. During 1995, local government officials at several TACIR meetings identified city-county consolidation and other alternative forms of county governments as avenues to modernize and reform local government.

Definitions

Metropolitan Government

The political entity created by consolidation of all, or substantially all, of the political and corporate functions of a county and a city or cities.

Charter Commission

A commission established to write and propose to the voters the charter for a metropolitan government.

Principal City

The municipality that has the largest population of any municipality in the county.

Smaller City

Any municipality other than the principal (largest) city in the county.

Urban Services District

A service district within a metropolitan government in which additional, urban type services are provided by the metropolitan government in addition to those in the general services district.

General Services District

A service district within a metropolitan government whose geographical limits are coextensive with the total in which the government functions.

Why Should A County Consider Consolidation?

Both proponents and opponents of local government consolidation brandish a substantial list of reasons to support their positions. Yet, experts agree that consolidation has the potential to offer at least the following advantages.

- **An economic development edge:** Having a consolidated government allows the community to react quickly to proposed economic development prospects. Instead of having to deal with two or more governments, prospective businesses have one point of contact. Business and industrial prospects like the idea of licensing and inspection offices under the authority of one government. There's less red tape. Also, cooperative countywide planning and zoning is an economic development plus. When Augusta and Richmond County in Georgia debated consolidation in 1995, one consolidation proponent said the merger would result in 10,000 new jobs in five years. Voters of those jurisdictions overwhelmingly endorsed the plan.
- **Economies of scale:** Combined purchasing power and efficiency can result in taxpayer savings. For example, public works operations can share machinery, personnel and equipment. Consolidated law enforcement departments may find themselves with the ability to fund additional patrols. A small city may find itself better able to offer services that weren't cost-effective before.
- **Less duplication:** Cities and counties many times fund similar operations, such as road building, fire protection and solid waste services. With consolidated government, one office would replace two or more.
- **Government accountability:** One unified government is easier for voters to understand than several local jurisdictions. This increased visibility may better focus public attention on governmental operations.
- **Harmony:** One government will eliminate some discord, such as annexation disputes, and local planning and zoning issues may be more readily resolved.

First Things First

The initial step toward consolidation is the creation of a metropolitan government charter commission. The charter commission can be formed by one of the following three methods:

1. the adoption of a consolidation resolution by the governing body of a county and the adoption of a similar resolution by the city with the largest population in the county;
2. by private act of the General Assembly; and
3. by a petition signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governors in the last gubernatorial election.



Steps Toward Consolidation

The process of local government consolidation in Tennessee can be broken down into five broad steps.

Step 1. The Exploratory Committee (optional)

As an initial step toward possible adoption of metropolitan government, many communities choose first to establish an exploratory committee.

Though an exploratory committee isn't required by law, there are good reasons to use this approach. The committee can:

- help determine whether there's sufficient support to proceed to the next step – formation of a charter commission.
- serve an educational function by holding public meetings to obtain citizen input and determine possible benefits of consolidated government.
- recommend procedures for the formation of a charter commission, since the law gives three options.

Step 2. Creation of the Charter Commission

Unlike the exploratory committee, creation of a charter commission **is required** by state law. There are three ways a charter commission can be established:

1. by adoption of a resolution by the county and the county's principal city (the principal city is determined by population). Both governing bodies must adopt a similar resolution by a majority vote of the quorum. The resolution should state that "a metropolitan government charter commission is established to propose the consolidation of all or substantially all of the government and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions." Other cities may also be included, or they may choose not to participate (see Page 12). The resolutions must state whether the members of the charter commission will be chosen by the county and city mayors and confirmed by their respective governing bodies, or whether the charter commission will be elected by a countywide at-large election. If the community goes the election route, the 10 candidates receiving the most votes are elected.
2. by a private act, passed by both houses of the Tennessee General Assembly. The Legislature introduces the private act upon the recommendation of all local governments involved. The private

act then must be approved by a two-thirds vote of the county and the principal city governing bodies *or* by a countywide referendum. The advantage of the private act is it allows for the charter commission to be structured differently from what general statutes call for – thus allowing for representation on the charter commission that reflects local desires. For example, when cities other than the principal city want more representation, a private act can allow for that. When Sullivan County and the cities of Kingsport, Bristol, and Bluff City established a charter commission in 1987, they used this method.

3. by a voter petition. This is the recent change in state law that allows for a citizen-driven initiative. A petition must be signed by qualified voters in the county equal to 10 percent of the number of votes cast in the last gubernatorial election. The petition must be certified by the county election commission. Upon certification, the petition becomes the consolidation resolution and is delivered to the county governing body and the governing body of the principal city for adoption. Those two governing bodies must decide within 60 days how to select the charter commission members. If a decision isn't made, then the charter commission members will be elected in a countywide election. If the decision is made to appoint the members, the county mayor must appoint 10 members and the mayor of the principal city must appoint 5 members. (The appointments must happen within 30 days of the consolidation resolution's adoption by the last of the two governments to act).

One last thought on selection of the charter commission: The statutes direct that those appointed should broadly represent all areas of the county and principal city. Every effort should be made to include representatives from various political, social and economic groups. Those appointing charter commission members should take the need for diversity seriously. Of course, if the membership is elected, then such diversity can't be

Selecting Members of the Charter Commission

The metropolitan government charter commission may be created by the adoption of a consolidation resolution by the governing body of the county and by the adoption of a substantially similar resolution by the governing body of the principal city in the county.

An important part of the resolution concerns the method to be used for selecting persons who will serve on the charter commission. Tennessee Code Annotated §7-2-101 (1) (B) stipulates that the resolution shall either :

- Authorize the county mayor to appoint ten (10) commissioners, subject to confirmation of the county governing body, and authorize the mayor of the principal city to appoint (5) commissioners, subject to confirmation by the city governing body; or
- Provide that an election be held to select members of the charter commission.

If the resolution calls for the charter commission members to be elected, Tennessee Code Annotated §7-2-102 stipulates the following:

- no less than forty-six (46) days nor more than sixty (60) days after the adoption of the resolution, it shall be the duty of the county election commission to hold a special election to elect members of the charter commission;
- the cost for the election is paid out of county funds; and
- the ten (10) candidates receiving the most votes shall become members of the charter commission.

assured. Those citizens who previously served on the exploratory committee can't be excluded from consideration for the charter commission.

Step 3. The Work of the Charter Commission

The members of the charter commission must hold an organizational meeting at the county courthouse at 10 a.m. on the fifth day following their election or appointment. The commission must elect at least a chairperson and secretary, and more officers if desired. The staff can include an attorney or others the commission may need and can pay. State law requires the county legislative body to appropriate at least \$25,000, but not more than \$50,000 for the commission's work.

There aren't any rules regarding the commission's internal organization. The members may organize as they see fit and may use committees to subdivide and specialize the workload.

The charter commission must finish its work within nine months of its initial meeting (or within the limit of any extension approved by the governing bodies of the county and principal city) [T.C.A. Section 7-2-105].

Charter Particulars

The charge of a charter commission certainly isn't an easy one. To help out, state law **requires** public officials to provide all information and assistance needed and requested by the commission. Here are some provisions that the proposed charter must contain:

1. The metropolitan government must have a general services district and an urban services district. The general services district is the total area of the county. The original urban services district is the area of the municipalities involved. These two districts are separate taxing districts [T.C.A. Section 7-2-108 (a) (5)].
2. The metropolitan government must be vested with all powers that both cities and counties have under general law. There are a few exceptions [T.C.A. Section 7-2-108 (a) (1)].
3. The metropolitan government must have a metropolitan council that sets the budget for both districts and the property tax rate for the general services district [T.C.A. Section 7-2-108 (a) (11)].
4. The metropolitan government must have a three-member urban council. Its sole function is to levy a property tax for the urban services district. This tax must finance the budget for the urban services set by the metropolitan council [T.C.A. Section 7-2-108 (a) (15)].

5. The Attorney General has opined that the metropolitan charter can't abolish certain county constitutional officers. However, the officers' duties may be altered from the general law provisions, but each must retain some duties [T.C.A. Section 7-2-108 (a) (16)]. Op Tenn. Atty. Gen. 80-394 (August 5, 1980) and 81-74 (February 7, 1981).
6. The metropolitan government must provide for the consolidation of all school systems and establish a metropolitan board of education [T.C.A. Section 7-2-108 (a) (18)]. The charter commission must determine how the school system would be governed and staffed, subject to limitations found in general law {T.C.A. Title 49}.

There's more! The commission must be sure to address at least the following issues in the charter it proposes:

- determine what to call the new government;
- create a new legislative body and determine its powers and organizational and operational procedures;
- establish legislative districts and determine and set the qualifications for its members;
- establish the position of a top executive or administrative officer, set requirements of the position, determine how the person would be selected and establish the position's powers;
- outline the fiscal, budgetary and financial administrative procedures;
- determine the public works responsibilities to be assumed and their operations;
- establish an education system and how it would be governed and staffed;
- outline the new government's judicial system and its staffing;
- determine the scale of other governmental concerns, such as utilities, fire protection, public and safety planning;
- adopt transitional tax levy procedures, budgetary matters, legal documents and personnel procedures; and



A charter commission with their available funds, may cause the copying of the charter and the charter summary, and may print and make available other information material for general distribution.

- set out the procedures for public consideration and action on the proposed charter. Much of the procedure is already established by state statute.

Step 4. Adoption or Rejection

Now the charter commission takes its vote. If it endorses consolidated government, then it must prepare and file the proposed charter with the county clerk and with the city clerk of each incorporated municipality. It must also file a copy with the county election commission. The proposed charter is a public record and must be available for anyone to see. Every newspaper in the county must be furnished a copy or have one made available [T.C.A. Section 7-2-105].

Then, the county election commission sets a date for a special referendum election on the question of consolidation. The election must be held not less than 80 nor more than 100 days after the proposed charter is filed. Remember, consolidation occurs only if the voters in the principal city and the voters in the county residing outside of the principal city approve.

The election returns, along with a copy of the approved or rejected charter, must be certified by the county election commission to the secretary of state. Then, the secretary of state issues a proclamation showing the election results and whether any appendix to the charter was approved or rejected (see "Smaller Cities" below). A copy of this proclamation goes to the county clerk, who attaches it to a copy of the new or rejected charter and files both. If the charter is approved, the county's certified copy of the charter and proclamation is delivered to the officer of the metropolitan government that the charter directs [T.C.A. Section 7-2-106(e)]. If the consolidation proposal fails, three years must pass before another charter commission can be proposed

STEP 5. Off and Running

If the voters approve consolidation, then the new metropolitan government subsumes all rights, obligations, duties and privileges of the county and the city or cities consolidating [T.C.A. Section 7-3-101].

The status of the county when it comes to the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic beverages doesn't change with the establishment of metropolitan government. In other words, previous local option elections in the county will continue in force unless the metropolitan government decides to put the question before voters under the new government [T.C.A. Section 7-3-303].

The establishment of metropolitan government doesn't change zoning regulations effective in the city or county until they are changed by the metro council [T.C.A. Section 7-3-304].

General sessions courts and juvenile courts are required to continue. However, the new charter may combine any city court with the general sessions court [T.C.A. Section 7-3-311].

A new metropolitan council must be elected and an executive or chief administrative officer selected. The charter may call for election of officers before the charter goes into full effect, or the charter may designate county or city officers to take on certain functions during the transition.

The charter may be very detailed or may provide great flexibility to the new metropolitan county. If it grants flexibility, it's particularly important that ordinances be ready for quick adoption that ensure all bases are covered

Smaller Cities

A municipality that's not a principal city doesn't have to participate in the consolidation process and may retain its charter, even if the principal city and the county vote to consolidate [T.C.A. Section 7-2-107].

There are two ways a smaller city may be involved:

1. by an appendix to the proposed charter after a charter commission has been created. Any smaller city within the county may decide, by action of its legislative body, to appoint a representative to consult with the charter commission and to aid it in the drafting of an appendix to the charter, or
2. by inclusion in the private act that creates the charter commission.

If a smaller city sends a representative to the charter commission and an appendix is approved both by the voters inside the smaller city and outside the city in the county (including those inside the principal city), then the smaller city becomes part of the urban services district of the metropolitan government. If consolidation of the county and the principal city is approved, but the appendix for the smaller city is disapproved, then the smaller city retains its charter and becomes a part of the general services district of the metropolitan government.

A separate appendix must be drafted and attached to the charter and voted on separately for each smaller incorporated municipality that sends a representative to the charter commission [T.C.A. Section 7-2-107].

Conclusion

Consolidated local governments have proven to be a wise choice for a growing number of communities across the country. While Tennessee's constitutional and statutory road toward consolidation may, at first blush, appear daunting and unwieldy, the process is designed to ensure maximum citizen participation and consideration before such a big step is taken. The General Assembly ensured further public interest with its 1998 vote to allow a citizen-driven petition to launch this process. Today, interested and enthusiastic citizens may bring consolidation to the table and – no matter the outcome – that's government at its best.

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Appendix 1

Time Chart for Forming a Metropolitan Government by Resolution Process

Activity	Time Allowed or Required
Metropolitan Government Study Committee (optional)	Indefinite (Study committee not required)
Passage of Resolutions to form Charter Commission	Any time, but both city and county government bodies must pass resolutions to form a Charter Commission
Appointment or election of members of Charter Commission	If appointed, within 30 days of last governing body to adopt the resolution. If elected, within 46 to 60 days after last governing body adopts the resolution.
Organizational meeting of the Charter Commission	On fifth day following appointment or election, or as soon afterward as a majority may assemble.
Prepare and file Charter	Within nine months of the organizational meeting, or within any time extended after nine months by both governing bodies.
Referendum Election	80 to 100 days after filing of proposed Charter with County Election Commission
Implementing Metropolitan Government	As directed by Charter provisions

Appendix 2

Tennessee Attorney General's Opinion Concerning Steps and Procedures in Forming a Metropolitan Government

1998 Tenn. AG LEXIS 133
Opinion No. 98-133
August 6, 1998

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TENNESSEE

Request by: The Honorable George W. Fraley
State Representative
202 War Memorial Building
Nashville, TN 37243-0139

QUESTION

1. What are the steps and procedures for the adoption of a metropolitan form of government?
2. Whether the adoption of a metropolitan form of government may be initiated by a petition signed by voters of the county considering adopting this form of government.

OPINIONS

1. The steps for creating a metropolitan form of government are set forth in Tenn. Code Ann. §§ 7-2-101, et seq.
2. Yes, pursuant to 1998 Public Chapter 1101, Section 18(a).

Opinion by: JOHN KNOX WALKUP, Attorney General and Reporter
MICHAEL E. MOORE, Solicitor General
ANDY D. BENNETT, Chief Deputy Attorney General

ANALYSIS

1. Article XI, Section 9 of the Tennessee Constitution states:

The General Assembly may provide for the consolidation of any or all of the governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in the counties in which such municipal corporations are located; provided, such consolidations shall not become effective until submitted to the qualified voters residing within the municipal corporation and in the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation.

In response to this provision in the Constitution, the Tennessee General Assembly enacted Tenn. Code Ann. §§ 7-2-101, et seq. According to Tenn. Code Ann. § 7-2-101, the initial step in a consolidation shall be the creation of a metropolitan government charter commission, hereinafter called "charter commission," by one (1) of the following methods:

The Hows and Whys of Local Government Consolidation in Tennessee

(1) The commission may be created by the adoption of a consolidation resolution by the governing body of a county and by the adoption of a substantially similar resolution by the governing body of the principal city in the county.

(2) In counties having a board of county commissioners, a charter commission may be created by the adoption of a consolidation resolution by either the governing body of the county or the board of county commissioners and by the adoption of a substantially similar resolution by the governing body of the principal city in the county.

(3) The charter commission may be created in any county in the manner prescribed by private act of the general assembly

. A fourth method was enacted by 1998 Public chapter 1101, Section 18(a), which amended Tenn. Code Ann. § 7-2-101(a) by adding subdivision (4):

The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election.

After the charter commission has been properly created it prepares and files a charter with the county clerk, the city clerk of each incorporated municipality in the county, and with the county election commission. Tenn. Code Ann. § 7-2-105. The county election commission must then hold a special referendum election for the ratification or rejection of the proposed charter. Tenn. Code Ann. § 7-2-106(a). According to Tenn. Code Ann. § 7-2-106(b):

The special referendum election shall be held on a date fixed by the county election commission not less than eighty (80) days nor more than one hundred (100) days subsequent to the filing of the charter as provided in § 7-2-105. Notice of the referendum election shall be given as required in other elections on questions submitted to the vote of the people. The date of the election and the form of the ballot shall be uniform throughout the entire county, but the county election commission shall canvass the returns and certify the results as if separate elections were being held for the principal city and for the area of the county outside of the principal city thereof.

Under Tenn. Code Ann. § 7-2-106(c), the charter is adopted only if approved by a majority of those voting within the principal city and a majority of those voting in the county outside the principal city. Op. Tenn. Atty. Gen. 97-096 (July 1, 1997).

2. In 1998, the legislature enacted Public Chapter 1101. Section 18(a) of that act sets forth a way of initiating this process by petition:

(4) The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election.

(A) Such petition shall be delivered to the county election commission for certification. After the petition is certified, the county election commission shall deliver the petition to the governing body of the county and governing body of the principal city in the county. Such petition shall become the consolidation resolution of the county and the principal city in the county. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions.

(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission; provided, however, if the governing body of the county and the governing body of the

Forming a Metropolitan Government

principal city cannot agree on the method of selecting members of the metropolitan government charter commission within sixty (60) days of certification, then an election shall be held to select members of the metropolitan government charter commission as provided in Section 7-2-102.

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality.

(D) When such resolution shall provide for the appointment of commissioners of the county and city, the metropolitan government charter commission shall be created and duly constituted after appointments have been made and confirmed.

(E) When such resolution shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be certified by the clerk of the governing bodies to the county election commission, and thereupon an election shall be held as provided in Section 7-2-102.

(F) When the consolidation resolution provides for the appointment of members of the metropolitan government charter commission, such appointments shall be made within thirty (30) days after the resolution is submitted to the governing bodies of the county and the principal city.

(G) If the referendum to approve consolidation fails, another commission may not be created by petition for three (3) years.

1998 Tenn. AG LEXIS 132::July 28, 1998

Appendix 3

Tennessee Code Annotated, Title 7, Chapter 2

Metropolitan Government - Adoption and Provisions of Charter

Section

- 7-2-101. Metropolitan government charter commission - Creation - Methods of selecting members.
- 7-2-102. Election of members.
- 7-2-103. Organization of charter commission - Officers and personnel - Compensation - Vacancies.
- 7-2-104. Appropriation for charter commission - Disbursement - Cooperation from public officials.
- 7-2-105. Preparation and filing of proposed charter - Publication.
- 7-2-106. Referendum on proposed charter.
- 7-2-107. Smaller cities - Inclusion in proposed consolidation - Referendum.
- 7-2-108. Metropolitan charters - Contents - Removal of members of boards, commissions or authorities.

7-2-101. Metropolitan government charter commission - Creation - Methods of selecting members.

The initial step in a consolidation hereunder shall be the creation of a metropolitan government charter commission, sometimes herein called "charter commission," by one (1) of the following methods:

(1) The commission may be created by the adoption of a consolidation resolution by the governing body of a county and by the adoption of a substantially similar resolution by the governing body of the principal city in the county;

(A) Such resolution may be adopted by a majority vote of the members of such governing body present and voting, a quorum being present, at any regular meeting or at any meeting specially called to consider the resolution. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the governmental and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions;

(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission;

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality;

(D) Promptly after the adoption of the consolidation resolution by the governing body of a county, its clerk shall certify the fact of such adoption with a copy of the resolution to the clerk of the governing body of the principal city, and promptly after the adoption of a consolidation resolution by the governing body of the principal city, its clerk shall certify the fact of such adoption to the clerk of the governing body of the county;

(E) When such resolutions of the governing bodies of the county and of the principal city shall provide for the appointment of commissioners of the county and city, the metropolitan government charter commission shall be created and duly constituted after appointments have been made and confirmed;

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(F) When such resolutions shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be certified by the clerk of the governing bodies to the county commissioners of election, together with certificates as to the fact and date of adoption, and thereupon an election shall be held as provided in § 7-2-102;

(G) In any county having a metropolitan form of government in existence on January 1, 1977, the county executive or county mayor is authorized to appoint five (5) commissioners, subject to confirmation by the county governing body, and the mayor of the principal city is authorized to appoint five (5) commissioners, subject to confirmation by the city governing body;

(H) When the consolidation resolutions provide for the appointment of members of the metropolitan government charter commission, such appointments shall be made within thirty (30) days after the adoption of the resolution by the last governing body to do so, whether of the county or the principal city;

(2) In counties having a board of county commissioners, a charter commission may be created by the adoption of a consolidation resolution by either the governing body of the county or the board of county commissioners and by the adoption of a substantially similar resolution by the governing body of the principal city in the county;

(A) Such resolution may be adopted by majority vote of the total number of members to which such governing body is entitled, or by a majority of the members of the board of county commissioners, at any regular or called meeting of such county governing body or board of county commissioners;

(B) The resolution and the procedures concerning its adoption and certification and the appointment or election of members of the charter commission pursuant thereto shall be governed by the provisions of subdivision (1), except that if members of the charter commission are to be appointed, the resolution shall authorize the county executive or county mayor to appoint six (6) commissioners, and the board of county commissioners to appoint six (6) commissioners, and the mayor of the principal city to appoint eight (8) commissioners;

(i) The commissioners appointed by the mayor of the principal city shall be made subject to confirmation by the city governing body, and the commissioners appointed by the county executive or county mayor and by the board of county commissioners shall be made subject to confirmation by whichever of the county bodies first adopts a consolidation resolution, unless both bodies adopt a consolidation resolution on the same day, in which case, the commissioners appointed by the county executive or county mayor shall be confirmed by the county governing body and the commissioners appointed by the board of county commissioners shall not be subject to confirmation;

(ii) It is the legislative intent that the persons appointed shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social and economic groups within the county and principal municipality;

(3) The charter commission may be created in any county in the manner prescribed by private act of the general assembly; or

(4) The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election;

(A) Such petition shall be delivered to the county election commission for certification. After the petition is certified, the county election commission shall deliver the petition to the governing body of the county and the governing body of the principal city in the county. Such petition shall become the consolidation resolution of the county and the principal city in the county. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of the county and its principal city, and the creation of a metropolitan government for the administration of the consolidated functions;

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(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission; provided, that if the governing body of the county and the governing body of the principal city cannot agree on the method of selecting members of the metropolitan government charter commission within sixty (60) days of certification, then an election shall be held to select members of the metropolitan government charter commission as provided in § 7-2-102;

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality;

(D) When such resolution shall provide for the appointment of commissioners of the county and city, the metropolitan government charter commission shall be created and duly constituted after appointments have been made and confirmed;

(E) When such resolution shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be certified by the clerk of the governing bodies to the county election commission, and thereupon an election shall be held as provided in § 7-2-102;

(F) When the consolidation resolution provides for the appointment of members of the metropolitan government charter commission, such appointments shall be made within thirty (30) days after the resolution is submitted to the governing bodies of the county and the principal city; and

(G) If the referendum to approve consolidation fails, another commission may not be created by petition for three (3) years.

[Acts 1957, ch. 120, § 4; 1961, ch. 199, § 1; modified; 1977, ch. 481, §§ 1-6; modified; T.C.A., § 6-3704; Acts 1989, ch. 576, §§ 1, 2, 7; 1998, ch. 1101, § 18.]

Code Commission Notes. Because of the limited applicability of Acts 1989, ch. 576, the amendments by that act have been placed in notes, rather than incorporated into the text of the section. However, the history line for the section has been updated to reflect the amendment by that act. Section 7 of that act provided that 1989 amendments shall only apply to counties having a population of more than two hundred thousand (200,000) according to the 1980 federal census, or any subsequent census, and having only two (2) municipalities within the county.

Acts 1989, ch. 576, § 1, effective June 8, 1989, amended (1)(B)(i) to read: "Authorize the county executive to appoint nine (9) commissioners, at least one (1) of whom must be of African American descent, subject to confirmation by the county governing body and authorize the mayor of the principal city to appoint six (6) commissioners, at least one (1) of whom must be of African American descent, subject to confirmation by the city governing body and authorize the mayor of any other municipality within the county to appoint one (1) commissioner, subject to confirmation by such municipality's governing body;".

Acts 1989, ch. 576, § 2, effective June 8, 1989, amended (1)(D) to read: "(D) Promptly after the adoption of the consolidation resolution by the governing body of a county, its clerk shall certify the fact of such adoption with a copy of the resolution to the clerk of the governing body of the principal city and the governing body of the principal city shall act upon such resolution within sixty (60) days of the receipt thereof. Failure of the governing body to so act shall render this effort at consolidation void. Promptly

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after the adoption of a consolidation resolution by the governing body of the principal city, the clerk shall certify the fact of such adoption to the clerk of the governing body of the county.”

Section to Section References. This chapter is referred to in §§ 7-1-101, 7-1-102, 7-3-301. This section is referred to in §§ 7-1-104, 57-5-103.

Law Reviews. Constitutional Law - 1962 Tennessee Survey (James C. Kirby, Jr.), 16 Vand. L. Rev. 649.
Attorney General Opinions. Constitutionality, OAG 89-140 (12/8/89).
Procedure for county adoption of a metropolitan form of government, OAG 98-0133 (8/6/98).

Comparative Legislation. Initial step in consolidation:

Ala. Code § 11-42-100.1 et seq.

Ark. Code § 14-40-1201 et seq.

Ga. O.C.G.A. § 36-34-1 et seq.

N.C. Gen. Stat. § 160B-1 et seq.

Cited: State ex rel. Boone v. Torrence, 63 Tenn. App. 224, 470 S.W.2d 356 (1971).

NOTES TO DECISIONS

1. Constitutionality.

Metropolitan charter for Nashville and Davidson County prepared by commission created by Private Acts 1961, ch. 404 as authorized by this section did not violate the 1953 amendment to Tenn. Const., art. XI, § 9 as abridging terms of office of city and county officers by private act since abolishment of such offices was in accordance with the general law. *Frazer v. Carr*, 210 Tenn. 565, 360 S.W.2d 449 (1962); *Winter v. Allen*, 212 Tenn. 84, 367 S.W.2d 785 (1963).

The provisions of this section permitting the creation of the charter commission by private act are applicable to every county subject to this chapter and create a reasonable classification. *Frazer v. Carr*, 210 Tenn. 565, 360 S.W.2d 449 (1962).

7-2-102. Election of members.

(a) No less than forty-six (46) days nor more than sixty (60) days after the adoption of a consolidation resolution by the governing bodies of a county and of its principal city, which resolution provides for an election of the members of a metropolitan government charter commission, it shall be the duty of the county election commission to hold a special election to elect members of the charter commission.

(b) The cost of the election shall be paid out of county funds.

(c) The ten (10) candidates receiving the highest total vote in the election shall be elected as members of the metropolitan government charter commission.

(d) Any qualified voter of the county shall be eligible for election as a member of the charter commission.

(e) The deadline for filing nominating petitions for candidates for the charter commission is twelve o'clock noon (12:00) of the fortieth day before the election.

History

[Acts 1963, ch. 260, § 1; 1972, ch. 740, § 4(60); impl. am. Acts 1972, ch. 740, § 7; T.C.A., § 6-3705.]

Annotations

Section to Section References. This section is referred to in § 7-2-101.

7-2-103. Organization of charter commission - Officers and personnel - Compensation - Vacancies.

(a) The members of the charter commission shall hold an organizational meeting at the courthouse at ten o'clock a.m. (10:00 a.m.) on the fifth day following their appointment or election, or at such subsequent date and place as a majority of the members may assemble.

(b) The metropolitan government charter commission shall be authorized to elect a chair, a secretary, and such other officers as it may deem necessary.

(c) The charter commission shall be authorized to employ such staff as may be required to assist it in drafting a charter for a single metropolitan government which shall consolidate county and city functions as herein provided and which shall be proposed for adoption.

(d) Members of the charter commission shall not receive per diem or other compensation for their services, except reimbursement of actual expenses by members.

(e) The staff employed by the commission shall be paid compensation as determined by the charter commission within the limits of funds available to it under the provisions of this chapter.

(f) Vacancies in the office of charter commission shall be filled by the remaining members.

History

[Acts 1957, ch. 120, § 5; 1961, ch. 199, § 3; T.C.A., § 6-3706; Acts 1989, ch. 576, §§ 3, 4, 7.]

Annotations

Code Commission Notes. Because of the limited applicability of Acts 1989, ch. 576, the amendments by that act have been placed in Compiler's Notes, rather than incorporated into the text of the section. However, the history line for the section has been updated to reflect the amendment by that act. Section 7 of the act provided the amendments only apply to counties having a population of more than two hundred thousand (200,000) according to the 1980 federal census, or any subsequent census, and having only two (2) municipalities within the county.

Acts 1989, ch. 576, § 3, effective June 8, 1989, amended (a) to read: "(a) The county clerk shall call and convene members of the charter commission to hold an organizational meeting at the courthouse at ten o'clock a.m. (10:00 a.m.) on the fifth day following their appointment or, if elected, on the fifth day following their certification."

Acts 1989, ch. 576, § 4, effective June 8, 1989, amended (f) to read: "(f) Any vacancy occurring in the office of the charter commission of appointed members shall be filled in the same manner as the original appointment subject to approval by the local governing body. Any vacancy occurring in the office of the charter commission of elected members shall be filled by appointment of the county executive subject to approval by the local governing body."

7-2-104. Appropriation for charter commission - Disbursement - Cooperation from public officials.

(a) Whenever any charter commission shall be established as herein provided, it shall be the duty of the governing body of the county to appropriate sufficient funds to defray the expenses of the commission, which appropriation shall be not less than twenty-five thousand dollars (\$25,000) nor

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more than fifty thousand dollars (\$50,000). Such funds shall be disbursed by the county executive or other fiscal officer of the county upon vouchers or warrants signed by the chair and the secretary of the commission.

(b) All public officials shall, upon request, furnish the commission with all information and assistance necessary or appropriate for its work.

History

[Acts 1957, ch. 120, § 6; 1961, ch. 199, § 4; impl. am. Acts 1978, ch. 934, §§ 16, 36; T.C.A., § 6-3707; Acts 1989, ch. 576, §§ 5, 7; 1997, ch. 261, § 1.]

Annotations

Code Commission Notes. Because of the limited applicability of Acts 1989, ch. 576, the amendments by that act have been placed in Compiler's Notes, rather than incorporated into the text of the section. However, the history line for the section has been updated to reflect the amendment by that act. Section 7 of the act provided the amendments only apply to counties having a population of more than two hundred thousand (200,000) according to the 1980 federal census, or any subsequent census, and having only two (2) municipalities within the county.

Acts 1989, ch. 576, § 5, effective June 8, 1989, amended (a) by substituting "seventy-five thousand dollars (\$75,000)" for "fifty thousand dollars (\$50,000)".

Cross-References. Creation of metropolitan government charter commissions, § 7-2-101.

7-2-105. Preparation and filing of proposed charter - Publication.

Any charter commission established hereunder shall prepare and file the charter proposed by it not later than nine (9) months after the date of its initial meeting, or within such extended limit of time as may be authorized by resolution of the governing bodies of the county and principal city. Copies of such proposed charter shall be filed with the county clerk, with the city clerk of each incorporated municipality in the county and with the county election commission. Such copies shall be public records, available for inspection or examination by any interested person. The charter commission shall also furnish or make available to every daily or weekly newspaper published in the county a complete copy of the charter. The charter commission shall take such other steps within the limitation of its available funds as it deems reasonable and appropriate to inform the public throughout the county of the contents of the proposed charter, and the same may be published or summarized in pamphlets and booklets to be made available for general distribution.

History

[Acts 1957, ch. 120, § 7; impl. am. Acts 1972, ch. 740, § 7; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 6-3708.]

Annotations

Section to Section References. This section is referred to in §§ 7-2-106, 7-2-107.

Attorney General Opinions. Procedure for county adoption of a metropolitan form of government, OAG 98-0133 (8/6/98).

Cited: *Glasgow v. Fox*, 214 Tenn. 656, 383 S.W.2d 9 (1964).

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7-2-106. Referendum on proposed charter.

(a) After a copy of the proposed charter has been certified to the county election commission, as provided in § 7-2-105, it shall be the duty of the county election commission to hold a special referendum election for the ratification or rejection of the proposed charter. The ballot shall be prepared so as to provide a choice for voters between:

For Consolidation of _____ and _____ .
(Name of city) (Name of county)

Against Consolidation of _____ and _____ .
(Name of city) (Name of county)

(b) The special referendum election shall be held on a date fixed by the county election commission not less than eighty (80) days nor more than one hundred (100) days subsequent to the filing of the charter as provided in § 7-2-105. Notice of the referendum election shall be given as required in other elections on questions submitted to the vote of the people. The date of the election and the form of ballot shall be uniform throughout the entire county, but the county election commission shall canvass the returns and certify the results as if separate elections were being held for the principal city and for the area of the county outside of the principal city thereof. For the purpose of determining whether the proposed charter has been accepted or rejected, the county election commission shall canvass the returns and certify the results:

(1) For the principal city; and

(2) For the entire area of the county outside of the principal city, including in such area the smaller cities, if any, within the county.

(c) The proposed charter shall be deemed ratified and adopted if the same be approved by a majority of those voting within the principal city and also a majority of those voting in the county outside of the principal city.

(d) The proposed charter shall be deemed rejected and shall not become effective if it is disapproved by a majority of those voting in the principal city. The proposed charter shall also be deemed rejected and shall not become effective if it is disapproved by a majority of those voting in the county outside of the principal city.

(e) The returns of the referendum election shall be certified by the county election commission to the secretary of state, together with a copy of the charter previously filed with the county election commission by the charter commission. Thereupon, the secretary of state shall issue a proclamation showing the result of the election on the adoption or rejection of the proposed charter, one (1) copy of which proclamation shall be attached to the copy of the charter theretofore certified to the secretary of state and one (1) copy of which shall be delivered to the county clerk, who shall attach the same to the copy of the charter theretofore certified to the county clerk. Whenever a charter for metropolitan government has been adopted, the two (2) certified copies with proclamations attached thereto shall be deemed duplicate original copies of the charter of the metropolitan government. The certified copy of the charter and proclamation deposited with the county clerk shall subsequently be delivered by the county clerk to such officer of the metropolitan government as the metropolitan charter may direct.

History

[Acts 1957, ch. 120, § 8; 1972, ch. 740, § 4(61); impl. am. Acts 1972, ch. 740, § 7; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 6-3709.]

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Annotations

Section to Section References. This section is referred to in §§ 7-1-104, 7-1-112, 7-2-107.

Attorney General Opinions.Procedure for county adoption of a metropolitan form of government, OAG 98-0133 (8/6/98).

Cited: Bemis Pentecostal Church v. State, 731 S.W.2d 897 (Tenn. 1987).

7-2-107. Smaller cities - Inclusion in proposed consolidation - Referendum.

(a) After a charter commission has been created, any smaller city within the county may by action of its legislative body appoint a representative to consult with the charter commission concerning the terms upon which the functions of such smaller city may be included in the proposed consolidation. Any terms proposed by the charter commission with respect to such smaller city shall be filed and published separately as an appendix to the metropolitan charter proposed with respect to the principal city, and shall be submitted independently in a special referendum election for ratification or rejection by the voters of the smaller city and by the voters of the county outside the smaller city in a manner similar to that provided in §§ 7-2-105 and 7-2-106 with respect to the proposed metropolitan charter for the principal city.

(b) Such appendix shall be deemed ratified and adopted if it is approved by a majority of those voting within such smaller city and also by a majority of those voting in the county outside of such smaller city, but shall not become effective unless the proposed metropolitan charter with respect to the principal city and the county is ratified and adopted.

(c) Such appendix shall be deemed rejected and shall not become effective if it is disapproved by a majority of those voting in such smaller city. It shall also be deemed rejected and shall not become effective if it is disapproved by a majority of those voting in the county outside of such smaller city.

(d) The returns of such referendum election on such proposed appendix shall be certified and proclaimed in a manner similar to that provided in § 7-2-106 with respect to the proposed metropolitan charter for the principal city.

(e) Where a proposed charter of metropolitan government is ratified by a majority of those voting in a principal city and of those voting in the county outside of such principal city but a smaller city continues (either because a proposed appendix has been rejected or no such appendix has been proposed), the smaller city shall become a part of the general services district, but the same may not thereafter be included within the urban services district by action of the metropolitan council.

History

[Acts 1957, ch. 120, § 9; T.C.A., § 6-3710.]

Annotations

Cross-References. Excluded smaller cities, inclusion within metropolitan government, § 7-1-106.

Section to Section References. This section is referred to in § 7-2-108.

Attorney General Opinions.Two cities contained in a metropolitan government cannot comprise two separate urban services districts subject to different property tax levies to accommodate the outstanding debt and assets of each city prior to the establishment of the metropolitan government, OAG 01-17 (2/6/01).

Cited: Bemis Pentecostal Church v. State, 731 S.W.2d 897 (Tenn. 1987).

7-2-108. Metropolitan charters - Contents - Removal of members of boards, commissions or authorities.

(a) The proposed metropolitan charter shall provide:

(1) For the creation of a metropolitan government vested with:

(A) Any and all powers which cities are, or may hereafter be, authorized or required to exercise under the Constitution and general laws of the state of Tennessee, as fully and completely as though the powers were specifically enumerated therein, except only for such limitations and restrictions as are provided in chapters 1-6 of this title or in such charter; and

(B) Any and all powers which counties are, or may hereafter be, authorized or required to exercise under the Constitution and general laws of the state of Tennessee, as fully and completely as though the powers were specifically enumerated therein, except only for such limitations and restrictions as are provided in chapters 1-6 of this title or in such charter;

(2) That the territory embraced in the metropolitan government shall be the total area of the county;

(3) The name of such metropolitan government, which name may be:

(A) The name of the principal city followed by the words "metropolitan government";

(B) The name of the county followed by such words;

(C) A compound word consisting of the name of the principal city of the county, followed by such words; or

(D) Such other name as the charter commission shall deem historically and geographically appropriate;

(4) That the metropolitan government shall be a public corporation, with perpetual succession, capable of suing and being sued, and capable of purchasing, receiving and holding property, real and personal, and of selling, leasing or disposing of the same to the same extent as other governmental entities;

(5) (A) For two (2) service districts within the geographical limits of the metropolitan government, a general services district and an urban services district, as to both of which districts the metropolitan government shall have jurisdiction and authority. The general services district shall consist of the total area of the county. The urban services district shall consist originally of the total area of the principal city at the time of the filing of the proposed charter with the county election commission, together with such area of any smaller cities as may be specified in an appendix duly ratified and adopted under § 7-2-107. In the event additional territory has been added to the principal city by annexation, effective subsequent to the creation of a charter commission or subsequent to the time of the filing of the proposed charter, the metropolitan council is hereby authorized, and it shall be its duty to remove from the total area of the urban services district such areas of the principal city as to which the metropolitan government will not be able to provide substantial urban services within a reasonable period, which shall not be greater than one (1) year after ad valorem taxes in the annexed area become due, and which shall specifically include sanitary sewers within a period which shall not be greater than thirty-six (36) months after ad valorem taxes in the annexed area become due;

(B) Notwithstanding the provisions of subdivision (a)(5)(A) or any other provision of law to the contrary, in counties in which the county seat is not the principal city at the time of the filing of the proposed charter, the urban services district may consist originally of the total area of the city that is the county seat of such county and such other area, including that of the principal city, as may be recommended by the commission if duly ratified and adopted pursuant to this chapter. This subdivision shall be and remain effective for any county which has not adopted a metropolitan form of government

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on July 1, 2001, but which is in the process of creating a charter commission to create a metropolitan government if such county adopts such form of government by September 1, 2001. If a metropolitan government is not adopted in such county by September 1, 2001, then the provisions of this subdivision shall cease to be effective on such date;

(6) That the area of the urban services district may be expanded and its territorial limits extended by annexation whenever particular areas of the general services district come to need urban services and the metropolitan government becomes able to provide such service within a reasonable period. Such annexation shall be under provisions and limitations specified in the charter, consistent with those provided by §§ 6-51-101 - 6-51-106;

(7) For the functions of the metropolitan government which shall be performed throughout the entire general services district and the governmental services which shall be rendered in such district;

(8) That the tax levy for the general services district shall be set so as to be sufficient, with other available funds and grants, to defray the cost of all governmental services which are provided generally throughout or on behalf of such district;

(9) For the functions of the metropolitan government which shall be performed within the urban services district and the governmental services which shall be rendered in such district;

(10) That the tax levy for the urban services district shall be set so as to be sufficient, with other available funds and grants, to defray the cost of municipal-type governmental services which are provided within such district;

(11) For a metropolitan council, which shall be the legislative body of the metropolitan government and shall be given all the authority and functions of the governing bodies of the county and cities being consolidated, with such exceptions and with such additional authority as may be specified elsewhere in chapters 1-6 of this title;

(12) For the size, method of election, qualification for holding office, method of removal, term of office and procedures of the metropolitan council, with such other provisions with respect to the council as are normally related to the organization, powers and duties of governing bodies in cities and counties;

(13) For the assignment of administrative and executive functions to officers of the metropolitan government, which officers may be given, subject to such limitations as may be deemed appropriate, all or any part of the administrative and executive functions possessed by the county and cities being consolidated and such additional powers and duties, not inconsistent with general law, as may be deemed necessary or appropriate for the metropolitan government;

(14) For the names or titles of the administrative and executive officers of the metropolitan government, their qualifications, compensation, method of selection, tenure, removal, replacement and such other provisions with respect to such officers, not inconsistent with general law, as may be deemed necessary or appropriate for the metropolitan government;

(15) That the urban services district shall be and constitute a municipal corporation with a three-member urban council, whose sole function shall be a mandatory obligation to levy a property tax adequate with other available funds to finance the budget for urban services, as determined by the metropolitan council. The proposed metropolitan charter shall provide the method of selecting the urban council;

(16) For such administrative departments, agencies, boards and commissions as may be necessary and appropriate to perform the consolidated functions of city and county government in an efficient and coordinated manner and for this purpose for the alteration or abolition of existing city and county offices, departments, boards, commissions, agencies and functions, except where otherwise provided in chapters 1-6 of this title or prohibited by the Constitution of Tennessee;

(17) For the maintenance and administration of an effective civil service system, and also for the consolidation of county and city employees' retirement and pension systems and the regulation of such

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consolidated system; provided, that nothing in chapters 1-6 of this title or in a charter adopted pursuant to those provisions shall impair or diminish the rights and privileges of the existing employees under civil service or in the existing county and city employees' retirement and pension systems;

(18) For the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education, which board may be vested with power to appoint a director of schools;

(19) For a determination, as between the general services district and the urban services district, of proportionate responsibility for the existing county bonded indebtedness, both countywide and district, and for the existing municipal indebtedness;

(20) For the method and procedure by which the charter may subsequently be amended; provided, that no such amendment shall be effective until submitted to the qualified voters residing within the general services district and approved by a majority of those voters voting thereon;

(21) For such procedures, methods and steps as are determined to be necessary or appropriate to effectuate a transition from separate county and city governments into a single metropolitan government in which the functions of county and of city have been consolidated; and

(22) Such terms and provisions as are contained in any private act or municipal charter with respect to any municipally owned utility supported by its own revenues and operated, administered and managed pursuant to the private act or municipal charter; provided, that such terms and provisions of the charter may subsequently be amended pursuant to subdivision (a)(20).

(b) The metropolitan charter may provide for annual assessments of real property.

(c) In each county in this state, without regard to population, the metropolitan charter may provide, in addition to the urban services district and general services district required by subdivision

(a)(5), for one (1) or more special service districts within all or any part of the general services district outside the urban services district, for the purpose of furnishing in any part or all of the general services district one (1) or more services which are furnished within the urban services district. If the metropolitan charter provides for special service districts, the following provisions shall apply to the creation, alteration, and taxation of special service districts:

(1) The boundaries of special service districts shall be determined by the metropolitan council and shall become fixed by ordinance of the metropolitan council thirty (30) days or more after notice of the determination of the boundaries of a district has been given to the property owners of the district. Such notice shall be given by mailing a description of the boundaries of the district to all of the property owners of record within the district, at their last known address. It shall not be necessary for the boundaries of any special service district to be contiguous with the boundaries of the urban services district. The boundaries of any special service district may be altered at any time by means of the same procedure by which it was created;

(2) The metropolitan council shall levy an annual ad valorem tax upon the property owners of each special service district. The tax shall be set at a rate sufficient to pay that special service district's share of the total budget of the metropolitan government for the particular service being rendered to the residents and property owners of the district. The tax shall be assessed in the same manner as the general services district tax and collected as an addition thereto;

(3) Each special service district may be given such name as the metropolitan council shall deem appropriate, and the boundaries of special service districts may overlap or be coextensive with boundaries of other special service districts;

(4) In the case of special service districts for sanitary sewers, such sanitary sewers shall be furnished to the residents and property owners of such special service districts within thirty-six (36) months after ad valorem taxes in such special service districts become due;

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(5) When substantial urban services are offered within an area served by special service districts, then that area shall become a part of the urban services district under the charter provisions and limitations established pursuant to subdivision (a)(6); and

(6) Whenever an urban services district lies in two (2) or more counties, a special services district may be created, as provided in this title, and an annual ad valorem tax shall be levied in any portion of such urban services district which lies outside the territory of the county in which the majority of the urban services district lies. Such special services district must be created solely for the purpose of public education. This subdivision shall be and remain effective for any county which has not adopted a metropolitan form of government on May 3, 2001, but which is in the process of creating a charter commission to create a metropolitan government if such county adopts such form of government by September 1, 2001. If a metropolitan government is not adopted in such county by September 1, 2001, then the provisions of this subdivision shall cease to be effective on such date.

(d) Those counties with populations in excess of four hundred fifty thousand (450,000) according to the 1980 federal census or any subsequent federal census, and having a metropolitan form of government, shall provide that any member of a board, commission or authority created under the charter of a metropolitan government may be removed from office upon a vote of three fourths (3/4) of the members of the governing body of such metropolitan government, but only for good cause shown as set forth in a resolution passed by a three-fourths (3/4) majority vote of the members of such governing body, and only after the holding of a public hearing before such governing body.

History

[Acts 1957, ch. 120, § 10; 1961, ch. 199, § 5; 1963, ch. 42, § 1; 1970, ch. 467, § 1; 1971, ch. 14, § 1; impl. am. Acts 1972, ch. 740, § 7; T.C.A., § 6-3711; Acts 1991, ch. 517, § 1; 1992, ch. 828, § 1; 1993, ch. 179, § 1; 2001, ch. 115, § 1; 2001, ch. 168, § 1.]

Annotations

Compiler's Notes. For table of U.S. decennial populations of Tennessee counties, see Volume 13 and its supplement.

Amendments. The 2001 amendment by ch. 115 added (a)(5)(B).

The 2001 amendment by ch. 168 added (c)(6).

Effective Dates. Acts 2001, ch. 115, § 2. July 1, 2001.

Acts 2001, ch. 168, § 2. May 3, 2001.

Cross-References. Assessment of testing fee on driving while intoxicated convictions for use of testing unit, § 55-10-403.

Board of equalization sessions, duration, § 67-1-404.

Council members, minimum salaries in municipalities of over 170,000 population, § 7-51-302.

Hospital authority act is supplemental to powers conferred by other law, § 7-57-106.

Judges, municipal, minimum salary in municipalities of over 170,000 population, § 6-56-109.

Mayor, minimum compensation in municipalities of over 170,000 population, § 7-51-301.

Public service districts restricted, § 7-1-104.

Prisoner furloughs, §§ 41-2-142, 41-2-143.

Solid waste energy recovery facilities, construction authorized, title 68, ch. 211, part 5.

Transportation systems, ownership authorized, ch. 56 of this title.

Utilities, cut-off procedure, title 65, ch. 32.

Section to Section References. This section is referred to in § 7-1-112.

Law Reviews. Open Space Taxation and State Constitutions (David A. Myers), 33 Vand. L. Rev. 837.

Attorney General Opinions. Two cities contained in a metropolitan government cannot comprise two separate urban services districts subject to different property tax levies to accommodate the

The Hows and Whys of Local Government Consolidation in Tennessee

outstanding debt and assets of each city prior to the establishment of the metropolitan government, OAG 01-17 (2/6/01).

A metropolitan charter must provide for the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education, OAG 01-17 (2/6/01). Cited: *Glasgow v. Fox*, 214 Tenn. 656, 383 S.W.2d 9 (1964); *State ex rel. Ragsdale v. Sandefur*, 215 Tenn. 690, 389 S.W.2d 266 (1965); *Kelley v. Metropolitan County Bd. of Educ.*, 293 F. Supp. 485 (M.D. Tenn. 1968); *Doyle v. Metropolitan Gov't*, 225 Tenn. 496, 471 S.W.2d 371 (1971); *Ellwest Stereo Theater, Inc. v. Boner*, 718 F. Supp. 1553 (M.D. Tenn. 1989).

NOTES TO DECISIONS

Analysis

1. Construction.
2. Transfer and Consolidation of Functions.
3. Liability in Tort.

1. Construction.

Charter provision which requires the trustee to remit daily all funds collected, relieves him of other functions and transfers the function of keeping and disbursing funds to the metropolitan treasurer, conflicts with the general law; however, being valid, it supersedes that law. *Robinson v. Briley*, 213 Tenn. 418, 374 S.W.2d 382 (1963).

Sections of the metropolitan charter requiring employees other than deputies to be employed according to civil service regulations and permitting the transfer of these employees to the trustee's office are valid, although they conflict with the general law authorizing the county trustee to employ deputies and other employees. *Robinson v. Briley*, 213 Tenn. 418, 374 S.W.2d 382 (1963).

The county trustee no longer may retain the fees accruing to his office, pay salaries and other expenses and remit surplus fees semiannually, as required by the general law, as the provision of the metropolitan charter requires that he turn over taxes collected daily, including the fees accruing to his office.

Robinson v. Briley, 213 Tenn. 418, 374 S.W.2d 382 (1963).

Subdivision (a)(14) required the people of Nashville and Davidson County to provide in their charter for the removal of the director of law since he was an official of the metropolitan government. *Sitton v. Fulton*, 566 S.W.2d 887 (Tenn. Ct. App. 1978).

2. Transfer and Consolidation of Functions.

Transfers of responsibility and duty of assessing and collecting merchants' ad valorem taxes from county court clerk (now county clerk), metropolitan (county) tax assessor and metropolitan (county) trustee respectively pursuant to this chapter were effective and constitutional transfers. *Winter v. Allen*, 212 Tenn. 84, 367 S.W.2d 785 (1963).

Where a metropolitan charter adopted pursuant to the provisions of this chapter provided that the metropolitan (county) tax assessor should make assessment of merchants' ad valorem taxes and an earlier general law provided that such assessments for counties should be made by the county court clerk (now county clerk), it was the duty of the metropolitan tax assessor to make such ad valorem assessments for the metropolitan government. *Winter v. Allen*, 212 Tenn. 84, 367 S.W.2d 785 (1963).

Where a metropolitan charter adopted pursuant to the provisions of this chapter provided that the metropolitan (county) trustee should collect merchants' ad valorem taxes and an earlier general law provided that such taxes should be collected by the county court clerk (now county clerk), it was the duty and responsibility of the metropolitan trustee to collect such taxes. *Winter v. Allen*, 212 Tenn. 84, 367 S.W.2d 785 (1963).

Forming a Metropolitan Government

Metropolitan charter could properly provide for transfer of criminal law enforcement from sheriff to metropolitan police department and for giving sheriff charge of urban jail as well as county jail.

Metropolitan Gov't v. Poe, 215 Tenn. 53, 383 S.W.2d 265 (1964).

Under metropolitan charter for Nashville and Davidson County sheriff was a metropolitan officer and bound by functional, budgetary and purchasing provisions of the charter and its personnel and civil service provisions, except that he was entitled to appoint such deputies and other employees as necessary to carry on his duties under § 8-8-201 in the regular manner provided by § 8-20-101, and superintendent of workhouse was subject to appointment by him at will. Metropolitan Gov't v. Poe, 215 Tenn. 53, 383 S.W.2d 265 (1964).

3. Liability in Tort.

Suit in tort would lie against metropolitan government for personal injuries incurred as result of negligent construction of streets and sidewalks in general services district outside the urban services district. Metropolitan Gov't v. Allen, 220 Tenn. 222, 415 S.W.2d 632 (1967).

Whole of metropolitan area had the same liabilities attached to it as the various cities and municipalities formerly had. Metropolitan Gov't v. Allen, 220 Tenn. 222, 415 S.W.2d 632 (1967).

COLLATERAL REFERENCES

Abstention from voting of member of municipal council present at session as affecting requisite voting majority. 63 A.L.R.3d 1072.

Appendix 4

Sample County Resolution to Create a Study Committee

RESOLUTION NO. _____

TO STUDY MUNICIPAL-COUNTY CONSOLIDATION

WHEREAS, the citizens of _____ County deserve the most efficient, economical, and responsive local government possible, and

WHEREAS, the consolidation of the governments of the City (Town) of _____ and _____ County is possible under Tennessee law through the formation of a metropolitan form of government, and

WHEREAS, it is prudent to explore and study the benefits and possible detriments of a consolidation of the governments of the City (Town) of (principal city) and _____ County, (and with the possible inclusion of the City (Town) of (smaller city),

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of _____ County, Tennessee, in a _____ meeting on this ____ day of _____, 20__, as follows:

1. A committee to study the possible consolidation of (principal city) and _____ County, (and with the possible inclusion of (smaller city) shall be established.
- 2.. The consolidation study committee shall consist of (number) members constituted as follows:
 - a. (number) County Commissioners from County Commission districts not representing area of (principal city), to be appointed by the County Mayor.
 - b. (number) members of the Board of Mayor and Aldermen (Board of Commissioners) (Council), appointed by the Mayor of (principal city), (the Mayor may appoint himself as one of these members).
 - c. One (1) editor of a newspaper of general circulation in _____ County to be appointed by the County Mayor.
 - d. One (1) member of the Board of Mayor and Aldermen (Board of Commissioners) (Council) of (smaller city).
 - e. The (number) members described above shall constitute the core group of the consolidation study committee. This core group shall meet and select (number) additional members of the committee from among the voters of _____ County as follows:
 - (1) One (1) business person (including farmers)
 - (2) One (1) industrialist
 - (3) One (1) educator
 - (4) One (1) lawyer
 - (5) One (1) hourly wage employee

Forming a Metropolitan Government

3. Vacancies on the consolidation study committee shall be filled by the original appointing authority.
4. The core group of the consolidation study committee shall meet at a time and place as set by the County Mayor and a quorum being present shall select a chairman and a secretary. The core group of the study committee shall also select the other members of the committee, establish procedures and meeting times and locations. The full study committee shall report its findings to the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the (principal city) and the (smaller city), not later than (_____).
5. The consolidation study committee herein established shall not be and shall not be considered a metropolitan charter commission.
6. This resolution shall take effect upon the passage of a substantially similar resolution by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of (principal city) or upon its passage, whichever occurs last.
7. A certified copy of this resolution shall be sent by the County Clerk to the Mayor of (principal city) and to the Mayor of (smaller city), respectively.

Approved this _____ day of _____, 20__.

APPROVED: _____
County Mayor

ATTEST: _____
County Clerk

Appendix 5

Sample Municipal Resolution to Create a Study Committee

RESOLUTION NO. _____

TO STUDY MUNICIPAL-COUNTY CONSOLIDATION

WHEREAS, the citizens of the City (Town) of _____ and _____ County deserve the most efficient, economical, and responsive local government possible, and

WHEREAS, the consolidation of the governments of the City (Town) of _____ and _____ County is possible under Tennessee law through the formation of a metropolitan form of government, and

WHEREAS, it is prudent to explore and study the benefits and possible detriments of a consolidation of the governments of the City (Town) of (principal city) and _____ County, (and with the possible inclusion of the City (Town) of (smaller city),

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of _____, Tennessee, as follows:

1. A committee to study the possible consolidation of (principal city) and _____ County, (and with the possible inclusion of (smaller city)) shall be established.
- 2.. The consolidation study committee shall consist of (number) members constituted as follows:
 - a. (number) county commissioners from county commission districts not representing area of (principal city), to be appointed by the County Mayor of _____ County.
 - b. (number) members of the Board of Mayor and Aldermen (Board of Commissioners) (Council), appointed by the Mayor of (principal city), (the Mayor may appoint himself as one of these members).
 - c. One (1) editor of a newspaper of general circulation in _____ County to be appointed by the County Mayor.
 - d. One (1) member of the Board of Mayor and Aldermen (Board of Commissioners) (Council) of (smaller city).
 - e. The (number) members described above shall constitute the core group of the consolidation study committee. This core group shall meet and select (number) additional members of the committee from among the voters of _____ County as follows:
 - (1) One (1) business person (including farmers)
 - (2) One (1) industrialist
 - (3) One (1) educator
 - (4) One (1) lawyer
 - (5) One (1) hourly wage employee

Forming a Metropolitan Government

3. Vacancies on the consolidation study committee shall be filled by the original appointing authority
4. The core group of the consolidation study committee shall meet at a time and place as set by the County Mayor and a quorum being present shall select a chairman and a secretary. The core group of the study committee shall also select the other members of the committee, establish procedures and meeting times and locations. The full study committee shall report its findings to the Board of County Commissioners of _____ County and to the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the (principal city) and the (smaller city), not later than (_____).
5. The consolidation study committee herein established shall not be and shall not be considered a metropolitan charter commission.
6. This resolution shall take effect upon the passage of a substantially similar resolution by the Board of County Commissioners of _____ County, Tennessee or upon its passage, whichever occurs last.
7. A certified copy of this resolution shall be sent by the City Recorder to the County Executive and County Clerk of _____ County and to the Mayor of (smaller city), respectively.

Approved this _____ day of _____, 20__.

APPROVED: _____
Mayor

ATTEST: _____
Recorder

Appendix 6

Sample County Resolution to Form a Charter Commission by Appointment

RESOLUTION NO. _____

TO ESTABLISH A METROPOLITAN GOVERNMENT CHARTER COMMISSION

WHEREAS, the citizens of _____ County and the City (Town) of _____ deserve the most efficient, economical, and responsible local government possible, and

WHEREAS, the general law of Tennessee provides for the consolidation of a county government with the county's largest municipality (and with other municipalities in the county if the largest municipality consolidates) approved by the voters of the municipality and the voters of the county residing outside the largest municipality, and

WHEREAS, the general law provides for the formation of a metropolitan government charter commission to prepare a charter for a new consolidated government known in the general law as a metropolitan form of government, and

WHEREAS, the citizens of the City (Town) of _____ and County deserve the opportunity to review a metropolitan charter and vote on whether or not to consolidate the county's largest municipality with the county and form a metropolitan government, with the possible inclusion of the smaller municipality of the City (Town) of _____, and

WHEREAS, Tennessee Code Annotated, Section 7-2-104, requires that whenever a metropolitan government charter commission is formed, it is the duty of the legislative body of the county to appropriate at least twenty-five thousand dollars (\$25,000.00), but not more than fifty thousand dollars (\$50,000.00), to defray the expenses of the charter commission, and

WHEREAS, the appropriation of funds to defray the expenses of a metropolitan government charter commission will entail an amendment to the county general fund budget;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of _____ County, Tennessee, at a _____ meeting on this ____ day of _____, 20__, as follows:

SECTION 1. A metropolitan charter commission shall be established pursuant to Tennessee Code Annotated, Title 7, Chapter 2, to propose to the voters of the City (Town) of _____ and _____ County, the consolidation of all, or substantially all, of the governmental and corporate functions of the City (Town) of _____ and _____ County, and the creation of a metropolitan government for the administration of the consolidated functions.

SECTION 2. The Mayor of _____ County is authorized and directed to appoint ten (10) members of the metropolitan charter commission, subject to the confirmation of the Board of County Commissioners of _____ County, and the Mayor of the City (Town) of _____ is authorized and directed to appoint five (5) members of the metropolitan government charter commission, subject to confirmation by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of _____.

Forming a Metropolitan Government

SECTION 3. The County Executive and the Mayor are directed to appoint persons to the metropolitan government charter commission who are broadly representative of their respective areas and that an effort be made to include representatives from various political, social, and economic groups within the city (town) and county.

SECTION 4. The metropolitan government charter commission shall perform its work in the manner and according to the timetable established in the general law.

SECTION 5. Members of the metropolitan government charter commission shall not receive per diem or other compensation for their services, except reimbursement of actual expenses incurred by members in behalf of the charter commission.

SECTION 6. Although not required to participate in the work of the metropolitan charter commission or to consolidate with the largest city and the county, the City (Town) of _____, is invited to send a representative to consult with the metropolitan government chartered commission and to participate in accordance with Tennessee Code Annotated, Section 7-2-107.

SECTION 7. The county general fund is amended as follows:

Account Number	Account	Approved Budget	Budget Amendments	Amended Budget
	<u>Unappropriated Bal.</u> Fund Balance		<u>\$25,000.00</u> (up to \$50,000)	
	Expenditures Est. <u>Metropolitan Govt.</u> Charter Commission		<u>\$25,000.00</u> (up to \$50,000)	

SECTION 8. All resolutions or ordinances in conflict with this resolution are repealed insofar as any conflict exists.

SECTION 9. This resolution shall take effect upon approval of a substantially similar resolution by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of Tennessee, or upon its approval, whichever occurs last, the public welfare requiring it.

SECTION 10. Certified copies of this resolution shall be sent by the County Clerk to the Mayors and Recorders (or clerks of the governing bodies) of the Cities (Towns) of _____ and _____ respectively.

Approved this _____ day of _____, 20__.

APPROVED: _____
County Mayor

ATTEST: _____
County Clerk

Appendix 7

Sample Municipal Resolution to Form a Charter Commission by Appointment

RESOLUTION NO. _____

TO ESTABLISH A METROPOLITAN GOVERNMENT CHARTER COMMISSION

WHEREAS, the citizens of the City (Town) of _____ and _____ County deserve the most efficient, economical, and responsible local government possible, and

WHEREAS, the general law of Tennessee provides for the consolidation of a county government with the county's largest municipality (and with other municipalities in the county if the largest municipality consolidates) approved by the voters of the municipality and the voters of the county residing outside the largest municipality, and

WHEREAS, the general law provides for the formation of a metropolitan government charter commission to prepare a charter for a new consolidated government known in the general law as a metropolitan form of government, and

WHEREAS, the citizens of the City (Town) of _____ and _____ County deserve the opportunity to review a metropolitan charter and vote on whether or not to consolidate the county's largest municipality with the county and form a metropolitan government, with the possible inclusion of the smaller municipality of the City (Town) of _____

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of _____, Tennessee, as follows:

SECTION 1. A metropolitan charter commission shall be established pursuant to Tennessee Code Annotated, Title 7, Chapter 2, to propose to the voters of the City (Town) of _____ and _____ County, the consolidation of all, or substantially all, of the governmental and corporate functions of the City (Town) of _____ and _____ County, and the creation of a metropolitan government for the administration of the consolidated functions.

SECTION 2. The Mayor of _____ County is authorized and directed to appoint ten (10) members of the metropolitan charter commission, subject to the confirmation of the Board of County Commissioners of _____ County, and the Mayor of the City (Town) of _____ is authorized and directed to appoint five (5) members of the metropolitan government charter commission, subject to confirmation by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of _____.

SECTION 3. The County Mayor and the Mayor of the City (Town) of _____ are directed to appoint persons to the metropolitan government charter commission who are broadly representative of their respective areas and that an effort be made to include representatives from various political, social, and economic groups within the City (Town) and County

SECTION 4. The metropolitan government charter commission shall perform its work in the manner and according to the timetable established in the general law.

Forming a Metropolitan Government

SECTION 5. Members of the metropolitan government charter commission shall not receive per diem or other compensation for their services, except reimbursement of actual expenses incurred by members in behalf of the charter commission.

SECTION 6. Although not required to participate in the work of the metropolitan charter commission or to consolidate with the largest city and the county, the City (Town) of _____ is invited to send a representative to consult with the metropolitan government charter commission and to participate in accordance with Tennessee Code Annotated, Section 7-2-107.

SECTION 7. All resolutions or ordinances in conflict with this resolution are repealed insofar as any conflict exists.

SECTION 8. This resolution shall take effect upon approval of a substantially similar resolution by the Board of County Commissioners of _____ County, Tennessee, or upon its approval, whichever occurs last, the public welfare requiring it.

SECTION 9. Certified copies of this resolution shall be sent by the city recorder to the County Mayor and County Clerk of _____ County and the Mayor and Recorder (or clerk of governing body) of the City (Town) of _____.

Approved this _____ day of _____, 20__.

APPROVED: _____
Mayor

ATTEST: _____
Recorder

Appendix 8

Sample County Resolution to Form a Charter Commission by Election

RESOLUTION NO. _____

TO ESTABLISH A METROPOLITAN GOVERNMENT CHARTER COMMISSION BY ELECTION OF MEMBERS

WHEREAS, the citizens of _____ County and the City (Town) of _____ deserve the most efficient, economical, and responsible local government possible, and

WHEREAS, the general law of Tennessee provides for the consolidation of a county government with the county's largest municipality (and with other municipalities in the county if the largest municipality consolidates) approved by the voters of the municipality and the voters of the county residing outside the largest municipality, and

WHEREAS, the general law provides for the formation of a metropolitan government charter commission to prepare a charter for a new consolidated government known in the general law as a metropolitan form of government, and

WHEREAS, the general law provides the option of forming a metropolitan government charter commission by election of the members by qualified voters of the county, and

WHEREAS, the citizens of the City (Town) of _____ and County deserve the opportunity to review a metropolitan charter prepared by members elected for this purpose and the opportunity to vote on whether or not to consolidate the county's largest municipality with the county and for a metropolitan government, with the possible inclusion of the smaller municipality of the City (Town) of _____.

WHEREAS, Tennessee Code Annotated, Section 7-2-104, requires that whenever a metropolitan government charter commission is formed, it is the duty of the legislative body of the county to appropriate at least twenty-five thousand dollars (\$25,000.00) but not more than fifty thousand dollars (\$50,000.00), to defray the expenses of the charter commission, and

WHEREAS, the appropriation of funds to defray the expenses of a metropolitan government charter commission will entail an amendment to the county general fund budget;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of _____ County, Tennessee, at a _____ meeting on this ____ day of _____, 20____, as follows:

SECTION 1. A metropolitan charter commission shall be established pursuant to Tennessee Code Annotated, Title 7, Chapter 2, to propose to the voters of the City (Town) of _____ and _____ County, the consolidation of all, or substantially all, of the governmental and corporate functions of the City (Town) of _____ and _____ County, and the creation of a metropolitan government for the administration of the consolidated functions.

SECTION 2. The metropolitan government charter commission shall consist of ten (10) members to be elected at an at-large election in the county pursuant to Tennessee Code Annotated, Section 7-2-102.

Forming a Metropolitan Government

SECTION 3. The metropolitan government charter commission shall perform its work in the manner and according to the timetable established in the general law.

SECTION 4. Members of the metropolitan government charter commission shall not receive per diem or other compensation for their services, except reimbursement of actual expenses incurred in behalf of the charter commission.

SECTION 5. Although not required to participate in the work of the metropolitan charter commission or to consolidate with the largest city and the county, the City (Town) of _____, is invited to send a representative to consult with the metropolitan government charter commission and to participate in accordance with Tennessee Code Annotated, Section 7-2-107.

SECTION 6. The county general fund is amended as follows:

Account Number	Account	Approved Budget	Budget Amendments	Amended Budget
_____	<u>Unappropriated Bal.</u> Fund Balance	_____	\$25,000.00 (up to \$50,000)	_____
_____	Expenditures Est. <u>Metropolitan Govt.</u> Charter Commission	_____	\$25,000.00 (up to \$50,000)	_____

SECTION 7. All resolutions or ordinances in conflict with this resolution are repealed insofar as any conflict exists.

SECTION 8. This resolution shall take effect upon approval of a substantially similar resolution by the Board of Mayor and Aldermen (Board of Commissioners) (Council) of the City (Town) of _____, Tennessee, or upon its approval, whichever occurs last, the public welfare requiring it.

SECTION 9. Certified copies of this resolution shall be sent by the County Clerk to the Mayors and Recorders (or clerks of the governing bodies) of the Cities (Towns) of _____ and _____ and to the County Commissioner of Election.

Approved this _____ day of _____, 20__.

APPROVED: _____
County Mayor

ATTEST: _____
County Clerk

Appendix 9

Sample Municipal Resolution to Form a Charter Commission by Election

RESOLUTION NO. _____

TO ESTABLISH A METROPOLITAN GOVERNMENT CHARTER COMMISSION BY ELECTION OF MEMBERS

WHEREAS, the citizens of the City (Town) of _____ and _____ County deserve the most efficient, economical, and responsible local government possible, and

WHEREAS, the general law of Tennessee provides for the consolidation of a county government with the county's largest municipality (and with other municipalities) in the county if the largest municipality consolidates) approved by the voters of the municipality, and

WHEREAS, the general law provides for the formation of a metropolitan government charter commission to prepare a charter for a new consolidated government known in the general law as a metropolitan form of government, and

WHEREAS, the general law provides the option of forming a metropolitan government charter commission by election of the members by the qualified voters of the county, and

WHEREAS, the citizens of the City (Town) of _____ and _____ County deserve the opportunity to review a metropolitan charter prepared by members elected for this purpose and the opportunity to vote on whether or not to consolidate the county's largest municipality with the county and for a metropolitan government, with the possible inclusion of the smaller municipality of the City (Town) of _____

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen (Board of Commissioners) (council) of the City (Town) of _____, Tennessee, as follows:

SECTION 1. A metropolitan charter commission shall be established pursuant to Tennessee Code Annotated, Title 7, Chapter 2, to propose to the voters of the City (Town) of _____ and _____ County, the consolidation of all, or substantially all, of the governmental and corporate functions of the City (Town) of _____ and _____ County, and the creation of a metropolitan government for the administration of the consolidated functions.

SECTION 2. The metropolitan government charter commission shall consist of ten (10) members to be elected at an at-large election in the county pursuant to Tennessee Code Annotated, Section 7-2-102.

SECTION 3. The metropolitan government charter commission shall perform its work in the manner and according to the timetable established in the general law.

SECTION 4. Members of the metropolitan government charter commission shall not receive per diem or other compensation for their services, except reimbursement of actual expenses incurred by members in behalf of the charter commission.

Forming a Metropolitan Government

SECTION 5. Although not required to participate in the work of the metropolitan charter commission or to consolidate with the largest city and the county, the City (Town) of _____, is invited to send a representative to consult with the metropolitan government charter commission and to participate in accordance with Tennessee Code Annotated, Section 7-2-107.

SECTION 6. All resolutions or ordinances in conflict with this resolution are repealed insofar as any conflict exists.

SECTION 7. This resolution shall take effect upon approval of a substantially similar resolution by the Board of County Commissioners of _____ County, Tennessee, or upon its approval, whichever occurs last, the public welfare requiring it.

SECTION 8. Certified copies of this resolution shall be sent by the City Recorder to the County Mayor and County Clerk of _____ County and the Mayor and Recorder (or clerk of the governing body) of the City (Town) of _____, and to the County Commissioner of Elections.

Approved this _____ day of _____, 20__.

APPROVED: _____
Mayor

ATTEST: _____
Recorder

Appendix 10

Sample Petition and Resolution to Create a Metropolitan Charter Commission

PETITION and RESOLUTION

TO CREATE A METROPOLITAN GOVERNMENT CHARTER COMMISSION FOR THE TOWN (CITY) OF _____ AND _____ COUNTY

WHEREAS, the citizens of _____ County and the Town (City) of _____ deserve the most efficient, economical, and responsible local government possible, and

WHEREAS, the general law of Tennessee provides for the consolidation of a county government with the county's largest municipality when approved by the voters of the municipality and the voters of the county residing outside the municipality, and

WHEREAS, the general law of Tennessee provides for the formation of a metropolitan government charter commission to prepare a charter for a new consolidated government known in the general law as a metropolitan form of government, and

WHEREAS, the citizens of the Town (City) of _____ and _____ County deserve the opportunity to review a metropolitan government charter and vote on the same, and

WHEREAS, the Tennessee Code Annotated, Section 7-2-101(4), mandates that a metropolitan government charter commission be formed, a metropolitan government charter written and a referendum on creating the new metropolitan government occur upon the receipt of a petition by the county election commission, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election, and

WHEREAS, the general law of Tennessee provides that a sufficient petition to form a metropolitan government charter commission shall serve as a consolidation resolution of the town and county;

NOW, THEREFORE, BE IT RESOLVED, by the qualified voters of the Town (City) of _____ and _____ County, Tennessee, that a metropolitan government charter commission be established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of _____ County and the Town (City) of _____, and the creation of a metropolitan government for the administration of the consolidated functions.

This PETITION and RESOLUTION is approved by the following qualified voters of _____ County, Tennessee:

Appendix 11

Attorney General Opinion Regarding Coffee County's Metropolitan Charter Commission

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

February 6, 2001

Opinion No. 01-017

Metropolitan Form of Government

QUESTIONS

A Metropolitan Charter Commission has been established in Coffee County to develop a charter for a metropolitan government.

1. The establishment of a metropolitan government entails combining the largest city, in this case, the City of Tullahoma, and the remaining parts of Coffee County. Tullahoma extends into Franklin County. Can a metropolitan government be created combining Coffee County and Tullahoma even though Tullahoma extends into Franklin County?

2. The metropolitan government would include the City of Manchester and the City of Tullahoma. Under a metropolitan government, could these territories comprise two separate urban services districts subject to different property tax levies to accommodate the outstanding debt and assets of each city prior to the establishment of the metropolitan government?

3. There are three existing school districts in the territory that would be combined under the proposed metropolitan charter: Tullahoma City Schools, Manchester City Schools, and Coffee County Schools. Can three existing school districts be combined under a metropolitan form of government?

4. The consolidated government would include students who reside outside Coffee County but within the city limits of Tullahoma. These students would be eligible to attend the combined school system. Can general services district taxes be levied on parcels located within the largest city but outside the county?

OPINIONS

1. Assuming that the majority of the territory of Tullahoma is in Coffee County, this consolidation appears to be authorized under Tenn. Code Ann. § 7-1-112, subject to the conditions in that statute. Neither Coffee County nor Franklin County is excluded from the operation of this statute under Tenn. Code Ann. § 7-1-112(d).

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2. The statutory scheme does not appear to authorize this arrangement.

3. Under Tenn. Code Ann. § 7-2-108(a)(18), a metropolitan charter is required to provide for the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education. Under Tenn. Code Ann. § 7-3-302(1), a metropolitan government may take over the functions and liabilities of any school district whose services are performed within the geographical jurisdiction of the government.

4. Under Tenn. Code Ann. § 7-1-112(c), the metropolitan government may levy the urban services tax, but not the general services tax, on such parcels.

ANALYSIS

This opinion responds to your request for advice on several issues under the metropolitan government laws, Tenn. Code Ann. §§ 7-1-101, *et seq.* The request indicates that a Metropolitan Charter Commission has been established in Coffee County to develop a charter for a metropolitan government. We assume your question refers to metropolitan government under Tenn. Code Ann. §§ 7-1-101, *et seq.*, and not to consolidation under the Charter Government Unification Act, Tenn. Code Ann. §§ 7-21-101, *et seq.*

1. Consolidation of a County and a City Located in Different Counties

This opinion addresses several questions about consolidation of Coffee County with the cities located within the county under Tenn. Code Ann. §§ 7-1-101, *et seq.* Coffee County includes the City of Tullahoma, the largest city, and the City of Manchester. Tullahoma is located partly in Coffee County and partly in Franklin County. The first question is whether a metropolitan government combining Coffee County and Tullahoma may be created even though Tullahoma extends into Franklin County. Assuming that the majority of the city's territory is in Coffee County, Tenn. Code Ann. § 7-1-112 expressly authorizes such consolidation, subject to the conditions prescribed in that statute. Neither Coffee County nor Franklin County appears to fall within the counties excluded from operation of the statute under Tenn. Code Ann. § 7-1-112(d).

2. Separate Urban Services Districts

The second question is whether the proposed metropolitan government could include two separate urban services districts — one for the City of Manchester and one for the City of Tullahoma — subject to different property tax levies to accommodate the outstanding debt and assets of each city prior to the establishment of the metropolitan government. The statutory scheme does not appear to authorize this arrangement. In order to explain this issue fully, it is necessary to outline the process by which a third local government — in this case, Manchester, the smaller of the two Coffee County cities — would be included within a metropolitan government. Under Tenn. Code Ann. §§ 7-1-101, *et seq.*, a county and the principal

city within the county may consolidate governmental functions. “Principal city” means the city with the largest population in a particular county. Tenn. Code Ann. § 7-1-101(7). The charter must be approved by a majority of voters within the principal city and also a majority of those voting in the county outside of the principal city. Tenn. Code Ann. § 7-2-106(b). Under Tenn. Code Ann. § 7-2-107, a smaller city within the county may also be included in the proposed consolidation. Terms proposed by the charter commission with respect to the smaller city must be filed and published separately as an appendix to the metropolitan charter proposed with respect to the principal city, and must be submitted independently in a special referendum. The appendix must be approved by a majority of those voting in the small city and those voting in the county outside the smaller city.

Under Tenn. Code Ann. § 7-2-108(a)(5), a metropolitan charter must provide for two service districts within the geographical limits of the metropolitan government: a general services district and an urban services district. The urban services district consists originally of the total area of the principal city at the time of the filing of the proposed charter with the county election commission, together with such area of any smaller cities as may be specified in an appendix duly ratified and adopted under Tenn. Code Ann. § 7-2-107. If the charter approving the consolidation between the county and the principal city is approved, a smaller city that is not included in a metropolitan government by appendix becomes part of the general services district within the metropolitan government, but may not be included within the urban services district. Tenn. Code Ann. § 7-2-107(e).

Thus, in order for the City of Manchester to be included in a metropolitan urban services district, its consolidation would have to be approved by the voters of the city as required under Tenn. Code Ann. § 7-2-107. But assuming that this consolidation is so approved, the statutory scheme provides for only a single urban services district. The metropolitan government may set different tax rates for the general services district and the urban services district. Tenn. Code Ann. § 7-2-108(a)(8) & (9). In addition, the charter must include a determination, as between the general services district and the urban services district, or proportionate responsibility for the existing county bonded indebtedness, both countywide and district, and for the existing municipal indebtedness. The statutes do not authorize the charter to establish more than one urban services district or to set different tax levels within the urban services district. Under Tenn. Code Ann. § 7-2-108(c), a metropolitan charter may provide for special service districts within the general services district to furnish one or more services provided within the urban services district, and this district can be taxed at a different rate. But when “substantial urban services” are offered within a special service district, it must become part of the urban services district. Tenn. Code Ann. § 7-2-108(c)(5). Therefore, the statute regarding special service districts appears to apply to areas where the government wishes to extend one or more urban services, not to an area already receiving city services.

3. Consolidating School Districts

The next question is whether three existing school districts in the territory — Tullahoma City Schools, Manchester City Schools, and Coffee County Schools — may be consolidated under a metropolitan form of government. Clearly, consolidation of the Tullahoma and the Coffee County school

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districts would be authorized under a metropolitan charter. Under Tenn. Code Ann. § 7-2-108(a)(18), a metropolitan charter must provide:

For the consolidation of the existing school systems with the county and city or cities, including the creation of a metropolitan board of education, which board may be vested with power to appoint a director of schools[.]

In addition, under Tenn. Code Ann. § 7-3-302, a metropolitan government may assume and take over the functions and property of any school district all of whose public functions are performed within the geographical jurisdiction of the metropolitan government. Even if its consolidation with the metropolitan government has not been separately approved under Tenn. Code Ann. § 7-2-107, the entire City of Manchester would be within the general services district of the metropolitan government. Therefore, Tenn. Code Ann. § 7-3-302 appears to authorize consolidation of the Manchester City Schools with others within the county regardless of whether the city's consolidation is separately approved.

4. Taxation of Residents of City Living Outside the County

The last question is whether a metropolitan government may levy general services taxes on parcels located within the principal city, but outside the county. Under Tenn. Code Ann. § 7-1-112, the metropolitan government may levy the urban services tax, but not the general services tax, on such parcels.

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