Tennessee's Comprehensive Growth Policy for Counties and Cities- Public Chapter 1101 of 1998

Key Takeaways

- There has been legislation to amend, or even delete Public Chapter 1101 of 1998, the state's Comprehensive Growth Policy for counties and cities or often referred to as the Urban Growth Boundary law.
- Public Chapter 1101 of 1998 required a comprehensive growth policy plan in each county to include anticipated development areas for a county and city(ies) for a 20-year period.
- Key provisions of the comprehensive growth policy included countywide planning and annexation policies.
- In 2014 the General Assembly passed Public Chapter 707 with Farm Bureau support, which eliminated annexation by ordinance and provided annexation within the urban growth boundaries can only occur by referendum or with written consent of the property owner(s).
- As Tennessee's population grows, Farm Bureau leaders should be aware of the significant implications of their community's plan for growth.
- Much information provided in this paper is based upon on a Tennessee Advisory Commission on Intergovernmental Relations (TACIR) report, which can be found on the commission's website for further analysis.

Questions

1. **How should population growth be addressed through state and local planning?**
2. **Does PC110 need to be amended or deleted?**
3. **Does your county Farm Bureau have an understanding of the local comprehensive growth policy?**

Background

Public Chapter 1101 (PC1101) of 1998 provided a framework for growth policy development within each county area without imposing a statewide mandate. Local governments and community leaders were charged with the responsibility of cooperatively shaping growth policy within their county areas through the development of a 20-year countywide growth plan. The act is codified in Tennessee law at Tennessee Code Annotated, Section 6-58-101 through 6-58-118.

There has been discussion amongst some lawmakers to amend or even delete PC1101. Legislation has been filed in the last two sessions on the topic, although little action has been taken on the bills. **With ongoing discussions on the future of PC1101, it**

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Tennessee's population is growing and is expected to continue increasing over the coming decades according to the University of Tennessee Boyd Center for Business and Economic Research. **Tennessee's population grew to 6,910,840 over the past decade, up 8.9% since 2010 according to the 2020 Census results. Projections anticipate the state's population to grow to 7.8 million in 2040 and 9.3 million in 2070.** Much of this growth is occurring and is expected to be in Davidson and surrounding counties.

PC1101 lays out for the state's strategy on several topics in relation to comprehensive growth policy for counties and cities, of note for many Farm Bureau leaders is the countywide planning and annexation portions of the law. Other topics include the plan of services in annexed areas, incorporation of new municipalities, tax strategy, zoning implications, and others.

Countywide Planning

In every county, the initial draft of the growth plan was formulated by a coordinating committee composed of representatives of the county, cities, utilities, schools, chambers of commerce, the soil conservation districts, and others. The county and cities proposed boundaries for inclusion in the plan. After the growth plan is developed or amended, the committees conducted public hearings and submitted the plan to each city and county for ratification. The committee could revise the plan upon objection from these local governments. If the governmental entities could not agree on a plan, one of the governmental entities could petition the Tennessee Secretary of State to appoint a dispute resolution panel of administrative law judges to settle the conflict. The deadline for completing and approving all plans was July 1, 2001. Once adopted, a plan could not be amended for three years, except in unusual circumstances. The final step in the growth plan approval process is approval by the state Local Government Planning Advisory Committee (LGPAC). This committee is housed in the Department of Economic and Community Development and is charged with the responsibility of reviewing and approving the growth plans and amendments.

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According to TACIR, by 2003 all 92 counties required to develop growth plans had done so, and all plans were subsequently approved by LGPAC—Davidson, Moore, and Trousdale continue to be exempt from PC 1101 because each has a consolidated metropolitan government. Thirty counties have amended their initial plans, some multiple times. For example, Wilson County amended its growth plan in response to a growth boundary expansion requested by one of its cities and a retraction requested by another. Hamblen County amended its growth plan four times in the mid-2000s to allow Morristown to annex territory which was initially outside of its very narrowly drawn urban growth boundary.

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The plan should identify three distinct types of areas:

> (1) "urban growth boundaries" (UGB), regions which contain the corporate limits of a municipality and the adjoining territory where growth is expected;
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> (2) "planned growth areas" (PGA), compact sections outside incorporated municipalities where growth is expected (if there are such areas in the county), and where new incorporations may occur; and
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> (3) "rural areas" (RA), territory not within one of the other two categories which is to be preserved for agriculture, recreation, forest, wildlife, and uses other than high-density commercial or residential development.

Annexation

One of the major issues of PC1101 was to address the annexation of new territory by municipalities. After the growth plan was approved by the Local Government Planning Advisory Committee (LGPAC), a municipality could use any statutory method to annex property within its UGB, including annexation by ordinance and/or referendum. **However, in 2014 the General Assembly passed Public Chapter 707 with Farm Bureau support, which eliminated annexation by ordinance and provided annexation within the UGB can only occur by referendum or with written consent of the property owner(s)**.

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Outside the UGB, a city may annex by referendum or amend its UGB to include the new territory, which may then be annexed by resolution with written consent of the property owner(s). A recent amendment also provided a municipality may expand its

urban growth boundaries to annex a tract of land without reconvening the coordinating committee or approval from the county or any other municipality if (1) the tract is contiguous to a tract of land that has the same owner and has already been annexed by the municipality; (2) the tract is being provided water and sewer services; and (3) the owner of the tract, by notarized petition, consents to being included within the urban growth boundaries of the municipality.

The new restriction on annexation initially raised questions about the utility of urban growth boundaries, but UGBs still have value and purpose according to TACIR. In particular, one municipality may not annex areas inside another municipality's UGB.

Policy

Annexation (Partial)

We support the sections of the growth management law designed to protect the property rights of farmers. The Tennessee Farm Bureau Board of Directors should closely monitor the law to ensure the best interest of Tennessee agriculture is served. Tennessee's growth management law was passed in 1998 to provide a twenty-year growth plan framework for each county. The Tennessee General Assembly should study the strengths and weaknesses of the current law to determine how to move forward after 2018 with a policy that is best for all landowners.

We commend the General Assembly for abolishing annexation by ordinance. Before annexation, citizens in the area affected should have the right to vote to be annexed or to remain outside the municipality. Land in agricultural use should only be annexed with consent of the farm owner. Farm Bureau supports the right to a jury trial in annexation disputes.

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If consolidation of county and municipal governments occurs, separate taxing districts should be established. Rural areas should not have to pay for urban services they do not receive.

Citizens should have the ability to de-annex by referendum to remove affected properties from a municipality, including properties in greenbelt.

Land Use Planning (Partial)

We oppose federal land use planning. Planning can best be accomplished at the local level of government and by private landowners.

Several local communities have used zoning very effectively in accomplishing orderly growth and designating land use to certain areas. Local planning can save tax dollars and protect landowners if local people make decisions. In those counties with zoning, local farmers should have adequate representation on planning commissions, zoning boards and appeal boards.

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Tennessee is losing valuable farmland to urbanization. The agricultural district law and farmland trust are both voluntary tools for the protection of farmland. Efforts to educate farmers on the availability of these options should be enhanced.

Protecting prime agricultural land from development should be a top priority. Decision makers should carefully consider the consequences of each proposed project, which erodes Tennessee's valuable farmland resources. Such uses should receive a low priority in consideration of state funding needs.

Rural Utility Services (partial)

Many Tennessee communities do not have access to public water supplies. We believe there should be a comprehensive effort to determine ways to extend public water to these rural communities.

For many years' annexation laws have allowed municipalities to annex adjacent areas. Often annexed residents are not justly compensated for the loss of their utility system to municipal control.

Under the Growth Management Act (Public Chapter 1101) guidelines are set for the annexation of a rural area by a municipality. Before annexing, cities must formulate a plan of services that addresses utility services along with other services.

We oppose the passage of any law allowing cities or units of local government to assume control of water and wastewater utility districts. If this happens, we support a just and fair arrangement to compensate utility districts having territory removed or services taken by city annexation or by the consolidation of governments.