

**SENATE BILL 549**

**By Niceley**

**AN ACT to amend Tennessee Code Annotated, Title 13,  
Chapter 7, relative to zoning.**

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:**

**SECTION 1. Tennessee Code Annotated, Section 13-7-105, is amended by adding the following language as a new subsection:**

**( ) Notwithstanding any law to the contrary, any zoning amendment affecting a parcel of private property shall only take effect upon written consent of the owner of that property.**

**SECTION 2. Tennessee Code Annotated, Section 13-7-204, is amended by adding the following language at the end of the section:**

**Notwithstanding this section to the contrary, any zoning amendment affecting a parcel of private property shall only take effect upon written consent of the owner of that property.**

**SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.**





**TIM WIRGAU**  
STATE REPRESENTATIVE  
75<sup>th</sup> LEGISLATIVE DISTRICT

204 WAR MEMORIAL BUILDING  
NASHVILLE, TN 37243  
(615) 741-6804  
FAX: (615) 253-0239  
rep.tim.wirgau@capitol.tn.gov

**DISTRICT ADDRESS:**  
246 SAVANNAH DRIVE  
BUCHANAN, TN 38222

**House of Representatives**  
**State of Tennessee**

**NASHVILLE**

**CHAIRMAN**  
**LOCAL GOVERNMENT**  
**COMMITTEE**

**COMMITTEES:**  
**LOCAL GOVERNMENT SUB**  
**BUSINESS & UTILITIES**  
**CALENDAR & RULES**

**JOINT COMMITTEES:**  
**FISCAL REVIEW**

April 20, 2015

Ms. Lynnis Roehrich-Patrick  
Executive Director  
Tennessee Advisory Commission on Intergovernmental Relations  
226 Capitol Boulevard, Suite 508  
Nashville, TN 37243

Re: HB 775 by Daniel/SB 549 by Niceley

Director Roehrich-Patrick:

This letter is to respectfully request that HB 775/SB 549 be taken up for study this summer by TACIR. Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "Tim Wirgau", written over a horizontal line.

Tim Wirgau



Amendment No. 1

\_\_\_\_\_  
Signature of Sponsor

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

**AMEND Senate Bill No. 549\***

**House Bill No. 775**

by deleting the language "affecting a parcel of private property" in the amendatory language of SECTION 1 and SECTION 2 of the bill and substituting instead the language "affecting only a single parcel of private property" in both sections.



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Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**AMEND Senate Bill No. 549\***

**House Bill No. 775**

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting all language after the enacting clause and substituting instead:

SECTION 1. The Tennessee advisory commission on intergovernmental relations shall study the procedures governing how local legislative bodies may amend zoning ordinance provisions and the effects of any change to the current law that would require the written consent of the owner of private property prior to any zoning amendment that would affect such parcel of private property and shall submit a written report to the members of the general assembly no later than January 1, 2016 .

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



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**Research Plan: Senate Bill 549, Zoning Amendments**

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Research Manager: Leah Eldridge

Lead Research Associate: Bill Terry

Support: Bob Moreo

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Deputy Executive Director Approval: Initial:  Date: 5/21/15

Executive Director Approval: Initial:  Date: 5/21/15

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**Purpose**

Study the procedures governing zoning ordinance amendments and the effect of requiring the written consent of owners of private property to any zoning amendment that would affect their property.

**Background**

Senate Bill 549 by Niceley, as amended by the Senate State and Local Committee, would require written consent from the owner before any zoning amendment that changes the land-use classification of any single parcel takes effect. The committee also amended the bill to direct the Commission to study this issue and submit its report by January 1, 2016. The companion bill, House Bill 775 by Daniel, was taken off notice, but Rep. Wirgau, as chairman of the House Local Government Committee, requested by letter that TACIR study the legislation this summer.

A property owner bought land in Knoxville 12 years ago as an investment for future development. At the time, the property was zoned R2, a classification that allows up to a maximum of 24 single-family and multi-family housing units per acre. The owner, estimating the value of the property at that time at \$350,000 to \$400,000, spent \$53,000 on plans for a development project.

The city rezoned the property as R1A following the adoption of a new area plan for the part of the city where the property is located. The new classification permits no more than six units per acre and requires larger lots. The owner says he never received notice of a rezoning. The city says that two notices in writing were mailed to property owners at their addresses of record, signs were posted in the area, three public notices were published in the newspaper, and three public meetings were conducted before both the planning commission and the city. An application to rezone the property back to R2 was denied. The owner estimates that his property is now worth about \$100,000.

### **Step 1. Define the Problem**

How to best balance private property rights and the public interest in the zoning process and ensure due process for property owners,

### **Step 2. Assemble Some Evidence**

- Review referred legislation
  - Review Senate Bill 549 and related statutes and regulations to determine what the bill does.
  - Review committee hearings on the bill and its companion bill and summarize comments and concerns of committee members, the bill sponsors, and others speaking for or against the bill.
  - Interview the bill's sponsors, proponents, and other stakeholders to determine what is driving this issue and whether the problem is widespread. In addition to the property owner with the original complaint, stakeholders would include the
    - Tennessee Municipal League,
    - Tennessee County Services Association,
    - Tennessee Homebuilders Association,
    - Tennessee Development District Association, and
    - a representative sample of cities and counties.
  - Review the fiscal note. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine the estimated cost and the method and rationale for the estimates.
- Review laws pertaining to zoning amendments in other states.
- Review literature on zoning and seek opinions of subject matter experts.

### **Step 3. Construct Alternatives**

Alternatives will be based on

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

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

### **Step 4. Select Criteria**

- Cost
  - To local governments

- To property owners
- Effectiveness in ensuring the best use of land
- Fairness to property owners
- Estimate receptiveness of
  - Local governments
  - Developers and other property owners
  - General public

#### **Step 5. Project Outcomes**

- Estimate cost.
- Evaluate the fairness of the process.
- Estimate the effectiveness in ensuring the best use of land.
- Estimate the receptiveness to local governments, affected property owners, and the general public.

#### **Step 6. Confront Trade-offs**

- How will the differences between the current law and the other alternatives affect individual landowners and the broader public?
- What are the pros and cons of the potential solutions?

#### **Step 7. Decide which alternatives to present to the Commission**

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

#### **Step 8. Produce the Draft Report**

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

#### **Revisit Steps 5 through 8.**

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.
- Revise and edit the draft to reflect comments of the Commission.

Submit final report to the Commission for approval.

