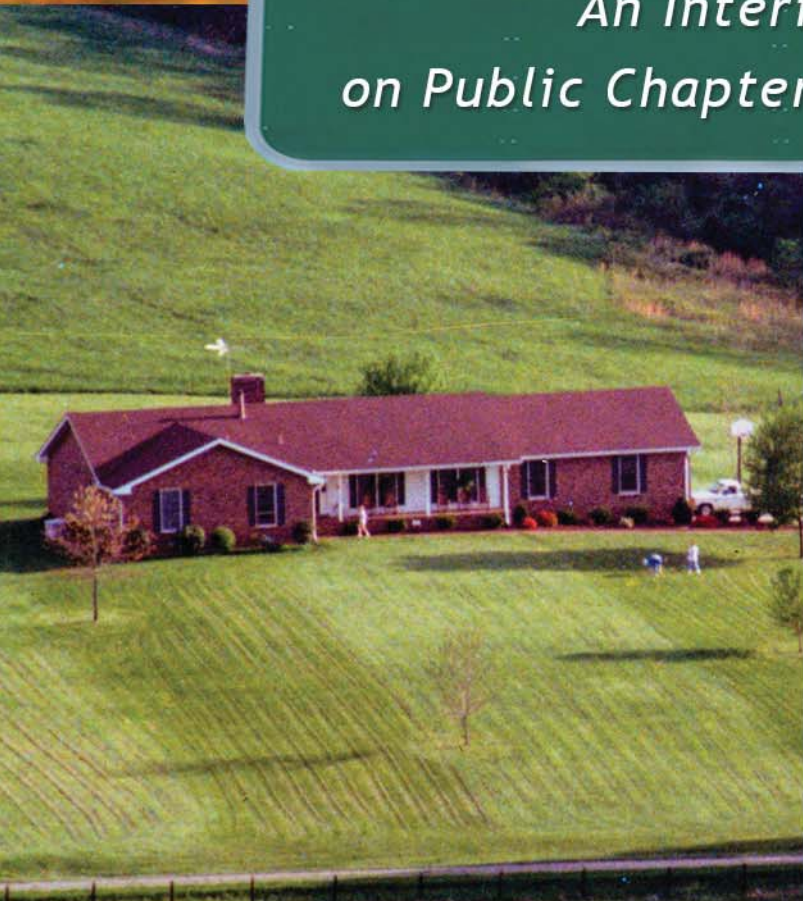




Municipal Boundary Changes
and Growth Planning in Tennessee

*An Interim Report
on Public Chapter 441, Acts of 2013*





TACIR Publication Policy

Reports approved by vote of the Tennessee Advisory Commission on Intergovernmental Relations are labeled as such on their covers with the following banner at the top: *Report of the Tennessee Advisory Commission on Intergovernmental Relations*. All other reports by Commission staff are prepared to inform members of the Commission and the public and do not necessarily reflect the views of the Commission. They are labeled *Staff Report to Members of the Tennessee Advisory Commission on Intergovernmental Relations* on their covers. *TACIR Fast Facts* are short publications prepared by Commission staff to inform members and the public.

Tennessee Advisory Commission on Intergovernmental Relations
226 Capitol Boulevard Building · Suite 508 · Nashville, Tennessee 37243
Phone: 615.741.3012 · Fax: 615.532.2443
E-mail: tacir@tn.gov · Website: www.tn.gov/tacir

Municipal Boundary Changes and Growth Planning in Tennessee
An Interim Report on Public Chapter 441, Acts of 2013

Lynnise Roehrich-Patrick, J.D.
Executive Director



Cliff Lippard, Ph.D.
Deputy Executive Director



Leah Eldridge, J.D.
Research Manager



Bill Terry, A.I.C.P.
Senior Research Consultant



Kerri Courtney, M.P.A.
Senior Research Associate



Bob Moreo, M.Arch.
Research Associate



Christopher Aldridge
Research Intern



Teresa Gibson
Web Development & Publications Manager

Other Contributing Staff:

Stan Chervin, Ph.D.
Senior Research Consultant



Michael Mount, M.A.
Senior Research Associate



Tennessee Advisory Commission on Intergovernmental Relations. This document was produced as an Internet publication.



State of Tennessee

Tennessee Advisory Commission on Intergovernmental Relations
226 Capitol Boulevard, Suite 508
Nashville, TN 37243



Legislative Members

Senator Douglas Henry
Nashville

Senator Jim Kyle
Memphis

Senator Mark Norris, Chair
Collierville

Senator Jim Tracy
Shelbyville

Representative Mike Carter
Ooltewah

Representative Ryan Haynes
Knoxville

Representative Gary Odom
Nashville

Representative Antonio Parkinson
Memphis

Statutory Members

Senator Randy McNally
Oak Ridge

Representative Charles Sargent
Franklin

Justin Wilson
Comptroller of Treasury

County Members

Mayor Ernest Burgess
Rutherford County

County Executive Jeff Huffman
Tipton County

Mayor Kenny McBride
Carroll County

Mayor Larry Waters
Sevier County

Municipal Members

Mayor Troy Beets
Kingston

Mayor Tommy Bragg
Murfreesboro

Mayor Tom Rowland, Vice Chair
Cleveland

Councilmember Kay Senter
Morristown

Other Local Government Members

Mayor Brent Greer
TN Development District Association

Charlie Cardwell
County Officials Assn. of Tennessee

Executive Branch Members

Paula Davis, Asst. Comm. of Admin.
Dept. of Economic & Community Dev.

Iliff McMahan, Jr., Regional Director
Dept. of Economic & Community Dev.

Private Citizen Members

Rozelle Criner
Ripley

Tommy Schumpert
Knoxville

TACIR

Lynnisse Roehrich-Patrick, Executive Director

January 14, 2014

The Honorable Ron Ramsey
Lt. Governor and Senate Speaker
301 6th Avenue North
Suite 1, Legislative Plaza
Nashville, TN 37243

The Honorable Beth Harwell
Speaker of the House of Representatives
301 6th Avenue North
Suite 19, Legislative Plaza
Nashville, TN 37243

Dear Lt. Governor Ramsey and Speaker Harwell:

Transmitted herewith is an interim Commission report reviewing and evaluating the efficacy of state policies set forth in Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan), as directed by Public Chapter 441, Acts of 2013. The interim report was approved by the Tennessee Advisory Commission on Intergovernmental Relations December 11, 2013, and is hereby submitted for your consideration.

Respectfully yours,

Senator Mark Norris
Chairman

Lynnisse Roehrich-Patrick
Executive Director

Contents

Municipal Boundary Changes and Growth Planning in Tennessee	3
Changing Municipal Boundaries	4
Annexation Methods.....	5
Annexing Noncontiguous Property.....	7
Notice Period and Method.....	8
Public Hearings and Informational Meetings.....	9
Providing Municipal Services.....	11
Extension of Utilities Beyond Municipal Boundaries.....	12
Vesting of Pre-annexation Development Rights.....	12
Allocation of Tax Revenue after Annexation.....	13
Annexation of Agricultural Land and Other Open Space.....	13
Deannexation.....	14
Mutual Adjustment of Corporate Boundaries.....	15
Merger of Cities.....	15
Comprehensive Growth Policy	16
Status and Revision of the Plans.....	17
Coordinating Committees.....	19
Joint Economic and Community Development Boards.....	20
A Comprehensive Review of the Laws Governing Municipal Boundary Changes and Growth Planning in Tennessee.....	21
Changing Municipal Boundaries.....	27
Annexation.....	27
Tennessee is Among a Small Handful of States With Fairly Lenient Annexation Laws.....	28
Few States Allow Unilateral Annexation	30
Most States Allow Annexation Only by Consent.....	31
Annexing Vacant Property by Referendum.....	33
Extension of Utilities to Unincorporated Areas.....	34
Few States Require Third-Party Approval of Annexation.....	34
Court Challenges–The Only Means to Overturn Unilateral Annexations in Tennessee	35
Annexing Noncontiguous Property–A Potential Compromise	36

Varying Annexation Rules Based on Population.....	37
Municipal Services–Plans Required but No Clear Implementation Deadline.....	38
Notice Period and Method Differ for Unilateral Annexations and Annexations by Consent.....	40
Tennessee’s Public Hearing Requirements are Similar to Those in Most Other States.....	42
Effect of Annexation on Development Standards for Approved Projects.....	43
Annexation Method–No Clear Effect on Economic Performance.....	44
Post-Annexation Tax Revenue–Tennessee One of Very Few States That Pay Hold Harmless.....	45
Local Option Sales Tax Hold Harmless–Cities Paying \$12 Million to Counties.....	47
Wholesale Beer Tax Payments to Counties Have Not Been Made.....	48
Annexation of Agricultural Land and Open Space.....	48
Deannexation–Property Owners Cannot Initiate.....	50
Tennessee’s Deannexation Notice Requirements Are Not Specific.....	52
Boundary Adjustments Can Be Made By Contract.....	52
Notice of Mutual Corporate Boundary Adjustment Not Required.....	53
Mergers of Cities in Tennessee Must be Approved by Voters.....	54
Notice Required for City Mergers.....	54
Comprehensive Growth Policy.....	55
Growth Plans–No Requirement to Update.....	57
Coordinating Committee Composition.....	59
Joint Economic and Community Development Boards–Usefulness Has Varied.....	60
References.....	63
Persons Interviewed.....	67
Appendixes.....	A-1
Appendix A. Bills Included in Study.....	A-3
Appendix B. Comparison of Other States’ Laws.....	A-39
Appendix C. Growth Policy and Annexation Legislation 1993-2013.....	A-83
Appendix D. Local Option Sales Tax Hold Harmless Payments Expiring 2014-2027.....	A-113
Appendix E. Attorney General Opinion No. 13-106.....	A-117
Appendix F. Economic Performance by Annexation Methods.....	A-125

Municipal Boundary Changes and Growth Planning in Tennessee

Annexation disputes among counties, cities, and affected residents have been a recurring theme in Tennessee's history. Twice in the late 1990s, the General Assembly passed legislation relaxing the requirements for creating new cities to allow communities to incorporate in order to avoid annexation. Both acts were challenged in the courts.¹ Tennessee's Growth Policy Act (Public Chapter 1101, Acts of 1998) was an effort to resolve these disputes by requiring local governments in each of the state's 92 non-metropolitan counties to adopt 20-year growth plans limiting where future incorporations and annexations could occur. Fifteen years have passed since the Growth Policy Act was adopted, and there is agreement that a thorough review is needed to consider whether it has served its intended purpose and whether the annexation and growth planning processes can be further improved.

A large number of bills that would have changed Tennessee's laws on annexation and growth planning were considered by the 108th General Assembly in its 2013 legislative session. The one that drew the most attention would have required all annexations in Tennessee, not just those outside cities' urban growth boundaries, to be by consent in the form of referendums. That bill became Public Chapter 441, Acts of 2013,² which places a moratorium through May 15, 2014, on annexation by ordinance without consent of territory being used primarily for residential or agricultural purposes and requires the Tennessee Advisory Commission on Intergovernmental Relations to review and evaluate the efficacy of state laws on comprehensive growth plans (Tennessee Code Annotated, Title 6, Chapter 58) and on changing municipal boundaries (Tennessee Code Annotated, Title 6, Chapter 51), including

- expanding city boundaries by annexation,
- deannexation of territory from cities,
- merger of cities, and
- mutual adjustment of city boundaries.

In addition to Public Chapter 441, the legislature sent several related bills to the Commission for study.³ These bills focused on

¹ *City of Oakland v. McCraw, et al.*, No. 11661 (1997); *Tennessee Municipal League v. Thompson*, 958 S.W.2d 333 (1997).

² See appendix A.

³ See appendix A.

- annexation methods,
- informational meetings and public hearings,
- notice requirements,
- annexation of agricultural property, and
- growth plan amendments.

After considerable study over the course of the last six months, including several meetings at which a wide range of viewpoints were presented to and discussed by the Commission, the members conclude that these issues require additional study and recommend extending the moratorium imposed by Public Chapter 441, Acts of 2013, for another year or until they are addressed. Specific options for further consideration are noted at the end of each issue summary below.

Changing Municipal Boundaries

While the study required by Public Chapter 441 includes all statutes governing municipal boundary changes, annexation by referendum was the topic of the original bill and the main focus of discussion. Before passage of Tennessee's Growth Policy Act, referendums were authorized but not required. The Act changed that, giving residents of certain areas the right to vote on whether to be annexed. Even so, annexation by referendum in Tennessee was and continues to be rare. Most annexations continue to be by ordinance, and the only way to challenge them is after the fact and through the courts.

The Growth Policy Act called for three types of areas to be established, two of which would require referendums for annexations:

- Urban Growth Boundaries (UGBs)—areas contiguous to cities in which cities can annex by ordinance and outside of which they cannot.
- Planned Growth Areas (PGAs)—areas outside cities and their UGBs where new cities may be incorporated and in which existing cities can only annex with the consent of residents within those areas.
- Rural Areas (RAs)—areas not included within UGBs or PGAs where cities cannot be incorporated and existing cities cannot annex except by consent.

Some counties did not establish PGAs, and some did not designate RAs. Although many public hearings were required and held before the plans establishing UGBs were adopted, it is not clear that the general public or residents of those areas fully understood the implications for them of being included or excluded from those areas. For residents who live within UGBs, the only way to challenge annexation is still after the fact and through the courts.

Annexation Methods

Tennessee is one of a dwindling number of states where cities have broad authority to annex without consent. Many bills calling for a more participatory process were introduced before the Growth Policy Act was adopted in 1998, and many have been introduced since then. Some of those were sent to the Commission for study, but none have been recommended. The main argument for unilateral (i.e., nonconsensual) annexation is that cities need that authority in order to facilitate economic development and prevent disorganized growth. The main argument against it is that people should have a choice in whether they are taken into cities.

The 108th General Assembly sent the Commission two bills that would require referendums for all or nearly all annexations. Issues raised by these bills were incorporated into the general review called for by Public Chapter 441. House Bill 590 by Van Huss (Senate Bill 869 by Crowe) would require referendums for all annexations within urban growth boundaries. Senate Bill 731 by Watson (House Bill 230 by Carter) would require referendums for all annexations within urban growth boundaries under an amended growth plan. The original version of the bill that became Public Chapter 441 (Senate Bill 279 by Watson [House Bill 475 by Carter]) would have done basically the same thing.

Most states require a more participatory process for most annexations, generally by referendum. See appendix B, chart 1 and chart 3. The specifics vary from state to state, particularly in how referendums are initiated, in how they are held, and in how they are decided. Some states authorize only cities to call for referendums, others allow residents seeking either to be annexed or to avoid annexation to call for referendums, and some states allow both cities and residents to call for referendums. Referendums in some states are held in person, others by mail-in ballot, and still others through a petition process. And some states authorize multiple methods. Annexation referendums are generally decided in one of three ways:

- by voters in the area proposed for annexation,
- by voters in the city and in the area proposed for annexation with the votes counted separately, or
- by voters in the city and in the area proposed for annexation with the votes counted together.

Annexation referendums in Tennessee can be initiated by cities or by petition of “interested persons.”⁴ Voting is governed by general elections laws and is in person only or by absentee ballot.⁵ Only qualified voters in the area to be annexed are entitled to vote in an annexation referendum, but cities may opt to put the question to a vote of city residents. If city residents are allowed to vote, a majority in each area—both the area to be annexed and the city—must approve the referendum in order for it to pass.⁶

The consensus of the Commission is that adopting a more participatory process, one that gives people more control over whether and when they are annexed, should be given further consideration. Three clearly distinguishable options developed over the course of the last six months are

- annexation by consent only, for example, by referendum, inside urban growth boundaries as well as outside them;
- approval of the urban growth boundary itself by popular vote after which unilateral annexation could continue; or
- petition for removal from annexed areas and/or from within urban growth boundaries provided that removal does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services.

Any one of these options could be made a statewide requirement, or counties could be allowed to choose among them by popular vote. Restrictions suggested for the third option, removal after the fact, are drawn both from concerns about problems potentially created by annexation generally and from concerns about the potential for significant loss of cities’ investments in infrastructure if residents are

⁴Tennessee Code Annotated Section 6-51-104.

⁵Tennessee Code Annotated Title 2.

⁶Tennessee Code Annotated Section 6-51-105.

allowed to initiate and approve deannexation. Balancing the interests of those who wish to have their property removed from cities and those who remain may require constraints on removal that could have the effect of preventing removal under certain conditions.

Participation in the annexation process could be through voting in person or by mail or by petition without a vote. If by voting in person, then the referendum should take place during a primary or general election in order to reduce costs and ensure that the decision represents the widest possible consensus. Any referendum should otherwise follow the process laid out in current law for annexation by referendum.

Annexing Noncontiguous Property

One rationale for unilateral annexation is the difficulty of reaching willing owners of noncontiguous properties. Most often, the desired parcels are proposed to be or are already used for commercial or industrial purposes. The concern here is balancing the economic development interests of the communities with the desire of landowners between those areas and the municipal boundary to remain outside the city. The Growth Policy Act struck that balance by requiring every city to establish urban growth boundaries within which they could continue to annex without consent and outside of which they could not. Even inside their UGBs, some cities make it a practice to annex only those parcels whose owners wish to be annexed, which may require creative line drawing. Bypassing unwilling landowners often means annexing narrow corridors along roads, rivers, or other avenues to reach property that is not contiguous to cities' corporate boundaries. In time, this practice tends to create pockets of unincorporated areas that are nearly or entirely surrounded by cities. County highway officials have expressed concern about this practice. Annexing roads but not the adjoining property, or vice versa, can create confusion about who is responsible for maintenance and emergency services. Annexing only part of a right-of-way, leaving responsibility for the road or bridge to the county, creates similar problems.

Fourteen states prohibit corridor annexation outright or otherwise restrict it through case law or by statute. Five states allow cities to annex noncontiguous territory under limited circumstances. Allowing for annexation of some noncontiguous territory may reduce the occurrence of corridor annexation, which has long been a contentious practice in Tennessee. Cities in Indiana can annex noncontiguous

parcels for industrial development with the owner's consent. Other states generally limit this to city-owned land. Laws dealing with annexation of noncontiguous property are summarized in appendix B, chart 1.

While recognizing that it will create islands surrounded by unincorporated parcels, in order to avoid the problems created by corridor or "strip" annexation, the Commission supports further consideration of allowing cities to annex certain non-contiguous areas, including government-owned property and property for commercial or industrial development, with the owner's consent. Authorizing cities to annex these areas with consent and without annexing property between them and the existing city limits is yet another way to reduce conflicts between those wishing to be annexed and those who prefer to remain in unincorporated areas. In order to avoid confusion about whether the city or the county is responsible for roads, other infrastructure, and emergency services, the general requirements for plans of services should apply to the annexed areas, and the plans should address the unique problems created by annexing non-contiguous areas, including provision for road and bridge maintenance and for emergency services both for the annexed area and for the public infrastructure leading to the area.

Notice Period and Method

Notice requirements in Tennessee depend on the annexation method. If the annexation is by referendum, notice must be given by mail 14 days in advance of a public hearing on that referendum and posted in six public places 7 days in advance of the hearing. Three of the places must be in the city; three must be in the area to be annexed. Neither notice by mail nor by posting in public places is required for unilateral annexation. In all cases, whether by referendum or by ordinance without consent, notice must be published in a newspaper 7 days in advance of the public hearing. Legislation to change these requirements has been introduced many times.

The minimum notice requirements of other states range from 6 to 60 days before public hearings. The five other states with broad unilateral annexation authority require as little as 1 week (Kansas) to 60 days (Indiana) notice before public hearing. Ten states require a minimum of 14 or 15 days' notice, five states require a minimum of 10 days' notice, and nine states require a minimum of between 20 and 30 days. Four states other than Tennessee require a minimum of 7 days, and Arizona requires just 6. Georgia is the only state other than

Tennessee to require different notice periods depending on whether the annexation is by unilateral or by referendum, requiring 21 days if cities are annexing by referendum, but only 14 days' notice otherwise.

Eight states, two of which (Idaho and Kansas) give broad authority for unilateral annexation, require notice both by mail and by newspaper. Nineteen states, including two (Nebraska and Texas) with broad unilateral annexation powers, require notice only by newspaper. Three states, including Indiana, which allows unilateral annexation, require notice of public hearings only by mail.

Two bills sent for study by committees of the 108th General Assembly focus on notice of annexation, not notice of hearings. One of them specifies a period without identifying the event that occurs at the end of that period. Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would require any city proposing to annex territory within the city's UGB to mail notice to any property owners within that UGB 90 days before the date the annexation becomes effective. House Bill 590 by Van Huss (Senate Bill 869 by Crowe) would require 90 days' notice by mail, return receipt requested. It does not specify what that is 90 days in advance of. The House Local Government Committee changed the period from 90 days to 180 days.

Notice is required in some other states at different points in the annexation process. The minimum public notice requirement for intent to annex in other states ranges from 7 to 30 days before beginning their annexation process. The minimum notice requirement before a referendum ranges from 4 to 30 days. See appendix B, chart 4.

The consensus of the Commission is that further consideration be given to applying the notice period and method for referendums under current law to unilateral annexations as well, that is by mailing a copy of the resolution in the case of referendum or a copy of the proposed ordinance in the case of unilateral annexation 14 days in advance of the public hearing.

Public Hearings and Informational Meetings

Current law in Tennessee requires one public hearing before annexation, whether by ordinance or by consent. Thirty-one other states, including the four of the five besides Tennessee with broad unilateral annexation, also require only one. The sixth state with broad unilateral annexation authority requires two. Three other states also require two. No state requires more than two. No informational

meetings are required in Tennessee, though many cities hold them. North Carolina, which now allows annexation only by consent, is the only state that requires an informational meeting. North Carolina is also one of the four states that require two public hearings.

North Carolina's informational meeting statute requires explanation of the plan adopted by the city for extending services to the newly annexed area, including the cost of those services and how to request them, a summary of the annexation process and time lines, and distribution of forms for requesting services. Property owners and residents of the area proposed for annexation, as well as residents of the city, must be given an opportunity to ask questions and receive answers about the annexation. Tennessee also requires cities to adopt a plan of services for newly annexed territory before annexation can occur, and the plan of services must be presented at a public hearing. The public hearing requirement in Tennessee does not specify what must occur at that hearing.

Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would add three informational meetings before annexing by ordinance to inform property owners of "the potential impacts of the annexation." The House Local Government Committee amended the bill, reducing the number of informational meetings to one "to allow for questions from property owners . . . and provide information regarding the planned annexation." Current law requires one public hearing before annexation by ordinance or by referendum. No informational meetings are required, but many cities hold them. North Carolina, which since 2012 no longer allows unilateral annexation, is the only state that requires an informational meeting before annexation to provide information about the process, the services to be provided, and the reason the city is interested in annexing the area. See appendix B, chart 5.

The Commission recommends further consideration of adding a second public hearing for unilateral annexations and of holding an informational meeting for all annexations. Informational meeting requirements similar to those in North Carolina could be combined with the existing requirement for a public hearing on the plans of services adopted by cities for newly annexed areas instead of requiring an additional meeting.

Providing Municipal Services

Tennessee's current law requires annexing cities to develop plans of services for newly annexed areas that include, at a minimum, fire, police, water, electrical, and sanitary sewer services, as well as services related to solid waste collection, street construction and repair, recreation facilities and programs, street lighting, and zoning. Plans must be adopted before annexation can occur and include "a reasonable implementation schedule." The level of service must be comparable to that provided to current city residents and cities must publish in a newspaper an annual report on progress toward extending the services.

While no bills dealing with plans of services were sent to the Commission for study during the most recent session, a small number of bills adding requirements to Tennessee's plans of services have been introduced over the years. The original version of Senate Bill 1054 by Kelsey (House Bill 1263 by Carr, D.), which became Public Chapter 462, Acts of 2013, included sections that would have added some requirements for the plan of services including standards for delivering the services and information about the financial ability of the city to provide services to the territory proposed to be annexed. Those sections were removed before the bill was passed. Most other states also require a plan of services before annexation. Fifteen, including three of the other unilateral annexation states, require that budget or financial information be provided in plans of services.

Tennessee's requirement of a "reasonable implementation schedule" does not provide a clear deadline. Other states, including Kansas and Nebraska, which allow unilateral annexation, require that the annexing city specify a timeline for implementing services. Nine others, including Indiana and Texas, which also allow unilateral annexation, set a specific timeline in statute. The timelines range from three to ten years.

The Commission recommends further consideration of establishing a deadline of five years for provision of the required services and of the provisions amended out of Senate Bill 1054, those related to requiring standards for delivering services and information about the city's financial ability to provide those services in its plan.

Extension of Utilities Beyond Municipal Boundaries

Tennessee law allows cities to extend utility lines beyond their corporate limits.⁷ Many cities have done so to encourage economic development or in anticipation of future annexation. Some local officials are concerned that without the ability to annex by ordinance, cities may not be able to annex areas served by their utilities and recoup their utility investments outside their corporate boundaries. It must be noted that the law in Tennessee requires public utilities to be self-supporting, funded by ratepayers. They also argue that requiring a referendum for annexation could slow economic development and hinder Tennessee's competitiveness. Without the certainty of being able to annex territory, cities may be unwilling to extend services beyond their borders, which may make it difficult to attract business and industry to areas where counties and utility districts are unable to provide the necessary infrastructure. Idaho has addressed this problem by making consent to annexation implied in an area connected to a city water or sewer system if the connection was requested by the owner before July 1, 2008. The Commission opposes adopting a similar provision in Tennessee without further consideration of its effects.

Vesting of Pre-annexation Development Rights

Currently in Tennessee, annexed property is immediately subject to the zoning and subdivision regulations, as well as the building codes, of the annexing city or imposed on the city by state or federal regulations. Developments begun before annexation occurs must comply with city standards, which may be substantially different from the standards under which it was approved. The new standards may be costlier to meet. The Homebuilders Association of Tennessee has requested the ability to complete the development under the original standards. Cities would suggest resolving the problem by requiring all land within urban growth boundaries to be developed to municipal standards. The consensus of the Commission is that applying the same standards before and after annexation, whether they are the standards of the municipality or those of the county, should be given further consideration.

⁷Tennessee Code Annotated Section 7-51-401.

Allocation of Tax Revenue after Annexation

Since the Growth Policy Act, when territory is annexed, local option sales tax and wholesale beer tax revenue generated in the annexed area continues to go to the county for 15 years after the date of the annexation. Increases above this “hold harmless” amount are distributed to the annexing city. Some county officials have expressed concern about the sudden loss of these revenues at the end of the 15-year period and would like to see a gradual reduction instead. Tennessee is the only state that holds counties harmless for these taxes following annexation, but every state’s tax structure is unique. Some states do not authorize these two taxes for both cities and counties, and those that do may not have the same earmarks Tennessee has, notably the one requiring half of the local sales tax to be divided among the counties’ school systems.

Moreover, partly because of a lack of data on retail beer sales in annexed areas, all of the beer wholesale tax has gone to the annexing cities since the hold harmless provision went into effect, not just the increases. Recent changes in reporting requirements may make it possible for the Tennessee Department of Revenue to identify beer retailers among the lists of annexed businesses and request beer wholesalers selling to these businesses to provide the tax payment information necessary to calculate the hold harmless amounts.

The Commission finds the current hold harmless provisions generally adequate but recommends giving further consideration to changing the law establishing the process for collecting, reporting, and remitting these revenues to make the hold harmless provision easier to implement including by requiring beer wholesalers to provide information specific to individual retailers.

Annexation of Agricultural Land and Other Open Space

Tennessee has always allowed cities to annex property used for agricultural purposes but requires cities to allow those uses to continue. The only constraint is a temporary one, a moratorium placed by Public Chapter 441 on annexing agricultural and residential land except by consent. This moratorium expires next May. The only other constraint in current law on annexing open space within cities’ urban growth boundaries is Public Chapter 1033, Acts of 2008, which requires certain conditions to be met before annexing state parks or

natural areas including public hearings and a report by the Department of Environment and Conservation on the effects of annexation.

Bills to prohibit annexation of land subject to conservation easements have been introduced twice. The only bill related to open space currently pending in the General Assembly is Senate Bill 1316 by Bowling, House Bill 1249 by Van Huss. This bill would prohibit annexation of land in UGBs that is zoned for agricultural use until a change in use is triggered by a request for a non-agricultural zoning designation or by sale of the land for a different use. The bill as written would not protect agricultural land that is not zoned or that is already zoned for some other use.

Only eight states restrict annexation of agricultural lands. Several prohibit annexation of agricultural or rural land. Two states allow owners of annexed agricultural land to request deannexation. In Idaho, owners of annexed agricultural land greater than five acres petition the court for deannexation. Ohio also allows owners of unplatted farmland to petition the court for deannexation. See appendix B, chart 7.

The consensus of the Commission is that requiring consent for annexation of land used primarily for agricultural purposes, as well as state and federally owned open lands, should be given further consideration as should requiring deannexation upon petition by the owner of any such lands currently inside cities' corporate limits, especially given the possibility that deannexation could create non-contiguity or unincorporated islands or a loss of cities' investment in municipal infrastructure other than those associated with rate-paid services.

Deannexation

While no specific legislation was introduced to amend the statutes governing deannexation, Public Chapter 441 required the Commission to review these laws. Tennessee provides two methods for deannexation, both of which can be initiated only by cities. One puts the question directly to voters in an election and requires a two-thirds majority to pass; the other begins with adoption of an ordinance but allows a simple majority of residents in the area proposed for deannexation to overturn it. There is no provision for residents to initiate deannexation, although they can certainly request it.

Thirteen states authorize only property owners to initiate deannexation, while nine authorize only cities to do so, and fourteen authorize both property owners and cities to initiate. A majority of states require a referendum or consent to complete the deannexation. See appendix B, chart 8.

The Commission recommends further consideration of giving property owners the right to initiate deannexation provided that it does not create non-contiguity or unincorporated islands and that the city is compensated for its investment in municipal infrastructure other than those associated with rate-paid services.

Mutual Adjustment of Corporate Boundaries

The study required by Public Chapter 441 also includes laws on mutual adjustment of city borders. In Tennessee, cities may adjust their mutual boundaries by contract to align them with easements, rights-of-way, and lot lines “to avoid confusion and uncertainty about the location of the contiguous boundary or to conform the contiguous boundary” to these lines. There is no provision for residents or property owners to participate in these decisions.

Ten other states have specific laws authorizing cities to adjust their mutual boundaries, usually through a simultaneous process where one city deannexes property that the other city annexes. Three of those states, like Tennessee, provide no opportunity for residents or property owners to participate in their boundary-adjustment processes. In three of the other seven states, cities initiate the process, but the people can either stop or must approve the transfer. The other four states allow individuals to petition for a boundary adjustment with various processes for determining whether that change will occur, including the possibility of a referendum in one state. See appendix B, chart 9.

Consistent with its recommendation to create a more participatory process for annexation in general, the Commission recommends further consideration of requiring a public hearing before adjusting cities’ corporate boundaries.

Merger of Cities

Public Chapter 441 also required the Commission to review laws governing city mergers. Two or more contiguous cities located in the same county in Tennessee can merge into one city, and mergers

can be initiated either by resolution of the cities or by petition of registered voters. Regardless of who initiates the merger, it must be approved by majorities of those voting in separate referendums in each of the cities. Thirty-six states have similar laws. Thirty-three require a referendum before the merger can be finalized. See appendix B, chart 10.

The Commission finds existing laws governing merger sufficient and sees no issues requiring further consideration.

Comprehensive Growth Policy

The Commission's review of Tennessee's growth policy laws called for by Public Chapter 441 included analysis of two referred bills dealing with amending plans as well as more general aspects of the law, including the status of the growth plans after 20 years, coordinating committees, and joint economic and community development boards (JECDBs). Tennessee's Growth Policy Act (known colloquially as PC 1101) created the planning process in Tennessee Code Annotated, Title 6, Chapter 58, at the same time it changed annexation laws found in Tennessee Code Annotated, Title 6, Chapter 51, to require consent outside cities' urban growth boundaries. The purpose stated by the General Assembly for the Act is to

- eliminate annexation or incorporation out of fear;
- establish incentives to annex or incorporate where appropriate;
- more closely match the timing of development and the provision of public services;
- stabilize each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and
- minimize urban sprawl.⁸

The Growth Policy Act sought to structure decisions about service levels and development, including annexation, in a local but comprehensive process. Decisions about annexation powers are decisions about local government service levels and economic development potential that have countywide implications. The areas established by the

⁸Tennessee Code Annotated Section 6-58-102.

urban growth boundaries, by definition, were to be capable of and appropriate for urban services provided by a city within a 20-year planning horizon. The law requires representation of many key interests through the composition of the coordinating committee, the public hearing process, and the required approvals of the local governmental legislative bodies. Other than through public hearings, there is no direct participation by affected residents and property owners. The Growth Policy Act does not require popular approval of the decisions reflected in the designation of rural areas, planned growth areas and urban growth boundaries in the growth plans.

Status and Revision of the Plans

Plans were adopted starting in 2000, and the oldest are now 14 years old. Most are maps depicting the agreed-upon urban growth boundaries (UGBs) and planned growth areas (PGAs) or rural areas (RAs). Twenty-five plans have been amended, six of them more than once.⁹ The amendment process is spelled out in the law.¹⁰ A city or county mayor may propose an amendment by filing notice with the county mayor and with each city mayor. Upon receipt of the proposal, the county mayor is required to reconvene the county coordinating committee. The coordinating committee must submit the amended plan to the respective legislative bodies within six months of the date of its first meeting to consider the amendment. After approval by the legislative bodies and the state Local Government Planning Advisory Committee, the amendment becomes a part of the county growth plan.

Both of the referred bills would have changed the current process. Senate Bill 613 by Yager (House Bill 135 by Keisling) would have revised the procedure for amending growth plans, providing a detailed, step-by-step process for amendments that change a single UGB or PGA without affecting any other UGB or PGA. The bill would deem anything else a revision, and limit revisions to no more than once every seven years. The bill would also require either a vote by the county commission or by a municipality or combination of municipalities representing at least half of the city residents of the county to initiate the revision process, thereby making revisions much more difficult than they are under current law. Senate Bill 732 by Watson (House Bill 231 by Carter) would have prohibited mayors

⁹Ninety-two counties are required to have plans. The state's three metropolitan counties are exempt from the law.

¹⁰Tennessee Code Annotated Section 6-58-104(d)(1).

of municipalities that have not annexed all territory within their UGBs and fully complied with all the plans of services adopted for the annexed areas from proposing amendments to growth plans and from serving on coordinating committees. The House Local Government Committee amended the bill to remove the requirement to annex all territory within a municipality's UGB before proposing amendments.

Because the plans were required to consider where growth would occur over the first 20 years of the plan, concerns have been raised about the status of the growth plans at the end of 20 years and whether they should be reviewed or amended periodically. While the plans were based on 20-year growth projections, there is no indication that they would expire at the end of this period. The law does not address what happens to the growth plans at the end of 20 years, and there is no requirement to revise or update them. Most other states require cities to review or revise their comprehensive plans every two to ten years, but most other states' plans are more comprehensive than Tennessee's growth plan maps.

A lot has changed since the first plans were adopted. Projections are always tentative. The population projections that were used at that time have already been changed several times. The economic downturn changed the economy in ways that are affecting growth and development. Some counties are growing faster than projected while others are growing more slowly. Plans based on outdated information may not be useful today.

The consensus of the Commission is that further consideration should be given to requiring all growth plans to be reviewed and either revised or readopted within two years and every five years thereafter. The Commission also recommends further study of allowing cities on their own initiative to unilaterally retract their urban growth boundaries and allowing individual property owners to be removed from within urban growth boundaries by petition to the city, so long as removal does not create non-contiguity or unincorporated islands or cause problems with delivering urban services.

Moreover, because urban growth boundaries create areas in which unilateral annexation is allowed, the Commission recommends further consideration of making the revision process more participatory. The following process is an example of a way to link popular approval of growth plans to the annexation method so that unilateral annexation may continue where urban growth boundaries receive voter approval:

1. Growth plans adopted by the coordinating committees are submitted to the local legislative bodies for approval according to current provisions in the law.
2. Counties hold general, countywide elections to approve the growth plans adopted by the local legislative bodies.
3. If the voters approve the new plan, then annexation within any voter-approved urban growth boundary continues under current law; otherwise the existing plan remains in place and annexation can occur only by consent.
4. The same sanctions applicable to local governments that did not timely adopt an initial growth plan are reinstated in any county that does not have a voter-approved growth plan.
5. The moratorium imposed by Public Chapter 441, Acts of 2013, continues in each county until the revised approval process is completed there.

Coordinating Committees

The initial plans were required to be approved by coordinating committees and adopted by local governments. The make-up of these committees is complex. They consist of representatives from the cities and the counties, soil conservation districts, utilities, local education agencies, chambers of commerce, and others representing environmental, construction, and homeowner interests. Amending the plans requires the same process and approvals as the initial plans.

Local officials and other interests have expressed concerns about the composition of coordinating committees. They do not want to have to seek approval from other local governments before adjusting their boundaries. This is especially true for the local governments that went beyond the basic requirements of the Act in developing their boundaries. The Growth Policy Act said that “a growth plan may address land-use, transportation, public infrastructure, housing, and economic development.”¹¹ Only a few counties’ growth plans included these optional planning criteria. Further, farming interests have argued that the membership is skewed in favor of cities in counties with multiple cities and does not give adequate consideration to their concerns.

¹¹Tennessee Code Annotated Section 6-58-107.

It is important to remember that Tennessee's growth plans are not the comprehensive plans required in other states. Consequently, other states' laws cannot be looked to for guidance. The Commission recommends no changes to the composition of the coordinating committees, but related issues may require further consideration.

Joint Economic and Community Development Boards

Tennessee is also unique with respect to its joint economic and community development boards (JECDBs). The intent of the boards is to engage in long-term planning, but there is no specific function for the boards laid out in the law. The concept for these boards arose from discussions during development of the Growth Policy Act about the need to ensure that economic development issues were a part of the growth planning process and to have a mechanism for continuing cooperation and coordination among county and city officials. The existing JECDB in Wilson County was the model.

The makeup of the JECDB is determined by an interlocal agreement but must, at a minimum, include the county mayor or executive, the city mayor or city manager of each city in the county, and one person who owns land classified under the greenbelt law. The boards can define their own function. No other state requires local governments to have such boards.

It has been suggested that allowing the JECDB to serve as the coordinating committee could streamline the growth planning process and the process for amending growth plans, but the JECDBs are not as broadly representative as the coordinating committees. Ensuring adequate representation of all parties currently represented on coordinating committees would require a different makeup for the JECDBs.

It has also been suggested that JECDBs be allowed to take on the functions of the industrial development corporations authorized in Tennessee Code Annotated, Title 7, Chapter 53, to finance, acquire, own, lease, or dispose of property. Their stated purpose is "to maintain and increase employment opportunities, increase the production of agricultural commodities, and increase the quantity of housing available in affected municipalities by promoting industry, trade, commerce, tourism and recreation, agriculture and housing construction by inducing manufacturing, industrial, governmental,

educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in this state."¹²

The Commission recommends further consideration of allowing local governments to decide how often the JECDBs and their executive committees should meet and whether to move their functions to the coordinating committees responsible for developing the growth plans or to allow JECDBs to serve as industrial development corporations at the option of the local community.

A Comprehensive Review of the Laws Governing Municipal Boundary Changes and Growth Planning in Tennessee

Before 1955, most city incorporations and annexations in Tennessee were accomplished by the General Assembly. While incorporation was possible under general law, in most cases, residents living in an unincorporated area would ask their state senator(s) and representative(s) to introduce a private act to incorporate their community as a city. The General Assembly nearly always gave the sponsors the legislative courtesy of passing such private acts.¹³

There are a number of reasons that people might seek to incorporate their community:

- preventing annexation,
- adjusting public service levels,
- preserving current land use patterns,
- preventing changes in racial or socioeconomic makeup,
- creating a sense of community, and
- promoting tourism.

Other reasons include reactions to population growth, state laws, and the efforts of political entrepreneurs.¹⁴

¹²Tennessee Code Annotated Section 7-53-102(a).

¹³Hobday 1963.

¹⁴Waldner 2010.

Annexation is the method most frequently used by municipalities to change their boundaries. The annexation process is generally defined as the expansion of a municipality achieved by extending its corporate limits—boundaries—to include new territory as an integral part of the municipality. One of the main reasons for annexing given by cities during discussions of the bills sent to the Commission for study is that they must be able to annex in order to ensure that they and the surrounding area remain fiscally viable and economically competitive.

General law through the first half of the 20th century already allowed for annexation by petition and referendum, but just as with incorporations, the general law was rarely used.¹⁵ Instead, most annexations, like most incorporations, were by private act. The Commission's 1995 report, *Annexation Issues in Tennessee*, included an account of how and why the General Assembly came to create a process in general law for local governments to adjust their own boundaries:

Annexation . . . has been in existence since the late 1700s when state constitutions were being ratified. Early annexation was accomplished in two ways. The first and most often used method was the introduction and passage of a private act of the state's legislative body. In our American federal system, local governments are legal "creatures of the states, established in accordance with state constitutions and statutes."¹⁶ Thus, the power to extend or contract municipal boundaries "is a legislative power." The second most commonly used method was by petition from land owners living adjacent to the municipality and desiring to become part of the municipality.

In Tennessee, until the legislature passed a general annexation law in 1955, annexations were mostly accomplished via private act of the General Assembly. Before cities and counties were granted "home rule" powers, a private act of the General Assembly was about the only way for local governments to bring about needed changes. Unfortunately, at times, the powers of certain legislatures were abused; private acts were passed against the wishes of local government officials and citizens. Annexation accomplished by private acts was described as "an exercise of governmental power of which persons newly taken in could not be

¹⁵Hobday 1963.

¹⁶*Clinton v Cedar Rapids and the Missouri River Railroad*, 24 Iowa 455 (1868).

heard to complain; they had no voice in the matter, no power to resist, nor was any legal right of theirs infringed thereby.”¹⁷

The Commission’s 1999 report, *Implementation of Tennessee’s Growth Policy Act*, picks the story up and carries it through the 20th century:

A major complaint against annexation by private act was that, at times, the powers of the legislature could be abused. This abuse could take the form of the passage of annexation acts against the wishes of local government officials and citizens. This fear of abuse was complicated by the increasing urbanization of Tennessee during the two decades following World War II. Tennessee was becoming increasingly more urban, but at the same time traditional core cities were losing much of their economic strength to their suburban fringes. The resulting economic segregation heightened annexation tension as municipalities eyed their newly urbanized fringes, and those fringes sought ways to resist annexation by their core cities.

Despite these concerns, annexations by private law remained the predominant method of annexation in Tennessee until the General Assembly enacted Public Chapter 113 in 1955. Public Chapter 113 resulted from a 1953 vote by the people of Tennessee for a constitutional amendment requiring that all future changes in municipal boundaries be made under terms of a general statute.

The resulting constitutional clause, Article XI, Section 9, provides in pertinent part that “the General Assembly shall by general law provide the exclusive methods by which municipalities may be created, merged, consolidated and dissolved and by which municipal boundaries may be altered.” Public Chapter 113 allowed municipalities to annex by either ordinance or referendum. The legislation contained several key features, as follows.

- A municipality could annex territory on its own initiative
“. . . when it appears that the property of the municipality and territory will be materially retarded and the safety and welfare of the inhabitants and property endangered . . . as may be necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole. . . .”

¹⁷ *McCallie v. Mayor of Chattanooga*, 40 Tennessee 317 (1859).

- A territory to be annexed had to be “adjoining” the municipality (no definition for adjoining was included).
- An ordinance could not become operative until 30 days after final passage, allowing quo warranto actions contesting the ordinance.
- Larger municipalities had precedence when two municipalities were attempting to annex the same territory.
- Remedies to an aggrieved instrumentality of the state were limited to arbitration subject to Chancery Court review.

The provisions of Public Chapter 113 generally favored municipal annexation interests. Therefore, it is not surprising that Tennessee experienced a considerable amount of annexation in the two decades following the chapter’s creation. Most of these annexations were by ordinance. This is evident in the fact that between 1955 and 1968 annexation by referendum was used 18 times while annexation by ordinance was used 716 times.

The momentum in favor of annexation enjoyed by municipalities shifted by the early 1970s. Suburban residents, county governments and utility districts, working to make annexation more difficult, put pressure on the General Assembly to change the law. The 88th General Assembly responded to this pressure with House Joint Resolution No. 159, which directed the Legislative Council Committee to perform a comprehensive study of annexation. In the final report resulting from this study, the Committee acknowledged that:

- inadequate planning in the urban fringe resulted in poor services and threats to health and safety;
- inadequate planning in the urban fringe promoted a duplication of facilities and a waste of taxpayer money;
- a proper balance between the interests of the municipality and the fringe is a necessity; and
- basic to the adjustment of boundaries is determining who will decide—who should control the process.

Responding to the report of the Legislative Council Committee, the General Assembly, in 1974, passed Public Chapter 753. This chapter, the first major revision to Public Chapter 113, made several major changes, as follows.

- A [municipal] plan of service was required to include elements pertaining to police and fire protection, water and electrical services, sewage and waste disposal systems, road construction and repair, and recreational facilities.
- A public hearing on the plan of service had to be properly conducted before a municipality could adopt its plan of service. Notice of the public hearing had to be published in a newspaper of general circulation seven days before the hearing.
- The burden of proving the reasonableness of an annexation ordinance was removed from the plaintiff and placed on the municipality.

Municipal interests took exception to the revision placing the burden of proof on the municipality, arguing that this amendment “reverses the presumption of constitutionality of legislation in favor of a presumption of unconstitutionality.”

Another major revision to annexation law in Tennessee occurred in 1979, when the Tennessee Supreme Court held that quo warranto plaintiffs were entitled to have the issue of reasonableness submitted to a jury. This decision, in *State ex rel Moretz v. City of Johnson City*, is described as “the most devastating judicial blow to municipal annexation in the history of the act.”

The next major development was the passage of Tennessee’s Growth Policy Act in 1998. Public Chapter 666, Acts of 1996, started the process that culminated in this new law. Public Chapter 666 authorized incorporation of areas with as few as 225 residents. Called the “Tiny Town Bill,” the Act was defined quite narrowly—so narrowly that it applied only to two small communities, Hickory Withe in Fayette County and Elder Mountain in Hamilton County, leading to questions about its constitutionality. It quickly became the subject of a lawsuit to stop the incorporation of Hickory Withe.¹⁸ Perhaps in recognition that Public Chapter 666 might be held unconstitutional, the General Assembly passed far less restrictive legislation the following year allowing incorporation without the narrow geographic classifications of Public Chapter 666. This new law was found unconstitutional because the substance of the amendment that became Public Chapter 98 went beyond the caption of the original bill.

¹⁸Elder Mountain never incorporated but was later annexed by Chattanooga.

Because of this mess, the speakers of the House and Senate created an ad hoc study committee on annexation and broadly charged it to study not just annexation and incorporation but also the foundation upon which local governance is based. Issues the committee was assigned to explore included

1. whether the citizens in an annexed area should have the right to vote;
2. whether cities should be encouraged to annex areas solely for the purpose of grabbing revenue;
3. whether cities should take county tax revenues used to fund schools;
4. what measures should be in place to provide for the orderly growth of our cities;
5. whether 95 counties are enough or too many and whether 300-plus cities are enough or too many;
6. whether the state should establish incentives for combining city and county governments to form metropolitan governments to deal with competing interests and eliminate the overlapping services provided by cities and counties; and
7. whether the sovereignty of the county and the sovereignty of the city have equal dignity.¹⁹

The committee worked through the fall of 1997 and into the 1998 legislative session to develop what became Public Chapter 1101, Acts of 1998. This law is fundamentally a local prerogative act, an effort to resolve incorporation and annexation disputes by requiring local governments in each county to prepare a 20-year growth plan with agreed-upon boundaries where new cities could be formed (planned growth areas) and existing cities could annex unilaterally (urban growth boundaries). Outside these boundaries are planned growth areas and rural areas where annexation can occur only by referendum. For the first time, residents of these designated rural areas were protected from annexation without consent. This concept of urban growth boundaries (UGBs) was not new and did not originate with the Act. As used in Lexington, Kentucky and other places, UGBs were developed as a part of a long-range comprehensive or general plan to

¹⁹Undated letter referred to in Tennessee Advisory Commission on Intergovernmental Relations 1999.

concentrate growth within the boundary and reduce the impacts of growth over a broader area.

It has been fifteen years since the Growth Policy Act was adopted, and there is once again interest in determining whether the annexation and growth planning processes can be further improved. A large number of bills that would have changed Tennessee's laws on annexation and growth planning were considered by the 108th General Assembly in its 2013 legislative session. The one that drew the most attention would have required all annexations in Tennessee, not just those outside cities' urban growth boundaries, to be by consent in the form of referendums. That bill became Public Chapter 441, Acts of 2013,²⁰ which places a moratorium through May 15, 2014, on annexation by ordinance without consent of territory being used primarily for residential or agricultural purposes. The Act allows exceptions, with majority approval of the county legislative body, in the case where the city initiated the annexation prior to April 15, 2013, and if the city would suffer substantial and demonstrable financial injury if the annexation is not allowed.

Changing Municipal Boundaries

Public Chapter 441 directed the Commission to review and evaluate the efficacy of state laws on changing municipal boundaries (Tennessee Code Annotated, Title 6, Chapter 51) and placed a moratorium on nonconsensual annexation of land used for residential or agricultural purposes until May 15, 2014, to allow the Commission time to complete its study. Chapter 51 includes not only the laws governing annexation but also the laws governing deannexation, city merger, and mutual adjustment of corporate boundaries; however, annexation was the main issue of interest and the subject of the other bills sent to the Commission for study.

Annexation

The topic of annexation raises a number of questions and concerns, including

- who decides whether the territory can be annexed and how they decide;

²⁰See appendix A.

Annexation Methods

- **Unilateral Annexation**—A city can annex property by a unilateral action of its governing body without consent of residents or property owners.
- **Annexation by Consent**—Annexations must be approved by residents or property owners in a referendum or in a petition. In some states, a city may not annex property if a majority of residents or property owners in the territory to be annexed protest the annexation.
- **Third Party Approval of Annexation**—A court or entity other than the city governing body approves the annexation.

- how people find out about the proposed annexation and get information about it;
- what services will be provided to the annexed territory and when;
- whether there should be prohibitions on annexations of certain types of property; and
- whether annexation is necessary for the fiscal wellbeing of cities.

Staff compared Tennessee's laws to those in other states to help answer these questions.

Tennessee is Among a Small Handful of States With Fairly Lenient Annexation Laws.

Tennessee is one of only six states where most annexations are unilateral, meaning they occur without the direct approval of the annexed residents. For the years 1990 to 2009, data from the US Census Boundary and Annexation Survey for Tennessee shows 6,252 total annexations statewide. Nearly all (99%) were accomplished by ordinance. The Census survey does not distinguish annexation ordinances initiated by cities from those requested by owners. Annexations by consent were less than one percent (0.66%) of the total during the ten years before growth plans became effective (1990 through 1999), and less than half a percent (0.43%) from 2000 through 2009.

Two bills sent to TACIR for study would have significantly changed the number of annexations requiring referendums in Tennessee. House Bill 590 by Van Huss (Senate Bill 869 by Crowe), referred by the House Finance, Ways, and Means Subcommittee would require referendums for all annexations within UGBs. Senate Bill 731 by Watson (House Bill 230 by Carter), referred by the Senate State and Local Government Committee, would require referendums for all annexations within UGBs under an amended growth plan. The original version of the bill that became Public Chapter 441 (Senate Bill 279 by Watson; House Bill 475 by Carter) would have done the same thing.

According to a study of annexation methods by Jamie Palmer and Greg Lindsey, unilateral annexation is administratively efficient. It may help cities limit urban sprawl and avoid duplication of services. One of the drawbacks to this method is that it allows cities to choose not to annex areas that need more services but are unlikely to generate a

high amount of tax revenue. This method also permits land grabs by cities. In contrast, annexation by consent allows people to live under the government of their choosing and provides a check on actions by city officials. However, it also has drawbacks. Referendums can be expensive, and they allow a minority of residents to rule on issues that may benefit the area as a whole.²¹

Proponents of the bills sent to the Commission for study include residents and property owners who believe that they should have a say in whether they should be annexed. They argue that annexation should be contingent on their consent, either through a referendum or a petition. They contend that cities annex land mainly in order to get tax revenue and often don't provide services to the area that is annexed. Local officials counter that requiring voter approval of annexation would hinder their ability to recruit businesses and commercial development. They assert that private citizens do have a say in the annexation process since there are public hearings before annexation, they can protest annexations in court, and that their elected county representatives had to agree to the boundaries of the urban growth boundaries. They also note that once annexed, property owners can file a lawsuit to force the city to provide the services it said it would provide in its plan of services. Arguments for and against aside, it is clear that if the only way cities can annex is by referendum, then control over annexation will shift to property owners and the number of annexations or the amount of land annexed in any given period will likely be less.

In addition to the unilateral annexation and annexation by consent methods being debated in Tennessee, another method found in a handful of states is third-party approval of annexation. This method requires a court or entity other than the city governing body to approve the annexation. Nine other states have no general laws addressing annexation. Most of these are New England or Mid-Atlantic states where there is little or no unincorporated territory left or, in the case of Hawaii, where there are no city governments.²²

While cities across the country generally annex property in one of these three ways, state laws do not always fall neatly into these categories and some states may authorize more than one method to annex property. This is the case in Tennessee, where the law authorizes

²¹Palmer and Lindsey 2001.

²²Connecticut, Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont.

both annexation by consent and unilateral annexation. Some states require a combination of methods like Alaska, which requires a third-party state-level board to approve an annexation before the issue is submitted to voters in a referendum.

Few States Allow Unilateral Annexation

The number of states that allow cities to unilaterally annex new territory has been dwindling at the same time that concern over the practice has been growing in Tennessee. Cities in Indiana and Nebraska have broader power to annex without consent than those in Tennessee. Cities' authority to annex unilaterally in Kansas, Idaho, and Texas is more restrictive than in Indiana and Nebraska. While cities in Tennessee are limited to annexing land within their urban growth boundaries, cities in Indiana can annex any parcels that are

- either at least one-eighth contiguous to the city if it (a) has at least three persons per acre; (b) is zoned for commercial, business, or industrial uses; or (c) is at least 60% subdivided; or
- at least one-fourth of it is contiguous to the city and is needed and can be used by the city for development in the reasonably near future.

Cities in Indiana can also annex non-contiguous property in limited circumstances.²³ Cities in Nebraska can annex any contiguous property unilaterally. Kansas, Idaho, and Texas require cities to get consent for annexation in some situations but also permit annexation without consent in a broad range of other circumstances. Kansas allows cities to unilaterally annex territory if it

- is platted and contiguous,
- is not platted and lies within or mainly within the city and has a common perimeter with the city of more than 50%,
- is city owned²⁴ or owned by a government other²⁵ than another city ,
- is 21 acres or less and 2/3 of the boundary line adjoins the city, or

²³For additional information, please refer to the section in this report on non-contiguous annexation.

²⁴It must be contiguous.

²⁵If it is county owned, the county must approve the annexation.

- is 21 acres or less, adjoins the city, and annexing it would make the city boundary line straight or more harmonious.

Otherwise, a city can annex an area of less than 40 acres without the landowners' consent. If the area is 40 acres or larger, then the majority of landowners must approve the annexation in a mail ballot referendum. In either case, the county must approve it by a 2/3 vote. According to the League of Kansas Municipalities, the overwhelming majority of annexations happen without consent.

In Idaho, consent is required only if the area contains more than 100 owners owning lots five acres or less. A majority of those landowners must consent to annexation in writing. Idaho cities can annex anything else unilaterally. In Texas, home rule cities are allowed to annex without consent if their charter provisions allow it. General law cities, on the other hand, can annex only by consent. To adopt a home rule charter, a city must have a population over 5,000. The charter must be approved by residents in an election.

In addition to these states with broad unilateral annexation authority, twenty-one states authorize annexation without consent in very limited circumstances. Seventeen states allow cities to annex areas of unincorporated property surrounded by a city, also known as islands or donut holes, without the consent of voters or owners. Eight states allow cities to annex city-owned property.²⁶ See appendix B, chart 3. Before 2011, North Carolina would have been among the states where cities have broad annexation authority. Now, North Carolina's law is one of the most restrictive.

Most States Allow Annexation Only by Consent

Annexation by consent is rare in Tennessee. According to information from the US Census Boundary and Annexation Survey, only 11 annexation referendums have occurred since the passage of the Growth Policy Act.²⁷ It may be that referendums are not used more often because unilateral annexation is easier, because cities included sufficient territory in their urban growth boundaries to meet their annexation needs, or because cities may have included too much territory that exceeded their needs.

²⁶Alaska, California, Colorado, Michigan, Minnesota, North Carolina, Washington, and Wisconsin.

²⁷Ashland City, Clarksburg, Clinton, Eagleville, Halls, Harriman, Knoxville, Lakeland, and Vanleer.

Tennessee cities may annex by referendum on their own initiative or upon petition of “interested persons.”²⁸ The law does not specify how many people must sign the petition or who qualifies as an interested person. If there are no residents in the territory, then the city cannot annex by referendum; it must annex by ordinance.²⁹ To vote in an annexation referendum, you must reside in the territory proposed for annexation unless the city chooses to allow voters residing in the city to vote on the issue as well. The annexation must be approved by a majority of those voting in the territory proposed to be annexed and by a majority of those voting in the city, if the city chooses to allow city residents to vote.³⁰

Thirty states require consent for annexation under nearly all circumstances.³¹ The form of consent varies. In some cases, referendums are called for by cities seeking to annex, and in other cases they are called for by residents seeking either to be annexed or to avoid annexation. How the referendum is conducted also varies. Although some states allow approval by petition or by mail-in ballot, most, like Tennessee, require voting in person.³²

Three states³³ require cities to hold a referendum if enough voters petition for one; three others³⁴ authorize voters or owners to stop an annexation if enough voters or owners protest the annexation. One—California—allows both. In some states, annexation is a multi-step process that requires that a third party approve the annexation before the issue is submitted to voters. Depending on the state, an annexation may have to be approved by a state³⁵ or local³⁶ board, the county,³⁷ or a court³⁸ before it is put to a vote.

²⁸Tennessee Code Annotated Section 6-51-104.

²⁹Hemsley 2007.

³⁰Tennessee Code Annotated Section 6-51-105.

³¹Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Michigan, Missouri, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

³²Only Alabama, Alaska, Florida, Kansas, Louisiana, Missouri, North Dakota, Oregon, South Carolina, South Dakota, West Virginia, Wisconsin, and Wyoming allow voting by mail.

³³Kentucky, Maryland, and Michigan.

³⁴Nevada, Utah, and Wyoming.

³⁵Local Boundary Commission (Alaska) and State Boundary Commission (Michigan).

³⁶Local Agency Formation Commission (California).

³⁷Delaware (cities over 50,000) and Kansas.

³⁸Illinois, Missouri, and Wisconsin (if city initiates).

Who gets to vote also varies. Referendums are generally decided in one of three ways:

- Voters in the territory approve the annexation.
- Voters in the city and the territory approve the annexation. The votes are counted separately.³⁹
- Voters in the city and the territory approve the annexation. The votes are counted together.⁴⁰

While twenty-one states allow only voters or owners in the territory being annexed to vote,⁴¹ only eleven give voters in the annexing city a say, with nine⁴² requiring that the issue of annexation be submitted to those voters. Alaska and Florida make this optional.

Annexing Vacant Property by Referendum

An issue may arise in Tennessee where cities can annex only by referendum and the property they wish to annex is unoccupied, because current law does not allow nonresident property owners to vote in annexation referendums. According to the Tennessee Attorney General, extending the right to vote under those circumstances would be constitutional. It would also be constitutional to require the nonresident property owners to be qualified to vote in a General Assembly election or to be a US citizen. The opinion recommends that any legislation extending the right to vote include some minimum limits on property ownership to ensure that these owners have a substantial interest in the referendum. It would also be unconstitutional to exclude non-property-owning residents from voting in an annexation referendum.⁴³

Some states authorize property owners to vote in referendums, though most don't specifically address non-resident owners. Of the thirty states that require consent before annexing, only two specifically address the issue of unoccupied land. Colorado provides that if the territory is unoccupied then an annexation referendum must be held

³⁹Louisiana, Missouri, Montana, and West Virginia.

⁴⁰Arkansas, South Dakota, and Iowa.

⁴¹Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Louisiana, Maryland, Michigan, Missouri, Montana, New York, North Carolina, South Carolina, South Dakota, Washington, West Virginia, and Wisconsin.

⁴²Arkansas, Iowa, Louisiana, Maryland, Missouri, Montana, South Dakota, and West Virginia. Michigan requires a referendum in the annexing city if voters in the annexing city request it.

⁴³Tennessee Attorney General Opinion Number 13-106.

in the adjacent territory. Louisiana allows annexation of unoccupied property once each nonresident property owner has consented. Texas allows annexation of contiguous property less than a half-mile in width that is vacant, or inhabited by three or fewer people, after a hearing of the governing body. Texas also allows vacant land to be annexed upon petition of the school board if the annexing municipality meets certain population requirements.

Extension of Utilities to Unincorporated Areas

Tennessee requires public utilities to be self-supporting, funded by ratepayers; consequently, extensions of services are contingent on the ability of the system to recover the costs.⁴⁴ Although cities may extend utilities to unincorporated areas where residents don't otherwise have access to them, more often, they do so to encourage economic development.⁴⁵ They argue that requiring a referendum for annexation could slow economic development and hinder Tennessee's competitiveness. Without the certainty of being able to annex territory, some cities may be unwilling to extend services beyond their borders, which may make it difficult to attract business and industry to areas where counties and utility districts are unable to provide the necessary infrastructure. Idaho, one of the states that allow unilateral annexation under limited circumstances, addressed the unwillingness of cities to install utility lines in areas they can't annex by making consent to annexation implied in an area connected to a city water or sewer system if the connection was requested by the owner before July 1, 2008.

Few States Require Third-Party Approval of Annexation

In six states, a third party—a court or other entity—must approve the annexation. According to the Palmer and Lindsey study, third-party approaches can be more rational, deliberate, and unbiased and may not be as susceptible to political influence as other methods, but they may also create an additional layer of government, costing time and money, and can raise separation of power concerns.⁴⁶ Two of these, Mississippi and Virginia, require annexations to be approved by a court. In Mississippi, it is the chancery court; in Virginia, it is a panel of three circuit court judges. In the other three states, a non-judicial third-party entity must approve the annexation. In Ohio, it is the board of county commissions; in Minnesota, it is a state

⁴⁴Tennessee Code Annotated Section 7-35-414.

⁴⁵As authorized by Tennessee Code Annotated Section 7-51-401.

⁴⁶Palmer and Lindsey 2001.

department known as the Municipal Boundaries Adjustment Unit; and in New Mexico, annexations are approved by a local arbitration board or a state city-boundary commission.

Court Challenges—The Only Means to Overturn Unilateral Annexations in Tennessee

Non-consensual annexations in Tennessee can be overturned only by a court.⁴⁷ The party challenging the annexation must prove either that the annexation ordinance is unreasonable for the overall well-being of the communities involved or that the health, safety, and welfare of the citizens and property owners of the city and territory will not be materially retarded in the absence of such annexation. The case must be tried before a circuit court judge or a chancellor without a jury. Before the Growth Policy Act was passed, the burden of proof rested with the city and a jury trial was available to the party challenging the annexation. The standard of proof—that the annexation was both reasonable for the well-being of the communities and necessary to prevent worsening health, safety, and welfare in the area—remained the same.

Laws in twenty-five states specifically address legal challenges to annexation decisions. Seventeen allow for appeals after the final annexation ordinance has passed.⁴⁸ North Carolina and Illinois allow appeals during the annexation process itself. Kentucky, Ohio, and Virginia, allow appeals only after the final ordinance and place additional limitations on the appeal. North Dakota and Washington also allow appeals only after the final ordinance, and those appeals are referred to a third party instead of a court. In Michigan, where most annexations must be approved by the state boundary commission before the issue is submitted to voters, the final decision of its boundary commission is subject to judicial review. The laws in only two of the twenty-five states, Arizona and Louisiana, explicitly state who has the burden of proof. In Arizona, it is the petitioner. In Louisiana, a parish protesting the annexation of vacant land has the burden if the property is contiguous; the city has the burden if it is not.

⁴⁷Tennessee Code Annotated Section 6-58-111.

⁴⁸Arizona, Arkansas, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nevada, New Mexico, Utah, Wisconsin, and Wyoming.

Annexing Noncontiguous Property—A Potential Compromise

One rationale given for unilateral annexation is the difficulty of reaching willing owners of noncontiguous property. The cities often want to annex noncontiguous property either to promote economic development or to provide services to residential areas, but by law, they can annex only land contiguous to their boundaries.⁴⁹ Consequently, they either annex the land in between or annex a strip of land just big enough to reach the target property. Cities usually do this to support commercial or industrial development. The concern here is balancing the economic development interests of the communities with the desire of landowners between those areas and the municipal boundary to remain outside the city. The Growth Policy Act struck that balance by requiring every city to establish urban growth boundaries within which they could continue to annex without consent and outside of which they could not.

Even inside their UGBs, some cities make it a practice to annex only those parcels whose owners wish to be annexed, which may require creative line drawing. Bypassing unwilling landowners often means annexing narrow corridors along roads, rivers, or other avenues to reach property that is not contiguous to cities' corporate boundaries. In time, this practice tends to create pockets of unincorporated areas that are nearly or entirely surrounded by cities. County highway officials have expressed concern about this practice. Annexing roads but not the adjoining property, or vice versa, can create confusion about who is responsible for maintenance and emergency services.

Annexing only part of a right-of-way, leaving responsibility for the road or bridge to the county, creates similar problems. This occurred in Hawkins County. A municipality annexed up to the bridge, skipped over it, and continued with the annexation on the other side of the structure. The bridge has been condemned and is in the process of being replaced by the county. It will cost \$7.2 million to replace it. The county has already spent \$28,600 to make temporary repairs in order to keep the bridge open.⁵⁰ Strip annexation is explicitly prohibited in the statutes of five states⁵¹ and has been prohibited through case law

⁴⁹Tennessee Code Annotated Sections 6-51-102 and 6-51-104.

⁵⁰Rodney Carmical, Executive Director of the Tennessee County Highway Officials Association, Testimony before TACIR, August 21, 2013.

⁵¹Delaware, Florida, Kansas, North Carolina, and South Carolina.

in nine others.⁵² Some states set forth specific criteria property must meet in order to be contiguous.⁵³ For example, it may require a piece of property to be adjoined to a city's corporate limits for a certain number of feet in order to be considered contiguous.

Allowing for annexation of non-contiguous property may reduce the desire to annex along corridors, which has long been a contentious practice. Cities would be able to annex the property of those wishing to become part of the city without having to annex unwilling landowners or annex along roads, rivers, and other corridors. Indiana, Kansas, and North Carolina allow the annexation of noncontiguous property if property owners consent to it. Two of these require the property to be within a certain distance of the city boundary—two miles in Indiana and three in North Carolina; the other, Kansas, requires that the board of county commissioners approve the annexation. Indiana further requires that the property be used as an industrial park. Indiana also authorizes the annexation of noncontiguous, city-owned property, as do California and Wisconsin. Other states' laws dealing with annexation of noncontiguous property are summarized in appendix B, chart 1.

Varying Annexation Rules Based on Population

Three states' annexation provisions are more or less restrictive depending on the size of the city or county: Delaware, Nevada, and Kentucky. Delaware has more stringent annexation requirements for cities with a population over 50,000, but only one city, Wilmington, is currently affected. Any annexation there must be approved by the chief executive officer and legislative body, as well as the county legislative body, as well as the residents in the territory to be annexed. Smaller cities can follow procedures outlined in their city charters, which are generally less stringent.

Nevada has two sets of annexation laws: one applies to cities in counties with populations of 700,000 or more; the other applies to all other cities. Currently, only Clark County, where Las Vegas is

⁵²Arkansas, Idaho, Illinois, Kentucky, Ohio, Oregon, South Dakota, Wisconsin, and Wyoming. North Carolina's annexation laws were amended in 2011. It is unclear if strip or corridor annexations are restricted by the new law. In older case law, North Carolina courts have held that corridor annexations contravened the clear purpose of the annexation law. See *Hughes v. Town of Oak Island*, 158 North Carolina App. 175 (2003).

⁵³Arizona, California, Colorado, Georgia, Indiana, Louisiana, Missouri, Nebraska, Nevada, Oklahoma, and Texas.

located, has a population over 700,000. The annexation procedures for cities in both types of counties are similar, but some differences favor the cities in the larger counties. For example, Clark County can annex a donut hole over the protests of property owners if certain requirements are met. Cities in the smaller counties can't do this.

Kentucky also has different laws for protesting annexation based on population, one set for cities with populations of 100,000 or more and another for all other cities. The only two cities with populations over 100,000, Louisville and Lexington, have consolidated with their county governments, and so annexation is no longer an issue.

Municipal Services–Plans Required but No Clear Implementation Deadline

Current law in Tennessee requires cities to adopt plans of services before annexing regardless of the annexation method.⁵⁴ Plans have been required for unilateral annexations since 1961,⁵⁵ but the services required in the plans were not specific until 1974 when a list was added that included police and fire protection, water and electrical services, sewage and waste disposal systems, road construction and repair, zoning, and recreational facilities must be included in the plans.⁵⁶ The statute now says that “the plan of services may exclude services that are being provided by another public agency or private company in the territory to be annexed other than those services provided by the county. The plan of services shall include a reasonable implementation schedule for the delivery of comparable services in the territory to be annexed with respect to the services delivered to all citizens of the municipality.”⁵⁷ The city must publish in a newspaper an annual report on progress toward extending the services. A municipality may not annex any other territory if the city is in default on any prior plan of services.⁵⁸

Before it is adopted, the plan must be submitted to the planning commission, if the city has one, for study. The planning commission must then prepare a written report of their study within 90 days after submission; the statute does not provide any guidance for the required study or report. The city's governing body is also required to hold a public hearing on the plan before adoption. The public hearing notice

⁵⁴Tennessee Code Annotated Sections 6-51-102 and 6-51-104.

⁵⁵Public Chapter 320, Acts of 1961.

⁵⁶Public Chapter 753, Acts of 1974.

⁵⁷Tennessee Code Annotated Section 6-51-102(b).

⁵⁸Tennessee Code Annotated Section 6-51-102.

for the plan of services must say where the public can view copies of the plan.

Although the annexed residents cannot challenge the plan itself, they can sue to enforce its implementation.⁵⁹ If a court finds that the city has failed to comply with its plan, the city is given an opportunity to show why it did not carry out the plan. If the city's failure is due to either to reasonably unforeseen circumstances beyond its control or to circumstances that materially and substantially impede its ability to carry out the plan, then the court will alter the timetable for the plan. Otherwise, the court will issue a writ of mandamus to compel the city to provide the services, establish a timetable for the provision of the services, and enjoin the municipality from any further annexations until the services have been provided. If the court determines that the city failed without cause to comply with the plan of services, the court will assess the costs of the suit against the municipality. Property owners cannot challenge the reasonableness of a plan of services except when challenging the annexation itself by arguing that the annexation is unreasonable on the ground that the plan of services is unreasonable or that the territory in question does not need the services contained in the plan of services.⁶⁰

The requirement to provide a plan of services before annexing by referendum was added in 2005 at the recommendation of this Commission.⁶¹ It is unclear whether the laws governing annexation by ordinance that deal with the effect of the failure of cities to fulfill prior plans of services, progress reports on plans of services, amending plans of services, and challenging and enforcing plans of services also apply to annexations by referendum.⁶²

Senate Bill 1054 by Kelsey, House Bill 1263 by Carr D., which became Public Chapter 462, Acts of 2013, was amended before being passed, removing sections 5 and 6. These sections would have added some requirements for plans of services including standards for delivering the services and information about the financial ability of the city, including estimated costs and any commitment to make expenditures or to budget additional resources, to provide services to the territory proposed to be annexed.

⁵⁹Tennessee Code Annotated 6-51-108.

⁶⁰Hemsley 2007.

⁶¹Public Chapter 411, Acts of 2005.

⁶²Hemsley 2007.

Twenty-four states⁶³ require cities to develop a plan of services before they can annex an area. Ten states⁶⁴ require the plan to be made available before the public hearing. Four states require the plan to be provided on or before the date of adopting the annexation ordinance or resolution.⁶⁵ The remaining ten states laws differ. Delaware, for example, requires a plan of service but does not specify when it must be provided.

Tennessee's requirement of a "reasonable implementation schedule" does not provide a clear deadline. Other states, including Kansas and Nebraska, which allow unilateral annexation, require that the annexing city specify a timeline for implementing services. Nine states,⁶⁶ including Indiana and Texas, both of which allow broad unilateral annexation, set a specific timeline in the statute. Nine other states,⁶⁷ including Kansas and Nebraska, which both also allow broad unilateral annexation, require that the annexing city specify a timeline for implementing services. The timelines range from three to ten years.

Fifteen states,⁶⁸ including three of the other states unilateral annexation with broad unilateral annexation powers, require that budget or financial information be provided in the plan of services. Nine states⁶⁹ require the level of services provided to the annexed territory match that of the current city residents.

Notice Period and Method Differ for Unilateral Annexations and Annexations by Consent

Currently, notice requirements in Tennessee depend on the annexation method. If the annexation is by referendum, notice must be given by mail 14 days in advance of a public hearing on that referendum⁷⁰ and

⁶³Arizona, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Missouri, Montana, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, West Virginia, and Wyoming.

⁶⁴Georgia, Indiana, Maryland, Missouri, Montana, Nevada, North Carolina, Oklahoma, West Virginia, and Wyoming.

⁶⁵Arizona, Colorado, Kentucky, and Nebraska.

⁶⁶Arkansas, Georgia, Indiana, Iowa, Missouri, Montana, North Carolina, Oklahoma, and Texas.

⁶⁷Florida, Kentucky, Maryland, Nebraska, Ohio, Oregon, South Carolina, South Dakota, and Wyoming.

⁶⁸Delaware, Florida, Indiana, Kansas, Kentucky, Maryland, Missouri, Montana, Nebraska, Nevada, North Carolina, Oklahoma, South Dakota, Utah, and Wyoming.

⁶⁹Florida, Georgia, Indiana, Kansas, Kentucky, Montana, Nevada, Texas, and Wyoming.

⁷⁰Tennessee Code Annotated Section 6-51-104.

posted in six public places 7 days in advance of the hearing. Three of the places must be in the city, and three must be in the area to be annexed.⁷¹ Neither notice by mail nor by posting in public places is required for unilateral annexation. In all cases, whether by referendum or by ordinance without consent, notice must be published in a newspaper 7 days in advance of the public hearing.

Legislation to change Tennessee's notice requirements has been introduced many times, including two bills sent to the Commission for study this past session. Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would require any city proposing to annex territory within the city's UGB to mail notice to any property owners within that UGB 90 days before "the proposed date of annexation." House Bill 590 by Van Huss (Senate Bill 869 by Crowe) would require "90 days' notice" of the annexation. A House Local Government Committee amendment to the bill, House Amendment 422, would change the notice period from 90 days to 180 days.

Most states' notice periods are longer than Tennessee's; only Arizona's and Iowa's are shorter. The range is from 4 days in Iowa (6 in Arizona) to 60 days in Indiana. Other than the extreme case of Indiana, the notice period does not appear to depend on how lenient the states' annexation laws are. Most states with multiple annexation methods apply the same notice requirements to all annexations. Eight states, two of which (Idaho and Kansas) give broad authority for unilateral annexation, require notice both by mail and by newspaper. Nineteen states, including two (Nebraska and Texas) with broad unilateral annexation powers, require notice only by newspaper. Three states, including Indiana, which allows unilateral annexation, require notice of public hearings only by mail. Nine states require newspaper notice before a referendum;⁷² only Montana requires notice of referendum by mail.

Four states other than Tennessee require a minimum of 7 days' notice. The five states with broad unilateral annexation authority require as little as one week's notice (Kansas) to 60 days' (Indiana) notice before the public hearing. Five states require a minimum of 10 days' notice, ten states require a minimum of 14 or 15 days' notice, and nine states require a minimum of 20 to 30 days' notice. The notice period in Georgia it depends on who initiates the annexation. Georgia

⁷¹Tennessee Code Annotated Section 6-51-101.

⁷²Alabama, Arkansas, Florida, Iowa, Louisiana, Maryland, Texas, West Virginia, and Wisconsin.

requires 21 days' notice when cities initiate annexation but only 14 days' notice when landowners or electors initiate annexation.

Other states require notice at different points in the annexation process. The minimum notice requirement for intent to initiate the annexation process in other states ranges from 7 to 30 days; eight states with notice of intent provisions require newspaper notice,⁷³ and four states require notice by mail.⁷⁴

Tennessee's Public Hearing Requirements are Similar to Those in Most Other States

In Tennessee, two public hearings are required regardless of the annexation method.⁷⁵ One hearing has to be held before final passage of any annexation ordinance.⁷⁶ The law does not specify that the hearing has to occur before the final vote; therefore, the hearing could be held on the same day as the final vote on the ordinance.⁷⁷ A public hearing is also required before a referendum.⁷⁸ A second public hearing must be held on the plan of services.⁷⁹

Thirty-one other states,⁸⁰ including four of the other five with broad unilateral annexation authority—Indiana, Idaho, Kansas, and Nebraska—require only one public hearing on the annexation itself. The sixth state with broad unilateral annexation authority, Texas, requires two, as do three other states. No state requires more than two, except North Carolina, which is the only state that requires an informational meeting. North Carolina now allows annexation only by consent and is also one of the four states that require two public hearings, for a total of three hearings. No informational meetings are required in Tennessee, though many cities hold them.

North Carolina's statute on informational meetings requires explanation of the plan adopted by the city for extending services

⁷³Michigan, Montana, New York, North Carolina, Oklahoma, Utah, Virginia, and Wisconsin.

⁷⁴North Carolina, Oklahoma, Utah, and Wisconsin.

⁷⁵Tennessee Code Annotated Section 6-51-104.

⁷⁶Tennessee Code Annotated Section 6-51-102.

⁷⁷*Gentry v. Bristol* Tenn. June 5, 1972 (unreported case).

⁷⁸Tennessee Code Annotated Section 6-51-105.

⁷⁹Tennessee Code Annotated Section 6-51-108.

⁸⁰Alaska, Arizona, California, Colorado, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming.

to the newly annexed area, including the cost of those services and how to request them; a summary of the annexation process and time lines; and distribution of forms for requesting services. The city must also explain why they want to annex the area and give property owners and residents of the area proposed for annexation, as well as residents of the city, an opportunity to ask questions and receive answers about the annexation.

Like North Carolina, Tennessee requires cities to adopt a plan of services for newly annexed territory before annexation can occur, and the plan of services must be presented at a public hearing. The public hearing requirement in Tennessee, however, does not specify what must occur at that hearing. Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss, would add three informational meetings before annexing by ordinance to inform property owners of “the potential impacts of the annexation.” The House Local Government Committee amended the bill, reducing the number of informational meetings to one “to allow for questions from property owners . . . and provide information regarding the planned annexation.”

Effect of Annexation on Development Standards for Approved Projects

Annexations of new developments that have already been approved by a county raise questions about whose development standards should apply. Developers often prefer to follow the standards applicable when the development was approved, but allowing that prevents cities from ensuring that the benefit of the standards they have adopted are extended to the new area. An example of the problem occurred in Farragut, Tennessee, in the early 1990s when the city annexed property on which the county had approved construction of a convenience store. Construction had not yet started when the land was annexed. When the city later adopted an ordinance that extended a residential zone to the annexed land, thereby prohibiting construction of a convenience store, the landowner sued. The court held that the landowners had not acquired a vested right in the county permits that had allowed the construction project because, based on Tennessee case law, that right does not vest until substantial construction or substantial liabilities have been incurred and the court did not consider the costs incurred to acquire the permit a substantial liabilities.⁸¹

⁸¹ *PEP Properties v. Farragut*, 1991 Tennessee Court of Appeals LEXIS 238, (Tennessee Court of Appeals April 10, 1991).

A bill introduced this year, Senate Bill 915 by Niceley, House Bill 964 by Todd, could have addressed this issue by clarifying in statute when the right to develop or build according to a particular set of standards vests. The bill was sent to a summer study committee for further review. In twenty-nine states, the vesting of development rights is addressed in case law and not in statutes.⁸² The courts in these states have required that a permit must have been issued, and there must have been substantial expenditures or other action in reliance upon the permit in order for development rights to vest.⁸³ Nineteen states have enacted vested rights statutes.⁸⁴

Annexation Method—No Clear Effect on Economic Performance

The claim that expanding cities' boundaries is essential to economic growth is not clearly supported by studies of annexation. Case studies of individual cities show that annexation's fiscal effects depend on a number of variables including the type of annexation, the fiscal analysis method used, the state and local fiscal landscape, and the fiscal position of the community at the time of annexation. Analyses of multiple cities have mixed results, with no conclusive evidence that annexation results in increased efficiency, revenue, wealth, or equity. Some of these studies suffer from methodological problems, and many use old data.⁸⁵

Moreover, since annexation's effects vary by jurisdiction and depend in part on the revenue streams involved, it is simplistic to assume that cities always benefit and counties always lose from annexation.⁸⁶ One of the most often cited studies of annexation asserts that a city's ability to annex land from the surrounding area is a primary determinant of its fiscal health.⁸⁷ This study, David Rusk's *Annexation and the Fiscal Fate of Cities*, found that cities with more room to annex have higher bond ratings. Rusk's study, however, did not consider the effect of the methods of annexation available to those cities. It is also not

⁸²Alabama, Alaska, Arkansas, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Vermont, Wisconsin, and Wyoming. None of Montana's and South Dakota's court cases address the vesting of development rights.

⁸³Kalachnik 2006.

⁸⁴Arizona, California, Colorado, Connecticut, Kansas, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, and West Virginia. Steinwascher 2010.

⁸⁵Edwards 2008.

⁸⁶Steinbauer 2002.

⁸⁷Rusk 2006.

clear that the fiscal health was the result of the ability to annex or its cause, a classic “which came first” conundrum.

Consistent with the lack of conclusive evidence in the literature, comparing states’ economic performances since 2000 gives no clear indication that the annexation methods available to cities have an effect on economic growth. For this analysis, states were grouped by type of annexation method—consent only, broad unilateral authority, none, and third party approval—and their performance was compared using growth per capita since 2000 in four measures, population, gross domestic product (GDP), personal income, and employment. No matter how they were compared, no connection between annexation method and economic performance was found. See appendix F.

Post-Annexation Tax Revenue—Tennessee One of Very Few States That Pay Hold Harmless

The Growth Policy Act requires that local option sales tax and wholesale beer tax revenue generated in the annexed area continue to go to the county until July 1 of the year in which annexation occurs and for the next 15 years. Counties are supposed to receive an amount equal to what these taxes produced in the annexed area in the year preceding annexation. Increases above this hold harmless amount are distributed to the annexing city. Such an amount can be the result of growth in sales that produce higher taxes or a higher city local option sales tax rate. If commercial activity in the annexed area decreases because of business closures or relocations, a city may petition the Tennessee Department of Revenue to adjust the payments it makes to the county.⁸⁸ The hold harmless provision does not affect the distribution of the half of the local option sales tax that is earmarked for schools. The property tax, a major source of local revenue, is not included in the hold harmless provision because counties tax all property in the county regardless of whether the property is inside or outside a city. When property annexed into a city is developed and its taxable value increases, the county, like the city, receives increased property tax revenue from it.

The revenue department, cities, and counties all have roles in the reporting and distribution of the hold harmless amounts. Cities are responsible for reporting annexations to the Department of Revenue, and counties are responsible for providing the names and addresses of

⁸⁸Tennessee Code Annotated Section 6-51-115.

businesses in the annexed territory.⁸⁹ Using the reported information, the department is responsible for calculating the “annexation date revenue,” which represents the local share of revenue from the local option sales and beer wholesale taxes collected from annexed businesses during the previous year. A change in law effective July 1, 2015, allows the Commissioner of Revenue to determine the local option sales tax hold harmless amount using the best information available when that amount cannot be determined from tax returns. The department is responsible for distributing the local option sales tax hold harmless amounts to counties, while the annexing cities are responsible for distributing the beer wholesale tax amounts.⁹⁰

Tennessee is the only state that requires cities to hold counties harmless for local option sales tax collections for a period following annexation. This is not quite as striking as it sounds because only 14 of the 41 states where annexation occurs allow both cities and counties to collect local option sales taxes: Alabama, Arizona, Arkansas, California, Illinois, Kansas, Louisiana, Minnesota, New Mexico, New York, Texas, Utah, and Washington in addition to Tennessee.⁹¹ Wyoming holds counties harmless for losses of state-shared sales tax revenue when annexations cause a 5% or larger reduction in the county’s general fund. The hold harmless is realized through a gradual shift of credit for the population in the annexed area. The city gets credit for 35% of the annexed population in the first year following annexation and for 16.25% in each of the next four years. As in Tennessee, property tax collections are generally not affected by annexation in most states. The cities and counties have overlapping rates, and the county taxes all property, both inside and outside incorporated areas.⁹² Two states, Ohio and Wisconsin, hold a non-coterminous town or township harmless for property tax revenue losses.⁹³

⁸⁹ Ibid.

⁹⁰ Tennessee Code Annotated Section 6-51-115.

⁹¹ Compiled from Sjoquist, D. and Rayna Stoycheva (2012), Gandhi, N. (2012), Due, J. and J. Mikesell (1995), US ACIR (1994), and Vermont (2008).

⁹² The exceptions being Hawaii with no municipal governments, Connecticut and Rhode Island with no county governments, Virginia with non-coterminous cities and counties, and various “free cities” and metropolitan governments. See US Census Bureau (2012).

⁹³ Ohio Revised Code Annotated Section 709.19 and Wisconsin Statute Section 66.219(10)(a).

Local Option Sales Tax Hold Harmless—Cities Paying \$12 Million to Counties

Currently, the Department of Revenue distributes around \$12 million in local option sales tax hold harmless payments to counties. As shown in table 1, a total of \$300,549 in hold harmless payments to seven counties will expire in 2014. An additional \$3.2 million spread across 32 counties will expire

County	2014	2015	2016	2017	2018
Anderson	-	-	\$7,264	-	-
Blount	3,754	6,076	120,973	-	6,718
Chester	-	-	45,828	-	-
Cumberland	-	6,787	-	-	-
Gibson	-	-	3,367	-	-
Grainger	19,791	-	-	-	-
Greene	-	-	66,608	-	33
Hamblen	-	51	-	2,942	57,288
Hamilton	-	-	-	-	148,236
Hancock	-	-	1,668	-	-
Hardin	-	-	3,314	-	-
Hickman	-	-	-	472	-
Knox	-	185,303	371,482	246,874	615,763
Lewis	-	-	13,348	-	-
Loudon	-	-	35,082	-	-
Madison	118,370	-	-	-	-
Marshall	-	-	-	10,301	18,935
Polk	-	-	-	-	48,014
Putnam	-	25,255	68,103	-	1,008
Rhea	-	-	-	-	29,820
Robertson	461	-	-	-	-
Scott	-	-	50,862	-	-
Sevier	138,047	3,681	-	-	-
Shelby	-	542,161	-	95,606	-
Sullivan	-	-	24,727	-	-
Sumner	-	-	-	232	-
Tipton	2,501	-	-	-	5,321
Warren	-	1,346	-	-	-
Washington	17,625	-	123,862	-	-
Weakley	-	212	-	-	-
Williamson	-	-	-	3,506	-
Wilson	-	-	-	133,156	2,149
TOTAL	\$300,549	\$770,874	\$936,489	\$493,089	\$933,285

within five years. See appendix D for a complete account of all local option sales tax hold harmless revenue expiring by county and year through 2027.

Wholesale Beer Tax Payments to Counties Have Not Been Made

The hold harmless process for wholesale beer taxes is more complicated than that for the local option sales tax, in part because the tax is, in effect, administered by the beer wholesalers, who maintain detailed records on wholesale beer sales for individual businesses including their location. Beer wholesalers file monthly reports with the Department of Revenue showing total wholesale beer tax collections, amount of revenue distributed to each city and county (96.5% of total collections), amount retained by the wholesalers for their commissions (3.0%), and the amount paid to the state for audit and administration (0.5%). The law does not require wholesalers to provide information about individual retailers. Consequently, neither cities, counties, nor the Department of Revenue have adequate data with which to compute the wholesale beer tax hold harmless amounts, and the counties have not been held harmless for these losses.

Public Chapter 657, Acts of 2012, created the Retail Accountability Program, which requires beer and tobacco wholesalers to provide the Department of Revenue an electronic report on all sales to retailers. That report includes the name, address, and most importantly for determining how much revenue should be paid to each city and county, sales tax account number for each retailer. This information may make it possible for the Department of Revenue to identify beer retailers among the lists of annexed businesses and get the tax payment information necessary to calculate the hold harmless amounts from the beer wholesalers selling to these businesses. According to the Tennessee Malt Beverage Association, 18 distributors account for most of the wholesale beer activity in the state.⁹⁴ This small number of distributors, and the fact that they are large, sophisticated companies, should make it reasonably easy for them to provide the department the information it needs.

Annexation of Agricultural Land and Open Space

Tennessee has always allowed cities to annex property used for agricultural purposes. The temporary annexation moratorium imposed by Public Chapter 441 prevents unilateral annexation of

⁹⁴ Rich Foge, President of the Malt Beverage Association, phone conversation with Stan Chervin, September 2013.

land used for agricultural purposes only through May 2014. The only other restraint on annexing open space within cities' urban growth boundaries requires public hearings and a report by the Department of Environment and Conservation on the effects of annexation before annexing state parks or natural areas.⁹⁵ Senate Bill 1316 by Bowling, House Bill 1249 by Van Huss, which was sent to the Commission for study by the Senate Local Government Committee and the House Finance, Ways and Means Subcommittee, would extend protection to farmland by prohibiting unilateral annexation of any land within its UGB that is zoned for agricultural use until a change in use is triggered by a request for a non-agricultural zoning designation or by sale of the land for use other than agricultural purposes.

Eight states constrain annexation of agricultural land.⁹⁶ Four prohibit annexation of agricultural land; each has a different definition of what that means. In Arkansas, land cannot be annexed if its highest and best use is agriculture. Nebraska law specifies that agricultural lands that are rural in nature may not be annexed by ordinance. In Oregon, land used for agriculture or horticultural purposes and is valuable because of such use may not be annexed. In Florida, the only agricultural land that can be annexed is land used for urban purposes.

Three states require consent of the property owners before annexing agricultural lands. Kansas law prohibits annexation of any unplatted tract of land 21 acres or more in size that is devoted to agricultural use without the written consent of the owner. In North Carolina, property used for "bona fide farm purposes" on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the property owners. In South Carolina, if the property owner files a written notice objecting to the annexation, the property must be excluded from the area to be annexed. Virginia, where annexation has to be approved by a court, does not require consent of the property owners, but it does require the court to consider the adverse impact on agricultural operations when determining whether to grant an annexation request.

Two states allow landowners to petition for deannexation of farmland. Owners of five or more acres in Idaho used exclusively for agricultural

⁹⁵Tennessee Code Annotated Section 6-51-120.

⁹⁶Arkansas, Florida, Kansas, Nebraska, North Carolina, Oregon, South Carolina, and Virginia.

purposes can petition a court for deannexation. In Ohio, owners of unplatted farmlands may petition the court for deannexation.

Only a handful of states restrict the annexation of forests, parks, or nature reserves. Illinois prohibits annexation of conservation areas without the consent of the conservation district. Similarly, Arizona requires the consent of the park district before annexing county-owned parks or parks operated on public land. Texas and Louisiana are less restrictive. Texas allows cities to annex forest or nature reserve land if the city has attempted to negotiate a development agreement unsuccessfully with the property owner. Louisiana allows annexation if the city has completed an impact report and sent it to the governor. Arkansas has restrictions on annexing land around a particular state park in Pulaski County.

Deannexation—Property Owners Cannot Initiate

Although no specific legislation was introduced in this past legislative session to amend the statutes governing deannexation, residents in the Memphis area of Cordova are concerned about not being able to initiate deannexation from the city. And Public Chapter 441 required the Commission to review these laws. Residents of Cordova have been trying to gather support from Shelby County and Memphis officials to get the city to deannex it from Memphis.⁹⁷ An Attorney General's opinion requested by State Representative Steve McManus, who represents the Cordova area, confirmed that state law allows only the city legislative body to initiate deannexation.⁹⁸ City officials fear that allowing residents to initiate and approve deannexation could cause a significant loss of cities' investments in infrastructure as well as diminish their ability to fund citywide amenities because of a loss of tax revenue from the area deannexed. Balancing the interests of those who wish to have their property removed from cities and those who remain may require constraints on removal that could have the effect of preventing removal under certain conditions.

Other concerns have been raised by Tennessee county highway officials when cities deannex roads and bridges, do not want to make the necessary repairs, and the county has no say in the process. For example, Johnson City annexed 1,000 feet of a county right of way. After the Tennessee Department of Transportation's bridge inspection

⁹⁷Bailey 2013.

⁹⁸Tennessee Attorney General Opinion Number 13-45.

identified necessary repairs, the city deannexed 40 feet of a 238-foot bridge that was in the right of way.⁹⁹

Tennessee is one of nine states¹⁰⁰ where only cities can initiate deannexation. Thirteen states¹⁰¹ authorize only property owners to initiate deannexation, fourteen states¹⁰² authorize both property owners and cities to initiate, and thirteen states¹⁰³ have no deannexation laws. In Tennessee, deannexation can be initiated by cities using one of two methods.¹⁰⁴ The first method requires the deannexation to be approved by three-fourths of voters voting in the referendum.¹⁰⁵ The second method allows the city to deannex without a vote unless the residents petition for one. The city must provide notice and hold a public hearing for a deannexation ordinance that the city legislative body must approve. Then the voters within the affected area get 75 days to petition for a referendum. If the petition is signed by 10% of the registered voters in the area, then a referendum among the voters in the affected area is held. In this case, a simple majority is all that is required to approve the deannexation.

Who has a say in approving deannexations also varies among the states. Eight states¹⁰⁶ require a referendum before finalizing the deannexation, nine states¹⁰⁷ allow property owners to petition for a referendum, and five other states¹⁰⁸ require some other method of consent before the property is deannexed. Iowa and Louisiana may require a referendum or written consent, depending on whether

⁹⁹John Deakins, Washington County Highway Superintendent, testimony to the Commission, August 21, 2013.

¹⁰⁰Alabama, Alaska, Arizona, Delaware, Idaho, Kentucky, Missouri, Oregon, and Virginia.

¹⁰¹Colorado, Georgia, Illinois, Indiana, Michigan, Montana, Nebraska, Ohio, South Dakota, Utah, Washington, West Virginia, and Wisconsin.

¹⁰²Arkansas, California, Florida, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Dakota, Oklahoma, South Carolina, Texas, and Wyoming.

¹⁰³Connecticut, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, and Vermont.

¹⁰⁴Tennessee Code Annotated Section 6-51-201.

¹⁰⁵The language in the statute is somewhat vague. It is unclear whether only those residing on the land to be deannexed can vote or whether those in the city can vote. According to the 2007 Municipal Technical Advisory Service's *Annexation Handbook for Cities and Towns in Tennessee II*, it probably means the voters voting in a city referendum.

¹⁰⁶Alaska, Arkansas, Delaware, Iowa, Kentucky, Louisiana, Michigan, and West Virginia.

¹⁰⁷Alabama, California, Florida, Ohio, Oregon, South Carolina, Texas, Washington, and Wisconsin.

¹⁰⁸Arizona, Georgia, Montana, Nevada, and Wyoming.

the annexation was initiated by the city or the residents. In six states,¹⁰⁹ the entire city may vote in the referendum while the others only require a referendum in the affected territory. Four states allow property owners to initiate deannexation; however, in some cases, the city may still be the approving authority.¹¹⁰ In three other states, the city may deannex unilaterally or the property owners may request deannexation with the city's consent.¹¹¹ In two states the city may deannex unilaterally, and the property owners may not request deannexation. And in five states, a judge makes the final determination whether deannexation is appropriate.¹¹²

Tennessee's Deannexation Notice Requirements Are Not Specific

Tennessee law requires cities to provide notice before deannexation, but it does not specify when the notice should be provided or what form it should take.¹¹³ Nine¹¹⁴ of the thirty-five states with laws on deannexation do not have notice requirements for deannexation. Eleven states¹¹⁵ require publication of notice in a newspaper before a hearing. The notice period ranges from one week to four weeks. Four states¹¹⁶ require publication of notice of referendum. The notice period ranges from 10 days to 4 weeks. Three states¹¹⁷ have notice requirements for both hearings and referendums. Alabama requires 10 to 30 days mail notice before a hearing, and publication for at least seven days in a newspaper for referendums. Florida requires notice once a week for two consecutive weeks of both hearings and referendums; Louisiana requires 10 days' notice.

Boundary Adjustments Can Be Made By Contract

Tennessee cities may adjust boundaries by contract to align them with easements, rights-of-way, and lot lines "to avoid confusion and uncertainty about the location of the contiguous boundary or to conform the contiguous boundary" to these lines.¹¹⁸ There is no provision

¹⁰⁹Arkansas, Delaware, South Carolina, Washington, West Virginia, and Wisconsin.

¹¹⁰Colorado, Indiana, South Dakota, and Utah.

¹¹¹Kansas, North Dakota, and Oklahoma.

¹¹²Illinois, Minnesota, Mississippi, Nebraska, and Virginia.

¹¹³Tennessee Code Annotated Section 6-51-201.

¹¹⁴California, Colorado, Delaware, Iowa, Kentucky, Minnesota, Missouri, Nebraska, and Washington.

¹¹⁵Alaska, Illinois, Indiana, Kansas, Mississippi, Nevada, Ohio, Oregon, South Dakota, Utah, and Virginia.

¹¹⁶Idaho, Montana, South Carolina, and West Virginia.

¹¹⁷Alabama, Florida, and Louisiana.

¹¹⁸Tennessee Code Annotated Section 6-51-302.

for residents or property owners to participate in these decisions. There was only one instance found in which mutual adjustment by contract has been used. In September 2007, Brentwood entered into a boundary adjustment agreement with Franklin to shift over 300 acres south of Split Log Road into the Brentwood city limits.¹¹⁹

Ten other states¹²⁰ have specific laws authorizing cities to mutually adjust their boundaries, usually through a simultaneous process where one city deannexes property while the other city annexes. In three states, the process is initiated and completed by the cities with no form of resident or property owner participation. In the remaining seven, the level of participation by residents or property owners varies. In Arizona and Utah, while the process is initiated and completed by the cities, landowners can protest by petition to stop the change. In Kentucky, two cities first enact ordinances to transfer territory from one city to another but the transfer is not complete unless a majority of voters in the area consents by petition.

Iowa's law is similar to Kentucky's but the property owner must first petition for the transfer. Illinois provides two methods by which property owners and electors may petition cities for annexation from one to the other. One of these requires approval in a referendum. In Massachusetts, a person can initiate a transfer of property from one city to another, but it must be approved by both cities in town meetings and the state legislature. Owners or residents affected by the transfer cannot protest. In Minnesota, where all annexations are approved through an administrative process, owners can petition for land to be deannexed by one city and annexed by another as long as one city passes a resolution supporting it. An administrative law judge ultimately approves the annexation.

Notice of Mutual Corporate Boundary Adjustment Not Required

Tennessee law does not specify notice requirements for mutual adjustment of boundaries. Of the ten states with laws on mutual boundary adjustments, three¹²¹ require notice be sent by mail two to four weeks before the public hearing. Four states¹²² require notice be published in a newspaper five days to three weeks before the hearing.

¹¹⁹Roger Horner, City Attorney, City of Brentwood, interview by Bill Terry, July 19, 2013.

¹²⁰Arizona, Arkansas, Illinois, Iowa, Kentucky, Massachusetts, Minnesota, Missouri, Ohio, and Utah.

¹²¹Arizona, Kentucky, and Minnesota.

¹²²Minnesota, Arkansas, Iowa, and Utah.

Three states¹²³ do not have notice requirements for mutual boundary adjustment. Illinois requires cities to publish a notice of referendum and the requirements for signing the petition in a newspaper.

Mergers of Cities in Tennessee Must be Approved by Voters

In Tennessee, two or more contiguous cities located in the same county are authorized to merge into one city.¹²⁴ Either the cities or voters can initiate a merger. Cities may initiate a merger by passing a joint resolution requesting a referendum in the cities to approve or disapprove a merger. Voters can initiate a merger by a petition signed by 10% of the registered voters in each of the cities. Regardless of who initiates the merger, it must be approved by a majority of those voting in the referendum in each of the cities.

Thirty-six states have laws authorizing merger of cities. Thirty-three of these states require a referendum before the merger can be finalized. Among those where a referendum is required, nine states¹²⁵ only allow the process to be initiated by the city. In six states,¹²⁶ the process may only be initiated by voter petition. Eighteen states¹²⁷ allow either the city or voters to initiate the merger.

Three states do not require a referendum to merge municipalities. In Mississippi, each city passes an ordinance, and the merger must be approved in a court. In Minnesota, either a voter petition or city council resolution is presented to an administrative law judge for approval. In Kansas, the governing bodies of the cities adopt a joint resolution, but a referendum can be forced if at least 5% of qualified voters in one of the cities petition for it.

Notice Required for City Mergers

Tennessee like 21 of the 36 states with laws on mergers, does not have notice requirements. See appendix B, chart 10. Fifteen states,¹²⁸

¹²³Massachusetts, Missouri, and Ohio.

¹²⁴Tennessee Code Annotated Title 6, Chapter 51, Part 4.

¹²⁵Arizona, Colorado, Kentucky, Montana, New Mexico, South Carolina, Vermont, Wisconsin, and Wyoming.

¹²⁶Arkansas, Michigan, Oregon, Pennsylvania, South Dakota, and Texas.

¹²⁷Alabama, Alaska, Florida, Idaho, Indiana, Illinois, Louisiana, Maryland, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Utah, Virginia, and Washington.

¹²⁸Alaska, Idaho, Michigan, Minnesota, Mississippi, New Jersey, New York, North Dakota, Ohio, South Carolina, Utah, Vermont, Virginia, Washington, and Wyoming.

however, require some form of a hearing; they require cities to publish notice of the hearings in a newspaper anywhere from five days to four weeks before the hearing.

Comprehensive Growth Policy

Tennessee's Growth Policy Act (known colloquially as PC 1101) created the growth planning process in Tennessee Code Annotated, Title 6, Chapter 58, at the same time it changed the annexation laws in Title 6, Chapter 51, to require consent outside cities' urban growth boundaries. The purpose stated by the General Assembly for the Act is to

- eliminate annexation or incorporation out of fear;
- establish incentives to annex or incorporate where appropriate;
- more closely match the timing of development and the provision of public services;
- stabilize each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and
- minimize urban sprawl.¹²⁹

While the focus of the Act was to deal with Tennessee's tumultuous battles over annexation and incorporation, it was also an attempt to further growth planning statewide. Although cities, counties, and regions already had the ability to develop growth plans under Title 13, recommendations resulting from the plans are advisory. With the passage of the Growth Policy Act, every county and their respective cities were required to identify three distinct areas: urban growth boundaries (UGBs), planned growth areas (PGAs), and rural areas (RAs). Most plans have all three types of areas, although a few designate all of the county outside of the UGBs as PGAs, and consequently have no RAs, and some designate all areas outside the UGBs as RAs, and have no PGAs.

The first step in developing plans under the Growth Policy Act was to create coordinating committees. The coordinating committees were required to include representatives of each of the cities and the county mayor or executive plus representatives of the soil

¹²⁹ Tennessee Code Annotated Section 6-58-102.

conservation district, utilities, school systems, chambers of commerce, and others representing environmental, construction, and homeowner interests. The committees developed the plans and submitted them to the county commissions and the municipal governing bodies within each county. Counties and cities could either reject or ratify those plans. Rejected plans were returned to the coordinating committees for further work. Once ratified, plans were submitted for approval to the Local Government Planning Advisory Committee (LGPAC) in the Tennessee Department of Economic and Community Development. The coordinating committees' responsibilities ended with approval of the plans, but they would have to be reconvened in order to amend the plans.

The Growth Policy Act requires that certain planning studies and land use projections be completed before proposing a UGB, PGA, or RA.¹³⁰ These requirements were an effort to link growth plans to existing general city and regional planning under Title 13.¹³¹ Although some counties plans included these studies and projections, most plans are little more than maps depicting the UGBs, PGAs, and RAs. Even when additional material was submitted, the LGPAC approved only the map.¹³²

Twenty states require at least some local governments to develop some form of a comprehensive plan.¹³³ Rather than the simple map required in Tennessee, these plans are often very comprehensive, with text, maps, illustrations, tables, and whatever else is needed to clearly describe the local government and its conditions and goals in a wide variety of areas, including land use, transportation, open spaces, housing, utilities and economic development. In states that require comprehensive planning, the plans are usually developed by local planning commissions.¹³⁴ Four of the states that require

¹³⁰Tennessee Code Annotated Section 6-58-106.

¹³¹Tennessee Code Annotated Title 13, Chapters 3 and 4.

¹³²Dan Hawk, Former Director of Rural Development at the Tennessee Department of Economic and Community Development, at the June 2008 Commission meeting, said there are communities that took the Growth Policy Act's planning process seriously. The Department of Economic and Community Development made the decision to have LGPAC approve the growth plans as they were submitted as long as they were consistent with the requirements in the statute. The minimum requirements were a map showing the UGBs, PGAs, and RAs. Many communities may have done studies and plans locally, but these were not submitted with the growth plans.

¹³³Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Kentucky, Maryland, Nebraska, Nevada, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia, and Washington.

¹³⁴Huntington and Weaver 2001.

comprehensive plans—Hawaii, Maryland, Oregon, and Washington—also require growth boundaries like those in Tennessee. Idaho, Colorado, and Delaware require growth boundaries for municipalities that plan to annex new territory. In Georgia, comprehensive planning is permissive; however, if local governments want to obtain state grants and funding, they must have a comprehensive plan that meets the requirements spelled out in state law. Similarly, comprehensive planning is permissive in Vermont; but here again, if a local government wants to obtain state grants or if the government wants to adopt zoning, a comprehensive plan is required. Maine requires growth boundaries, which they call growth areas, if the local government adopts an optional growth plan; the state can only make growth related capital investments in designated growth areas. California and Florida require comprehensive planning, but growth boundaries are permissive. Growth boundaries are referred to as urban service areas in these states; other than designating proposed areas for urban service delivery, there doesn't appear to be any specific incentive for adopting these areas.

Growth Plans—No Requirement to Update

Because the plans were required to consider where growth would occur over the first 20 years of the plan, concerns have been raised about the status of the growth plans at the end of 20 years and whether they should be reviewed or amended periodically. While the plans were based on 20-year growth projections, nothing in the law would cause them to expire at the end of this period. Nor, is there any requirement to revise or update them. Although there is provision for amending them, this is left to local discretion. Most other states require cities to review or revise their comprehensive plans every two to ten years but most other states' plans are more comprehensive than Tennessee's growth plan maps.

Tennessee's growth plan amendment process is spelled out in the law.¹³⁵ A municipal mayor, the county mayor, or the county executive may, at any time after the initial period, propose an amendment by filing notice with the county mayor or county executive and each municipal mayor. Upon receipt of the proposal, the county mayor or county executive is required to reconvene or re-establish the county coordinating committee within 60 days of receipt of the notice. The procedures for amending the growth plan are the same as for the initial plan preparation, and the burden of proving the reasonableness or

¹³⁵ Tennessee Code Annotated Section 6-58-104(d)(1).

necessity of the amendment is on the party proposing the amendment. The coordinating committee must submit the amended plan to the respective legislative bodies with six months of the date of its first meeting to consider the amendment. After approval by the legislative bodies and by the state LGPAC, the amendment becomes a part of the county growth plan.

Developing the original growth plans was difficult and time-consuming, and people expect the amendment process to be equally difficult, yet 25 counties have amended their plans and six of those counties have done so multiple times. For example, Hamblen County amended its growth plan four times between 2004 and 2008. Even so, there has been some discussion of finding a way to simplify the amendment process in cases where two adjoining cities mutually agree to adjust their growth boundaries. The Senate State and Local Government Committee referred two bills affecting growth boundaries to TACIR for study. Both bills would have changed the current process. Senate Bill 613 by Yager, House Bill 135 by Keisling, would change the procedures for amending growth plans. The procedures would involve two different processes, depending on the boundary to be moved. A proposal to change a UGB or PGA without affecting another UGB or PGA is an amendment, and the process is similar to the process in current law for amending growth plans. Anything else would be considered a revision.

Under the bill, multiple mayors may propose amendments for consideration at the same time. All of these amendments must be dealt with before additional amendments are proposed. In order to change a proposed amendment, the coordinating committee would have to submit that change within four months back to the city or county mayor who proposed it. Whoever proposed the original amendment would decide whether to accept the change. The coordinating committee must act on the entire proposal, including all of the amendments, within six months of its first meeting to

- a) recommend approval to the county legislative body and the governing body of each municipality in the county as submitted;
- b) recommend rejection to the county legislative body and the governing body of each municipality in the county as submitted; or
- c) recommend amendment or amendments to the proposed amendment; provided however, that an amendment or

amendments proposed by the coordinating committee shall only relate to the same subject matter as the original proposed amendment.

Under the bill, growth plans could be revised only once every seven years, and the process would generally follow current law except that convening the coordinating committee would require approval either by the county legislative body or by the municipal legislative bodies representing at least half of the municipal population of the county, and the coordinating committee would have to develop a revised growth plan within one year after the first meeting of the committee.

With either an amendment or a revision, if the local governments approved it, the amended or revised plan would go to LGPAC, which would be required to approve or reject it within 60 days of receipt, otherwise it would automatically become effective.

Senate Bill 732 by Watson, House Bill 231 by Carter, would have prohibited a mayor of a city that has not annexed all territory within its UGB and has not fully complied with all plans of services adopted for all annexed territories from proposing an amendment to the growth plan and from serving on the coordinating committee. A similar requirement would apply to the mayor's ability to serve on the coordinating committee. House Amendment 9 removed the requirement that the city annex all territory in its UGB.

Coordinating Committee Composition

The coordinating committees are intentionally broad-based and complex, and concern has been expressed about their composition. Some local officials do not want to have to seek approval from other local governments before adjusting their boundaries. This is especially true for the local governments that went beyond the basic requirements of the Act in developing their boundaries. Others, including farming interests, argue that the membership is skewed in favor of cities in counties with multiple cities and does not give adequate consideration to their concerns. There are no entities similar to Tennessee's coordinating committees in other states. Consequently, other states' laws cannot be looked to for guidance. Although giving the duties of the coordinating committees to the Joint Economic and Community Development Boards (JECDB) required by the Act has been suggested, this would not resolve the issues raised here.

Joint Economic and Community Development Boards– Usefulness Has Varied

The Growth Policy Act required that each county establish a Joint Economic and Community Development Board (JECDB), or request that a sufficiently similar existing board be designated a JECDB by LGPAC, to foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.¹³⁶ The membership of the JECDB is determined by an interlocal agreement but must, at a minimum, include the county mayor or executive, the city mayor or city manager of each city in the county, and one person who owns land classified under the greenbelt law. JECDBs must meet at least four times a year. The required executive committee must also meet four times a year. Funding for the board is apportioned among the counties and cities based on the population distribution within each county. Cities and counties must certify their compliance with this section of the law when applying for any state grant.¹³⁷

The law provides no specific powers to the JECDBs. Each county is free to develop its own program based upon the interlocal agreement between its governments. The Wilson County JECDB, for example, established before the Growth Policy Act was adopted, is the county's economic development entity and is focused on recruiting and retaining industrial, retail, office, and business activity. A JECDB could be used to encourage communication between cities and the county in much the same way as the City-County Liaison Committee in Washington County does. Although not a JECDB, the committee brings members together to discuss issues such as education, annexation, and public safety.¹³⁸

The experience with the JECDBs varies widely across the state. In some areas, the boards serve a useful purpose and meet the intent of the law. Examples include

- Marshall County, where the board is considered essential in developing the “shop local” program, establishing wireless internet in the downtown area, and in the county's participation in the Jack Trail, the Quilt Trail, and the Civil War Trail;¹³⁹

¹³⁶Tennessee Code Annotated Section 6-58-114(b).

¹³⁷Tennessee Code Annotated Section 6-58-114.

¹³⁸Gray 2013.

¹³⁹Information submitted by the South Central Tennessee Development District.

- Perry County, where the board was instrumental in the county receiving a \$1.76 million grant from the Economic Development Administration for the reconstruction of the roof of the NYX industrial building;¹⁴⁰ and
- Giles County, whose industrial developer credits the board with the recent expansions of Integrity, Frito-Lay, and Richland.¹⁴¹

Some other areas have had the opposite experience and regard their JECDBs as serving no useful purpose. They meet only to meet the statutory requirements and to certify compliance so local governments can obtain state grants.

No other state has such a board. It has been suggested that allowing the JECDB to serve as the coordinating committee could streamline the growth planning process and the process for amending growth plans, but the JECDBs are not as broadly representative as the coordinating committees. Ensuring adequate representation of all parties currently represented on coordinating committees would require a different makeup for the JECDBs.

It has also been suggested that JECDBs be allowed to take on the functions of the industrial development corporations (IDCs), often referred to as industrial development boards. IDCs have a broad range of corporate powers including the power to acquire, lease, sell, enter into loans, issue bonds, borrow money, and employ and compensate agents.¹⁴² Local elected officials cannot serve on boards of IDCs unless the board represents more than one local government.¹⁴³ The laws do not specifically grant any power to the JECDBs other than the power to accept donations, grants, and payments for persons other than the participating governments, but their interlocal agreements may grant them powers.¹⁴⁴

¹⁴⁰Ibid.

¹⁴¹Ibid.

¹⁴²Tennessee Code Annotated Section 7-53-302.

¹⁴³Tennessee Code Annotated Section 7-53-301 and Section 7-53-104

¹⁴⁴Tennessee Code Annotated Sections 5-1-113, 12-9-101 et seq, and 6-58-114. Local governments have the authority enter into an interlocal agreement creating an entity to exercise any power that each can exercise independently.

References

- Anthony, Jerry. 2006. "State Growth Management and Housing Prices." *Social Science Quarterly*. 87 (1): 122-138.
- Babb, Bryan H. and Stephen C. Unger. 2008. "Setting the annexation record straight: the myth underlying annexation reform in Indiana." *Res Gestae Indiana Bar Journal*. 51: 65-68.
- Bailey, Clay. 2013. "Deannexation options pursued." *Commercial Appeal*. May 18.
- Berri, Brett W. 1989. "Annexation and Municipal Voting Rights." *Washington University Journal of Urban and Contemporary Law*. 35:237-248.
- Bise, L. Carson II. 2010. *Fiscal Impact Analysis: Methodologies for Planners*. Chicago: American Planning Association Planners Press.
- Carruthers, John I. 2002. "Evaluating the Effectiveness of Regulatory Growth Management Programs: An Analytic Framework." *Journal of Planning Education and Research*. 21:391-404.
- Due, John F. and John L. Mikesell. 1995. *Sales Taxation: State and Local Structure and Administration*. Washington, DC: Urban Institute Press
- Edwards, Mary M. 2008. "Understanding the Complexities of Annexation." *Journal of Planning Literature*. 23(2): 119-135.
- _____. 2011. "Municipal Annexation: Does state policy matter?" *Land Use Policy*. 28 (1): 325-333.
- Edwards, Mary M. and Yu Xiao. 2009. "Annexation, Local Government Spending, and the Complicating Role of Density." *Urban Affairs Review*. 45 (2): 147-165.
- Gale, Dennis E. 1992. "Eight state-sponsored growth management programs." *Journal of the American Planning Association*. 58: 425-439.
- Gandhi, Natwar M. 2012. *Tax Rates and Tax Burdens in the District of Columbia: A Nationwide Comparison 2011*. Washington, DC: Government of the District of Columbia.
- Gillette, Clayton P. 2005. "Voting with Your Hands: Direct Democracy in Annexation." *Southern California Law Review*. 78: 835-867.
- Gray, Gary. 2013. "New committee aims to bring city, county together on annexation." *Johnson City Press*. December 28.
- Guess, Eleanor Keeble. 1949. *The first fifteen years: a history of the Tennessee State Planning Commission*. Knoxville: University of Tennessee Bureau of Public Administration.
- Hansen, J. Mark. 1980. "Municipal Annexation in Tennessee." *Tennessee Law Review*. 47:651-679.

- Hemsley, Sidney D. 2007. *Annexation Handbook for Cities and Towns in Tennessee II*. Knoxville, Tennessee: Municipal Technical Advisory Service.
- Hobday, Victor C. 1963. *A Brief Description of Tennessee Municipal Government*. Knoxville, Tennessee: Municipal Technical Advisory Service.
- Houston, Scott. 2012. *Municipal Annexation in Texas Is it Really that Complicated?* Austin, Texas: Texas Municipal League.
- Huntington, Stuart and Chad Weaver. 2001. *Land Use Series The Comprehensive Plan*. Ames, Iowa: Iowa State University Extension.
- Kalachnik, Tyler J. 2006. "Try to Vest, Try to Vest, Be Our Guest: The Vested Rights Conflict in Indiana Creates a Unique Solution for All Development." *Indiana Law Review*. 39: 418-447.
- Kelly, Eric Damien. 2013. *Zoning and Land Use Controls*. Albany, New York: Matthew Bender.
- Landis, John D., Lan Deng, and Michael Reilly. 2002. "Growth Management Revisited: A Reassessment of its Efficacy, Price Effects and Impacts on Metropolitan Growth Patterns." Working Paper 2002-02. IURD Working Paper Series, Institute of Urban and Regional Planning, University of California Berkeley.
- Le Clercq, Frederic S. 1988. "Tennessee Annexation Law: History, Analysis, and Proposed Amendments." *Tennessee Law Review*. 55: 577-701.
- Lindsey, Greg. 2004. "Annexation Activity and Policy in the United States" in *Redrawing Local Government Boundaries: An International Study of Politics, Procedures, and Decisions*, edited by John Meligrana, 56-74. Vancouver: University of British Columbia Press.
- Lindsey, Greg, and Jamie Palmer. 1998. *Annexation in Indiana: Issues and Options*. Indianapolis: Indiana Advisory Commission on Intergovernmental Relations.
- Liner, Gaines H. and Rob Roy McGregor. 2002. "Optimal Annexation." *Applied Economics*. 34: 1477-1485.
- Mandelker, Daniel R. 2012. "Implementing State Growth Management Programs: Alternatives and Recommendations." *John Marshall Law Review*. 45:307-316.
- Mendelson, Wallace. 1952. *Annexation Handbook for Tennessee Municipal Officials*. Knoxville, Tennessee: Municipal Technical Advisory Service, University of Tennessee. http://trace.tennessee.edu/utk_mtashist/10.
- _____. 1954. "Suggestions for Improvement of Municipal Annexation Law." *Vanderbilt Law Review*. 8 (1): 1-18.

- Mikesell, John L. 1995. *Fiscal Administration: Analysis and Applications for the Public Sector*. 4th ed. Belmont, California: Wadsworth Publishing.
- Nelson, Arthur C., Rolf Pendall, Casey J. Dawkins, and Gerrit J. Knaap. 2002. "The Link Between Growth Management and Housing Affordability: The Academic Evidence." Discussion Paper Series, Brookings Institution Center on Urban and Metropolitan Policy. Washington DC: Brookings Institute.
- Nelson, Arthur C. and David R. Peterman. 2000. "Does Growth Management Matter? The Effect of Growth Management on Economic Performance." *Journal of Planning Education and Research*. 19: 277-285,
- O' Toole, Randal. 2007. "The Planning Tax: The Case Against Regional Growth-Management Planning." Policy Analysis (Cato Institute) no.606.
- Palmer, Jamie L. and Greg Lindsey. 2001. "Classifying State Approaches to Annexation." *State and Local Government Review*. 33 (1): 60-73.
- Reynolds, Laurie. 1992. "Rethinking Municipal Annexation Powers." *The Urban Lawyer*. 24 (2): 247-303.
- Rusk, David. 2006. "Annexation and the Fiscal Fate of Cities." Washington DC: Brookings Institute.
- _____. 2013. *Cities without Suburbs: A Census 2010 Perspective*. 4th ed. Washington DC: The Woodrow Wilson Center Press.
- Sengstock, Frank S. 1960. *Annexation: A Solution to the metropolitan area problem*. Ann Arbor, Michigan: Michigan Legal Publications.
- Sjoquist, David L. and Rayna Stoycheva. 2012. "Local Revenue Diversification: User Charges, Sales Taxes, and Income Taxes." In *The Oxford Handbook of State and Local Government Finance*, edited by Robert D. Ebel and John E. Petersen, 429-462. New York: Oxford University Press.
- Sorrell, Andrew V. and Bruce A. Vlk. 2012. "Virginia's Never-ending Moratorium on City-County Annexations." *The Virginia News Letter*, University of Virginia Weldon Cooper Center for Public Service 2012 88:1.
- State of Tennessee Legislative Council Committee. 1973. *Study of the Adjustment of Municipal Boundaries Final Report of the Legislative Council Committee*. Nashville, Tennessee: State of Tennessee.
- Steinbauer, Paula E., Betty J. Hudson, Harry W. Hayes, and Rex L. Facer II. 2002. *An assessment of municipal annexation in Georgia and the United States*. Athens, Georgia: Carl Vinson Institute of Government, University of Georgia.
- Steinwaser, Brian K. "Statutory Development Rights: Why Implementing Vested Rights Through Statute Serves the Interests of the Developer and Government Alike." *Cardozo Law Review*. 32:1-25.

- Stewart, Michael J. 2000. "Growth and its Implications: An Evaluation of Tennessee's Growth Management Plan." *Tennessee Law Review*. 67:982-1017.
- Taylor, Gary D. and Ellen M. Bassett. 2007. "Exploring Boundaries in Governance: Intergovernmental Boundary Agreements." *State and Local Government Review* 39:119-130.
- Tennessee Advisory Commission on Intergovernmental Relations. 1999. *Implementation of Tennessee's Growth Policy Act: the History of Public Chapter 1101 and the Early Stages of its Implementation*. Staff Report. Nashville, Tennessee: State of Tennessee.
- Tennessee Department of Economic and Community Development Local Planning Assistance Office. 2011. *Status of Planning and Land Use Controls*.
- Tyson, Christopher J. 2012. "Localism and Involuntary Annexation: Reconsidering Approaches to New Regionalism." *Tulane Law Review* 87:297-352.
- US Advisory Commission on Intergovernmental Relations. 1994. *Significant Feature of Fiscal Federalism, Volume 1*. Washington, DC.
- US Census Bureau. 2012. "Individual State Descriptions: 2012." 2012 Census of Governments. Washington, DC: US Government Printing Office.
- Vermont Department of Taxes. 2008. *Vermont Sales and Use Tax Rate Tables*. <http://www.state.vt.us/tax/pdf.word.excel/business/streamlinedtaxratetable.pdf> (accessed September 25, 2013).
- Waldner, Leora and Kathryn Brice. 2010. "The New Cities: Why Cities Incorporate and the Implications for Urban Politics." Paper presented at the Annual Meeting of the Southern Political Science Association, Atlanta, Georgia, January 6, 2010. Accessed online at http://citation.allacademic.com/meta/p_mla_apa_research_citation/3/9/6/0/0/pages396004/p396004-1.php.
- Wegner, Judith Welch. 2012 "North Carolina's Annexation Wars: Whys, Wherefores, and What Next." *North Carolina Law Review*. 91 (1): 165-279.
- Yungmeyer, Harold. 1997. *Doing an Annexation Study A How-to Guide*. Knoxville, Tennessee: Municipal Technical Advisory Service, University of Tennessee.

Persons Interviewed

Randall Allen, Executive Director
Kansas Association of Counties

Rogers Anderson, Mayor
Williamson County

Mary Baer, Real Property Agent
City of Henderson, Nevada

Kathryn Baldwin, Planning Director
City of Oak Ridge

Tom Bickers, Mayor
City of Louisville

Karen Blackburn, Financial Control Director
Tennessee Department of Revenue

Janice Bowling, Senator
Tennessee Senate, District 25

Roger Campbell, Assistant City Manager
City of Maryville

Phil Carey, Senior Planner
Maine Department of Agriculture, Conservation
and Forestry

Rodney Carmical, Executive Director
Tennessee County Highway Officials Association

Mike Carter, Representative
Tennessee House of Representatives, District 25

Lash Chaffin, Utilities Section Director
League of Nebraska Municipalities

Virginia Collier, Planner
City of Austin, Texas

David Connor, Executive Director
Tennessee County Commissioners Association

John Deakins, Highway Superintendent
Washington County

David Edgell, Principal Planner
Delaware Office of State Planning Coordination

Sam Edwards, Executive Director
Greater Nashville Regional Council

Jeff Fleming, Assistant City Manager
City of Kingsport

Christopher Fletcher, Director of Development
City of Morgantown, West Virginia

Rich Foge, Executive Director
Tennessee Malt Liquor Association

Bob Freudenthal, Executive Director
Tennessee Association of Utility Districts

Marlene Gafrick, Director
Planning and Development
City of Houston, Texas

David Gordon, Mayor
City of Covington

Bill Hammon, Assistant City Manager
City of Alcoa

Rebecca Hansen, Planning Technician
City of Elko, Nevada

Alan Hartman, Planning Director
City of Morristown

William Haupt, Founder
Tennesseans Against Forced Annexation

Dan Hawk, Planning Consultant
Former Director of Rural Development
Tennessee Department of Economic and
Development

Roger Horner, City Attorney
City of Brentwood

Dennis Huffer, Legal Counsel
Greater Nashville Regional Council

Bradley Jackson, Lobbyist
Tennessee Chamber of Commerce

Chad Jenkins, Deputy Director
Tennessee Municipal League

Cordell Johnston, Attorney
New Hampshire Municipal Association

Beth Knight, Senior Planner
Planning and Development
City of Fort Worth, Texas

Paul Latture, President
Rutherford County Chamber of Commerce

Dick Lodge, Lobbyist
Tennessee Electric Cooperative Association

Mark Luttrell, Mayor
Shelby County

Amanda McGraw, Assistant Director of
Financial Control
Tennessee Department of Revenue

Don Moler, Executive Director
League of Kansas Municipalities

Christopher Nida, Research Analyst
North Carolina League of Municipalities

Renaë Ollie, Planning Director
City of Wylie, Texas

Jennifer Ouellette, Law Clerk
Kansas Association of Counties

Ed Purcell, Staff Attorney
New Jersey State League of Municipalities

Karen Rennick, Planning Director
Chattanooga-Hamilton County Regional
Planning Commission

Nathan Ridley, Attorney
Bradley Arant Boult Cummings

Susan Ritter, Executive Vice President
Homebuilders Association of Tennessee

Tim Roach, Director of Planning
Greater Nashville Regional Council

John Robertson, Director of Legislative
Division
Massachusetts Municipal League

Rhedona Rose, Executive Vice President
Tennessee Farm Bureau

Susan Scallon, Environmental Program Coordinator
City of Austin Planning Development Review
Department

Danny Sells, Executive Director
Tennessee Association of Conservation Districts

Nicole Smothers, Staff Analyst
City of Houston Planning and Development

Mitzi Spann, President
Homebuilders Association of Tennessee

Amy Sturges, Director of Governmental Affairs
Pennsylvania Municipal League

Skip Taylor, Mayor
Fayette County

Jim Thomas, Executive Director
Municipal Technical Advisory Service

Ambre Torbett, Director of Planning and Codes
Sullivan County

Debbie Thomas, City Secretary
City of Alvarado, Texas

William Veazey, Planning Director
Tipton County

Dan Vriendt, Director
City of Charleston, West Virginia

Bo Watson, Senator
Tennessee Senate, District 31

Stephen West, City Manager
City of Winnemucca, Nevada

Ken Wilber, Mayor
City of Portland

Brent Williams, Local Government Specialist
Alaska Local Boundary Commission

Appendix A. Bills Included in Study.....	A-3
Public Chapter 441, Acts of 2013.....	A-3
House Bill 590 by Van Huss [Senate Bill 869 by Crowe].....	A-5
Senate Bill 731 by Watson [House Bill 230 by Carter]	A-11
Senate Bill 1381 by Bowling [House Bill 1319 by Van Huss].....	A-13
Senate Bill 1316 by Bowling [House Bill 1249 by Van Huss].....	A-19
Senate Bill 613 by Yager [House Bill 135 by Keisling]	A-21
Senate Bill 732 by Watson [House Bill 231 by Carter].....	A-29
Senate Bill 1054 by Kelsey [House Bill 1263 by Carr D]	A-35
Appendix B. Comparison of Other States’ Laws	A-39
Appendix C. Growth Policy and Annexation Legislation 1993-2013.....	A-83
Appendix D. Local Option Sales Tax Hold Harmless Payments	
Expiring 2014-2027	A-113
Appendix E. Attorney General Opinion No. 13-106	A-117
Appendix F. Economic Performance by Annexation Methods.....	A-125

Appendix A. Bills Included in Study



State of Tennessee
PUBLIC CHAPTER NO. 441

SENATE BILL NO. 279

By Watson, Beavers, Bowling, Campfield, Bell, Niceley, Kelsey, Norris

Substituted for: House Bill No. 475

By Carter, Joe Carr, Van Huss, Lollar, McManus, Butt, Lynn, Mark White, Pody, Coley, Todd, Rogers, Rich, Spivey, Travis, Timothy Hill, Rogers, Holt, Hall

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 51 and Title 6, Chapter 58, relative to annexation.

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

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 51, Part 1, is amended by adding the following language as a new section:

6-51-122.

(a)(1) Notwithstanding the provisions of this part or any other law to the contrary, from April 15, 2013, through May 15, 2014, no municipality shall extend its corporate limits by means of annexation by ordinance upon the municipality's own initiative, pursuant to § 6-51-102, in order to annex territory being used primarily for residential or agricultural purposes; and, except as otherwise permitted pursuant to subdivision (a)(2), no such ordinance to annex such territory shall become operative during such period. As used in this subsection, "municipality" does not include any county having a metropolitan form of government.

(2) If, prior to April 15, 2013, a municipality formally initiated an annexation ordinance delayed by subdivision (a)(1); and if the municipality would suffer substantial and demonstrable financial injury if such ordinance does not become operative prior to May 15, 2014; then, upon petition by the municipality, the county legislative body may, by a majority vote of its membership, waive the restrictions imposed on such ordinance by subdivision (a)(1).

(b) On or before January 14, 2014, the Tennessee advisory commission on intergovernmental relations (TACIR) shall complete a comprehensive review and evaluation of the efficacy of state policies set forth within title 6, chapters 51 and 58, and shall submit a written report of findings and recommendations, including any proposed legislation, to the speaker of the senate and the speaker of the house of representatives.

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

SENATE BILL NO. 279

PASSED: April 19, 2013



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16th day of May 2013



BILL HASLAM, GOVERNOR

HOUSE BILL 590

By Van Huss

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 51 and Title 6, Chapter 58, relative to annexation.

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

SECTION 1. Tennessee Code Annotated, Section 6-51-102, is amended by deleting subdivisions (a)(1) and (2) in their entirety and by substituting instead the following language:

(a)

(1) A municipality, when petitioned by a majority of the residents and property owners of the affected territory, or upon its own initiative when it appears that the prosperity of such municipality and territory will be materially retarded and the safety and welfare of the inhabitants and property endangered, after notice and public hearing, by ordinance, may extend its corporate limits by annexation of such territory adjoining its existing boundaries as may be deemed necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole; provided, that the ordinance shall not become operative until approval of such annexation by a majority of qualified voters who reside in the territory proposed for annexation.

(2)

(A) If a proposal to extend the corporate limits by the annexation of territory adjoining the existing boundaries of a municipality is proposed by the municipality upon its own initiative by ordinance, the ordinance shall not become operative until an election is held at the expense of the proposing municipality for approval or disapproval of such annexation by the qualified voters who reside in the territory proposed for annexation. The municipality shall give ninety (90) days' notice to the residents of the territory proposed for annexation by sending

the affected residents by registered mail, return receipt requested, the proposed ordinance. The operation of the ordinance shall be subject to approval of the voters who reside in such territory to be determined in an election pursuant to subdivision (a)(2)(B).

(B) The county election commission shall hold an election thereon at the next regularly scheduled election for the county, providing options to vote "For" or "Against" the ordinance. A majority vote of those voting in the election shall determine whether the ordinance is to be operative. A vote "For" the ordinance shall be a vote "For Annexation" and a vote "Against" the ordinance shall be a vote "Against Annexation". If the vote is for the ordinance, the ordinance shall become operative thirty (30) days after the date that the county election commission makes its official canvass of the election returns; such ordinance shall not become operative before the expiration of one hundred twenty (120) days following the final passage of the annexation ordinance. If the ordinance is rejected, all relevant provisions in this chapter shall apply to the question of annexation in such county.

SECTION 2. Tennessee Code Annotated, Section 6-58-111(a), is amended by deleting the language "A municipality possesses exclusive authority to annex territory located within its approved urban growth boundaries" and by substituting instead the language "Except as provided in § 6-51-102(a), a municipality possesses exclusive authority to annex territory located within its approved urban growth boundaries".

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

Local Government Committee 1

Amendment No. 1 to HB0590Hill M

Signature of Sponsor

AMEND Senate Bill No. 869

House Bill No. 590*

is amended by deleting everything after the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 6-51-102, is amended by deleting subdivisions (a)(1) and (2) in their entirety and by substituting instead the following language:

(a)

(1) A municipality, when petitioned by a majority of the residents and property owners of the affected territory, after notice and public hearing, by ordinance, may extend its corporate limits by annexation of such territory adjoining its existing boundaries as may be deemed necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole; provided, that the ordinance shall not become operative until thirty (30) days after final passage thereof. During this thirty-day period, the municipality shall notify the county mayor in whose county the territory being annexed is located that territory located in the unincorporated part of the county is being annexed by the municipality. The notification shall include a copy of the annexation ordinance and a map of the area being annexed.

(2)

(A) A municipality, upon its own initiative when it appears that the prosperity of such municipality and territory will be materially retarded and the safety and welfare of the inhabitants and property endangered, after notice and public hearing, by ordinance, may extend its corporate limits by annexation of such territory adjoining its existing boundaries as may be deemed necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole; provided, that the ordinance shall not become

Local Government Committee 1

Amendment No. 1 to HB0590

**Hill M
Signature of Sponsor**

AMEND Senate Bill No. 869

House Bill No. 590*

operative until approval of such annexation by a majority of qualified voters who reside in the territory proposed for annexation.

(B) If a proposal to extend the corporate limits by the annexation of territory adjoining the existing boundaries of a municipality is proposed by the municipality upon its own initiative by ordinance, the ordinance shall not become operative until an election is held at the expense of the proposing municipality for approval or disapproval of such annexation by the qualified voters who reside in the territory proposed for annexation. The municipality shall give one hundred eighty (180) days notice to the residents of the territory proposed for annexation by sending the affected residents by registered mail, return receipt requested, the proposed ordinance. The operation of the ordinance shall be subject to approval of the voters who reside in such territory to be determined in an election pursuant to subdivision (a)(2)(C).

(C) The county election commission shall hold an election thereon at the next regularly scheduled election for the county, providing options to vote "For" or "Against" the ordinance. A majority vote of those voting in the election shall determine whether the ordinance is to be operative. A vote "For" the ordinance shall be a vote "For Annexation" and a vote "Against" the ordinance shall be a vote "Against Annexation". If the vote is for the ordinance, the ordinance shall become operative thirty (30) days after the date that the county election commission makes its official canvass of the election returns; such ordinance shall not become operative before the expiration of one hundred twenty (120) days following the final passage of the annexation ordinance. If the ordinance is

rejected, all relevant provisions in this chapter shall apply to the question of annexation in such county.

SECTION 2. Tennessee Code Annotated, Section 6-58-111(a), is amended by deleting the language "A municipality possesses exclusive authority to annex territory located within its approved urban growth boundaries" and by substituting instead the language "Except as provided in § 6-51-102(a), a municipality possesses exclusive authority to annex territory located within its approved urban growth boundaries".

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

HOUSE BILL 230
By Carter

SENATE BILL 731

By Watson

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 51 and Title 6, Chapter 58, relative to annexations under an amended growth plan and to enact the "Restraint on Government Growth Act".

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

SECTION 1. This act shall be known and may be cited as the "Restraint on Government Growth Act".

SECTION 2. Tennessee Code Annotated, Section 6-58-111, is amended by designating the first sentence as subdivision (a)(1), by designating the remaining language as subdivision (a)(2), by redesignating subdivisions (a)(1) and (a)(2) accordingly, and by deleting the words "Within a" at the beginning of the second sentence and substituting instead the language "Under the initial growth plan, within a".

SECTION 3. Tennessee Code Annotated, Section 6-58-111(a), is further amended by adding the following language to be designated as subdivision (a)(3):

Under any amended growth plan, within a municipality's approved urban growth boundaries, annexation must be by referendum only and not by ordinance. The municipality must follow the referendum process as provided for in §§ 6-51-104 and 6-51-105.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL 1381

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 6,
relative to comprehensive growth plans.

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

SECTION 1. Tennessee Code Annotated, Section 6-58-111, is amended by adding the following language as new subsections (d) and (e):

(d) Notwithstanding any law to the contrary, whenever a municipality proposes to annex territory within the municipality's approved urban growth boundaries using any of the methods in chapter 51 of this title, or annex any territory beyond the municipality's approved urban growth boundaries using the method in subdivision (c)(1), the municipality shall promptly mail a copy of the ordinance or resolution describing the territory proposed for annexation to each property owner of record within the territory proposed for annexation at least ninety (90) days prior to the proposed date of annexation.

(e) Prior to a municipality annexing by ordinance any territory located inside or outside its existing urban grown boundary, it shall hold a minimum of three (3) informational meetings to inform all property owners of record within the territory proposed for annexation of the potential impacts of the annexation on their property and community.

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

Local Government Committee 1

Amendment No. 1 to HB1319

Hill M
Signature of Sponsor

AMEND Senate Bill No. 1381*

House Bill No. 1319

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

SECTION 1. Tennessee Code Annotated, Section 6-58-111, is amended by adding the following language as new subsections (d) and (e):

(d) Notwithstanding any law to the contrary, whenever a municipality proposes to annex territory within the municipality's approved urban growth boundaries using any of the methods in chapter 51 of this title, or annex any territory beyond the municipality's approved urban growth boundaries using the method in subdivision (c)(1), the municipality shall, at least ninety (90) days prior to the proposed date of annexation, promptly mail each property owner of record within the territory proposed for annexation:

(1) A copy of the ordinance or resolution describing the territory proposed for annexation; and

(2) Notice of the date, time, and location of the informational meeting held by the municipality pursuant to subsection (e).

(e)

(1) Prior to a municipality annexing by ordinance any territory located inside or outside its existing urban grown boundary, the municipality shall hold at least one (1) informational meeting to allow for questions from property owners of record within the territory proposed for annexation and to provide information regarding the planned annexation.

Local Government Committee 1

Amendment No. 1 to HB1319

**Hill M
Signature of Sponsor**

AMEND Senate Bill No. 1381*

House Bill No. 1319

(2) Any informational meeting held pursuant to this subsection shall be held within the proposed area of annexation, or, if no space is available within the proposed area of annexation, in the closest public building to the proposed area of annexation that is available for the municipality's use.

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

Local Government Committee 2

Amendment No. 2 to HB1319

Hill M

Signature of Sponsor

AMEND Senate Bill No. 1381*

House Bill No. 1319

by deleting the language "annexation, promptly mail" from the sixth line of subsection (d) of the bill as amended (#4323) and by substituting instead the language "annexation, by certified mail return receipt requested, promptly mail".

HOUSE BILL 1249
By Van Huss

SENATE BILL 1316

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 6,
relative to comprehensive growth plans.

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

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 58, is amended by adding the following new section:

A municipality shall not annex any territory located within its approved urban growth boundaries that is zoned for agricultural use until there is a change in use triggered by a request for a non-agricultural zoning designation or by sale of the territory for use other than agricultural purposes.

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

HOUSE BILL 135
By Keisling

SENATE BILL 613

By Yager

AN ACT to amend Tennessee Code Annotated, Section 6-58-104, relative to the amendment and revision of county growth plans.

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

SECTION 1. Tennessee Code Annotated, Section 6-58-104(d), is amended by deleting subdivision (1) in its entirety and by substituting the following language:

(1)

(A)

(i) After the local planning advisory committee has approved the county's initial growth plan or any revision of the growth plan in accordance with subdivision (d)(1)(B), the plan shall stay in effect without amendment for not fewer than three (3) years absent extraordinary circumstances. After this three-year period, a growth plan may be amended as often as deemed necessary in accordance with the procedures of this subdivision (d)(1)(A). An amendment to a growth plan may be proposed only by the mayor of a municipality regarding the urban growth boundary of that mayor's municipality, or by a county mayor or county executive regarding a change in the boundary between a planned growth area and a rural area. A municipal mayor may propose an amendment to the growth plan by filing notice with all of the other municipal mayors in the county and the county mayor or county executive. A county mayor or county executive may propose an amendment to the growth plan by filing notice with all of the municipal mayors in the county. The county mayor or county executive and

SB0613
001977
-1-

municipal mayors may propose only one (1) amendment each at a time for consideration by the coordinating committee. Each mayor or county executive may not propose another amendment until the amendment process has been completed for that mayor's or county executive's proposed amendment; provided however, that more than one (1) amendment may be in the amendment process and be considered by the coordinating committee at the same time.

(ii) The local governments and the coordinating committee shall use the planning criteria and procedures established in § 6-58-106(a)(1) and (2) for establishing urban growth boundaries; § 6-58-106(b)(1) and (2) for establishing planned growth areas; and § 6-58-106(c)(1) for establishing rural areas.

(iii) Upon the county mayor or county executive providing notice or receiving notice of a proposed amendment to the growth plan, the county mayor or county executive shall:

(a) Take appropriate action to reconvene or reestablish the coordinating committee within sixty (60) days of providing notice or receiving notice of a proposed amendment to the growth plan;

(b) Determine the date, time, and place for the first meeting of the coordinating committee to begin the growth plan amendment process; and

(c) Cause adequate public notice of the meeting to be made.

(iv) Except as provided in this subdivision (d)(1)(A), the procedures for amending the growth plan are the same as the procedures in this section for establishing the original growth plan. The burden of

proving the reasonableness and necessity of the proposed amendment is upon the party proposing the amendment.

(v) The coordinating committee shall take one (1) of the following actions on the proposed amendment within six (6) months after the coordinating committee's first meeting on the amendment:

(a) Recommend approval to the county legislative body and the governing body of each municipality in the county as submitted;

(b) Recommend rejection to the county legislative body and the governing body of each municipality in the county as submitted; or

(c) Recommend amendment or amendments to the proposed amendment; provided however, that an amendment or amendments proposed by the coordinating committee shall only relate to the same subject matter as the original proposed amendment.

(vi) If the coordinating committee recommends an amendment or amendments to the proposed amendment, it shall submit its recommended amendment or amendments to the local government that submitted the proposed amendment within four (4) months after the coordinating committee's first meeting on the original proposed amendment. The local government's legislative or governing body shall approve or reject the coordinating committee's proposed amendment within one (1) month after receiving it. If the local government approves the coordinating committee's proposed amendment, then the coordinating

committee shall submit such amendment with its recommendation for approval to the county legislative body and the governing body of each municipality in the county. If the local government rejects the coordinating committee's proposed amendment, the coordinating committee shall recommend approval or rejection of the original proposed amendment. This action by the coordinating committee concludes the formulation of the proposed amendment, and the local governments shall then act on the coordinating committee's recommendation. After an amendment is approved by the county legislative body and the governing body of each municipality, it shall be submitted to the local government planning advisory committee for approval or rejection. The local government planning advisory committee shall approve or reject the proposed amendment within sixty (60) days of receipt. If approved by the local government planning advisory committee, or if the local government planning advisory committee takes no action within sixty (60) days of receipt of the proposed amendment, the amendment to the growth plan becomes effective. If the local government planning advisory committee rejects the amendment, it shall specify its objections to the local governments. Then, the municipal mayor or county mayor or county executive that initially proposed the amendment may modify the amendment in accordance with the objections of the local government planning advisory committee and propose this modified amendment as a new proposed amendment and begin the amendment process again in accordance with this subdivision (d)(1)(A).

(B)

(i) Any change of an approved growth plan, or approved revised growth plan, beyond what is authorized through the amendment process described in subdivision (d)(1)(A) is deemed a revision of the growth plan. The process of revision of a growth plan begins after the adoption of a resolution by either the county legislative body or by the governing bodies of municipalities within the county representing at least one half (1/2) of the population living within municipal boundaries within the county asking for the reconvening or reestablishment of the coordinating committee for the purpose of developing and submitting a revised growth plan. If the population of one (1) municipality within the county is equal to one half (1/2) or more of the population living within municipal boundaries in the county, then a resolution of that municipality's governing body is sufficient to begin the growth plan revision process. If more than one (1) municipality is necessary to achieve the population criteria, then the municipalities have 6 (six) months to achieve the necessary resolutions after the adoption of the first such resolution by a municipality. However, failure of the municipalities to meet the population criteria for the municipal resolutions within the six-month time period shall not prevent a municipality or the county from adopting a resolution to begin the growth plan revision process after the end of this six-month period. The clerks of the respective county and municipal legislative or governing bodies shall send notice to the mayor of each municipality and the mayor or county executive of the county after adoption of a resolution pursuant to this subdivision (d)(1)(B). Immediately after receiving notice of the adoption

of a county resolution or sufficient municipal resolutions pursuant to this subdivision (d)(1)(B), the county mayor or executive shall:

(a) Take appropriate action to reconvene or reestablish the coordinating committee within sixty (60) days of receiving notice of the adoption of the resolution or resolutions;

(b) Determine the date, time, and place for the first meeting of the coordinating committee to begin the growth plan revision process; and

(c) Cause adequate public notice of the meeting to be made.

(ii) The local governments and the coordinating committee shall use the same planning criteria and procedures established in § 6-58-106(a)(1) and (2) for establishing urban growth boundaries; § 6-58-106(b)(1) and (2) for establishing planned growth areas; and § 6-58-106(c)(1) for establishing rural areas. Except as otherwise provided in this subdivision (d)(1)(B), the local governments and coordinating committee shall follow the same procedures for making a revision of the growth plan as the procedures for establishing the original growth plan; provided however, that the coordinating committee shall develop a recommended revised growth plan within one (1) year after the coordinating committee's first meeting to develop a revised growth plan. The revised growth plan submitted by the coordinating committee pursuant to this subdivision(d)(1)(B) is subject to approval in the same manner as provided for in this section for the original growth plan. The local government planning advisory committee shall approve or reject the

revised growth plan within sixty (60) days of receipt. If approved by the local government planning advisory committee, or if the local government planning advisory committee takes no action within sixty (60) days of receipt of the revised growth plan, the revised growth plan becomes effective.

(iii) After a revised growth plan is approved by the local government planning advisory committee, either by vote or by operation of law, seven (7) years shall transpire before a resolution or resolutions may be adopted to begin another revision process for the growth plan pursuant to this subdivision (d)(1)(B); provided however, that a revised growth plan adopted pursuant to this subdivision (d)(1)(B) may be amended pursuant to subdivision (d)(1)(A) after three (3) years from the approval date of the revised growth plan.

SECTION 2. This act shall take effect on July 1, 2013, the public welfare requiring it.

HOUSE BILL 231
By Carter

SENATE BILL 732

By Watson

AN ACT to amend Tennessee Code Annotated, Title 6,
Chapter 58, relative to comprehensive growth
plans.

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

SECTION 1. Tennessee Code Annotated, Section 6-58-104(d)(1), is amended by deleting from the third sentence the language "Any time after the expiration of the initial three-year period" and by substituting instead the language "Subject to subdivision (d)(3), any time after the expiration of the initial three-year period".

SECTION 2. Tennessee Code Annotated, Section 6-58-104(d)(1), is further amended by deleting the fifth sentence in its entirety and by substituting instead the following language:

Except as otherwise provided by this subsection (d) and subdivision (a)(1)(B), the procedures for amending the growth plan shall be the same as the procedures in this section for establishing the original plan.

SECTION 3. Tennessee Code Annotated, Section 6-58-104(d), is amended by adding the following language as a new subdivision (3):

(3) Until a municipality has annexed all territory within its urban growth boundaries under the initial growth plan or an amended growth plan and has fully complied with all plans of services adopted for all annexed territories, the mayor of such a municipality has no authority to propose an amendment to the growth plan.

SECTION 4. Tennessee Code Annotated, Section 6-58-104(a)(1), is amended by deleting the language "be composed of the following members:" in the introductory language and by substituting instead the language "be composed of the following members, except as provided in subdivision (a)(1)(B)(ii):".

SECTION 5. Tennessee Code Annotated, Section 6-58-(a)(1), is amended by deleting subdivision (B) in its entirety and by substituting instead the following language:

(B)

(i) The mayor of each municipality or the mayor's designee, to be confirmed by the municipal governing body;

(ii) Notwithstanding subdivision (i), the mayor, or the mayor's designee, of a municipality that has not annexed all territory within its urban grown boundaries under the initial growth plan or an amended growth plan and has not fully complied with all plans of services adopted for all annexed territories, shall not serve on a coordinating committee reconvened or reestablished pursuant to a proposed amendment to the growth plan pursuant to subdivision (d)(1);

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

Local Government Committee 1

Amendment No. 1 to HB0231

Hill M

Signature of Sponsor

AMEND Senate Bill No. 732

House Bill No. 231*

by deleting the language "6-58-(a)(1)" in the directory language of SECTION 5 and substituting instead the language "6-58-104(a)(1)".

AND FURTHER AMEND by deleting the language "grown" in the amendatory language of SECTION 5(B)(ii) and substituting instead the language "growth"

Local Government Committee 2

Amendment No. 2 to HB0231

**Hill M
Signature of Sponsor**

AMEND Senate Bill No. 732

House Bill No. 231*

by deleting subdivision (3) in its entirety in Section 3 of the bill as amended (# 3231) and by substituting instead the following:

(3) Until a municipality has fully complied with all plans of services adopted for all annexed territories, the mayor of such a municipality has no authority to propose an amendment to expand the growth plan.

and further amend by deleting subdivision (B)(ii) in its entirety in Section 5 of the bill as amended (#3231) and by substituting instead the following:

(ii) Notwithstanding subdivision (i), the mayor, or the mayor's designee, of a municipality that has not fully complied with all plans of services adopted for all annexed territories, shall not serve on a coordinating committee reconvened or reestablished pursuant to a proposed amendment to expand the growth plan pursuant to subdivision (d)(1);

SENATE BILL 1054

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 6, Chapter 51, Part 1; Title 6, Chapter 58 and Title 67, Chapter 5, Part 5, relative to municipal annexation.

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

SECTION 1. Tennessee Code Annotated, Section 6-51-108, is amended by adding the following as a new subsection (b) and redesignating the present subsection (b) and remaining subsections accordingly:

(b)

(1) This subsection shall apply to any municipality whose annexation ordinance becomes effective by court order pursuant to § 6-51-103(d).

(2) Within ten (10) days after the date on which a court order is entered sustaining the validity of a proposed annexation, any annexing municipality to which this subsection applies shall submit written notification, meeting the requirements of subdivision (b)(3), to each person owning real property in the territory that the territory will become a part of the municipality. In the event an appeal is taken from the court order, the annexing municipality shall notify the property owners in writing of the pending appeal. If on appeal the court affirms the validity of the proposed annexation, the municipality shall submit written notification, meeting the requirements of subdivision (b)(3), to the property owners within ten (10) days of entry of judgment of the appellate court.

(3) The advance written notification shall include the date on which the annexed territory becomes a part of the municipality, a detailed description of the annexed territory, and the reasons for the annexation. The notification shall be

sent by first class mail to the last known address listed in the office of the property assessor for each property owner of record within the annexed territory.

(4) A person with personal knowledge of the mailing of the notification shall submit a notarized affidavit to the presiding officer of the annexing municipality attesting that the notifications were mailed in accordance with subdivision (b)(3).

SECTION 2. Tennessee Code Annotated, Section 67-5-504, is amended by adding the following as a new subsection (c):

(c) Any annexing municipality that makes assessments of taxes shall only assess the tax on real property within the annexed territory if the annexation takes effect prior to January 1 of the year in which the assessment is made.

SECTION 3. Tennessee Code Annotated, Section 6-51-103(d), is amended by designating the present language as subdivision (1), and by deleting the word "therefrom" at the end of the subsection and substituting instead the following:

from the judgment, or unless the presiding court grants the municipality's petition to defer the effective date pursuant to subdivision (d)(2).

SECTION 4. Tennessee Code Annotated, Section 6-51-103(d), is further amended by adding the following language as a new subdivision (2):

(2) Upon petition of the municipality, the presiding court may, as part of the judgment sustaining the validity of the annexation ordinance, order that the effective date of the ordinance be fixed as December 31 following the date of entry of the judgment or determination of appeal. In making any order under this subdivision (d)(2), the court shall consider the necessity of the deferred effective date to render municipal services to the annexed territory within a reasonable time. The petition shall be filed by the municipality in the presiding court where the annexation ordinance is being contested in a quo warranto proceeding as provided in this section.

SECTION 5. Tennessee Code Annotated, Section 6-51-102(b)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1)

(A) Before any territory may be annexed under this section, the governing body of the municipality shall adopt a plan of services establishing, at a minimum, the following:

(i) The type of services to be delivered to the territory proposed to be annexed;

(ii) The standards for delivering the services to the territory proposed to be annexed;

(iii) The financial ability of the municipality to provide services to the territory proposed to be annexed, which shall include estimated costs and any commitment to make expenditures or to budget additional resources; and

(iv) The proposed time schedule with specific dates for actual delivery of each municipal service to the residents and owners of the territory proposed to be annexed.

(B) Upon adoption of the plan of services, the municipality shall cause a copy of the plan of services to be forwarded to the county mayor in whose county the territory being annexed is located. The plan of services shall be reasonable with respect to the scope and timing of the services to be provided and the standards and financial ability for providing the services.

SECTION 6. Tennessee Code Annotated, Section 6-51-104(b)(1)(A), is amended by deleting the following sentence:

The plan of services shall address the same services and timing of services as required in § 6-51-102.

and by substituting instead the following:

The plan of services shall address the same services, timing of services, and standards and financial ability for providing services as required in § 6-51-102(b)(1).

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it, and Section 2 of this act shall apply to assessments made on or after January 1, 2012.

Appendix B. Comparison of Other States' Laws

Chart 1. Annexation Methods				
State	Involuntary Annexation (no request, no approval by residents)		Voluntary Annexation (could be less than all residents consent)	
		3rd Party Approval		3rd Party Approval
Alabama	Islands in certain cities	State legislature, unlimited	P (100% owners), V (city)	
Alaska	City owned	State admin body + state legislature	P (100% owners and resident voters), P-V (city or resident voters)	State admin body + P or P-V
Arizona	Islands in certain counties		P (city or interested citizens)	
Arkansas	Islands		P (owners), V (city)	
California	Contiguous and noncontiguous city owned and islands		P-V (after, owners-residents)	Local Agency Formation Commission
Colorado	City owned and islands		P-V (owners-voters), P (owners-voters)	
Connecticut	All territory in the state is incorporated.			
Delaware			P-V (city or voters) cities > 50,000	County governing body and chief executive office before vote
Florida	Islands	County	P (100% owners), V (city)	
Georgia	Islands		P (owners and residents), V (city)	
Hawaii	There are no cities in Hawaii.			
Idaho	Certain islands, 100 or fewer five acre or smaller lots, and areas subject to development moratoriums or utility connection restrictions		V (city)	

P = Petition, V = Vote, P-V = Petition for Vote

State	Involuntary Annexation (no request, no approval by residents)		Voluntary Annexation (could be less than all residents consent)	
		3rd Party Approval		3rd Party Approval
Illinois	Small islands (60 acres or less)		P-V (city or owners and voters)	Circuit court before vote
Indiana	Unlimited + noncontiguous if city owned		P (owners), noncontiguous	
Iowa			V (city), P-V (voters or city voters)	
Kansas	Some limitations		P (100% owners), P-V (city petitions county), noncontiguous	County if by vote
Kentucky	Islands		P (100% owners), P (city) includes owner and resident veto	
Louisiana			P-V (residents and city)	
Maine	Not authorized by constitution or general law.			
Maryland			P (city or owners and residents and voters), P-V (after)	
Massachusetts	Not authorized by constitution or general law.			
Michigan	City owned		V (city), P-V (after 3rd party approval)	Petition state admin body
Minnesota	City owned and islands and other limited circumstances		P (city or owners)	State admin board
Mississippi			P (city or electors)	Chancery court
Missouri			P (100% owners), P-V (city) includes noncontiguous territory in limited circumstances	Petition circuit court before vote

P = Petition, V = Vote, P-V = Petition for Vote

State	Involuntary Annexation (no request, no approval by residents)		Voluntary Annexation (could be less than all residents consent)	
		3rd Party Approval		3rd Party Approval
Montana	Islands		V (city), P-V (residents)	
Nebraska	Unlimited		P (owners or owners and inhabitants)	
Nevada	Islands and subdivided land in certain counties		P (city or owners) includes owner veto	
New Hampshire	Not authorized by constitution or general law.			
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.			
New Mexico	Islands		P (city or owners)	State or local level board
New York			P-V (local governments or owners or residents)	State court in limited circumstances
North Carolina	City owned and islands		P (owners or residents) noncontiguous in limited circumstances, V (city)	
North Dakota	P (city)	Office of Administrative Hearings	P (owners and electors)	
Ohio			P (owners or city)	Board of county commissioners
Oklahoma			P (city or owners)	
Oregon	Islands and lands dangerous to public health		V (city), P (owners and electors), P-V (owners)	
Pennsylvania	No unincorporated land in the state. The only annexation that takes place is between cities.			
Rhode Island	Municipal boundaries are locked in by statute.			
South Carolina	Government property		P (owners), P-V (electors)	
South Dakota			P (owners and voters), V (city)	

P = Petition, V = Vote, P-V = Petition for Vote

State	Involuntary Annexation (no request, no approval by residents)		Voluntary Annexation (could be less than all residents consent)	
		3rd Party Approval		3rd Party Approval
Tennessee	Within UGB		P (owners and residents), V (city), P-V (interested persons)	
Texas	Home rule cities only and islands		P (owners or voters)	
Utah	Islands		P (owners) includes owner veto	
Vermont	General law only addresses annexation of territory in a town by a village.			
Virginia	P (city)	Special court	P (owners or voters)	Special court
Washington	City owned		V (city), P-V (owners or residents)	
West Virginia	In limited circumstances	County in limited circumstances	P (owners and voters), P-V (city owners)	
Wisconsin	Contiguous and noncontiguous city owned property and islands		P (owners and electors), P-V (city or owners and electors)	Circuit court before vote if city initiates
Wyoming	Land 75% contiguous		P (city or owners) includes owner veto	

P = Petition, V = Vote, P-V = Petition for Vote

Chart 2. Detailed Summary of Annexation Methods

State	Annexation Method
Alabama	Cities can annex territory upon receipt of a petition signed by 100% of electors in the territory. Cities may initiate annexation by referendum, and it must be approved by a majority of voters in the territory. The state legislature may also approve annexations. Unilateral annexation of unincorporated islands surrounded by the city is authorized in certain cities.
Alaska	Annexation can be initiated by a city or petition signed by at least 10% of a city's resident registered voters or at least 10% of the resident registered voters of the area proposed for annexation. An annexation has to first be approved by the state level Local Boundary Commission. If it has support of all owners and residents, no further approval is required. If it does not have the support, the annexation must be approved by a majority of voters in the territory in an election or by majority of voters of the city and territory in an election. Annexations can also be approved by the state legislature. The Local Boundary Commission authorizes the unilateral annexation of city owned property.
Arizona	Annexations can be initiated by a city or interested citizens. An annexation must be approved by a petition signed by the owners of 1/2 or more of the assessed value of the real and personal property and more than 1/2 of the persons owning real and personal property in the territory to be annexed. A city located in a county with a population of more than 350,000 persons may unilaterally annex any territory within an area that is surrounded by the city or that is bordered by the city or town on at least three sides if the landowner has submitted a request to the federal government to take ownership of the territory or hold the territory in trust.
Arkansas	The city or a majority of owners in territory may initiate annexation. An annexation must be approved by a majority of electors in the annexing city and in the territory in an election. Cities may unilaterally annex islands.
California	Annexation may be initiated by city or by a petition signed by at least 5% of voters in the territory or least 5% of the owners within the territory who also own 5% of the assessed value of land. An annexation must be approved by the local level Local Agency Formation Commission (LAFCO). After approval, if 25-50% of voters in the territory protest the annexation, an election on the question must be held. A majority of voters in the territory must approve the annexation in the election. If more than 50% of voters protest, then the annexation is terminated. Cities can unilaterally annex contiguous and noncontiguous islands and city owned property.

State	Annexation Method
Colorado	A city can annex territory upon receipt of a petition signed by 50% of the owners in the territory who own at least 50% of the assessed value of land in the territory. Electors can initiate an annexation by election by submitting a petition signed by 75 electors or 10% of electors in the area to be annexed, whichever is less, in counties with more than 25,000 inhabitants or 40 registered electors or 10% of said electors, whichever is less, in counties with twenty-five thousand inhabitants or less. The signees must be resident landowners in the territory. The annexation must be approved by a majority of owners in the territory. Cities may unilaterally annex islands and city owned property.
Connecticut	All the territory in the state is incorporated.
Delaware	For cities over 50,000, annexation may be initiated by the city or a petition signed by 25% of voters in the territory. The city and county governments have to approve the annexation before an election is held. A majority of voters in the territory must approve the annexation. Cities under 50,000 use annexation procedures outlined in their town charters.
Florida	Territory can be annexed upon petition of 100% of owners in the territory. Annexation may be initiated by a city but it must be approved in an election by a majority of voters of the territory. The governing body of the annexing city may also choose to submit the annexation to voters of the annexing city. In the case of a dual referendum, a majority of voters in the city and a majority of voters in the territory must approve the annexation. Cities are authorized to annex an islands by interlocal agreement with the county.
Georgia	Cities can annex territory upon receipt of a petition signed by 100% of residents in the territory. Cities are authorized to annex land by ordinance upon the signed applications from: not less than 60% of the resident voters in the area and the owners of not less than 60% of the land area by acreage. Territory may also be annexed after the annexation is approved in a referendum by a majority of the voters from the area proposed to be annexed. Cities are authorized to unilaterally annex islands.
Hawaii	There are no cities in Hawaii.
Idaho	Cities may initiate annexation. If the territory sought to be annexed has more than 100 private landowners owning lots five acres or less, a majority of the owners must approve the annexation by written consent. Annexation is not required to be approved by owners if the territory contains less than 100 private owners owning lots five acres or less. Cities may also unilaterally annex islands or land that is subject to a development moratorium or water or sewer restriction.
Illinois	Cities, owners, or electors may initiate annexation by filing a petition with the circuit court. If the court approves the annexation, it must be approved by a majority of electors in the territory. Islands of 60 or fewer acres may be unilaterally annexed.

State	Annexation Method
Indiana	Territory may be annexed if a petition signed by 100% of owners who reside in the territory, 51 % of owners or 75 % of the owners of the total assessed value of the land in territory is submitted to the city. A city may unilaterally annex territory by ordinance. A city may annex noncontiguous property if it is city owned.
Iowa	Annexation may be initiated by the city development board, a city council or 5% of the registered voters of the city or territory to be annexed. The city development board then will approve any annexation it considers to be in the public interest. The annexation must then be approved in an election. Registered voters of the territory and city may vote. The annexation is approved by the majority of those voting in the election. If all owners of the territory consent to annexation, then that territory can be annexed with the approval of the city council only. In these situations, it is not necessary to get the approval of the city development board unless it is within the urbanized area of another city.
Kansas	Cities can annex territory upon receipt of a petition signed by 100% of owners in the territory. Cities are authorized to unilaterally annex territory in certain situations if the land is platted and contiguous to the city, the land lies mainly within the city and has a common perimeter with the city of more than 50%, annexing the land will make the city's boundary more harmonious (21 acre limit), the tract is situated so that 2/3 of any boundary line adjoins the city (21 acre limit), land is owned or held in trust for the city, the land adjoins the city and is owned by another government. petition the county in order to annex the territory. If a city wants to annex a tract that is less than 40 acres and is not covered under the provisions above, the annexation must be approved by the board of county commissioners by a 2/3 vote. If a city wants to annex a tract that is not covered under the above provisions and is 40 acres or larger, then a city may petition the county in order to annex the territory. The board of county commissions must approve the annexation by a 2/3 vote. Then, the majority of land owners in the territory to be annexed must approve the annexation in a mail ballot election.
Kentucky	Cities can annex territory upon receipt of a petition signed by 100% of owners in the territory. Cities can initiate annexation by enacting an ordinance stating its intent to annex. In cities with a population fewer than 100,000, if no petition is presented in the 60-day period following the publication of notice of the ordinance, then the city can enact a second ordinance annexing the territory. Residents and owners can petition for an election by filing a petition signed by 50% of the voters or owners in the territory. If 55% or more of those persons voting in the election oppose annexation, the property will not be annexed. In cities with a population of 100,000 or more, residents must file a petition in circuit court protesting the annexation. If the jury finds that 75% or more of the resident owners of the territory have protested against the annexation then the annexation shall not take place. Islands can be unilaterally annexed.

State	Annexation Method
Louisiana	Residents living in the territory may request to be annexed but it must be approved in a dual referendum. The annexation must be approved, first, by a majority of the voters living in the territory and then it must be approved by voters in the annexing city. Cities may also annex by ordinance but the annexation must be approved with a petition signed by a majority of the registered voters and a majority in number of the resident owners as well as 25% in value of the property of the resident owners within the area proposed to be annexed.
Maine	The state constitution and statutes do not address the issue of annexation.
Maryland	Cities can initiate annexation after getting the consent of at least 25% of the residents who are registered voters and the owners who own at least 25% of the assessed value of property in the territory. The city may then introduce an annexation resolution. Prior to the effective date of the resolution, the county, or at least 20% of the registered voters in the city or in the area to be annexed may petition for a referendum. If the petition was submitted by the county or the residents of the territory, the voters in the territory may participate in the referendum. If the petition was submitted by city residents, the voters in the city participate. If both circumstances exist, separate elections are held for both the existing city voters and for voters in the territory to be annexed. In the case of two elections, both sets of voters must approve the referendum in order for the annexation to proceed. A majority of voters must approve the annexation.
Massachusetts	There is no unincorporated territory in Massachusetts. Annexation is not authorized by the constitution or general law.
Michigan	Home rule villages have to get permission from the county commission and hold an election to annex property. Home rule cities can unilaterally annex city owned property. Annexation can take place by the adoption of a joint resolution of the legislative bodies of the home rule city and the township. If the property is in a charter township, the county is petitioned to hold an election in the city and in the area to be annexed. Most other annexations are approved through petition to the State Boundary Commission (SBC). Petitions can be filed by the city, 75% of the owners in the territory, 25% of the voters in the territory to be annexed or by 1% of the entire population of the city and township. Once the SBC and the head of the Consumers and Industry Services Department approve the annexation, it will become final unless 5% of the voters in the territory file a petition to hold an election. If both the majority of the electors in the territory and the majority of the city or township electors voting separately approve the annexation, the decision of the SBC stands. If either group fails to register a majority vote, the SBC decision is overturned.

State	Annexation Method
Minnesota	Cities may unilaterally annex by ordinance if there is unincorporated land completely surrounded by the city, it is city owned land outside the corporate limits, all the landowners consent to the annexation and the territory is less than 120 acres and the territory is presently served or capable of being served by available public wastewater facilities, or the land is within two miles of the city and has been approved for platting, and the platted lots average 21,780 square-feet or less. All other annexations must be approved by the state level Municipal Boundaries Adjustment Unit of the Office of Administrative Hearings.
Mississippi	Cities may initiate annexation by filing a petition in chancery court. Annexation may also be initiated by filing a petition signed by 2/3 of the electors residing in the territory in chancery court. The chancery court must approve the annexation. The chancellor shall enter a decree approving the annexation if he finds that the annexation is reasonable and is required by the public convenience and necessity and that reasonable public and city services will be rendered in the annexed territory within a reasonable time.
Missouri	Territory can be annexed upon a petition of 100% of owners in the territory. If an objection to the annexation is filed, an election must be held. A city can initiate an annexation by filing an action in circuit court asking for a declaratory judgment authorizing the annexation. If the court authorizes the annexation, then the annexation has to be approved by a majority of votes cast in the area to be annexed, and by a majority of votes cast in the city. Cities can annex noncontiguous territory if 50% of the city is liable to be inundated as a result of the construction of a lake or other body of water.
Montana	If the city initiates the annexation, then the annexation must be approved in an election by the voters who reside in the territory to be annexed. If the annexation is initiated by residents, then the annexation must be approved in an election by voters in the city and the territory to be annexed. A city may unilaterally annex islands.
Nebraska	Cities may unilaterally annex property. An owner can petition to be annexed in first class cities. An owner or a majority of owners and inhabitants in the territory can petition to be annexed in second class cities.
Nevada	Annexation may be initiated by a city or by petition of a majority of owners in the territory. A city can't annex the property if the annexation is protested by a majority of owners. In cities located in counties with a population of less than 700,000, the city may unilaterally annex islands 40 acres or less in size or land that is subdivided and the city will be able to provide the city services required for public health, safety, convenience or welfare.
New Hampshire	Annexation is not authorized by the constitution or general law.
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.

State	Annexation Method
New Mexico	Cities or majority of land owners may initiate annexation. The annexation is determined by an arbitration board that consists of three members from the territory to be annexed, three members from the annexing city and a neutral member from the county that does not live in the city or the territory to be annexed. The annexation may also be determined by a state level city boundary commission. In counties with a population less than 300,000, a majority of owners of acres of land in the area may request annexation. The city may pass an ordinance expressing its consent or rejection of the annexation. Islands may be unilaterally annexed.
New York	Annexation may be initiated by residents or owners or by joint resolution of the governing bodies of the affected territory. Each of the governing bodies of the affected local governments determine whether to consent to or deny the annexation. If one but not all of the local governments approve the annexation, the governing board of any of the affected local governments may apply to the appellate division of the supreme court for determination if the annexation is in the best interest of the public. Once the annexation has been approved by the court or the affected local governments, the annexation must be approved by a majority of those residing in the territory.
North Carolina	One hundred percent of owners in territory can petition for annexation. Seventy five percent of owners may petition for annexation in a high poverty area, and 2/3 of residents can petition for annexation in distressed areas. Cities may initiate an annexation but it must be approved by a referendum of voters living in the territory to be annexed. Noncontiguous property can be annexed in limited circumstances. Cities may unilaterally annex city owned property.
North Dakota	Annexation may be initiated by a petition signed by at least 3/4 of the qualified electors or by the owners of not less than 3/4 in assessed value of the property in the territory. A city may also initiate annexation on its own initiative but if the owners of 1/4 or more of the territory protest the annexation, then the dispute must be submitted to mediation and possibly adjudication by the office of administrative hearings.
Ohio	Annexation may be initiated by a petition signed by a majority of owners in the territory. Cities may only initiate annexation of territory if it is owned by the city, county, or state government. The board of county commissioners must approve the annexation.
Oklahoma	Cities may initiate annexation but it must obtain the written consent of the owners of at least a majority of the land in the territory. Owners may also request annexation by filing a petition signed by at least 3/4 of the registered voters and the owners of at least 3/4 (in value) of the property in any territory adjacent or contiguous to the city.

State	Annexation Method
Oregon	Annexation may be initiated by the city or a majority of owners in the territory. The legislative body of a city need not hold an election when all of the owners of land in that territory and not less than 50% of the electors, if any, residing in the territory consent. Annexations must be approved by a petition signed by electors or owners in the territory or in an election where the majority of votes cast in the territory are in favor of annexation. Islands and territory that the Oregon Health Authority has declared to be a danger to public health may be unilaterally annexed.
Pennsylvania	There is no unincorporated territory in the state. Territory in one city can be annexed by another city.
Rhode Island	Boundaries locked in by statute.
South Carolina	Annexation may be initiated by a petition signed by all owners in the territory requesting annexation or a petition signed by 75% or more of the owners owning at least 75% of the assessed value of property in the area to be annexed. Upon agreement to annex the area and the enactment of an ordinance by the city governing body declaring the area annexed, the annexation is complete. Annexation may also be initiated by a petition signed by 25% or more of the electors who reside in the area proposed to be annexed. A referendum is held in the area to be annexed. The annexation is approved if a majority of electors in the territory vote in favor of the annexation. Government owned property may be unilaterally annexed.
South Dakota	Cities, upon receipt of a written petition, may annex the territory if the petition is signed by not less than 3/4 of the registered voters and by the owners of not less than 3/4 of the value of the territory sought to be annexed to the city. A city may also initiate annexation on its own initiative but the annexation has to be approved by a majority of the voters. Voters from both the annexing city and the territory to be annexed may vote in the election. The annexation must be approved by a majority of those voting.
Tennessee	Cities may unilaterally annex property on their own initiative within their urban growth boundary or when petitioned by a majority of residents and owners. Cities may also annex by referendum on their own initiative or when petitioned by interested parties. The annexation must be approved by a majority of voters in the territory. The city may also choose to submit the question to city voters. If the question is submitted to city voters, a majority of voters in the city must approve it.
Texas	Annexation may be initiated by owners or voters in general law cities. Approval by majority of voters or owners in the territory is required. The vote is not required to be done by ballot or at any type of formal election. The voter's intentions may be expressed by any method that is satisfactory to themselves and the city council. Home rule cities may annex unilaterally or by consent depending on their charter provisions. Islands may be unilaterally annexed by all cities.

State	Annexation Method
Utah	Annexation can be initiated by a petition signed by a majority of owners within the territory who own at least 1/3 of the assessed value of all the land in territory. The city legislative body then votes on the annexation. Private property owners in a first class county or a county legislative body may file a protest. If a protest is filed then the city can choose to deny the annexation or the matter will be submitted to the boundary commission. The commission will then make a decision on whether to approve the annexation. Cities can unilaterally annex islands.
Vermont	General law only addresses annexation of territory in a town by a village. There is very little unincorporated territory in the state.
Virginia	Cities, 51% of the voters of any territory adjacent to any city, or 51% of the owners in number and land area in a designated area can initiate annexation by filing a petition in circuit court. A special court comprised of three circuit court judges appointed by the Supreme Court of Virginia hears the case and decides whether the territory should be annexed.
Washington	Residents or property owners in the territory may initiate an annexation by submitting a petition to the city signed by 10% of the residents or the owners representing 10% of the assessed value in the territory. Depending on whether the traditional or new petition method is used, the annexation must be approved by a petition signed by owners representing 60% of the assessed value in the territory or by a majority of owners and voters in the territory. Annexation by election may be initiated by a petition signed by voters who live in the area or by the city. It requires approval by a majority of voters in the territory. Cities located in counties that plan under the Growth Management Act may only annex property that is located within their designated urban growth areas. City owned property may be unilaterally annexed.
West Virginia	Annexation can be initiated by petition signed by 5% or more of the city's landowners. A majority of city voters and a majority of voters in the territory to be annexed must approve the annexation in an election. A majority of the voters and all owners in the territory, whether they reside or have a place of business therein or not, may file a petition to be annexed with the city. The territory may be annexed once the city determines the petition meets the requirements of the law. Cities may get permission from the county to annex property in limited circumstances. Cities may unilaterally annex territory within the urban growth boundary in limited circumstances.

State	Annexation Method
Wisconsin	Territory can be annexed upon a petition of 100% of electors and owners in the territory. Cities may also annex property upon a petition signed by a number of electors residing in the territory equal to at least the majority of votes cast for governor in the territory in the last gubernatorial election and signed by either ½ the owners in the area or ½ of the owners of assessed value in the territory. The city legislative body must approve the annexation by a 2/3 vote. Annexation by referendum may be initiated by the city or a petition signed by a number of electors residing in the territory equal to at least 20% of the votes cast for governor in the last election and at least 50% of the owners of at least 50% of the real property either in area or assessed value. If a city initiates, it must apply for an order for an annexation referendum from the circuit court. The annexation must be approved by a majority of voters in the territory. City owned territory, both contiguous and noncontiguous, and islands in existence on December 2, 1973, may be unilaterally annexed.
Wyoming	Annexation proceedings may be initiated by a city or by a petition signed by a majority of owners owning a majority of the territory to be annexed. If the city finds that the requirements of the law have been met, it can annex the property. If more than 50% of the owners, or if an owner or owners owning more than 50% of the area to be annexed file written objections within 20 days of the public hearing no further action may be taken on any area within the proposed annexation territory within two years. A city may unilaterally annex property if 75% or more of the perimeter of the territory is contiguous.

Chart 3. Annexation by Consent

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
Alabama	100% of property owners	majority approval by resident voters		
Alaska	100% of property owners and voters in the territory	majority approval by resident voters	optional - majority approval of voters	
Arizona	owners of one-half or more of the assessed value of the real and personal property and more than one-half of the persons owning real and personal property in the territory to be annexed			
Arkansas		majority approval by combined vote of city and annexation territory voters	majority approval by combined vote of city and annexation territory voters	
California		majority approval by voters		After approval of annexation by LAFCO, if 25% of voters or owners who own at least 25% of the assessed value of land in the territory file a written protest an election must be held. If 50% or more of registered voters file a written protest the annexation is terminated.
Colorado	more than 50% of the landowners in the area and owning more than 50% of the area	majority approval by owner-electors		
Connecticut	All the territory in the state is incorporated.			

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
Delaware		majority approval by voters in the territory		
Florida	100% of property owners in territory	majority of voters in territory	optional-majority of voters	
Georgia	100% of owners in territory or at least 60% of resident voters and owners of at least 60% of land area by acreage in the territory	majority of voters in territory		
Hawaii	There are no cities in Hawaii.			
Idaho		a majority of the owners must approve the annexation by written consent		
Illinois		majority of electors in territory		
Indiana	optional - 51% of property owners or 75% of the owners of the total assessed value of the land in territory or 100% of property owners			
Iowa		majority approval by combined vote of city and annexation territory voters	majority approval by combined vote of city and annexation territory voters	
Kansas	100% of property owners in territory	majority of property owners in the territory in a mail ballot		

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
Kentucky		46% of voters must approve		In cities with a population under 100,000, residents can protest the annexation by filing a petition signed by 50% of the resident voters or property owners in the territory. An election must be held. If less than 55% of those persons voting oppose annexation, the territory shall be annexed. If 55% or more of those persons voting oppose annexation, the property will not be annexed. In cities with a population of 100,000 or more, residents must file a petition in circuit court protesting the annexation.
Louisiana	a majority of the voters and a majority of the owners who own 25% of the assessed value of property in the territory	majority approval by resident voters	majority approval of voters	
Maine	Not authorized by constitution or general law.			
Maryland		majority approval by voters if referendum was requested by county or residents in the territory	majority approval by voters if referendum was requested by voters in the annexing city	A referendum is held if 20% of voters in territory or annexing city request an election, or if 2/3 of county governing body requests one.
Massachusetts	Not authorized by constitution or general law.			
Michigan		majority of electors	majority of electors if election requested	If 5% of registered voters in territory file a petition, an election will be held.
Minnesota				
Mississippi				
Missouri	100% of owners	majority of electors	majority of electors	

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
Montana		majority of voters	majority of voters if annexation requested by residents	
Nebraska				
Nevada				A majority of owners in the territory can protest to stop the annexation.
New Hampshire				
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.			
New Mexico				
New York		majority of residents		
North Carolina		majority of resident voters		
North Dakota	$\frac{3}{4}$ of the qualified electors or by the owners of not less than $\frac{3}{4}$ in assessed value of the property			A city may also initiate annexation on its own initiative but if the owners of $\frac{1}{4}$ or more of the territory protest the annexation, then the dispute must be submitted to mediation and possibly adjudication by the office of administrative hearings.
Ohio				
Oklahoma	$\frac{3}{4}$ of the registered voters and the owners of at least $\frac{3}{4}$ (in value) of the property	written consent of majority of owners		
Oregon	all of the owners and not less than 50% of the electors, if any, residing in the territory	majority of voters		
Pennsylvania				
Rhode Island				

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
South Carolina	75% or more of the freeholders owning at least 75% of the assessed value of property in the area	majority of electors		
South Dakota	3/4 of the registered voters and by the owners of not less than 3/4 of the value of the territory	majority approval by combined vote of city and annexation territory voters	majority approval by combined vote of city and annexation territory voters	
Tennessee		majority of electors	optional- majority of voters	
Texas		majority of voters		
Utah				Private property owners in a first class county or a county legislative body may file a protest. If a protest is filed then the city can choose to deny the annexation or the matter will be submitted to the boundary commission. The commission will then make a decision on whether or not to approve the annexation.
Vermont				
Virginia				
Washington	petition signed by owners representing 60% of the assessed value in the territory or by a majority of owners and voters in the territory if petition method is used	majority of voters if election method is used		
West Virginia	majority of the voters and all owners in the territory	majority of voters	majority of voters	

State	Requirement for Annexation Approval by Petition	Requirements for Election in Territory To Be Annexed	Requirements for Election in Annexing City	Protest Requirements
Wisconsin	100% of electors and owners	majority of voters		
Wyoming	a majority of owners owning a majority of the territory to be annexed			If more than 50% of the landowners, or if a landowner or landowners owning more than 50% of the area to be annexed file written objections, no further action may be taken on any area within the proposed annexation within two years.

Chart 4. Notice of Annexation		
Current Tennessee Law	Proposed Changes	Other States' Laws
<p>Annexation by ordinance—Notice of the annexation must be published in a newspaper of general circulation at least seven days in advance of the public hearing on the ordinance.</p> <p>Annexation by referendum—Notice must be mailed to the affected property owners 14 days prior to the public hearing. notice must also be posted in at least three public places in the territory to be annexed and in a like number of public places in the city. In addition, the notice must be published in a newspaper of general circulation.</p>	<p>Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss would require cities to mail notice to property owners 90 days prior to the date of a proposed annexation. House Bill 590 by Van Huss, Senate Bill 869 by Crowe would require notice be sent 90 days prior to the date of annexation. House Amendment 422 would require the notice to be sent 180 days in advance.</p>	<p>The minimum notice requirement for intent to annex in other states ranges from 7 to 30 days.</p> <p>The minimum notice requirement before a public hearing ranges from 6 to 60 days.</p> <p>The minimum public notice requirement before an election ranges from 4 to 30 days.</p>

Other States' Laws on Notice						
State	Newspaper notice of intent	Property owners and/or residents must be notified of annexation by mail	Newspaper notice public hearing	Property owners and/or residents must be notified of public hearing by mail	Newspaper notice election	Property owners and/or residents must be notified of election by mail
Alabama					not specified	
Alaska			14 days			
Arizona			15 days	6 days		
Arkansas			21 days (petition)		not specified (city initiates)	
California			21 days			
Colorado			30 days			
Connecticut	All territory in the state is incorporated.					
Delaware						
Florida				10 days	14 days	

State	Newspaper notice of intent	Property owners and/or residents must be notified of annexation by mail	Newspaper notice public hearing	Property owners and/or residents must be notified of public hearing by mail	Newspaper notice election	Property owners and/or residents must be notified of election by mail
Georgia			21 days if annexing by referendum; 14 days if initiated by owners and electors			
Hawaii	The are no cities in Hawaii.					
Idaho			28 days	28 days		
Illinois			15-30 days			
Indiana				60 days; 20 days when all property owners provide consent		
Iowa					4-20 days	
Kansas			1-2 weeks	10 days		
Kentucky				14 days notice of second reading		
Louisiana			10 days		10 days	
Maine	Annexation not authorized by constitution or general law.					
Maryland			2-4 weeks		2 weeks	
Massachusetts	Annexation not authorized by constitution or general law.					
Michigan	3 weeks (home rule cities)		7 days	30 days (home rule cities)		
Minnesota			2 weeks	30 days		
Mississippi			30 days			
Missouri			1-3 weeks			
Montana	2 weeks					not specified
Nebraska			10 days (cities of the first class only)			
Nevada			3 weeks	20 days		

State	Newspaper notice of intent	Property owners and/or residents must be notified of annexation by mail	Newspaper notice public hearing	Property owners and/or residents must be notified of public hearing by mail	Newspaper notice election	Property owners and/or residents must be notified of election by mail
New Hampshire	Annexation not authorized by constitution or general law.					
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.					
New Mexico			20-48 days			
New York	not specified					
North Carolina	30 days	30 days	10 days			
North Dakota			7-20 days	7-20 days		
Ohio						
Oklahoma	14-30 days	14-30 days	14-30 days			
Oregon			2 weeks			
Pennsylvania						
Rhode Island	Municipal boundaries are locked in by statute. Rhode Island does not have functioning county governments.					
South Carolina			30 days	30 days		
South Dakota						
Tennessee			7 days	14 days (referendum)		
Texas			10-20 days		10-30 days	
Utah	3 weeks (petition)	not specified (petition)	2 weeks (first class counties)			
Vermont						
Virginia	30 days					
Washington			1- 2 weeks			
West Virginia					2 weeks	
Wisconsin	not specified	not specified			1 week	
Wyoming			15 days			

Chart 5. Public Hearings and Informational Meetings

Current Tennessee Law	Proposed Changes	Other States'
Current law requires one public hearing prior to an annexation by ordinance or referendum.	Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss would require three informational meetings be held in addition to the public hearing before a city could annex by ordinance. House Amendment 423 would have reduced the number of informational meetings to one.	Of the forty-nine states other than Tennessee, twenty-nine require at least one public hearing before land is annexed. Four states—Florida, Iowa, North Carolina, Texas—require at least two public hearings, but no state requires more than two. Only one state, North Carolina, requires a public information meeting in addition to a public hearing.

Other States' Laws on Public Hearings and Informational Meetings

State	Number of Informational Meetings Required	Number of Public Hearings Required
Alabama	0	0
Alaska	0	1
Arizona	0	1
Arkansas	0	0
California	0	1
Colorado	0	1
Connecticut	All territory in the state is incorporated.	
Delaware	0	1
Florida	0	2
Georgia	0	1
Hawaii	There are no cities in Hawaii.	
Idaho	0	1
Illinois	0	1
Indiana	0	1
Iowa	0	2
Kansas	0	1
Kentucky	0	1
Louisiana	0	1 if initiated by city
Maine	Not authorized by constitution or general law.	
Maryland	0	1
Massachusetts	Not authorized by constitution or general law.	
Michigan	0	0

State	Number of Informational Meetings Required	Number of Public Hearings Required
Minnesota	0	1
Mississippi	0	1
Missouri	0	1
Montana	0	0
Nebraska	0	1
Nevada	0	1
New Hampshire	Not authorized by constitution or general law.	
New Jersey	No unincorporated land in the state. The only annexation that takes place is between cities.	
New Mexico	0	1
New York	0	1
North Carolina	1	2
North Dakota	0	1
Ohio	0	1
Oklahoma	0	1
Oregon	0	1 if annexed for public safety
Pennsylvania	No unincorporated land in the state. The only annexation that takes place is between cities.	
Rhode Island	Municipal boundaries are locked in by statute.	
South Carolina	0	1
South Dakota	0	1
Tennessee	0	1
Texas	0	2
Utah	0	1
Vermont	0	1
Virginia	0	0
Washington	0	1
West Virginia	0	0
Wisconsin	0	1 if initiated by city
Wyoming	0	1

Chart 6. Plan of Services		
Current Tennessee Law		Other States' Laws
Tennessee's cities are required to provide a plan of services prior to annexing territory by referendum or by ordinance. The plan of services must include but not be limited to police protection, fire protection, water services, electrical services, sanitary sewer services, solid waste collection, street construction and repair, recreation facilities and programs, street lighting, and zoning services. Also a reasonable implementation schedule for the provision of the services is required.	Senate Bill 1054 by Kelsey, House Bill 1263 by Carr was amended prior to being passed. Sections 5 and 6 were taken out of the bill before it passed. These sections would have added some requirements for the plan of services including requirements that the plan show the standards for delivering the services to the territory proposed to be annexed and information on the financial ability of the city to provide services to the territory proposed to be annexed.	<p>Twenty-four states require the city to create a plan of service before an annexation can take place.</p> <p>Twenty states have a required timeline for implementation of services.</p> <p>Fifteen states require budget/financial information be provided in the plan of services.</p>

Other States' Laws on Plan of Services							
State	Plan Required	Used as factor in determining whether to annex	Required Services			Timeline	Budget / Financial Information
			Police / Fire	Water / Sewer	Streets		
Alabama							
Alaska							
Arizona	X					within 10 years	
Arkansas							
California		X					
Colorado	X		X				
Connecticut							

State	Plan Required	Used as factor in determining whether to annex	Required Services				Timeline	Budget / Financial Information
			Police / Fire	Water / Sewer	Streets	Other		
Delaware	X						X	
Florida	X		X			required but set by city	X	
Georgia	X		X	X	X	water and sewer installed within 1 year		
Hawaii								
Idaho								
Illinois								
Indiana	X		X	X	X	police, fire and other services provided within 1 year; Street lighting, sewers, etc within 3 years	X	
Iowa	X					within 3 years of July 1 of FY in which city taxes are collected against property in the annexed territory		
Kansas	X					plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district	X	
Kentucky	X		X	X	X	required but set by city	X	
Louisiana								
Maine								
Maryland	X		X	X	X	required but set by city	X	
Massachusetts								

State	Plan Required	Used as factor in determining whether to annex	Required Services				Timeline	Budget / Financial Information
			Police / Fire	Water / Sewer	Streets	Other		
Michigan								
Minnesota		X						
Mississippi								
Missouri	X	X	X	X	X	plan to provide within 3 years	X	
Montana	X		X	X	X	must show anticipated development for next 5 years minimum	X	
Nebraska	X					required but set by city	X	
Nevada	X		X	X	X		X	
New Hampshire								
New Jersey								
New Mexico								
New York								
North Carolina	X		X	X	X	water must be extended within 3.5 years	X	
North Dakota								
Ohio	X					required but set by city		
Oklahoma	X		X			extension must be completed within 120 months if there is no capital improvement plan	X	
Oregon	X					required but set by city		
Pennsylvania								
Rhode Island								
South Carolina	X					required but set by city		
South Dakota	X			X		required but set by city	X	

State	Plan Required	Used as factor in determining whether to annex	Required Services				Timeline	Budget / Financial Information
			Police / Fire	Water / Sewer	Streets	Other		
Tennessee	X		X	X	X	X	reasonable implementation schedule	
Texas	X		X	X	X	X	must extend services within 2.5 years or 4.5 years if city can show that certain services cannot reasonably be provided in 2.5 years	
Utah	X							X
Vermont								
Virginia								
Washington								
West Virginia	X							
Wisconsin								
Wyoming	X						required but set by city	X
Total	25	3	11	13	11	11	20	15

Chart 7. Annexation of Agricultural Land

Current Tennessee Law	Proposed Changes	Other States' Laws
Public Chapter 441, Acts of 2013, imposes a 13-month moratorium on annexing property by the cities' initiative used for residential or agricultural purposes. Prior to this moratorium, cities were allowed to annex property used for agricultural purposes.	Senate Bill 1316 by Bowling, House Bill 1249 by Van Huss, as sent to the Commission for study, prohibits municipalities from annexing any land within its urban growth boundary that is zoned for agricultural use until there is a change in use triggered by a request for a non-agricultural zoning designation or by sale of the territory for use other than agricultural purposes.	Currently, the majority of states do not have limits on annexing agricultural land. Eight states limit the annexation of lands being used for agricultural purposes. Idaho and Ohio allow owners of agricultural land to petition the court for deannexation.

Other States' Laws on Annexation of Agricultural Land

State	Restrictions
Arkansas	Land shall not be annexed if its highest and best use is agriculture. Other lands used exclusively for agriculture shall continue to be used and assessed as agricultural land after annexation.
Florida	Only land that is used for urban purposes may be annexed.
Idaho	The owners of land 5 acres or greater in size may petition the court for deannexation if the lands are used exclusively for agricultural purposes.
Kansas	No portion of any unplatted tract of land 21 acres or more in size that is devoted to agricultural use shall be annexed by any municipality without the written consent of the owner.
Nebraska	Agricultural lands that are rural in nature may not be annexed by ordinance.
North Carolina	Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the property owner(s).
Ohio	After annexation, the owner of unplatted farmlands may petition the court for deannexation.
Oregon	Lands may not be annexed where they are used only for purposes of agriculture or horticulture, and are valuable on account of such use.
South Carolina	Any property owner that owns agricultural real property in the area to be annexed shall receive written notice of the proposed annexation by certified mail. If the property owner files a written notice objecting to the inclusion of his or her property in the area to be annexed with the municipal clerk at least ten days before the election, the property must be excluded from the area to be annexed.
Virginia	The court will consider the adverse impact on agricultural operations when determining whether or not to grant an annexation.

Chart 8. Deannexation		
Current Tennessee Law	Proposed Changes	Other States' Laws
<p>Cities may deannex land. Only cities have the authority to initiate deannexation not the residents or property owners. A city can deannex property if it is approved by 3/4 of voters in an election. A city can also deannex on its own initiative by ordinance, but residents may object to the denannexation by submitting a petition signed 10% of the voters residing in the territory. An election will then be held and a majority of those voting must approve the deannexation.</p>	<p>Public Chapter 441 directed the Commission to study the issue of annexation as part of a comprehensive review and evaluation of the efficacy of state policies set forth in Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan). The laws governing deannexation are in Title 6, Chapter 51.</p>	<p>Twenty-seven states authorize property owners to initiate a deannexation; twenty-four authorize cities to initiate deannexation.</p> <p>Fourteen states authorize both cities and property owners to initiate deannexation.</p> <p>A majority of states require a referendum or other form of consent before finalizing a deannexation.</p>

Other States' Laws on Deannexation							
State	Initiation by municipality	Initiation by property owners	Approved by municipal body after petition of property owners	Election required	Petition for election	Other method of property owner approval	Approved by judge
Alabama	X				X		
Alaska	X			X			
Arizona	X					X	
Arkansas	X	if land is uninhabited	X	X			
California	X	X			X		
Colorado		X	X				
Connecticut							
Delaware	X			X			
Florida	X	X	X - must state specific reasons for rejection in report		X		

State	Initiation by municipality	Initiation by property owners	Approved by municipal body after petition of property owners	Election required	Petition for election	Other method of property owner approval	Approved by judge
Georgia		X	X			X	
Hawaii							
Idaho	X						
Illinois		X	X				X
Indiana		X	X				
Iowa	X	X	X	X		X	
Kansas	X	X	X				
Kentucky	X			X		X	
Louisiana	X	X		X		X	
Maine							
Maryland							
Massachusetts							
Michigan		X	X	X			
Minnesota	X	X					X
Mississippi	X	X					X
Missouri	X						
Montana		X	X			X	
Nebraska		X					X
Nevada	X	X				X	
New Hampshire							
New Jersey							
New Mexico							
New York							
North Carolina							
North Dakota	X	X	X				
Ohio		X			X		
Oklahoma	X	X	X				
Oregon	X				X		
Pennsylvania							
Rhode Island							
South Carolina	X	X			X		
South Dakota		X	X				
Tennessee	X						
Texas	X	X			X		
Utah		X	X				
Vermont							
Virginia	X						X

State	Initiation by municipality	Initiation by property owners	Approved by municipal body after petition of property owners	Election required	Petition for election	Other method of property owner approval	Approved by judge
Washington		X			X		
West Virginia		X		X			
Wisconsin		X			X		
Wyoming	X	X				X	
Total	24	27	14	8	9	8	5

Chart 9. Mutual Corporate Boundary Adjustments

Current Tennessee Law	Proposed Changes	Other States' Laws
Cities with contiguous boundaries may adjust their boundaries by contract in certain situations.	Public Chapter 441 directed the Commission to study the issue of annexation as part of a comprehensive review and evaluation of the efficacy of state policies set forth in Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan). The laws governing mutual adjustment of boundaries is in Title 6, Chapter 51.	Ten states have laws authorizing municipalities to adjust their boundaries by mutual agreement.

Other States' Laws on Mutual Corporate Boundary Adjustments

State	Current Law
Arizona	A municipality may deannex territory and a municipality may simultaneously annex that territory by ordinance. The mutual annexation and deannexation of territory may be stopped if 51% of property owners in the territory protest.
Arkansas	A municipality that wants to deannex or annex property is required to pass an ordinance and send it to the other municipality. The other municipality's governing body must approve or deny the request. If approved, the territory is detached from one municipality and annexed by the other municipality.
Illinois	There are four different methods of mutual adjustment in Illinois. Municipalities may detach and annex territory of 60 acres or less by mutual agreement of governing bodies. Municipalities may detach and annex unoccupied territory by mutual agreement. Municipalities may also detach and annex by mutual agreement when one-half of the electors and one-half of the property owners within a territory not exceeding 160 acres petition. Also, electors in the territory to be annexed may petition for referendum with 10% of the area to be detached and annexed.
Iowa	Property in a municipality that is contiguous to another municipality may be annexed by agreement with the contiguous city. The property owner must first petition for the annexation.
Kentucky	Two municipalities of the 2nd through 6th Class may mutually adjust their boundaries by ordinance supported by a petition signed by 51% of voters in the territory to be transferred.
Massachusetts	Before a boundary change takes place, it must be approved by the governing body of each town, the department of highways, and the general court.

State	Current Law
Minnesota	Property may be concurrently detached/annexed by (1) submitting to the chief administrative law judge resolutions of both municipalities, or (2) submitting to the chief administrative law judge the petition of property owners and the resolution of at least one municipality. The administrative law judge will then make a determination.
Missouri	Property may be deannexed by one municipality and annexed by another municipality by an ordinance.
Ohio	Any two adjoining municipal corporations may agree to a change in the boundary line separating such municipal corporations by ordinance, provided such change does not involve the transfer of territory inhabited by more than five voters from one to the other or from each to the other.
Utah	Boundary adjustment may be accomplished by ordinance passed by both municipalities. Adjustment will be final unless a protest is filed by landowners of 25% of the area to be adjusted and 15% of the total value.

Chart 10. Merger of Cities

Current Tennessee Law	Proposed Changes	Other States' Laws
Two or more contiguous cities located in the same county are authorized to merge into one city. Each of the cities must pass a joint resolution (or ordinance in the case of home rule cities) requesting a referendum in the cities to approve or disapprove the merger. The resolution must be passed by each of the governing bodies by a majority vote. A majority of those voting in each city must approve the merger in order for the cities to be able to merge. Registered voters in each of the cities may petition for a referendum on the merger of cities.	Public Chapter 441 directed the Commission to study the issue of annexation as part of a comprehensive review and evaluation of the efficacy of state policies set forth in Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan). The laws governing city mergers are in Title 6, Chapter 51.	Thirty-six other states have laws authorizing merger of cities. Thirty-three of these states require a referendum before the merger can be finalized.

Other States' Laws on Merger

State	Initiation		Referendum	Approval by 3rd party	Other
	Cities	Voters			
Alabama	X	X	X		
Alaska	X	X	X		
Arizona	X		X		
Arkansas		X	X		
California					
Colorado	X		X		
Connecticut					
Delaware					
Florida	X	X	X		
Georgia					
Hawaii					
Idaho	X	X	X		
Illinois	X	X	X		
Indiana	X	X	X		
Iowa					
Kansas	X - cities may submit to election or may enact by ordinance		X - cities may submit election, voters may protest an ordinance, or voters may petition for consolidation		
Kentucky	X		X		
Louisiana	X	X	X		

Appendixes

State	Initiation		Referendum	Approval by 3rd party	Other
	Cities	Voters			
Maine					
Maryland	X	X	X - if 20% of landowners petition		
Massachusetts					
Michigan		X	X		
Minnesota	X	X	X - if initiated by the city or 10% petition		
Mississippi	X			chancery court	
Missouri	X	X	X - if the greater of 100 voters, or 15% of votes cast in the last preceding election, petition		
Montana	X		X - unless initiated by more than 50% of landowners or electors		
Nebraska	X	X	X - depends on class of city		
Nevada					
New Hampshire					
New Jersey	X	X	X	consolidation commission	
New Mexico	X		X		
New York	X	X	X - if initiated by the city		
North Carolina					
North Dakota	X	X	X	municipal consolidation review commission	
Ohio	X	X	X		
Oklahoma	X	X	X		
Oregon		X	X		
Pennsylvania		X	X		
Rhode Island					
South Carolina	X			X - optional	X- cities may agree to merge
South Dakota		X - both cities must then approve	X		
Tennessee	X	X	X		

State	Initiation		Referendum	Approval by 3rd party	Other
	Cities	Voters			
Texas		X - if at least 100 voters of each municipality petition, the government may call an election. If 15% of voters petition, then the government must call an election	X		
Utah	X	X	X		
Vermont	X		X		
Virginia	X	X	X - at judge's discretion	approved by judge who may submit to an election	
Washington	X	X	X		
West Virginia					
Wisconsin	X		X		
Wyoming	X		X - no vote, but cities must get consent signed by majority		

Chart 11. Growth Planning

Current Tennessee Law	Proposed Changes	Other States' Laws
<p>Current law requires each county, with exception of the three metropolitan governments, and the cities in the county to have an approved growth plan. At a minimum, the plan must show urban growth boundaries for the cities. Territory outside the UGB must be designated as planned growth areas or rural areas. Within an urban growth boundary, a city possesses the exclusive right to annex territory. Any new incorporation must be formed within a county's planned growth area.</p>	<p>Public Chapter 441 directed the Commission to study the issue of annexation as part of a comprehensive review and evaluation of the efficacy of state policies set forth in Tennessee Code Annotated Title 6, Chapters 51 (Change of Municipal Boundaries) and 58 (Comprehensive Growth Plan).</p>	<p>Twenty states have mandatory comprehensive planning laws for local governments.</p> <p>Four of these states—Hawaii, Maryland, Oregon, and Washington—require growth boundaries.</p>

Other States' Laws on Comprehensive Planning and Growth Boundaries

State	Comprehensive Planning	Urban Growth Boundaries
Alabama	Permissive	
Alaska	Mandatory	
Arizona	Mandatory	Permissive
Arkansas	Permissive	
California	Mandatory	Permissive through LAFCO or home rule charters
Colorado	Mandatory under specific circumstances	Permissive but mandatory for annexation to occur
Connecticut	Mandatory	Permissive
Delaware	Mandatory	Permissive but mandatory for annexation to occur
Florida	Mandatory	Permissive
Georgia	Permissive but mandatory if they want to remain eligible for state and federal assistance programs	
Hawaii	Mandatory	Mandatory
Idaho	Mandatory	Permissive but mandatory for annexation to occur

State	Comprehensive Planning	Urban Growth Boundaries
Illinois	Permissive	
Indiana	Permissive	
Iowa	Permissive	
Kansas	Permissive	
Kentucky	Mandatory	
Louisiana	Permissive	
Maine	Permissive	Permissive but mandatory if growth plan is adopted
Maryland	Mandatory	Mandatory - annexations must be accordance with comprehensive plan
Massachusetts	Permissive but mandatory if they want to remain eligible for state grants	
Michigan	Permissive	Permissive through home rule charters
Minnesota	Permissive	Permissive
Mississippi	Permissive	
Missouri	Permissive	
Montana	Permissive	
Nebraska	Mandatory city plan for cities of the metropolitan class (Omaha)	
Nevada	Mandatory for cities of 25,000 or more and counties of 45,000 or more	
New Hampshire	Permissive	
New Jersey	Permissive	Permissive through home rule charters
New Mexico	Permissive	
New York	Permissive	
North Carolina	Permissive	
North Dakota	Permissive	
Ohio	Permissive	
Oklahoma	Permissive	
Oregon	Mandatory	Mandatory
Pennsylvania	Mandatory	

State	Comprehensive Planning	Urban Growth Boundaries
Rhode Island	Mandatory	Municipal boundaries locked in by statute
South Carolina	Permissive	
South Dakota	Mandatory for cities permissive for counties	Permissive
Tennessee*	Permissive; growth boundary map required	Mandatory
Texas	Permissive	
Utah	Mandatory	
Vermont	Permissive but mandatory for certain state grants and if they want to adopt development regulations	
Virginia	Mandatory	Permissive
Washington	Mandatory for certain counties	Mandatory
West Virginia	Permissive	Permissive
Wisconsin	Permissive	
Wyoming	Permissive	

*Tennessee's growth planning law, Tennessee Code Annotated Title 6, Chapter 58, is separate from the statute authorizing comprehensive planning, Tennessee Code Annotated Title 13, Chapters 3 and 4.

Chart 12. Amending Growth and Comprehensive Plans

Current Tennessee Law	Proposed Changes	Other States' Laws
<p>A city or county may propose amendments to the growth plan by filing notice with the county executive and the mayor of every city. The coordinating committee is then reestablished and uses the original process to amend the growth plan. The coordinating committee and the legislative bodies must hold public hearings on the plan. The coordinating committee must submit the proposed amendment with its recommendations to each governing body. The county and city governing bodies must either ratify or reject it. The failure to act within 120 days serves as a ratification of the recommended growth plan. If the growth plan was recommended by the coordinating committee and ratified by the county and all cities, then the Local Government Planning and Advisory Committee grants approval of the plan automatically.</p>	<p>Senate Bill 613 by Yager, House Bill 135 by Keisling specifies that the mayor of a municipality may propose to amend only the urban growth boundary of that mayor's municipality and a county mayor or county executive may propose to amend only the boundary between a planned growth area and a rural area. It also clarifies the procedures for amending growth plans. All other proposals to change growth plans are deemed revisions, which require resolutions by either the county legislative body or the governing bodies of municipalities containing at least half the population living in municipalities.</p> <p>Senate Bill 732 by Watson, House Bill 231 by Carter places restrictions on the ability of the mayor of a municipality that has not annexed all territory within its urban growth boundaries to propose an amendment to the growth plan and to serve on the coordinating committee reconvened or reestablished to amend the growth plan.</p>	<p>Most states require comprehensive plans be reviewed or revised every two to ten years.</p> <p>Two states, California and Rhode Island, limit the number of times their comprehensive plans can be amended per year.</p> <p>Washington requires the growth areas to be reviewed annually. Utah requires a certain section of the plan on low-income housing be reviewed biennially for counties with a population over 25,000 and cities.</p> <p>Five states allow comprehensive plans to be reviewed and revised as necessary.</p>

Other States' Laws on Amending Required Comprehensive Plans

State	Amending Plan	How often
<p>Alaska</p>	<p>Amendments to comprehensive plan are recommended by the city or borough planning commission and adopted by the city or borough assembly.</p>	<p>2 to 5 years</p>

State	Amending Plan	How often
Arizona	County planning commission confers with affected cities and state land department and formulates a recommendation for an amendment to comprehensive plan. It holds a public hearing. It may then approve the amendment and send to the board of supervisors for final approval. Cities adopt amendments in similar way except planning commission is optional and governing body has final approval pending a public hearing.	Must review and readopt the plan once every 10 years or create a new plan
California	If there is no planning commission, the local legislative body must act instead. Before adopting or amending, the planning commission must hold a public hearing. Amendments to the city or county comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	May be updated as necessary, but no more than 4 times per year
Colorado	Amendments to the city or county comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	As necessary
Connecticut	Amendments to the plans of conservation and development are prepared by the city planning commission and submitted to the city governing body. If the governing body rejects, then the commission can override with a 2/3 majority vote.	10 years

State	Amending Plan	How often
Delaware	Amendments to comprehensive plan approved by city or county government shall be submitted to the Office of State Planning Coordination for review at such time as the plan is made available for public review. Should the Office object to the amendment, the city or county and the Office enter into dispute resolution. After comment and review, the governor decides to accept or reject.	At least every 5 years a city or county shall review its adopted comprehensive plan. The plan shall be revised, updated and amended as necessary, and readopted at least every 10 years.
Florida	Amendments to the comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	7 years
Hawaii	Amendments submitted by state agency in charge of area and reviewed by advisory committee. Amendments then submitted to relevant state and federal agencies for comment and approved by the governor.	As necessary
Idaho	Amendments to the comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	May be updated at any time
Kentucky	Amendments to the comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	5 years
Maryland	Amendments to the comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	Every 6 years
Nebraska	The plan shall be carried out by an appropriate city board or official.	As necessary

State	Amending Plan	How often
Nevada	Amendments to the city or county master plan must be approved by the planning commission. It may be approved by local governing bodies in counties with a population under 700,000. The local legislative body in counties with a population of 700,000 or more must approve the amendment.	Every 5 years reviewed by regional planning coalition
Virginia	Amendments to the comprehensive plan are recommended by the city or county planning commission and adopted by the city or county governing body.	5 years
Washington	City or county governing bodies must approve an amendment. Cities or counties must submit a copy of the amended plan to the department of commerce.	Varies, commonly every 8 years; must review growth areas every year

Appendix C. Growth Policy and Annexation Legislation 1993-2013

1998 Growth Policy Act	
1997-1998	<p>1998 Growth Policy Act, Acts of 1998 Creates a comprehensive growth policy for the state; revises annexation by ordinance laws; holds counties harmless for revenues in annexation actions; provides additional method of consolidation of county and city governments. Senate Bill 3278 by Rochelle, House Bill 3295 by Kisber Passed, effective May 19, 1998.</p>
Repeal 1998 Growth Policy Act	
1999-2000	<ul style="list-style-type: none"> • Senate Bill 2600 by Springer, P., House Bill 2269 by Stulce Repeals the 1998 Growth Policy Act. No action taken. • Senate Bill 2641 by Burchett, House Bill 2447 by Boyer Repeals the 1998 Growth Policy Act. No action taken.
Prohibit Annexation by Ordinance	
1993-1994	<ul style="list-style-type: none"> • Senate Bill 823 by Atchley, House Bill 633 by Venable Prohibits municipalities to annex by ordinance upon own initiative territory consisting primarily of roads, rivers, lakes and/or public property. No action taken. • Senate Bill 2056 by Leatherwood, House Bill 2115 by Shirley Deletes provisions allowing municipalities to annex neighboring territory by ordinance. Leaves in place annexation by referendum of the affected residents. Failed in the Senate State and Local Government Committee; no action in the House.
1999-2000	<ul style="list-style-type: none"> • Senate Bill 2391 by Fowler, House Bill 2271 by Stulce Abolishes annexation by ordinance initiated by a municipality. No action taken. • Senate Bill 2393 by Fowler, House Bill 2344 by Wood Prohibits municipalities from initiating annexation by ordinance. No action taken.
2001-2002	<ul style="list-style-type: none"> • Senate Bill 937 by McNally Prohibits municipalities from initiating annexation by ordinance. No action taken. • Senate Bill 1061 by Burks, House Bill 1842 by Hargrove Prohibits municipalities from initiating annexation by ordinance. No action taken.

2007-2008	<p>Senate Bill 888 by Ketron, House Bill 363 by Rowland Prohibits municipalities from initiating annexations by ordinance. Failed in Senate State and Local Government Committee; no action taken in the House.</p>
-----------	--

Requirements for Annexation by Ordinance (Prior to 1998 Growth Policy Act)

1997-1998	<ul style="list-style-type: none"> • House Bill 17 by Newton Requires that municipalities may not annex by ordinance more than one-fourth square mile or by more than 500 new residents within a 24-month period. No action taken. • House Bill 20 by Newton Requires the county commission give prior approval for local municipalities to annex by ordinance. No action taken.
-----------	--

Annexation-free Zones (Prior to 1998 Growth Policy Act)

1997-1998	<p>Senate Bill 2499 by Crutchfield, House Bill 2426 by Stulce Provides for residents of an area outside city limits to petition for a referendum to be considered an incorporation- and annexation-free zone. Petitioners will pay cost of the referendum. Referendum must prevail by 70% of vote if the area is within one mile of the city limits, 60% within two miles, and 50% within three miles. Failed in House Local Government Subcommittee; no action taken in the Senate.</p>
-----------	---

Annexations Approved by Referendum

1993-1994	<p>Senate Bill 776 by Atchley, House Bill 301 by Wood Authorizes voters to petition for a referendum to approve annexation ordinances if they affect more than one-fourth square mile of territory or more than 500 residents. Failed in House Local Government Subcommittee; no action in Senate.</p>
1995-1996	<ul style="list-style-type: none"> • Senate Bill 291 by Fowler, House Bill 169 by Wood Authorizes referendum when more than one-fourth square mile or more than 500 residents are annexed by ordinance in Hamilton, Knox, or Shelby county. Failed in the Senate State and Local Government Committee and in the House Local Government Subcommittee. • Senate Bill 413 by McNally, House Bill 292 by Boyer Specifies that an annexation by ordinance will not become effective until the qualified voters of territory to be annexed have approved the ordinance in an election. No action taken.

	<ul style="list-style-type: none"> • Senate Bill 969 by Holcomb, House Bill 742 by Ramsey Authorizes counties to pass ordinances requiring annexations by municipalities to be approved by a majority of the property owners and residents of the area to be annexed. Failed in the House Local Government Subcommittee; no action taken in Senate.
1997-1998	<ul style="list-style-type: none"> • Senate Bill 1393 by McNally, House Bill 1006 by Boyer Specifies annexation for proposed territory must be by vote of those in the territory. Referendums will be paid for by the annexing municipality. No action taken. • Senate Bill 1617 by Fowler, House Bill 1116 by Wood Provides that annexations by ordinance in a county having both a) 10 or more incorporated municipalities and b) a population in excess of 250,000 would not take effect until 120 days after final passage of such ordinance. Also provides that if such ordinance would bring more than one-fourth square mile or more than 300 parcels, that the affected property owners may, by petition, vote in a referendum to ratify such ordinance. If the referendum passed, the ordinance would take effect 30 days after the election or 120 days from the passage of the ordinance, whichever occurs last. Failed in the House Local Government Subcommittee; no action taken in the Senate. • Senate Bill 2301 by Davis, House Bill 2282 by Ferguson Requires an election for annexation by a municipality after 20% of registered voters or both registered voters and property owners of the territory seek annexation by ordinance petition. The election will be at the expense of the proposing municipality. No action taken.
2003-2004	<ul style="list-style-type: none"> • Senate Bill 307 by Ketron, House Bill 469 by Fowlkes Specifies that any proposal by municipalities to extend their corporate limits by annexation by ordinance will be subject to the approval of the qualified voters residing in the territory proposed for annexation. No action taken.
2007-2008	<ul style="list-style-type: none"> • Senate Bill 1976 by Stanley, House Bill 1608 by Todd Requires a referendum to be held for a vote of property owners in areas proposed for annexation by a municipality located in a county where an annexation reserve agreement satisfies the requirements of the growth plan. No action taken.
2009-2010	<ul style="list-style-type: none"> • Senate Bill 2402 by Watson, House Bill 2429 by Cobb Requires an annexation ordinance to be approved by a majority vote of qualified voters in the territory proposed for annexation before it can become operative.

	Failed in Senate and House State and Local Government Committees.
2013	<ul style="list-style-type: none"> • Senate Bill 731 by Watson, House Bill 230 by Carter Requires any municipality annexing land pursuant to an amended growth plan to hold a referendum prior to annexation of land within the municipality's approved urban growth boundary (UGB). <i>Referred to the Commission for study.</i> • Senate Bill 869 by Crowe, House Bill 590 by Van Huss Requires an annexation ordinance to be approved by a majority vote of qualified voters in the territory proposed for annexation before it can become operative. <i>Referred to the Commission for study.</i>

Annexation within the Urban Growth Boundary (UGB)	
2003-2004	<p>Senate Bill 3002 by Graves, House Bill 3057 by Sargent Clarifies that municipalities may not annex by ordinance or by referendum any territory located within another municipality's approved UGB. <i>Referred to the Commission for study. Recommended for passage. See Public Chapter 246, Acts of 2005, below.</i></p>
2005-2006	<p>Public Chapter 246, Acts of 2005 Amends the law to ensure that municipalities have the exclusive authority to annex territory within their own UGB. Municipalities may not annex any territory located within another municipality's UGB. Senate Bill 3002 by Graves, House Bill 3057 by Sargent, recommended by the Commission, was reintroduced as Senate Bill 1587 by Norris, House Bill 408 by Sargent. Passed, effective January 1, 2006.</p>

Annexation by Petition outside the UGB	
2005-2006	<p>Senate Bill 764 by Burchett, House Bill 2042 by Armstrong Authorizes annexation of property located outside of a municipality's UGB if the owner petitions for such annexation; however, such property must be contiguous to other property currently owned by the petitioner that is already located within the UGB of the municipality. <i>Referred to the Commission for study. Not recommended.</i> No action taken.</p>

Procedures for Annexing Territory outside UGBs

2009-2010	<p>Public Chapter 917, Acts of 2010</p> <p>Before municipalities can annex territory by ordinance outside their existing UGBs, they must first amend the growth plan by submitting the changes to the coordinating committee and then receiving a recommendation for or against the amendment. The coordinating committee then must submit the proposed amendment with its recommendation to all the legislative bodies for approval. If the amendment to the growth plan is approved by the legislative bodies or by the dispute resolution panel, it will then be submitted to the local government planning advisory committee for its approval. Municipalities may annex within a county's planned growth area (PGA) or rural area (RA) by referendum only.</p> <p>Senate Bill 2581 by Haynes, House Bill 2713 by Turner, M. Passed, effective May 26, 2010.</p>
-----------	---

Annexation before Approval of Growth Plan

1999-2000	<p>Senate Bill 660 by Cooper, House Bill 679 by Fraley</p> <p>Revises law to limit power of municipalities to annex before the approval of the growth plan. It would have required annexations by a municipality of territory in a county other than the one where the city hall of the annexing municipality is located to be by referendum.</p> <p>Failed in House Local Government Subcommittee; no action taken in Senate.</p>
-----------	---

Annexation across County Lines (Prior to 1998 Growth Policy Act)

1997-1998	<ul style="list-style-type: none"> • Senate Bill 2535 by Cohen, House Bill 2493 by Walley Prohibits annexation by ordinance in cases where territory to be annexed is outside of county lines unless legislative body of the county in which the territory to be annexed approves. No action taken. • Senate Bill 3341 by Cooper, House Bill 3298 by Curtiss Forbids annexations across county lines unless the city already overlaps county lines or unless the county approves the annexation. No action taken.
-----------	---

Annexation across Time Zones (Prior to 1998 Growth Policy Act)	
1993-1994	<ul style="list-style-type: none"> • Public Chapter 36, Acts of 1993 Bars annexation by municipalities if such territory is in a different time zone. Senate Bill 19 by Elsea, House Bill 4 by Rhinehart Passed, effective March 17, 1993. • Senate Bill 18 by Elsea, House Bill 5 by Rhinehart Requires that where municipalities annex territory in another time zone, they must operate in same time zone as new territory. No action taken in the Senate; passed by the House.

Strip or Corridor Annexations (Prior to 1998 Growth Policy Act)	
1993-1994	<ul style="list-style-type: none"> • Senate Bill 781 by Atchley, House Bill 1476 by Venable Prohibits strip annexation except in counties with metropolitan forms of government. No action taken. • Senate Bill 822 by Atchley, House Bill 634 by Venable Prohibits strip annexation by ordinance upon municipalities' initiative. No action taken. • Senate Bill 1931 by Atchley Requires municipalities that seek to annex the right-of-way of a road or stream to also annex all parcels of property that front upon the right-of-way. No action taken. • Senate Bill 2457 by Atchley, House Bill 2585 by Bittle Requires municipalities that seek to annex the right-of-way of a road or stream to also annex all parcels of property that front upon the right-of-way. Failed in the House Local Government Subcommittee; no action taken in Senate.
1997-1998	<ul style="list-style-type: none"> • Senate Bill 931 by Miller, House Bill 1189 by Kerr Forbids strip annexation, defined as annexation of any one-half mile or more strip of territory from nearest municipal boundary that in width at its narrowest point is less than half the length of such strip. No action taken. • Senate Bill 1598 by Wilder, House Bill 1760 by Rhinehart Defines and forbids strip annexation except in county with metropolitan form of government. No action taken. • Senate Bill 1841 by Atchley, House Bill 1873 by Ritchie Bars annexation by "enclaves," defined as oddly shaped extensions like pockets, fingers, snakes, peninsulas, or corridors. Senate passed with an amendment; no action taken in House.

Annexation of Agricultural Land	
2013	<p>Senate Bill 1316 by Bowling, House Bill 1249 by Van Huss Prohibits a municipality from annexing any land within its UGB that is zoned for agricultural use until there is a change in use triggered by a request for a non-agricultural zoning designation or by sale of the territory for use other than agricultural purposes. <i>Referred to the Commission for study.</i></p>

Annexation of Land Subject to Conservation Easement	
2005-2006	<p>Senate Bill 2005 by McLeary, House Bill 2080 by Maddox Prohibits annexation of land that is subject to a permanent conservation easement. <i>Referred to the Commission for study. Not recommended. Instead, the Commission recommended that as an alternative these types of land be added to the category of lands listed in the Growth Policy Act already given special consideration in the designation of UGBs, PGAs, and RAs within a county growth plan pursuant to Tennessee Code Annotated 6-58-106.</i> No action taken.</p>
2007-2008	<p>Senate Bill 2090 by Finney, L., House Bill 2112 by Maddox Prohibits annexation of land that is subject to a permanent conservation easement. No action taken.</p>

Annexation of State Parks	
2007-2008	<p>Public Chapter 1033, Acts of 2008 Adds new language to the law prohibiting municipalities from annexing any territory located within any state park or natural area unless certain conditions are met, including that the territory must be within the UGB, the Department of Environment and Conservation must study the effects on the area, and advance notice must be provided to the Commissioner of Environment and Conservation. Senate Bill 3434 by Burchett, House Bill 3302 by Vaughn Passed, effective May 28, 2008.</p>

Moratorium on Annexation	
1997-1998	<p>Senate Bill 2265 by Cooper, House Bill 2263 by Rhinehart Imposes a moratorium on new municipal incorporation and annexation by ordinance without consent of county legislative body until May 31, 1998, in order to provide a period of time to thoroughly review the issues of incorporation and annexation. Failed in House Local Government Subcommittee; no action in the Senate.</p>
2013	<p>Public Chapter 441, Acts of 2013 Places a moratorium, with certain exceptions, from April 15, 2013, through May 15, 2014, on annexation by a municipality by means of ordinance upon the municipality's own initiative in order to annex territory being used primarily for residential or agricultural purposes. Requires comprehensive study of Title 6, Chapters 51 and 58 by the Commission. Senate Bill 279 by Watson, House Bill 475 by Carter Passed, effective May 16, 2013.</p>

Annexation Notice of Public Hearings (Prior to 1998 Growth Policy Act)	
1993-1994	<ul style="list-style-type: none"> • Senate Bill 777 by Atchley, House Bill 376 by Head Requires newspaper publication, public posting, and mail notification to affected property owners of public hearings for annexation proposal. No action taken. • Senate Bill 778 by Atchley, House Bill 375 by Head Delineates necessary public notice to precede public hearing on annexation. No action taken. • Senate Bill 779 by Atchley, House Bill 374 by Head Requires a notice of public hearing to be published in a newspaper at least 15 days prior to the hearing if an annexation by ordinance would affect fewer than 20 property owners. Municipalities may annex territory totaling less than one-fourth square mile or containing fewer than 500 persons after providing notice of annexation in a newspaper. No action taken.
1995-1996	<p>Senate Bill 2202 by Wilder, House Bill 2164 by Walley Increases from 7 to 14 days the number of days' notice required for notice of a public hearing. No action taken.</p>
1997-1998	<p>Senate Bill 3366 by Dixon, House Bill 3092 by Chumney Increases from 7 to 14 days the amount of time required for notice of public hearing on annexation by a municipality of territory totaling more than one-fourth square mile or having population of more than 500 persons. No action taken.</p>

Additional Information Required for Annexation Notice (Prior to 1998 Growth Policy Act)

1995-1996	<ul style="list-style-type: none"> • Public Chapter 283, Acts of 1995 Requires annexation notices to include a map showing the area to be annexed, including street names and natural boundaries where appropriate. Senate Bill 429 by Rochelle, House Bill 571 by Bragg Passed, effective July 1, 1995. • Senate Bill 1429 by Gilbert, House Bill 1067 by Robinson Requires specific information, like names and addresses of property owners, to be listed in all notices of public hearings on ordinances to annex territories that include fewer than 20 property owners. Requires such notices to be published at least 15 days before passage of the ordinances on final reading. Requires the same information to be published, whenever practicable, when municipalities attempt to annex territory totaling less than one-fourth square mile or having a population of fewer than 500 people. No action taken.
1997-1998	<ul style="list-style-type: none"> • Senate Bill 328 by McNally Redefines notice to require listing of all tracts of land affected by proposed annexation and requires that such tracts be identified by current county tax map and parcel number or, alternatively, requires an explanation for omission. No action taken. • Senate Bill 153 by McNally, House Bill 341 by Boyer Requires that notice given for an annexation hearing include map and parcel numbers of area to be annexed, or an explanation of the omission. No action taken.

Annexation Notice to Property Owners of Affected Territory

1993-1994	<ul style="list-style-type: none"> • Senate Bill 780 by Atchley, House Bill 723 by Venable Requires notification of residential property owner in territory proposed for annexation except in counties with metropolitan forms of government and establishes requirements for such notice. No action taken. • Senate Bill 1870 by Haynes, House Bill 2012 by West Requires municipalities attempting to annex by ordinance to notify affected property owners by mail rather than by publication in local newspaper. No action taken.
1995-1996	<p>Senate Bill 1649 by McNally, House Bill 1535 by Boyer Requires notification of property owners in areas proposed for annexation and establishes requirements for such notice. No action taken.</p>

<p>2005-2006</p>	<p>Senate Bill 288 by Finney, House Bill 237 by Campfield Requires municipalities to notify affected property owners by mail when attempting to annex by referendum. <i>Referred to Commission for study. The Commission recommended the bill be amended to specify that written notice to the owners of property to be annexed be sent to the last known address by first class mail, be dated and postmarked a minimum of 14 calendar days prior to the scheduled date of the hearing. The Commission also recommended that verification of the mailing of the notice should be considered as proof that the notice was sent in a timely fashion in the event of a subsequent legal challenge to the annexation.</i> No action taken.</p>
<p>2007-2008</p>	<p>Senate Bill 672 by Bunch, House Bill 779 by Campfield Requires municipalities planning to annex property inside or outside their approved growth boundaries to mail a copy of the resolution or ordinance to every affected property owner. No action taken.</p>
<p>2009-2010</p>	<p>Senate Bill 1260 by Bunch, House Bill 799 by Campfield Requires municipalities planning to annex territory beyond their approved urban growth boundaries to mail a copy of the resolution to each property owner affected. Failed in House State & Local Government Subcommittee; no action taken in Senate.</p>
<p>2011-2012</p>	<ul style="list-style-type: none"> • Public Chapter 495, Acts of 2011 Added a requirement that a copy of a resolution for annexation by referendum must be sent to property owners of property in the territory proposed to be annexed 14 days prior to the public hearing on the annexation. <i>Similar to the recommendation made by the Commission in 2005 when Senate Bill 288 by Finney, House Bill 237 by Campfield, was studied.</i> Senate Bill 55 by Campfield, House Bill 1214 by Hall Passed, effective July 1, 2011. • Senate Bill 3572 by Southerland, House Bill 3641 by Faison Requires notice to be given to adjoining property owners when annexation is being proposed. Requires municipalities to provide advance notice, in addition to newspaper publication, to property owners within areas to be annexed and to owners of neighboring properties within a one-mile radius of the location of the proposed annexation. Defines "advance notice" as at least 60 days' notice prior to the date a final determination will be made upon annexation of an area by a municipality. No action taken.
<p>2013</p>	<ul style="list-style-type: none"> • Public Chapter 462, Acts of 2013 Requires municipalities whose annexations become effective by court

	<p>order to send written notice to all newly annexed property owners by first-class mail. If a judge holds the annexation proposal as valid, the municipality may request the court to consider a deferred effective date for annexation validation. Prohibits municipalities from assessing property within annexed territories unless the property was annexed prior to January 1 of the year in which the assessment is to be made; applies to assessments made on or after January 1, 2012.</p> <p>Senate Bill 1054 by Kelsey, House Bill 1263 by Carr Passed, effective May 20, 2013.</p> <ul style="list-style-type: none"> • Senate Bill 1381 by Bowling, House Bill 1319 by Van Huss Requires any municipality proposing to annex territory within the municipality's UGB to mail notice to property owners within that UGB 90 days prior to the date of proposed annexation and to hold at least three public, informational meetings. <i>Referred to the Commission for study.</i>
--	--

Other Annexation Notice Requirements

2007-2008	<p>Senate Bill 774 by Bunch, House Bill 579 by DuBois Requires notice of annexation by ordinance by posting copies of proposed ordinance in territory proposed to be annexed and annexing municipality. No action taken.</p>
-----------	---

Annexation Notice to Other Government Entities

2003-2004	<p>Senate Bill 2445 by Norris, House Bill 3056 by Sargent Requires municipalities that file ordinances to annex territories to notify the county mayors where the property is located about such annexation during the 30-day period before the ordinance goes into effect. Requires such notification to include a copy of the ordinance and a map of the proposed annexation area. <i>Referred to the Commission for study. Recommended for passage. See Public Chapter 411, Acts of 2005 below.</i></p>
2005-2006	<ul style="list-style-type: none"> • Public Chapter 264, Acts of 2005 Added a new requirement to the law that the legislative body of an annexing municipality provide a copy of the annexation ordinance, along with a copy of the portion of the plan of services dealing with emergency services and a detailed map designating the annexed area, to any affected communications district upon final passage of the ordinance. Senate Bill 1968 by Norris, House Bill 2058 by Jones, U. Passed, effective July 1, 2005. • Public Chapter 411, Acts of 2005 Requires the mayor of a municipality annexing by ordinance to provide notice and a copy of the plan of services to be forwarded to the mayor of the county whose property is being annexed. It required that the county

	<p>mayors and emergency communications districts be notified of annexations.</p> <p>Senate Bill 2445 by Norris, House Bill 3056 by Sargent, recommended by the Commission, was reintroduced as Senate Bill 1583 by Norris, House Bill 403 by Sargent.</p> <p>Passed, effective June 17, 2005.</p>
2011-2012	<p>Public Chapter 837, Acts of 2012</p> <p>Required that the department of revenue be notified of an annexation upon instead of prior to the annexation becoming effective.</p> <p>Senate Bill 2987 by Burks, House Bill 3061 by Williams, R.</p> <p>Passed, effective April 25, 2012.</p>

Right of Leaseholder to Contest Annexation (Prior to 1998 Growth Policy Act)

1993-1994	<p>Senate Bill 2733 by O'Brien, House Bill 2672 by Moore</p> <p>Permits leaseholders to file lawsuits to contest annexation of property by municipalities.</p> <p>No action taken.</p>
-----------	---

Arbitration to Settle Annexation Disputes (Prior to 1998 Growth Policy Act)

1993-1994	<ul style="list-style-type: none"> • Senate Bill 819 by Atchley Authorizes aggrieved property owners within annexation boundaries to submit petitions for arbitration rather than filing lawsuits to contest the annexation. No action taken. • Senate Bill 957 by Atchley, House Bill 893 by Armstrong Authorizes property owners to submit claims for arbitration in lieu of filing lawsuits to contest annexation ordinances. Failed in House Local Government Subcommittee; no action in Senate. • House Bill 1260 by Ritchie Authorizes owners of affected property that borders or lies within territory that is the subject of an annexation ordinance to submit a claim for arbitration to contest the validity of the ordinance. No action taken.
1995-1996	<p>Senate Bill 1731 by Holcomb, House Bill 1712 by Venable</p> <p>Provides for binding arbitration with consent of parties in disputes arising under annexation by ordinance that have been judicially contested.</p> <p>No action taken.</p>

Grounds for Challenging Annexation Ordinance

2005-2006	<p>Senate Bill 1323 by Burchett, House Bill 1912 by Tindell Requires a party filing a civil action challenging an annexation to prove that the annexation is unreasonable for the overall well-being of the community. <i>Referred to the Commission for study. Retained for further study.</i> No action taken.</p>
-----------	--

Shifting Burden of Proof in Lawsuits to Contest Annexation

1999-2000	<p>Senate Bill 2397 by Fowler, House Bill 2270 by Stulce Shifts burden of proof from plaintiff to municipality in civil action challenging validity of annexation ordinance. No action taken.</p>
2003-2004	<p>Senate Bill 3001 by Graves, House Bill 3140 by Bone Specifies that the party challenging an annexation has the burden of proving that (1) the annexation ordinance is unreasonable for the overall well-being of the communities involved and that (2) the health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation. <i>Referred to the Commission for study. Retained for further study.</i> No action taken.</p>
2005-2006	<ul style="list-style-type: none"> • Senate Bill 765 by Burchett, House Bill 1913 by Tindell Requires that if a civil action is filed to challenge the annexation of territory within the approved UGBs of a municipality, the party filing the action has the burden of proving that the annexation ordinance is unreasonable for the overall wellbeing, health, safety, and welfare of the citizens or communities involved and that property owners of the municipality and territory will not be adversely affected in the absence of the annexation. <i>Referred to the Commission for study. Retained for further study.</i> No action taken. • Senate Bill 1236 by Burchett, House Bill 1915 by Tindell Requires that if a civil action is filed to challenge the annexation of territory within the approved urban growth boundaries of a municipality, the party filing the action has the burden of proving that the annexation ordinance is unreasonable for the overall wellbeing, health, safety, and welfare of the citizens or communities involved and that property owners of the municipality and territory will not be adversely affected in the absence of the annexation. <i>Referred to the Commission for study. Retained for further study.</i> No action taken.

Burden of Proof Requirement for Island Annexations	
2005-2006	<p>Senate Bill 1558 by Burchett, House Bill 1914 by Tindell If a civil action is filed to challenge an annexation of property bordered on all sides by the corporate limits of a municipality, the party filing the action has the burden of proving that the annexation is unreasonable for the overall well-being of the parcel or parcels involved. <i>Referred to the Commission for study. Not recommended.</i> No action taken.</p>

Restore Right to Jury Trial in Lawsuits to Contest Annexation	
1999-2000	<p>Senate Bill 882 by Atchley, House Bill 591 by Boyer Restores right to jury trial in a civil action to challenge validity of annexation ordinance. No action taken.</p>
2007-2008	<p>Senate Bill 45 by Woodson, House Bill 763 by Niceley Restores the right to trial by jury in a civil action contesting the validity of municipal annexation. <i>Referred to the Commission for study. Retained for further study.</i> No action taken.</p>
2009-2010	<p>Senate Bill 2402 by Watson, House Bill 2429 by Cobb, J. Restores the right to trial by jury in a civil action contesting the validity of municipal annexation. Failed in Senate and House State and Local Government Committees.</p>

Comprehensive Plan Requirements for Annexation (Prior to 1998 Growth Policy Act)	
1993-1994	<p>Senate Bill 1933 by Atchley, House Bill 2619 by Davidson Requires local governments to adopt a two-year prospective comprehensive plan of annexation before beginning annexation procedure. Requires 120-day period between publishing of comprehensive plan and effective date of annexation. No action taken.</p>
1995-1996	<ul style="list-style-type: none"> <p>Senate Bill 1604 by Haun, House Bill 1371 by Boyer Requires municipalities desiring to annex territory by ordinance to prepare, adopt, and publish a two-year comprehensive plan, including but not limited to, a description of property to be annexed, an estimate of annual property tax revenues, and an estimate of the cost of providing services to the area. Permits owners of property within areas to be annexed to seek injunctions against annexation if the comprehensive plan is invalid. No action taken.</p> <p>Senate Bill 3097 by Holcomb, House Bill 2898 by Ramsey Requires annexing municipalities to first publish a comprehensive plan identifying all such annexations for calendar year.</p>

	No action taken.
1997-1998	<ul style="list-style-type: none"> • Senate Bill 1392 by McNally, House Bill 1004 by Boyer Requires municipalities planning to annex to adopt a two-year plan for all such annexations. No action taken. • Senate Bill 3234 by Person, House Bill 3031 by Pleasant If a city in Shelby County has a 20-year annexation plan and desires to exercise zoning authority over the area or any portion of such area designated as its annexation reserve area, then the city's government may file a certified copy of its 20-year annexation plan with the Department of Economic and Community Development with a request that the department designate the city planning commission of that city as a regional planning commission. No action taken.

Effective Date of Annexation	
1995-1996	<ul style="list-style-type: none"> • Senate Bill 434 by Holcomb, House Bill 333 by Venable Extends amount of time for annexations by ordinance to become effective from 30 days to 45 days. No action taken. • Senate Bill 1052 by Holcomb, House Bill 180 by Odom Extends the period between passage of an annexation ordinance and its enactment from 30 to 45 days. No action taken.
1997-1998	<p>Senate Bill 550 by Haun, House Bill 95 by Odom Extends amount of time for annexations by ordinance to become effective from 30 days to 45 days. No action taken.</p>
1999-2000	<p>Senate Bill 1205 by Cohen, House Bill 63 by Odom Extends amount of time for annexations by ordinance to become effective from 30 days to 45 days. No action taken</p>
2001-2002	<p>Senate Bill 421 by Crutchfield, House Bill 12 by Odom Extends amount of time for annexations by ordinance to become effective from 30 days to 45 days. No action taken.</p>
2003-2004	<p>House Bill 354 by Odom Extends amount of time for annexations by ordinance to become effective from 30 days to 45 days. No action taken.</p>
2009-2010	<p>Senate Bill 130 by Ketron, House Bill 194 by Casada Increases the time for a municipal annexation ordinance to become effective from 30 days to 40 days.</p>

	No action taken.
2011-2012	Senate Bill 1250 by Yager, House Bill 1450 by McCormick Increases the time for a municipal annexation ordinance to become effective from 30 days to 40 days. No action taken.

Annexation in Charter Counties (Prior to 1998 Growth Policy Act)

1993-1994	Senate Bill 1207 by Davis, House Bill 809 by Shirley Authorizes counties with a charter form of government to adopt charter provision to restrict municipalities from annexation in certain situations. Failed in House Local Government Subcommittee; passed by the Senate.
1995-1996	Senate Bill 607 by Leatherwood, House Bill 1035 by Shirley Authorizes county to state in its charter that municipalities may not annex territory by ordinance without a petition or referendum by the residents of the affected territory. No action taken.

Priority of Municipalities in Annexation (Prior to 1998 Growth Policy Act)

1995-1996	<ul style="list-style-type: none"> • Senate Bill 138 by Crutchfield, House Bill 41 by Stulce Removes precedence of larger municipalities over smaller municipalities when both entities initiate annexation of same territory. Failed in the House Local Government Subcommittee; no action in the Senate. • Senate Bill 606 by Leatherwood, House Bill 1049 by Shirley Gives priority to first municipality to initiate annexation proceedings when two municipalities attempt to annex the same territory. Failed in the House Local Government Subcommittee; no action taken in Senate. • Senate Bill 2914 by Haynes, House Bill 2716 by Garrett Grants priority in annexation of territory to the municipality that currently provides municipal services to the territory over the other municipality seeking to annex same territory. No action taken.
1997-1998	Senate Bill 1524 by Crutchfield, House Bill 501 by Stulce Provides that if two municipalities incorporated within the same county try to annex the same area, the area to be annexed shall hold an election to determine which municipality shall prevail. Failed in House Local Government Subcommittee; no action taken in Senate.

Special Census after Annexation	
2001-2002	<p>Senate Bill 420 by Crutchfield, House Bill 11 by Odom Moves approval of special census after annexation from State Planning Office to Office of Local Government. No action taken.</p>
2005-2006	<p>Senate Bill 1211 by Beavers, House Bill 1023 by Dunn Moves approval of special census after annexation from State Planning Office to Office of Local Government <i>Referred to the Commission for study. Retained for further study.</i> No action taken.</p>

Property Taxes and Annexation (Prior to 1998 Growth Policy Act)	
1993-1994	<p>House Bill 1262 by Jones Requires prorating of property taxes by taxing jurisdiction during tax year for properties that are annexed. No action taken.</p>
1995-1996	<p>Senate Bill 1976 by Ford, House Bill 2159 by Chumney Requires that property within an annexed area is to be taxed on a prorated basis for the first year in which annexation is effective. Senate amendment 1 makes the bill affect only Shelby County. Failed in Senate State and Local Government Committee; no action taken in House.</p>
1997-1998	<p>Senate Bill 597 by Kyle, House Bill 1164 by Chumney Provides that Shelby County can tax property of annexed area if all legal concerns have been cleared up before October 1 of the year in which annexation occurs. Assessment and taxation shall be on a prorated basis. Failed in Senate State & Local Government Committee; no action taken in the House.</p>

Recordation of Annexation Ordinance	
2011-2012	<p>Public Chapter 111, Acts of 2011 Requires municipalities to record an annexation ordinance or resolution with the register of deeds in the county or counties where adopted or approved and to send a copy of the ordinance or resolution to the Comptroller of the Treasury and the assessor of property for each affected county. Senate Bill 461 by Yager, House Bill 466 by Todd Passed, effective April 25, 2011.</p>

Property Tax Exemption for Annexed Farmland	
2003-2004	<ul style="list-style-type: none"> • Senate Bill 1679 by McLeary, House Bill 1215 by Maddox Exempts from municipal property taxes farmland held in trust that is annexed into a municipality as long as such farmland remains in production agriculture. No action taken. • Senate Bill 1680 by McLeary, House Bill 990 by Maddox Exempts from municipal property taxes farmland held in trust that is annexed into a municipality as long as such farmland remains in production agriculture. No action taken.

Local Option Sales Tax and Annexation	
2003-2004	<p>Public Chapter 959, Acts of 2004 Redefines certain terms and revises certain streamlined sales tax provisions passed in 2003 in order to make the state consistent with the streamlined agreement and current statutes and policies. Senate Bill 3454 by Crutchfield, House Bill 3542 by McMillan Passed, effective June 15, 2004.</p>
2005-2006	<p>Public Chapter 311, Acts of 2005 Delays the implementation of the streamlined sales tax laws. These laws were to take effect July 1, 2005, and January 1, 2009, with respect to the single article under the local option sales tax and the commissioner refunding portions of the local option sales tax. It changes the implementation date of these provisions to July 1, 2007, and July 1, 2008. Senate Bill 731 by Haynes, House Bill 2088 by Briley Passed, effective June 6, 2005.</p>
2007-2008	<p>Public Chapter 602, Acts of 2007 Makes certain portions of the previously enacted Streamlined Sales and Use Tax provisions effective on January 1, 2008, including adopting many of the uniform definitions and simplifying the exemptions applicable to farmers. Makes remaining portions of previously enacted Streamlined Sales and Use Tax provisions effective on July 1, 2009, including sourcing of sales to multiple local jurisdictions and modification of the single article cap on local sales tax. Senate Bill 2223 by Kyle, House Bill 2281 by Odom Passed, effective July 1, 2007.</p>
2009-2010	<p>Public Chapter 530, Acts of 2009 Makes certain revisions concerning assessment and collection of sales, transfer, and privilege taxes. Delays Streamlined Sales Tax implementation from July 1, 2009, to July 1, 2011. Senate Bill 2318 by Kyle, House Bill 2275 by Fitzhugh Passed, effective July 1, 2009.</p>

2011-2012	<p>Public Chapter 72, Acts of 2011 Delays effective date of certain streamlined sales tax provisions until July 1, 2013. Senate Bill 1520 by Norris, House Bill 1992 by McCormick Passed, effective April 13, 2011.</p>
-----------	---

Allocation of Tax Revenue from Annexed Area in Knox County

1997-1998	<p>Senate Bill 651 by McNally, House Bill 488 by Burchett Reapportions the taxes collected in all areas annexed by Knoxville on or after the date it ceased operation of its school system. Knox County would continue to receive 65% of the tax from the annexed area and the annexing city would receive 35% of such tax. The county's portion would be earmarked for the school system. This formula does not take effect until July 1, 1997. No action taken.</p>
-----------	--

Distribution of Situs-Based Taxes after Annexation and Incorporation (Prior to 1998 Growth Policy Act)

1997-1998	<ul style="list-style-type: none"> • Senate Bill 2266 by Cooper, House Bill 2267 by Curtiss Requires that any situs-based tax, including the beer, Hall income, and local option sales taxes, continue to be distributed to the county in the same amount as before annexation or incorporation with any growth in collections going to the newly formed municipality or the annexing municipality. No action taken. • Senate Bill 3341 by Cooper, House Bill 3298 by Curtiss Holds counties harmless from loss of beer, Hall income, and local option sales taxes because of annexations. No action taken.
-----------	---

Property Tax and Incorporation

1999-2000	<p>Public Chapter 169, Acts of 1999 Provides a property tax to be imposed by a newly incorporated municipality before it can receive state-shared taxes equal to Department of Revenue estimates of the amount of state-shared taxes the municipality would receive. Clarifies that the municipality must provide for the administration of the tax levied before receiving state-shared taxes. Senate Bill 1455 by Henry, House Bill 1528 by Kisber Passed, effective May 17, 1999.</p>
-----------	--

Commission to Study Plan of Service Requirements (Prior to 1998 Growth Policy Act)	
1997-1998	<p>Senate Bill 2707 by Dixon, House Bill 3252 by Jones, U. Creates a seven-member commission called the annexation plan of service commission to convene in Nashville and develop proposals for legislation to further refine the appropriate contents of plans of service and define circumstances governing the appropriate time frame for reasonable provision of services to annexed areas. No action taken.</p>
Plan of Services in Annexed Areas	
1997-1998	<ul style="list-style-type: none"> <p>Senate Bill 2565 by Haun, House Bill 2894 by Rinks Requires all services included in the plan of services to be provided within five years from the date of annexation. If the deadline is not met, the municipal limits of the annexing municipality would be contracted to exclude the non-served territory, and the municipality would refund to each resident in that area a portion of property taxes paid. No action taken.</p> <p>Senate Bill 3341 by Cooper, House Bill 3298 by Curtiss Directs municipalities in Davidson, Moore, Madison, and Shelby counties to adopt a plan of services before annexation including police and fire protection; water, electrical, and sanitary sewer or septic system service; solid waste collection; road and street construction and repair; recreational facilities and programs; street lighting; and zoning service. No action taken.</p>
2005-2006	<p>Public Chapter 411, Acts of 2005 Requires municipalities to prepare a plan of services for territory proposed to be annexed by referendum. Senate Bill 1583 by Norris, House Bill 403 by Sargent Passed, effective June 17, 2005.</p>
2013	<p>Senate Bill 1054 by Kelsey, House Bill 1263 by Carr Section 5 of the original bill addressed adoption of a plan of services, but it was amended out before passage of Public Chapter 462, Acts of 2013. The section would have simplified the plan of services requirement by removing current requirements including a detailed listing of the types of services that must be included in the plan, a study and report by the local planning commission, notice, and a public hearing on the plan.</p>

Implementation of Services After Annexation (Prior to 1998 Growth Policy Act)

1995-1996	<p>Senate Bill 366 by Wilder, House Bill 16 by Walley Requires all services in plan of services to be rendered to a newly annexed territory to be provided within five years of annexation. No action taken.</p>
1997-1998	<p>Senate Bill 2491 by Atchley, House Bill 3078 by Kerr Specifies that in cases of annexation by ordinance, water lines and sewer lines must be extended throughout annexed territory within five years. Also directs de-annexation of territory in cases of noncompliance at the end of five year period. No action taken.</p>

Schools within Plan of Services

2003-2004	<p>Public Chapter 225, Acts of 2003 Added schools within the required plan of services as well as specific provisions addressing the impact, if any, of annexation on school attendance zones. Senate Bill 762 by Dixon, House Bill 1458 by Chumney Passed, effective July 1, 2003.</p>
-----------	--

Trash Collection after Annexation

2009-2010	<p>Senate Bill 2695 by Ketron, House Bill 3779 by Todd Prohibits annexing municipalities from providing garbage collection services to newly annexed territories for five years from date of annexation unless collectors who served territory prior to annexation are contracted with for such services or are otherwise compensated. No action taken.</p>
-----------	--

Transfer of Utility Services after Annexation

1993-1994	<p>Public Chapter 375, Acts of 1993 Requires private individual or business entity that provides water service to annexing municipality to attempt to reach agreement to purchase assets and rights of water utility district when service area of district is annexed. If agreement is not reached, service area of utility district remains unchanged and private individual or entity will not provide utility service in district's area. Specifically permits natural gas utility district located and operated in "tourist resort county" (Sevier) to provide natural gas service to consumers in municipality in adjacent tourist resort county. Senate Bill 1416 by Albright, House Bill 1102 by Wood Passed, effective May 17, 1993.</p>
1997-1998	<ul style="list-style-type: none"> • Public Chapter 586, Acts of 1998 Establishes a method by which annexing municipalities may purchase all or part of electric distribution systems when annexed territory is being

	<p>provided electric service by a municipal electric system or other state instrumentality. Senate Bill 922 by Miller, House Bill 1133 by Gunnels Passed, effective March 11, 1998.</p> <ul style="list-style-type: none"> • Senate Bill 569 by Atchley, House Bill 569 by Tindell Increases from 60 to 90 days the amount of time an annexing municipality and the affected party have to reach an agreement on contested issues during the transfer of utilities before such issues are submitted for arbitration. No action taken.
2003-2004	<p>Public Chapter 93, Acts of 2003 Allows annexing municipalities to purchase the public functions, rights, duties, properties and customers from the previous provider of such services if such provider is an instrumentality of the state of Tennessee and on terms agreed to by the parties. Requires that the parties agree on the purchased price. If they cannot, the municipality and the affected instrumentality must each select one person qualified to value the public utility property to determine its fair market value. If an agreement still cannot be reached, they would jointly select a third person qualified to value public utility property, and the third person's determination of the fair market value of the property would control. Senate Bill 195 by Atchley, House Bill 465 by Overbey Passed, effective May 7, 2003.</p>
2005-2006	<p>Senate Bill 2031 by Burchett, House Bill 2041 by Armstrong Requires an annexing municipality attempting to purchase the entity providing utility services in the annexed area to submit to arbitration if the parties cannot agree on a purchase price within 60 days of the municipality's notice of intent to purchase. <i>Referred to the Commission for study. Retained for further study.</i> No action taken.</p>

Amending Growth Plans	
2003-2004	<p>Senate Bill 2569 by Haynes, House Bill 3142 by Bone Authorizes municipalities to unilaterally amend growth plans if the amendments affect land within their UGBs. Authorizes counties to unilaterally amend growth plans if the amendments affect land within their PGAs or RAs. <i>Referred to Commission for study. Recommended for passage.</i> No action taken.</p>
2005-2006	<p>Senate Bill 1588 by Norris, House Bill 1799 by Rinks Authorizes municipalities to unilaterally amend growth plans if the amendments affect land within their UGBs. Authorizes counties to unilaterally amend growth plans if the amendments affect land within</p>

	<p>their PGAs or RAs. <i>Referred back to the Commission for study. Retained for further study.</i> No action taken.</p>
2007-2008	<p>Senate Bill 3690 by Burchett, House Bill 2981 by Litz Allows property owners the opportunity every five years to file a written request with the mayor of the county or municipality where the property is located asking that their property be included in the rural growth area or the urban growth area. No action taken.</p>
2009-2010	<ul style="list-style-type: none"> • Public Chapter 374, Acts of 2009 Authorizes the mayor of any municipality in the county or the county mayor or county executive to propose an amendment to the growth plan. Requires that the county mayor or county executive promptly reconvene or re-establish the coordinating committee within 60 days of the receipt of the notice to amend the growth plan. The coordinating committee must submit the proposed amendment with its recommendation to the county legislative body and to the governing body of each municipality within the county for their approval or disapproval within six months of the date of the coordinating committee's first meeting on the proposed amendment. Senate Bill 169 by Ketron, House Bill 309 by Sargent Passed, effective June 9, 2009. • Public Chapter 1026, Acts of 2010 Authorizes municipalities to expand their urban growth areas to include tracts of land no larger than 10 acres if the land is contiguous to an existing UGB, has been annexed by the municipality, and has water and sewer service, and if the owner of the land consents to inclusion within the county's growth boundary. Expired July 1, 2012. Senate Bill 3489 by Ramsey, House Bill 3864 by Mumpower Passed effective June 9, 2010.
2011-2012	<ul style="list-style-type: none"> • Public Chapter 863, Acts of 2012 Extended Public Chapter 1026, Acts of 2010 (see above), to July 1, 2014. SB 3165 by Faulk, HB 3595 by Lundberg Passed, effective May 1, 2012. • Senate Bill 3703 by Norris, House Bill 3473 by Todd Moves a specified area of land located in Shelby County near the southeastern county line from the area reserved for annexation by Memphis to the planned growth area of the county. No action taken.
2013	<p>Senate Bill 613 by Yager, House Bill 1035 by Keisling Revises procedure for amending growth plans; establishes procedures for revising growth plans. Only the mayor of a municipality may propose amendments to change the UGB of that mayor's municipality. Only a county mayor or county executive may propose amendments to change</p>

	<p>the boundary between a PGA and a RA. Any other changes are deemed revisions of the growth plan and must be initiated by the county legislative body or municipal legislative bodies representing at least one-half of the population within the county.</p> <p><i>Referred to the Commission for study.</i></p>
--	--

Voter Approval of Growth Plan Amendment

2013	<p>Senate Bill 672 by Beavers, House Bill 535 by Pody Requires a referendum before implementation of any amendment to a growth plan; requires the local governing body to provide voter registration information and notice by mail to all potentially affected property owners. If any portion of the amended growth plan fails to be approved, it shall be removed from the amended growth plan and shall continue to exist in accordance with the plan in existence prior to the proposed amendment.</p> <p>No action taken.</p>
------	---

Judicial Review of Growth Plan

2005-2006	<p>Senate Bill 2229 by Finney, House Bill 2180 by McCord Provides that judicial review of comprehensive growth plans may be conducted in the chancery court of Davidson County and that such review may be conducted following amendment of a comprehensive growth plan.</p> <p><i>Referred to Commission for study. Not recommended.</i></p> <p>No action taken.</p>
-----------	---

Dispute Resolution and Growth Plans

2003-2004	<ul style="list-style-type: none"> • Senate Bill 1836 by Norris, House Bill 1830 by Davidson Requires dispute resolution panel appointed to review rejected growth plans to be qualified Supreme Court Rule 31 mediators. No action taken. • Senate Bill 2574 by Norris, House Bill 3058 by Sargent Makes efforts to mediate disputes regarding comprehensive growth plans confidential, revises proceedings and authority of dispute resolution panels; revises composition of dispute resolution panel. <i>Referred to Commission for study. Recommended for passage. See Public Chapter 278, Acts of 2005, below.</i>
2005-2006	<ul style="list-style-type: none"> • Public Chapter 278, Acts of 2005 Gives the Secretary of State the discretion to appoint one to three members to a dispute resolution panel to resolve growth plan disputes. Senate Bill 2574 by Norris, House Bill 3058 by Sargent, recommended by the Commission, was reintroduced as Senate Bill 1585 by Norris, House Bill 407 by Sargent. Passed effective May 28, 2005.

	<ul style="list-style-type: none"> • Senate Bill 3327 by Kilby, House Bill 3157 by Ferguson Increases the number of members on dispute resolution panels. <i>Referred to Commission for study. Not recommended.</i> No action taken.
--	--

Content of Growth Plans

1999-2000	<p>Senate Bill 1627 by Burchett, House Bill 1367 by Phelan Provides that UGBs, PGAs, and RAs identify territory where moratoria on building permits and plat approval will not be imposed, where the municipality is responsible for the adequacy of public facilities and cannot deny permits due to inadequate public facilities, and where no easement can be acquired by a public agency to preserve open space or agricultural land. Deletes language allowing growth plans to address land use, transportation, public infrastructure, housing and economic development. Deletes requirement that growth plan include a unified physical design for the development of the local community. No action taken.</p>
-----------	---

Restrictions on Amending Growth Plans

2009-2010	<p>Senate Bill 3634 by Burchett, House Bill 3695 by Niceley Prohibits county designated as non-attainment county under the federal Clean Air Act from proposing planned growth areas that include certain agricultural property. Failed in House State and Local Government Committee; no action taken in the Senate.</p>
2013	<p>Senate Bill 732 by Watson, House Bill 231 by Carter Places restrictions on the ability of the mayor of a municipality that has not annexed all territory within its UGB to propose an amendment to the growth plan and to serve on the coordinating committee reconvened or reestablished to amend the growth plan. <i>Referred to Commission for study.</i></p>

Deadlines for Adopting Growth Plans

1999-2000	<ul style="list-style-type: none"> • Senate Bill 1531 by Ramsey, House Bill 623 by Westmoreland Extends deadlines by one year for counties and municipalities to develop and submit growth plans in order to qualify for certain grants. Failed in House Local Government Subcommittee; no action in the Senate. • Senate Bill 1969 by Davis, L., House Bill 1975 by Windle Extends date for Overton County to recommend growth plan, submit it for approval to the county legislative body and by the Local Government Planning Advisory Committee. No action taken.
-----------	---

Extra-territorial Planning and Zoning Authority	
2003-2004	<ul style="list-style-type: none"> <p>• Senate Bill 2566 by Haynes, House Bill 3141 by Bone Deletes the provision requiring county approval in order for a municipality in a county without zoning to extend its zoning and subdivision regulation beyond its corporate limits. Authorizes municipal planning commissions that have been designated regional planning commissions to exercise zoning authority without reference to county zoning. Deletes provision specifying that county zoning authority supersedes regional zoning. <i>Referred to Commission for study. Retained for further study.</i> No action taken.</p> <p>• Senate Bill 2567 by Haynes, House Bill 3059 by Sargent Deletes the provision requiring county approval in order for a municipality in a county without zoning to extend its subdivision regulation beyond its corporate limits. <i>Referred to Commission for study. Retained for further study.</i> No action taken.</p>
2011-2012	<ul style="list-style-type: none"> <p>• Senate Bill 347 by Haynes, House Bill 125 by Sargent Deletes the provision requiring county approval in order for a municipality in a county without zoning to extend its zoning and subdivision regulation beyond its corporate limits. <i>Referred to Commission for study. Not recommended.</i> No action taken.</p> <p>• Senate Bill 3119 by Yager, House Bill 3041 by Elam Deletes the provision requiring county approval in order for a municipality in a county without zoning to extend its subdivision regulation beyond its corporate limits. <i>Referred to Commission for study. Not recommended.</i> No action taken.</p>

Expand and Define Planning and Consistency Requirements	
1999-2000	<p>Senate Bill 1627 by Burchett, House Bill 1367 by Phelan Removes requirement that all land use decisions be consistent with the growth plan once it is approved. Requires land not in UGBs, PGAs, or RAs to retain current zoning. No action taken.</p>
2003-2004	<p>Senate Bill 2444 by Norris, House Bill 3143 by Bone Requires growth plans to address land use, transportation, public infrastructure, housing and economic development. Provides that any planned use of land by a state entity shall be consistent with the adopted growth plan of the local government where the land is located. Requires state entities to concentrate public infrastructure investments within UGBs or PGAs and specifies that any such infrastructure in a RA must be designed to have minimum effects. <i>Referred to Commission for study. Recommended for passage.</i> No action taken.</p>
2005-2006	<p>Senate Bill 1586 by Norris, House Bill 1798 by Rinks Requires growth plans to address the aspects of growth that are recommended in current law and adds to that list requirements for mixed growth and natural resource preservation and prohibitions on premature development. <i>Referred back to the Commission for study. Retained for further study.</i> No action taken.</p>

Joint Economic and Community Development Boards (JECDB)	
1999-2000	<p>Senate Bill 2996 by Burchett, House Bill 2911 by Stulce Requires each county to establish a JECDB to foster communication and cooperation regarding planning and development among governmental entities, industry, and private citizens. Broadly captioned. No action taken.</p>
2003-2004	<ul style="list-style-type: none"> • Senate Bill 2447 by Norris, House Bill 3060 by Sargent Specifies that if a local government does not fully fund its contribution to the JECDB's budget, then such local government is not eligible to receive grants from certain specified programs. <i>Referred to the Commission for study. Retained for further study.</i> No action taken. • Senate Bill 2747 by Trail, House Bill 2855 by Hood Requires the executive committee of a JECDB to meet only as needed rather than eight times annually. <i>Referred to the Commission for study. The Commission recommended the executive committees be required to meet at least once each quarter with mayors permitted to designate an alternate to serve on the JECDB or its</i>

	<i>executive committee. See Public Chapter 245, Acts of 2005, below.</i>
2005-2006	<ul style="list-style-type: none"> Public Chapter 245, Acts of 2005 Reduces the number of times the executive committee of the JECDB meets to four times a year. It also authorizes a county or city mayor or manager to designate an alternate representative on the board and its executive committee. Senate Bill 2747 by Trail, House Bill 2855 by Hood, recommended by the Commission if amended, was reintroduced with changes as Senate Bill 1584 by Norris, House Bill 239 by Hood. Passed, effective May 27, 2005. Public Chapter 608, Acts of 2006 Added language authorizing the JECDBs to transfer or donate funds from participating governments or outside sources to other public or non-profit entities within the county to be used for economic or industrial development purposes. Senate Bill 2994 by Herron, House Bill 3022 by Maddox Passed, effective May 4, 2006. Senate Bill 2228 by Finney, House Bill 2179 by McCord Provides greater local latitude in certifying an existing county organization as a substitute entity for a county joint economic and community development board required under the provisions of the comprehensive growth plan statutes. <i>Referred to Commission for study. The Commission recommended removing the deadline in the law to allow LGPAC to consider any existing board for sufficiently similar status regardless of when it was created.</i> No action taken.

TACIR to Monitor or Study Annexation or Growth Policy	
1993-1994	House Joint Resolution 58 Directs the Commission to study citizens' rights in respect to annexation. No action taken.
1997-1998	1998 Growth Policy Act, Acts of 1998 Directs the Commission to monitor the implementation of the Growth Policy Act until December 31, 2002. Senate Bill 3278 by Rochelle, House Bill 3295 by Kisber Passed, effective May 19, 1998.
2001-2002	Public Chapter 594, Acts of 2002 Eliminated the December 31, 2002, deadline, directing the Commission to monitor the implementation of the Growth Policy Act indefinitely. Senate Bill 2795 by Rochelle, House Bill 2564 by Turner Passed, effective April 9, 2002.
2013	Public Chapter 441, Acts of 2013 Requires study by the Commission of Title 6, Chapters 51 and 58, and

	<p>imposes a 13-month moratorium on annexing property used for residential or agricultural purposes.</p> <p>Senate Bill 279 by Watson, House Bill 475 by Carter Passed, effective May 16, 2013.</p>
--	---

McGhee Tyson Airport and Annexation

1993-1994	<p>Public Chapter 213, Acts of 1993 Prohibits annexation of regional airport authority by municipality without prior consent of participating municipalities in regional airport commission.</p> <p>Senate Bill 1180 by Holcomb, House Bill 1043 by Allen Passed, effective April 19, 1993.</p>
1997-1998	<p>Senate Bill 498 by Atchley, House Bill 1168 by Ritchie Prohibits annexation of McGhee-Tyson airport property in Blount County without consent of airport authority.</p> <p>No action taken.</p>
2001-2002	<p>Public Chapter 572, Acts of 2002 Added language requiring that an airport located in a county other than the county where the creating municipality is located shall be in an annexation-free zone except upon approval by resolution of the legislative body of the creating municipality.</p> <p>Senate Bill 2421 by Atchley, House Bill 2419 by Tindell Passed, effective April 6, 2002.</p>
2003-2004	<p>Senate Bill 1808 by Clabough, House Bill 1883 by McCord Deletes provision placing property of airport with regularly scheduled commercial passenger service and located in county other than county where creating municipality is located in annexation-free zone.</p> <p>No action taken.</p>

Requirements for Incorporation

1995-1996	<ul style="list-style-type: none"> <p>Public Chapter 666, Acts of 1996 Makes a particular territory near Chattanooga (Tennessee River, state line reference) capable of being incorporated if it contains 225 persons or more and is 1600 feet or more above sea level (reportedly community of Elder Mountain).</p> <p>Senate Bill 2710 by Elsea, House Bill 2033 by Rhinehart Passed, effective March 22, 1996.</p> <p>Public Chapter 708, Acts of 1996 Authorizes area to become incorporated even if within range of annexation of existing city if existing body resolves that it has no interest in annexing area. Applies only to Williamson County.</p> <p>Senate Bill 3058 by Jordan, House Bill 2889 by Callicott Passed, effective April 3, 1996.</p>
-----------	--

<p>1997-1998</p>	<ul style="list-style-type: none"> <p>• Public Chapter 98, Acts of 1997 Authorizes the incorporation of territory with as few as 225 people, and the county or counties where any new municipality is located to continue to receive the revenue generated there from all state and local taxes distributed on the basis of situs of collection until July 1 following the incorporation unless the incorporation takes effect on July 1. Incorporating municipalities must notify the Department of Revenue prior to the incorporation becoming effective for the purpose of tax administration. Senate Bill 1191 by Ramsey, House Bill 1000 by Rinks Passed, effective April 16, 1997.</p> <p>• Senate Bill 2145 by Davis, L., House Bill 2137 by Ferguson Authorizes municipalities with as few as 225 people that held elections for incorporation from April 16, 1997, through November 25, 1997, to conduct another election under the same conditions. Failed in House State and Local Government Committee; no action taken in the Senate.</p>
<p>1999-2000</p>	<p>Senate Bill 2371 by Ramsey, House Bill 2192 by Godsey Authorizes any unincorporated area that serves as a county seat to incorporate as new municipality. No action taken.</p>

Deletes Obsolete Provisions	
<p>2007-2008</p>	<p>Public Chapter 818, Acts of 2008 Removes provisions from the Growth Policy Act governing annexation by municipalities before the adoption of growth plans. Senate Bill 2972 by Norris, House Bill 3437 by Rinks Passed, effective April 29, 2008.</p>

**Appendix D. Local Option Sales Tax Hold Harmless Payments Expiring 2014-2027
(excluding half earmarked for education)**

County	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
Anderson	\$ -	\$ -	\$ 7,264	\$ -	\$ -	\$ -	\$ -	\$ 68,848	\$ -	\$ -	\$ -	\$ -	\$ 24,787	\$ 6,929	\$ 107,829
Bedford	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Benton	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bledsoe	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Blount	3,754	6,076	120,973	-	6,718	-	26,688	-	1,219	1,002	-	22,471	45,238	33,097	267,237
Bradley	-	-	-	-	-	225,316	-	-	-	-	-	-	976	-	226,292
Campbell	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cannon	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Carroll	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Carter	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cheatham	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Chester	-	-	45,828	-	-	-	-	-	-	-	-	-	-	-	45,828
Claiborne	-	-	-	-	-	-	-	-	11,657	-	552	1,176	-	-	13,384
Clay	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cocke	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Coffee	-	-	-	-	-	-	410	-	-	-	-	-	-	-	410
Crockett	-	-	-	-	-	-	-	-	-	792	-	-	-	-	792
Cumberland	-	6,787	-	-	-	-	18,840	44,064	579	-	1,879	-	179	8,562	80,889
Davidson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Decatur	-	-	-	-	-	-	-	68,535	-	-	-	-	-	-	68,535
DeKalb	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dickson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dyer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fayette	-	-	-	-	-	-	-	30,670	-	-	-	-	-	-	30,670
Fentress	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Franklin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gibson	-	-	3,367	-	-	-	-	-	280	-	-	-	-	-	3,647
Giles	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Grainger	19,791	-	-	-	-	-	-	-	-	-	-	-	-	-	19,791
Greene	-	-	66,608	-	33	-	-	-	-	3,702	3,438	-	-	-	73,782
Grundy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hamblen	-	51	-	2,942	57,288	10	-	39	18,051	35	9,322	19,756	-	-	107,493
Hamilton	-	-	-	-	148,236	-	-	-	-	-	-	-	-	-	148,236
Hancock	-	-	1,668	-	-	-	-	-	-	-	-	-	-	-	1,668
Hardeman	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hardin	-	-	3,314	-	-	-	3,954	-	-	-	-	8	-	-	7,276
Hawkins	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Haywood	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Henderson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Henry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hickman	-	-	-	472	-	-	-	-	-	-	-	-	-	-	472
Houston	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Humphreys	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Jackson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

County	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
Jefferson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Johnson	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Knox	-	185,303	371,482	246,874	615,763	26,075	130,782	-	235,158	128,922	4,786	-	-	-	\$ 1,945,145
Lake	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Lauderdale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Lawrence	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Lewis	-	-	13,348	-	-	-	-	-	-	-	-	-	-	-	\$ 13,348
Lincoln	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Loudon	-	-	35,082	-	-	-	-	-	-	-	-	-	-	-	\$ 35,082
McMinn	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
McNairy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Macon	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Madison	118,370	-	-	-	-	-	-	-	-	-	61,232	-	-	-	\$ 179,602
Marion	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Marshall	-	-	-	10,301	18,935	-	-	-	-	-	1,345	-	-	-	\$ 30,581
Maury	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Meigs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Monroe	-	-	-	-	-	-	-	-	-	-	-	-	17,058	-	\$ 17,058
Montgomery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Moore	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Morgan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Obion	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Overton	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Perry	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Pickett	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Polk	-	-	-	-	48,014	-	-	-	235	-	3,776	-	-	-	\$ 52,024
Putnam	-	25,255	68,103	-	1,008	-	-	344	-	-	-	491	-	818	\$ 96,019
Rhea	-	-	-	-	29,820	-	-	-	-	-	-	-	-	-	\$ 29,820
Roane	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Robertson	461	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ 461
Rutherford	-	-	-	-	-	-	-	-	-	-	-	-	443	6,806	\$ 7,249
Scott	-	-	50,862	-	-	-	-	-	-	-	-	-	29,699	-	\$ 80,561
Sequatchie	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Sevier	138,047	3,681	-	-	-	-	-	-	-	-	-	-	-	-	\$ 141,728
Shelby	-	542,161	-	95,606	-	-	10,824	6,069	-	-	-	-	-	29,077	\$ 683,736
Smith	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Stewart	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Sullivan	-	-	24,727	-	-	-	358,296	-	3,513	31,526	131,427	27,978	22,486	878	\$ 600,831
Sumner	-	-	-	232	-	-	-	419	-	-	-	-	-	-	\$ 15,845
Tipton	2,501	-	-	-	5,321	-	-	-	-	-	-	-	-	-	\$ 7,821
Trousdale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Unicoi	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Union	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Van Buren	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -

County	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
Warren	-	1,346	-	-	-	-	-	-	-	56,819	-	-	-	-	\$ 58,165
Washington	17,625	-	123,862	-	-	3,043	14,540	53,996	43,013	13	-	-	-	34,474	\$ 290,567
Wayne	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Weakley	-	212	-	-	-	-	-	-	-	-	-	-	-	-	\$ 212
White	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
Williamson	-	-	-	3,506	-	10,516	-	10,823	-	1,252	3,042	8,278	-	-	\$ 37,418
Wilson	-	-	-	133,156	2,149	-	-	-	-	-	-	-	-	-	\$ 135,304
TOTAL	\$ 300,549	\$ 770,874	\$ 936,489	\$ 493,089	\$ 933,285	\$ 264,960	\$ 564,333	\$ 283,807	\$ 313,703	\$ 263,754	\$ 220,799	\$ 80,158	\$ 140,867	\$ 120,640	\$ 5,687,307

Source: Tennessee Department of Revenue (allocations divided by half)

Appendix E. Attorney General Opinion No. 13-106

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

December 20, 2013

Opinion No. 13-106

Right of Non-Resident Property Owners to Vote in Annexation Referendum

QUESTIONS

1. If the General Assembly enacted legislation requiring a referendum to validate a city ordinance annexing property, could this legislation constitutionally restrict participation in the referendum to the property owners in the territory to be annexed, excluding from participation people who reside in the territory but do not own property in it?
2. Could this legislation constitutionally allow both residents and nonresident property owners within the territory to be annexed to vote in the referendum?
3. Assuming this legislation could constitutionally allow nonresident property owners to vote in the referendum, could the General Assembly, as a condition of voting, constitutionally require such nonresident property owners to either be qualified voters for members of the General Assembly or citizens of the United States?

OPINIONS

1. Any such limit must be necessary to further a compelling state interest, and this Office is unaware of any compelling state interest to justify limiting the right to vote in an annexation referendum to property owners in the area to be annexed. The fact that property owners will be subject to property tax while nonproperty owning residents will not is not a constitutionally sufficient basis for excluding nonproperty owning residents from voting on an annexation referendum.
2. Such legislation may be constitutionally defensible if appropriately drafted. A provision extending the right to vote in annexation elections to nonresident property owners in the territory to be annexed should contain some minimum limits on property ownership to ensure that these owners have a substantial interest in the election. Extending the franchise to nonresident property owners is also subject to a challenge that, under particular facts and circumstances, the system unconstitutionally dilutes the votes of residents.
3. Under Tennessee law, in order to vote for a member of the General Assembly, a voter must be a citizen of the United States, eighteen years or older, reside in the legislative district, and not be otherwise disqualified, for example, by a felony conviction. These are all valid

requirements for allowing residents in a territory to be annexed to vote. The General Assembly may constitutionally set these same qualifications on voting on an annexation referendum for nonresident property owners who own property in a territory to be annexed. Since property owners do not have a fundamental right to vote in an annexation referendum, further qualifications need only be supported by a rational basis. Each of these restrictions is rationally related to the State's legitimate interest of ensuring that voters in the referendum have a certain level of maturity, can be readily ascertained, and have a reasonable opportunity to inform themselves about the subject of the election. The General Assembly may also constitutionally extend the right to vote in an annexation referendum to persons who own property in an area to be annexed so long as they are United States citizens, subject to the qualifications noted in response to Question 2.

ANALYSIS

1. Allowing only Property Owners to Vote in Annexation Referendum

This opinion addresses who may constitutionally be allowed to vote, or be excluded from voting, on a referendum to approve a city's decision to annex unincorporated territory by ordinance. The first question is whether the right to vote on annexation could be limited to persons, whether resident or not, who own property in the territory to be annexed.

The power of a municipality to annex property and the right to challenge the exercise of this power are strictly statutory. *State ex rel. Hornkohl v. City of Tullahoma*, 746 S.W.2d 199, 201 (Tenn. Ct. App. 1987). As this Office recently observed, the General Assembly is not constitutionally required to allow any citizens to vote on whether territory where they reside or own property will be annexed to a municipality. Tenn. Att'y Gen. Op. 13-58, at 2 (July 25, 2013). Similarly, citizens have no constitutionally protected right to have their residential property annexed into a city. Tenn. Att'y Gen. Op. 13-45, at 3-4 (June 11, 2013). A Tennessee citizen's right to vote in federal, state, and local elections is set forth by the Tennessee Constitution:

Every person, being eighteen years of age, being a citizen of the United States, being a resident of the State for a period of time as prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides. All such requirements shall be equal and uniform across the state, and *there shall be no other qualification attached to the right of suffrage.*

Tenn. Const. Art. IV, § 1 (emphasis added). But this provision does not apply to municipal corporations. *Ledgerwood v. Pitts*, 122 Tenn. 570, 125 S.W. 1036, 1042 (1910); Tenn. Att'y Gen. Op. 08-122 (July 10, 2008) (nonresident property owners may constitutionally be authorized to vote in municipal elections).

Under the United States Constitution, any limitations on the right to vote beyond reasonable citizenship, age, and residency requirements are subject to strict scrutiny to determine whether they violate the “equal right to vote” under the Fourteenth Amendment to the United States Constitution. *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) (durational residency requirements). Where a state statute grants the right to vote to some bona fide residents of requisite age and citizenship and denies the franchise to others, courts must determine whether the exclusions are necessary to promote a compelling state interest. *Kramer v. Union Free School District No. 15*, 395 U.S. 621, 627 (1969)(citing *Carrington v. Rash*, 380 U. S. 89, 96 (1965)). In *Kramer*, the United States Supreme Court found unconstitutional a statute that limited the right to vote in school district elections to property owners, lessees of taxable realty, and parents or guardians of children in public schools. The Court found that these restrictions were not narrowly tailored to promote the state’s declared interest in limiting the franchise to those “primarily interested” in school affairs. The court noted that the classifications “permit inclusion of many persons who have, at best, a remote and indirect interest, in school affairs, and, on the other hand, exclude others who have a distinct and direct interest in the school meeting decisions.” *Id.* at 632.

For similar reasons, the United States Supreme Court has invalidated state laws limiting the right to vote on the issuance of local government general obligation bonds to property owners. *City of Phoenix v. Kolodziejcki*, 399 U.S. 204, 213 (1970); *Cipriano v. City of Houma*, 395 U.S. 701, 706 (1969); *Hill v. Stone*, 421 U.S. 289, 297 (1975). In *City of Phoenix*, the Court rejected the city’s argument that the statute recognized the “unique interest” of real property owners in the issuance of general obligation debt. The Court noted that all residents—both property owners and non-property owners—would be substantially affected by the outcome of the bond election. 399 U.S. at 209. The Court, therefore, found no basis for concluding that nonproperty owners were substantially less interested in the issuance of the bonds than property owners. *Id.* at 212. Thus, the restriction was not narrowly tailored to promote a compelling state interest.

The Court has recognized that, in narrow circumstances, the legislature may constitutionally limit the right to vote to landowners in a district so long as the limit is relevant to achievement of the regulation’s objective. *Salyer Land Company v. Tulare Lake Basin Water Storage District*, 410 U.S. 719, 730 (1973). In that case, the Court upheld a state law limiting the right to vote for directors of a water storage district to landowners in the district, whether resident or not. The Court distinguished water districts from other units of local governments exercising general governmental power. *Id.* at 727-28. The Court traced the history of irrigation issues in the western states and noted that the district in question did not have general governmental authority. Instead, its powers were limited to projects regarding water acquisition and distribution. Costs of its projects were assessed against district land in accordance with benefits accruing to each tract held in separate ownership. The Court found, therefore, that the statute would not be subject to “close scrutiny” under the tests articulated in *Kramer*, *Phoenix*, and *Houma*. *Id.* at 730. Instead, the Court applied a less exacting rational basis test and found a rational basis to support the limit.

The United States Supreme Court has not directly addressed whether a limit on the right to vote in an annexation referendum is subject to the higher standard of scrutiny outlined in

Kramer and the other cases discussed above. The United States Court of Appeals for the Fourth Circuit addressed this issue in *Hayward v. Clay*, 573 F.2d 187 (4th Cir. 1978), *cert. denied*, 439 U.S. 959 (1978). There, a city and its registered voters challenged a state law that required a majority of property owners in an area proposed to be annexed to consent to the annexation before a general annexation referendum could be held. If the property owners consented, then voters in the territory to be annexed and the annexing municipality would have to approve the annexation. The court found that this provision in effect permitted property holders to prevent residents in the affected areas from exercising their right to vote. The court acknowledged that, under the United States Constitution, there is no fundamental right to vote on annexation. But the court noted that, “once the right to vote is established, the equal protection clause requires that, in matters of general interest to the community, restriction of the franchise on grounds other than age, citizenship, and residence can be tolerated only upon proof that it furthers a compelling state interest.” 573 F.2d at 190 (citing *Hill v. Stone*, 421 U.S. at 297). The court found that the statute was subject to strict scrutiny under the reasoning in *Cipriano*, *Phoenix*, and similar cases. 573 F.2d at 190. The court stated:

A change in the entire structure of local government is a matter of general interest. Annexation will affect municipal services that every citizen receives whether or not he is a freeholder. The district court found that this annexation “not only involves changes in taxation, police, and fire protection, sanitation, water, sewer and other public services, but brings about a complete change in the form of municipal government itself.” Therefore, a property-based classification of voters is of no less constitutional significance in an annexation referendum than when the question is the issuance of municipal bonds or the details of operating a school system.

Id. The court found that proponents of the statute failed to show differences in the impact of annexation on property owners and nonproperty owners amounting to a compelling state interest. Relying on *Phoenix*, the court stated that the fact that property owners would immediately be subject to higher property taxes upon annexation was an insufficient basis for restricting the franchise. *Id.*

Under the reasoning articulated in *Hayward*, the right to vote in an annexation referendum cannot be restricted on grounds other than age, citizenship, and residence unless the restriction furthers a compelling state interest. The fact that property owners, unlike people who reside in the area, will be immediately subject to city property taxes does not by itself justify such restriction. This Office is unable to articulate any other compelling state interest to justify limiting the right to vote in an annexation referendum to property owners in the area to be annexed.

2. Allowing Nonresident Property Owners as well as Residents to vote in Annexation Referendum

The next question is whether the right to vote in an annexation referendum may constitutionally be extended to allow nonresident property owners, as well as residents in a territory to be annexed, to vote in an annexation referendum. The Tennessee Supreme Court has stated that the right of nonresident property owners to vote in municipal elections is dependent altogether upon the determination of the General Assembly. *Clay v. Buchanan*, 162 Tenn. 204, 36 S.W.2d 91, 93 (1931). Extending the right to vote in this way would also be subject to analysis under Section 2 of the Voting Rights Act and the Fourteenth Amendment to the United States Constitution. Section 2 of the Voting Rights Act prohibits an electoral practice that was adopted for a discriminatory purpose or that results in minorities being denied equal access to the political process. See, e.g., *Brown v. Board of Commissioners of the City of Chattanooga*, 722 F.Supp. 380, 389 (E.D. Tenn. 1989). Under the Fourteenth Amendment, an electoral classification that affects some citizens differently from others, “will not be set aside if any state of facts reasonably may be conceived to justify it.” *Glisson v. Mayor and Councilmen of the Town of Savannah Beach*, 346 F.2d 135, 137 (5th Cir. 1965) (upholding statute allowing nonresidents who owned property in town and who resided in the county where the town was located to vote in town elections) (citing *McGowan v. State of Maryland*, 366 U.S. 420, 426-27 (1961)).

In *Brown*, the District Court for the Eastern District of Tennessee found invalid a city ordinance allowing nonresidents who owned even a trivial amount of property in the City of Chattanooga to vote in city elections. 722 F.Supp at 399. The court acknowledged that nonresident property owners have an interest in the conduct of city affairs but noted that the ordinance did not limit the number of people who could vote with respect to a piece of property or set any minimum property value required for the exercise of the franchise. *Id.* The court noted that as many as twenty-three nonresidents had been registered to vote on a single piece of city property and that fifteen nonresidents were registered to vote as co-owners of one parcel of property with an assessed value of one hundred dollars. The court stated that such an owner does not have a substantial interest in the operation of the city. The court concluded, therefore, that the city ordinance did not further a rational governmental interest. *Id.* For this reason, a provision extending the right to vote in annexation elections to nonresident property owners in the territory to be annexed should contain some minimum limits on property ownership to ensure that these owners have a substantial interest in the election.

Extending the franchise to nonresident property owners may also be subject to a challenge that the system unconstitutionally dilutes the votes of residents. Where the government allocates the franchise in such a manner that residents of a separate area have little or no chance to control their own school board, for example, there may be “grave constitutional concerns,” even where nonresident owners have a substantial interest in the issue. *Duncan v. Coffee County, Tennessee*, 69 F.3d 88, 97 (6th Cir. 1995). In cases where nonresident property owners outnumber residents, for example, a court could find that the classification unconstitutionally dilutes the votes of residents.

3. Additional Qualifications for all Voters—both Residents and Nonresident Property Owners—in Annexation Referendum

a. Qualified to vote for General Assembly

The next question is whether the General Assembly could constitutionally require both residents and nonresident property owners to be qualified to vote for the General Assembly. Under Tenn. Code Ann. § 2-2-102:

A citizen of the United States eighteen (18) years of age or older who is a resident of this state is a qualified voter unless the citizen is disqualified under the provisions of this title or under a judgment of infamy pursuant to § 40-20-112.

The question is whether the General Assembly may constitutionally require each voter—both residents and nonresident property owners—in an annexation referendum to be a citizen of the United States, eighteen years or older, a state resident, and not otherwise disqualified.

The last question is whether the General Assembly may extend the right to nonresident property owners to vote in an annexation referendum so long as they are United States citizens. As discussed above, this is a constitutionally permissible restriction.

United States citizenship is a valid and permissible criterion for determining who is allowed to vote. *See, e.g., People v. Rodriguez*, 111 Cal. Rptr. 238, 239 (Cal. Ct. App. 1973); *Skafta v. Rorex*, 553 P.2d 830, 832 (Colo. 1976), *appeal dismissed*, 430 U.S. 961 (1977). Under the Twenty-Sixth Amendment to the United States Constitution, United States citizens who are eighteen years of age or older may not be denied the right to vote on account of age. But there is no constitutional requirement that younger voters be extended the right to vote. Further, in general, states may properly and constitutionally require persons who desire to vote in state and local elections to be bona fide residents thereof, and nothing in the United States Constitution prohibits the states from denying the right to vote to any person who is not a bona fide resident. Thus, the General Assembly may restrict the right to vote in an annexation referendum to United States citizens eighteen years of older who reside in Tennessee and in the county where the election is held.

We assume that, with regard to property owners, the question is whether the General Assembly may constitutionally extend the right to persons who own property in a territory to be annexed so long as they are United States citizens, eighteen years of age or older, and residents of some county in the state. Since property owners do not have a fundamental right to vote in an annexation referendum, further qualifications need only be supported by a rational basis. Each of these restrictions is rationally related to the State's legitimate interest of ensuring that voters in the referendum have a certain level of maturity, can be readily ascertained, and have a reasonable opportunity to inform themselves about the subject of the election.

Page 7

b. United States Citizenship

The last question is whether the General Assembly may extend the right to nonresident property owners to vote in an annexation referendum so long as they are United States citizens. As discussed above, this is a constitutionally permissible restriction.

ROBERT E. COOPER, JR.
Attorney General and Reporter

BARRY TURNER
Deputy Attorney General

ANN LOUISE VIX
Senior Counsel

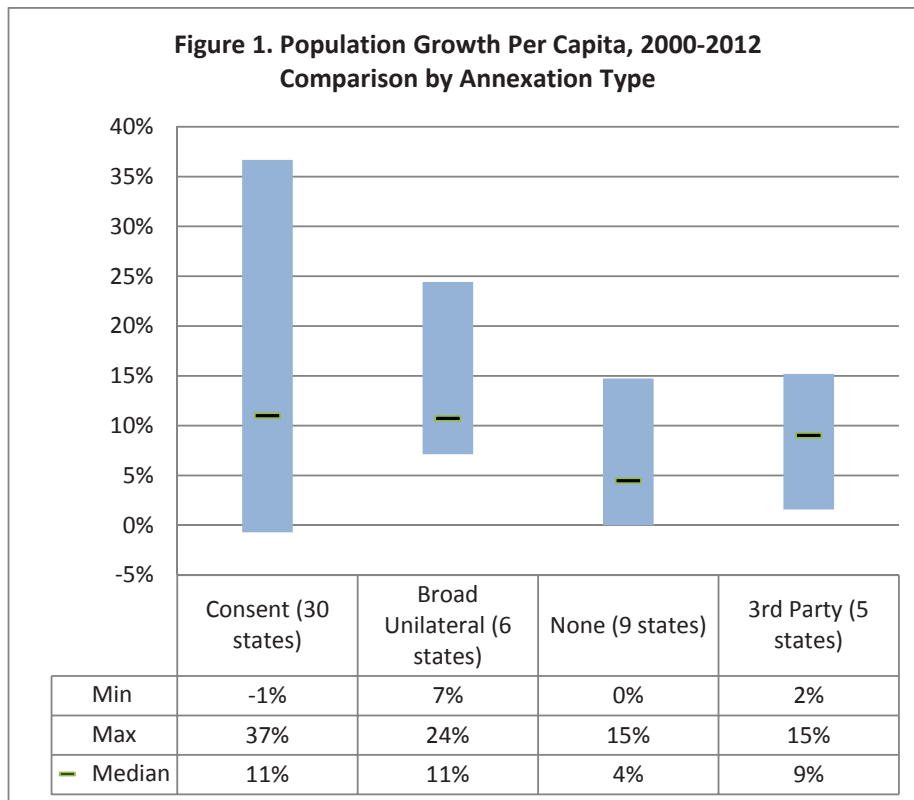
Requested by:

The Honorable Mark Pody
State Representative
203 War Memorial Building
Nashville, Tennessee 37243-0146

Appendix F. Economic Performance by Annexation Methods

To evaluate the claim that expanding cities’ boundaries is essential to economic growth, staff grouped states by type of annexation method—consent only, broad unilateral authority, none, and third party approval—and compared their performance using growth per capita since 2000 in four measures, population, gross domestic product (GDP), personal income, and employment. No matter how they were compared, no connection between annexation method and economic performance was found.

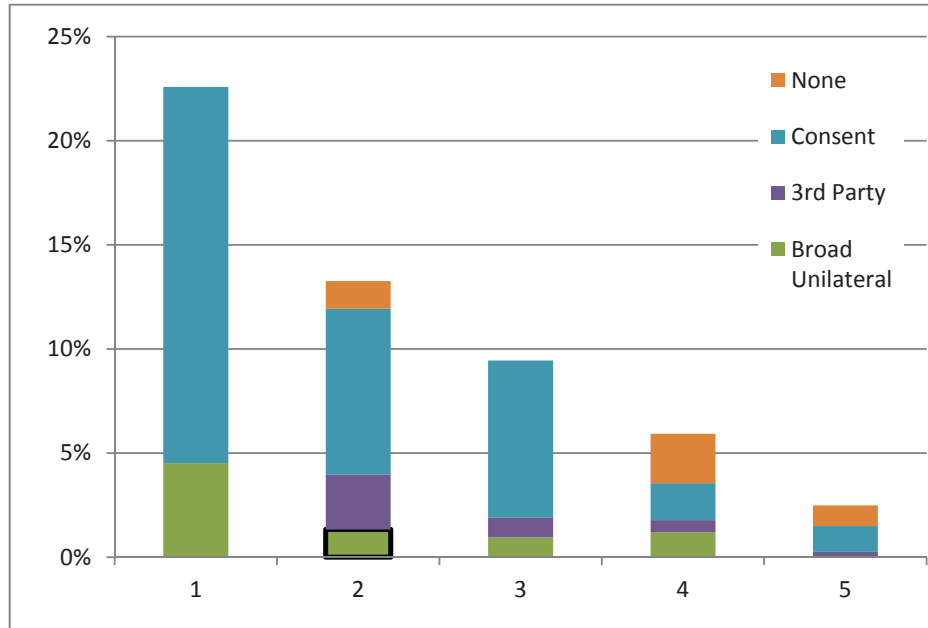
As shown in figure 1, population growth varied widely within each group of states, but not among them except for the group of states where little to no annexation occurs. The midpoint for the consent states and the states with broad annexation authority was the same (a median of 11%). The midpoint for states requiring third-party approval of annexation was only slightly less (9%). The midpoint for states where annexation doesn’t occur was the lowest among the four groups of states (4%).



The state with the largest growth rate, Nevada at 37%, is a consent state. Texas had the largest population growth (24%) among the broad unilateral states. Tennessee, which is part of the same group as Texas, had a growth rate of 13%. When the states are grouped by growth rate rather than by annexation method, states in all four annexation-method groups fell into all but one of the five growth groups, indicating further that the annexation method has no effect

on population growth. The top growth group included only broad unilateral and consent states. See figure 2.

Figure 2. Population Growth per Capita, 2000-2012, by Quintile and Annexation Type



The midpoint for growth rates for real GDP per capita was similar across the annexation type groups, ranging from 7% for third party states to 10% for broad unilateral states.¹ North Dakota, a consent state, had the largest growth (67%). Nebraska had the largest growth (18%) among the broad unilateral states; Tennessee’s growth was 7%. See figure 3. When grouped by growth rate, the top ten included eight consent states, Nebraska, a state with broad unilateral annexation, and Vermont, a state with no annexation. The bottom group included only states with no annexation while the other three groups included all four annexation methods. See figure 4.

¹ Real GDP is the market value of the nation’s goods and services, adjusted for inflation.

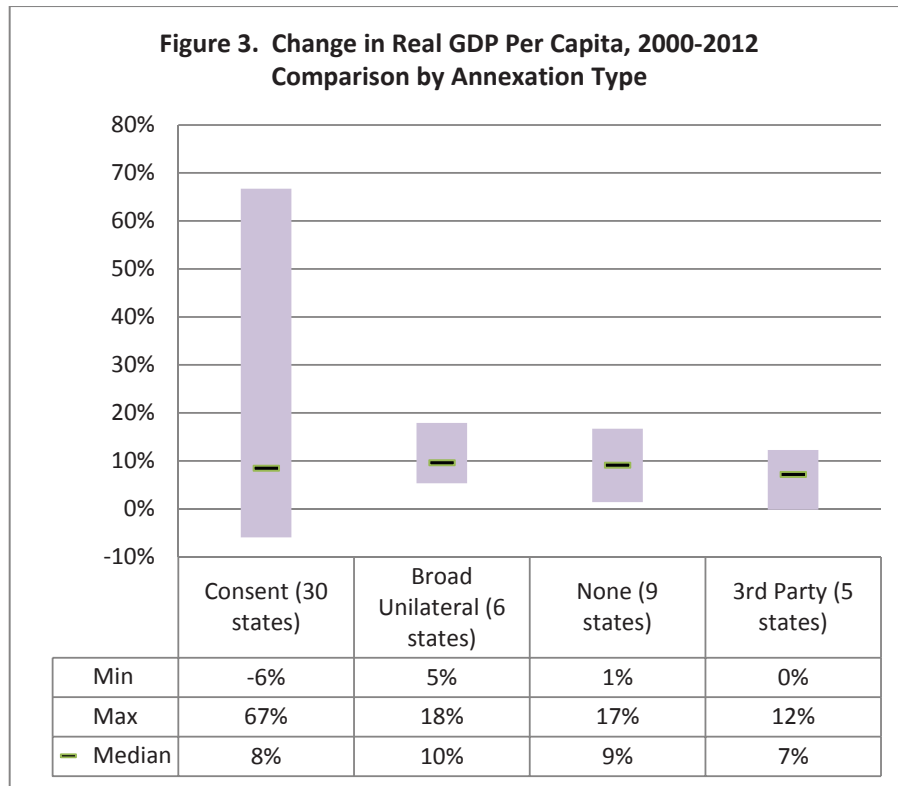
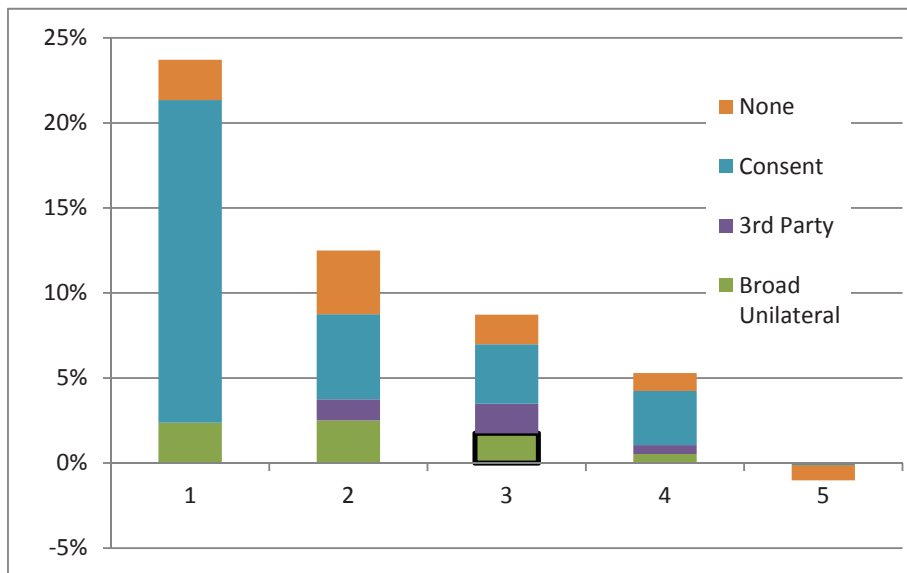


Figure 4. Real GDP Growth Per Capita, 2000-2012, by Quintile and Annexation Type



The midpoint growth rate for real personal income per capita was also similar across the annexation type groups, ranging from 41% for consent states to 47% for third party states. North Dakota was again the leading state, with 103% growth in personal income per capita

since 2000. Tennessee slightly lagged the other broad unilateral states, with 41% growth compared to their average of 43%. See figure 5. When grouped by growth rate, the ten states making up the first group included nine consent states and New Mexico, a third party state. Tennessee was again in the third quintile, which averaged 43% growth. The third growth group also included two consent states, one state that uses third party approval of annexation, four that have no annexation, and two other broad unilateral states; the second and third growth groups also included all four annexation types. The bottom growth group included states with no annexation and one state with broad unilateral annexation. See figure 6.

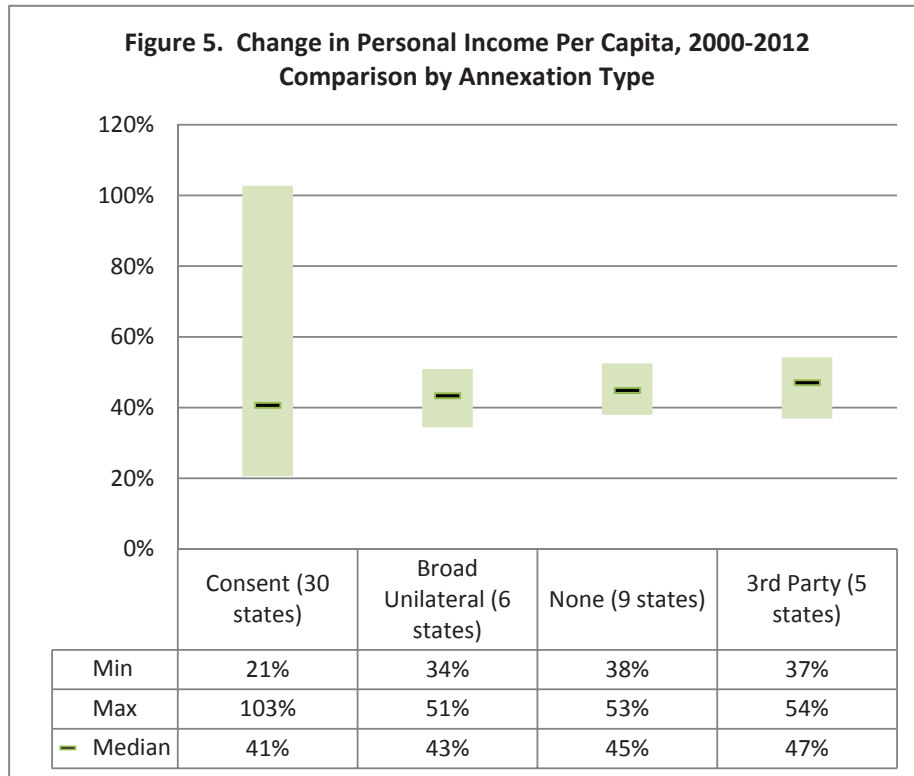
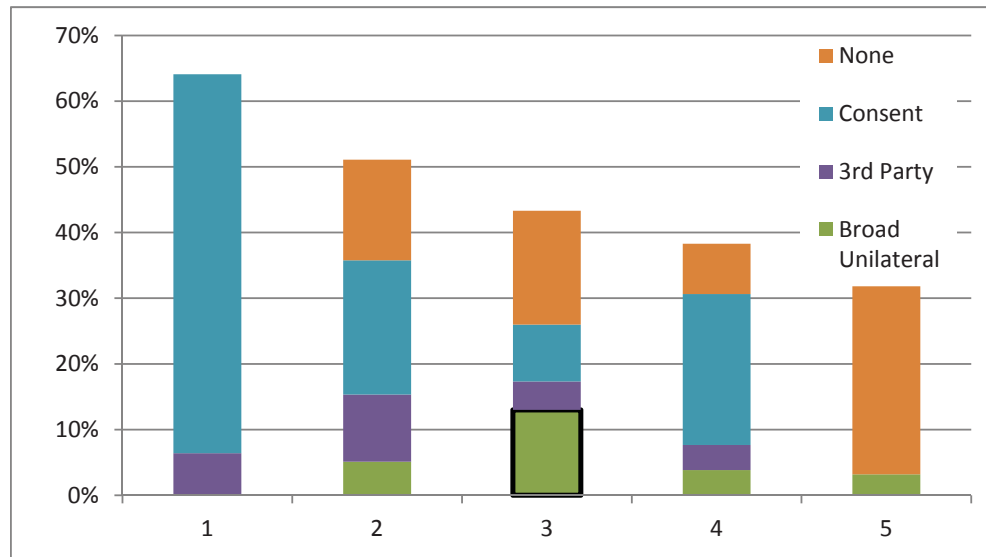
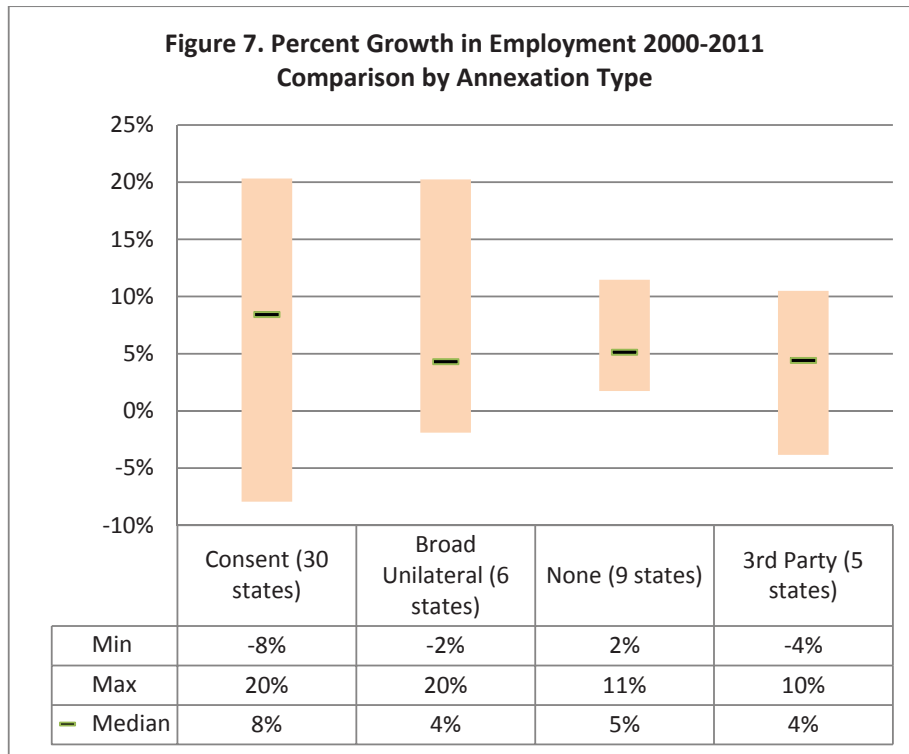


Figure 6. Personal Income Growth per Capita, 2000-2012, by Quintile and Annexation Type



The midpoint growth rate for employment per capita ranged from 4% for third party states and broad unilateral states to 8% for consent states. Utah, Wyoming, and Nevada, all consent states, and Texas, a broad unilateral state, tied at 20% growth in full and part time employment growth per capita from 2000 to 2011, the latest year of data available. Tennessee's growth rate was at approximately the average of the broad unilateral states (4%). See figure 7. The ten states making up the top growth group included eight consent states and two broad unilateral states. Tennessee was in the fourth growth group, which averaged 7% growth. The fourth group also included five consent states, two states that have no annexation, and one of the third party states.



**Figure 8. Full and Part Time Employment Growth per Capita, 2000-2012
by Quintile and Annexation Type**

