

Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs

July 2004 through June 2009

Appendix A: Enabling Legislation

The original legislation establishing the public infrastructure needs inventory was passed in 1996 as Public Chapter 817. That act gave the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) responsibility for the inventory and directed the Commission to implement the inventory through contracts with the nine development districts across the state. The act also provided a funding mechanism based on Tennessee Valley Authority revenue sharing funds.

The January 1999 report to the 101st General Assembly acknowledged the relationship between Public Chapter 817 and a new law passed in 1998, Public Chapter 1101, which is known as the growth policy act. Public Chapter 1101 directed all local governments with the exception of those in the two metropolitan counties of Davidson and Moore to work together to establish growth boundaries for incorporated areas, planned growth areas outside those boundaries, and rural areas. In order to do so, those local governments were required by Section 7 of that act to “determine and report the current costs and the projected costs of core infrastructure.”

Since that time, the General Assembly has enacted a new law expressly linking the infrastructure and growth policy initiatives. Chapter 672, Public Acts of 2000, specified in Section 3 that implementation of city and county growth plans’ “infrastructure, urban services and public facility elements” were to be monitored by means of the public infrastructure needs inventory of Public Chapter 817.

The full text of Public Chapters 817 and 672 and Section 7 of Public Chapter 1101 are presented in the following pages.

CHAPTER NO. 817

SENATE BILL NO. 2097

By Rochelle

Substituted for: House Bill No. 3257

By Rhinehart

AN ACT To amend Tennessee Code Annotated, Title 4, Chapter 10 and Section 67-9-102(b)(3), relative to a statewide public infrastructure needs inventory.

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

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 10, is amended by adding the following as a new section:

Section ____. (a) In order for the commission to fulfill its obligations to study and report on the existing, necessary and desirable allocation of state and local fiscal resources, the powers and functions of local governments, and relationship between the state and local governments, and its duties to engage in activities for the accomplishment of these various studies and reports, the commission shall annually compile and maintain an inventory of needed infrastructure within this state. The information and data gathered by such an annual inventory is deemed necessary in order for the state, municipal and county governments of Tennessee to develop goals, strategies and programs which would improve the quality of life of its citizens, support livable communities and enhance and encourage the overall economic development of the state through the provision of adequate and essential public infrastructure. All funds necessary and required for this inventory shall be administered through the commission's annual budget and such funds shall be in addition to the commission's annual operational budget amounts. The inventory shall include, at a minimum, needed public infrastructure facilities which would enhance and encourage economic development, improve the quality of life of the citizens and support livable communities within each municipality, utility district, county and development district region of the state and shall include needs for transportation, water and wastewater, industrial sites, municipal solid waste, recreation, low and moderate income housing, telecommunications, other infrastructure needs such as public buildings (including city halls, courthouses and K-12 educational facilities) and other public facilities needs as deemed necessary by the commission. The data shall be compiled on a county-by-county basis within each development district area. In order to accomplish this inventory, the commission shall annually contract for the services of the state's nine (9) development districts and shall compensate each of the development districts at a rate of five cents (\$.05) per capita or fifty thousand dollars (\$50,000), whichever is greater. The per capita amount shall be based upon the population counts within each development district as determined from the latest county population estimates reported by

the United States Department of Commerce, U.S. Bureau of the Census or its federal functional equivalent. From funds allocated to the commission for the purpose of conducting this annual inventory, the commission shall retain for its necessary administration and coordination costs for this annual inventory one and one-half cents (\$.015) per capita based upon the state total population as determined by the latest county population estimates reported by the United States Department of Commerce, U.S. Bureau of the Census or its federal functional equivalent.

(b) In compiling the public infrastructure needs inventory on a county-by-county basis, at a minimum, the commission shall consult with each county executive, mayor, local planning commission, utility district, county road superintendent and other appropriate local and state officials concerning planned and/or anticipated public infrastructure needs over the next five (5) year period, together with estimated costs and time of need within that time frame.

(c) The public infrastructure needs inventory shall not include projects considered to be normal or routine maintenance. Moreover, infrastructure needs projects included in the inventory should involve a capital cost of not less than fifty thousand dollars (\$50,000). The infrastructure needs inventory shall not duplicate the extensive needs data currently maintained by various state agencies on state facilities which are presently available to the commission. Provided, however, this limitation does not prohibit one (1) or more counties or municipalities from identifying a need for a vocational educational facility or a community college or a new public health building in a particular local area. In addition, the commission may request various state agencies to supply various needs data that may be available in such areas as highway or rail bridges, airports or other areas.

(d) The annual public infrastructure needs inventory by each development district shall be conducted utilizing standard statewide procedures and summary format as determined by the commission to facilitate ease and accuracy in summarizing statewide needs and costs.

(e) The public infrastructure needs inventory shall be completed by the development districts and submitted to the commission no later than June 30 of each year.

(f) The annual inventory of statewide public infrastructure needs and costs for provision of adequate and essential public infrastructure shall be presented by the commission to the Tennessee General Assembly at its next regular annual session following completion of the inventory each year.

SECTION 2. Tennessee Code Annotated, Section 4-10-107, is amended by adding the following as a new subdivision (d):

(d) In addition to any funds appropriated by the General Assembly to the commission, the commission is authorized to receive annual allocations of funds from the Tennessee State Revenue Sharing Act, Tennessee Code Annotated, Section 67-9-102(b)(3), for the purpose of conducting an annual public infrastructure needs inventory to aid in the provision of adequate and essential public infrastructure statewide for the improvement of the quality of life of Tennessee citizens, the support of livable communities and the enhancement and encouragement of the overall economic development of the state.

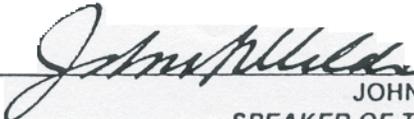
SECTION 3. Tennessee Code Annotated, Section 67-9-102(b)(3), is amended by adding the following immediately before the last sentence in said subdivision:

If, in any year there are funds remaining after the allocation provided for in subdivisions (b)(1) and (2) of this subsection, or there are no impacted areas and after any allocation to the University of Tennessee as provided for in this subdivision, then any remaining

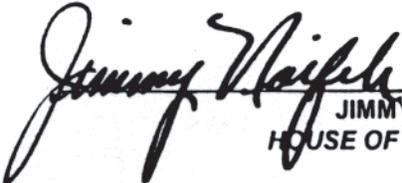
funds, not to exceed twenty percent (20%) of the total of such impact funds per year, shall be allocated by the Comptroller of the Treasury to the Tennessee Advisory Commission on Intergovernmental Relations. The Tennessee Advisory Commission on Intergovernmental Relations shall utilize such funds for an annual inventory of statewide public infrastructure needs. This annual inventory of statewide public infrastructure needs is to be used to support efforts by state, county and municipal governments of Tennessee in developing goals, strategies and programs to provide adequate and essential public infrastructure which is needed to enhance and encourage economic development, support livable communities and improve the quality of life for the citizens of this state.

SECTION 4. This act shall take effect July 1, 1996, the public welfare requiring it.

PASSED: April 11, 1996



JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of April 1996



DON SUNDQUIST, GOVERNOR

Chapter No. 672]

PUBLIC ACTS, 2000

CHAPTER NO. 672

SENATE BILL NO. 3052

By Rochelle

Substituted for: House Bill No. 3099

By Rinks

AN ACT To amend Tennessee Code Annotated, Section 4-10-109 and Section 67-9-102, relative to the statewide public infrastructure needs inventory.

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

SECTION 1. Tennessee Code Annotated, Section 67-9-102(b)(3), is amended by deleting the fifth sentence and by substituting instead the following:

In order to accomplish this inventory, the commission shall annually contract for the services of the state's nine (9) development districts or an agency or entity of state or local government or higher education and shall compensate each of the development districts or the agency or entity of state or local government or higher education at the rate of five cents (\$0.05) per capita or fifty thousand dollars (\$50,000), whichever is greater.

SECTION 2. Tennessee Code Annotated, Section 4-10-109(a), is amended by adding the following language immediately after the final sentence:

The commission shall annually contract for the services of the state's nine (9) development districts to accomplish this inventory. However, if the executive director finds that a development district has not adequately fulfilled a prior inventory contract, then instead of the development district which has not fulfilled its contract obligations, the executive director may annually contract with another agency or entity of state or local government or higher education to perform the inventory within that district's area.

SECTION 3. Tennessee Code Annotated, Section 4-10-109(b), is amended by adding the following language immediately after the final sentence:

From those cities and counties with adopted growth plans in accordance with Tennessee Code Annotated, Title 6, Chapter 58, Part 1, the commission shall gather and report the infrastructure, urban services and public facilities needs reported in the growth plans. These infrastructure needs were factors in the determination of urban growth boundaries for cities and the planned growth areas for counties. Implementation of the cities and counties growth plans' infrastructure, urban services and public facility elements are to be monitored by means of the five (5) year inventory of public infrastructure needs.

SECTION 4. Tennessee Code Annotated, Section 4-10-109(d), is amended by adding the following after the word "district":

or an agency or entity of state or local government or higher education

PUBLIC ACTS, 2000

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SECTION 5. Tennessee Code Annotated, Section 4-10-109(e), is amended by adding the following after the word "district":

or an agency or entity of state or local government or higher education

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

PASSED: April 10, 2000


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of April 2000


DON SUNDQUIST, GOVERNOR

Chapter No. 1101]

PUBLIC ACTS, 1998

1157

CHAPTER NO. 1101

SENATE BILL NO. 3278

By Rochelle

Substituted for: House Bill No. 3295

By Kisber, Walley, Rinks, McDaniel, Curtiss

AN ACT To amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 13; Title 49; Title 67 and Title 68, relative to growth.

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

SECTION 7.

(a)

(1) The urban growth boundaries of a municipality shall:

(A) Identify territory that is reasonably compact yet sufficiently large to accommodate residential and nonresidential growth projected to occur during the next twenty (20) years;

(B) Identify territory that is contiguous to the existing boundaries of the municipality;

(C) Identify territory that a reasonable and prudent person would project as the likely site of high density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical characteristics; (if available, professional planning, engineering and/or economic studies may also be considered);

(D) Identify territory in which the municipality is better able and prepared than other municipalities to efficiently and effectively provide urban services; and

(E) Reflect the municipality's duty to facilitate full development of resources within the current boundaries of the municipality and to manage and control urban expansion outside of such current boundaries, taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally proposing urban growth boundaries to the coordinating committee, the municipality shall develop and report population growth projections; such projections shall be developed in conjunction with the University of Tennessee. The municipality shall also determine and report the current costs and the projected costs of core infrastructure, urban services and public facilities necessary to facilitate full development of resources within the current boundaries of the municipality and to expand such infrastructure, services and facilities throughout the territory under consideration for inclusion within the urban growth boundaries. The municipality shall also determine and report on the need for additional land suitable for high density, industrial, commercial and residential development, after taking into account all areas within the municipality's current boundaries that can be used, reused or redeveloped to meet such needs. The municipality shall examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the urban growth boundaries and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management

areas.

(3) Before a municipal legislative body may propose urban growth boundaries to the coordinating committee, the municipality shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the municipality not less than fifteen (15) days before the hearing.

(b)

(1) Each planned growth area of a county shall:

(A) Identify territory that is reasonably compact yet sufficiently large to accommodate residential and nonresidential growth projected to occur during the next twenty (20) years;

(B) Identify territory that is not within the existing boundaries of any municipality;

(C) Identify territory that a reasonable and prudent person would project as the likely site of high or moderate density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical characteristics; (if available, professional planning, engineering and/or economic studies may also be considered);

(D) Identify territory that is not contained within urban growth boundaries; and

(E) Reflect the county's duty to manage natural resources and to manage and control urban growth, taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally proposing any planned growth area to the coordinating committee, the county shall develop and report population growth projections; such projections shall be developed in conjunction with the University of Tennessee. The county shall also determine and report the projected costs of providing urban type core infrastructure, urban services and public facilities throughout the territory under consideration for inclusion within the planned growth area as well as the feasibility of recouping such costs by imposition of fees or taxes within the planned growth area. The county shall also determine and report on the need for additional land suitable for high density industrial, commercial and residential development after taking into account all areas within the current boundaries of municipalities that can be used, reused or redeveloped to meet such needs. The county shall also determine and report on the likelihood that the territory under consideration for inclusion within the planned growth area will eventually incorporate as a new municipality or be annexed. The county shall also examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the planned growth area and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

(3) Before a county legislative body may propose planned growth areas to the coordinating committee, the county shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county not less than fifteen (15) days before the hearing.

(c)

(1) Each rural area shall:

(A) Identify territory that is not within urban growth boundaries;

(B) Identify territory that is not within a planned growth area;

(C) Identify territory that, over the next twenty (20) years, is to be preserved as agricultural lands, forests, recreational areas, wildlife management areas or for uses other than high density commercial, industrial or residential development; and

(D) Reflect the county's duty to manage growth and natural resources in a manner which reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before a county legislative body may propose rural areas to the coordinating committee, the county shall conduct at least two (2) public hearings. Notice of the time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county not less than fifteen (15) days before the hearing.

(d) Notwithstanding the extraterritorial planning jurisdiction authorized for municipal planning commissions designated as regional planning commissions in Title 13, Chapter 3, nothing in this act shall be construed to authorize municipal planning commission jurisdiction beyond an urban growth boundary; provided, however, in a county without county zoning, a municipality may provide extraterritorial zoning and subdivision regulation beyond its corporate limits with the approval of the county legislative body.