



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: TACIR Commission Members

FROM: Harry A. Green *Harry*
Executive Director

DATE: July 1, 2010

SUBJECT: PC 1101 Legislative Update—January 2008 to June 2010

A number of growth plans have been amended and approved by the Local Government Planning Advisory Committee (LGPAC) during this period. The counties and dates of the amendments are included below.

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|---------------|--------------------------|
| 1. Anderson | January 2008, April 2009 |
| 2. Bradley | January 2010 |
| 3. Carroll | April 2009 |
| 4. Claiborne | January 2010 |
| 5. Cocke | October 2008 |
| 6. Franklin | January 2010 |
| 7. Hamblen | October 2008 |
| 8. Henry | April 2009 |
| 9. Lauderdale | April 2009 |
| 10. Marshall | January 2008 |
| 11. McMinn | May 2010 |
| 12. Robertson | May 2010 |
| 13. Scott | January 2008 |

There has also been some legislative activity that amended different sections of the Act. These are summarized on the following pages.

2008

Subject: Obsolete Sections of PC 1101 – Amends PC 1101 by deleting obsolete sections that no longer apply.

PC 1101 contained language that applied to cities and counties between the time of the passage of the act in 1998 and the approval of a growth plan by LGPAC. Since all counties that were required to develop a growth plan now have an approved plan, these sections were no longer applicable to any area. This bill, therefore, deleted those sections and was passed. (HB 3437/SB2972, now Public Chapter 818)

2009

Subject: Amendment of Growth Plans – Revises the manner of amending the comprehensive growth plan after the initial three-year period following the approval of the initial growth plan.

This bill specified that after the initial three-year period, "the mayor of any municipality in the county or the county mayor or county executive," instead of the "municipality or county," may propose an amendment to the growth plan by filing notice with the county mayor or county executive and with the mayor of each municipality in the county. This bill then required that the action to promptly reconvene or re-establish the coordinating committee upon the receipt of the notice be taken within 60 days of the receipt of the notice. Further, the bill required the coordinating committee to 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. After the proposed amendment is approved by the county legislative body and the governing body of each municipality and by the local government planning advisory committee, the amendment would become part of the county's growth plan. The bill passed. (HB0309/SB0169, now Public Chapter 374.)

2010

Subject: Growth Boundaries – Allowed a municipality to expand its urban growth boundaries to include tracts of land that are 10 acres or smaller when certain criteria are met.

This bill amended the procedure to amend an urban growth boundary if certain requirements are met. It provides

- A municipality may extend its urban growth boundary to include a tract ten acres in size or smaller if;
- The tract is contiguous to an existing urban growth boundary that has already been annexed;
- The tract is being provided with water and sewer services; and
- The owner of the tract consents to the change.

If a municipality uses the above procedure, action of the coordinating committee is not required nor is the approval of the other governmental entities in the county. The approval of the Local Government Planning Advisory Committee is not required. The approval of the municipality is all that is required. This provision is to sunset by June 1, 2012.

The bill passed. (HB3864/SB3489, public chapter number not yet assigned.)

Subject: Annexation – Revised provisions governing a municipality annexing by ordinance territory outside its urban growth boundary.

This bill re-wrote the provisions for annexation of territory outside of a municipality's urban growth boundary. It provided that prior to a municipality annexing by ordinance territory outside its existing urban growth boundary whether the territory desired for annexation is within another municipality's urban growth boundary or a county's planned growth area or rural area, it must first amend the growth plan by having its desired change to the urban growth boundary submitted to the coordinating committee and then receive a recommendation for or against the amendment from the coordinating committee. 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. An alternative to a municipality annexing in a county's planned growth area or rural area by first amending the growth plan as described above provides that a municipality may annex within a county's planned growth area or rural area, but the annexation must be by referendum only and not by ordinance.

This legislation was needed due to a lawsuit that pitted two municipalities against each other in the attempted annexation of the same territory. A recent decision of the Court of Appeals in the case *City of Harriman, Tennessee v. Roane County Election Commission, et al.* had the practical effect of allowing municipalities to annex territory outside of their urban growth boundary by ordinance without fulfilling the amendment process specified in TCA § 6-58-104. The court decided that a municipality only had to propose an amendment to its urban growth boundary and that an actual amended growth plan is not required by the statute.

This amendment put back in place the specified procedure for amending a growth plan prior to the appeals court decision.

The bill passed. (HB2713/SB2581, now Public Chapter 917.)