

SENATE BILL 2266  
By Cooper

AN ACT to amend Tennessee Code Annotated, Section 6-51-102; Section 6-51-108; Section 57-6-103; Section 67-2-119 and Section 67-6-712, relative to municipal growth.

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

SECTION 1. Tennessee Code Annotated, Section 6-51-102(b), is amended by designating the existing language as subdivision “(b)(1)” and by adding the following new language, to be designated as subdivisions “(b)(2)” and “(b)(3)”:

(2) A plan of services shall be insufficient and an annexation by ordinance shall not proceed unless the plan proposes that the municipality will provide the following services, at a minimum, within thirty (30) days of annexation: police protection, fire protection, and solid waste disposal. Furthermore, the plan shall be insufficient and annexation by ordinance shall not proceed unless the plan also proposes that the municipality will provide the following services, at a minimum, within five (5) years of annexation: water service, electrical service, a sanitary sewage system, and road and street construction and repair. This subdivision shall not be construed as limiting any additional services which the municipality may choose to propose in the plan of services nor shall it be construed as requiring a municipality to provide these services in an area which it proposes to annex if such services are not currently provided to residents within the existing boundaries of the municipality.

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(3) Notwithstanding any other provision of law to the contrary, all services included in the plan of services must be provided throughout the annexed territory within five (5) years from the date such territory is annexed. If all such services are not provided within such period of time, then the limits of the annexing municipality shall be contracted to exclude that portion of the annexed territory wherein all such services are not so provided, unless a petition is filed by a majority of the residents and property owners in such portion of such territory requesting to remain within the corporate limits of such annexing municipality. If the corporate limits of the municipality are contracted for failure to provide services, residents in such portion of such territory shall be refunded a percentage of any municipal property taxes that were paid by the resident. Residents shall be refunded a percentage of taxes paid that corresponds to the percentage of services proposed in the plan which were not provided by the municipality. The percentage shall be determined by estimating the total cost of services proposed in the plan and subtracting the cost of services actually provided.

SECTION 2. Tennessee Code Annotated, Section 6-51-108(b), is amended by deleting the second and third sentences of that subsection in their entirety and replacing them with the following language:

Any changes in the plan of service shall be incorporated in a resolution approved by the governing body of the municipality. Provided, however, in any area annexed by ordinance pursuant to § 6-51-102, if a petition protesting the changes to the plan of services, signed by the majority of the registered voters living in the affected area, is filed with the chief executive officer of the municipality within thirty (30) days of the passage of such resolution, then such changes shall be void and of no effect. Any owner of property in an annexed area, whether annexed by ordinance or by referendum, to which a plan and progress report are applicable may file a suit for mandamus to compel the

governing body to comply with the publication, notice, and public hearing requirements of this subsection.

SECTION 3. Tennessee Code Annotated, Section 6-51-108, is further amended by adding the following language as a new, appropriately designated subsection:

( ) Notwithstanding any provision of law to the contrary, residents of, and persons owning property in, territory which has been annexed by ordinance pursuant to § 6-51-102 to which a plan of services is applicable may file a suit for mandamus to compel the governing body to provide the services promised in the plan.

SECTION 4. Tennessee Code Annotated, Section 57-6-103(a), is amended by designating the existing language as subdivision “(a)(1)” and by adding the following new language, to be designated as subdivision “(a)(2)”:

(2) Notwithstanding any provision of this section or any other law to the contrary, after June 30, 1998, whenever a new municipality incorporates or an existing municipality expands its boundaries through annexation, wholesale beer taxes which are collected in the newly annexed or incorporated territory shall be distributed by the municipality in the following manner:

(A) wholesale beer tax collections equal to or less than the collections for the fiscal year ending June 30, 1998, shall continue to be distributed to the county government;

(B) wholesale beer tax collections in excess of the amount collected for the fiscal year ending June 30, 1998, shall be retained by the municipality where the collections were made; and

(C) the figure representing the collections for the fiscal year ending June 30, 1998, shall be adjusted annually by the office of the comptroller of the treasury to account for inflation by increasing that figure by the percentage increase in the consumer price index for that fiscal year.

SECTION 5. Tennessee Code Annotated, Section 67-2-119, is amended by adding the following as a new, appropriately designated subsection:

( ) Notwithstanding any provision of this section or any other law to the contrary, after June 30, 1998, whenever a new municipality incorporates or an existing municipality expands its boundaries through annexation, proceeds from the Hall income tax which are collected in the newly annexed or incorporated territory shall be distributed in the following manner:

(1) proceeds equal to or less than the Hall income tax collections in the territory for the fiscal year ending June 30, 1998, shall continue to be distributed to the county government;

(2) proceeds in excess of the Hall income tax collections in the territory for the fiscal year ending June 30, 1998, shall be distributed to the municipality where the collections were made; and

(3) the figure representing the collections for the fiscal year ending June 30, 1998, shall be adjusted annually by the office of the comptroller of the treasury to account for inflation by increasing that figure by the percentage increase in the consumer price index for that fiscal year.

SECTION 6. Tennessee Code Annotated, Section 67-6-712, is amended by deleting the semicolon at the end of item (a)(2)(B) and by adding the following language and punctuation to the end of that subdivision:

, except as provided in item (C) below;

SECTION 7. Tennessee Code Annotated, Section 67-6-712(a)(2), is amended by inserting the following new language as item (C) and redesignating the existing item accordingly:

(C) Notwithstanding any provision of this section or any other law to the contrary, after June 30, 1998, whenever a new municipality incorporates or an existing

municipality expands its boundaries through annexation, the proceeds of this half of the local option sales tax which are collected in the newly annexed or incorporated territory shall be distributed in the following manner:

(i) collections equal to or less than the amount distributed to the county government for the fiscal year ending June 30, 1998, shall continue to be distributed to the county government;

(ii) collections in excess of the amount distributed to the county government for the fiscal year ending June 30, 1998, shall be distributed to the municipality where the collections were made; and

(iii) the figure representing the collections for the fiscal year ending June 30, 1998, shall be adjusted annually by the office of the comptroller of the treasury to account for inflation by increasing that figure by the percentage increase in the consumer price index for that fiscal year.

SECTION 8. Tennessee Code Annotated, Section 67-6-712, is further amended by deleting subdivision (a)(3) and by substituting instead the following:

(3) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (a)(2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (a)(2).

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.