

CHAPTER NO. 278

SENATE BILL NO. 1585

By Norris

Substituted for: House Bill No. 407

By Sargent

AN ACT to amend Tennessee Code Annotated, Section 6-58-104(b), relative to the growth plan dispute resolution panel.

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

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

(2) Upon receiving such request, the secretary of state shall promptly appoint a dispute resolution panel consisting of a minimum of one (1) member and a maximum of three (3) members. The secretary of state shall have the discretion to determine the size of the panel. Each member of the panel shall be appointed from the ranks of the administrative law judges employed within the administrative procedures division. Each member shall possess formal training in the methods and techniques of dispute resolution and mediation. Panel members and their spouses and immediate family shall not be residents, property owners, officials or employees of the county or any municipality within the county.

SECTION 2. Tennessee Code Annotated, Section 6-58-104(b)(3), is amended by deleting the subdivision in its entirety and substituting the following:

(3) The panel shall attempt to mediate the unresolved disputes. If, after reasonable efforts, mediation does not resolve the disputes, then the panel shall propose a non-binding resolution. The county legislative body and the municipal governing bodies shall be given a reasonable period in which to consider the proposed resolution. If the county legislative body and the municipal governing bodies do not accept and approve the resolution, the secretary of state shall appoint a new panel of administrative law judges, composed and selected in the same manner specified in (b)(2) for the purpose of adopting a growth plan. The panel may initiate formal proceedings if they are necessary to obtain sufficient information for adopting a growth plan. These proceedings shall be conducted subject to the provisions of Title 8, Chapter 44, but need not be in compliance with Title 4, Chapter 5. The panel may consult with experts in urban planning, growth and development and may commission or contract for additional studies and reports on population growth and projections, land utilization and needs, environmental impacts and the development and production of maps adequate for the use of the panel in mediating a dispute or in adopting a growth plan. The costs associated with obtaining the services of experts, the production of studies, reports, maps and other documents shall be a reasonable and necessary cost associated with the panel's development of the growth plan.

SECTION 3. (a) The Tennessee advisory commission on intergovernmental relations is directed to conduct, within existing resources, a study of:

(1) Quo warranto judicial proceedings to challenge annexations. The commission shall specifically examine issues related to the burden of proof and shall also report on the impact of changes to the process made by 1998 Public Chapter 1101;

(2) The practice of annexation by limited funding and limited service municipalities. For the purpose of this study limited funding municipalities shall be defined to include those municipalities which do not levy a municipal property tax. For the purpose of this study limited service municipalities shall be defined to include those municipalities which are currently providing five (5) or fewer of the ten (10) services required to be addressed in a plan of services pursuant to § 6-51-102(b)(2); and

(3) The process and frequency of local governments reconvening coordinating committees to consider amendments to comprehensive growth plans now that the moratoria on amending such plans have passed in most communities.

(b) The Tennessee advisory commission on intergovernmental relations shall complete such study relative to annexation and growth plans and report its findings to the General Assembly no later than February 1, 2006.

SECTION 4. 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 5. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 16, 2005


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2005


PHIL BREDESEN, GOVERNOR