

TENNESSEE FARM BUREAU FEDERATION

2018 Policy Development



Deannexation

Issue

Legislation abolishing annexation by ordinance was passed in 2014. A critical provision in the law specified land in agricultural use may only be annexed with consent of the farm owner regardless of the method of annexation. This was a dramatic change in the way cities could expand municipal boundaries. Proponents of the legislation believe this change was necessary to facilitate planned growth by ensuring cities and communities work together to expand municipal boundaries. They also believe the next step is to provide a process for communities to deannex from a city. During the decades of uninhibited annexation by cities, there are many communities, including farmland, annexed into cities yet the cities never provided services or other amenities that made city property taxes, other taxes, fees, and ordinances worthwhile. In many cases, cities annexed property just to generate revenue. Legislation has been filed in the last two General Assemblies to give landowners the right to petition for deannexation in certain conditions.

Background

Tennessee's annexation laws date back to 1955. The main issue was nonconsensual annexation by ordinance which allowed cities to annex property without any consent or involvement of the property owners. Since that time, the state has struggled with providing a balance between municipal growth and rights of property owners in the pathway of municipal growth. In the 1990s there was considerable controversy over broad annexation powers and incorporation of communities in an effort to stop annexation by cities of communities that did not want to be a part of the city.

In 1998 the General Assembly passed Public Chapter 1101, also known as Tennessee's Growth Policy Act. Public Chapter 1101 changed annexation laws by providing a twenty-year growth planning process involving counties and cities. The Act required the establishment of coordinating committees in each county made up of representatives of cities, the county, soil conservation districts, utilities, school districts, chambers of commerce, and others involved in the community. The coordinating committees were tasked with developing growth plans for each county. Growth plans had three distinct areas designated: 1. Urban Growth Boundaries, 2. Planned Growth Areas, and 3. Rural Areas. Each growth area included different restrictions but the main provision regarding municipal growth was annexation by ordinance was still allowed anywhere throughout the Urban Growth Area of a city. Planned Growth Areas and Rural Areas had restrictions on annexation.

Continued controversy over nonconsensual annexation by ordinance ultimately led to Public Chapter 441, passed in 2013, which established a moratorium on annexations by ordinance of residential and agricultural properties across the state and directed the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to study state policies regarding annexation. Nonconsensual annexation in Urban Growth Boundaries placed property owners into another level of government with city property taxes and city laws without any participation, representation, or consent of those being annexed. Farmland owners were especially impacted because of extra taxation without any added services. Tennessee was one of only six states where most annexations did not require the direct approval of the annexed residents. TACIR data showed from 1990 to 2009, 99% of annexations were conducted through an ordinance of the city conducting the annexation.

After a year-long examination of state annexation laws, the General Assembly passed Public Chapter 707 in 2014 which abolished annexation by ordinance and provided a referendum process before being annexed. The law went a step further by specifying farmland could only be annexed into a municipality by the consent of the farmland owner.

This sweeping change in annexation laws left issues unresolved. One of those issues was rights of property owners who want to be deannexed from a city. Current state law does not give property owners the ability to initiate a deannexation process. Data from TACIR indicates of the 36 states with deannexation laws, Tennessee is one of only ten states that do not allow property owners to initiate a deannexation process.

Legislation filed in the past two General Assemblies would allow a process for property owners to initiate and participate in a deannexation process. This also includes a process for farmland owners to remove farm property from city boundaries if certain qualifications are met. This legislation has been met with considerable opposition from municipalities over issues such as confusion of services, irregular boundaries, “donut hole” areas, repayment of debt incurred while an area was in the city boundaries, and loss of infrastructure improvements. Counties have concerns because a county would be obligated to take responsibility of infrastructure requirements such as roads, bridges, and emergency services.

Sponsors of the legislation have worked to alleviate most of these concerns through several versions of the legislation. Tennessee law allows cities to continue taxing properties that have been deannexed to repay debt incurred by the city while the properties were still within the city boundaries. These provisions have remained in the legislation to ensure cities are held harmless in debt obligations if property owners deannex. The taxation would end once the debt obligations are repayed. Cities would also be able to continue charging a sufficient amount to pay for services, such as water, to deannexed areas. Versions of the legislation also would not allow property owners to initiate a deannexation process if the deannexation would cause a “donut hole” meaning the city boundaries would surround the properties. Farmland would also be prohibited from being deannexed if the deannexation would result in the property being surrounded by city boundaries.

Questions

1. Do you believe a process for property owners to initiate deannexation would cause irreparable harm to cities?
2. Should counties have a part in the deannexation process to ensure counties are not overburdened by infrastructure obligations?
3. Should there be criteria for what constitutes farmland to ensure other types of properties do not receive the same special treatment as farmland owners?
4. Are there other issues regarding annexation that should be pursued by Farm Bureau?

Farm Bureau Policy

Annexation

We support the sections of the growth management law de-signed to protect the property rights of farmers. The Tennessee Farm Bureau Board of Directors should closely monitor the law to ensure the best interest of Tennessee agriculture is served. Tennessee's growth management law was passed in 1998 to provide a twenty-year growth plan framework for each county. The Tennessee General Assembly should study the strengths and weaknesses of the current law to determine how to move forward after 2018 with a policy that is best for all landowners.

We commend the Legislature for abolishing annexation by ordinance. Before annexation, citizens in the area affected should have the right to vote to be annexed or to remain outside the municipality. Land in agricultural use should only be annexed with consent of the farm owner. Farm Bureau supports the right to a jury trial in annexation disputes.

Municipalities should be restricted to how much land they can annex in a given period. State funded grants should not be allowed to offset the high costs incurred by municipalities installing utility lines simply to lay claim to rural areas. Strip annexation of highways leading out of municipalities should be curtailed. County governments should not have the undue burden to provide improvement of services within annexed communities where the municipality should be responsible.

An election should be called for after population has been changed by 15% due to annexation. Newly annexed areas should not be taxed for any debt of the original municipal area.

If farmland is annexed, no city property taxes should be collected as long as the land remains in production agriculture. Working family farms within city limits are an asset to the livelihood of the cities' citizens. Every effort should be made to preserve these working farms when the landowner wants to continue to farm. Farm owners should always be consulted as to their intent to continue farming before annexing into a city limit. We encourage local governments to voluntarily work more closely with farmers to develop incentives to promote the continuation of family farms.

If consolidation of county and municipal governments occurs, separate taxing districts should be established. Rural areas should not have to pay for urban services they do not receive. Citizens should have the ability to de-annex by referendum to remove affected properties from a municipality, including properties in greenbelt.