

HOUSE BILL 901

By Niceley

AN ACT, to amend Tennessee Code Annotated, Title 5; Title 7; Title 29 and Title 43, to enact the "Farm Land Protection Act."

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

SECTION 1. Tennessee Code Annotated, Title 43, Chapter 26, is amended by adding Sections 2 through 5 as a new part.

SECTION 2. This part shall be known and may be cited as the "Farm Land Protection Act."

SECTION 3.

The legislature finds that:

(1) Tennessee's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of this state and the United States;

(2) Each year, a large amount of Tennessee and the nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;

(3) Continued decrease in farmland base may threaten the ability of the farmers to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;

(4) The extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;

(5) Governmental actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;

(6) The legislature is responsible for the implementation of policy with respect to Tennessee farmland, assuring the maintenance of the agricultural production capacity of the farmers of Tennessee;

(7) The legislature should take steps to assure that the taking of prime farmland by eminent domain for valid public purpose uses is carefully considered so as not to unnecessarily and irreversibly convert prime farmland to nonagricultural uses in those cases in which other state and local interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

SECTION 4. As used in this part, "prime farmland" means real property included within the United States Department of Agriculture land capability classification Classes I, II and III.

SECTION 5. No prime farmland may be taken by eminent domain until the provisions of § 29-16-101(b) have been satisfied.

SECTION 6. Tennessee Code Annotated, Section 29-16-101, is amended by designating the current language as subsection (a) and by adding the following language to be designated as subsection (b):

(b)

(1) Notwithstanding subsection (a) or any authority for land to be condemned pursuant to chapter 17 of this title or any other provision of law to the contrary, if prime farmland, as defined in Section 4, is proposed to be taken by eminent domain, the person, corporation, utility, utility district or any governmental entity, including the state, shall first file a proposal with the county legislative body of the county where such prime farmland is located.

(2) The county legislative body shall be required to hold at least one (1) public hearing within thirty (30) days of receiving the proposal to receive

comments and testimony. Before conducting such public hearing, the county legislative body shall publicize the meeting in a newspaper of general circulation in a notice of no less than five inches (5") in width and five inches (5") in length for three (3) consecutive weeks prior to the meeting, with the final notice to be no less than four (4) days or greater than seven (7) days prior to the meeting. The person, corporation, utility, utility district or governmental entity, if other than the county, shall reimburse the county legislative body for any cost incurred as a result of conducting such public hearing.

(3) No prime farmland may be taken by eminent domain unless the county legislative body by a two-thirds (2/3) vote determines by a preponderance of the evidence that the state or local interests override the importance of the protection of prime farmland and outweighs the benefits of maintaining such farmland resources.

SECTION 7. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to all proposed takings of prime farmland by eminent domain which are initiated on or after the effective date of this act.