

HOUSE BILL 906

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 43,
Chapter 24, Part 1, relative to community
gardening.

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

SECTION 1. Tennessee Code Annotated, Section 43-24-102, is amended by deleting subdivisions (4) and (5) and substituting the following:

(4) "Community garden" means a piece of property, either on vacant public land or on private land, cultivated by residents of a neighborhood or community, or members of a homeowners or condominium owners association for the purpose of providing vegetables, herbs, fruit, or flowers for use of residents of the neighborhood or community or members of the homeowners or condominium owners association, and not for sale;

(5) "Local government" means any municipality, any county, and any metropolitan government.

SECTION 2. Tennessee Code Annotated, Section 43-24-102, is further amended in subdivision (8) by deleting the language "counties and municipalities" and by substituting "local governments".

SECTION 3. Tennessee Code Annotated, Section 43-24-103(d), is amended by adding the language "the participating local government," in front of the words "the state of Tennessee".

SECTION 4. Tennessee Code Annotated, Section 43-24-104, is amended by deleting the section in its entirety and substituting the following:

When there is a shortage of parcels or space for community gardening, priority in the allotment of public land shall be given to persons sixty (60) years of age or older and persons whose gross annual income is equal to or less than the poverty guidelines

published annually in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. § 9909(2).

SECTION 5. Tennessee Code Annotated, Section 43-24-105, is amended by deleting subsections (a), (b), and (f) and renumbering the remaining subsections accordingly.

SECTION 6. Tennessee Code Annotated, Section 43-24-105, is further amended by deleting present subsection (c) and substituting the following:

(c) Any local government or other state agency or department may make vacant public land available for gardening permits by providing the county agricultural extension agent of the county in which the local government, agency, or department land is located with a list of the vacant public land the local government, agency, or department wishes to make available for gardening purposes.

SECTION 7. Tennessee Code Annotated, Section 43-24-105, is further amended in subsection (d) by deleting the first sentence of the subsection and substituting the following:

The commissioner shall, by letters of agreement, contract with participating local governments, agencies, and departments for the use of public land.

SECTION 8. Tennessee Code Annotated, Section 43-24-106, is amended in subsection (a) by deleting the language “counties, cities, municipalities” and substituting “local governments”.

SECTION 9. Tennessee Code Annotated, Section 43-24-106, is further amended in subsection (b) by adding the words “and local governments” after the word “employees”.

SECTION 10. Tennessee Code Annotated, Section 43-24-108, is amended by deleting it in its entirety and substituting the following:

(a)

(1)

(A) It is the intent of this section to create additional and alternative authority for local governments to become involved in community gardening. In addition to or instead of working through the department of agriculture under other provisions of this chapter, local governments may establish their own community gardening programs.

(B) Any local government may allow and encourage the use of vacant local government land for community gardening under terms and conditions established by ordinance in the case of municipalities and metropolitan governments and resolution in the case of counties. These local regulations may include, in addition to other requirements:

(i) a requirement for a permit for which a reasonable permit fee may be charged;

(ii) a requirement that the permittee provide security in the form of a refundable deposit or otherwise for proper clean-up of the garden after harvest is completed; and

(iii) a requirement that the permittee possess liability insurance and accept liability for any injury or damage resulting from use of vacant public land for community gardening.

(2) Any local government may establish a program, with the cooperation and assistance of the county agricultural extension agent, for the ready identification of vacant public land available for community gardening.

(3) Any local government may assist in the development of community gardens on vacant public land or on private property by expending funds and providing use of materials and equipment for these purposes, and these expenditures and uses shall be considered a valid public purpose.

(4) Any owner of private land, including but not limited to individuals, corporations, partnerships, sole proprietorships, homeowner associations, condominium associations, and other private property owners may make available to the local government parcels of land for community gardening under terms and conditions agreed upon between the local government and the owner.

(b) Community gardens located on private property and operated without the intervention of a local government are not subject to the permitting, security, or insurance requirements authorized in subdivision (a)(1)(ii), but these and other provisions may be agreed upon by the parties. Community gardens located on private property must comply with applicable state and local regulations relative to nuisances, property maintenance, and health, safety, and welfare of the public.

SECTION 11. Tennessee Code Annotated, Title 43, Chapter 24, Part 1, is amended by adding the following as a new section:

It is the policy of the state to encourage community gardening on both public and private property, and to that end the provisions of this chapter shall be liberally construed. Local governments, state agencies, homeowner or condominium associations, neighborhood or community associations, and private property owners are urged to expedite the use of vacant or unused property under their control for community gardening to the furthest extent practicable.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.