

Amendment No. 1 to SB2261

Briggs  
Signature of Sponsor

**AMEND Senate Bill No. 2261\***

**House Bill No. 2426**

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 67-4-2902, is amended by deleting the language "residential development of property" and substituting "development of property".

SECTION 2. Tennessee Code Annotated, Section 67-4-2903, is amended by deleting subdivisions (5)–(8) and substituting:

(5) "County school facilities privilege tax" means a tax on new development as defined in this part;

(6) "Development" means the construction, building, erection, or improvement to land by providing a new building or structure that provides heated and cooled floor area for residential or commercial use;

(7) "Dwelling unit" means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease on a daily, weekly, monthly, or longer basis, physically separated from any other room, rooms, or dwelling units that may be in the same building, and containing independent cooking and sleeping facilities;

(8) "Floor area" for development means the total of the gross horizontal area of all floors, including basements, cellars, or attics, that is heated or air-conditioned space;

SECTION 3. Tennessee Code Annotated, Section 67-4-2903, is amended by adding the following new subdivision:

( ) "Commercial" means any property used for business activities, except any state-designated industrial megasite, as defined in § 64-6-102;

SECTION 4. Tennessee Code Annotated, Section 67-4-2904, is amended by deleting the section and substituting:

**67-4-2904. New development declared to be a locally taxable privilege.**

(a) Engaging in the act of development within a county, except as excluded by this part, is declared to be a privilege upon which a county, by resolution or ordinance of its governing body, may levy a tax, subject to the conditions and limitations contained in this part.

(b) The resolution or ordinance levying the tax must be adopted by a two-thirds (2/3) vote of the entire membership of the county legislative body at two (2) consecutive, regularly scheduled meetings. The resolution or ordinance adopted at the first meeting must be identical to the resolution or ordinance voted upon at the second meeting.

SECTION 5. Tennessee Code Annotated, Section 67-4-2907, is amended by deleting the section and substituting:

(a) A governing body shall not levy a tax pursuant to this part, unless the county experienced:

(1) A twenty percent (20%) or more increase in population from the 2010 federal census to the 2020 federal census, or the county experiences growth of twenty percent (20%) or more between any subsequent federal decennial censuses; or

(2) A nine percent (9%) or more increase in population over the immediately preceding consecutive four-year period, according to a special census conducted pursuant to subsection (c).

(b) Prior to adopting a resolution or ordinance to levy this tax, the governing body shall file a statement with the comptroller of the treasury that provides the population growth for the county that qualifies the county to levy the tax under this part. The comptroller shall verify the accuracy of the statement provided and notify the county whether it meets the requirements of this part.

(c) A county may, at the county's expense, conduct a special census for purposes of qualifying to levy the tax under this part.

(d) To continue to levy this tax, a county must verify qualification with the comptroller every four (4) years, using federal census data estimates, if basing qualification on a nine percent (9%) growth rate under subdivision (a)(2), or at the end of the final year of every ten-year census period, if basing qualification on federal census data under subdivision (a)(1).

SECTION 6. Tennessee Code Annotated, Section 67-4-2908, is amended by deleting the section and substituting:

**67-4-2908. Tax based on the floor area of new development.**

(a) For the exercise of the privilege of development, a county may levy a tax based on the floor area of new development. A county initially levying a tax under the authority granted by this part may levy the tax at a rate not to exceed one dollar and fifty cents (\$1.50) per square foot on residential property and one dollar and fifty cents (\$1.50) per square foot on up to one hundred fifty thousand square feet (150,000 sq. ft.) of commercial property.

(b) Whenever a county has levied a tax pursuant to this part or increased the rate of the tax, the county shall not increase the rate of the tax or levy an additional tax on the privilege of development for a period of four (4) years from the effective date of the tax or rate increase. After four (4) years from the date the county initially levies the tax or from the date of the last increase in the rate of the tax, the county legislative body may increase the rate of the tax by a percentage not to exceed ten percent (10%); provided, that the county follows the procedure outlined in § 67-4-2904.

SECTION 7. Tennessee Code Annotated, Section 67-4-2910, is amended by deleting the language "residential development" from subdivision (a)(1) and substituting "development", and by deleting subdivisions (a)(2) and (3).

SECTION 8. Tennessee Code Annotated, Section 67-4-2910, is amended by deleting subsection (b) and substituting:

(b) The tax must be paid upon completion of the building or structure, but prior to the issuance of the certificate of occupancy.

SECTION 9. Tennessee Code Annotated, Section 67-4-2913, is amended by designating the existing language as subsection (a) and adding the following new subsection (b):

(b) Notwithstanding subsection (a), if, after the effective date of this act, a county that has exercised its right to levy a tax under this part prior to the effective date of this act and in a new qualifying period does not satisfy the criteria under § 67-4-2907, then:

(1) The county may resume exercising the authority to levy and collect such development taxes under a private act in existence before the effective date of this act at the rate in effect at the time the county exercised its right to levy a tax under this act; or

(2) The county may resume exercising the authority to levy and collect a privilege tax under this part at the rate the privilege tax was levied by the county under this part on January 1, 2024. A county levying the privilege tax pursuant to this subdivision (b)(2) shall not increase the rate of the tax, unless the county is eligible under § 67-4-2907.

SECTION 10. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 11. This act takes effect upon becoming a law, the public welfare requiring it.