



Board Member 101

**A Presentation to the
Tennessee Emergency Number Association
September 29, 2014**

What is an Emergency Communications District ?

- An ECD is an independent governmental entity, a “municipality” or “public corporation in perpetuity” and a “body politic and corporate with power of perpetual succession” but without the power to tax. - Tenn. Code Ann. § 7-86-106.
- There are 100 ECDs in Tennessee.
- ECDs are governed by their boards of directors, not by a county or municipality.

What is an Emergency Communications District ?

- GASB 14 states an ECD can be considered a component unit of local city/county government.
- This is allowed because the local government has the right to increase landline rates by referendum and has the requirement to approve any indebtedness greater than five (5) years.
- This does not mean the local government has any authority over the management of the ECD, only that the ECD's accounts may be presented in the local government audited financial statements.

What is an Emergency Communications District ?

- ECDs are legal entities created by law which enable them to operate within the boundary of a county. While the law authorizes the county mayor to appoint the members of an ECD board, that is the extent of the mayor's authority on the board. The mayor is excluded from sitting on the same board he/she created.

ECD Board Membership

- ECD board members:
 1. Serve 4 year staggered terms
 2. Cannot be employees of the ECD
 3. Cannot be removed except by a court order
 4. Can be removed for:
 - More than 3 consecutive unexcused absences from meetings
 - Refusing to carry out the provisions of the 911 law (chapter 86) or an order of the TECB
 - Knowingly or willingly neglecting to perform the duties of their office

Interlocal Agreements

- TECB Policy No. 25 requires that all agreements or arrangements between an ECD and another governmental entity in which facilities, resources and/or income of any kind are shared, contributed or obtained be memorialized in writing and adopted by the ECD Board.
- Protect ECDs from changes in administration or personnel who might choose to ignore a verbal agreement
- Spell out each party's obligations to minimize misunderstandings

Conducting ECD Business: Open Meetings Act Requirements

- The general assembly declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.
- The Act states that, “All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.”
- The Act specifically prohibits secret votes.
- Actions held to be in violation of the Open Meetings Act are “void and of no effect”.

Conducting ECD Business: Open Meetings Act

- Bottom line: The Open Meetings Act prohibits two or more members of any ECD Board of Directors from talking about Board business except in an open meeting.
- Committees: The Act prohibits private discussions about ECD business by two or more ECD Board members serving on a committee that has authority to make decisions for or recommendations to the ECD Board.

Conducting ECD Business: Open Meetings Act

- The Open Meetings Act requires that the public be given adequate notice of each meeting.
- The notice must be posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting.
- With Special Called Meetings, the contents of the notice must reasonably describe the purpose of the meeting or the action proposed to be taken.

Conducting ECD Business: Open Meetings Act

- Minutes must be taken at every public meeting.
- At a minimum, minutes must include:
 - A record of persons present
 - All motions, proposals and resolutions offered
 - The results of any votes taken
 - A record of individual votes taken in the event of roll call
- Minutes must be promptly and fully recorded.
- Minutes shall be open to public inspection.

Conducting ECD Business: Open Records

- The Open Records Act says “All state, county and municipal records shall at all times, **during business hours**, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any **citizen of Tennessee** and those in charge of such records **shall not refuse** such right of inspection to any citizen, unless otherwise provided by state law.”

Conducting ECD Business: Open Records

- Public Records are “All documents, papers, letters, maps, books, photographs, microfilms, recordings, or other material, **regardless of physical form** or characteristics **made or received** pursuant to law or ordinance or in connection with the **transaction of official business** by any governmental agency.” **This includes 911 tapes.**
- Unlisted phone numbers are excepted from the Open Records Act.

Conducting ECD Business: Open Records Request Response

- Access to records must be granted to any citizen of Tennessee during business hours.
- The custodian may take up to 7 business days to:
 - Provide access to record
 - Deny in writing access to record with explanation of basis of denial or
 - Indicate additional time necessary to produce the record
- The custodian may require the requestor to produce photo identification with an address in order to inspect or to receive copies.

Ethics Reform

- The Comprehensive Governmental Ethics Reform Act of 2006 made numerous changes to the law regarding ethics, and it created the Ethics Commission.
- The Ethics Act required that all governmental entities adopt ethical standards for all officials and employees of such entity and submit their ethical standards to the Ethics Commission.

Ethics Policies

- Ethical standards are required to include rules and regulations on:
 - Disclosure by officials and employees of any personal interests that impact or appear to impact their discretion and
 - Acceptance of gifts and other things of value received by an official that impact or appear to impact their discretion

- ECDs could have either:
 - Adopted a model ethics policy created by MTAS or CTAS
 - Adopted their own policy or
 - Determined they were covered by the policy adopted by the county or municipality and notify the Ethics Commission

ECD Revenue Sources

- "911 Funding Modernization and IP Transition Act of 2014" goes into effect on January 1, 2015
 1. Every 911 surcharge is set at \$1.16
 2. All 911 surcharges are paid to TECB
 3. ECD's funding is guaranteed at a base amount
(copy of schedule is available)
 4. TECB Administration is funded
 5. NG911 statewide program is funded
 6. The TRA program for TRS/TDAP equipment for hard of hearing people is funded

ECD Revenue Sources

- Historical 911 service charges for landline and non-wireline will no longer exist after January 1 when \$1.16 becomes effective.
- No rate increase will occur until ratified by a joint resolution of the general assembly.
- As of January 1, there is no difference in monthly rate for any device that is capable of contacting and has been enabled to contact a PSAP via a 911 network by entering or dialing the digits 911.

Additional Revenue Sources

- Recurring Operational Funds are contained within the base funding allocation for each ECD.
- As of January 1, the only additional revenues from TECB to each ECD will be up to:
 - \$300,000 for costs of ECD consolidation
 - \$100,000 temporary loans for catastrophic losses
 - \$450,000 for essential equipment
 - Allocated amounts for NG911 PSAP equipment
- Essential equipment and NG911 equipment funds will continue to be paid, after appropriate request, until each ECD has received all of its allocation.

Budget

- The law requires the board of each district to adopt an annual budget and the ECD must operate under the budgeted line-item restrictions.
- No district may expend any moneys except in accordance with a budget.
- Budgeted expenditures should not be greater than budgeted revenues.
 - It is permissible to use reserves to balance the budget, but be sure this is disclosed and restricted for one-time expenditures.

Budget - Requirements

- Components of Budget/Fiscal Plan:
 - Estimates of proposed expenditures
 - Statement of bonded and other debts
 - Estimates of anticipated revenues
 - Schedule of salaries by position
 - Statement of estimated balance or deficit
 - Statement of pending/new capital projects
 - Any supporting schedules deemed necessary

Budget – Due Dates

- TCA 7-86-120 Prior to adoption by the district **and** within thirty (30) days after the budget's adoption by the district board, a copy of the budget shall be filed with the chief administrative officer and the clerk or recorder of the appropriate county or municipality.
- A copy of the approved budget shall also be filed with the TECB no later than 45 days after it is approved.

Budget – Variance

- The law requires a financial report of activities be presented at every regularly scheduled ECD board meeting.
- Guidelines in the Audit Manual, stipulate that financial reports will include a statement that compares budget with actual year to date amounts for the most recent complete month of operations.

Budget – Amend

- If review of the budget comparison statement indicates that a line-item expenditure will exceed the budgeted amount, then a budget amendment must be made to cover all expenditures.
- Budget amendments can be made anytime during the year, as occasion demands, but must be made before June 30 of each year.

Purchasing – Authority

- The law states that all ECD revenues must be expended according to the provisions of the County Purchasing Law of 1983, compiled in title 5, chapter 14, part 2.
- The ECD Board is deemed to be the governing body within the context of this law and is authorized to adopt regulations and procedures for compliance.
- Use local governments as a resource for establishing regulations and procedures.

Purchasing – Regulations

- ECD board regulations should address authorizations and processes for requesting, approving and paying for purchases and documentation required:
 - Dollar value or other criteria of items to be purchased to determine processes to be followed
 - Advertising and bidding requirements, exceptions, and documentation
 - Use of lease or lease-purchase in lieu of purchase
 - Applicable exemptions for perishable items, fuel, public notices, freight charges, meeting expenses, emergency items, single source and proprietary items, and statewide, GSA or other ECD contracts, when applicable

Purchasing – Bidding Guides

- All purchases shall be made only after public advertisement and competitive bid, except:
 - Purchases costing less than \$10,000 do not require public advertisement, but do require competitive bids
 - Purchases from a single source of supply or a proprietary product
 - Purchases requiring immediate delivery in actual emergencies
 - Purchases off of statewide or GSA federal contracts or other ECD contracts

Capitalization

- The ECD Board has the right and should establish a capitalization policy (may be included in a purchasing policy)
- This policy, **developed in consultation with the auditor**, should define a value and/or other criteria which determines that an item is to be a capitalized asset.
- Any capitalized asset must be depreciated to have the purchase cost spread over the lifespan of the asset.

Depreciation – Useful Life

- An asset's useful life must be determined and based on the ECD's expectations and historical knowledge of similar items.
- The Audit Manual sets upper limits for useful lives:
 - office furniture and fixtures – 10 yrs.
 - equipment – 10 yrs.
 - vehicles – 5 yrs.
 - buildings & improvements – 40 yrs.
- Depreciation enables an ECD to accumulate resources to replace equipment as it wears out or becomes obsolete.

Depreciation - Budget

- The ECD has the option of recording depreciation in its budget. It is not a cash expenditure, but will be recorded in financial statements and affect the change in net assets for the year being reported.
- A negative change in net position indicates that an ECD is not financially balanced for that term.
- Three consecutive years of negative changes determine an ECD to be financially distressed.

Financial Distress

- Tenn. Code Ann. 7-86-304
- A financially distressed district is one that:
 - Has a negative change in net assets for 3 consecutive years;
 - Has deficit total net assets; or
 - Is in default on any indebtedness.
- An ECD may be deemed financially distressed if:
 - It is the subject of a lien filed by the IRS
 - It cannot satisfy financial obligations to the extent that the operation of the district is at risk
- A financially distressed district shall be supervised and evaluated by the TECB (See Policy 16 as amended August 25, 2011).

Policy 16

- Policy 16 allows TECB to exercise supervision and evaluation authority in mitigating financial distress and reducing repercussions by:
 - Analyzing causes of distress and establishing remedial efforts tailored to be more reflective of the ECD's financial health
 - Requiring more ECD board involvement with management of the ECD
 - Monitoring and reviewing ECD board actions and results of remedial efforts

Debt Management Policy

- All public entities incurring or issuing debt should have adopted a debt management policy by January 1, 2012. When public entities, including the state, all state agencies, local governments, and any other board, authority, district, or body created by any of these, are guided by sound financial decision-making process, the effects of negative events and bad decisions can be minimized.
- Applicable to all ECDs- Although not all ECDs will obtain or issue debt, all are advised to create a policy because they have the potential to issue or obtain debt. The policy adopted by a public entity should address financing needs and the role debt will play in the overall financial management strategy. The policy needs only to address the particular types of debt that the entity plans to use.

Revenue Standards

- TCA 7-86-306(a)(10) authorizes the TECB to establish operating standards concerning acceptable uses of revenue for ECDs and periodically review and revise these standards.
- The TECB has established Revenue Standards that govern how ECDs expend 911 revenue. Currently, there are six required, 30 permissible and eight prohibited uses.
- All contracted CPA auditors to ECDs are required to publish in their annual audit all findings that would indicate any violation of the Revenue Standards.
- The Revenue Standards are located on the TECB website (www.tn.gov/emergency).

Accounting Manual

- TCA 7-86-304 directs the Comptroller of the Treasury to develop a uniform financial accounting system conforming to generally accepted accounting principles for use by all ECDs.
- The manual provides the essential guidelines for accounting and financial matters. The latest revised manual is also on the TECB website: www.tn.gov/emergency

Chart of Accounts

- All ECDs are required to adopt the uniform chart of accounts prepared by the Comptroller of the Treasury and presented in the Accounting Manual.
- Any deviations from the uniform chart of accounts must be with the written approval of the Office of the Comptroller of the Treasury, Division of County Audit.

Audits

- Audit Requirement - TCA 7-86-112 states that the board of directors of each district shall cause an annual audit to be made of the books and records of the district.
- These audits shall be prepared by certified public accountants, public accountants or by the Comptroller of the Treasury, but in all cases will be reviewed by the Comptroller of the Treasury, Division of County Audit.

Methods of Response to 911 Calls

- ECDs elect to dispatch, relay or transfer 911 calls.
- ECDs are not required to dispatch.
- Dispatching existed long before 911 and was supported by local government and the law never intended for 911 to pay all costs of dispatching.

Backup plans

- Required by TECB Policies 33 and 36
- Re-routing of 911 calls from disabled or evacuated PSAP
- Written contingency plan
- Annual testing of the contingency plan
- TECB must be notified for outages exceeding 1-hour (Policy 31)

Dispatcher Training

- Tenn. Code Ann. § 7-86-205 requires that each emergency call taker or public safety dispatcher who receives an initial or transferred 911 call complete training and course of study requirements established by the TECB.
- Required for all dispatchers employed after July 1, 2006 and must be completed within 6 months of employment date (dispatchers who had more than 5 consecutive years of service as of May 1, 1994 are grandfathered out of this requirement).
- The State Regulations set a MINIMUM for training. The better ECDs provide substantially more.

Dispatcher Course of Study Requirements

- TECB Rule 0780-6-2 requires that all emergency call takers or public safety dispatchers who receive an initial or transferred 911 call complete:
 - No less than 40 hours of supervised on-the-job training
 - No less than 45 hours of public safety communications coursework with 5 hours for missing or exploited children.
 - Continuing education of no less than 10 additional hours of public safety coursework every 2 years with 2 hours of continuing education involving missing or exploited children.

- These requirements apply to ALL call takers no matter who they work for.

Next Generation 911

- The existing enhanced 911 network is based on older analog technology.
- The existing network does a pretty good job of handling landline telephone calls.
- Landline telephones are being replaced with cellular, VoIP, PDA devices, etc.
- The new generation of 911 equipment, network, and services will allow oral, text, video, and telematic type notification of emergency situations from a variety of devices.
- The network must change to meet the technological demands of those devices.

Next Generation 911

➤ TECB is funding:

- NG911 core infrastructure, deployment and maintenance
- IP Capable Controllers in the PSAPs
- 24x7x365 Network Operations Center
- Harassing NSI call diversion
- Statewide automatic location information (ALI) Database

Next Generation 911

- Tennessee's NG911 project runs on a private, secure, statewide Multiprotocol Label Switching (MPLS) network called "NetTN" managed by the State Office of Information Resources.
- Basically, the TECB and its team will be the phone company for 911 purposes
- All wireless carriers are connected to the network and we are beginning to connect wireline carriers in the Jackson area.

Next Generation 911

- As of September 10, 2014, service orders have been submitted for 140 of the 141 PSAPs in the state. NG911 equipment and circuits have been installed in 137 PSAPs. 79 PSAPs have been tested and 65 PSAPs have been approved for live traffic.

?? QUESTIONS ??

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