



226 Capitol Boulevard Bldg., Suite 508
 Nashville, Tennessee 37243-0760
 Phone: (615) 741-3012
 Fax: (615) 532-2443
 www.tn.gov/tacir

**MINUTES OF THE
 TENNESSEE ADVISORY COMMISSION
 ON INTERGOVERNMENTAL RELATIONS**

13 December 2017

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in the Tennessee Municipal League Board Room at 1:16 p.m., Chairman Mark NORRIS presiding.

Present 18	Absent 6
Mayor Ernest Burgess	Mayor Tom Bickers
Metropolitan Trustee Charles Cardwell	Ms. Christi Gibbs
Representative Mike Carter	Senator Thelma Harper
City Commissioner Betsy Crossley	Representative Harold Love
Assistant Commissioner Paula Davis	Senator Jeff Yarbrow
Mayor Brent Greer	Mr. Kenneth Young
County Executive Jeff Huffman	
Mayor Kenny McBride	
Mayor A. Keith McDonald	
Mr. Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Representative Charles Sargent	
Vice Mayor Kay Senter	
Mayor Larry Waters	
Senator Bo Watson	
Comptroller Justin Wilson ¹	
Representative Tim Wirgau	

¹ Lauren Spires represented Justin Wilson

1. Call to Order and Approval of the Minutes

Chairman Mark NORRIS called the meeting to order at 1:16 p.m. and dispensed with the calling of the roll. He welcomed Mayor Keith MCDONALD of Bartlett, Tennessee, who was appointed by Lt. Governor MCNALLY to serve as a member of the Commission, effective August 31, 2017, and noted that Mayor MCDONALD had served on the Commission previously. Chairman NORRIS also informed the Commission that Senator Jim TRACY, with his recent appointment as the United States Department of Agriculture's Tennessee Director for Rural Development, has left the Senate and thus vacated his position on the Commission. Chairman NORRIS next requested approval of the minutes of the August 29-30, 2017 meeting. Regional Director Iliff MCMAHAN moved approval and Representative Charles SARGENT seconded the motion, which passed unanimously.

2. Commission and Staff Update: Vice Chair Election

Executive Director Cliff LIPPARD began the commission updates by calling the members' attention to the need to elect a Vice Chair to fill the office vacated by Mayor ROWLAND. Chairman NORRIS called for nominations, and Mayor Kenny MCBRIDE nominated Mayor Larry WATERS. Mayor Brent GREER seconded the nomination. Chairman NORRIS moved to approve the nomination by acclamation, which the members agreed to and then approved Mayor WATER's nomination unanimously.

Following the election, Dr. LIPPARD directed the members' attention to resolutions honoring the service of Senator TRACY and Mayor Tom ROWLAND.

Next, Metropolitan Trustee Charles CARDWELL sought and received recognition to welcome several visiting members from the County Officials Association of Tennessee. He introduced COAT Executive Director Rodney ARCHER, who replaced the late Jay WEST. Mr. CARDWELL also welcomed Montgomery County Clerk Kelli Jackson, Tipton County Clerk Mary GAITHER, Henry County Clerk Donna CRAIG, and Jefferson County Clerk Frank HERNDON.

Moving on to staff updates, Dr. LIPPARD informed the Commission that Rachel Jakubovitz, senior research associate, left the Commission's staff to serve as an administrative judge with the Tennessee Department of Labor and Workforce Development.

He also informed the members that Lynne Holliday has joined the Commission's staff as a part-time senior research consultant. Dr. LIPPARD said that Lynne, who retired from the University of Tennessee's County Technical Assistance Service in 2014, has extensive public finance and public policy experience. In addition to her time as a finance consultant with CTAS, she served as a director with the Tennessee Department of Education and as a senior research associate with TACIR.

Finally, Dr. LIPPARD informed the members that Research Manager Mark McAdoo graduated from the LEAD Tennessee program on December 11, becoming the fifth member of the TACIR staff to graduate from this comprehensive leadership course for state employees.

3. Public Chapter 179, Acts of 2017 (Boat Titling)—Information Panel

The Commission heard presentations from a panel of stakeholders as part of its study of the possible implementation of a boat titling system in Tennessee. The panel included:

- Amy Heaslet, Senior Vice President and General Counsel for the Tennessee Bankers Association;
- Kelli Jackson, Montgomery County Clerk and Mary Gaither, Tipton County Clerk, jointly representing the Tennessee County Clerks Association; and
- Chris Richardson, Legislative Liaison for the Tennessee Wildlife Resources Agency
- Paula Shaw, Director of the Motor Vehicle Commission;

In addition to the panelists, Dana CAPOCCIA, who was a victim of the boat fraud at Pickwick Lake, and Barbara SAMPSON, Deputy Commission of the Tennessee Department of Revenue (TDoR), were present and were asked to address the commission.

Ms. HEASLET spoke first, saying that the Tennessee Bankers Association supports moving to a system that requires boat titling and that titling boats would be preferable over the current system of filing a Uniform Commercial Code (UCC) financing statement. This is because a title would provide a better way for lenders to secure their interest in the property and better protection for consumers. She said that titles identify property better than UCC forms and that having a title provides some assurance that the seller is the owner of the boat. Titling would cost less than filing a UCC financing statement and would save money for lenders and borrowers.

Representative SARGENT requested clarification regarding how the boat registration process works and asked whether the county clerks collect any fees for registering boats. Ms. GAITHER said that 44 of 95 county clerks act as agents for the Tennessee Wildlife Resources Agency (TWRA) and renew boat registrations and hunting and fishing licenses on the same website that an individual would use to renew their documents. This is done as a convenience for the customers. All county clerks collect the sales tax on individual-to-individual sales and out-of-state dealer sales. County clerks certify those transactions only. County clerks do not collect the sales tax on in-state dealer sales, as dealers remit the sales tax directly to the Department of Revenue. Ms. JACKSON said that the county clerks collect \$1 per transaction for performing these services.

Representative SARGENT requested clarification on how the value of the boat or the amount of the loan affects the titling fee or the UCC filing fee. Ms. JACKSON said that some states do consider the value of vehicles when issuing titles or registrations; however, Tennessee does not. Ms. HEASLET clarified that the current system, which requires lenders to file a lien through the Secretary of State's Office using a UCC financing form, does have fees that are based on the amount of indebtedness on the property. Currently, there is a \$15 filing fee plus 11.5 cents per \$100 of indebtedness, with the exception of the first \$2,000, which is exempt.

Representative CARTER provided additional clarification on the fees associated with filing a UCC form and how a title is a more effective instrument than a UCC form for lenders to protect

their interest in the property. He said that if the state were to move from a system using UCC financing forms to a titling system for boats, then we would need to consider the fiscal effect on the Secretary of State's Office from the loss of those UCC filing fees.

Mayor GREER asked for information about the financial effect on county clerks should boat titling be implemented and county clerks served as agents for the titling process. Ms. JACKSON responded that it would depend on how the legislation is written and variables such as which boats are required to be titled and where the boat must be registered and titled.

Representative SARGENT said that no matter which state agency administered boat titling there would be additional costs because the agency would likely need to hire additional staff to process boat titles. Mr. RICHARDSON agreed that there would be additional costs, but these costs would vary depending on the requirements of the boat titling law. He said that some states issue electronic titles rather than paper titles. If Tennessee did this, it would reduce the administrative costs. He added that TWRA is exclusively responsible for all aspects of recreational boating in Tennessee and that the state's boating program is funded solely from boat registration fees.

Ms. JACKSON and Ms. GAITHER spoke next, with Ms. JACKSON saying that county clerks support boat titling in Tennessee because they believe it would improve the tax collection process for boat purchases, but they have concerns about administration of the program. She shared that at a meeting of county clerks on November 2, 2017, members present voted unanimously to support boat titling, but only if TDoR administers the boat titling process. Ms. JACKSON explained that the county clerks have an established relationship and communication process with TDoR, which has legal staff that is knowledgeable on issues related to titling.

In response to a request from Mayor GREER for an explanation of the process for issuing a title for motor vehicles, Ms. GAITHER described the documents that customers must produce to prove their identity and prove ownership of the property and explained that once the identity of the person and ownership of the property is confirmed the clerk begins the process of issuing a new title. Information is entered into a database where the ownership information is crosschecked with multiple databases to confirm the ownership is valid.

In response to Representative WIRGAU's question as to why the county clerks prefer partnering with TDoR over TWRA, Ms. GAITHER responded that the county clerks have a good working relationship with TDoR and that there is no need to re-invent the wheel by bringing in another agency when TDoR and the county clerks have a good system. She explained that TDoR has an experienced legal team that understands the complicated issues related to titling and that TDoR uses the same software system that the county clerks use.

Mr. RICHARDSON spoke next, saying that TWRA does not have a position on whether Tennessee should title boats or not. But, he said, TWRA is ready, willing, and able to administer a boat titling program. He said that TWRA currently registers boats and because the information and expertise needed to title boats is similar to the information and expertise

needed to register boats, TWRA is the best state agency to administer boat titling if boat titling is established.

In response to Representative CARTER's question about where a boat owner would go to prove ownership of a boat and get a title if the state were to require boat titling, Mr. RICHARDSON said that, because the legislation has not been drafted yet, it is impossible to give a definitive answer. He suggested the state consider having the county clerks perform the same functions for boats that they perform for automobiles when establishing a title, but that TWRA should issue the boat title.

Representative WIRGAU said that only 44 of the 95 county clerks currently partner with TWRA and asked why only 44 act as agents. Ms. GAITHER responded that it is optional for each county clerk. Mr. RICHARDSON said that in addition to the 44 county clerks that act as agents of TWRA, hundreds of other retailers, like Wal-Mart, serve as agents of TWRA for fishing and hunting licenses.

Mayor WATERS requested clarification on how the process works in the 51 counties in which county clerks do not act as agents of TWRA for boat registration. Ms. JACKSON responded that the customer would send the paperwork directly to TWRA or work through another agent of TWRA, like their local Wal-Mart store.

Chairman NORRIS asked that TDoR comment on the topic of boat titling. Ms. SAMPSON said that the Department of Revenue sees benefits to boat titling, but it is not in a position to advocate for a new program. Ms. SAMPSON said that if boat titling is adopted that it should be administered by the same agency that administers boat registration, which is TWRA.

Representative WIRGAU asked who does registration for automobiles now. Ms. SAMPSON responded that TDoR works with the county clerks to register and title automobiles, but boats are currently registered by TWRA.

Representative WIRGAU asked for more information about the software and database used for automobile registration and titling. Ms. SAMPSON responded that TDoR uses the same software and database that the county clerks use for automobiles, but this is not the same system used for registering boats.

Representative CARTER expressed concern that boat titling alone would not fully protect the consumer from a boat fraud incident like the one at Pickwick. Mr. CAPOCCIA agreed that a title would not guarantee that this type of fraud could never happen; however, having titles for boats would add a needed layer of consumer protection. Mr. CAPOCCIA offered suggestions for future legislation, which included defining boat dealers in legislation, requiring surety bonds for boat dealers, requiring insurance on all property at a boat dealer's place of business, and requiring boat titles so they can be tracked.

Ms. SHAW spoke, explaining that, in addition to other responsibilities the Tennessee Motor Vehicle Commission regulates automobile dealers and recreational vehicle (RV) dealers. She explained the process for regulating each and said that regulating boat dealers would include licensing, complaint investigation, appeals, and enforcement activities. She shared that fraud

still occurs for automobiles and RVs and that the Motor Vehicle Commission deals with these types of issues. Ms. SHAW pointed out that boats align with United States Coast Guard standards and that TWRA is the only agency in the state that has expertise with these standards. Ms. SHAW shared her support of boat titling and boat dealer regulations because the benefits would parallel the benefits of titling and dealer regulations for automobiles and RVs, which include surety bonds, liability insurance, an established place of business, a state sales tax number, and clear ownership of the business and the property.

4. Broadband Adoption Working Group—Update

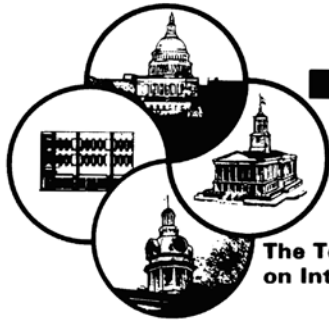
Policy Coordinator Dr. Matthew OWEN provided an update on the state's broadband adoption working group. The working group was established within the Governor's Rural Task Force following the release of the Commission's report on broadband internet deployment, availability, and adoption, which recommended that the state coordinate the efforts of its existing agencies to assist communities in establishing programs to increase the adoption of broadband service. Dr. OWEN said that commission staff are assisting the working group's effort to identify best practices for encouraging broadband adoption in Tennessee. He added that the research and resources that informed the Commission's report have been very helpful. The working group plans to produce a resource guide in spring 2018 for local officials and other leaders to use when identifying ways to overcome the specific barriers to broadband adoption in their communities.

Chairman NORRIS asked for an update on the state's broadband accessibility grant program, which provides grants to broadband providers to expand coverage in unserved areas as recommended in the Commission's report. Dr. OWEN responded that applications for the first grant cycle include requests for a total of more than \$66 million in funding. He said that the state would only be able to fund approximately 15% of these requests this year because of the \$10 million cap on the program's annual grant budget and that recipients would likely be announced in late January 2018. In response to Representative WIRGAU's question about the number of applications received, Dr. OWEN said that there are a total of 71 applications from 31 different applicants. Chairman NORRIS asked whether entities that provide broadband using satellites are eligible for grants. He said that recent advances in satellite broadband could help revolutionize access and close coverage gaps in many communities, especially in areas where deploying other technologies is cost prohibitive, and that he thinks satellite providers should be eligible based on the wording of the law authorizing the grant program. Dr. OWEN responded that satellite providers are among the grant applicants listed this year and that a wide variety of technologies for providing service are included among the applications that have been made available for public comment.

In response to concerns that Mayor McDONALD expressed about regulating and managing the placement of broadband infrastructure in public rights of way, Chairman NORRIS said that the Commission's report and recent legislation address similar issues, including those related to pole attachments, and that it would remain an important topic.

5. Public Chapter 1101 of 1998 Guidebook Update—Information Presentation

Senior Research Consultant Bill TERRY presented updates to the Growth Policy section of the Commission's website and to the guidebook for Public Chapter 1101. In response to Chairman NORRIS' question of whether hard copies of the guidebook would be available, Mr. TERRY said that printing hard copies had not been discussed. Chairman NORRIS commented that the document would be available online and that may be sufficient. He said people still think growth plans end after 20 years, but they do not. In response to Representative CARTER's question of whether the guidebook is intended to have the force of rule or law, Mr. TERRY replied no. Representative WIRGAU asked whether the issue of reviewing the growth plans every five year had been addressed. Chairman NORRIS responded that the issue was discussed but he didn't recall that it had ever been codified. He also said it would be a good idea if municipalities were allowed to unilaterally shrink their urban growth boundaries without reconvening the coordinating committee.



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MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

14 December 2017

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in the Tennessee Municipal League Board Room at 8:35 a.m., Chairman Mark NORRIS, presiding.

Present 16	Absent 8
Mayor Ernest Burgess	Mayor Tom Bickers
Metropolitan Trustee Charles Cardwell	City Commissioner Betsy Crossley
Representative Mike Carter	Ms. Christi Gibbs
Assistant Commissioner Paula Davis	Senator Thelma Harper
Mayor Brent Greer	Representative Harold Love Jr
County Executive Jeff Huffman	Representative Charles Sargent
Mayor Kenny McBride	Senator Bo Watson
Mayor A. Keith McDonald	Mr. Kenneth Young
Mr. Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Vice Mayor Kay Senter	
Mayor Larry Waters	
Comptroller Justin Wilson ¹	
Representative Tim Wirgau	
Senator Jeff Yarbrow	

¹ Lauren Spires represented Justin Wilson

6. Trends In Tennessee Valley Authority Gross Revenue Receipts and Local Government Pilots – Information Presentation

Mr. Stephen SCHOOLFIELD, TVA's senior program manager for taxes, provided an overview of the factors affecting TVA's payments in lieu of taxes (PILOT) to state and local governments. He said that under federal law TVA distributes PILOTs both to the states in which it sells electricity and to the states and counties in which it owns power assets. Total payments each fiscal year are equal to 5% of TVA's gross power revenue from the previous fiscal year. Half of the total is divided among the states based on revenue from sales of TVA power in each state, and the other half is divided based on the value of TVA power assets in each state. He said that out of each state's allocation, TVA makes direct payments to counties in which it owns power assets and, under section 15d(g) of the TVA Act, reimburses the owners of any power assets that TVA leases for the property taxes those owners pay—he said that, currently, TVA's only leased power asset is its Caledonia plant located in Mississippi and that reimbursements under Section 15d(g) for the facility will be approximately \$1 million in fiscal year 2017-18. States distribute what remains from their individual allocations according to formulae set in state law.

In response to Representative WIRGAU's question about whether TVA revenues from other sources—such as marinas leasing land from TVA along its reservoirs—are also included in the gross revenue used to calculate TVA's annual PILOT, Mr. SCHOOLFIELD said they are not. Under section 13 of the federal TVA Act, the total PILOT is based only on gross revenue from power sales to local utilities and industries served directly by TVA. In response to Mayor GREER's question about whether revenues from power sales to federal agencies are included, Mr. SCHOOLFIELD said that revenues from TVA's direct sales to federal customers—such as the US Navy base in Millington or Redstone Arsenal in Alabama—are not included under federal law. But he said that revenues from TVA electricity sold to local utilities, such as Nashville Electric Service, that is then resold to federal entities, such as US post offices, are included when calculating the PILOT. Electricity sales to local utilities account for approximately 93% of TVA's gross power revenue; direct sales to industries account for between 5% and 6%, while direct sales to federal agencies account for between 1% and 2%.

Mr. SCHOOLFIELD said that because the PILOT is based on power revenue, it is affected by factors that affect the amount of power sold from year to year, such as the weather and changes in the region's economy, including the gain or loss of large industrial customers. In response to Vice Mayor SENTER's question about whether TVA is monitoring the effect of consumers' energy efficiency efforts on the PILOT, Mr. SCHOOLFIELD said that it is; TVA has calculated that if each customer replaced one incandescent lightbulb with a compact fluorescent lightbulb, which uses less energy, the resulting reduction in electricity sold would reduce TVA's gross revenue by approximately \$40 million over one year. [Staff note: Because the PILOT is equal to 5% of gross revenue, this would result in a \$2 million decrease in total payments.] He said that TVA does not consider efforts to improve energy efficiency to be a concern in part because reducing the amount that consumers spend on energy can encourage economic development, which is one of TVA's core missions in addition to environmental stewardship and providing electricity. However, TVA remains cognizant of its need to be responsive to factors affecting power sales and revenues, including not only energy efficiency improvements but also increasing use of solar power and other non-TVA energy sources.

Chairman NORRIS asked whether the construction of a new natural gas-fired facility at TVA's existing Allen steam plant in Memphis would affect Tennessee's share of the overall PILOT. Mr. SCHOOLFIELD responded that because half of the PILOT is distributed based on the value of TVA power assets in each state, TVA's decisions to retire old or construct new generating facilities affect the share each state receives. He said that TVA depreciates the value of retired facilities, which are no longer used to produce electricity, basically to zero. Conversely, investments in new facilities, such as the second generating unit added at TVA's Watts Bar nuclear plant, increase the value of TVA property in the states where they are located. He also said that the amount of TVA's PILOT distributed through Tennessee's distribution formula to Shelby County and the cities therein would likely increase because of construction at the Allen steam plant. The state's formula includes a set-aside for local governments in counties affected by TVA construction.

Mr. SCHOOLFIELD said that in addition to this set-aside for areas affected by TVA construction, Tennessee's formula reserves some of TVA's payments for state agencies and distributes the rest to local governments. In response to Representative WIRGAU's question about whether the amount of electricity sold in a county affects the share it receives through the state's formula, Mr. SCHOOLFIELD said that it does not. He said that each county's share is based on its percentage of the state's overall population, its share of the state's land area, and its share of TVA acreage in the state, while each city's share is based on its percentage of the state's city population. [Staff note: Under the state's distribution formula in Tennessee Code Annotated, Section 67-9-101 et seq., local governments and the state also receive base payments equal to those distributed by the state in fiscal year 1977-78.]

Chairman NORRIS said that because TVA's PILOT varies from year to year, local governments that rely on these payments to fund their school systems can face difficult budgeting decisions when payments decrease. Mr. SCHOOLFIELD said that TVA tries to inform state and local officials before large decreases in payments and helps them plan for resulting revenue shortfalls. Despite these efforts, he said that after the loss of a large industrial customer in Kentucky reduced electricity sold in that state and its share of TVA's PILOT, the resulting decrease in payments to local governments led to teacher layoffs in at least one county. He said that while several other states have seen their share of TVA's PILOT decrease, Tennessee's share has generally increased both because of the amount of electricity TVA sells in the state and because of the value of TVA power assets located there.

7. Public Chapter 179, Actos of 2017 (Boat Titling)—Draft Report For Review And Comment

Senior Research Associate Nathan SHAVER presented the draft report on the creation and implementation of a boat titling system in Tennessee for review and comment. The report was required by Public Chapter 179, Acts of 2017. Summarizing the draft report's recommendations, Mr. SHAVER said Tennessee should consider implementing a boat titling system that is gradually phased-in, with exemptions for smaller boats, administered by the Tennessee Wildlife Resources Agency (TWRA) with the support of the county clerks. In addition, Tennessee could provide further protection for consumers by requiring certain minimum dealer licensing requirements for boat dealers, similar to the requirements for motor

vehicle and RV dealers, such as criminal background checks and surety bonds. The final report is scheduled to be presented at the January meeting.

Mr. SHAVER said that, although boat titling would provide some protections and benefits for boat owners and buyers, possession of a title wouldn't necessarily have helped victims of the Hardin County dealer's scam recover their boats. Because the victims agreed to store their boats with the dealer, they could not recover the boats from good-faith buyers who bought them, and having a title would not have helped. In response to Chairman NORRIS' question as to whether lack of a title would give the potential buyer notice not to make the purchase, Mr. SHAVER said that buyers aren't always shown a title at the immediate time of purchase. Chairman NORRIS said that education over time would make buyers aware of the process, but thanked Mr. SHAVER for being conservative in not overstating the benefit of a title in this case. Mayor McDONALD discussed the average cost of purchasing a boat, and the ability for an average person to purchase a boat without financing, which requires a lien. Because a lender is more likely to require proof of ownership before financing a purchase, buyers paying cash are more at risk without titling. Mr. SHAVER agreed that there are situations where requiring title would prevent fraud, but the particular case at Pickwick Lake would not have been prevented. Mayor McDONALD asked whether a lienholder of a financed boat would notify the owner that a transaction had been initiated and that the owner would need to sign over the title to the new buyer. MR. SHAVER said that interviews with attorneys about the subject of UCC and transfer of liens say that the law is complicated and depend greatly on individual case facts.

Representative WIRGAU recalled a statement from the panel discussion at the previous day's meeting that the recording tax for UCC-1 filing is 11-1/2 cents per \$1,000 debt. The report, he noted, says 0.0015 times 10,000—a significant difference. Mr. SHAVER explained that the report shows his mathematical calculation and that the numbers are the same, just shown differently. The report says the amount is 11.5¢ per \$100, not \$1,000. The first \$2,000 is also tax-exempt. Representative WIRGAU said that the amount shown in the draft would mean that the Secretary of State would potentially lose less money than was discussed during the previous day's panel if they were no longer receiving these recording taxes when boat titling was implemented. Mr. SHAVER said he would clarify the calculations for the final report.

Mayor GREER recalled that there had been several bills introduced over the years to introduce boat titling. He suggested bringing TWRA, the Department of Revenue, and the county clerks together to reach an agreement before more legislation is introduced that may not be passed without support from those groups. He reiterated that everyone seems to agree that titling would be good public policy. Mr. SHAVER said that he and research staff had a meeting with those groups together to understand their concerns. Mayor GREER asked whether there is a financial advantage for TWRA to administer the titling process, and what drives their desire to take it on. Mr. SHAVER said that TWRA had provided a lower cost estimate than the Department of Revenue, both of which are included in the draft report, and added that TWRA thinks it is the agency most familiar with boats and boaters. Mayor GREER said that he believes titling is a more complex process than boat registration, and that TWRA would need to have people capable of assisting county clerks with legal issues related to boat titling. Representative WIRGAU said that the previous years' legislation had all included county clerks as the ones to handle title applications. Mr. SHAVER said that the most recent bill, from 2008, named the

county clerks as the ones to process the paperwork with TWRA administering the program overall. The draft report recommends a similar arrangement. Vice Chairman WATERS commented that any legislation introduced needs to have the support of the county clerks, and also stressed the importance of boat dealer licensing and requiring surety bonds.

Chairman NORRIS explained that PC 179, which directs TACIR to study boat titling does not stipulate due date for a final report. He said that there may be an initial report in January, but also further work with the county clerks and other groups.

Mayor McDONALD commented that, for a final report in January, there needs to be some unity among the various agencies as to who will be responsible for the different aspects of any boat titling system, and an explanation that surety bonds and some dealer regulations should be required.

8. Ad Valorem Payments In Lieu of Taxes—Draft Report For Review And Comment

Research Associate Tyler CARPENTER presented the draft report on payments in lieu of taxes (PILOTs) for review and comment. The report was required by Public Chapter 431, Acts of 2017, which directs the Commission to study the economic benefits to counties and municipalities from the use of PILOT agreements and leases by industrial development corporations (IDBs) organized by municipalities, examining whether any economic benefits are derived from limiting the length of term of a PILOT agreement or lease to five or less years absent county approval or an agreement by the corporation or municipality to pay, each year after the initial five years, to the county a sum equal to the amount of real property tax that would have been assessed to a property if the agreement or lease had not been executed, and any additional issues that the Commission deems relevant to meet the objective of the study. The Act requires the Commission to submit a report to the State and Local Government Committee of the Senate and the Local Government Committee of the House of Representatives no later than February 1, 2018. The final report will be submitted for approval at the next meeting.

The draft report makes four recommendations. The first recommendation is that to ensure that economic development needs are being met without undermining the tax base of other city, county, or special school districts, the state should encourage local governments to pursue one of the following cooperative approaches before entering into ad valorem PILOT agreements with private businesses:

- Form a joint IDB with representation of all separate taxing jurisdictions within the county.
- Enter into interlocal agreements with other taxing jurisdictions to establish criteria for any PILOTs that might affect shared tax bases.
- Receive written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements.

In the absence of local governments taking one of these three cooperative approaches, for any PILOT agreement longer than 10 years, either they or their IDBs should be required to make annual payments after the initial 10 years to the other affected local governments equal to the

amount of property taxes those governments would otherwise receive for the affected property based on its assessed value. The second recommendation is that to improve transparency in the PILOT approval process without undermining the confidentiality needed to negotiate agreements, IDBs should be required to provide at least some public notice prior to their meetings, similar to what is already required for tax increment finance hearings. Notice requirements should allow IDBs flexibility regarding both the information provided and the time between posting and when a meeting is held to ensure they remain workable within business recruitment processes that are highly competitive. The third recommendation is that businesses should be required to include the total number of jobs created and taxes abated in the annual PILOT report to the Comptroller of the Treasury. To allow for greater accountability and transparency, the Comptroller's Office has recently compiled a master list of all agreements and in the future plan to send a copy of the annual reports they receive from each company to the local property assessor's office from that county so they can compare their reports. The fourth recommendation is that TACIR's fiscal capacity calculation should be updated to include current IDB assessment amounts rather than the 1993-1995 PILOT payments data currently used. This would require a change in state law or a recommendation by the BEP Review Committee and approval by the General Assembly.

In response to Mayor MCDONALD's question about whether they could agree the amount of taxes abated in a PILOT would not have been received by the jurisdiction if the PILOT had not been created, Mr. CARPENTER said it depends on who owned the property prior to the PILOT agreement being negotiated. Mayor MCDONALD noted that all the PILOTs the City of Bartlett has done have been in situations where they were not receiving any taxes on the improvement to the property. He explained you only abate taxes on the improvement to the property. He said he would like to see proof of PILOTs that reduce the amount of money that would have come in by taxes but now come in by PILOTs. Mr. CARPENTER answered that is difficult to determine on a large scale because the amount of taxes being abated is not being reported to the Comptroller. He said that one of the recommendations in the report is that that information should be reported.

Chairman NORRIS asked Mayor MCDONALD to put his comments in writing and submit them to staff so that they can make sure they are addressed in the report.

Mayor MCDONALD said that there needs to be a base line agreement that the amount of taxes abated in a PILOT would not have been received by the jurisdiction if the PILOT had not been created.

Senator YARBRO asked whether it is normal for one-fifth to one-half of the commercial and industrial property in some counties to be covered by PILOTs. Mr. CARPENTER replied that it is usually because one business has leased a lot of property in the county and is making PILOTs on that property. He said it is difficult to compare incentives in Tennessee to those in other states because of our lack of an income tax.

Mayor WATERS, saying there were good recommendations in the report, discussed a situation in Sevier County where an entity that presently pays property taxes is moving to another part of the county and getting a property tax abatement. Mayor WATERS pointed out that there can

be a significant effect on counties when their property taxes are abated without consultation. They may have to raise taxes to pay for education, and other entities that are paying taxes will have to pick up the slack for abatements given to other entities. He said the recommendations say these things need to be a cooperative effort, and we need something to say that these efforts need to be cooperative.

Vice Mayor SENTER suggested that an entity applying for PILOT or tax increment finance (TIF) could be required to submit a fiscal note to show they really need the incentive to locate there.

Representative CARTER said that a possible solution would be to run a bill that would require local government approval if it had an economic effect on them but would not require approval if it was a PILOT that doesn't have an economic effect because it doesn't take anything off the tax rolls.

The meeting adjourned at 10:33a.m. The next commission meeting was scheduled for January 23-24, 2018; however, because of the legislative schedule, the date was changed to January 25-26, 2018.