

Appendix G: TECB Policy 6: Financially Distressed Districts

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POLICY NO. 6

FINANCIALLY DISTRESSED DISTRICTS

PURPOSE: Pursuant to Tenn. Code Ann. § 7-86-304(d), financially distressed districts are subject to the supervision and evaluation by the Tennessee Emergency Communications Board (Board). The following policy sets forth procedures and guidelines to restore financial stability of financially distressed emergency communications districts.

POLICY:

Board staff shall provide a report of financial health status of emergency communications districts (“ECDs”) to the Board at regularly scheduled meetings and make periodic visits and/or otherwise assist ECDs in efforts to improve financial health.

I. NOTICE OF FINANCIAL INSTABILITY

Each ECD shall provide written notice to the Board within ten (10) days of becoming aware of any of the following events:

1. Predicting or operating under a deficit total net position;
2. Default on any indebtedness due to insufficient funds;
3. Being the subject of a lien filed by the internal revenue service; or
4. Having a negative change in net position for three (3) consecutive years.

II. “FINANCIALLY DISTRESSED” DISTRICTS DEFINED

A “financially distressed emergency communications district” is a district that, as shown by annual audits:

1. Has a negative change in net position for a period of three (3) consecutive years;
or
2. Has a deficit in total net position; or
3. Is in default on any indebtedness.

Additionally, the Board may determine a district is a “financially distressed emergency communications district” if:

1. The ECD is the subject of a lien filed by the internal revenue service;
2. The Board determines that it appears that the ECD cannot satisfy its financial obligations to the extent that the continued operation of the ECD is at risk; or
3. The ECD defaulted on any indebtedness due to insufficient funds, such default is not cured within sixty (60) days, and, upon determination of the Board, it appears that the ECD cannot satisfy its financial obligations to the extent that the continued operation of the ECD is at risk.

III. BOARD EVALUATION OF FINANCIALLY DISTRESSED DISTRICTS

Board staff shall prepare an analysis of the financial statements and operations of a financially distressed ECD and present its findings, evaluation, and recommendations at an open meeting of the Board. The ECD board chairman and director of the financially distressed ECD are encouraged to attend this meeting and to respond to questions from the Board regarding the ECD's financial status.

Tenn. Code Ann. § 7-86-305 provides that as a means to restore financial stability to financially distressed ECDs and to ensure continued 911 service for the benefit of the public, the Board may study the possible consolidation or merger of two (2) or more adjacent ECDs, if at least one (1) such ECD is financially distressed. A merger or consolidation affecting a non-financially distressed ECD shall not occur without the prior approval of the board of directors of the non-financially distressed ECD. In the event that the Board determines that such a consolidation or merger is in the best interest of the public, and after holding public hearings within the service areas of the affected ECDs, the Board may order the consolidation or merger, provided that such action shall not threaten the financial integrity or stability of the affected ECDs, or the level and quality of 911 service.

If the Board in its evaluation concludes that the ECD cannot satisfy its financial obligations to the extent that the continued operation of the ECD is at risk, the Board may elect to confirm the financially distressed designation. In determining whether an ECD will be confirmed as a financially distressed ECD, the Board shall not consider the ECD's depreciation costs as an operating expense. Factors the Board may consider include, but are not limited to, the following:

1. Cash and reserve balances in relation to operating budgets.
2. Amount of the negative changes in net position in relation to revenues.
3. Recurring or non-recurring nature of expenditures causing negative changes.

If the Board concludes after evaluation that the ECD is not financially distressed, the provisions for ECDs with a negative change in annual net position described in Section V of this policy shall be followed.

IV. BOARD SUPERVISION OF FINANCIALLY DISTRESSED DISTRICTS

Financially distressed ECDs shall be subject to the following guidelines until the ECD demonstrates a positive change in net position, without considering depreciation as an operating cost, on audited financial statements for two (2) consecutive years.

1. A balanced budget must be adopted or an unbalanced budget shall be explained to the Board. A balanced budget is one in which operating expenditures include depreciation and expenditures do not exceed revenues. A copy of any proposed budget shall be provided to the Board at least ten (10) days prior to any ECD board meeting in which the ECD budget or any amendment to the budget is on the agenda to be discussed or approved.

2. Line item expenditures authorized by the budget shall not be exceeded. Any projected debt or anticipated expenditure with a cost in excess of five thousand dollars (\$5,000), or which increases budgeted payroll costs over one thousand dollars (\$1,000), must be requested and approved by the Board. This applies to purchases and expenditures involving partial payments of less than five thousand dollars (\$5,000), provided the payment totals more than five thousand dollars (\$5,000) over time. Subject to the provisions of Tenn. Code Ann. § 7-86-306, the Board executive director is authorized to approve or deny such requests. If such a request is denied by the Board executive director, the ECD may appeal the decision to the Board at a regularly scheduled meeting.
3. The board of directors of a financially distressed ECD shall meet at least bi-monthly (six times per year) in order to review and consider financial statements, operations, and efforts to end distressed status. Copies of all ECD board of directors meeting minutes and financial reports required under Tenn. Code Ann. § 7-86-123 shall be provided to the Board. Minutes shall be filed with the Board no later than seven (7) days after approval; financial reports shall be filed no later than seven (7) days after each ECD meeting.
4. All ECD board meetings and hearings to be held by the ECD board of directors shall be notified in writing to Board staff no less than ten (10) days in advance of such meeting or hearing. Reasonable notice of emergency meetings shall be provided to the Board.
5. ECD boards of directors and staff shall work with Board staff to accomplish a state of sound financial health.

V. DISTRICTS WITH NEGATIVE CHANGE IN NET POSITION

ECDs with a negative change in net position for one or more consecutive fiscal years, with such change being greater than the depreciation expenses recorded for the corresponding fiscal year, shall be offered assistance and guidance by Board staff and must comply with the following:

1. An ECD with one year of negative change greater than recorded depreciation expense, and not confirmed by the Board as financially distressed, shall:
 - a. Be notified by Board staff in writing to the ECD director and ECD board chair regarding the existence of the negative change in net position and offered assistance and guidance by Board staff.
 - b. Work with Board staff to try to improve the ECD's financial health.
2. An ECD with two or more consecutive years of negative changes greater than recorded depreciation expense, and not confirmed as financially distressed, shall:
 - a. Be notified by Board staff in writing to the ECD director and ECD board chair regarding the existence of the two or more consecutive years of

negative change in net position and offered assistance and guidance by Board staff.

- b. Adopt a balanced budget or explain to the Board an unbalanced budget. A balanced budget is one in which operating expenditures include depreciation and expenditures do not exceed revenues.
- c. Provide copies of all ECD board of directors meeting minutes and financial reports required under Tenn. Code Ann. § 7-86-123 to the Board. Minutes shall be filed with the Board no later than seven (7) days after approval; financial reports shall be filed no later than seven (7) days after each ECD meeting.
- d. Work with Board staff to try to improve the ECD's financial health.

Effective: May 3, 2017.

Supersedes: Policy No. 16 (Adopted 01-15-04), Policy No. 6 (Effective August 5, 2015), and Policy 9 (Effective November 2, 2016).

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