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

25 January 2018

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room 1 of the Cordell Hull Building at 1:04 p.m., Chairman Mark NORRIS presiding.

<b>Present 20</b>	<b>Absent 5</b>
Mayor Ernest Burgess	Mayor Tom Bickers
Metropolitan Trustee Charles Cardwell	Representative Charles Sargent
Representative Mike Carter	Vice Mayor Kay Senter
City Commissioner Betsy Crossley	Senator Bo Watson
Deputy Commissioner. Paula Davis	Mr. Kenneth Young
Ms. Christi Gibbs	
Mayor Brent Greer	
Senator Thelma Harper	
County Executive Jeff Huffman	
Representative Harold Love Jr	
Mayor Kenny McBride	
Mayor Keith McDonald	
Regional Director Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	
Representative Tim Wirgau	
Senator Ken Yager	
Senator Jeff Yarbro	

<sup>1</sup> Lauren Spires represented Justin Wilson

## **1. Call to Order and Approval of the Minutes**

Before calling the meeting to order, Chairman Mark NORRIS said that since Mayor Keith MCDONALD of Bartlett has some questions about the Ad Valorem Payments in Lieu of Taxes report, but is unable to attend the first day of the meeting, the Commission would discuss the draft on the first day, but might not vote on it until the second day. Chairman NORRIS called the meeting to order at 1:04 p.m., dispensed with the calling of the roll, and requested approval of the minutes of the December 2017 meeting. Regional Director Iliff MCMAHAN moved approval and Senator Jeff YARBRO seconded the motion, which passed unanimously. Chairman NORRIS also welcomed the members, staff, and audience to the Commission's first meeting in the newly renovated Cordell Hull Building, and welcomed new member, Senator Ken YAGER, Chairman, Senate State and Local Committee.

## **2. Commission and Staff Update**

Executive Director Cliff LIPPARD asked the members to recognize and congratulate Senior Research Associate Bob MOREO, who recently completed the graduate level certificate program in applied geospatial information systems (GIS) at Tennessee State University.

Dr. LIPPARD next introduced the Commission's Policy Coordinator, Dr. Matthew OWEN, to provide an update on the state's broadband grant programs. On January 18, 2018 the Department of Economic and Community Development (ECD) in partnership with the Secretary of State's Office and Tennessee State Library and Archives announced a total of 52 grants awarded through two programs to 49 different libraries across the state. Consistent with recommendations in the Commission's report on broadband internet deployment, availability, and adoption, the grants will be used to support digital literacy training and educational programming in science, technology, engineering, and math, including computer coding. Dr. OWEN said that the grants total approximately \$109,000 in state funding with an additional \$15,000 provided in local matching funds. Chairman NORRIS said that recipients of the first round of grants for expanding broadband coverage could be announced as early as January 26.

Dr. OWEN noted that ECD in partnership with the US Department of Commerce's National Telecommunications Information Administration is hosting a summit on broadband in Nashville on March 20. Among other topics, speakers at the summit are scheduled to address the state's progress in expanding broadband coverage and adoption following passage of the Tennessee Broadband Accessibility Act of 2017. Chairman NORRIS said that as a result of the Act, which was based largely on the recommendations of the Commission, Tennessee will be even better positioned to benefit from future federal broadband infrastructure initiatives.

## **3. Public Chapter 179, Acts of 2017 (Boat Titling)—Final Report for Approval**

Senior Research Associate Nathan SHAVER presented the final report on boat titling for the commission's approval and reviewed revisions made since the draft was presented at the Commission's December 2017 meeting. He said that the main recommendation of the report remains unchanged:

Based on the benefits of boat titling for owners and buyers, the titling laws in other states, and the concerns raised by stakeholders, Tennessee should implement a boat titling system for motorized and sail-powered boats that are either larger or likely to be more powerful. Similar to Michigan, Tennessee could consider limiting titling both to boats that have a permanently attached engine and to boats that are at least 20 feet long, excluding human-powered watercraft.

Mr. SHAYER explained, however, that one recommendation was revised in response to members' concerns that county clerks, the Tennessee Wildlife Resources Agency (TWRA), and the Department of Revenue had not reached a consensus regarding which government entity should administer a potential boat titling system. The final report recommends that TWRA, the county clerks, and the Department of Revenue work together to determine an effective and agreed upon way to administer boat titling in the state and requests that they report their decision to the Commission in December 2018.

Mr. SHAYER said the report also includes additional information on how a boat titling requirement could lead to a decrease in the amount of recording taxes and filing fees that the Tennessee Secretary of State's office collects for UCC-1 financing statements on boats. Information was also added in the final report about North Carolina's boat titling system to provide an example of a state that administers boat titling without the assistance of local government. Additional language was included to clarify that boat titling would help prevent some but not all fraud.

Representative CARTER moved the approval of the report; Representative PARKINSON seconded the motion, and the members approved it unanimously.

#### **4. Public Chapter 431, Acts of 2017 (Ad Valorem Payments in Lieu of Taxes)—Final Report for Approval**

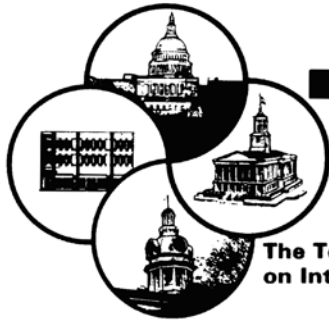
Senior Research Associate Tyler CARPENTER presented the final report on payments in lieu of taxes (PILOTs) in Tennessee for approval. The report was required by Public Chapter 431, Acts of 2017, which directs the Commission to study: the economic benefits to counties and municipalities from the use of PILOTs and leases by industrial development corporations (IDBs); examine whether any economic benefits are derived from limiting the length of term of a PILOT agreement or lease to five years absent county approval; and any additional issues that the Commission deems relevant to meet the objective of the study. Mr. CARPENTER reviewed changes made to the report since the December meeting, including the addition of language that in the event that local governments do not choose to cooperate with one another, the state may consider requiring that local governments receive PILOT payments at least equal to the portion of the revenue that would have otherwise gone to schools.

Chairman NORRIS said that concerns have been raised about part of the report's recommendation that would require written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements if there were no pre-existing interlocal agreements or joint IDBs involved; there was a feeling the written approval aspect may tie the hands of local governments. He asked whether any

local government or IDB uses this approach. Mr. CARPENTER said there is a similar requirement in statute that applies specifically to Shelby County and the recommendation is modeled after it.

Mayor MCBRIDE asked how many rural economic developers were consulted during the study. Mr. CARPENTER said he spoke with people from East Tennessee, the Tennessee Department of Economic and Community Development, IDB directors, and Younger Associates—a firm responsible for developing economic impact plans for IDBs. He also referred the members to the list of persons contacted, located in the appendix of the report. Mayor MCBRIDE said a PILOT is the only incentive the rural areas have to offer businesses in West Tennessee; they will lose prospects if all have to agree because it's going to extend the process. Executive Director LIPPARD pointed out that written approval is one of the three options that local governments could use. He said that the other two options, establishing PILOT criteria on the front end through interlocal agreements or creating a joint IDB, are more desirable. Chairman NORRIS suggested deferring voting on the report until the next day to give Mayor MCDONALD the opportunity to address his questions.

Chairman NORRIS adjourned the meeting at 1:50 p.m.



# TACIR

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## MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

26 January 2018

### Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room 1 of the Cordell Hull Building 8:39 a.m., Chairman Mark NORRIS, presiding.

<b>Present 16</b>	<b>Absent 9</b>
Mayor Ernest Burgess	Mayor Tom Bickers
Metropolitan Trustee Charles Cardwell	Senator Thelma Harper
Representative Mike Carter	Representative Harold Love Jr
City Commissioner Betsy Crossley	Representative Charles Sargent
Deputy Commissioner Paula Davis	Vice Mayor Kay Senter
Ms. Christi Gibbs	Senator Bo Watson
Mayor Brent Greer	Senator Ken Yager
County Executive Jeff Huffman	Senator Jeff Yarbro
Mayor Kenny McBride	Mr. Kenneth Young
Mayor Keith McDonald	
Regional Director Iliff McMahan	
Senator Mark Norris	
Representative Antonio Parkinson	
Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	
Representative Tim Wirgau	

<sup>1</sup> Lauren Spires represented Justin Wilson

## **5. Tennessee Valley Authority Payments in Lieu of Taxes—Annual Report for Approval**

Policy Coordinator Dr. Matthew OWEN presented the annual update on Tennessee Valley Authority (TVA) payments in lieu of taxes (PILOT) for approval. He said that the amount Tennessee receives from TVA is estimated to increase this year even though Tennessee's percentage of TVA's total payments to all states in the Valley region is estimated to decrease slightly. Dr. OWEN reviewed TVA's strategies for meeting energy demands while rebalancing its power network, saying that they could affect the PILOT in future years.

In response to Representative WIRGAU's question about how TVA's PILOT is distributed, Dr. OWEN said that the formula TVA uses to divide the overall PILOT among the states is set in federal law, while the formula used by Tennessee to distribute the amount it receives from TVA is set in state law. Representative WIRGAU asked how fluctuations in the amount Tennessee receives from TVA affect distributions through the state's formula. Dr. OWEN responded that the state's formula includes base payments to local governments that do not change from year to year. There is also a base amount retained by the state that similarly does not change. He said that any remaining amount—which does vary with changes in TVA's PILOT—is distributed through the formula, with equal percentages set aside for local governments and the state and with smaller additional percentages set aside for communities in areas affected by TVA construction as well as for the Commission, the University of Tennessee County Technical Assistance Service (CTAS), and the Tennessee Central Economic Authority to assist these agencies in their work supporting local governments. Mayor GREER said that any changes to the state's formula could, therefore, affect the distributions to these agencies as well as local governments. He said that CTAS had created an overview of each state's formula for distributing PILOTs received from TVA. The overview is available through the Association of Tennessee Valley Governments' website.

In response to Chairman NORRIS' question about which committees of the General Assembly receive copies of the Commission's annual report, Dr. OWEN said that the report is required to be sent to the Commerce and Labor and Finance, Ways and Means committees in the Senate and the Business and Utilities and Finance, Ways and Means committees in the House.

Regional Director Iliff MCMAHAN moved approval of the report, Representative WIRGAU seconded the motion, and it was approved unanimously.

## **6. Annual Report on Tennessee's Public Infrastructure Needs—Final Report for Approval**

Senior Research Associate David KEISER presented the final report *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs 2018* for approval. He mentioned preliminary discussions of President Trump's infrastructure plan and how Tennessee's Public Infrastructure Needs Inventory may give Tennessee an advantage as components of the plan become known. TACIR staff plan to monitor the situation as it develops.

Mayor Keith MCDONALD asked why the need for technology needs in schools was decreasing, especially with recent developments in broadband policy. [Part of the decrease may be related to the use of wireless network connections to the internet instead of the use of dedicated lines to

each device in a school or the technology needs were captured as part of general school renovation needs.] He noted the \$25 million average cost of schools and asked whether we were using a statewide average. Mr. KEISER said yes, we are using a statewide average that includes all types of school structures from high schools to smaller alternative schools.

Chairman NORRIS mentioned the broadband grant program and that Governor Haslam would be making an announcement soon. He added that the Commission should keep a close eye on broadband and new technologies, especially when it comes to “cable cutting.”

Chairman NORRIS asked for a motion to approve the report. Representative PARKINSON moved approval, and Regional Director Iliff MCMAHAN seconded. The report was unanimously approved.

## **7. Ad Valorem Payments in Lieu of Taxes (PILOT): Addressing Accountability and Transparency—Information Presentation**

Senior Research Consultant Lynne HOLLIDAY presented information to the Commission about transparent reporting of tax incentive agreements, as a supplement to the Commission’s report on Ad Valorem Payments in Lieu of Taxes. She said some local governments in Tennessee voluntarily provide detailed reporting of PILOTs received and described how that revenue is allocated in their budgets. She suggested that these municipalities could serve as examples to others wanting to enhance transparency around the payments and their use.

Ms. HOLLIDAY shared financial reports from Bradley County illustrating how PILOT revenues are allocated to the county’s various funds in the same manner that property taxes are, including distribution to school systems. She said that showing PILOT data in budget documents, published online, is the easiest way to make the information understandable. As an example of how a larger government can dedicate significant resources for detailed, enhanced, web-based reporting of economic development agreements and PILOTs, she introduced Matt WILTSHIRE, Director of the Metropolitan Government of Nashville and Davidson County’s Mayor’s Office of Economic and Community Development to present to the Commission.

Mr. WILTSHIRE said that economic incentives are an important tool for attracting businesses to Nashville, and the mayor’s office believes it is important to provide information to the public about those deals. He displayed the city’s website and interactive map showing incentives projects by location in Metro Nashville. The map shows the amount and what type of incentives were provided to each company, date of agreement, number of jobs expected, capital investment by the company, other grants provided, and a total expected value of the agreement. The economic development office also does an annual review of each agreement in place to verify the number of employees compared to initial expectations. Most of the incentive agreements the city enters into have job reporting requirements. He said that he hopes to add more information in the future to show how property tax and appraisal fluctuations over time affect the actual PILOT money received by the city compared to the initial estimate.

Chairman NORRIS asked who maintains the website. Mr. WILTSHIRE responded that it was created by Metro’s Information Technology Services (ITS) department.

Representative WIRGAU asked for an average cost per job for the incentives provided by Nashville. Mr. WILTSHIRE responded that it is complicated to answer. The cost of a PILOT agreement for a building to be constructed on a previously vacant lot should be compared to the taxes being received before, not compared to the full value on the improved property. If the incentive wasn't given, the project would not have been completed at all, he said, or maybe a less valuable building would have been built. Mr. WILTSHIRE said that the city only offers incentives in "but-for" cases—where the project would not happen but for the incentive. He also said there are ancillary benefits that cannot be calculated, like property taxes from new employees buying homes in Nashville and sales taxes from spouses and families, and costs like additional students in schools.

Mayor MCDONALD said he wants to make sure any new requirements don't limit flexibility. He also shared his concerns that financial reporting is too complicated and needs to be understandable for average citizens, saying that even what Mr. WILTSHIRE had shown and what is published in Shelby County can be difficult to understand.

County Executive HUFFMAN said that one of the difficulties with some PILOT agreements is when both real property and personal property are incentivized. Mr. WILTSHIRE said that Nashville does not typically give incentives towards personal property taxes, but there are instances where both are required. County Executive HUFFMAN asked whether Nashville had any problems with lower-than-expected revenues from decreasing appraisal values and tax rates over time. Mr. WILTSHIRE said they had not yet, adding that the annual value of tax incentives is a tiny percentage of overall revenue, so that individual projects have very little affect by themselves.

County Executive HUFFMAN asked how Metro treats incentives for additional jobs and investment by existing businesses. Mr. WILTSHIRE said that sometimes they give incentives, but each case is unique. They can give incentives for increased value and increased jobs compared to the preexisting situation. County Executive HUFFMAN also asked whether they make deals with decreasing incentive amounts over the length of the agreement. Mr. WILTSHIRE said yes, giving an example where an abatement was 100% initially and declined each year. He said that, while he values flexibility in how incentives can be structured, he acknowledges that variations in agreements invite questions of favoritism and impropriety. Being publicly open and transparent minimizes that.

Vice Chairman WATERS asked whether incentives given to the Omni Hotel project, for example, brought criticism from existing competitors. Mr. WILTSHIRE said that there has been some. He said that, for those reasons, they do not give abatements for retail development, and that his office addresses concerns of existing businesses before and after agreements are made.

Mayor MCDONALD asked what happens with money that normally goes toward education. Mr. WILTSHIRE said that the way he understands the budget process is that the revenue from an individual project is not sequestered for a particular use. Rather the money all goes together and is distributed through the budget process—although there have been agreements where the abatement percentage is structured so that it appears to protect the amount for schools.



Chairman NORRIS had the commission return to the discussion of the draft report on PILOTs and said that based on the prior day's discussion; revisions had been made to the draft report. Executive Director LIPPARD provided a summary of the proposed changes to the report, saying that those changes make a distinction between incentives for retail development and those for manufacturing and other commercial development. He said the revisions say the state should encourage local governments to pursue cooperative approaches before entering into PILOT agreements with manufacturing and commercial businesses and recommend that local governments be required to pursue one of three cooperative approaches before entering into PILOT agreements longer than 10 years with retail businesses; 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.

Mayor MCDONALD said he wanted the Commission to make clear in the recommendation that local governments can abate their own property taxes without anyone else's approval. Chairman NORRIS said it will be clarified in the report.

Chairman NORRIS recommended that the report make clear that special school districts have taxing authority. Representative CARTER made a motion to adopt the amendment and Representative WIRGAU seconded. The amendment was adopted unanimously. Representative CARTER made a motion to approve the report as amended and Regional Director Iliff MCMAHAN seconded. The report was approved unanimously.

The meeting adjourned at 10:36 a.m. The next commission meeting was scheduled for May 3-4, 2018.