Report of the Tennessee Advisory Commission on Intergovernmental Relations

Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements

January 2018

TACIR
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Report of the Tennessee Advisory Commission on Intergovernmental Relations

Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements

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January 25, 2018

The Honorable Ken Yager
Senate Chair, State and Local Government Committee
425 5th Avenue North
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The Honorable Tim Wirgau
House Chair, Local Government Committee
425 5th Avenue North
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Nashville, TN 37243

Dear Chairman Yager and Chairman Wirgau:

Transmitted herewith is the Commission's report on payments in lieu of tax (PILOT) agreements. The report was required by Public Chapter 431, Acts of 2017. The Act directed the Commission to study the economic benefits to counties and municipalities from the use of payment in lieu of ad valorem tax agreements and leases by industrial development corporations organized by municipalities, examine whether any economic benefits are derived from limiting the length of term of a payment in lieu of ad valorem tax 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 study any additional issues that the Commission deems relevant to meet the objective of the study. The final report makes several recommendations for encouraging cooperation, accountability, and transparency in PILOT agreements. It also includes recommendations to help ensure that education funding is not adversely affected by PILOT agreements. The report was approved by the Commission on January 25, 2018, and is hereby submitted for your consideration.

Respectfully yours,

Senator Mark Norris
Chairman

Cliff Lippard
Executive Director

The Tennessee Advisory Commission on Intergovernmental Relations

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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 25 January 2018

SUBJECT: Public Chapter 431, Acts of 2017 (Ad Valorem Payments in Lieu of Taxes)—Final Report for Approval

Note: This memorandum has been edited to reflect revisions to the first recommendation, as approved by the Commission on January 26, 2018.

The attached Commission report is submitted for your 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 payment in lieu of ad valorem tax agreements and leases by industrial development corporations organized by municipalities;
- examining whether any economic benefits are derived from limiting the length of term of a payment in lieu of ad valorem tax 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. Staff has continued to refine the

information and recommendations presented in the report to address questions and feedback received from members at the December 2017 meeting.

Staff added language to clarify that whether or not PILOTs agreements have economic benefits depends on a number of factors and that some IDBs require proof that benefits outweigh costs before they will approve a PILOT. Language was included to explain that most local governments and the state don't generally collect enough information from businesses that have agreements to determine whether the incentives have resulted in economic benefits to their communities. Additionally, information was included explaining how local governments in Shelby County work collaboratively on PILOT agreements and highlighted that Bartlett only abates the improved value of real property of the city property tax, requiring the payment of PILOTs equal to taxes that were previously owed.

To address the concern of several members that PILOTs can reduce education funding, staff added language to the recommendation regarding cooperation between governments when approving PILOT agreements. The report recommends 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 cooperative approaches before entering into ad valorem PILOT agreements with private businesses. Existing approaches already available in state law include**

- **forming a joint IDB with representation of all separate taxing jurisdictions within the county, to include special school districts which have taxing authority,**

AND

- **entering into interlocal agreements with other taxing jurisdictions to establish criteria for any PILOTs that might affect shared tax bases,**

AND

- **receiving written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements.**

When entering into PILOT agreements for retail development, local governments should be required to take one of these three cooperative approaches for agreements longer than 10 years, 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. Further, the state may consider requiring that local governments receive PILOT payments for retail development at least equal to the portion of the revenue that would have otherwise gone to schools. These requirements would not apply to PILOT agreements affecting only the jurisdiction making the agreement.

The other three recommendations in the report had no substantial changes:

- **To improve transparency in the PILOT approval process without undermining the confidentiality needed to negotiate agreements, IDBs should specifically be required to provide public notice prior to their meetings, similar to what is already required for TIF 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.**
- **Lessees with PILOT agreements should be required to include information about total investments made, number of jobs created, and taxes abated in their 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 plans 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.**
- **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.**

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Executive Summary: Balancing the Needs of Local Governments, Businesses, and the Public

Businesses in Tennessee made payments in lieu of ad valorem taxes (PILOTs) totaling $75.7 million in 2016 for tax exempt properties they lease from local industrial development boards (IDB). Although businesses can negotiate PILOT agreements with IDBs equal to the taxes they would otherwise owe if they owned the properties themselves, in practice the payments can be for less and vary by agreement—total payments in 2016 were equal to approximately 47% of the taxes that would have otherwise been owed based on the 2016 assessed value of the property, including any improvements made by the businesses. As a result, PILOT agreements often function as indirect property tax abatements that are used by IDBs and their affiliated local governments to encourage economic development.

While stakeholders interviewed generally support the use of PILOT agreements to encourage businesses to invest in Tennessee, conflicts arise over the details of individual agreements and the process for negotiating them. This was the case in Pigeon Forge and Sevier County in 2015, when the city's IDB negotiated a PILOT agreement with a Publix grocery store, abating not only the business's city property taxes but also its county property taxes for a 20-year period. Sevier County's mayor has expressed concern that PILOT agreements like this one could reduce local governments' ability to fund public education and other services that are supported by property tax revenues and that the terms of the abatements in some PILOT agreements are too long. But like IDBs for other local governments in Tennessee that levy their own property taxes, Pigeon Forge's IDB was not required to seek the county's approval before agreeing to the PILOT.

In response to the concerns raised by the county mayor, House Bill 1223 by Representative Hicks and Senate Bill 1362 by Senator Bailey would have prohibited municipal IDBs from entering into PILOT agreements longer than five years unless they receive approval for each agreement from the county in which they are located. Alternatively, the IDB or its affiliated municipality make annual payments to the county after the first five years of each agreement, and those payments would have to be equal to the real property taxes the county would have received based on the affected property's assessed value. Stakeholders raised concerns that the bill's restrictions applied only to city IDBs abating county property taxes and not county IDBs abating city property taxes.

Responding to the general concerns about PILOTs as well as the specific concerns with the original bill, the General Assembly passed an amended version as Public Chapter 431, Acts of 2017, which instead directs the Commission to study

PILOT agreements often function as indirect property tax abatements used to encourage economic development. While stakeholders interviewed generally support the use of PILOT agreements to encourage businesses to invest in Tennessee, conflicts arise over the details of individual agreements and the process for negotiating them.

- the economic benefits to counties and municipalities from the use of PILOT agreements and leases by IDBs organized by municipalities;
- whether in the absence of county approval for a PILOT any economic benefits are derived from limiting the agreements length to five years or from requiring the IDB or municipality to make annual payments to the county after the first five years equal to the amount of real property taxes the county would have received based on the property's assessed value; and
- any additional issues that the Commission deems relevant.

Measuring the economic benefit of PILOT agreements is difficult because the state and local governments do not generally collect enough information to make this determination.

The assumption made by IDBs concerning tax abatements is that the business would not have chosen to locate in their jurisdiction but for the agreement. If this is true, such an agreement could mean economic benefits for the community, but it is often difficult to prove. Whether or not there are economic benefits depends on a number of factors, including the assessed value of the affected property before it was acquired by the IDB, as well as any economic impacts (employment, income, business and household spending), fiscal impacts (new government revenues and new expenditures), and project impacts (direct, indirect and induced). To better ensure that local governments achieve an economic benefit from the exchange, some IDBs require proof that benefits outweigh costs before they will approve a PILOT, but unfortunately, local governments and the state don't generally collect enough information from businesses that have PILOT agreements to determine whether the incentives these businesses received have resulted in economic benefits to their communities. While collecting this information would be helpful, the state could also address some of the issues raised when an IDB representing one local government abates the taxes of another—as happened in Sevier County—both by encouraging greater cooperation among local governments in the process for negotiating PILOT agreements and by increasing transparency in this process without compromising the confidentiality necessary for conducting negotiations with private businesses.

Property Tax Incentives and Economic Development

State and local governments use a wide array of incentives to encourage businesses to invest in their communities. While these incentives are only one of many factors—including available workforce, infrastructure, and logistics—that businesses consider when determining where to locate or invest, they can be the deciding factor when making a final choice among several short-listed locations that otherwise offer similar resources or advantages.

Nationwide, the abatement of local property taxes is a common incentive at the disposal of local governments, though the types of property tax incentives that can be offered and the process for granting them vary by state

and community. For example, the Constitution of the State of Tennessee authorizes the General Assembly to exempt from property taxes only those properties held by local governments or the state that are used exclusively for public purposes and other non-government-owned properties that fall into certain narrowly defined categories—including those used exclusively for religious, charitable, scientific, literary, or educational purposes. This prohibits local governments in Tennessee from directly abating property taxes for all but a limited subset of property.

Tennessee Communities Provide Property Tax Incentives through PILOT Agreements Made by IDBs

While their ability to directly abate property taxes is limited, local governments in Tennessee can lease government-owned tax-exempt property to businesses, providing them with a form of indirect abatement. Consistent with the limits in the state's constitution, local governments acting either individually or jointly are authorized to establish IDBs that hold and lease property to businesses for a variety of purposes, many of which include uses that encourage economic development, under Tennessee Code Annotated, Section 7-53-101 et seq. The properties the IDBs own are tax exempt, and local governments can authorize IDBs to negotiate and accept PILOTs from the businesses that lease their properties. These PILOTs can help offset local government revenues lost when the properties are removed from tax rolls.

Local governments acting either individually or jointly are authorized to establish industrial development boards (IDBs) that hold and lease property to businesses.

The ultimate value of the incentive that a business receives from a PILOT agreement with an IDB is equal to the difference between any negotiated payments and the property taxes a business would otherwise owe if the property were subject to taxation.

The process for approving IDB PILOT agreements in Tennessee varies based on

- whether the negotiated payments are at least equal to the taxes that would be owed if the property were subject to taxation,
- an agreement's length, and
- the local governments involved.

State law allows local governments that have authorized their IDBs to negotiate PILOTs to require that any agreements be submitted to them for approval. For agreements where payments made to the city and county are at least equal to the taxes that would otherwise be owed, no additional approval is necessary beyond what is required by the local government or governments that created the IDB.

But for agreements where payments made to either the city or county are less than the taxes that would be owed if the property were subject to

taxation, additional restrictions apply depending on an agreement's length and whether the IDB that negotiated the agreement is established by a municipality without its own property tax. All PILOT agreements where payments are less than taxes owed for periods longer than 20 years—not including up to three years allowed for construction—must be approved not only according to the procedures required by an IDB's affiliated local government but also by both the Tennessee Department of Economic and Community Development and the Tennessee Comptroller of the Treasury. State approval is not required for agreements that don't exceed this threshold. Though the data is incomplete, it appears the most common length of term for a PILOT agreement in Tennessee is 10 to 15 years.

All IDBs established by municipalities with their own property taxes may abate the property of other local governments.

IDBs established by municipalities without their own property taxes are prohibited from entering PILOT agreements that would abate the taxes of the counties in which they are located without receiving those counties' approval for each agreement. Absent county approval, these IDBs or the municipalities that created them must agree to make payments to the affected counties equal to the property taxes that would otherwise be owed for real but not personal property, under Tennessee Code Annotated, Section 7-53-305(h). Of the 184 IDBs in Tennessee, only five are established by one of the 74 municipalities in the state that don't levy their own property taxes. Overall, 271 cities and all 95 counties in Tennessee have their own property taxes.

In contrast, IDBs established by local governments—whether city, county, or both—that levy their own property taxes are not required to seek the approval of other governments affected by their PILOT agreements. Nor are they required to share with other affected tax jurisdictions any PILOTs made pursuant to their agreements. As a result, it is possible for IDBs established by some local governments in Tennessee to enter PILOT agreements that abate the property taxes of other local governments or special school districts without those tax jurisdictions' consent.

Encouraging Cooperation on PILOT Agreements Can Reduce Conflict among Local Governments

The ability of some local governments' IDBs to abate the property taxes of other jurisdictions can cause conflicts, as was the case between Pigeon Forge and Sevier County in 2015 discussed above. Several stakeholders have also expressed concern that local property taxes foregone in PILOT agreements can create revenue shortfalls that either result in cuts to public services or have to be made up from other local revenue sources so local governments can maintain compliance with state law. For education, for example, the state's "maintenance of effort laws ensure that local funds budgeted for schools do not decrease as state funding for schools increases. County commissions, city councils and special school districts must budget

the same total [local] dollars for schools that they did the previous year. . . . If student enrollment declines, the funding bodies must budget at least the same dollars per student as the previous year. Dollars budgeted for capital projects and debt service are not included in maintenance of effort calculations."[1] Although it would be difficult to document, there is the possibility that any reduction in property tax revenue including those resulting from the use of IDB PILOT agreements could result in a local government or special school district having difficulty meeting the state's maintenance of effort requirements or increasing other taxes to maintain compliance. Regardless, when one local government abates the taxes of other local jurisdictions without their approval, it is in effect making budgeting decisions for them.

Tennessee could address these concerns by prohibiting local governments from abating each other's taxes through IDB PILOT agreements, as many other states have done. It could also simply require that IDB PILOT agreements be approved by all affected local governments before taking effect, as is already the case for the other major local property tax incentive program in Tennessee—tax increment financing (TIF), in which local governments finance improvements to properties and are repaid through future growth in property tax revenues—regardless of whether the incentive is offered by a municipality with its own property tax. Or, as was initially proposed in House Bill 1223 by Representative Hicks and Senate Bill 1362 by Senator Bailey, Tennessee could encourage IDBs to seek approval for PILOT agreements from all affected local governments by limiting the length of agreements that don't receive such approval to a set number of years.

Preserving flexibility for local governments and their IDBs allows them to shape development strategies to fit their unique needs.

But both stakeholders who help businesses negotiate PILOT agreements with IDBs and representatives for several IDBs in Tennessee say that strict statewide requirements could disadvantage the state's communities when negotiating with businesses. They say that even simply requiring the approval of all affected jurisdictions could cause businesses that might otherwise have located in Tennessee to choose communities in other states because it could delay the approval process or undermine the confidentiality of negotiations. Preserving flexibility for local governments and their IDBs when negotiating the terms of PILOT agreements allows them to shape development strategies to fit their unique needs.

Fortunately, there are already several alternatives available in state law that can help local governments collaborate to meet their economic development needs through IDB PILOT agreements by resolving intergovernmental conflicts before these agreements reach the final stages of approval. In particular, local governments, as noted above, have the

[1] Tennessee Comptroller of the Treasury Office of Research and Education Accountability 2015.

authority to form joint IDBs with one or more other local governments, under Tennessee Code Annotated, Section 7-53-104. When establishing joint IDBs, local governments could jointly select criteria—such as minimum investment, number of jobs created, and average wages—that will be used to determine the terms of PILOT agreements, and they can determine the circumstances, if any, under which agreements will require approval from each government. There are currently 13 joint IDBs in Tennessee. Alternatively, local governments can enter into interlocal agreements under Tennessee Code Annotated, Section 12-9-101 et seq., to achieve the same ends via individual IDBs without formally creating joint IDBs. An example of this exists in Shelby County, where five of the six IDBs established by city governments have pursued this option, which allows them to develop their own process yet still maintain cooperation with the county as is required by law. Among them is the City of Bartlett. While Shelby County can abate up to 75% percent of real and personal county property taxes, the City of Bartlett limits the percentage of city property taxes that can be abated to personal property and the improved value of real property, requiring the payment of PILOTs equal to taxes that were previously owed. In Shelby County, local governments are required to form a joint IDB or enter an interlocal agreement in lieu of receiving written approval from the county mayor and the county legislative body for their IDBs' PILOT agreements.

While PILOTs are particularly important for manufacturing recruitment, they are generally less effective at producing economic benefits from commercial development, such as retail. In both cases, increased use of the existing cooperative approaches for IDB PILOT agreements would help local governments meet their economic development needs and preserve local flexibility in negotiating PILOT agreements without undermining the tax base of other cities, counties, 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. Existing approaches already available in state law include**

- **forming a joint IDB with representation of all separate taxing jurisdictions within the county, to include special school districts, which have taxing authority,**

  AND

- **entering into interlocal agreements with other taxing jurisdictions to establish criteria for any PILOTs that might affect shared tax bases,**

  AND

- **receiving written approval from the city or county mayor, the city or county legislative body, and local special school districts before approval of PILOT agreements.**

When entering into PILOT agreements for retail development, local governments should be required to take one of these three cooperative approaches for agreements 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. Further, the state may consider requiring that local governments receive PILOT payments for retail development at least equal to the portion of the revenue that would have otherwise gone to schools. This requirement would not apply to PILOT agreements affecting only the jurisdiction making the agreement.

Increasing the Accountability of PILOT Recipients

Regardless of whether local governments adopt cooperative approaches to resolving conflicts over PILOT agreements, greater accountability is needed to ensure that the economic benefits businesses promise to communities in exchange for receiving PILOT agreements are being achieved. As a first step toward improving accountability, a representative for Accountability for Taxpayer Money (ATM) has argued for including the general public in a more transparent approval process. Currently, when IDBs seek approval for PILOT agreements from local governments, they provide information about the type of business seeking the agreement—though usually not the name of the actual business—and the expected benefits to the local economy, including the number of new and retained jobs, average wages, total capital investment, and the amount of the PILOT, if any. Stakeholders who help businesses negotiate PILOT agreements with IDBs and representatives for several IDBs say that publicizing details of negotiations and allowing the public to comment on agreements before they are finalized would make Tennessee less competitive with other states by lengthening the approval process and releasing potentially sensitive business information. All IDB meetings are already open to the public much like the hearings at which local governments approve other local incentive programs, such as TIFs. While it could be interpreted that IDBs are required to provide notice of their meetings under the Open Meetings Act, the requirements of that act do not specifically define adequate notice. In contrast, public notice for IDB hearings concerning TIF agreements are clearly defined in the TIF statute. Ten other states have abatement programs that require public hearings, of which seven require public notice beforehand. **To improve transparency in the PILOT approval process without undermining the confidentiality needed to negotiate agreements, IDBs should specifically be required to provide public notice prior to their meetings, similar to what is already required for TIF 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**

Greater accountability is needed to ensure that the economic benefits businesses promise to communities in exchange for PILOT agreements are being achieved.

remain workable within business recruitment processes that are highly competitive.

Improving accountability also involves assessing whether promised economic benefits are being achieved after PILOT agreements are approved. Economists and other scholars often disagree about the overall economic benefits of incentive programs. But the performance of individual recipients of PILOT agreements can be assessed at least in part based on whether they follow through on promises for investment, job creation or retention, and wages. Some IDBs in Tennessee, including the Economic Development Growth Engine (EDGE) of Memphis and Shelby County, already collect this information annually from businesses that receive PILOT agreements from them. EDGE uses these annual reports to assess whether businesses are meeting performance requirements negotiated as part of their agreements.

Annual reporting requirements for PILOT recipients do not include actual capital investments made, jobs created, or wages offered.

It is not uncommon for PILOT agreements to be reevaluated because a lessee is missing jobs, wages, or investment projections, according to EDGE representatives. Some agreements contain provisions requiring businesses that fail to meet their performance criteria to payback incentives they have already received. More often, the penalties in PILOT agreements are forward looking, according to stakeholders involved in negotiating them, allowing IDBs to reduce, restructure, or eliminate only future promised incentives. EDGE has reduced, restructured, or terminated 44 agreements since 2011.

However, most local governments and the state do not collect enough information to determine whether promised economic benefits are being achieved. Tennessee law requires all IDB PILOT lessees to submit their lease agreements and cost-benefit analyses to the Comptroller. Lessees are also required to submit annual reports that, among other things, include identification numbers for affected parcels, the dates and terms of their leases, and PILOTs made for each property. But these annual reporting requirements do not include information about actual capital investments made, jobs created, or wages offered.

Because local governments authorize IDBs to negotiate PILOT agreements to promote economic growth, it is important to know whether businesses are delivering on promised benefits. **Lessees with PILOT agreements should be required to include information about total investments made, number of jobs created, and taxes abated in their 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 plans 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.**

Fiscal Capacity

PILOT agreements can affect the distribution of state funding of K-12 education through their effect on property tax assessments, which are one of the factors used to calculate each county's fiscal capacity. Fiscal capacity is used in the state's Basic Education Program (BEP) funding formula to equalize state funding for education and to determine each county's responsibility for the local share of the cost of the BEP. Tennessee uses two fiscal capacity models—TACIR's model since 1992 and the Boyd Center for Business and Economic Research's (CBER) model since 2007—and averages the results. To account for local decisions to enter into PILOT agreements, TACIR's model uses the most recent PILOT payment data available from the Comptroller, but these data have not been updated since 1995. Beginning in 2007, the Comptroller began collecting IDB assessment data, which CBER is required to use by state law to ensure that "[n]o reduction shall be made in any calculation of a local jurisdiction's ability to raise local revenues from property taxes for agreements entered into by the local jurisdiction that result in payments in lieu of taxes being made to the local jurisdiction." TACIR has not received approval, which would be required, to use IDB assessments.

Under the current model used by TACIR, local decisions regarding PILOT agreements have the potential to shift some of the responsibility to pay the local share of the BEP from one county onto the other 94 counties, which violates a basic principle of fiscal capacity models that they not be affected by local decisions. **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.**

The Role of PILOT Agreements in Economic and Community Development

Tennessee's state and local governments, much like governments in other states, provide incentives for business to encourage economic development. There are a variety of state-level incentive programs in Tennessee. The state offers FastTrack grants for job training, infrastructure, and other business expenses, sales and use tax exemptions for industrial machinery, energy, fuel, and water used at manufacturing facilities, and job and industrial machinery tax credits.[2] Local governments in Tennessee have fewer options. They can indirectly abate property taxes by leasing tax-exempt properties held by local industrial development boards (IDBs) to businesses and accepting payments in lieu of taxes (PILOTs) from those businesses that are less than the taxes that would otherwise be owed if the businesses owned the properties outright, or they can offer tax increment financing (TIF) for projects whereby local governments finance the cost of improvements to an area and are then repaid out of future growth in property taxes. They can issue industrial revenue bonds to finance industrial plants. Local governments can also offer financial assistance for job training and infrastructure development.

While the state can offer a variety of incentives to encourage economic development, local governments have fewer options. One reason is that the Tennessee Constitution prohibits the abatement of property taxes for businesses.

With any of these incentive options, businesses and the public have competing demands. Businesses want incentive approval processes that are quick and confidential. The public wants not only a transparent process but also accountability to ensure that communities achieve the benefits that businesses promise in return for receiving these incentives. There may also be competing demands between local governments that disagree over the types of incentives that should be used or the circumstances in which they should be offered. The tensions between local governments can be exacerbated when, as is the case with PILOT agreements negotiated by IDBs, the law allows one local government to abate the taxes of another without its approval.

Overview of PILOTs and Study

Abatements reduce or eliminate a business's property tax obligation.

Property tax abatements reduce or eliminate a business's tax obligation on real or personal property or both. This can potentially encourage businesses to locate in a particular community. In some states the terms of the abatement are negotiated between the business and the government; other states set out these details in statute. Many states allow their governments to abate property taxes directly but Tennessee

[2] https://www.tnecd.com/advantages/incentives-grants/

and two other states—Arkansas and Georgia—cannot because their state constitutions have provisions that prohibit the abatement of property taxes for businesses. In these states, tax-exempt property owned by local governments is leased to businesses, and the businesses can agree to make PILOTs, which are equal to or less than the property taxes that would have been due on the property.

Governments use property tax abatements to encourage economic development.

Governments must deal with unemployment while also dealing with significant fiscal challenges at all levels of government.[3] To address these issues, governments use property tax abatements and PILOTs as a tool to encourage economic development. These can be used to entice businesses to locate in a community and develop property in a way that will increase property values and result in increased property tax revenue once the property tax abatement has ended. Slower industrial growth, greater mobility of business, and use of economic incentives by other localities put pressure on elected officials to use them.[4]

The Tennessee General Assembly has worked within the constitutional limitation and authorized local governments to lease tax-free property they own to businesses; thereby providing indirect property tax abatements.

Community factors influence the extent to which abatements are used. Research has shown that distressed areas with higher unemployment,[5] greater crime rates, or high property taxes are more likely to offer larger abatements.[6] The use of abatements can be a way of compensating for these negative factors in a locality. Areas with more services, greater highway networks, and higher incomes are likely to offer smaller abatements.[7]

Tennessee's local governments can abate a business's property taxes by leasing tax-exempt properties to them.

The Tennessee Constitution, Article II, Section 28 requires that "all property, real, personal or mixed, be subject to taxation." However, it authorizes the General Assembly to exempt four types of property including property "held by the state, by counties, cities or towns, and used exclusively for public or corporation purposes" from property taxes. It does not authorize the General Assembly to directly exempt from taxation property owned by private businesses.

The General Assembly worked within this constitutional limitation and passed laws authorizing local governments to lease the tax-free property they own to businesses thus providing indirect property tax abatement for

[3] Kenyon, Langley, and Paquin 2012.
[4] Ibid.
[5] Fisher and Peters 1998.
[6] Wassmer 1992.
[7] Ibid.

businesses. One law, the Industrial Building Bond Act of 1955 allows local governments to own and lease industrial property.[8] The law has some stringent requirements, including a requirement for getting a certificate of public purpose and necessity from the state, which discourages its use by local governments.[9] Another law authorizes local governments to form industrial development corporations, also known as industrial development boards (IDBs). These boards are public nonprofit entities and can be formed by a single city or county or jointly by two or more local governments. The property owned by an IDB is tax-exempt and publicly owned. An IDB can lease property it owns to businesses.[10]

Local governments can authorize IDBs to negotiate and accept PILOTs that are equal to or less than the property tax that would have been owed on the property.[11] If it is a project located within a central business improvement district, the amount of the PILOT shall not be fixed below the lesser of ad valorem taxes otherwise due and payable by a tax-paying entity upon the current fair market value of the leased property or taxes that were or would have been due on the property for the period immediately preceding its acquisition by the IDB. The law does not specify how the PILOT revenue must be distributed. IDBs may keep the PILOT revenue for use in further economic development. The IDBs can also enter into agreements with local governments to distribute all or a portion of the revenue to them and the governments can decide how to spend the money.[12] There is no requirement that PILOT revenue be used for education purposes. Unlike in Tennessee, some states—Arkansas, Kansas, and South Carolina—require revenue to be distributed to local governments in proportion to the amount of taxes the governments would have received if the property taxes had not been abated.

Industrial development boards (IDBs), created by local governments, are tax-exempt and publicly owned.

Some states have chosen not to use property tax abatements to encourage economic development but this is probably not an option for Tennessee.

All states have some type of economic incentive program. However, eleven states don't authorize property tax abatements or PILOTs, directly or indirectly, for businesses.[13] They do offer other tax incentives like TIFs or sales tax exemptions. It is unlikely that Tennessee could do away with

[8] Tennessee Code Annotated, Title 7 Chapter 55.
[9] Mamantov 2003.
[10] Tennessee Code Annotated Title 7, Chapter 53.
[11] Lessees may be subject to taxation on the value of the leaseholds (the difference between fair market value of rent and what is being paid, minus any PILOT), but such values are often discounted by the way they are defined in the agreements.
[12] Opinion No. 85-264, Office of the Tennessee Attorney General, October 22, 1985 and Opinion No. 96-083, Office of the Tennessee Attorney General, June 5, 1996.
[13] California, Colorado, Maine, Massachusetts, Nebraska, New Hampshire, Rhode Island, Utah, Vermont, Washington, and West Virginia.

PILOTs for businesses. They are the primary business incentive tool used by many local governments in Tennessee.[14] As one panelist speaking before the Commission said, PILOTs are "a necessary tool to play this game."[15] It has also been said that Tennessee has low business costs and incentives are a way to set Tennessee apart from other states that have low business costs as well.[16] Other states like Mississippi, a competitor for Memphis and Shelby County, offer income tax incentives and other incentive programs that Tennessee does not.[17]

The catalyst for this study was a conflict over the use of PILOTs in Sevier County.

When the goals of cities and counties do not align, conflict may arise over the use of PILOTs. This was the case in Sevier County in 2015, when the Pigeon Forge IDB negotiated a PILOT agreement with a Publix grocery store, abating the business's taxes for a 20-year period. It has been argued that without the PILOT the deal would not have happened because the investment cost was too high.[18] In this instance, the Pigeon Forge IDB abated Sevier County's property taxes without its approval though the law did not require the county's approval.[19] There was no way the county could stop the abatement. Sevier County Mayor Larry Waters has concerns about this abatement because he thought it was too long and reduces Sevier County's ability to fund public education from property tax revenues. Mayor Waters thinks that a city should only be able to abate its own taxes. He also thinks allowing abatements for retail businesses sets an unwanted precedent because all retail developers will ask for one and this seems to be happening.[20] In October 2017, the Pigeon Forge IDB granted developers a 20-year property tax abatement for a shopping center with a Food City.[21]

Other states like Mississippi, a competitor for Memphis and Shelby County, offer income tax incentives and other incentive programs that Tennessee does not.

In 2017, Senate Bill 1362 by Bailey and House Bill 1223 by Hicks was introduced in the General Assembly to address the issue of a city government IDB abating county property taxes. The bill would have required approval by the county for any agreements over five years in length, or, absent county approval, after five years the taxes that would otherwise be due would have to be paid to the county. Some were concerned that the limitation would make Tennessee less competitive with other states because of the

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[14] Testimony by Tom Trent, attorney, Bradley, at the TACIR August 30, 2017 meeting.
[15] Testimony by Matthew N. Murray, Professor of Economics and Associate Director, Boyd Center for Business & Economic Research; and Director, Howard H. Baker Jr. Center for Public Policy, University of Tennessee, at the TACIR August 30, 2017 meeting.
[16] Testimony by John Lawrence, Senior Economic Development Specialist, Economic Development Growth Engine for Memphis and Shelby County (EDGE), at the TACIR August 30, 2017 meeting.
[17] Mississippi Development Authority https://www.mississippi.org/home-page/our-advantages/incentives/tax-incentives/.
[18] Interview with Ken Maples, City Commissioner, Pigeon Forge, June 12, 2017.
[19] Ibid.
[20] Comment made at the TACIR August 30, 2017 meeting.
[21] Gaines 2017.

public scrutiny applied to PILOT agreements[22] and the additional time it would take to get one passed.[23] Another felt that it would chip away at a system that had worked for many years.[24]

The General Assembly amended the legislation and directed the Commission to do a study. It then passed the legislation. Public Chapter 431, Acts of 2017 directs the Commission to study

- the economic benefits to counties and cities from the use of PILOT agreements and leases by IDBs organized by cities,
- any economic benefits are derived from limiting the length of term of a PILOT agreement or lease to five years or less without county approval or requiring the business or city to pay to the county, each year after the initial five years, 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.

See appendix A for a copy of Public Chapter 431, Acts of 2017.

Property tax abatements represent a small portion of the total business incentives offered in the state.

State and local business incentives for industry in Tennessee for fiscal year 2015-16 were $560.7 million. State incentives were most of that, totaling $425.3 million of the $560.7 million. Local incentives were $135.4 million of the $560.7 million, including $85.2 million[25] (15.5%) in IDB property tax abatements. See table 1 for a breakdown of amounts for each individual incentive program. The tax increment financing (TIF) program, tourism development zones (TDZ), and grants by local governments for land, services, or money were not included in the chart because information on the dollar amount of these incentives was not available.

Local business incentives for industry in Tennessee for fiscal year 2015-16 were $135.4 million, including $85.2 (15.5%) in IDB property tax abatements.

The assessed value of IDB properties in the state has increased in recent years, and that value is concentrated in a few counties.

The assessed value of all tax-exempt property in Tennessee has increased in recent years. This includes IDB and Health, Education, and Housing

[22] Interview with Tom Trent, attorney, Bradley, July 7, 2017 and Interview with Mark Mamantov, attorney, Bass, Berry, and Sims, June 2, 2017.
[23] Testimony by Tom Trent, attorney, Bradley at the TACIR August 30, 2017 meeting.
[24] Interview with Mayor Richard Venable, Mayor of Sullivan County, May 30, 2017.
[25] Staff calculation. Were they not tax exempt, IDB properties would have owed $160.9 million in property taxes in 2016, and lessees reported paying 47% of that amount in PILOTs ($75.7 million) for a net abatement of $85.2 million.

Table 1. State and Local Business Incentives in Tennessee, Fiscal Year 2015-16

State	**$425.3 million**
State Sales Tax Exemptions for Industrial and Farm Machinery and Equipment	$234.1 million
Industrial Machinery Tax Credit (Franchise and Excise Tax)	$55.6 million
FastTrack Infrastructure and Job Training Assistance	$63.5 million
Jobs Credit (Franchise and Excise Tax)	$48.0 million
Cap on the Value of Inventories (Franchise and Excise Tax)*	$24.1 million
Local	**$135.4 million**
IDB PILOT Program (Property Tax Abatements)	*$85.2 million*
Local Option Sales Tax Exemptions for Industrial and Farm Machinery and Equipment	$50.2 million
Total State and Local	**$560.7 million**

*From the Tennessee Franchise and Excise Tax Guide, September 2017: "In 1995, a provision was enacted to encourage the development of manufacturing, warehousing, and distribution facilities in Tennessee by setting a cap on the value of finished goods inventory included in the taxpayer's franchise tax base minimum measure."

Sources: Budget of the State of Tennessee, Fiscal Year 2015-16, page A-71. For FastTrack Infrastructure and Job Training Assistance, Budget of the State of Tennessee, Fiscal Year 2017-18, page B-326. For IDB Property Tax Abatements, Staff calculations based on data from the Tennessee Comptroller of the Treasury. Table based in part on Tennessee Department of Economic and Community Development's incentives fact sheet: http://www.tnecd.com/incentives-fact-sheet/

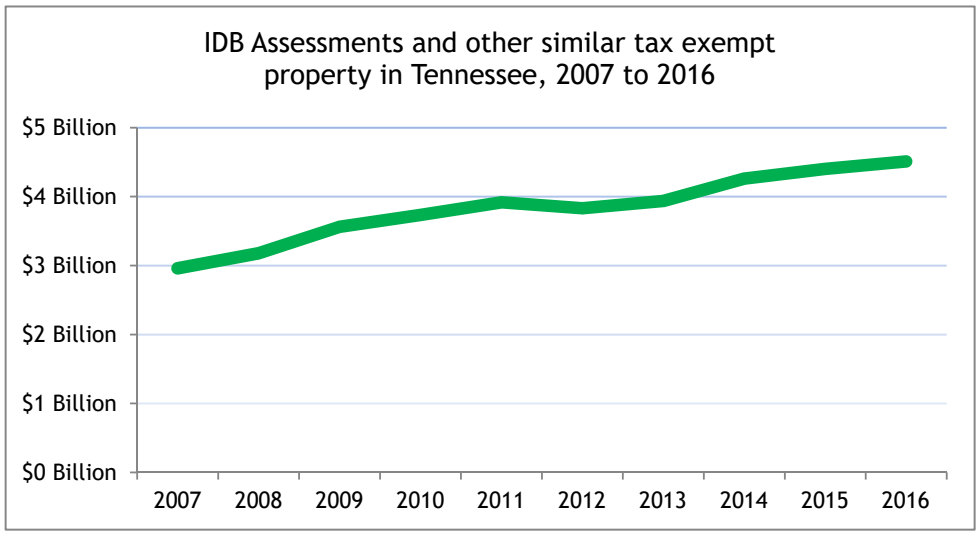
Facility boards (HEHB) - owned[26] property, property held by economic development entities other than IDBs,[27] and property held by counties, cities, and the federal government for economic development purposes. The total assessed value increased from $3.0 billion in 2007 to $4.5 billion in 2016, an average annual increase of 4.8%. Besides the $4.0 billion in IDB assessments, this $4.5 billion includes $476.8 million of HEHB-owned property and other similar tax abated property. See figure 1. For comparison, total property assessment in Tennessee increased by 2.8% per year on average over that same period.

The use of PILOT agreements varies widely across counties in Tennessee and so does the value of IDB assessments. Of Tennessee's $163.7 billion in assessed value of property, $4 billion (2.5%) is IDB property. Half of that $4 billion is spread across 77 counties, but the other half is in just six counties, either because a high value IDB property is located in the county or because counties with larger property tax bases tend to have

[26] Health, Education, and Housing Facility Boards (HEHBs) can also lease tax-exempt properties to entities for education, hospital, and low income housing purposes and accept PILOTs. See Tennessee Code Annotated, Sections 48-101-301 et seq.

[27] These include the Metropolitan Knoxville Airport Authority, Newport and Cocke County Economic Development MNAA, Lexington Civic Center, Newport Tennessee Port Authority, Lake County Community Development Council, EDB-Lawrenceburg, McMinn Economic Development Authority, Meigs County Decatur Economic Development Corporation, Memphis Center City Revenue Finance Corporation, Sullivan County Economic Development Partnership, Sullivan County Economic Development Board, and the McMinnville Downtown Revenue And Finance Corporation.

Figure 1. IDB Assessments and Other Similar Tax Exempt Property in Tennessee, 2007 to 2016



Source: Boyd Center for Business and Economic Research, University of Tennessee, Knoxville for 2007-2015. http://cber.haslam.utk.edu/bep.htm; Tennessee Comptroller of the Treasury for 2016.

more IDB property as well. The three counties in Tennessee with auto assembly plants, Rutherford, Hamilton, and Maury, are 1st, 2nd, and 5th for IDB assessments. Bradley, with Wacker Polysilicon, is 3rd. Counties with larger property tax bases tend to have more IDB property as well.[28] Davidson and Shelby are 1st and 2nd for property tax assessments and 6th and 4th for IDB assessments. Twelve counties do not have any IDB property.[29] Of those 12, three—Moore, Pickett, and Unicoi—do not have an IDB.

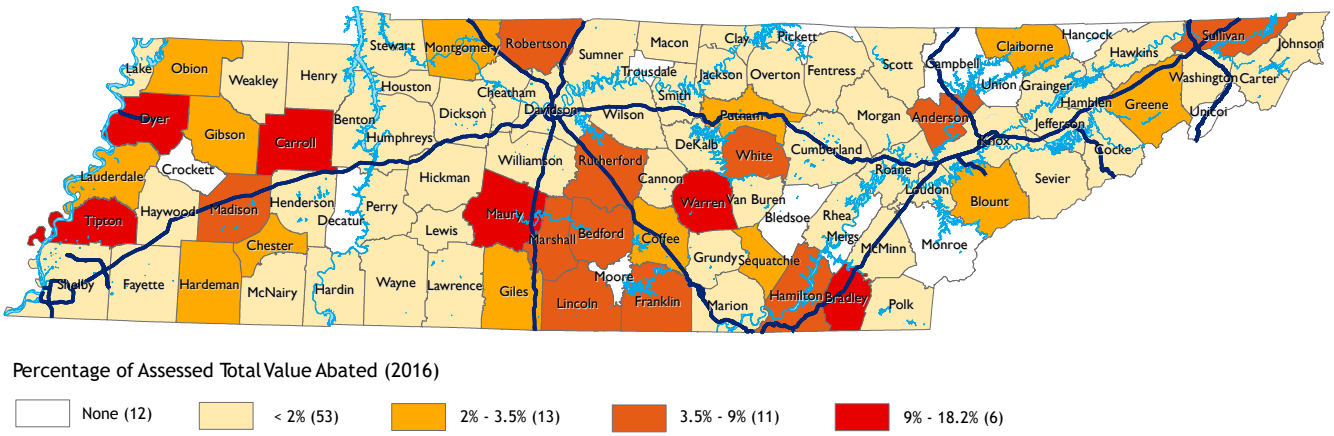
While counties with larger property tax bases tend to account for more IDB property based on value, IDB properties make up a larger percentage of the overall tax base and a larger percentage of the industrial and commercial property tax base in other counties. Six counties, shaded red in map 1, have the greatest percentage of property tax assessment that is IDB property at 9% to 18.2% of their property tax bases. Of these six, only Bradley and Maury counties are in the top six for IDB properties based on overall value. Eleven other counties are between 3.5% and 9%, another

[28] One way to measure the strength of that relationship is the correlation coefficient. The strength is reported as a range from zero for no correlation to one for perfect correlation. The coefficient will be positive if one set of numbers increases as the other increases or decreases as the other decreases; it will be negative if one increases and the other decreases. The correlation between counties' property tax bases and the assessed value of their IDB properties was 0.616 for 2016. This correlation suggests that one reason some counties have more IDB property is simply because of scale.

[29] Bledsoe, Campbell, Crockett, Decatur, Hancock, Meigs, Monroe, Moore, Pickett, Trousdale, Unicoi, and Union.

13 are between 2% and 3.5%, and 53 abate some property but less than 2% of their property tax bases. See appendix B for a copy of the map data.

Map 1. Tennessee Counties, Percentage of Property Value Abated, 2016



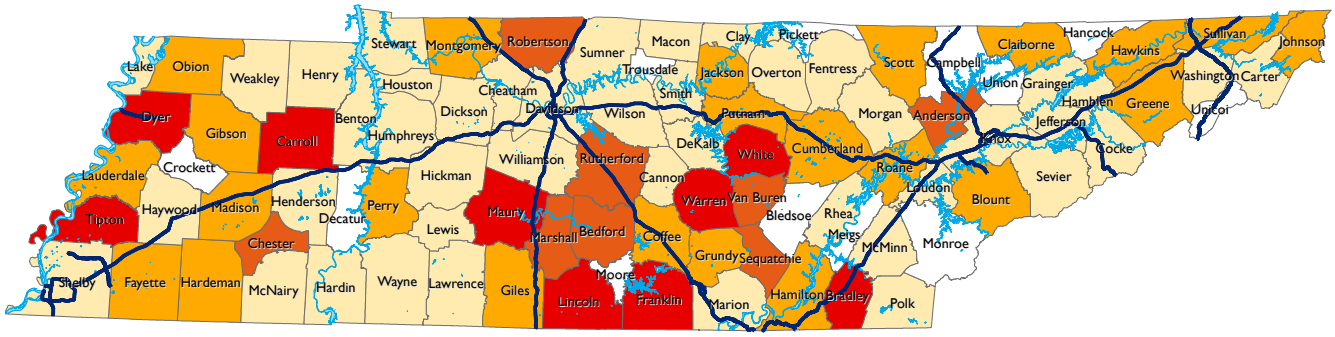
Percentage of Assessed Total Value Abated (2016)

None (12) | < 2% (53) | 2% - 3.5% (13) | 3.5% - 9% (11) | 9% - 18.2% (6)

Source: Tennessee Comptroller of the Treasury, Division of Property Assessments, 2016.

Nine counties, shaded red in map 2 below, have the greatest percentage of property tax assessment that is IDB property at 22% to 47.5% of their industrial and commercial property tax bases. Again, Bradley and Maury are the only counties also in the top six for IDB properties based on overall value. Eight more are between 12% and 22%. Another 23 are between 6% and 12%, and 43 abate some property but less than 6% of their industrial and commercial property tax bases.

Map 2. Total Percentage of the Commercial and Industrial Property Owned by IDBs, 2016



Total Percentage of Commercial /Industrial Property Owned by IDBs (2016)

None (12) | < 6% (43) | 6% - 12% (23) | 12% - 22% (8) | 22% - 47.5% (9)

Source: Tennessee Comptroller of the Treasury, Division of Property Assessments, 2016.

It is unclear whether PILOTs offer much in the way of economic benefit.

There are many arguments for and against property tax abatements and PILOTs. The arguments in favor of them are that they increase tax revenue,[30] affect business location decisions, create jobs, foster competitiveness, keep taxes low, and allow local officials to be proactive about economic development.[31] Arguments against them are that taxes are not the only factor considered when making location decisions, and some research has shown them not to be cost effective.[32] They pull public spending away from things like education and infrastructure that could benefit businesses.[33] Abatements can also create a zero-sum game when one community wins at the expense of another.[34]

If abatements and PILOTs are always economically beneficial, then communities should be allowed to use them indiscriminately because they are always going to benefit from their use. If they are not beneficial, then they shouldn't be used at all. However, after years of research there is no consensus among researchers on the effects of these incentives,[35] and most research recommends a middle ground of targeting use of incentives but not ending their use.[36]

Taxes and tax abatements are not a major factor when choosing a development site.

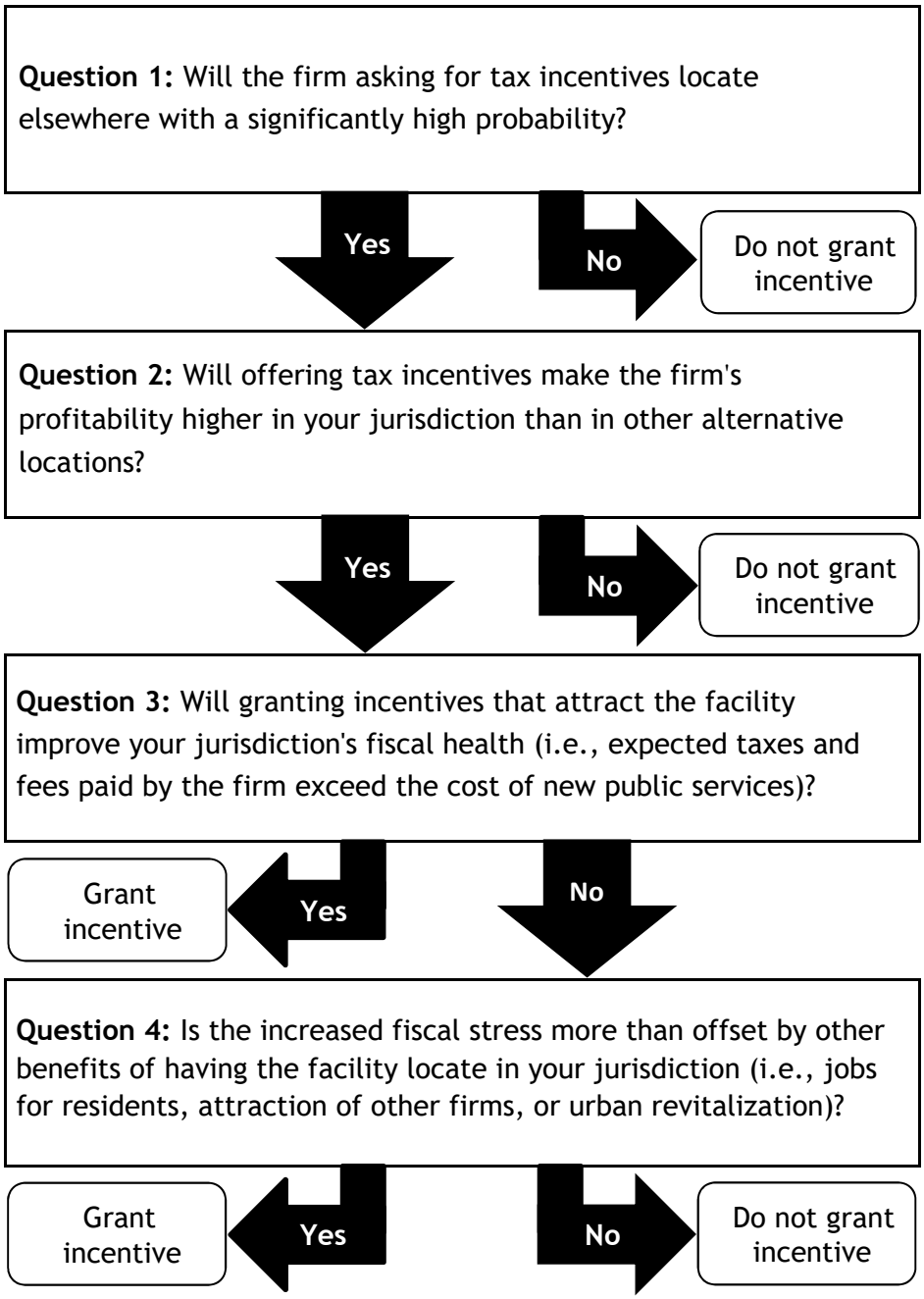
One important assertion concerning the use of abatements (and incentives in general) is that "but for" the abatement the business would not have located there. If the abatement is the deciding factor for a business in its location decision, the economic development can "be considered a success… [and] the forgone local tax revenue may well be justified."[37] If the business would have located in an area without an abatement, then the government is giving up potential tax revenue for no reason if it gives an abatement to that business. See figure 2 for a list of questions IDBs and local governments could review when considering granting a PILOT agreement.

Research and surveys of business professionals suggest that abatements are not the most important determinant in site selection especially when comparing metropolitan areas.[38] When the process is taking place,

One important assertion concerning the use of abatements (and incentives in general) is that but for the abatement the business would not have located there.

[30] Wassmer 1992.
[31] Chi and Hoffman 2000.
[32] Reese and Sands 2006.
[33] Chi and Hoffman 2000.
[34] Reese and Sands 2006.
[35] Ibid.
[36] Wassmer 2007.
[37] Wassmer and Anderson 2001.
[38] Wesylenko 1997.

Figure 2. Questions to Ask Before Granting Local Tax Incentives



Source: Kenyon, Langley, and Paquin 2012.

many factors are considered, such as quality and availability of labor,[39] infrastructure,[40] access to major highways, access to specific markets, and the quality of the community. Surveys have shown that abatements and taxes are not the most important factor when considering where to locate a business. In the 31st annual survey of corporate executives by the Area Development publication, highway accessibility and availability of skilled workers were the two most important factors. Tax exemptions came in as the 7th most important factor, while the corporate tax rate was 6th.[41] Endeavor Insight, an organization that promotes entrepreneurs in emerging markets, did a survey of 150 entrepreneurs asking why they chose to locate their businesses in certain cities.[42] They found that a talented pool of potential employees and access to customers and suppliers were the main reasons. Low taxes were not a major concern. Taxes and tax abatements may be of little concern because taxes are a small percentage of a business's costs.[43] For example, property taxes represented 0.3% of manufacturing firm's costs between 2004 and 2009.[44] In contrast, labor represented 21.8% of their costs.

Taxes and tax abatements begin to play a more important role in decision making once a business has narrowed down their choices.[45] Site selection is a two-stage process where a business selects a metropolitan area and then a site in that area. Since property taxes have a smaller impact on costs than other factors it won't be a major consideration when looking for a metropolitan area. Property taxes will play a larger role when narrowing down the number of sites within that area.[46]

Taxes and tax abatements begin to play a more important role in decision making once a business has narrowed down its choices for site selection.

There is no consensus on the economic effects of property tax abatements.

As discussed previously, the consensus among local government and economic development officials is that Tennessee communities need to use PILOTs to stay competitive in business recruitment. However, while many people have studied the economic effects of property tax abatements and incentives in general over the years, many of their conclusions have been contradictory. Some studies have found positive effects while others have found negative effects. This seems to suggest that communities

[39] Middleton 2001. Interview with Tom Trent, attorney, Bradley, July 7, 2017.
[40] Fullerton and Aragones-Zamudio 2006. Interview with Tom Trent, attorney, Bradley, July 7, 2017.
[41] http://www.areadevelopment.com/Corporate-Consultants-Survey-Results/Q1-2017/responding-executives-confident-about-Trump-economy-skilled-labor-top-concern.shtml
[42] Endeavor Insight 2013.
[43] Bartik 1987.
[44] Kenyon, Langley, and Paquin 2012.
[45] Middleton 2001. Interview with Tom Trent, attorney, Bradley, July 7, 2017.
[46] Kenyon, Langley, and Paquin 2012.

should not assume that the use of property tax abatements and PILOTs will automatically result in economic growth.

Some studies such as the 2006 study *The Equity Impacts of Municipal Tax Incentives: Leveling or Tilting the Playing Field?* have shown that abatements have negative effects. The authors looked at the effect of industrial tax abatements on the economic health of several Michigan cities.[47] They found that

- municipalities that do not grant abatements have had the greatest relative improvement in the community economic health index over the 20-year period of the study;
- frequent abatement users had the greatest declines in economic health; and
- occasional abatement users, while also experiencing some economic health declines, had the highest economic health index levels by 2000.

In the 2006 study *Local Tax Incentives in Action: The Payment-In-Lieu-Of-Tax Program*, the authors compared the economic health of two Tennessee cities that use PILOTs: Memphis and Nashville.[48] The authors wrote that

> Nashville uses PILOT incentives sparingly, but it has done well economically. In comparing the economic activity and poverty of these two cities, Nashville typically performs better than Memphis, though this is sensitive to the measure used. This comparison does not necessarily suggest that Nashville excels because it operates without as many PILOTs, but rather, it suggests that the PILOT-style programs are not a necessary component of economic growth.

Other studies like the 2007 study *The Increasing Use of Property Tax Abatement as a Means of Promoting Sub-National Economic Activity in the United States* found positive effects.[49] In this study, the authors wrote that evidence indicates that a 10% reduction in local business taxes is likely to result in a long-term 15 to 20% increase in the local economic activity generated by firms that are mobile between communities. However, this was subject to some caveats that

- the forecast change will only occur if state policymakers are diligent in restricting abatement and other business incentives to localities at a comparative advantage; and
- a response of the magnitude predicted is for most manufacturing firms and only some commercial firms (like regional retail malls,

[47] Reese and Sands 2006.
[48] Sautet and Shoaf 2006.
[49] Wassmer 2007.

auto malls, or large "big-box" stores whose market consists of most of the region).

Other research has looked at more specific economic effects of PILOTs and incentives in general. One argument in favor of PILOTs and any business incentives is that they will lead to an increase in employment.[50] The use of incentives may even cause an increase in the unemployment rate according to the 2001 report *Bidding for Business: New Evidence on the Effect of Locally Offered Economic Development Incentives in a Metropolitan Area.* In the study, they looked at the effect of incentives on 112 cities in Michigan.[51] They concluded that the use of incentives can "increase business property value, causing an increase in local population that is greater than the increase in new jobs going to local residents." This same study also found a decrease in the poverty rate, which the author writes could "be the consequence of gentrification or local displacement of the poor and not the result of providing more employment opportunities to the formerly poor in a city."

There may be new public service demands because of the new business brought into the community.

Another benefit often touted for PILOTs is that they will cause an increase in tax revenue. A 1992 study, *Property Tax Abatement and the Simultaneous Determination of Local Fiscal Variables in a Metropolitan Area,* found that abatements could lead to an increase in property tax revenue.[52] However, a 2016 study, *The Fiscal Impact of Local Property Tax Abatement in Indiana*, found that "local tax abatement use tends to be correlated with higher effective tax rates on existing households and businesses within a county."[53]

Local government services could be affected by the use of PILOTs. There may be new public service demands because of the new business brought into the community. For example, there may be a need for new roads or sewage lines that must be built and maintained. These demands may outweigh the additional revenue available because of the PILOT, according to a 2007 study, *The Increasing Use of Property Tax Abatement as a Means of Promoting Sub-National Economic Activity in the United States.*[54] The 1992 *Property Tax Abatement* study suggests there may also be an increase in user charges. PILOTs might also cause an increase in the crime rate. In the 1992 study, the author estimated that "a 1% increase in commercial property tax abatements results in a 0.01% increase in crimes per capita."

PILOTs might also negatively affect home values. In the 1992 study *Property Tax Abatement as a Means of Promoting Sub-National Economic Activity in the United States*, the author estimated that a 1% increase in abatements reduces the median value of homes by 0.03%. Another 2006 study, *El Paso*

[50] Man 2002.
[51] Wassmer and Anderson 2001.
[52] Wassmer 1992.
[53] Hicks and Faulk 2016.
[54] Wassmer 2007.

Property Tax Abatement Ineffectiveness, found that in El Paso abatements did not increase home values.[55]

There is not sufficient information to do a thorough economic analysis of effects of PILOTs statewide.

As we noted in the 2004 Commission report *Property Tax Abatements and Payments in Lieu of Taxes: Impact on Public Education*, the following information would be needed to do a thorough analysis of the economic effects of PILOTs

- The total number of tax abatements granted in each county
- The total amount of forgone revenues in each county
- A calculation of the total costs of each tax abatement—revenues forgone; additional infrastructure expenditures; increased traffic congestion; noise; air and water quality impact; loss of affordable housing; increased demand for services like solid waste disposal, education, and recreation and parks; higher property taxes; and perceived lowering of the community's quality of life
- A calculation of the total benefits of each economic activity receiving a tax abatement—increased collections of sales and other taxes; payroll multiplier effects; creation of spin-off suppliers; increased property tax collections after expiration of the abatement; higher property values; and enhanced local pride and prestige
- Isolation and analysis of the tax abatement as the critical variable among all the factors affecting economic decisions
- Isolation and analysis of the economic activity receiving the abatement as an element of the larger economy
- Consideration of mitigations like impact fees, development taxes, and dedications of land and facilities
- Conclusion as to whether enhanced economic activity (if any) offsets the impact (if any) of the abatement

State law requires some information to be reported by businesses that receive PILOT agreements (lessees), but not all comply with reporting requirements.

Little of this information is currently collected by the state. State law does require some information to be reported by lessees,[56] but not all lessees comply with reporting requirements.

Lessees are required to submit all leases and PILOT agreements to "the chief executive officer of each jurisdiction in which the property is located and to the Comptroller of the Treasury, for review, but not approval."[57] The State Board of Equalization (SBoE) of the Comptroller's Office manages the

[55] Fullerton and Aragones-Zamudio 2006.
[56] Tennessee Code Annotated, Section 7-53-305.
[57] Tennessee Code Annotated, Section 4-17-303.

PILOT information. They have recently scanned copies of the agreements to make it easier to respond to open records requests but copies of these agreements have not been made available online.[58]

A cost-benefit analysis must be filed with every agreement. The Tennessee Department of Economic and Community Development (ECD) provides a free cost-benefit analysis form, but lessees may use their own if it meets the conditions prescribed by ECD. See appendix C for a copy of the ECD cost-benefit analysis form. This form includes the lease term and amount of the first year PILOT payment. It also includes the market value of real and personal property, number of new and indirect jobs, direct and indirect income, and total of new annual state and local sales taxes. It doesn't include analysis of the PILOT costs. Some IDBs use cost-benefit tests as part of their evaluation of PILOT agreements, comparing the new revenue the investment in the abated property is expected to generate, both directly and indirectly, to the amount abated. New revenues include direct revenue like PILOT payments and indirect tax revenue like property taxes paid by the supply chain of the abated property and from local option sales taxes paid by new employees at the abated property and employees of its supply chain. A shortcoming of cost-benefit tests is that they often do not consider every cost. For instance, when a company comes into an area and brings existing employees to the new jurisdiction, those people are going to live there and put a new burden on the city and the schools. See table 2 for a comparison of costs and benefits of property tax incentives.

Table 2. Benefit-Cost Framework for Property Tax Incentives

Benefit-Cost Framework for Property Tax Incentives	
Benefits	**Costs**
Fiscal Effects	
Revenue gain from expanded economic activity attributable to tax incentive	Revenue loss from tax incentive
	Increase in public service costs due to growth in employment and population
Labor Market Effects	
Increase in earnings for newly employed local residents (excludes in-migrants)	Less time for leisure and work at home for newly employed residents
Increase in earnings for currently employed local residents (switch to better paying occupations)	
Economic and Social Effects	
Increase in profits for firms serving the local market	Decrease in profits for firms serving the national market
Increase in property values	Environmental and congestion costs
Changes in community character viewed positively	Changes in community character viewed negatively

Source: Kenyon, Langley, and Paquin 2012.

[58] Interview with Betsy Knotts, executive secretary, Tennessee State Board of Equalization, June 9, 2017.

After the filing of the initial agreement, the lessee is required to file an annual report with the Comptroller's Office and the local property assessor's office with the following information:

- A list of all the real and personal property owned by the IDB and its associated entities and subsidiaries that is leased or subleased by the lessees
- The estimated value of each listed property as estimated by the lessee
- The date and term of the lease for each listed property
- The amount of payments made in lieu of property taxes for each listed property
- The date each listed property is scheduled to return to the regular tax rolls
- The property address and parcel identification number of the property assigned by the assessor of property
- The amount of rents paid
- The amount of any property taxes paid on the leasehold assessment under 67-5-502(d)
- Any changes in the name since the last filing
- How the PILOTs are allocated between the city and county according to the agreement
- Identification of project type

Information on actual jobs created, wages paid, and actual capital investment made is not required to be included in the annual reports. There is information on jobs created for PILOT recipients who also have FastTrack grants. These are state grants that can be used to fund infrastructure improvements, job training, and a variety of other expenses.[59] FastTrack recipients are required to submit yearly reports to the state for five years detailing their total number of employees—four years is the most that has been reported thus far. In a 2016 performance audit, the Comptroller's office found that businesses were "submitting conflicting or unclear reports on the number of new jobs created after a FastTrack grant award."[60] See table 3 for a summary of FastTrack grantees performance

Table 3. Summary of Performance Reports of FastTrack Grantees, 2013-2017.

Years of Performance Reports	Number of Grantees	Committed Jobs	Number of Actual Jobs			
			1st Year	2nd Year	3rd Year	4th Year
1	29	8,052	3,562			
2	16	4,348	1,150	1,256		
3	12	3,384	751	1,344	2,146	
4	3	390	191	250	321	416

Source: https://www.tn.gov/transparenttn/jobs-economic-development/openecd/fasttrack-baseline-and-performance-reports.html. Accessed October 20, 2017.

[59] See the following for the grants offered by the TN Department of Economic and Community Development http://www.tnecd.com/advantages/incentives-grants/

[60] Tennessee Comptroller of the Treasury 2016.

reports between 2013 and 2017, which includes the number of actual jobs created.

There are penalties in the law for lessees who fail to file these agreements and annual reports. A lessee who fails to file an agreement within 30 days after written request from the Comptroller or another public entity shall owe an additional PILOT payment of $500 to the IDB.[61] Lessees who don't file their annual reports are required by law to pay a late filing fee of $50.00 to the Comptroller. In addition, any lessee who fails to file the annual report within 30 days after written request from the Comptroller or property assessor shall owe an additional PILOT payment of $500, payable to the county.[62]

These filing requirements aren't stringently enforced. The only way that the SBoE is aware that a lessee has not filed is if that lessee filed the year before. In the future, SBoE plans 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.[63] The SBoE sends a letter to those lessees who filed the year before prior to the filing deadline of October 1 each year. Those who are late are expected to send in their report with a check for the late fee amount, but not all do.[64] In 2016, there were 69 late filers but only 32 have paid the late fee.[65] In the 2004 Commission report *Property Tax Abatements and Payments in Lieu of Taxes: Impact on Public Education* the authors concluded that the SBoE and the Division of Property Assessment (DPA) did not have adequate authority to enforce filing requirements and to audit and report their findings. This is still the case and may explain the low number of filers that actually pay the late fees.

In 2016, less than half of lessees that filed late annual reprots actually paid the $50 late fee.

Not all affected jurisdictions have a say in the PILOT approval process.

In most circumstances, Tennessee law does not require approval of the PILOT agreement by all affected governments.[66] If the city is one of the 275 cities with a property tax, then the city IDB may approve a PILOT without the input or approval of the county. A county IDB may also approve a PILOT without the input or approval of an affected city.

[61] Tennessee Code Annotated, Section 4-17-303.
[62] Tennessee Code Annotated, Section 7-53-305.
[63] Email correspondence with Arlene Hailey, business analyst, State Board of Equalization, December 6, 2017.
[64] Testimony by Betsy Knotts, executive secretary, Tennessee Board of Equalization, at the TACIR August 30, 2017 meeting.
[65] Email correspondence with Arlene Hailey, business analyst, State Board of Equalization, June 9, 2017.
[66] Tennessee Code Annotated, Section 7-53-305.

In a few circumstances, the agreements must be approved by local governments other than the one seeking the lease or PILOT agreement.[67] If the city that has created the IDB does not have a property tax but the county does, then the city can only enter into a PILOT or lease if the county had approved the PILOT or lease, or if the city or IDB agrees to pay to the county an amount equal to the amount of real property tax that would have been assessed to the property each year in which the PILOT or lease is in effect. In Shelby County, IDBs are not permitted to negotiate a PILOT agreement for less than the county property taxes due unless the IDB

- is a joint IDB organized by the county and one or more of the cities in the county,
- has entered into an interlocal agreement with the county in regard to PILOTs, or
- has received written approval from the county mayor and the county legislative body regarding PILOTs.[68]

Contrast this with the approval process required for a TIF, another property tax incentive. Tennessee law authorizes IDBs to issue a TIF.[69] With a TIF, the cost of improvements to an area is paid out of future growth in property taxes. An economic impact plan is prepared by the IDB that identifies the area subject to the TIF and must include a project that will be financed with the TIF. The economic impact plan must be approved by all local governments whose property taxes are to be allocated to the IDB.

During the PILOT negotiations, there is a balance to be sought between transparency for the good of the public and confidentiality for the business to remain competitive. It has been argued that if a PILOT agreement were to require approval by more than one entity, it could compromise confidentiality, since multiple meetings increase the likelihood that information will leak.[70] If information about the potential PILOT deal leaks to the media and the company's board finds out about it before the staff tells them, this could cause the board to stop the deal from going forward.[71]

There are also concerns about the need for a swift approval process. PILOT negotiations can move fast, and local governments want to be prepared to make a decision quickly. Requiring approval by more than one entity might slow the process down.

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[67] Tennessee Code Annotated, Section 7-53-305(h).
[68] Tennessee Code Annotated, Section 7-53-305(g). In 2003, Roane County was included in this law through the passage of Public Chapter 405, Acts of 2003 but then removed a year later with Public Chapter 813, Acts of 2004.
[69] Tennessee Code Annotated, Section 7-53-312. The Metropolitan Nashville-Davidson County TIF statute is at Tennessee Code Annotated, Section 7-53-314. See also Mamantov, Oldham, Nelson, and Moneyhun 2014.
[70] Testimony by Tom Trent, attorney, Bradley, at the TACIR August 30, 2017 meeting.
[71] Testimony by Tom Trent, attorney, Bradley, at the TACIR August 30, 2017 meeting.

Some reports have recommended that affected local governments be given the opportunity to provide input on or approve abatements that can affect them. In the 2007 study *The Increasing Use of Property Tax Abatement as a Means of Promoting Sub-National Economic Activity in the United States*, the author recommends that input from school boards and other affected jurisdictions should be requested before approving an abatement that impacts them.[72] In the Lincoln Institute of Land Policy's 2012 *Rethinking Property Tax Incentives for Business* report, the authors recommend that local governments should be prohibited from abating taxes of other overlying governments without their approval.[73]

The PILOT process can reduce education funding for some local governments without giving them a say.

Counties and some cities, as well as special school districts, have school systems that rely heavily on property tax revenue.[74] Some IDBs in Tennessee already preserve school funds when negotiating PILOT agreements. For example, the Williamson County IDB and the IDBs of Chattanooga and Hamilton County require that lessees make PILOT payments equal to 100% of the portion of property tax revenue that would have otherwise been paid to schools.[75] In both circumstances, the education requirement is written into the agreement. Not all IDBs require this.

Some IDBs in Tennessee preserve school funds when negotiating PILOT agreements, but state law does not require this.

When PILOTs are approved, property tax revenue could be reduced with no input from the affected local government, and if this causes the system to fall short of its maintenance of effort (MOE) requirement, funding must be found to meet that requirement.[76] Under the MOE requirement, counties, cities, and special school districts "must budget at least the same total [local] dollars for schools that they did the previous year to comply."[77] Tennessee law says that no school district "shall use state funds to supplant total local current operating funds, excluding capital outlay and debt service."[78] The Tennessee Attorney General's Opinion Number 02-068 says that this statute has been interpreted to mean that a school

[72] Wassmer 2007.
[73] Kenyon, Langley, and Paquin 2012.
[74] Tennessee Department of Education, 2016 Annual Statistical Report, Table 16.
[75] Hamilton County Board of Commissioners Resolution Number 211-9 requires that all educational payments received by the county pursuant to PILOT agreements be designated and retained separately by the county for capital improvements for schools.
[76] The maintenance of effort requirement is reduced if state funding to the county decreases, which can happen when student enrollment declines. Tennessee Code Annotated, Section 49-3-314(c)(3)(A) says that "if state funding to the county for education is less than state funding to the county for education during the previous fiscal year, except that a reduction in funding based on fewer students in the county rather than actual funding cuts shall not be considered a reduction in funding for purposes of this subdivision (c)(3)(A), local funds that were appropriated and allocated to offset state funding reductions during any previous fiscal year are excluded from this maintenance of local funding effort requirement."
[77] Tennessee Comptroller of the Treasury Office of Research and Education Accountability 2015.
[78] Tennessee Code Annotated, Section 49-3-314(c).

district "cannot use local funds as part of its operating budget and then discontinue this funding and use state funding to fill the gap." Because the total dollar amount is what is required, as long as the money is made up somewhere else, like an increase in local sales tax revenue, and the total remains the same, then the MOE has been met.

The effect of PILOTs is exacerbated if there are other incentives in the area like tourism development zones (TDZs). This is what happened in Sevier County; the Publix whose property taxes were abated is located in a TDZ. The TDZs are established by cities to fund the construction of a designated qualified public use facility (QPUF).[79] Convention centers, privately owned tourist attractions, and associated development within a mile and half of the attractions and convention centers can qualify as a QPUF. In a TDZ, the incremental increase in the state and local sales and use tax is apportioned and distributed to the city or county that created it. The local option sales tax revenue apportioned for schools must still go to schools but the state sales tax incremental increase is wholly diverted to the TDZ to pay for the QPUF.[80]

PILOT agreements can also affect state funding of education through their effect on property tax assessments, which are used to calculate each county's fiscal capacity, a measure of a county's relative ability to raise revenue for education from its own resources, such as its property and sales tax bases. Fiscal capacity is used in the Basic Education Program (BEP), the state's education funding formula, to equalize state funding for education and to determine each county's responsibility for the local share of the cost of the BEP, directing more state funds to systems in counties with less ability to fund education with local resources and less to those with more ability to fund education.

When the Commission first calculated fiscal capacity for the 1992-93 school year, PILOT payments were converted into assessments and then added to property tax assessments to account for revenue generating property in counties, whether they pay property taxes or a payment in lieu of tax.[81] This PILOT payment data was produced by the Comptroller of the Treasury's Division of Local Finance as part of its County and Municipal Finances report—discontinued in 1995, and so changes in PILOT assessments are not reflected in TACIR's model. Under the current model used by TACIR, local decisions regarding PILOT agreements have the potential to shift some of the responsibility to pay the local share of the BEP from one county onto the other 94 counties, which violates a basic principle of fiscal capacity models that they not be affected by local decisions, such as whether or not to enter into a PILOT agreement. In the 2008 brief *Getting It Right The Effect*

[79] Tennessee Code Annotated, Title 7, Chapter 88.
[80] Opinion No. 09-180, Office of Tennessee Attorney General, November 24, 2009.
[81] Tennessee Advisory Commission on Intergovernmental Relations 2005.

on the Property Tax Base of Economic Development Agreements and Property Tax Incentives for Businesses, the Commission found that

> if tax exempt properties leased to private companies are not properly accounted for in the calculation of cities' and counties' ability to raise revenue, then the fiscal capacity of those cities and counties that make heavy use of them will be understated.

As noted in TACIR's 2016 staff report, "Starting in school year 2007-08, a new tax capacity model produced by the Center for Business and Economic Research (CBER) at the University of Tennessee has been used in combination with the county-level fiscal capacity model produced by TACIR."[82] So that CBER's model could account for PILOT agreements as required by state law,[83] the Comptroller's Division of Property Assessments began collecting IDB assessment data for CBER, which includes IDB assessments and assessments of properties owned by tax exempt entities other than IDBs. Of the assessed value in this report, 89.4% can be attributed to IDBs, 6.4% is owned by other economic development entities, including economic development corporations, airport and port authorities, civic centers, and revenue and finance corporations; 2.7% is owned by health, educational, and housing facility corporations; 0.8% is owned by local governments; 0.04% is owned by the Federal government; and for 0.7%, the owner could not be identified. State law authorizes local governments in Tennessee to collect PILOTs from municipal gas systems;[84] municipal electric systems;[85] telecommunication services;[86] cable television, internet, and related services;[87] industrial development corporations;[88] HEHBs;[89] housing authorities;[90] the Tennessee Valley Authority;[91] and local hospital authorities for leased commercial real property.[92]

Local decisions to enter into PILOT agreements would affect TACIR's model less if the 1993-1995 PILOT payments data were replaced with the up-to-date IDB Assessment data used by CBER; however, the BEP Review Committee has not yet made this recommendation.[93] Including IDB Assessment data in TACIR's model would increase some counties' fiscal capacities and decrease others; as with any change to fiscal capacity,

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[82] Tennessee Advisory Commission on Intergovernmental Relations 2016.
[83] Tennessee Code Annotated, Section 49-3-307.
[84] Tennessee Code Annotated, Section 7-39-404.
[85] Tennessee Code Annotated, Section 7-52-304.
[86] Tennessee Code Annotated, Section 7-52-404.
[87] Tennessee Code Annotated, Section 7-52-606.
[88] Tennessee Code Annotated, Section 7-53-305.
[89] Tennessee Code Annotated, Section 48-101-312.
[90] Tennessee Code Annotated, Section 67-5-206.
[91] Tennessee Code Annotated, Section 67-9-101 et seq.
[92] Tennessee Code Annotated, Section 67-9-201.
[93] Tennessee Advisory Commission on Intergovernmental Relations 2005.

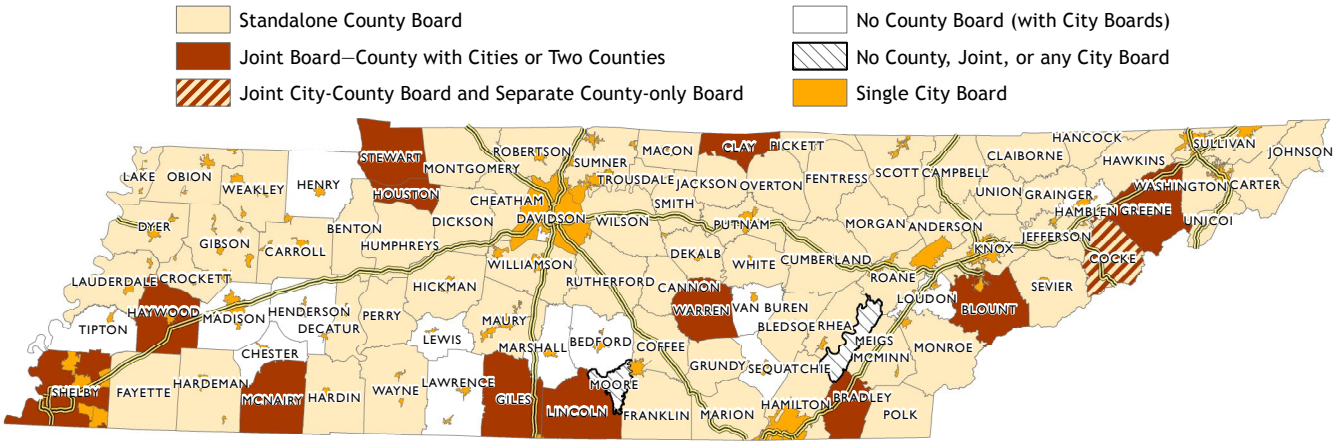
some counties would see an increase in their percentage of state funding, and others would see a decrease.

Some local governments in Tennessee are choosing to work together on PILOTs.

Local governments can work together on PILOTs through a joint IDB.[94] A joint IDB can provide an opportunity for more than one local government to approve PILOT agreements. For example, a county and city could form a joint IDB and both the city and county could vote on a PILOT in the city. It also provides an opportunity for local governments to jointly work together to establish criteria for PILOT agreements, as Memphis and Shelby County have done through their joint IDB, Economic Development Growth Engine (EDGE). One potential drawback to joint IDBs is that the statute allowing them is vague. For example, if a joint IDB is created between a county and two or more cities, it is unclear if one city can veto a PILOT in another city.[95] It has been argued that local governments tend to be afraid to create a joint IDB because of the vague language in the statute.[96]

Of the 184 IDBs currently active in Tennessee, only 13 are joint IDBs. See appendix D for a complete list of active IDBs in Tennessee. Of these, eleven—Blount County and the Cities of Alcoa and Maryville; Bradley County and the City of Cleveland; Clay County and the City of Celina; Cocke County and the City of Newport; Greene County and the Town of Greeneville; Giles County and the City of Pulaski; Stewart and Houston Counties; Lincoln County and the City of Fayetteville; McNairy County and the City of Selmer; EDGE of Memphis and Shelby County; and Shelby County and the City of Memphis (in addition to EDGE)—are located along the Tennessee border and so may be more likely to compete with other states located directly across the border. Just two—Haywood County and the City of Brownsville and Warren County and the City of McMinnville—do not share a border with another state. See map 3.

Map 3. Tennessee's Industrial Development Boards



Source: Tennessee Secretary of State, Business Information Search, https://tnbear.tn.gov/Ecommerce/FilingSearch.aspx.

[94] Tennessee Code Annotated, Section 7-53-104.
[95] Interview with Mark Mamantov, attorney, Bass, Berry, and Sims, June 2, 2017.
[96] Interview with Tom Trent and Jim Murphy, attorneys, Bradley, July 6, 2017.

As an alternative to joint IDBs, single government IDBs can work together on PILOTs through the use of interlocal agreements. An example of this exists in Shelby County where five of the six IDBs established by city governments have opted for this option.[97] Among them, the City of Bartlett has worked within this framework to develop a model that works for their community, which includes a provision that only the city property taxes on the improved value of real property may be abated. They have also decided to require that the PILOT payments must at least be equal to the education portion of the city property tax that would otherwise be due.[98] See appendix E for the interlocal agreement between Shelby County and the City of Bartlett. Other local governments have chosen to work together without any formal agreement. For example, the IDBs of Hamilton County and Chattanooga cooperate with one another and the local governments each pass a resolution approving an agreement when either negotiates a PILOT.[99] This option gives them the flexibility to choose how and when they work together. Local governments can quickly come together to work on attracting businesses without having to go through the laborious process of setting up a joint IDB. This flexibility comes at a cost, though, since one government's IDB could quickly choose to abandon the arrangement.

Local governments can form joint IDBs or establish a set of standards or criteria for PILOT projects from the outset.

Regardless of whether it is through a joint IDB, there is broad agreement that encouraging or requiring all affected jurisdictions within a county to participate in the creation and approval of local criteria for PILOTs would give them more of a say in the process.

The 2012 report *Rethinking Property Tax Incentives for Business* recommends that "restricting incentives to projects that meet certain standards will improve the likelihood that their benefits will exceed their costs."[100] See table 4 that shows when economic development goals may or may not be achieved using property tax incentives. This view has been echoed in other studies as well.[101] As an alternative to joint IDBs, some IDBs in Tennessee have already established a set of standards or criteria for PILOT projects. To make the process of PILOT negotiation smoother, local governments and the IDBs in a county could collectively agree on criteria like number of jobs, length of agreements, and types of businesses considered.

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[97] Shelby County has seven cities: one—Memphis—has formed a joint IDB with Shelby County, five—Arlington, Bartlett, Collierville, Germantown, and Millington—have established an interlocal agreement with Shelby County, and one—Lakeland—is a new IDB and has yet to negotiate a PILOT.

[98] Interview with A. Keith McDonald, Mayor of Bartlett, December 19, 2017.

[99] Resolutions of Hamilton County and the City of Chattanooga. http://www.hamiltontn.gov/PILOT/.

[100] Kenyon, Langley, and Paquin 2012.

[101] Buss 2001; Murray and Bruce 2017.

Table 4. Property Tax Incentives and Economic Development Goals

Goal	Goal May be Reached If Incentives	Goal May Not Be Reached If Incentives
Increase Income or Employment	Attract facilities that export goods or services out of the area Promote industry clusters that increase productivity in the area	Have little impact because property taxes account for such a small share of total business costs Create jobs that largely go to in-migrants or commuters Create jobs that are low-wage or part-time Require governments to effectively "pick winners"
Improve Fiscal Health	Obtain partial property taxes from firms that would have located elsewhere without tax breaks Attract suppliers paying full taxes by providing tax breaks for anchor firms Obtain other taxes or fees from the firm that offset foregone property taxes	Are given to firms that would choose the same location even without tax breaks Are given to facilities that require costly infrastructure investments by jurisdiction Extend for a longer time period than the lifespan of recipient plants
Promote Urban Revitalization	Redirect business investment within a metro area to distressed areas Offset lower business costs in wealthier areas	Have little effect on relative tax burdens due to widespread use of tax breaks Are utilized aggressively by wealthy areas Require very large tax breaks per job created to attract investment to distressed area

Source: Kenyon, Langley, and Paquin 2012.

IDBs can use criteria to help determine whether a business will be eligible for a PILOT agreement, as well as the amount and length of a PILOT if one is granted. Some IDBs put their criteria into an evaluation matrix to determine if a business will get an abatement or the amount or length of the term. In the matrix, points are given to each criterion. The more criteria a business meets, the higher their points and the more favorable the PILOT agreement terms. For example, Knox County uses a matrix to determine who will get an abatement and the length of the abatement. If a business scores less than 31 points, the business doesn't get an abatement, but if it scores 31-40, it can get a 100% property tax abatement for three years.[102] The EDGE for Memphis and Shelby County uses a matrix to determine the length of term of the abatement.[103] The more points a business gets, the longer their term.

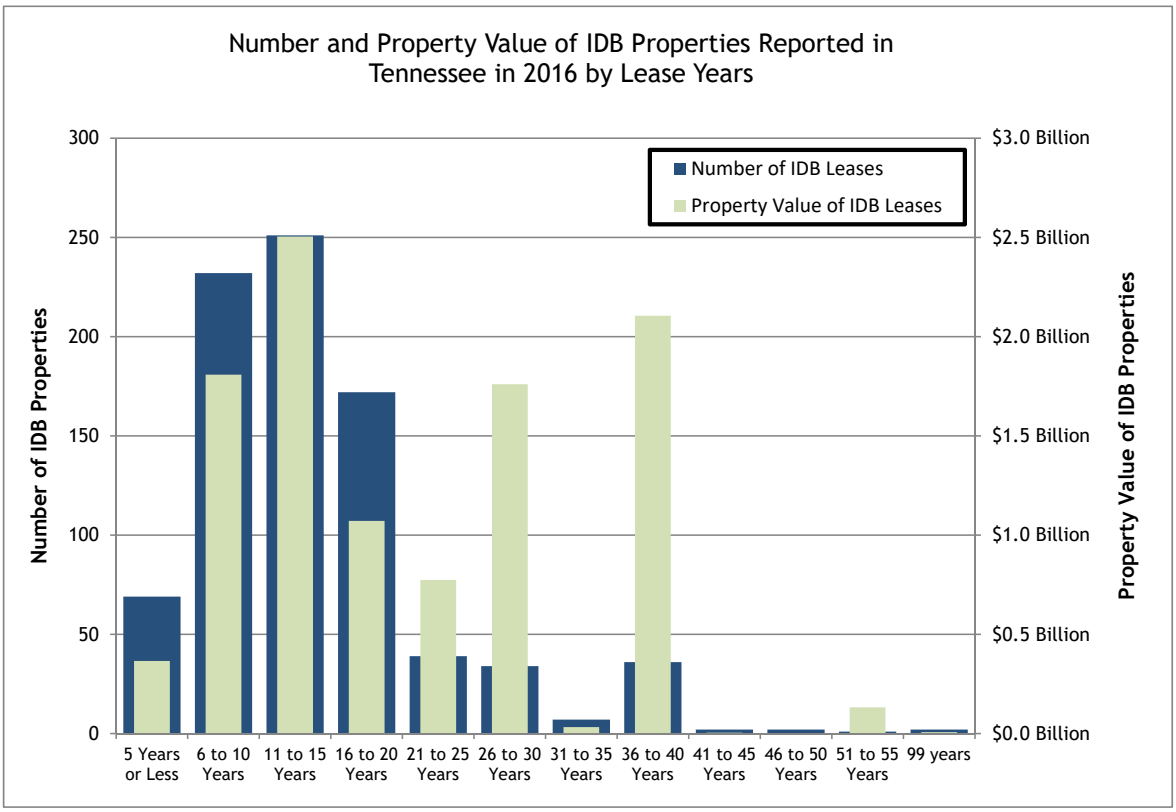
[102] County of Knox, Tennessee Property Tax Incentive Program Policies and Procedures. http://www.knoxdevelopment.org/LinkClick.aspx?fileticket=3SS5tsDYKbA%3D&tabid=120&mid=627.
[103] Interview with John Lawrence, senior economic development specialist, EDGE for Memphis and Shelby County, November 27, 2017.

Commonly used criteria include number of jobs, average wages, and a minimum expected capital investment requirement, but there are others. These criteria could be decided on locally and go into a matrix that local governments could use to determine the length of a PILOT if one is granted, as some local governments in Tennessee have done already. Some states have set criteria for property tax abatements and PILOTs in their statutes. Below is a discussion of different types of criteria that could be adopted by local jurisdictions in Tennessee.

Time limit on abatements

Tennessee law limits PILOT agreements to 20 years plus up to three years for construction, unless approved by the Tennessee Comptroller of the Treasury and the Tennessee Commissioner of Economic and Community Development.[104] Most agreements are less than 20 years, but those that are longer have greater property value on average. The most common length of term for a PILOT agreement in Tennessee is 10 to 15 years, but the data is self-reported, and it is unclear as to whether some properties are being counted more than once. See figure 3.

Figure 3. Number and Property Value of IDB Leases Reported in Tennessee in 2016 by Lease Years



Source: Tennessee Comptroller of the Treasury, State Board of Equalization. 2016 Industrial Development Board/Health & Education Report, https://www.comptroller.tn.gov/sboe/PDF/20170727IDBSummary2016.pdf.

[104] Tennessee Code Annotated, Section 7-53-305 (b)(1)(B)

Greg LeRoy, Executive Director of Good Jobs First, a national policy resource center promoting accountability in economic development, has argued that agreements should be limited to 5 years or even less because it is difficult to predict the condition of the economy beyond that period of time.[105] One attorney experienced in working on PILOT agreements has stated that most businesses will not consider PILOTs for that short a time period.[106] Ten years is the most common time limit in other states' laws; sixteen states have programs with a 10-year limit.[107] Five years is the second most common term; thirteen states have programs with a 5-year limit.[108] Other state programs have limits anywhere from 2[109] to 50.[110]

Ten years is the most common time limit for tax abatements in other states' laws.

Limit to specific regions

Several reports recommend that abatements may be more effective when targeting areas of concern like high levels of unemployment, poverty, or fiscal stress.[111] This helps focus abatements where most needed. One study, the 2006 *The Equity Impacts of Municipal Tax Incentives* report, suggests that abatements should be used in exurban communities only in exceptional circumstances.[112] It is more likely that new infrastructure would have to be built for exurban areas. Tennessee does not limit PILOTs to specific areas, but 20 other states do.[113]

Limit to new jobs and investment

In 2006, *The Equity Impacts of Municipal Tax Incentives report* recommended limiting abatements to businesses that will bring in new jobs and investments.[114] However, in 2007, *The Increasing Use of Property Tax Abatement as a Means of Promoting Sub-National Economic Activity in the United States* found that incentives may be more effective in relocating business within the state rather than in attracting new businesses or retaining businesses.[115] Tennessee law does not restrict PILOTs to new jobs or investments. Two states—Montana and Oklahoma—have programs that target new jobs and investment.

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[105] Interview, July 7, 2017.
[106] Interview with Tom Trent, attorney, Bradley, July 6, 2017.
[107] Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Montana, Nevada, New Mexico, New York, Pennsylvania, and Texas.
[108] Alaska, Connecticut, Idaho, Iowa, Kentucky, Maryland, Montana, New Jersey, North Carolina, Oklahoma, Oregon, South Carolina, and South Dakota.
[109] Illinois and Oregon.
[110] South Carolina. Some states have unlimited abatements for some types of property like pollution and inventory control equipment in South Carolina.
[111] Wassmer and Anderson 2001; Reese and Sands 2006.
[112] Reese and Sands 2006.
[113] Alabama, Connecticut, Florida, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, and Virginia.
[114] Reese and Sands 2006.
[115] Wassmer 2007.

Job quality standard

In the 2007 report Solving the Problem of Economic Development Incentives, the author suggests that incentives should have a certain job quality requirement because projects that fail to meet the requirements would likely not pass a cost-benefit test. It would also give businesses an idea of what types of projects should be pursued and give the public extra assurance that there is some selectivity in the process. There are no job quality requirements in Tennessee's law. Four states have wage requirements for certain programs.[116] Some local IDBs in Tennessee have job quality standards. For example, Knox County gives special consideration to applicants who pay wages that surpass 160% of the county's published annual average wage.[117]

Local worker requirement

The 2007 report *Solving the Problem of Economic Development Incentives* recommends that "incentives should be somewhat greater for projects that hire local residents, and considerably greater if the business hired the unemployed." The author writes that incentives should be designed to focus on social benefits of business growth and the biggest portion of the benefits comes from increasing the local employment rate. Local employment rates are most likely to go up when the business hires locals and unemployed, and least likely to go up when they hire people from outside of the community. No state including Tennessee has a local worker requirement in their state laws.

The author also recommends tying incentives to participation in a first source hiring program. The businesses consider but are not required to hire local workers from the first source program. These programs can help businesses find qualified local workers and screen and train them. They may be better equipped to connect with local groups to identify potential hires and help coordinate training for the workers locally.[118] One state, Oregon, authorizes abatements in enterprise zones if businesses enter into first source hiring agreements.[119]

Type of business

Studies show that incentives are more effective for manufacturing[120] but not as effective for commercial and residential properties.[121] Manufacturing activity is more responsive to abatement than commercial (and residential)

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[116] Alabama, Oklahoma, Oregon, and Texas.
[117] County of Knox, Tennessee Property Tax Incentive Program, Policies And Procedures
[118] Bartik 2007.
[119] Oregon Revised Statutes, Section 285C.215
[120] Wassmer 1994 and Wassmer 2007.
[121] Wassmer 2007.

activity because it is easier for manufacturers to move their operations.[122] However, another study cautions that governments should not focus on manufacturing since they may lose valuable opportunities if they focus on it.[123] Tennessee law does not restrict PILOTs to certain types of businesses. Other states vary in their requirements. Some states are quite broad with almost no limitations to more specific requirements like an industrial business or research and development. One of Oklahoma's abatement programs explicitly prohibits it from being used for retail.[124] North Dakota has one program that explicitly includes retail but the local government must get approval from a majority of voters in a referendum to grant property tax abatements to new or expanding retail sector businesses.[125]

Capital Investment Requirements

Some other states have capital investment requirements for businesses, though Tennessee does not. Twelve states have capital investment requirements in their statutes.[126] The amounts range from $1,000 of personal property in Oregon to $1 billion in Idaho.

Unlike in Tennessee, many states do not allow local governments to abate the taxes of other local governments but do permit them to abate their own.

Some states have approval procedures in their laws that local governments must follow if they want to abate other local governments' property taxes.

Many states allow local governments to abate their own taxes and not the taxes of other local governments. However, some states have approval procedures in their laws for a local government that wants to abate another local government's property taxes. In North Dakota, one program requires a city that wants to grant an abatement longer than five years to send the county and each school district notice of the proposed abatement.[127] Within 30 days, the county and each school district must notify the city if it intends to participate in the abatement. If a county or school district fails to respond within 30 days, then that county or school district must be treated as if they were participating in the abatement. One program in Maryland authorizes property tax abatement in enterprise zones, but a county's property tax can't be abated unless the county agrees to the designation of the enterprise zone.[128] In Ohio, one property tax abatement program requires affected school districts to approve abatement agreements, but approval is not required if 50% or less of the tax is abated.[129] School district

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[122] Wassmer 2007.
[123] Buss 2001.
[124] 62 Oklahoma Statutes Section 860.
[125] North Dakota Century Code Annotated, Section 40-57.1-03
[126] Alabama, Arizona, Idaho, Iowa, Maryland, Mississippi, Montana, New York, Oregon, Pennsylvania, South Carolina, and Texas.
[127] North Dakota Century Code, Section 40-05-24.
[128] Maryland Tax-Property Code, Section 9-103.
[129] Ohio Revised Code Annotated, Section 3735.671.

approval is required for abatements in excess of 60% of the assessed value of property or for an abatement period in excess of 10 years up to 15 years in another Ohio program.[130]

Georgia is a bit different since it doesn't require approval of a PILOT agreement by all affected local governments but it does require approval for use of PILOT revenue.[131] It requires approval from the affected school districts, if they set the property tax rate for education, cities, and counties before PILOTs revenue can be used for repayment of revenue bonds for capital projects. In lieu of consent, the local governments may agree to receive separate PILOTs equal to the property taxes for education they would have received or in other amounts agreed to by the parties.

Statewide, there is little accountability and transparency in the PILOTs law.

In the 2017 study *Best Practices for the Design and Evaluation of State Tax Incentive Programs for Economic Development*, the authors list the characteristics of a good incentive program. The authors write that a program should be transparent "so that benefits to taxpayers and costs to the state are clear."[132] They also think that a program should have accountability. They write "Performance-based incentives should be built into the program. The alternative is prospective provision of incentives and then the imposition of claw-back penalties for non-performance."[133] Lastly, they think that evaluation should be a part of any incentive program. They write that "Incentives should be implemented with a built-in mechanism or framework for evaluation. … To the extent possible, evaluations should seek to identify the extent to which incentives induced new economic activity rather than rewarding existing economic activity."[134] Looking at Tennessee's PILOT program, one finds there is little transparency or accountability built into the state law governing it.

There is little transparency or accountability built into the state law in Tennessee governing IDBs.

There are no required public notices or hearings before approval of a PILOT though academic studies recommend that it be an open process.

Tennessee's IDB meetings are required to be open to the public, but there is no requirement for public notice or hearings on specific projects in the PILOT law, unlike the TIF law for IDBs.[135] The TIF law requires IDBs to hold a public hearing on the economic impact plan that shows where

[130] Ohio Revised Code Annotated, Section 5709.63.
[131] Official Code of Georgia Annotated, Section 36-80-16.1.
[132] Murray and Bruce 2017.
[133] Ibid.
[134] Ibid.
[135] Tennessee Code Annotated, Section 7-53-302.

the TIF will be used.[136] IDBs must publish notice in a local newspaper two weeks prior to the public hearing. Some have interpreted the state's Open Meetings Act to apply to IDBs; that act does not specifically refer to IDBs though it does refer to other nonprofit corporations covered in the same broad section. Assuming the act does apply, it requires them to give adequate public notice, but only defines adequacy loosely.

Academic literature recommends that the approval process be transparent with input from the public. The 2012 article titled *Rethinking Property Tax Incentives for Business* recommends publishing information on incentives and making the negotiations an open process, including the public in the process.[137] Other reports also recommend that the public be given an opportunity to provide input.[138] Ten states actually require public hearings before abatement of property taxes;[139] seven of these states require public notice beforehand.[140]

To hold businesses accountable, a clawback provision or a list of performance criteria is often included in PILOT agreements.

Businesses may have confidentiality concerns if the process is too open. It can be important to keep the site selection process confidential in order to avoid disruptions to current operations.[141] A confidential site selection process can help improve the business's negotiating position and minimize hassles from salespeople, local government officials, and real estate brokers.[142] A confidential process also protects the business from unwanted public scrutiny.[143]

Tennessee law does not require local governments to monitor lessee performance to see if they have complied with the terms of the agreements.

PILOT agreements usually include goals that businesses are expected to meet, such as creating a certain number of jobs or making a certain capital investment amount. Because economic growth is important, the IDBs and local governments want to get the most out of the deal. To hold the businesses accountable, a clawback provision or a list of performance criteria is often included in the agreements. A clawback provision requires the business to repay the amount of the taxes that were abated if they fail to reach the goals in the agreement or possibly pay a financial penalty in addition to the amount of taxes that were abated. With performance criteria, if the business fails to reach its goals, the time period for the PILOT may be reduced or the PILOT may be eliminated entirely. In Tennessee, businesses seem to prefer performance criteria.[144] It has been estimated that 80% of

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[136] Tennessee Code Annotated, Section 7-53-312.
[137] Kenyon, Langley, and Paquin 2012.
[138] Buss 2001; State of New Jersey Office of the Comptroller 2010.
[139] Alaska, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, North Dakota, Oregon, and Pennsylvania
[140] Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, and North Dakota.
[141] Greyhill Advisors. "The Site Selection Process." http://greyhill.com/site-selection-process
[142] Ibid.
[143] Ibid.
[144] Testimony by Tom Trent, attorney, Bradley, at the TACIR August 30, 2017 meeting.

PILOT agreements have these performance criteria or clawbacks in them, and 80% of these provisions are enforced.[145] Clawbacks and performance criteria are not required by law to be a part of the PILOT agreements. Several reports including the 2008 Commission report *Getting It Right: The Effect on the Property Tax Base of Economic Development Agreements and Property Tax Incentives for Businesses* recommend using clawbacks to hold the businesses accountable and protect taxpayers in case the business fails to meet the objectives set forth in the agreement.[146]

There is no requirement in the law that they regularly monitor their performance, although doing so would help ensure that the PILOTs meet their jobs and capital investments goals. The 2010 report *A Programmatic Examination of Municipal Tax Abatements* argues that there should be follow up throughout the abatement period to ensure compliance with the agreement. It is unclear how closely IDBs and local governments monitor the performance of these businesses. EDGE of Memphis and Shelby County is one IDB that monitors the performance of its lessees. It requires follow up reports to be filed with the IDB with additional information like the number of jobs created and wages for those jobs. Since 2011, it has reduced the length of term for 23 agreements, restructured two agreements based on substantial changes to the project, and terminated 19 agreements because the businesses failed to meet their performance goals.[147]

Regularly monitoring performance would help ensure that PILOTs meet their jobs and capital investment goals.

Few other states require local governments to monitor business performance on a regular basis. Florida requires businesses to report the number of full time jobs created and their average wage before the expiration of abatement.[148] Nine states have provisions governing clawbacks in their laws.[149] The laws in seven of these states require businesses to pay taxes that would otherwise have been due.[150] In Montana, the businesses have to pay penalties and interest in addition to the taxes. In Connecticut and Ohio, clawbacks are optional.

There is no required review or evaluation of the economic effects of PILOTs on local governments and the state.

Very little information on the economic effect of PILOTs is required by law to be submitted by businesses or IDBs and local governments. Cost-benefit analysis of the value of real and personal property, number of new and indirect jobs, direct and indirect income, and total of new annual state and local sales taxes is required to be filed with the PILOT agreement. Tennessee does require a review of the economic impact of other business

[145] Interview with Mark Mamantov, attorney, Bass, Berry and Sims, June 2, 2017.
[146] Bartik 2007; Wassmer 2007.
[147] Email correspondence from John Lawrence, senior economic development specialist, EDGE for Memphis and Shelby County, September 1, 2017.
[148] Florida Statutes, Section 196.1995.
[149] Connecticut, Indiana, Michigan, Montana, New Jersey, Ohio, Oregon, South Carolina, and Texas.
[150] Indiana, Michigan, Montana, New Jersey, Oregon, South Carolina, and Texas.

incentive programs, specifically six state business tax credit programs.[151] It must include an evaluation of the foregone revenue to the state, any benefits provided to the state, and the estimated indirect economic impact of the tax credit. The review is required every four years.[152] The first report was submitted in 2016.[153]

Local governments in other states are required to report information about the effect of abatements because of the Government Accounting Standards Board (GASB) issued Statement 77. It requires disclosure of tax abatement information about a reporting government's own abatement agreements and those that are entered into by other governments and that reduce the reporting government's tax revenues. PILOT agreements in Tennessee do not meet the definition of tax abatement in the Statement 77 because Tennessee's IDBs must hold the lease for the duration of the agreements and the IDB property is exempt from taxation. According to representatives with GASB and the Tennessee Comptroller's office, cities and counties are not required to comply with the new rule but may choose to do so.[154] Davidson and Williamson counties are two local governments that have voluntarily chosen to disclose this information on their PILOTs.[155]

Cities and counties in Tennessee are not required to comply with the Governmental Accounting Standards Board (GASB) statement 77 but may choose to do so.

A number of reports recommend regular evaluation of incentives to help states see how well the programs are working and help the states decide if they should modify or end ineffective programs or continue effective ones.[156] In the 2001 study *Effect of State Tax Incentives*, the author recommends periodic evaluations of all tax incentive programs and termination of poorly performing ones. The author also suggests requiring sunset provisions for incentives and terminating programs unless they are reauthorized by the legislature. In the 2015 brief Tax Incentive Programs Evaluate today, improve tomorrow, the author looked at the best practices of states that evaluated their tax incentives programs and identified three steps for effectively evaluating incentives:

1) Make a plan: Determine who will evaluate, when, and how.
2) Measure the impact: Assess the results for the state's economy and budget.
3) Inform policy choices: Build evaluation into policy and budget deliberations.

Several states have laws requiring review of state tax incentives but none requires state legislative review of local property tax abatements.

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[151] Tennessee Code Annotated, Section 67-1-118 says it included the credits found in Sections 67-4-2009, 67-4-2109, and 67-6-224.
[152] Tennessee Code Annotated, Section 67-1-118.
[153] Anderson Economic Group 2016.
[154] Interview with Pam Dolan, project manager, Government Accounting Standards Board, August 2, 2017 and Interview with Jerry Durham, assistant director, Research, Compliance, Contract Review, Comptroller of the Treasury, August 2, 2017.
[155] Interview with Ken Young, attorney, October 24, 2017.
[156] See Kenyon, Langley, and Panquin 2012; Pew Charitable Trusts 2017.

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Appendix A: Public Chapter 431, Acts of 2017

State of Tennessee

PUBLIC CHAPTER NO. 431

SENATE BILL NO. 1362

By Bailey

Substituted for: House Bill No. 1223

By Hicks

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 53, Part 3, relative to industrial development corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of the payment in lieu of ad valorem tax agreements and leases entered into by industrial development corporations organized by municipalities, and specifically, whether economic benefits are derived from limiting the length of term of an agreement or lease in the absence of county approval or an agreement by the corporation or municipality to pay the county a sum equal to the amount of real property tax that would have been assessed in the absence of the agreement or lease following the expiration of the initial term.

(b) The study shall include:

(1) The economic benefits to counties and municipalities from the use of payment in lieu of ad valorem tax agreements and leases by industrial development corporations organized by municipalities;

(2) Examining whether any economic benefits are derived from limiting the length of term of a payment in lieu of ad valorem tax agreement or lease to five (5) or less years absent county approval or an agreement by the corporation or municipality to pay, each year after the initial five (5) 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

(3) Any additional issues that TACIR deems relevant to meet the objective of this study.

(c) All appropriate state agencies and departments shall provide assistance to TACIR upon the request of the executive director of TACIR. TACIR shall seek input from representatives of industrial development corporations, municipalities, and other types of local governments in conducting the study.

(d) TACIR shall submit a report disclosing the findings of the study and recommendations, including any proposed legislation or interim reports, 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.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1362

PASSED: May 4, 2017

RANDY McNALL
SPEAKER OF THE SENATE

BETH HARWELL, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2017

BILL HASLAM, *GOVERNOR*

Appendix B: Industrial Development Board Property Tax Assessments and Abatements by County, 2016

County	2016 IDB Assessed Value	2016 Abated Property Percent	2016 Abated Property Percent of Industrial and Commercial Assessment	2016 Total Property Tax Abated
Anderson	$ 84,680,461	5.20%	12.90%	$ 3,478,496
Bedford	41,002,597	4.60%	15.30%	1,759,011
Benton	2,944,590	1.10%	5.00%	116,181
Bledsoe	-	-	-	-
Blount	115,896,348	3.30%	9.90%	5,159,572
Bradley	409,648,397	18.20%	45.90%	10,477,318
Campbell	-	-	-	-
Cannon	234,780	0.10%	0.90%	10,213
Carroll	40,123,937	10.20%	47.50%	1,783,107
Carter	2,358,360	0.30%	1.10%	100,938
Cheatham	48,200	0.00%	0.00%	1,406
Chester	6,070,340	2.60%	13.10%	241,970
Claiborne	13,001,875	2.30%	9.20%	335,448
Clay	482,520	0.40%	2.40%	16,087
Cocke	1,372,920	0.20%	0.90%	66,989
Coffee	34,545,160	3.10%	7.90%	1,432,290
Crockett	-	-	-	-
Cumberland	25,830,929	1.70%	6.80%	553,997
Davidson	225,036,561	0.90%	1.90%	10,162,651
Decatur	-	-	-	-
DeKalb	586,080	0.10%	0.50%	12,915
Dickson	18,642,805	1.70%	5.40%	680,369
Dyer	71,283,743	10.30%	30.10%	3,322,420
Fayette	15,215,871	1.40%	8.70%	383,140
Fentress	1,140,160	0.40%	2.20%	22,974
Franklin	63,666,854	6.60%	28.60%	2,453,567
Gibson	22,148,512	2.80%	9.70%	1,009,607
Giles	20,464,620	3.40%	11.40%	724,087
Grainger	1,136,480	0.30%	2.90%	27,503
Greene	30,362,194	2.30%	7.70%	710,050
Grundy	1,973,652	0.90%	6.60%	51,301
Hamblen	830,878	0.10%	0.10%	24,594
Hamilton	448,780,145	4.80%	11.60%	23,982,014
Hancock	-	-	-	-
Hardeman	9,144,883	2.30%	9.00%	325,177

County	2016 IDB Assessed Value	2016 Abated Property Percent	2016 Abated Property Percent of Industrial and Commercial Assessment	2016 Total Property Tax Abated
Hardin	2,768,480	0.40%	1.50%	60,782
Hawkins	15,862,213	1.50%	6.30%	468,524
Haywood	6,283,360	1.50%	4.70%	279,610
Henderson	3,439,680	0.80%	2.70%	124,028
Henry	2,933,701	0.50%	1.80%	97,497
Hickman	389,280	0.10%	0.70%	15,559
Houston	567,640	0.40%	2.60%	18,108
Humphreys	6,957,502	1.40%	3.40%	153,065
Jackson	1,200,000	0.70%	6.10%	34,589
Jefferson	11,715,096	1.00%	4.20%	316,985
Johnson	4,321,419	1.40%	9.50%	88,589
Knox	76,399,813	0.60%	1.70%	2,571,805
Lake	230,257	0.30%	1.30%	8,689
Lauderdale	8,593,453	2.40%	8.10%	443,774
Lawrence	6,477,924	1.00%	3.50%	284,750
Lewis	446,907	0.20%	1.40%	16,956
Lincoln	46,032,781	7.50%	31.80%	1,836,708
Loudon	16,590,438	0.90%	3.50%	505,981
McMinn	6,227,498	0.50%	1.20%	184,517
McNairy	4,765,360	1.10%	5.00%	130,056
Macon	2,681,840	0.80%	3.50%	84,478
Madison	118,390,184	5.50%	11.40%	3,680,392
Marion	9,485,280	1.40%	5.40%	295,607
Marshall	31,614,523	4.90%	14.60%	1,618,664
Maury	273,919,533	13.50%	45.40%	8,093,601
Meigs	-	-	-	-
Monroe	-	-	-	-
Montgomery	117,514,503	3.10%	8.90%	3,786,555
Moore	-	-	-	-
Morgan	1,295,680	0.50%	3.60%	43,357
Obion	13,788,442	2.30%	6.90%	503,143
Overton	3,069,255	0.90%	4.20%	69,058
Perry	2,052,640	1.10%	7.40%	58,685
Pickett	-	-	-	-
Polk	209,690	0.10%	0.40%	6,358
Putnam	48,688,404	3.10%	8.00%	1,746,401

County	2016 IDB Assessed Value	2016 Abated Property Percent	2016 Abated Property Percent of Industrial and Commercial Assessment	2016 Total Property Tax Abated
Rhea	8,224,968	1.30%	4.40%	244,425
Roane	23,546,657	1.80%	7.40%	665,599
Robertson	76,830,699	5.20%	19.00%	2,588,974
Rutherford	457,109,254	6.10%	14.90%	16,649,306
Scott	5,081,320	1.50%	6.50%	153,001
Sequatchie	8,893,805	3.00%	18.60%	296,217
Sevier	9,299,800	0.30%	0.70%	179,837
Shelby	319,218,160	1.70%	4.20%	23,771,435
Smith	2,914,743	0.80%	2.70%	89,505
Stewart	2,125,360	0.80%	4.50%	73,056
Sullivan	170,562,575	4.40%	10.10%	7,768,726
Sumner	10,719,278	0.20%	0.80%	396,274
Tipton	98,690,659	9.60%	44.10%	3,699,001
Trousdale	-	-	-	-
Unicoi	-	-	-	-
Union	-	-	-	-
Van Buren	2,792,441	1.90%	21.80%	53,891
Warren	83,519,440	11.60%	36.60%	1,695,364
Washington	11,810,056	0.40%	1.10%	342,966
Wayne	1,340,200	0.50%	3.30%	36,903
Weakley	5,837,080	1.10%	3.50%	212,323
White	27,349,758	6.40%	28.70%	780,149
Williamson	143,922,822	1.20%	3.90%	3,853,397
Wilson	10,250,249	0.30%	0.90%	310,716
State	**$ 4,033,606,948**	**2.50%**	**6.80%**	**$ 160,913,329**

Appendix C: Cost Benefit Analysis for PILOTs

Cost Versus Benefit Analysis for Payment In Lieu of Ad Valorem Tax

Date _____ **Person Completing Form:** _____

Title: _____

Lessor _____ **Lessee** _____

Lease Term	Term Beginning Date		Total Term Ending Date								
Step 1	0	x	$ -	=	$ -	x	2.0	=	$ -		
	Number of New Jobs		Average Annual Company		Direct Income		***See Note 1***		Direct & Indirect Income		
Step 2	$ -	÷	$ 41,978.00	=	0						
	Indirect Income		***See Note 1***		Number Indirect Jobs						
Step 3	$ -	x	0.097	=	$ -	x	0.6	=	$ -	x 0.29	$ -
	Direct & Indirect Income		***See Note 1***		New Total Annual State Tax		***See Note 1***		New Annual State Sales Tax	***See Note 1***	New Annual Local Sales Tax

Calculation Summary: Additional comments and information about costs or benefits associated with the project may be attached.

Total of New and Indirect Jobs	**0**
Total of Direct and Indirect Income	**$0**
Total of New Annual State Sales Tax and New Annual Local Sales Tax	**$0**
Market Value of Leased Real Property Improvements	**$0**
Market Value of Leased Machinery & Equipment	**$0**
Market Value of Leased Land	**$0**
Total Appraised Value:	**$0**
Total Assessed Value:	$0

First Year PILOT Payment County:	**$0**
First Year PILOT Payment City:	**$0**
Total First Year PILOT:	**$0**

To be completed by Comptroller of Treasury

Tax Year	*2001*	*Est Property Taxes*	*EqTR x Assessed Value*
Co. Tax Rate	*$0.00*		***$0***
City Tax Rate	*$0.00*		*Eq TR = Total Rate x Appraisal Ratio*
Other Rate(s)	*$0.00*		
Total Tax Rate	*$0.00*		
Legal Ratio	*NA*		
Appraisal Ratio	*1.0000*	*(New Local Sales tax plus PILOT)Less Estimated Property Tax*	
Eff Tax Rate	*0.00%*		

Note 1 *Economic factors and multipliers provided by University of Tennessee for Business and Economic Research*

Appendix D: Active Industrial Development Boards by County as of 2017

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Anderson		The Industrial Development Board of Anderson County
	Oak Ridge *	The Industrial Development Board of the City of Oak Ridge
Bedford		
	Shelbyville	The Industrial Development Board of the City of Shelbyville, Incorporated
Benton		Industrial Development Board of the County of Benton
Bledsoe		Bledsoe County Industrial Development Corporation Board
	Pikeville	The Industrial Development Board of the City of Pikeville
Blount		
	Alcoa and Maryville (Joint)	The Industrial Development Board of Blount County and the Cities of Alcoa and Maryville, Tennessee
	Alcoa	The Industrial Development Board of the City of Alcoa, Tennessee
Bradley		
	Cleveland (Joint)	The Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee
Campbell		The Industrial Development Board of Campbell County, Tennessee
Cannon		The Industrial Development Board of Cannon County, Tennessee
Carroll		The Industrial Development Board of the County of Carroll
	Bruceton	Industrial Board of the Town of Bruceton, Tennessee
	Huntingdon	Industrial Development Board of the Town of Huntingdon
	Trezevant	The Industrial Development Board of the Town of Trezevant
	McKenzie *	Industrial Development Board of the City of McKenzie
Carter		The Industrial Development Board of Carter County, Tennessee
	Elizabethton	The Industrial Development Board of the City of Elizabethton, Tennessee
	Johnson City *	Industrial Development Board of the City of Johnson City, Tennessee
Cheatham		The Industrial Development Board of Cheatham County

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Chester		
	Henderson	Industrial Development Board of the City of Henderson, Tennessee
Claiborne		The Industrial Development Board of the County of Claiborne, State of Tennessee
	New Tazewell	The Industrial Development Board of the Town of New Tazewell
Clay		
	Celina (Joint)	Joint Industrial Development Board of Celina and Clay County, Tennessee
Cocke		The Industrial Development Board of the County of Cocke, Tennessee
	Newport (Joint)	The Industrial Development Board of the City of Newport and Cocke County, Tennessee
Coffee		Industrial Board of Coffee County, Tennessee, Incorporated
	Tullahoma *	The Industrial Development Board of the City of Tullahoma, Tennessee
Crockett		The Industrial Development Board of Crockett County, Tennessee
	Alamo	The Industrial Development Board of the City of Alamo, Tennessee
	Friendship	The Industrial Development Board of the City of Friendship
Cumberland		The Industrial Development Board of the County of Cumberland, Tennessee
Davidson (Nashville)		The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County
	Berry Hill	Industrial Development Board of the City of Berry Hill, Tennessee
	Goodlettsville *	The Industrial Development Board of the City of Goodlettsville
Decatur		The Industrial Development Board of the County of Decatur, Tennessee
	Parsons	The Industrial Development Board of the City of Parsons, Tennessee
	Scotts Hill *	The Industrial Development Board of the Town of Scotts Hill, Tennessee
DeKalb		Industrial Development Board of DeKalb County, Tennessee
	Alexandria	Industrial Development Board of the City of Alexandria, Tennessee
	Smithville	The Industrial Development Board of the City of Smithville, Tennessee
Dickson		The Industrial Development Board of the County of Dickson

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Dyer		The Industrial Development Board of Dyer County
	Newbern	The Industrial Development Board of the Town of Newbern, Tennessee
Fayette		The Fayette County Industrial Development Board of Fayette County, Tennessee
	Piperton	The Industrial Development Board of the City of Piperton, Tennessee
Fentress		The Industrial Development Board of Fentress County
Franklin		Industrial Development Board of Franklin County, Tennessee
	Decherd	The Industrial Development Board of the Town of Decherd, Tennessee
	Tullahoma *	The Industrial Development Board of the City of Tullahoma, Tennessee
Gibson		The Industrial Development Board of Gibson County, Tennessee
	Bradford	The Industrial Development Board of the City of Bradford, Tennessee
	Dyer	Industrial Development Board of the City of Dyer
	Humboldt *	Industrial Development Board of the City of Humboldt, Tennessee
	Milan	Industrial Development Board of the City of Milan, Tennessee
	Trenton	City of Trenton Economic and Industrial Development Board
	Rutherford	The Industrial Development Board of the City of Rutherford, Tennessee
Giles		
	Ardmore *	The Industrial Development Board of the Town of Ardmore, Tennessee
	Pulaski (Joint)	The Industrial Development Board of the City of Pulaski and Giles County, Tennessee
Grainger		The Industrial Development Board of Grainger County, Tennessee
Greene		
	Greeneville (Joint)	The Industrial Development Board of the Town of Greeneville and Greene County, Tennessee
Grundy		The Industrial Development Board of Grundy County
Hamblen		
	Morristown *	Industrial Development Board of the City of Morristown, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Hamilton		The Industrial Development Board of the County of Hamilton, Tennessee
	Chattanooga	Industrial Development Board of the City of Chattanooga
	East Ridge	The Industrial Development Board of the City of East Ridge
Hancock		Hancock County Industrial Development Board
Hardeman		The Industrial Development Board of the County of Hardeman, Tennessee
	Bolivar	The Industrial Development Board of the City of Bolivar, Tennessee
	Middleton	Industrial Development Board of the City of Middleton
Hardin		Industrial Development Board of Hardin
	Savannah	Savannah Industrial Development Corporation of the City of Savannah, Tennessee
Hawkins		Industrial Development Board of Hawkins County, Tennessee
	Kingsport *	The Industrial Development Board of the City of Kingsport, Tennessee
Haywood		
	Brownsville (Joint)	The Industrial Development Board of the City of Brownsville and Haywood County, Tennessee
	Brownsville	The Industrial Development Board of the City of Brownsville, Tennessee
Henderson		
	Lexington	The Industrial Development Board of the City of Lexington, Tennessee
	Scotts Hill *	The Industrial Development Board of the Town of Scotts Hill, Tennessee
Henry		
	McKenzie *	Industrial Development Board of the City of McKenzie
	Paris	The Industrial Development Board of the City of Paris, Tennessee
Hickman		Industrial Development Board of the County of Hickman
	Centerville	The Industrial Development Board of the Town of Centerville
Houston		
	(Joint)	The Industrial Development Board of Stewart-Houston Counties
Humphreys		The Industrial Development Board of Humphreys County, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Jackson		The Industrial Development Board of the County of Jackson, Tennessee
Jefferson		The Industrial Development Board of Jefferson County, Tennessee
	Jefferson City	Industrial Development Board of the City of Jefferson City
	Morristown *	Industrial Development Board of the City of Morristown, Tennessee
	White Pine	The Industrial Development Board of the Town of White Pine, Tennessee, Inc.
Johnson		The Industrial Development Board of the County of Johnson County, Tennessee
Knox		The Industrial Development Board of the County of Knox
	Knoxville	The Industrial Development Board of the City of Knoxville
	Knoxville	The Industrial Development Board of the City of Knoxville for the Downtown Cinema, Inc.
Lake		The Industrial Development Board of Lake County, Tennessee, Inc.
	Ridgely	The Industrial Development Board of the City of Ridgely
	Tiptonville	The Industrial Development Board of the City of Tiptonville
Lauderdale		The Industrial Development Board of Lauderdale County, Tennessee
	Halls	The Industrial Development Board of the Town of Halls
	Ripley	Industrial Development Board of the Town of Ripley
Lawrence		
	Lawrenceburg	Industrial Development Board of the City of Lawrenceburg
	Loretto	The Industrial Development Board of the City of Loretto, Tennessee
Lewis		
	Hohenwald	The Industrial Development Board of the City of Hohenwald, Tennessee
Lincoln		
	Ardmore *	The Industrial Development Board of the Town of Ardmore, Tennessee
	Fayetteville (Joint)	The Industrial Development Board of the City of Fayetteville and Lincoln County, Tennessee
Loudon		
	Lenoir City	The Industrial Development Board of the City of Lenoir City, Tennessee
	Loudon	The Industrial Development Board of the City of Loudon, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
McMinn		Industrial Development Board of the County of McMinn
	Sweetwater *	The Industrial Development Board of the City of Sweetwater
McNairy		
	Adamsville (Joint)	The Adamsville/McNairy County Industrial Development Board
	Selmer (Joint)	The Selmer/McNairy County Industrial Development Board
Macon		Industrial Development Board Macon County
	Lafayette	The Industrial Development Board of the City of Lafayette, Tennessee
Madison		
	Humboldt *	Industrial Development Board of the City of Humboldt, Tennessee
	Jackson	The Industrial Development Board of the City of Jackson
Marion		Marion County Industrial and Environmental Development Board
Marshall		
	Cornersville	The Industrial Development Board of the Town of Cornersville, Tennessee
	Lewisburg	The Industrial Development Board of the City of Lewisburg, Tennessee
Maury		The Industrial Development Board of Maury County, Tennessee
	Columbia	The Industrial Development Board of the City of Columbia, Tennessee
	Mt. Pleasant	The Industrial Development Board of the City of Mt. Pleasant, Tennessee
Meigs		No County, City, or Joint IDB
Monroe		The Industrial Development Board of the County of Monroe, Tennessee
	Sweetwater *	The Industrial Development Board of the City of Sweetwater
Montgomery		The Industrial Development Board of the County of Montgomery
Moore		No County, City, or Joint IDB
Morgan		Industrial Development Board of Morgan County, Tennessee
	Harriman *	The Industrial Development Board of City of Harriman, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Obion		Obion County Industrial Development Corporation
	Obion	Industrial Development Board - Town of Obion
	South Fulton	The Industrial Development Board of the City of South Fulton, Tennessee, Inc.
	Troy	The Industrial Development Board of the Town of Troy, Tennessee
	Union City	The Industrial Development Board of the City of Union City, Tennessee
Overton		Industrial Development Board of Overton County, Tennessee
Perry		The Industrial Development Board of Perry County, Tennessee
Pickett		The Industrial Development Board of the County of Pickett
Polk		Polk County Industrial Development Board
Putnam		Industrial Development Board Putnam County
	Cookeville	The Industrial Development Board of the City of Cookeville, Tennessee
Rhea		The Industrial Development Board of Rhea County, Tennessee
	Dayton	The Industrial Development Board of the City of Dayton, Tennessee
Roane		The Industrial Development Board of the County of Roane, Tennessee
	Harriman *	The Industrial Development Board of the City of Harriman, Tennessee
	Oak Ridge *	The Industrial Development Board of the City of Oak Ridge
	Rockwood	The Industrial Development Board of the City of Rockwood
Robertson		Industrial Development Board of the County of Robertson
	Portland *	The Industrial Development Board of the City of Portland, Tennessee
	Springfield	The Industrial Development Board of the City of Springfield, Tennessee
	White House *	The Industrial Development Board of the City of White House, Tennessee
Rutherford		The Industrial Development Board of Rutherford County, Tennessee
Scott		The Industrial Development Board of Scott County, Tennessee
	Oneida	The Industrial Development Board of the Town of Oneida, Tennessee
	Winfield	The Industrial Development Board of the Town of Winfield, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Sequatchie		
	Dunlap	The Industrial Development Board of the City of Dunlap, Tennessee
Sevier		The Industrial Development Board of the County of Sevier, Tennessee
	Pigeon Forge	The Industrial Development Board of the City of Pigeon Forge, Tennessee
	Sevierville	The Industrial Development Board of the City of Sevierville, Tennessee
Shelby		
	Memphis (Joint)	Economic Development Growth Engine Industrial Development Board of the City of Memphis and County Shelby, Tennessee
	Memphis (Joint)	The Industrial Development Board of the City of Memphis and County of Shelby, Tennessee
	Arlington	The Industrial Development Board of the City of Arlington, Tennessee
	Bartlett	Industrial Development Board of the City of Bartlett, Tennessee
	Collierville	The Industrial Development Board of the Town of Collierville, Tennessee
	Germantown	The Industrial Development Board of the City of Germantown, Tennessee
	Millington	The Industrial Development Board of the City of Millington, Tennessee
	Lakeland	The Industrial Development Board of the City of Lakeland, Tennessee
Smith		The Industrial Development Board of Smith County, Tennessee
Stewart		Industrial Development Board of Stewart County
	(Joint)	Industrial Development Board of Stewart and Houston Counties
	Dover	The Industrial Development Board of the Town of Dover, Tennessee
Sullivan		The Industrial Development Board of the County of Sullivan
	Bristol	The Industrial Development Board of the City of Bristol, Tennessee
	Johnson City *	Industrial Development Board of the City of Johnson City, Tennessee
	Kingsport *	The Industrial Development Board of the City of Kingsport, Tennessee

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Sumner		The Industrial Development Board of the County of Sumner
	Gallatin	The Industrial Development Board of the City of Gallatin, Tennessee
	Goodlettsville *	The Industrial Development Board of the City of Goodlettsville
	Hendersonville	The Industrial Development Board of the City of Hendersonville, Tennessee
	Portland *	The Industrial Development Board of the City of Portland, Tennessee
	Westmoreland	Industrial Development Board of the Town of Westmoreland, Tennessee
	White House *	The Industrial Development Board of the City of White House, Tennessee
Tipton		
	Covington	The Industrial Development Board of the Town of Covington, Tennessee
Trousdale		
	Hartsville	The Hartsville/Trousdale County Industrial Development Board
Unicoi		The Industrial Development Board of Unicoi County, Tennessee
Union		The Industrial Development Board of the County of Union, Tennessee
Van Buren		
	Spencer	Industrial Development Board of the City of Spencer, Tennessee
Warren		Industrial Development Board of Warren
	McMinnville (Joint)	The Industrial Development Board of McMinnville-Warren County, Tennessee
Washington		The Industrial Development Board of the County of Washington, Tennessee
	Johnson City *	Industrial Development Board of the City of Johnson City, Tennessee
Wayne		The Industrial Development Board of Wayne County, Tennessee
	Clifton	Clifton Industrial Board
	Waynesboro	The Industrial Development Board of the City of Waynesboro, Tennessee
	Collinwood	The Industrial Development Board of the City of Collinwood

Active Industrial Development Boards by County as of 2017

County	City	Industrial Development Board
Weakley		The Industrial Development Board of Weakley County
	Dresden	The Industrial Development Board of the City of Dresden
	Greenfield	The Industrial Development Board of the City of Greenfield
	McKenzie *	Industrial Development Board of the City of McKenzie
	Martin	The Industrial Development Board of the City of Martin
White		The Industrial Development Board of White County, Tennessee
	Sparta	Industrial Development Board of the Town of Sparta, Tennessee
Williamson		Industrial Development Board of Williamson County, Tennessee
	Fairview	The Industrial Development Board of the City of Fairview, Tennessee
	Franklin	The Industrial Development Board of the City of Franklin
Wilson		The Industrial Development Board of Wilson County

* Appears more than once in the table

Sources: Tennessee Secretatry of State Business Entity Search, Tennessee Comptroller of the Treasury IDB parcel data

Appendix E: Interlocal Agreement between the City of Bartlett and Shelby County

INTERLOCAL AGREEMENT BY AND AMONG
SHELBY COUNTY, TENNESSEE AND
THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF BARTLETT, TENNESSEE

This Interlocal Agreement is entered into this 16 day of December, 2010, by and between Shelby County, Tennessee, and The Industrial Development Board of The City of Bartlett, Tennessee (the "BIDB").

PREAMBLE

The Tennessee General Assembly enacted legislation permitting the creation of Industrial Development Corporations and under such legislation provided that such corporation and all properties at any time owned by it may be exempted from taxation from the State of Tennessee.

The various towns and cities of Shelby County, except The Town of Lakeland, have created their Industrial Development Board (the "Board" or "Boards") and have delegated to such Board the authority to negotiate and accept from any of its lessees, payment in lieu of ad valorem taxes ("PILOT"), upon determination that such an agreement is undertaken for the furtherance of the public purpose as defined in section 7-53-305(b) of Tennessee Code Annotated.

The Boards have used this authority to provide PILOTs as an economic development incentive and thus encourage the location or expansion of an industrial and commercial activity ("Project") in their city or town.

The Boards also have the authority to exempt Shelby County taxes for properties in their city or town and to have their own criteria and processes for evaluating and providing a PILOT incentive to an eligible industrial or commercial activity.

Shelby County recognizes the need to provide its share of economic development incentives throughout the County and to provide such incentives in an equitable, consistent and coordinated manner, and to ensure the cooperation of all the municipalities in the pursuit of economic development opportunities for Shelby County.

AGREEMENTS AND UNDERSTANDINGS

Shelby County, Tennessee, and the BIDB hereby acknowledge that the following provisions: (i) represent their mutual understandings as to the matters addressed herein; (ii) reflect their mutual intent to do all things necessary and proper to implement these understandings; and (iii) serve as an agreement that satisfies Tennessee Code Annotated Section 7-53-305(g). Shelby County and the BIDB for and in consideration of the covenants and agreements set forth herein, hereby agree as follows:

1. When the BIDB considers a Project, it shall request a letter of approval and the terms thereof, from the Mayor of Shelby County for any Shelby County PILOT incentives provided to a project before accepting any property into its PILOT program which has the effect of freezing or exempting any county ad valorem taxes.

2. Shelby County's PILOT incentive shall in all cases be the level of incentives that the Project would be granted if the Project were scored using the Memphis & Shelby County Industrial Development Board ("M&SC IDB") matrix (as modified, amended and/or interpreted from time to time),

including the additional points available under the Location category for sites within a Renewal Community, New Market Tax Credit Area, State & Federal Designated Brownfield, and Urban Economic Revitalization Areas as designated by the County &/or Municipality. Provided the PILOT applicant, any of its affiliates and/or owners is not relocating from a Shelby County location, nor has a PILOT application pending with the Memphis & Shelby County IDB, the BIDB may provide up to 10 additional location points for projects located in a targeted development area established by the BIDB which comprises less than 25% of the territory of the municipality. Except when the M&SC IDB matrix provides for more years than the maximum years allowed under a published and publicly available BIDB matrix as of the effective date of this Resolution and when the BIDB PILOT is at the maximum term allowed, neither the term nor the percentage of the county taxes reduced for the PILOT shall be greater (i.e., more favorable to the PILOT recipient) than the BIDB PILOT. Jobs created by the Project shall provide wages not less than $10 per hour and shall include health benefits. Each applicant seeking a PILOT incentive shall develop a Diversity Plan, approved by the BIDB and the Shelby County Mayor's Office, to encourage the support of minority, women, and locally owned small businesses and citizens in the economic development of the local community, which will allow for the award of up to two additional years of PILOT benefit in the event the Project meets or exceeds such Diversity Plan's goals. Furthermore, no Shelby County PILOT incentive shall be granted if the Project's cost benefit ratio exceeds 1.5 in regard to Shelby County's ad valorem taxes, unless the County Mayor grants an exception in writing. Shelby County, by and through the Shelby County Mayor's Office, shall give written notice to representatives of the parties to this agreement prior to any changes to the M&SC IDB matrix or written policies. Shelby County may charge closing fees consistent with the typical M&SC IDB closing fees as to the Shelby County portion of the benefit.

3. All Real and Personal Property Lease Agreements shall contain language that stipulates that non-compliance with PILOT application representations on jobs, wages and capital investment as approved by the BIDB is a cause for default under the Lease. Such language will establish a process for evaluating compliance with PILOT application representations and institute default provisions, which may result in increased PILOT payments, lease term adjustment or termination. Compliance requirements related to jobs, wages and capital investment shall be established by the BIDB but may be no less stringent than those set forth by the M&SC IDB with respect to Shelby County's portion of the tax benefit. The BIDB will provide annual reports to the Shelby County Mayor's Office regarding its compliance review of each Project. The BIDB shall follow procedures and schedules similar to those the M&SC IDB has with its PILOT grantees with respect to the reporting and default proceedings. If the Memphis and Shelby County IDB amends their PILOT program policies to provide for less frequent reporting, then the BIDB may provide similar reporting. The BIDB will notify Shelby County when exercising default provisions.

4. In regard to any provisions pertaining specifically to Shelby County PILOT incentives, all real and personal property lease agreements shall contain the language in a form substantially similar to that utilized in leases executed by the M&SC IDB, as amended from time to time, consistent with the requirements of this Agreement. Shelby County, by and through the Shelby County Mayor's Office, agrees to advise BIDB of changes to its lease language as soon as practicable, but in no case later than 20 days after said change is approved.

5. The BIDB shall submit a copy of each executed real and personal property lease agreement to the Mayor of Shelby County as currently stipulated by state law on January 1 of each calendar year.

6. The BIDB shall submit an annual listing of projects under the BIDB PILOT program to the Mayor of Shelby County as currently stipulated by Tennessee state law no later than January 1st of each calendar year.

7. In the event the M&SC IDB considers a PILOT Project located in the unincorporated area of Shelby County but within the annexation reserve area of The City of Bartlett, Shelby County, by and through the Shelby County Mayor's Office, shall do the following:

   a. Inform the Mayor of Bartlett of the PILOT incentive granted by the M&SC IDB.
   b. Include stipulations in the real and/or personal property lease agreement that the City of Bartlett's PILOT schedule applicable upon annexation by The City of Bartlett be equal to the tax that would otherwise be due. Furthermore, the real and/or personal property lease agreement shall state that the Project must request a PILOT incentive from the BIDB before changes to its PILOT schedule can be initiated as a result of annexation.
   c. Provide copies of the real and/or personal property lease agreement for such property to the Mayor of The City of Bartlett.
   d. Provide an annual listing of projects under PILOT agreements located in the annexation reserve area of The City of Bartlett to the Mayor of The City of Bartlett no later than January 1st of each calendar year.

8. Either party to this Agreement may terminate this Agreement upon sixty (60) days written notice to the other party.

IN WITNESS WHEREOF, the parties acting in their duly elected and authorized capacities, have executed this Agreement effective as of the date and year first above written.

SHELBY COUNTY

Mark H. Luttrell, Jr.
Mayor

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF BARTLETT, TENNESSEE

Burk Renner
Chairman