

# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



226 Capitol Boulevard Bldg., Suite 508  
Nashville, Tennessee 37243-0760


Phone: (615) 741-3012

Fax: (615) 532-2443

www.tn.gov/tacir

## MEMORANDUM

TO: Commission Members

FROM:  Annisse Roehrich-Patrick  
Executive Director

DATE: 10 June 2015

SUBJECT: Legislative update

Each year at this time, the Commission reviews legislative action on issues related to past studies and amends its work program to add issues submitted to it by the General Assembly. The 109th General Assembly took action in its first session on findings and recommendations from two commission reports, passed three public acts requiring studies by the Commission, and requested that the Commission produce several other studies.

### Legislative Action on Issues Studied by the Commission

Payment in lieu of tax (PILOT) agreements for low-income housing properties that qualify for federal income tax credits (LIHTCs), a topic discussed in the Commission's January 2015 report *Assessing the Value of Low-Income Housing for Property Tax Purposes: Whether and How to Consider the Value of Low-Income Housing Tax Credits*, will no longer require county legislative approval under Public Chapter 519, Acts of 2015. Interest in using PILOTs for LIHTC properties has increased as consideration of federal tax credits in valuing low-income housing for property tax purposes as become more widespread. Prompted by concerns noted in the report about the difficulties of gaining approval for PILOTs, this new legislation, carried by Sen. Mark Norris and Rep. Pat Marsh, requires only the assent of the chief executive of the municipality where the property is located.

Public Chapter 519 allows health, educational, and housing facility corporations to enter into PILOT agreements for LIHTC properties if three criteria are met. The PILOT must be payable to all applicable taxing jurisdictions in which the project is located, it must not be less than the taxes that would have been paid to each in the prior tax year, and the chief executive of the municipality must file a letter of support for the project with the health, educational, and housing facility corporation. Public housing authorities may enter into these agreements under the same conditions if the municipality does not have a health, educational, and housing

facility corporation. A related new law, Public Chapter 222, Acts of 2015, sponsored by Sen. Jeff Yarbro and Rep. Harold Love, removed a provision prohibiting Davidson County from delegating power to its public housing authority to negotiate and accept PILOTs from lessees that operate publicly owned LIHTC properties.

Based in part on the Commission's recommendations in its January 2015 report *Municipal Boundaries in Tennessee: Annexation and Growth Planning Policies after Public Chapter 707*, the General Assembly passed Public Chapter 512, Acts of 2015, which removed obsolete language and otherwise corrected inconsistencies in the code created with the passage of Public Chapter 707, Acts of 2014. The Act added a provision allowing non-contiguous annexation under certain circumstances, an alternative to corridor annexation included in the Commission's report, in Williamson County. Other legislation addressing alternatives and recommendations in the Commission's report was introduced but did not pass but was deferred to the 2016 session of the 109<sup>th</sup> General Assembly.

Responding to a request by the Commission for additional time to develop a model workplace civility policy, as required by the Healthy Workplace Act, the Senate passed Senate Bill 1157 by Norris, extending the due date for the model policy from March 1, 2015, to September 1, 2015. The bill's companion, House Bill 588 by Parkinson, was sent to the House Calendar and Rules Committee after being amended to require TACIR to create a model policy through the promulgation of a rule pursuant to the Uniform Administrative Procedures Act.

## **Legislative Requests for Further Studies by the Commission**

The General Assembly passed three acts requiring new commission studies, one on hotel motel taxes, one on homestead exemptions, and one on the effects of the state's clean power plan to be developed by the Department of Environment and Conservation according to regulations that are expected to be finalized by the US EPA later this year. Committees and subcommittees of the legislature asked the Commission to study four additional bills pertaining to county employees serving on county legislative bodies, safety markings on the steps of public buildings, bidder preferences for state contracts, and local funding of public defenders' offices. And Rep. Jon Lundberg, as chairman of the House Civil Justice Committee, asked the Commission by letter to study changes in court fees in Tennessee counties over the last ten years.

### **Studies Directed by Public Acts**

#### **I. Increases in Homestead Exemptions**

Public Chapter 326, Acts of 2015, directs the Commission to study whether homestead exemption amounts in TCA Title 26, Chapter 2, should be increased to reflect the cost of living. A homestead exemption allows individuals to retain some of their equity when a judge orders the sale of property that they use as their principle residence. The homestead exemption is commonly used during bankruptcy proceedings but can also be used during judicial foreclosures or other civil and criminal enforcement proceedings. It may not be invoked during

non-judicial proceedings and cannot be used to avoid paying a mortgage, tax lien, or a lien for improvements or repairs to the property. Tennessee's individual exemption of \$5,000 protects only a negligible amount of equity in homes that may be worth hundreds of thousands of dollars. Although federal law would provide greater protection to some individuals, Tennessee is one of 31 states that have chosen to opt out of the federal bankruptcy exemptions. And while federal exemptions are adjusted every three years for inflation, there is no such adjustment requirement for Tennessee's exemptions. The report is due January 1, 2016

## **II. Effect of the Hotel Occupancy Tax on the Economy**

Public Chapter 395, Acts of 2015, directs the Commission to study the effect of hotel occupancy taxes on the economy and on tourism and the hospitality industry and amends Tennessee Code Annotated, Section 67-4-1401(6), to change the definition of "person" in the section to mean any individual or group of individuals that occupies the same room. The original legislation, Senate Bill 850 by Tate and House Bill 951 by Mark White, would have also required that 80% of the proceeds of any tax or expansion of the tax adopted after passage of the bill to be spent to promote tourism or tourism development, but this requirement was not included in the final version. The report is due February 15, 2016.

## **III. Effects of Tennessee's Plan to Enforce Federal Emission Guidelines**

Public Chapter 478, Acts of 2015, directs the Commission to evaluate the state's final plan submitted by the Department of Environment and Conservation plan to the US Environmental Protection Agency to establish and enforce carbon dioxide emission control measures adopted to implement the obligations of the state under federal emission guidelines, including its effects on the state's electric power sector, consumers, employment, economic development, competitive position, state and local governments, and state laws. The original legislation, Senate Bill 1325 by McNally and House Bill 868 by Keisling, would have required legislative approval of the plan and would have required the department to evaluate its own plan. The study is due at the next regularly scheduled meeting of the joint government operations committee following the report's development, which cannot be done until the plan is submitted to the EPA; the plan itself cannot be developed until the EPA regulations are finalized, something that is unlikely to happen before the end of this year. The study will not be required if the EPA's carbon dioxide emission control requirements for Tennessee credit the state for the decreases in carbon dioxide emissions that result from nuclear-generating facilities already under construction.

## **Studies Requested by Committees and Subcommittees**

One additional study was requested by committees of both the House and the Senate, and four were requested by a single committee or subcommittee:

- Senate Bill 466 by Bell and House Bill 985 by Rogers, which would prohibit county government employees from serving on a county legislative body. Both the Senate State and Local Government Committee and the House Local Government Committee have requested that the Commission study this issue.

- Senate Bill 549 by Niceley, which would require written consent of property owners for zoning amendments, was referred by the Senate State and Local Committee. The companion, House Bill 775 by Daniel, was taken off notice, but Chairman Wirgau, House Local Committee, asked the Commission to study the legislation.
- House Bill 477 by Beck, which would require the edges of steps into certain state and local government-owned or -leased buildings be marked with yellow paint to assist persons with vision impairment, was referred to the Commission for study by the House State Government Committee. The companion, Senate Bill 836 by Yager, passed without amendment.
- House Bill 967 by Shaw, which would allow the state to give preference to Tennessee bidders when the lowest bidder is from a contiguous state that gives its own resident contractors preference, was sent to the Commission for study by the House State Government Subcommittee. The companion, Senate Bill 1081 by Harris, was referred to the Senate State and Local Committee.
- House Bill 241 by Todd, which would delete the requirement that local governments increase public defenders local funding by 75% of any increase they provide to the district attorney general, was referred to the Commission by the House Civil Justice Subcommittee. The companion, Senate Bill 1324 by McNally, was assigned to the general subcommittee of Senate Judiciary.