



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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## MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

January 16, 2020

### Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room 1 of the Cordell Hull Building at 1:10 p.m., Chairman Mike Carter presiding.

Present 22	Absent 3
Mayor Rogers Anderson	Mayor Tom Bickers
Assistant Commissioner Sammie Arnold	Representative Susan Lynn
Mayor Buddy Bradshaw	Senator Bo Watson
Mayor Kevin D. Brooks	
Representative Mike Carter	
Mr. Calvin Clifton	
Representative John Crawford	
Deputy Commissioner Paula Davis	
County Clerk Mary Gaither	
Mayor Brent Greer	
Mayor Jill Holland	
County Executive Jeff Huffman	
Representative Harold Love Jr.	
Senator Jon Lundberg	
Mayor A. Keith McDonald	
Representative Antonio Parkinson	
Mr. Jeff Peach	
Senator Katrina Robinson	
Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	
Senator Ken Yager	
Senator Jeff Yarbro	

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

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

Chairman Mike CARTER called the meeting to order at 1:10 p.m., dispensed with the calling of the roll, and then requested and received approval of the December 2019 meeting minutes.

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

Chairman Mike CARTER said that he had heard from a number of individuals in local government who still had concerns with the Commission's report on Senate Joint Resolution 593 (Multi-School System Counties) that was scheduled to be discussed under tab 7. Senator Jon LUNDBERG moved that the presentation and action on the report be deferred until the Commission's May 2020 meeting. Mayor Brent GREER seconded the motion. Chairman Mike CARTER requested that a work group of the Commission's local government members and other representatives of county and city governments meet with TACIR staff to resolve outstanding concerns with the report.

Executive Director Cliff LIPPARD updated the members on the status of the Commission's request for an opinion from the Office of the Attorney General. The Commission's question was,

“Whose approval is required for changing the data sources in the Tennessee Advisory Commission on Intergovernmental Relations fiscal-capacity model used to equalize funding through the Basic Education Program funding formula?”

The Attorney General responded,

“Changes to the data sources in the Tennessee Advisory Commission on Intergovernmental Relations fiscal-capacity model must be adopted by the State Board of Education and approved by the Commissioners of Education and Finance and Administration. Legislative approval is not required for such changes, nor is approval of the BEP Review Committee.”

Dr. LIPPARD concluded the updates by asking the members to recognize TACIR Director of Administration Michael Timme for his 30 years of service to the State of Tennessee.

## **3. Public Chapter 407, Acts of 2019 (Right to Shop)—Panel**

Chairman Robin SMITH, Public Chapter 407's sponsor, discussed the Right to Shop law that was passed by the General Assembly in 2019. It requires insurers to provide information that enables the insured to shop around for the best price on medical services and authorizes insurers to offer incentive programs to reward the insured for choosing lower cost services. Senior Research Associate Jennifer BARRIE followed with an overview of the study and said the Act directs the Commission to study any cost savings realized by enrollees with health insurance plans in states that have adopted legislation or programs that require insurance carriers offering health plans in those states to offer incentive programs to enrollees for shopping for healthcare services at lower costs. The study must include, at a minimum, an

examination of savings realized by these types of programs in Maine, New Hampshire, Florida, Arizona, and Kentucky. The legislation requires the Commission to report its findings to the General Assembly by December 2020.

Ms. BARRIE introduced a panel of experts representing different perspectives on the issue, including

- Mr. Josh ARCHAMBAULT, senior fellow with the Foundation for Government Accountability, who explained the issue, how right to shop programs work, and Tennessee's law;
- Ms. Jenny GOINS, commissioner of the Department of Employee Insurance in the Kentucky Personnel Cabinet, who explained Kentucky's public employee health plan; how it has incorporated price transparency and shopping incentives, and the program results; and
- Mr. Nathan RIDLEY, attorney with Bradley Arant Boult Cummings LLP and representative of American Health Insurance Plans, who spoke about the healthcare insurance industry in Tennessee, transparency and incentive programs in other states, and industry concerns about Tennessee's law.

Representative Antonio PARKINSON clarified that Tennessee's legislation benefits people with insurance and asked Ms. GOINS whether the Kentucky plan benefits people with Medicaid. She said the program she oversees is just for public employees. Mr. ARCHAMBAULT said the Kentucky program does not include Medicaid recipients, and it was enacted as an administrative policy decision, not through legislation. He added that there are issues with the federal social security law that restricts giving incentives to Medicaid enrollees that would need to be addressed at the federal level before such an approach could be attempted.

In response to Representative PARKINSON's question about the differences between Tennessee's law, other states' laws, and the new federal rules, Mr. ARCHAMBAULT said that first, other states and the new federal rules have real price disclosures for more health care services than Tennessee's law, which is more limited and revolves around average prices. Second, other states' laws require plans or whole segments of the individual and small business market to offer incentives, but Tennessee does not. Third, most other states have no cap on incentives while Tennessee has a \$599 annual cap on incentives. Fourth, states like Arizona and Maine grant patients credit toward their in-network out-of-pocket responsibility when they see out-of-network providers that saved them money; Tennessee does not. Fifth, the new federal rules require price disclosure by both insurers and hospitals while Tennessee's requires price disclosure by insurers only.

Mayor Keith MCDONALD asked for copies of Mr. Archambault's comments. He also asked Ms. Goins about overcoming the "you get what you pay for" mindset and how they track the quality of care. She said although, in Kentucky, they found for common procedures like colonoscopies, mammograms, and MRIs there is no difference in quality, they do recognize that there could be a difference. There are companies that provide tools that help compare quality and cost. Chairman SMITH clarified that Tennessee's law is limited to in-network providers and does not encourage out-of-network shopping because insurance companies leverage

quality with the in-network providers. Therefore, the law has a built-in quality metric. Representative John CRAWFORD said all providers, regardless of their cost, must meet minimum standards to practice in Tennessee.

In response to Ms. Mary GAITHER's question about whether Kentucky has a database for shoppers to access reviews of facilities or providers, Ms. GOINS said several companies are providing quality measures for various services—in particular, the data for higher cost procedures is available. Mr. ARCHAMBAULT added that vendors have websites, apps, and call-in numbers, and their goal is to be consumer-friendly. They design their products to give consumers information about the low cost, high quality provider options in the consumer's area within a minute.

Mayor ANDERSON asked Ms. GOINS whether Kentucky is having the same issues as Tennessee with the closure of small, rural hospitals, and whether Kentucky has certificates of needs. She stated that they do have certificates of needs, and other than a few extremes, they do not have the same issue with hospital closures but try to use telehealth to help the rural areas.

#### **4. House Bill 635/Senate Bill 600 (Local Government Procurement and the Acceptance of Online Bids and Offers)—Final Report For Approval**

Executive Director Cliff LIPPARD presented the final report on local government procurement and the acceptance of online bids and offers for approval. The report was prepared in response to a March 2019 motion passed by the House Local Government Committee requesting a study of House Bill 635 by Representative Travis, which would have amended the current law to make it mandatory for governments to accept electronic bids and other offers and required that local governments provide a "secure electronic interactive system" to accept those electronic bids and offers. Dr. LIPPARD said there were no significant changes since the draft report was presented at the last meeting.

Mayor Keith MCDONALD moved approval of the report, Senator Ken YAGER seconded the motion, and it was approved unanimously.

#### **5. Senate Joint Resolution 344 (Illegal Tire Dumps)—Final Report For Approval**

Senior Research Associate Bob MOREO presented the final report on illegal tire dumping for the Commission's approval. The report was prepared in response to a request by Senator Steve DICKERSON and Senator Steve SOUTHERLAND that the Commission study problems stemming from illegal waste tire dumps in Tennessee. Mr. MOREO reviewed changes made to the report since the report was presented at the December 2019 meeting.

He explained the report's second recommendation, which says Tennessee should establish permit requirements for waste-tire haulers, was revised to include an exception for registered tire retailers that choose to transport their own waste tires and document their proper disposal, and that permit requirements can reduce illegal dumping by giving law enforcement officers a reason to stop vehicles hauling tires. Mr. MOREO said more details were added regarding the third recommendation—to give counties more flexibility to spend money they receive from tire pre-disposal fees—by addressing the use of pre-tire disposal funds as two separate concerns.

The report recommends giving counties clear authority to use that revenue for specific efforts to combat tire dumping, as well as allowing counties to use it to dispose of shredded tires in landfills when the costs to find a beneficial end-use are significantly higher.

Mr. David CONNOR, Executive Director of the Tennessee County Services Association, was asked by Senator Ken YAGER to comment on the report and the issue of waste tires. Mr. CONNOR said tires are a serious problem all across the state, and that recycling tires is a challenge in part because there are few recycling companies, which drives costs up for county governments. He said that money from tire fees is rarely enough to cover counties' costs. Senator YAGER asked whether collecting fees on the sale of used tires will help, and Mr. CONNOR said he believes that it will.

Mayor Brent GREER emphasized the need to regulate tire haulers and give law enforcement officers the ability to stop suspicious vehicles carrying tires. He said that TDEC should use more of the money it gets from tire fees to hire enforcement personnel. Executive Director Cliff LIPPARD asked Mayor GREER whether the report's recommendation for tire hauler permits is a step in the right direction. Mayor GREER said it is, and that local governments are looking forward to having a clear process they can follow.

Mayor Buddy BRADSHAW cautioned that although stiff penalties can be a deterrent to illegal dumping, any new permitting process should not be too burdensome for small tire shops to follow. Chairman Mike CARTER agreed that provisions should allow individuals to carry a small number of tires without a permit.

The report was unanimously approved after being moved by Mayor Kevin BROOKS and and Senator YAGER.

## **6. Public Chapter 827, Acts of 2018 (Global Positioning Systems Monitoring)—Final Report for Approval**

Senior Research Associate Jennifer BARRIE presented the final report for the Commission's approval. As directed by Public Chapter 827, Acts of 2018, the Commission conducted a study of the effects and implementation of GPS monitoring as a condition of bail for defendants accused of stalking, sexual assault, domestic abuse, and violations of protection orders. Ms. BARRIE said that to address concerns that members expressed during the panel discussion at the December 2019 meeting, information was added about data ownership and use and open records considerations. Updated results, recommendations, and conclusions from the Memphis and Shelby County GPS monitoring pilot program evaluation were also added.

The Commission report's recommendations remain unchanged from the draft report and include the following: Local jurisdictions should consider adopting GPS monitoring as but one component of a larger coordinated community response—including strong interagency partnerships, cooperation and commitment from stakeholders, and services such as family safety centers, domestic violence high-risk teams, and lethality assessments. Local governments and partner agencies need to clarify roles and expectations and develop and commit to procedures and policies. Regardless of whether local governments choose to implement GPS monitoring programs, law enforcement agencies should be encouraged to adopt validated

lethality assessments because of their effectiveness as a tool to identify victims most at risk of serious harm or death and to help prioritize their access to services and develop safety plans. If the General Assembly appropriates additional funds specifically for real-time GPS monitoring of domestic violence defendants, it should require that local governments drawing money from the fund, at a minimum, adopt a validated lethality assessment tool to both help identify which domestic violence victims are in the greatest danger and immediately connect those victims with safety planning and other services to improve their safety. Local governments adopting pretrial GPS monitoring programs may also choose to prioritize high-risk cases and certain types of offenses, including intimate partner violence, strangulation, stalking, threats involving firearms, or violations of protection orders.

Mayor Rogers ANDERSON asked about the counties that are not listed as having committed to participating in the EMIF program. Ms. BARRIE said there was a timeline for counties to commit to participation for this fiscal year, and she believes there will be a timeline for counties to commit to participation in the next fiscal year. Mayor ANDERSON said that educating counties on the program will be important for participation. Chairman CARTER commented that he is working on legislation that will make GPS monitoring in lieu of bond so indigency won't be a factor, and counties won't have to pay for it.

Senator Katrina ROBINSON asked why Shelby County is not listed as committed to the EMIF program and whether the grant funds for the pilot program have been expended. Ms. BARRIE said she does not know why they have not committed and clarified that their grant program has ended, and they are continuing a locally funded program. Mayor MCDONALD said Shelby County did not commit to the EMIF because it had started the pilot program with grant funding before the EMIF program was an option.

Mayor Keith MCDONALD moved to approve the report, Mayor Kevin BROOKS seconded the motion, and the Commission voted to approve the report.

#### **7. Senate Joint Resolution 593 (Multi-School System Counties) – Final Report For Approval**

As noted above in the minutes for tab 2, action on the report was deferred until the Commission's May 2020 meeting, and a work group of the Commission's local government members and other representatives of county and city governments will meet with TACIR staff to resolve outstanding concerns with the report.

Chairman Carter adjourned the meeting at 2:37 p.m.



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 TENNESSEE ADVISORY COMMISSION  
 ON INTERGOVERNMENTAL RELATIONS**

**January 17, 2020**

**Meeting Called to Order**

The Tennessee Advisory Commission on Intergovernmental Relations met in House Hearing Room I of the Cordell Hull Building 8:38 a.m., Chairman Mike CARTER, presiding.

<b>Present 18</b>	<b>Absent 7</b>
Mayor Rogers Anderson	Mayor Tom Bickers
Assistant Commissioner Sammie Arnold	Representative John Crawford
Mayor Buddy Bradshaw	Senator Jon Lundberg
Mayor Kevin D. Brooks	Representative Susan Lynn
Representative Mike Carter	Representative Harold Love, Jr.
Mr. Calvin Clifton	Senator Katrina Robinson
Deputy Commissioner Paula Davis	Senator Bo Watson
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Mr. Jeff Peach	
Mayor Larry Waters	
Comptroller Justin Wilson <sup>1</sup>	
Senator Ken Yager	
Senator Jeff Yarbro	

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

## 8. Public Chapter 819, Acts of 2018 (Small Cell)—Panel

The Commission heard from a panel of experts who discussed the effect of Public Chapter 819, Acts of 2018, on wireless providers and on the state and local government entities responsible for permitting small wireless facilities. Panelists included

- Vernon GERTH, Assistant City Administrator, City of Franklin;
- Jeff HOGE, Director, Right-of-Way Division, Tennessee Department of Transportation; and
- Joelle PHILLIPS, President, AT&T, Tennessee.

Mr. GERTH said that as technology has evolved, small wireless facilities and their support structures have tended to fit better with the aesthetic character of the neighborhoods in which they are located. However, better coordination among local governments, electric utilities and cooperatives, and wireless providers and their subcontractors could reduce burdens on local governments in terms of both cost and time and create a more efficient process for deploying small wireless facilities in Tennessee. Mr. GERTH said wireless providers have been reasonable to work with, but problems have typically started after providers receive local permits for their facilities and turn over management of their projects to subcontractors. In Franklin, subcontractors have deviated from approved plans and shown disregard for coordinating site inspections with local government. Mr. GERTH said that local governments should be allowed to recoup their added costs by charging additional fees for added inspections or added permit reviews in these cases. In response to Mr. CLIFTON's question about whether Franklin has considered requiring performance bonds for small wireless facility projects, Mr. GERTH said that the city typically requires letters of credit instead, which he characterized as sufficient if installations of support structures, fiber-optic cable, and electricity can be aligned.

Mr. GERTH said that subcontractors' coordination with electric providers is woefully inadequate. Some new support structures installed for small wireless facilities have been installed for months before electric power and fiber have been extended or connected, and in some cases, power generators have been placed in the right-of-way to power facilities while they wait for electricity to be connected. In other cases, subcontractors have confused procedures for working in public rights-of-way with those for private easements.

County Executive HUFFMAN said that he receives complaints about installations occurring on private property without notice and asked whether Franklin requires property owners to be notified prior to work being performed in private easements. Mr. GERTH responded that utilities have a right to maintain their private easements but are obligated to notify property owners prior to performing work in them. He said that Franklin notifies property owners out of courtesy, follows up on complaints, and tries to apply penalties to subcontractors that disregard permitting and notice processes. Ms. PHILLIPS said one complicating factor is that different local governments have different rules regarding private easements—which are usually governed by private contracts—and general utility easements—which usually have a set of rules and requirements that vary depending on the type of work performed. She said that the differing local rules for general utility easements across the state create a patchwork and



that uniformity would be welcome. In response to County Executive HUFFMAN's question about whether customers' service contracts allow providers onto their property without permission, Ms. PHILLIPS said that although practices across the industry vary, AT&T's terms and conditions say they will follow the rules of the relevant local government; in cases where major construction is required, AT&T will negotiate an easement.

Regarding the need for better coordination, Mr. GERTH said that local governments should be allowed to require small wireless facilities permits to include a single point of contact who would be responsible for requesting inspections and resolving problems for all components of the permitted plan. Ms. PHILLIPS said the construction boom in Middle Tennessee has increased competition for the best subcontractors, and AT&T has had to remove a master contractor that did not provide necessary coordination on projects. She said that AT&T would be receptive to a uniform policy for coordinating work on small wireless facility projects, and she said that many cities already have a platform for utilities to communicate with each other, but wireless providers don't have access to it. She said that the 811 "call before you dig" program, which allows companies and individuals to determine the location of existing utilities before they begin digging, could be a starting point for finding a model that would improve coordination for small wireless facilities projects.

Among several other recommendations, Mr. GERTH said that plans should be approved by relevant electric utilities or cooperatives before being submitted to local governments and that small wireless facilities projects should be required to be completed in a timely manner, much as local governments are required to review permit applications for these projects in a timely manner. Ms. PHILLIPS agreed that it is important for facilities to be completed in a timely manner.

Mr. HOGE said that before Public Chapter 819, Acts of 2018, was passed, the Tennessee Department of Transportation (TDOT) had developed its own guidelines for small wireless facilities placed in rights-of-way managed by the department and classifies these facilities as utility infrastructure. TDOT does have concerns that new structures installed solely for small wireless could be abandoned in the future, and it prefers that small wireless facilities be collocated on existing support structures in the right-of-way, though it generally does not want them located on TDOT structures. Large cell towers are not permitted in the right-of-way. Mr. HOGE said that if a new support structure is approved, the department would want other providers to collocate on it in the future. Ms. PHILLIPS said that collocation will likely become more attractive to providers in future years, as more and more facilities get deployed.

Mr. HOGE said that TDOT's regional offices are processing applications within the time limits established by the 2018 law and that contrary to expectations the department has not been bombarded with applications. In response to Mayor MCDONALD's request for clarification about the number small wireless facilities TDOT allows in a single permit application, Mr. HOGE said that it is 10 facilities per application. Mayor BROOKS expressed concern that TDOT Region 2 where his community is located has the fewest number of small wireless facilities applied for despite being the fastest growing region for manufacturing in the state. Ms. PHILLIPS clarified that TDOT's numbers include only those small wireless facilities applied for

in TDOT-managed rights-of-way and that there may be other small wireless facilities in these communities.

Mr. HOGE said the only substantive change for TDOT as a result of the 2018 law has been the fee charged for these facilities. In response to Mayor MCDONALD's question about the fees TDOT currently charges, Mr. HOGE said that consistent with the 2018 law, the department charges a permit fee of \$100 per small wireless facility for the first five facilities in a single application and \$50 per facility for each facility beyond the first five in the same application.

Ms. PHILLIPS said that Tennessee's small wireless facility law compares favorably to the laws in other states. As a result, AT&T's Tennessee office has been able to take resources from offices in other states that are having issues with local permitting. In response to County Executive HUFFMAN's question about how Tennessee is likely to compare to other states five years from now, Ms. PHILLIPS said that although we got ahead of states with large population centers like Georgia and Florida early on, they are trying to catch up. She said one advantage for other states is that they can regulate the electric power and telecommunications industries together, including pole attachments. She said electric providers in Tennessee have been engaged on these issues, and AT&T has a good relationship with the Tennessee Valley Authority. She said one consideration would be to charge small wireless facilities for electricity based on average consumption rather than requiring separate electric meters for each facility.

In response to Mayor MCDONALD's question about the number of small wireless facilities currently deployed in Tennessee, Ms. PHILLIPS said AT&T has approximately 150 facilities up and running, with another 150 permitted facilities that are under construction. She expects another 200 small wireless facilities to be deployed by the end of 2020, and she said the pace of deployment has improved as a result of the 2018 law. In response to County Clerk GAITHER's request for a list of small wireless facilities and what areas have broadband service, Ms. PHILLIPS said that a new federal reporting and mapping process currently under development would likely improve the quality of broadband mapping in future years. She said that AT&T and other providers could work with CTIA—the trade group for wireless providers—to put together information on small wireless facilities in Tennessee.

In response to Mayor MCDONALD's question about the size of small wireless facilities and the equipment necessary to operate them, Ms. PHILLIPS said that the antenna is typically the size of a Quaker Oats box and that each antenna will need a power shutoff switch, in some cases an electric meter, as well as other equipment. Mayor MCDONALD asked whether the additional equipment includes large cabinets placed on the ground, and Ms. PHILLIPS responded that they do use ground-mounted equipment as part of their fiber network, which supports small wireless facilities.

Several members asked questions about the deployment of small wireless facilities and high-speed internet service in rural areas. In response to Senator YAGER's question about whether small wireless facilities would be used to provide broadband to rural areas, Ms. PHILLIPS said that initially small wireless facilities will serve more populated areas with greater capacity needs and those areas like interstate interchanges where many people are passing through. She said that as new uses of wireless service are adopted by residents, businesses, and industries it

will be more likely that providers can make a business case to serve currently unserved areas. County Executive HUFFMAN asked how long industries, including agriculture, and rural communities will have to wait for access to the advanced capabilities provided by small wireless facilities. Ms. PHILLIPS responded that providers are generally already able to make a business case for serving manufacturing facilities of large enough size. She said as agricultural equipment manufacturers build greater connectivity into farming equipment, such as tractors and irrigation systems, it will drive the deployment of wireless infrastructure by making the business case for serving these areas. In response to Mr. PEACH's question about wireless service in rural areas, Ms. PHILLIPS said that fixed wireless service is already provided in some areas, using facilities that are larger than small wireless facilities but smaller than traditional cell towers. She said that consumers are already shifting from wireline to wireless broadband as their primary mode of internet access. In response to Senator YARBRO's question about resources communities could leverage to get residents access to high-speed internet beyond deploying service to every home, Ms. PHILLIPS said that communities can encourage residents to take advantage of resources including digital literacy training provided at libraries, community colleges and colleges of applied technology.

In response to County Executive HUFFMAN's question about whether small wireless facilities will improve redundancy in wireless networks to make them more resilient. Ms. PHILLIPS said that small wireless facilities were not directly related to improvements in redundancy, which she characterized as something that would be important if fiber-optic cables are cut. She said that the improvements in wireless connectivity that small wireless facilities will make wireless a stronger competitor for wired service. Mayor ANDERSON asked whether there are any concerns related to cybersecurity, small wireless facilities, and 5G service. Ms. PHILLIPS responded that almost all cybersecurity works better with more bandwidth, though she said that some things require unique solutions, providing FirstNet as an example where AT&T has constructed a wireless network with dedicated bandwidth for first responders and other officials to use during public emergencies.

Chairman CARTER said that rural broadband is one of the biggest issues for his constituents and that he hopes advances in wireless networks can help unserved areas. In response to Chairman CARTER's questions about whether existing conduit that was placed for AT&T's telecommunications networks decades ago could be used to deploy new fiber, Ms. PHILLIPS said that those conduits can be used for fiber today even if they were built for AT&T's copper network initially, though she said the electronics for those networks would need to be upgraded. She said small wireless facilities rely on fiber backhaul. Ms. PHILLIPS said that AT&T is considering working with electric cooperatives to provide them with video service for the cooperatives' internet customers.

## **9. House Bill 971/Senate Bill 1075 (Local Revenue and Services)—Second Interim Report Review, Comment and Approval**

Senior Research Associate Michael MOUNT presented the interim report on K-12 local revenue and service for review, comment, and approval. The second interim report was prepared in response to the Commission's local government members recommendation on January 31, 2019, that the Commission research public K-12 education services and funding in Tennessee to

identify what services local governments provide, and how those service are funded. On February 1, 2019, the Commission approved an amended research plan to produce a second interim report focusing on K-12 education services and funding as part of the Commission's comprehensive study of the duties of cities and counties under state law and the funds the state provides to comply, which was requested by the House Finance, Ways and Means Committee during its discussion of House Bill 971 by Representative Sargent in the 110th General Assembly. The final report will be presented at the May Commission meeting.

Mr. MOUNT summarized the changes and additions that were made to the executive summary that was presented at the December 2019 Commission meeting. He said an analysis section, information about system level fiscal capacity models, a reference to the report on the *Effects of Sharing of Revenue Among School Systems in Counties with More than One School System*, a figure showing the state share and required local match of school systems, and appendixes on education expenditures as a percent of total expenditures by county and city were added. He said the number of licensed positions generated by the BEP funding formula and the number employed by school systems was updated.

In response to Mayor Rogers ANDERSON question about whether expenditures in appendix A includes bonded indebtedness, capital outlay, and operations, Mr. MOUNT said they are included. Mayor ANDERSON asked whether Appendix A, which shows Williamson County's education expenditures as a percent of total expenditures for 2017-18 (78.2%) is correct and meant that the county only had 22% of its budget to fund the rest of its government activities. Mr. MOUNT said the calculation is for expenditures and was based on Williamson's 2017-18 Annual Financial Report Statement of Activities. [NOTE: \$398,075,694 was for the Williamson County School Department, \$173,853,499 was for the primary government education expense (\$111 million in education capital expenditures and \$63 million for education self-insurance), and \$333,501,984 was for the total primary government expense.]

County Executive Jeff HUFFMAN asked whether the \$4.1 billion in local revenue includes bond proceeds. Mr. MOUNT said it does not. County Executive HUFFMAN asked how much that represents. Mr. MOUNT said the Department of Education's 2018 Annual Statistical Report included \$790.0 million in non-revenue receipts, including \$428.6 million in bond, note, and lease proceeds and insurance recovery.

Representative Antonio PARKINSON moved that the report be approved. Mayor Keith MCDONALD seconded the motion. The Commission unanimously approved the report.

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

Research Associate Rabia CHAUDHRY presented the Public Infrastructure needs report for approval. Senior Research Associate Dave KEISER assisted Ms. CHAUDHRY with questions and answers. Ms. CHAUDHRY said the report documents \$54.8 billion of needed infrastructure improvement projects, which were in some stage of development during the five-year period of July 2018 through June 2023.

Mayor Larry WATERS asked whether the information in the report was collected from consistent sources, using the same criteria across the state. Ms. CHAUDHRY said that TACIR

contracts with the nine development districts to gather information from local officials using a standardized protocol. Mr. KEISER added that the information about state government infrastructure needs is also standardized for consistency.

Mayor Keith MCDONALD asked why the report did not show any infrastructure needs in Shelby County within the industrial sites and parks category, shown in appendix D-22a on page 214. Mr. KEISER said that Shelby County officials were surveyed by the Memphis Area Association of Governments staff, but that Shelby County officials did not identify any infrastructure needs in this category.

Mayor MCDONALD asked why there was no record for Memphis school infrastructure needs in appendix E-9 on page 256. Mr. KEISER explained that the needs were listed by school system and that because Memphis no longer had a city school system, the school infrastructure needs within Memphis were included in the Shelby County school system.

Mayor MCDONALD asked whether the report included a list of all mandates from the Americans with Disabilities Act (ADA). Mr. KEISER said that the report did not include a comprehensive list of all ADA mandates.

Vice-Chairman Kevin BROOKS asked for a motion to approve the report. County Executive Jeff HUFFMAN made the motion to approve the report. Mr. Jeff PEACH seconded the motion. The report was unanimously approved.

## **11. Tennessee Valley Authority Payments In Lieu of Taxes—Annual Report for Approval**

Policy Coordinator Dr. Matthew OWEN presented the annual update on Tennessee Valley Authority (TVA) payments in lieu of taxes (PILOT) for approval. He said that the amount Tennessee receives from TVA is estimated to increase for the third straight year. Dr. OWEN reviewed incentives included in TVA's new wholesale power contracts and the potential for changes in TVA's customer base, saying that they could affect the PILOT in future years. He said that one of TVA's Tennessee distributors, Memphis Light, Gas and Water (MLGW), is currently studying whether to leave the TVA system. Staff will provide an update on MLGW's study at the May commission meeting.

In response to Representative PARKINSON's question about the effect on the PILOT of MLGW leaving the TVA system, Dr. OWEN said that because it would reduce both TVA's overall revenue and the share of that revenue generated from sales in Tennessee, it would reduce both the overall PILOT for all states and TVA's payments to Tennessee. But any new entities that MLGW purchases wholesale electricity from would be required under Public Chapter 1035, Acts of 2010, to make payments in lieu of taxes equivalent to those that would have been made by TVA based on the cost of those new entities' wholesale power sales to MLGW. These payments would be added to what the state receives from TVA for allocation through the state's TVA PILOT distribution formula and would at least partially offset the decrease in TVA's payments to Tennessee. In response to Mayor MCDONALD's question about how payments through the state's distribution formula to cities in MLGW's service area would be affected if MLGW were to leave, Dr. OWEN said that cities and counties in MLGW's service area would see their allocations decrease because they would be excluded from the portion of the formula

that allocates revenue based on population, county acreage, and TVA acreage. Mayor MCDONALD asked whether some cities like Bartlett could lose all of their current allocation. Dr. OWEN responded that in some cases, including Bartlett's, cities and counties could lose all of their current allocation. In response to County Executive HUFFMAN's question about whether entities selling wholesale electricity to a distributor like MLGW would be required to make payments in lieu of taxes directly to local governments to offset decreases through the state formula, Dr. OWEN said that he was not aware of anything in state law that would require wholesalers to make payments directly to local governments. The payments required by Public Chapter 1035, Acts of 2010, are made to the state for distribution through the state's formula.

County Executive HUFFMAN said that TVA has recently converted its Allen power generating facility in Memphis from coal to natural gas and asked whether MLGW's decision to leave would affect ownership of that facility. Dr. OWEN responded that MLGW's decision would not necessarily affect ownership of the facility, and if it remains owned by TVA, Shelby County would continue to receive direct payments from TVA related to it.

In response to County Executive HUFFMAN's question about whether TVA PILOT revenue will be a reliable revenue source for paying off bonded debt including school bonds, Dr. OWEN said that the PILOT will likely fluctuate, and there is no guarantee that the PILOT will increase or even remain the same from year to year. This is something for governments to consider when incorporating TVA PILOT revenue into budgeting and planning processes.

In response to Mayor WATERS' question about whether distributors studying whether to leave TVA's system is a recent phenomenon, Dr. OWEN said that MLGW initiated its study in the spring of 2019. A few distributors from other states have left the system in the last 20 years, though at least one has since returned. Mayor WATERS asked whether it would be fair to say that the PILOT would decrease if distributors like MLGW end up leaving the TVA system. Dr. OWEN responded that it would.

Mayor GREER said TVA's PILOT will be discussed at the upcoming meeting of the Association of Tennessee Valley Governments, and he invited staff to attend the meeting.

Mayor GREER moved approval of the report, Mayor MCDONALD seconded the motion, and it was approved unanimously.

## **12. Senate Bill 1114/House Bill 1120 (Community Resilience to Natural Catastrophes and Extreme Weather)—Panel**

The Commission heard from a panel of experts who discussed their agency is currently doing to improve resilience to natural catastrophes and extreme weather, what is working regarding collaboration, and efforts that would improve resilience in Tennessee. Senior Research Associate Tyler CARPENTER introduced the panel. Panelists included

- Kent ARCHER, CDBG director, Tennessee Department of Economic and Community Development (ECD);
- Kendra ABKOWITZ, Ph.D., director, Office of Policy and Sustainable Practices, Tennessee Department of Environment and Conservation (TDEC); and

- Patrick SHEEHAN, director, Tennessee Emergency Management Agency (TEMA).

Mr. ARCHER explained that ECD's first experience with community resilience began approximately five years ago when the state was awarded the Community Development Block Grant (CDBG) National Disaster Resilience Competition (NDRC) grant for flood mitigation projects in Dyer County, Lake County, Lauderdale County, and Madison County. Since being awarded the NDRC grant, ECD has tried to incorporate resilience into their grantmaking and program management, particularly around water and sewer infrastructure development. Mr. ARCHER said every department does things differently, and it would be helpful for the state to determine define "community resilience" to provide direction for programming and funding decisions.

Dr. ABKOWITZ said it is likely that every agency has some statutory responsibility related to resilience, and that improving communication and collaboration between agencies helps each agency better accomplish its mission to assist communities across Tennessee. She agreed with Mr. ARCHER that determining a definition for resilience would be helpful so TDEC can better identify the scope of work that everyone believes contributes to resilience, and then identify more opportunities for agencies to collaborate.

Mr. SHEEHAN said he has worked with Tennessee mayors before, during, and after natural disaster events, and he always emphasizes the importance of state and local collaboration to mitigate hazards. Mr. SHEEHAN said that the aging water and wastewater infrastructure is a significant concern in Tennessee. He said that many communities in Tennessee lose 25% or more of the water in the distribution system due to leaking pipes and this is one area where ECD, TDEC, and TEMA are collaborating to assist local governments.

Senator Jeff YARBRO asked how the state works to provide grants and other assistance to different stakeholders affected by disasters so everyone's needs are met. Mr. ARCHER said ECD established an interagency resilience council to help coordinate projects and resources for the NDRC grant. He explained the council has been disbanded for several reasons, but he thinks a similar council should be reestablished to promote better coordination between state agencies and local governments. Dr. ABKOWITZ responded to Senator YARBRO's question, saying that state agencies need to continue working together to maximize resources and assist local governments. Mr. SHEEHAN said collaboration is always hard, but that TEMA makes it a priority.

County Executive Jeff HUFFMAN asked how much of the \$44.5 million for the NDRC grant has been spent in the past three years. Mr. ARCHER said that approximately 35-40% had been spent and two years are remaining on the grant. County Executive HUFFMAN asked why it is taking so long to complete projects under the grant. Mr. ARCHER said that the US Department of Housing and Urban Development (HUD) has changed the way they do grants and that five years is normal now.

County Executive HUFFMAN said he didn't understand why there would be a low-to-moderate income component in a mitigation grant because all who reside within an area subject to flooding will be affected, not just low-income people. Mr. ARCHER said that the low-to-

moderate income component is a small part of the funds, and the reason the requirement exists is that often those who are the most affected by a disaster are also the most impoverished.

Mayor Larry WATERS asked who should be in charge of coordinating the state's efforts on community resilience and hazard mitigation. Mr. SHEEHAN said the director of TEMA is by law the Governor's authorized representative and the state coordinating officer during an emergency. Mr. SHEEHAN said he expects to be the state's representative and the coordinating officer for all future disaster events.

Chairman Mike CARTER asked Executive Director LIPPARD to address the information concerning how individuals can be prepared for a disaster. Dr. LIPPARD referred to the attachment behind tab 12, which included information from TEMA's website regarding actions that individual citizens may take to prepare for disasters.

### **Other Business**

The next meeting is scheduled for May 13-14, 2020. Chairman CARTER adjourned the meeting at 11:58 a.m.