Research Plan: House Joint Resolution 139, Impact Fees and Development Taxes

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Deputy Executive Director Approval:	Initial: MNB Date: 6·21·2023
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Purpose

Study the factors affecting housing affordability in Tennessee, including such policies as impact fees and development taxes (along with their effects on developers and other real estate professionals, infrastructure and development, prospective and current residents), the availability of affordable housing, and local government funding; and assess potential policies for equitably addressing the challenges of growth.

Background

Housing affordability is an issue that has received increasing public attention, with new construction lagging population growth and demand in much of the country. Fannie Mae estimates that within the 75 largest metro areas in the US alone there is a shortage of 4.4 million homes. Meanwhile, data from the Federal Reserve shows that the median cost of housing has outpaced the growth in the cost of other goods, having doubled within just the last 20 years. Additionally, according to measurements from the Harvard Joint Center for Housing Studies, 25.5% of Tennessee households, whether owners or renters, were cost-burdened by housing as of 2020, paying more than 30% of their income to meet their housing needs—and of those, roughly half spent more than 50%.

Ten counties and 16 cities in Tennessee levy a development tax or an impact fee that was authorized by private act before 2006. On June 20, 2006, the County Powers Relief Act preempted any future private acts authorizing a local development tax or authorizing a county to enact an impact fee or real estate transfer tax. Cities incorporated under the general law mayor-aldermanic charter or the general law modified city manager-council charters are authorized to levy impact fees. The County Powers Relief Act also authorizes the 39 county governments with either a 20% increase in population between the two most recent decennial census population estimates or a 9% increase in population over the most recent four years of census estimates to enact an adequate facilities tax to fund education facilities. Of the 39 counties that are authorized by the County Powers Relief Act to levy an adequate facilities tax, four (Bedford, Jefferson, Loudon, and Trousdale) have done so.

In its 2006 staff report *Growing Pains: Fiscal Challenges for Local Governments*, TACIR recommended that the General Assembly enact general enabling adequate facilities tax, impact fee, and real estate transfer tax legislation, but the recommendations have not been adopted.

In recent years there have been attempts to extend impact fees or development taxes to other communities, including Senate Bill 1840 by Hensley and House Bill 1675 by Cepicky in 2022, which would have enabled Maury County to levy impact fees. The bill did not pass. In 2023, the same sponsors introduced Senate Bill 25 and House Bill 12, which would have increased the initial development tax rate allowed under the County Powers Relief Act from $1 to $3 (while maintaining the curbs on how quickly that rate might be raised in later years). The bill was withdrawn in the House.

In 2023, Representative Sparks filed House Joint Resolution 139 requesting a study from TACIR on housing affordability and impact fee policies. When the resolution came up for initial discussion in the House Property and Planning Subcommittee, a large contingent of realtors and property developers from Rutherford County was present, with one of them, Hunter McDonald, giving testimony. He cited the average cost of new home construction in his county as being over $495,000 and linked this to the county's school facilities tax of $1 per square foot on new construction, along with Smyrna's impact fee of $3,000. He said that government fees constituted 25% of the cost of a new home in Tennessee.

HJR 139 was ultimately adopted by the House, but a companion resolution was not filed in the Senate.

Representative Sparks requests that the study focus on these topics:

1. Impact fees and development taxes
    a. existing policies
    b. alternative approaches

2. Infrastructure, growth, and development
3. Home affordability
    a. the prices of new versus existing homes
    b. trends and regional differences in real estate prices
    c. predatory lending practices

Define the Problem

Residents across the state face a challenging housing market, with the median cost of purchasing a home in many communities increasingly out of reach for many. Experts have identified many factors that may be driving housing costs, and some stakeholders have emphasized that impact fees are one such factor. At the same time, counties and cities in Tennessee need infrastructure to meet the needs of their growing populations, putting pressure on local governments to raise revenue to meet those needs. Local impact fees and development taxes can raise some of that revenue; however, detractors say that they make housing unaffordable in some areas, leading some prospective residents to seek out less expensive alternatives.

Assemble Some Evidence

- Review referred legislation, House Joint Resolution 139, to determine what it asks the commission to study.
    - Interview the sponsor of the resolution and any other members of the General Assembly who have an interest in the resolution.
    - Interview other stakeholders to determine what is driving this issue:
        - State and local officials
        - Planners
        - Tennessee Housing Development Agency
        - Homebuilders
        - Realtors
        - Other subject matter experts
- Review Tennessee's statutes and regulations relevant to impact fees, development taxes, growth policy, zoning, and other topics germane to the study.

- Review similar laws, regulations, fees, taxes, and policies in other states.
- Review existing programs, including those of nonprofit organizations in Tennessee, designed to address this issue, and interview stakeholders involved with such programs.
- Review relevant federal statutes and regulations.
- Review relevant literature.
- Gather relevant data sets, including statistics on housing costs and population growth.
- Review real estate industry information—housing development, real estate transactions.

Proposed Research Timeline

- **Problem Statement and Research Plan**
  - June 2023
- **Research**
  - Assemble evidence (Jun-August 2023)
  - Construct alternatives and select criteria (August-September 2023)
  - Convene panel for discussion at Fall Commission Meeting
  - Project outcomes, confront trade-offs, and select draft recommendations (September 2023)
- **Storyboard, Outline, and Write the Report**
  - (October-November 2023)
- **Draft Report to the Commission for Comments**
  - December 2023 Commission Meeting
- **Final Report to Commission for Approval**
  - January 2024 Commission Meeting

<BillNo> <Sponsor>

HOUSE JOINT RESOLUTION 139

By Sparks

A RESOLUTION relative to home affordability and impact fees.

WHEREAS, home affordability is an increasingly pressing issue for many Tennesseans; and

WHEREAS, according to statistics from 2020, the median value of existing homes in the State is $191,000, while a new home price in Tennessee is $387,961; and

WHEREAS, with the cost of living rising faster than incomes, more and more people are struggling to keep up with the expense of owning or renting a home, especially in areas with higher than average real estate prices; and

WHEREAS, for low- to moderate-income households, climbing real estate prices, in addition to issues such as predatory lending practices, make it difficult to access quality housing options and find secure and affordable homes within their budgets; and

WHEREAS, the increasing rate of impact fees, taxes levied on new developments, is another factor affecting potential homeowners; and

WHEREAS, commonly assessed to pay for the cost of infrastructure needed as a result of population growth, impact fees are rising due to increased demand and costs and could have serious negative consequences, such as increasing housing prices and limiting development in certain areas; and

WHEREAS, there are additional concerns that impact fees could lead to a decrease in available land for development or an increase in regional inequality by favoring wealthier communities that can afford these costs over less wealthy communities that cannot afford the costs; now, therefore,

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BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED THIRTEENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that we hereby request TACIR to undertake a comprehensive review of all existing impact fee policies, with particular focus on any potential challenges caused by increasing fees, seeking input from local governments in addition to economic experts.

BE IT FURTHER RESOLVED, that the State should work toward developing alternative approaches where necessary to ensure access to infrastructure is equitable across all communities while avoiding excessive rate hikes that could place an undue burden on citizens.

BE IT FURTHER RESOLVED, that an appropriate copy of this resolution be transmitted to the executive director of TACIR.