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## ***MEMORANDUM***

**TO:** Commission Members  
**FROM:** Cliff Lippard *Cliff*  
Executive Director  
**DATE:** 23 May 2017  
**SUBJECT:** Legislative Update

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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 first session of the 110<sup>th</sup> General Assembly passed or considered legislation on several issues related to the Commission's work, some dealing directly with findings and recommendations from commission reports. The General Assembly also passed three public acts requiring studies by the Commission.

### ***Legislative Action on Issues Studied by the Commission***

#### **Broadband—Public Chapter 228**

Broadband internet access, the issue discussed in the Commission's January 2017 report *Broadband Internet Deployment, Availability, and Adoption in Tennessee* was the subject of seven bills introduced this session. Public Chapter 228, Acts of 2017, drew heavily on the research and recommendations in the Commission's report. Consistent with several recommendations in the report, the Act focuses on supporting and coordinating existing initiatives and on addressing any remaining coverage and adoption gaps by working with the private sector—both for-profit and non-profit—to fill remaining gaps in the manner least costly to taxpayers without expanding the role of government. As recommended in the report, the Act creates a state grant program for encouraging the deployment of broadband internet access services in unserved and underserved areas by providing competitive grants to broadband providers, establishes a credit against franchise and excise taxes for providers that expand coverage in unserved and

underserved areas to further encourage deployment of broadband, establishes a program to designate communities that adopt a checklist of permitting and zoning procedures as “broadband ready communities” to signal providers that they have removed regulatory barriers to broadband investment, authorizes electric cooperatives to provide broadband service inside their electric service areas so long as electric ratepayer revenue is not used to subsidize the cost of service, and encourages broadband adoption by authorizing the state’s new grant program to be used to provide libraries with grants for digital literacy training and other services for increasing rates of broadband adoption.

Another piece of legislation related to topics covered in the broadband report, Senate Bill 1363 by Bailey and House Bill 1367 by Sargent, which passed but has not yet been sent to the governor for his signature, changes the classification of property of certain local exchange telephone companies and telephone cooperatives from public utility to industrial and commercial property and thus reduces the rate of tax on this form of provider. The report discussed this but did not recommend it for multiple reasons including a concern that it was not targeted at areas that are unserved or are underserved. Also, local governments would lose money if not held harmless. The legislation addresses this latter concern by requiring local governments to be held harmless.

Five other bills related to broadband were also considered but have not yet passed:

- Senate Bill 126 by Green and House Bill 930 by Rudd would create a rural broadband grant expansion program to be administered by the Tennessee Regulatory Authority.
- Senate Bill 528 by Southerland and House Bill 194 by Forgety would create the Commission on Technology to coordinate the development of broadband technologies.
- Senate Bill 301 by Haile and House Bill 950 by Swann would permit electric cooperatives to provide broadband internet access and related services without any limitations that are not otherwise placed on other private providers of telecommunication services.
- Senate Bill 1045 by Bowling and House Bill 1410 by Weaver would authorize municipal electric systems to provide broadband outside their electric service area, authorize electric cooperatives to provide broadband both inside and outside their electric service areas, remove territorial restrictions on joint ventures, and would allow municipal electric systems and electric cooperatives to partner in joint ventures without third party entities. Of the changes to state law proposed in this

bill, the Commission only recommended authorizing electric cooperatives to provide broadband inside their electric service area. To the extent that the Commission recommended authorizing municipal electric and electric cooperatives to partner in joint ventures, it recommended that municipal electric not be authorized to use electric ratepayer revenue to provide broadband outside of its electric service area.

- Senate Bill 1058 by Bowling and House Bill 970 by Howell would authorize municipal electric systems to provide cable service, two-way video transmission, video programming, and internet services outside its service area. The Commission’s report discusses authorizing municipal electric to provide broadband outside their electric service areas but did not include this among its recommendations.

### **Protecting the Interests of Homeowners—Senate Bill 1089 and House Bill 1199**

Senate Bill 1089 by Ketron and House Bill 1199 by Rudd, which passed and has been signed by the governor but not yet chaptered, authorizes homeowners associations (HOA)s to prohibit and restrict political signs and posters in certain circumstances and does not require them to get approval from the city or county to authorize this restriction on homeowners. The Act follows the guidance in the January 2015 Commission report *Protecting the Interests of Homeowners in Planned Developments; Insuring and Maintaining Common Property, Completing infrastructure and Providing Fair and Adequate Regulation*, which suggests any prohibition against HOAs banning political signs in certain circumstances should not be subject to local government control.

### **Annexation and Growth Planning—Senate Bill 568 and House Bill 552**

The 110<sup>th</sup> General Assembly considered two bills related to topics addressed by the Commission’s January 2015 report *Municipal Boundaries in Tennessee: Annexation and Growth Planning Policies after Public Chapter 707*. Senate Bill 568 by Johnson and House Bill 552 by Carr, which passed and has been sent to the governor but not yet signed, makes applicable statewide, instead of only in certain counties, Tennessee Code Annotated, Section 6-51-104, which authorizes annexation of non-contiguous territory by referendum or consent of all affected landowners. This law was based on suggestions in the Commission’s January 2015 report, which said that allowing non-contiguous annexation in Tennessee would help cities and counties alleviate the problems created by corridor annexation.

One other bill related to annexation was considered but has not yet passed in both chambers. Senate Bill 641 by Watson and House Bill 943 by Carter addressed

deannexation of an area annexed by a municipality, a topic discussed in the Commission's January 2015 report. The bill as filed would permit voters residing within an area annexed by a municipality to petition the county election commission to hold an election to deannex such territory, specify that taxes may continue to be levied on a deannexed area, and prohibit the discontinuation of utility services outside municipal boundaries for reasons related to deannexation. The Senate version, which passed, had several amendments, including those requiring that the referendum for deannexation be held citywide and that cities that have already begun developing a deannexation plan of their own be exempted. The House version was sent to the Local Government Subcommittee in February, and no further action has been taken on the bill.

### **Professional Privilege Tax**

The professional privilege tax in Tennessee, the issue discussed in the Commission's December 2016 report *Professional Privilege Tax in Tennessee: Taxing Professionals Fairly*, was the subject of three bills introduced this session, none of which have yet passed.

- Senate Bill 132 by Bowling and House Bill 60 by Rogers would phase out the professional privilege tax over a five year period. The report studied alternatives for eliminating or phasing out the professional privilege tax.
- Senate Bill 1274 by Norris and House Bill 1041 by Gant would allow certain professionals that are currently required to pay both the professional privilege tax and the franchise and excise tax, because of their business' organizational structure, to receive a credit for one of the taxes against the other, which is also discussed in the report.
- Senate Bill 546 by Ketron and House Bill 60 by Rogers would allow a person that is responsible for the professional privilege tax to receive a 75% rebate on it if they meet certain requirements—older than the age for full social security benefits and earn no more than \$16,000 per year from that taxable occupation. The report studied considerations used when determining which professions should be taxed and which might be exempted.

### **Court Fees and Taxes**

The 110<sup>th</sup> General Assembly considered Senate Bill 1084 by Lundberg and House Bill 880 by Daniel, which, consistent with a recommendation in the Commission's January 2017 report *Tennessee's Court Fees and Taxes: Funding the Courts Fairly*, would create a court fee and advisory council that would make recommendations concerning pending legislation proposing any new litigation tax or fee on civil or criminal cases to the

members of the general assembly. The Senate deferred the bill to summer study, and the House Civil Justice Subcommittee deferred it to its next legislative session.

### **County fees for firehouse construction and maintenance**

Senate Bill 1257 by Norris and House Bill 488 by Lollar, which passed both chambers but has not yet been transmitted to the governor, allows cities incorporated under the general law city manager-commission charter to charge a fee to raise revenue to fund municipal fire stations, subject to approval by a two-thirds vote of the board of commissioners. This is consistent with a recommendation in the Commission's June 2013 report *Fire Service in Tennessee*,

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

The General Assembly passed three pieces of legislation requiring new commission studies.

- Public Chapter 179, Acts of 2017, directs the Commission to perform a study of the creation and implementation of a system for the titling of boats in the state. No due date for the project was given.
- Senate Bill 1362 by Bailey/House Bill 1223 by Hicks, passed and sent to the governor but not yet signed, directs the Commission to study the economic benefits to counties and municipalities from the use of payments in lieu of ad valorem tax (PILOT) agreements and leases by industrial development corporations and limitations on these agreements and leases. The report is due February 1, 2018.
- Public Chapter 228, Acts of 2017, directs the Commission to prepare an update of its January 2017 report *Broadband Internet Deployment, Availability, and Adoption in Tennessee* by January 15, 2021.