



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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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:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 3 May 2018

**SUBJECT:** Fiscal Year 2017-18 Accomplishments

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The following list of the Commission's major accomplishments for fiscal year 2017-18 will be incorporated into the Commission's biennial report for fiscal years 2016-17 and 2017-18.

### ***Published six official commission reports, further described below:***

- ☞ *Tennessee's 911 System: Functionality and Funding Adequacy, August 2017*
- ☞ *Housing Tennessee's Convicted Felons: Improving Outcomes while Balancing State and County Needs, August 2017*
- ☞ *Tennessee Valley Authority's Payments in Lieu of Taxes--Annual Report to the Tennessee General Assembly, January 2018*
- ☞ *Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements, January 2018*
- ☞ *Protecting Boat Owners and Purchasers from Fraud--January 2018*
- ☞ *Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs, January 2018*

### ***Responded to Studies Referred by the General Assembly:***

- Completed a report on Tennessee's 911 system.

- The report responded to Public Chapter 795, Acts of 2014, which replaced the 911 funding system that relied on a combination of state and local fees to fund 911 services with a flat statewide fee of \$1.16 on all types of telecommunications services that connect to 911 and established a new method for distributing funds. The Act also directed the Commission to study nine questions addressing consolidation, Tennessee Emergency Communications Board (TECB) membership, telecommunications service providers' registration and service interruption reporting requirements, and funding. The report
  - recommended that the TECB should continue its education efforts on the potential benefits of emergency communication districts' (ECD) and public safety answering points (PSAPs) consolidation and continue to encourage ECD consolidation, when the local jurisdictions find it makes sense, through the reimbursement of associated costs;
  - noted that there is no consensus recommendation on changes to board membership;
  - said that state law already requires telecommunications service providers to register with the state, so an additional registration requirement is not necessary;
  - recommended that, because TECB would be able to better assist ECDs when interruptions occur if they knew about them sooner, telecommunications service providers should be required to notify the TECB when there are service disruptions;
  - noted that there is no compelling argument to replace the current flat fee on telecommunications services with another structure;
  - said it does not appear that the fee amount should be reduced;
  - recommended that the TECB could tie the distribution of any additional revenue generated by rate increases to a standard set of cost components. The cost components for providing a minimum standard of 911 services could be developed with input from the existing TECB operations and technical committees using minimum technical operating standards and should be reviewed regularly. The method would determine and distribute funding to ECDs, but ECDs would have flexibility with spending as long as they meet the minimum technical operating standards. This distribution method would only apply to excess revenue above the base amount generated by a rate increase.

- said there is no consensus that the TECB should have authority to raise rates without state legislative approval; and
- found that, because NG911 is not fully implemented yet in Tennessee, it is unclear whether statewide implementation has substantively affected the expenses of ECDs.
- A copy of the final report was sent to the chairs of the Joint Committee on Government Operations.
- Completed a report on payments in lieu of tax (PILOT) agreements.
  - The report responded to Public Chapter 431, Acts of 2017, which 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 PILOT 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 the Commission deemed relevant. The report recommended that 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.
  - The report noted that, 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. The report recommended that, 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 with business recruitment processes that are highly competitive. The report also recommended that 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. The report recommended that 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 Basic Education Program Review Committee and approval by the General Assembly.

- A copy of the final report was sent to the chairs of the Senate State and Local Government Committee and the House Local Government Committee.
- Completed a report the creation and implementation of a boat titling system in Tennessee.
  - The report responded to Public Chapter 179, Acts of 2017, directing the Commission to study the creation and implementation of a boat titling system in Tennessee. The report recommended that Tennessee should implement a boat titling system for motorized and sail-powered boats that are either larger or likely to be more powerful. Tennessee could consider limiting titling both to boats that have a permanently attached engine and to boats that are at least 20 feet long, excluding human-powered watercraft. To avoid the significant administrative burdens that would occur if titling requirements were applied retroactively to all existing boats, Tennessee should also consider phasing in any new titling system by limiting it either to boats manufactured at least one year after the law's effective date or to boats sold or transferred at least one year after the law's effective date. The report noted that, because of the lack of consensus

regarding how a potential boat titling system should be administered in Tennessee, the Tennessee Wildlife Resources Agency, county clerks, and the Department of Revenue should work together to determine an effective and agreed upon way to administer boat titling in the state. The group was asked to report back to the Commission in December 2018. The report also said that Tennessee should provide consumers with greater protection from frauds perpetrated by unscrupulous boat dealers and prevent those individuals from becoming dealers by requiring boat dealers to meet minimum licensing requirements similar to motor vehicle and RV dealers, including background checks and surety bonds.

- A copy of the final report was sent to both speakers.

***Published one report requested by the Commission:***

- Completed a report on the financial burden and other effects on county governments from housing state prisoners in county jails.
  - The report responded to a request by the Commission to revisit its 2007 report: *Beyond Capacity: Issues and Challenges Facing County Jails*, which expanded on and updated information in earlier reports published by the Tennessee Comptroller's Office of Research and the Tennessee County Services Association. Staff was directed to determine whether the state, by housing convicted state prisoners in county jails for extended periods as part of the effort to reduce overcrowding in state prisons, placed an undue burden on county governments. The report noted that, although the state increased its reimbursement rate from \$37 to \$39 per prisoner per day on July 1, 2017, local officials were concerned that the amount is still inadequate. According to information provided by the Tennessee Department of Correction's staff, the average cost for counties housing state prisoners is between \$43 and \$45 per prisoner per day. The report recommended that, to improve access to the behavioral health services already provided by the Department of Mental Health and Substance Abuse Services' criminal justice liaison program, the state should provide funding to expand the program statewide. The report recommended that, in addition to existing initiatives, if the state's policy is to continue to rely on county jails to house large numbers of state prisoners, it should establish an incentive program to encourage counties to add needed services, rather than simply relying on increases to per diem reimbursements. Funding assistance beyond the daily reimbursement rate could be offered to help counties implement programs proven to reduce recidivism and improve outcomes for prisoners and communities. The report noted that, to

clarify the framework for the oversight of county jails, state law should be amended to give the Tennessee Corrections Institute clear legal authority to require local correctional facilities to comply with set standards, including authority for its Board of Control to recommend that the Tennessee Department of Correction remove state prisoners from noncertified jails when conditions warrant.

- A copy of the final report was sent to both speakers.

**Published one staff project:**

- 📖 *Growth Policy, Annexation, and Incorporation Under PC 1101 of 1998: A Guide for Community Leaders*—Staff Report, December 2017. Staff, with input from the County Technical Assistance Service and the Municipal Technical Advisory Service, updated the guide to reflect the significant changes to the state’s growth planning and annexation laws caused by the passage of Public Chapter 707, Acts of 2014.

**Provided two presentations:**

“Federalism through the lens of finance: Dynamics between cities, states, and the federal government” at Governing Magazine’s Summit on Financial Leadership (September 2017)

“Tennessee Advisory Commission on Intergovernmental Relations and Tennessee Joint Economic Community Development Boards” to the US Department of Housing and Urban Development’s Annual Tennessee Directors’ Meeting (September 7, 2017)

**Participated in two panel discussions:**

“Broadband Internet Expansion” as part of the Organization, Presentation, Evaluation, Navigation event series for the Cheatham County Democratic Party, panelist (February 8, 2018)

“The Shifting Dynamics of State-Local Relations” to the American Society of Public Administration’s National Conference, panelist (March 9, 2018)

**Served on two task forces:**

Broadband Adoption Working Group, as part of the Tennessee Economic and Community Development’s Rural Task Force

Tennessee's H<sub>2</sub>O: Technical Working Group; Legal Framework Working Group, and liaison between the Technical Working Group and the Infrastructure Working Group

**Responded to Requests for Information:**

- Responded to requests for information and assistance from members of the General Assembly and legislative committees.
- Responded to requests for information and assistance from local government officials, state agencies, lobbyists, the public, and the media.

**Administered ten contracts:**

- Nine development districts—support the public infrastructure needs inventory
- Middle Tennessee State University—economic indicators website

**Accomplishments by Policy Area**

**Fiscal and Tax Policy Research:**

- Continued to monitor and published a report on the Tennessee Valley Authority's payments in lieu of taxes and the effect of the Electric Generation and Transmission Cooperative Act of 2009 as amended in 2010 (Public Chapter 1035, Acts of 2010).
- Completed Commission's report to the legislature on Public Chapter 431, Acts of 2017, which 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 the Commission deemed relevant.

**Education Finance:**

- Completed the fiscal year 2018-19 fiscal capacity model.

### **Land Use, Transportation, and Growth Policy:**

- Continued to monitor implementation of Public Chapter 1101, Acts of 1998, Tennessee's growth policy law.
- Updated the document "Growth Policy, Annexation, and Incorporation Under PC 1101 of 1998: A Guide for Community Leaders."

### **Infrastructure**

- Continued the annual public infrastructure needs inventory. Collected information from 141 school systems, 95 counties, 345 municipalities, and 439 other entities.
- Completed Commission's annual report to the legislature on Tennessee's public infrastructure needs.

### **Other Research**

- Completed Commission's report to the legislature on Public Chapter 795, Acts of 2014, which replaced the 911 funding system that relied on a combination of state and local fees to fund 911 services with a flat statewide fee of \$1.16 on all types of telecommunications services that connect to 911 and established a new method for distributing funds. The Act also directed the Commission to study nine questions addressing consolidation, Tennessee Emergency Communications Board membership, provider's registration and service interruption reporting requirements, and funding.
- Completed the Commission's report on the financial burden and other effect on county governments from housing state prisoners in county jails, which was prepared in response to concerns brought by commission members.
- Completed the Commission's report studying the creation and implementation of a boat titling system in Tennessee pursuant to Public Chapter 179, Acts of 2017.
- Monitored intergovernmental tax, fiscal, and education legislation.

### **Using Technology for Public Information**

- Disseminated all reports electronically and maintained detailed focus section about continuing research on TACIR's web page (<https://www.tn.gov/tacir/tacir-publications.html>).
- Further disseminated information from the annual public infrastructure needs inventory through a partnership with the University of Tennessee to include the data on their state data explorer website (<http://ctasdata.utk.tennessee.edu/statedashboard2/>).

- Began adding GPS coordinates to the infrastructure inventory
- Continued to update and enhance the profiles of Tennessee's counties, providing easy public access to detailed demographic, financial, and other information for each (<https://www.tn.gov/tacir/tennessee-county-profiles-redirect.html>).
- Published timely information Tracking Tennessee's Economy in partnership with Middle Tennessee State University <http://capone.mtsu.edu/berc/tacir/tacir.html>).
- Posted timely information to the agency's Facebook page notifying the public of new reports, elaborating on topics of interest, and pointing out relevant research by other organizations (<https://www.facebook.com/TN.ACIR>).
- Added fiscal federalism information page for the TACIR website (<https://www.tn.gov/tacir/fiscal-federalism.html>).
- Added Tennessee Valley Authority Payments in Lieu of Taxes pages for the TACIR website (<https://www.tn.gov/tacir/tva-pilots.html>).
- Transitioned to the new state's website in December 2017 (<https://www.tn.gov/tacir/>).
- Increased functionality of the agency's website with addition of tableau maps and data tables for fiscal capacity, infrastructure, and county profile features. (<https://www.tn.gov/tacir/>).