



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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## **MEMORANDUM**

**TO:** Commission Members

**FROM:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 29 May 2024

**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 new studies submitted to it by the General Assembly. In its second session, the 113th 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 requested seven additional commission studies.

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

#### **Annexation and Land Use**

Annexation and rezoning in Tennessee—the issue discussed in the Commission's 2015 report, *Community-based Land-use Decisions: Public Participation in the Rezoning Process*—was the subject of one bill this session. Through its study of the subject the Commission learned that several cities and counties were already going beyond the previously held minimum statutory requirements for public notices of rezoning and found that all local governments could be required to meet the same statutory requirements to simplify this regulation. Public Chapter 701, Acts of 2024, takes up this recommendation by changing the requirement for public notices relating to annexation or municipal zoning to be published, posted, or mailed from 15 days to 21 days before a public hearing on the annexation or zoning. The annexing municipality must provide notice to owners of property within 200 feet of the territory being annexed and requires signage informing viewers of the proposed annexation to be posted in and around the area being annexed.

Senate Bill 2895 by Senator Bailey and House Bill 2071 by Representative Williams, which did not pass, would have revised existing annexation laws by adding specific circumstances in which a referendum would not be required to carry out the annexation of territory. These specific circumstances include when

- two-thirds of the property owners within the territory proposed for annexation consent in writing,
- the total area of the property owned by the owners consenting to annexation is more than one-half of the territory proposed for annexation, and
- the proposed annexation consists of nine or fewer parcels.

### **Broadband Internet Access**

Broadband internet access, the topic of two notable reports from the Commission in 2017, *Broadband Internet Deployment, Availability, and Adoption in Tennessee*, and in 2021, *Broadband Internet Deployment, Availability, and Adoption in Tennessee Four Years After the Broadband Accessibility Act (Public Chapter 228, Acts of 2017)*. In its 2021 report, the Commission recommended that the Department of Economic and Community Development (ECD) be required to maintain a map of broadband coverage on its website and enact a financial penalty for funded projects that do not meet their obligations. Past legislation, Public Chapter 320, Acts of 2023, adopted these recommendations. This session Senate Bill 2907 by Senator Bailey and House Bill 2910 by Representative Alexander, if it had passed, would have expanded on prior legislation by requiring recipients of the Broadband Equity, Access, and Deployment Program grants from ECD that received other state or federal funding to provide broadband services in the state to submit a biannual report to ECD containing a list of locations the provider received additional funding to expand broadband access that remain unserved and a date the provider plans to serve these locations. The bill passed in the Senate but was deferred to summer study by the House Commerce Committee.

### **Community Resilience**

In 2020, the Commission's report *Collaborating to Improve Community Resiliency to Natural Disasters* found that Tennessee local governments and state agencies are implementing strategies to prepare for, withstand, and rapidly recover from disruptions to everyday life, and because interagency collaboration is already occurring, the Commission recommended that the state should ensure the ongoing resilience efforts continue—including collaboration among state agencies and local governments. While the report did not specify the exact formation of these collaborative efforts, it did specify that efforts should include a focus on community resilience planning features such as

assessing social and economic vulnerabilities and engaging community members in the decision-making process in addition to hazard mitigation strategies. Public Chapter 686, Acts of 2024, was enacted this session, which establishes the Resilient Tennessee Revolving Fund Act and emphasizes disaster mitigation and resiliency as top priorities in the state. The legislation requires money received through FEMA and the federal STORM Act to be placed in a fund and used to provide loans at an interest rate of 1% or less to eligible recipients, or to provide loans and financial assistance to recipients that mitigate the impacts of natural hazards. The Tennessee Emergency Management Agency (TEMA) will administer the fund and publish information about funded projects.

Two additional bills introduced this session, Senate Bill 1660 by Senator Walley and House Bill 1795 by Representative Capley and Senate Bill 2286 by Senator Oliver and House Bill 2236 by Representative Powell, would have aligned with the Commission's recommendations.

Senate Bill 1660 by Senator Walley and House Bill 1795 by Representative Capley would have created a Natural Disaster Relief Program administered by TEMA. This program would have allowed counties to request grants to help offset the costs of responding to a natural disaster, if

- a natural disaster has occurred within the county,
- the county executive has declared a state of emergency, and
- the damages resulting from the disaster do not exceed the threshold for federal disaster relief.

The bill was taken off notice in the House.

Senate Bill 2286 by Senator Oliver and House Bill 2236 by Representative Powell would have created the Tennessee Natural Disaster Resiliency Act and formed a task force responsible for reviewing the state's preparedness and ability to respond to natural disasters. This task force would have been required to report any recommendations for resilience to the Governor and the speakers of the House and Senate, but the bill did not advance out of committee in the House or Senate.

### **Criminal Statutes of Limitations**

Criminal statutes of limitations—the focus of the Commission's December 2018 report, *Refining Tennessee's Criminal Statutes of Limitations*—are the subject of Public Chapter 644, Acts of 2024, which, as amended, extends the statute of limitations for bringing a civil suit for an injury or illness that is the result of a sexual assault to three years from

the date of the assault if law enforcement was not notified, or to five years from the date of the assault if law enforcement was notified, when the injured person is at least 18 years old.

### **GPS Monitoring**

In 2020, the Commission's report *Improving Victim Safety with Global Positioning System (GPS) Monitoring as a Condition of Release for Defendants Accused of Domestic Violence* recommended that local governments using GPS monitoring for pretrial defendants consider prioritizing certain types of offenses, including those involving domestic violence. Senate Bill 1972 by Senator Rose and House Bill 2692 by Representative Doggett, which has passed both chambers and is awaiting the Governor's signature, is consistent with this recommendation by requiring an offender arrested for the offense of stalking or any criminal offense against a person in which the alleged victim of the offense is a domestic abuse or sexual assault victim, or if the offender is in violation of an order of protection, to wear a GPS device. The bill offers victims of these offenses the option to use an application on their phone or an electronic receptor device to notify them if the offender is close by.

Public Chapter 874, Acts of 2024, will work in tandem with Senate Bill 1972 and House Bill 2692 by making it a Class B misdemeanor when a person knowingly tampers with, removes, or vandalizes a monitoring device that the person is required to use as a condition of bond, probation, or parole. As a Class B misdemeanor, violating the requirements of Public Chapter 874 can be punishable by no more than six months imprisonment, a fine of up to \$500, or both.

Senate Bill 2412 by Senator Lamar and House Bill 2514 by Representative Harris would have required defendants released on their own recognizance or upon the execution of an unsecured appearance bond while awaiting trial to wear a GPS monitoring device. This GPS requirement would apply if a defendant were charged with certain felony-level offenses, such as felony theft of property or aggravated robbery. The bill was taken off notice in the House and did not advance out of the Senate Judiciary Committee.

### **Housing Affordability**

The General Assembly considered several bills introduced related to housing affordability this session, many of which are discussed in the Commission's report *Reducing the Burden: Increasing Housing Supply to Lower Housing Costs and Improve Affordability*. Senate Bill 1137 by Senator Oliver and House Bill 1229 by Representative Hemmer, which passed in both chambers, enables cities and counties to fund industrial

development boards for multifamily affordable housing, provided certain preconditions set by the Comptroller are met.

Public Chapter 956, Acts of 2024, grants industrial development boards in counties with expected high job growth the powers to support infrastructure development for housing, including

- the construction and installation of public infrastructure for qualified residential developments or contract with a private party for the construction and installation of such public infrastructure;
- accepting loans and grants of money from the state or the U.S. for purposes of carrying out the design, construction, installation, financing, or undertaking of public infrastructure; and
- making loans and grants of money to private entities constructing and installing public infrastructure for qualified residential developments within the boundaries of the housing opportunity county upon such terms as the industrial development corporation deems advisable.

Senate Bill 1000 by Senator Yager and House Bill 1046 by Representative Vaughan, which passed both chambers, enacts the Tennessee Rural and Workforce Housing Act, authorizing the Tennessee Housing Development Agency to provide the owner of an eligible project with a credit against taxpayer liability for any tax imposed by the law relevant to insurance, excise tax law, or franchise tax law.

Public Chapter 860, Acts of 2024, creates a uniform procedure for establishing infrastructure development districts, which can serve as an alternative funding and financing option for capital infrastructure through the levy and collection of special assessments. The legislation also specifies that an infrastructure development district must be approved by the host municipality's governing body.

Public Chapter 946, Acts of 2024, authorizes local governments to amend their building codes to allow triplexes and quadplexes to be built without requiring sprinkler systems, provided the buildings are less than 5,000 square feet, under three stories, and have at least two-hour fire-resistant walls.

Public Chapter 771, Acts of 2024, likewise makes changes to the existing law on construction and permitting by allowing third-party examiners to review plans and specifications prior to construction in place of examination by a local jurisdiction. The third-party inspector must be registered with the state fire marshal and registered as an engineer or architect with the state's board of examiners for architects and engineers.

Several other bills addressing zoning and building permits were considered this session. Senate Bill 2237 by Senator Yarbrow and House Bill 2423 by Representative Shaw would have enacted a variant of a recommendation from the Commission's housing affordability report and incentivized local governments to adopt zoning reforms for housing by allowing them 5% of their recordation tax revenues for each zoning reform they adopted out of a list of 14, up to a maximum of 20%. The bill was taken off notice in the House and Senate.

Senate Bill 2124 by Senator Briggs and House Bill 2292 by Representative Behn would have implemented a requirement that local governments adopt a minimum of four out of 12 zoning reform options to promote housing supply but was taken off notice in the Senate State and Local Government Committee and referred to the House Property and Planning Subcommittee.

Senate Bill 2238 by Senator Yarbrow and House Bill 2467 by Representative Stevens as amended would have enacted a recommendation from the Commission's housing affordability report to mitigate the potential effect of zoning reforms on existing residents' property taxes; the bill would have achieved this by authorizing local governments to offer tax credits to affected residents. A later amendment narrowed this to use by counties with a metropolitan form of government, but the bill was taken off notice in the House.

## **Littering**

The Commission's 2020 report *Closing Gaps in Tennessee's Waste Tire Program and Giving Local Governments More Flexibility to Prevent Illegal Tire Dumping* assessed ways to mitigate and reduce illegal tire dumping in the state and made recommendations for the prevention of dumping. This year, Public Chapter 614, Acts of 2024, enacted several of these recommendations including expanding the permitted uses for money received by a county for each tire sold in the county to include removal of illegally disposed waste tires from public or private property, authorizing the Department of Environment and Conservation to provide funds to a local government for the investigation and clean-up of privately owned, unpermitted waste tire disposal sites, and requiring waste tire haulers to register with the department and display an active department-issued decal or placard.

## **Passenger Rail**

Last year the Commission completed its report, *Back on Track? Intercity Passenger Rail Options for Tennessee*, addressing the feasibility of passenger rail in the state. In its report the Commission ultimately recommended that a state office of rail and public

transportation be established. This year the General Assembly enacted Public Chapter 679, Acts of 2024, which as it was originally written would have created an office of rail and public transportation, requires the Department of Transportation, beginning in January of 2025, to submit an annual report detailing the progress of public transit and passenger and freight rail at the state and federal level.

### **Precious Metal Depositories**

In December 2021, the Commission finalized its report *Exploring the Feasibility of a Gold Depository in Tennessee*, which recommended against the formation of a state-backed gold depository. This session Public Chapter 69, Acts of 2024, was passed, allowing the state treasurer to purchase and sell gold or precious metal bullion or specie directly owned by the state and kept in the custody of the state treasurer. The legislation holds the state treasurer accountable for the secure transportation and insurance of any gold, precious metal bullion, or specie and states that these materials must be independently audited and segregated from the state's other assets in a vault at the state depository.

Two additional bills were introduced this session but did not pass.

- Senate Bill 2601 by Senator Niceley and House Bill 2799 by Representative Hulseley would have established a state depository with the option to be used as an exclusive or nonexclusive storage space of precious metals. The bill would have also permitted the private ownership and operation of the depository.
- Senate Bill 2735 by Senator Niceley and House Bill 2803 by Representative Hulseley would have authorized the state treasurer, through the use of a third-party, to securely produce, store, process, and ship bullion products for a state depository with the intent of producing a state mint. The bill would have also allowed the production of state-branded commemorative bars and coins.

### **Taxes**

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 once again the subject of several bills. Senate Bill 1944 by Senator Crowe and House Bill 2855 by Representative Hill, if it had passed, would have completely repealed the professional privilege tax for tax years beginning on and after June 1, 2025. In its report the Commission did not make a specific recommendation on eliminating the privilege tax, but it did note that eliminating the tax entirely would cost the state an estimated \$88 million per year. It also found that over the years, legislators and representatives of various professions have argued that Tennessee's professional

privilege tax is not equitable, a sentiment that the Commission found was supported by salary data.

Senate Bill 2816 by Senator Reeves and House Bill 2627 by Representative Baum, if passed, would have also repealed the professional privilege tax beginning in any tax year ending after May 31, 2025.

Senate Bill 1841 by Senator Walley and House Bill 2586 by Representative Russell would have altered the implementation of the professional privilege tax by suspending it for any year in which the previous year saw the state general fund tax revenue over-collections exceed \$500,000,000. The bill was taken off notice in the House and failed to advance out of the Senate Finance, Ways and Means committee.

Lodging taxes and their effect on the state's hospitality and tourism industry, the subject of the Commission's 2016 report, *Structuring Lodging Taxes to Preserve the Economy and Encourage Tourism*, was likewise the subject of several pieces of legislation considered this session. In its report, the Commission reviewed the way the state levies tax on lodging, noting that Tennessee allows local governments to levy lodging taxes and to apply their sales taxes to lodging. The Commission found that there is little evidence that Tennessee's economy or the tourism and hospitality industries are adversely affected by its lodging tax structure, but believed there may be other reasons to reduce its complexity. Senate Bill 1676 by Senator Briggs and House Bill 2240 by Representative Cochran makes additions to the stipulations of the hotel-motel tax by requiring municipalities that levy the hotel-motel tax to submit an annual report disclosing how the revenue from the tax is used.

Senate Bill 2711 by Senator Taylor and House Bill 2868 by Representative Vaughan adjusts the tax structure affecting the hospitality industry in Memphis and Nashville, prohibiting the cities, which have a preexisting privilege tax or authority, from changing the designated use. The bill does permit the cities to make changes to the earmarks for the revenue outside of any restrictions of state law relative to transient and hotel occupancy accommodations.

In the 2009 staff report *Greenbelt Revisited* several issues with the state's greenbelt law were identified. The report recommended changes to the use of rollback taxes, relating to the subject of Senate Bill 2218 by Senator Powers and House Bill 1902 by Representative Burkhart, which would have required greenbelt rollback taxes to be paid in full at closing when greenbelt property is sold. The bill was taken off notice in the Senate State & Local Government Committee and did not advance out of the House Agriculture & Natural Resources Committee.



## **Utilities**

The General Assembly passed several pieces of legislation that address the state's utility needs ranging from solar power to waterworks and sewage. Public Chapter 705, Acts of 2024, which adopts one of the Commission's recommendations from its 2023 report, *Managing Solar Energy Development to Balance Private Property Rights and Consumer Protection with the Protection of Land and Communities*, requires the office of energy programs of the Department of Environment and Conservation to expand and maintain its existing website with additional guidance and resources regarding utility scale solar for local governments, landowners, developers, the public, and residential solar for the public. Public Chapter 705, Acts of 2024, also requires all solar power facility agreements to provide for a plan for the solar power facility at the end of its useful life for disconnection from the local power grid and decreases the megawatts a device or structure must be to be excluded from the definition of a solar power facility from 10 megawatts to five megawatts.

Public Chapter 820, Acts of 2024, prohibits a utility system from requiring a property owner to construct or pay for the construction of offsite utility improvements as a condition to receive a permit or service when the utility already has an existing utility line or system immediately adjacent to the real property. Instead, this legislation authorizes local utilities to require property owners to pay for construction to maintain capacity and current level of service and upgrade the offsite utility to increase capacity to serve future customers through a cost-sharing arrangement between the owner and the utility system. This legislation authorizes the Tennessee Board of Utility Regulation (TBOUR) to set a cost-sharing arrangement between a property owner and a utility if the two parties are unable to agree upon the arrangement.

## **Water and Outdoor Recreation**

In 2022 the Commission's report *Managing Tennessee's Public Waterways for Recreation: Balancing Access, Safety, and Protection of Natural Resources* recommended that motorized and nonmotorized boating should be added to the list of subjects on which members of the Tennessee Fish and Wildlife Commission should be well-informed, and recommended stakeholders and agencies take a collaborative approach to handle user conflicts and access to waterways. This session Public Chapter 845, Acts of 2024 was passed, which permits the executive director of the Fish and Wildlife Commission to establish a temporary, slow no wake zone as necessary when there is an immediate danger to the public health, environment, safety, or welfare, and requires notice of the slow no wake zone to be published at least one time in a locally circulated newspaper.

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

This year, the 113th General Assembly passed five pieces of legislation directing the Commission to conduct four new studies—two pieces of legislation are being combined into one study. Requests for two additional studies based on bills that did not pass in both chambers have also been brought to the Commission, along with one request by letter from Senator Lundberg, Representative White, and Representative Sherrell, presenting the Commission with a total of seven new studies.

### **Child Care**

Public Chapter 938, Acts of 2024, requires the Commission to study the state and local laws, regulations, and rules that govern the start-up, operation, and expansion of child care businesses in Tennessee. The Public Chapter requires the Commission to submit a report of its findings by January 31, 2025.

Public Chapter 934, Acts of 2024, also requires the Commission to study the child care landscape in the state, including

- the current makeup of child care workers in the state;
- the feasibility and impact of implementing a program that covers the cost of child care for child care workers at licensed child care agencies; and
- the intersection of the feasibility and impact of incentivizing child care workers through expanding financial supports for early educators, and the benefits cliff.

The legislation requires the Commission to submit a report of its findings by January 31, 2025.

### **Taxes**

Senate Bill 1140 by Senator Lundberg and House Bill 886 by Representative Hawk directs the Commission to conduct a study of the collection and remittance of state and local taxes collected at the point of sale by businesses in the state, including the examination of

- the cost incurred by businesses for the collection and remittance of state and local taxes;
- the cost to the state for the remuneration for sales tax collection and vendor compensation compared to other states; and
- the cost businesses incur from payment processing fees, as well as the cost of handling cash.

The bill requires the Commission to submit a report of its findings by January 31, 2025.

### **Fraud**

Public Chapter 941, Acts of 2024, requires the Commission to study real estate fraud in the state, including its prevalence, schemes used to commit real estate fraud, methods used by other states to combat real estate fraud, and best practices for local government officials in registering documents related to real estate transactions. The Public Chapter directs the Commission to report on suggested statutory revisions designed to reduce the risk of real estate fraud.

### **Public Health and Safety**

Public Chapter 937, Acts of 2024, instructs the Commission to conduct a study on the effects of vaping and the use of all vapor products by persons under 21, including but not limited to the initiation of vapor product usage, health outcomes, enforcement of underage sales, best practices to address usage on school grounds, taxation, and access to cessation products and services. The study must identify the prevalence of vaping amongst youth, including demographic information and usage trends. The Commission must submit a report disclosing its findings no later than January 31, 2025.

Senate Bill 2877 by Senator Kyle and House Bill 2961 by Representative Hardaway requires the Commission, with the assistance of the Tennessee Bureau of Investigation, the District Attorneys General Conference, and the Department of Safety, to study the feasibility of a crime lab in Shelby County and its potential impact on public health, safety, education, housing, and economy. Though the legislation was passed by the Senate, it was taken off notice in the House.

During the second session of the 112th General Assembly, Public Chapter 695, Acts of 2022, was enacted, which permitted certain medical disciplines that provide services in school districts across the state to eligible TennCare students, to acquire the necessary credentials needed to receive reimbursement claims to Centers for Medicare and Medicaid Services (CMS) through the appropriate Managed Care Organizations (MCOs). Unresolved contractual issues have resulted in some school systems being unable to seek reimbursement for school-based services provided to students covered by TennCare; having been made aware of these issues, Senator Lundberg introduced Senate Bill 2487 and Representative Sherrell introduced House Bill 2616 during the 113th General Assembly. While the bill did not advance, Senator Lundberg, Representative White, and Representative Sherrell sent a letter on April 3, 2024 to formally request that the Commission review this problem and assist the parties involved in reaching a resolution.

## **Prosecution**

The Senate Finance, Ways and Means Committee has referred the subject of Senate Bill 2054 by Senator Jackson and House Bill 2205 by Representative Barrett to the Commission for study. The bill, which had previously passed in the House, would have established that the district attorney general will only prosecute cases in municipal courts where the municipality provides at least one assistant district attorney general position and other necessary prosecutorial personnel.