

2023 Legislative Report

First Session
113th General
Assembly

May 2023



Tennessee Towns and Cities
Working Together



Table of Contents

Executive Summary	Page 1
Budget Highlights	Page 2
Restore Return Relief Campaign	Page 5
Summary of Key Legislation	Page 6
Elections	Page 9
Municipal Finance	Page 10
Land Use	Page 13
Preemption	Page 15
Public Records / Open Meetings	Page 17
Other Noteworthy Legislation	Page 18

Since 1940, the Tennessee Municipal League has been dedicated to helping Tennessee's cities and towns promote economic development and quality of life issues for their communities. Based in Nashville, the Tennessee Municipal League serves as the voice of and advocate for Tennessee's 345 towns and cities.

2023 Executive Summary

The 113th Tennessee General Assembly was gavelled into session Jan. 10, to swear in legislators and to formally elect leadership positions. Lt. Gov. Randy McNally was re-elected for a fourth term as Speaker of the Senate. Rep. Cameron Sexton was re-elected to a second full term as Speaker of the House. Twenty freshmen legislators were among those members sworn into office – three new senators and 17 new House members. Republicans hold a supermajority in both chambers with 27 of 33 seats in the Senate, and 75 seats in the 99-member House.

A total of 1596 bills were filed this session. Of these, TML identified 720 bills that either directly affected or had the potential to directly affect municipalities. More than a third of these bills, 250, were put on notice for consideration in a committee

The General Assembly addressed a number of issues, including approving a \$56.2 billion spending plan for the 2023-22 fiscal year which included Lee's \$3.3 billion transportation and infrastructure plan, fully funding Tennessee's new K-12 education funding formula (\$1.1B), increasing teachers' salaries, and implementing new business tax reforms.

Rushed effort to adjourn; Governor calls special session

With no elections, natural disasters, pandemics or extraordinary issues casting a shadow over the session, most of the session was business as usual as committees methodically worked through their calendars and floor sessions were efficient and uneventful. However, the final weeks of the session were turbulent marked with protests, expulsion proceedings, and an ethics violation resulting in a resignation – all of which, prompted lawmakers to rush to conclude their business and adjourn a few weeks earlier than planned. In the wake of a horrific shooting at the Covenant School in Nashville that left six dead including three 9-year-old students, thousands of protesters descended on the state Capitol over multiple days to urge lawmakers to take up gun-reform laws. Two House representatives were expelled for leading protests from the well of the House chamber, while a third legislator survived expulsion by one vote. The national media appeared in numbers – something rarely seen at the state Capitol. In an unrelated matter, a House representative resigned after the House Ethics Committee found him to have violated the House's workplace discrimination and harassment policy.

Within hours of the Tennessee General Assembly concluding its business on Friday night, April 21, Gov. Bill Lee called for a special session on public safety. Following the Covenant shooting, Lee asked state lawmakers to pass an Order of Protection bill that would keep guns away from at risk people who pose a threat to themselves or others. The General Assembly did not take up Gov. Lee's proposal, nor did they address other pieces of gun-related legislation prior to adjourning. A date for the special session has not yet been set.



The Tennessee House during a floor session.

Budget Highlights \$56.2 billion

In February, Gov. Lee rolled out his legislative priorities and spending plan during his fifth State of the State Address – his first of his second term. As outlined in his address, his number one priority was gaining approval for his \$3.3 billion Transportation Modernization Act designed to accommodate Tennessee's record growth, address traffic congestion and meet transportation needs across rural and urban communities. Much of his proposed budget, including allocations later added in his budget amendment, was approved by the Legislature. However, the General Assembly and the Lee Administration disagreed on a few issues, including funding only \$20 million of his requested \$100 million for Crisis Pregnancy centers, not addressing his proposed gun reforms, and not funding \$9 million for pay raises for state employees.



Gov. Bill Lee outlined his legislative priorities and spending plan in his fifth State of the State address.

Highlights of the final budget include:

Transportation & Infrastructure Modernization

- \$3 billion to the Transportation Modernization Fund to alleviate urban congestion and fund rural road projects across the state, which includes \$750 million allocated to each of Tennessee's four TDOT regions
- \$300 million to primarily fund the resurfacing of county roads that are not eligible for federal funds, not on the state-maintained system of highways, and that provide connectivity to collector and arterial highways. With two notable exceptions, the funding for the State-Aid Highway System has not seen a substantial increase in the base appropriation for nearly two decades. This one-time appropriation is intended to provide catch-up funds to assist counties to meet the needs of roads in the system; many of which have exceeded or are close to exceeding their resurfacing schedules.

Education

- Fully funding Tennessee's new K-12 education funding formula (\$1.1B)
- \$125M for teacher pay raises
- \$987.8M for capital improvements at Colleges of Applied Technology

Enhanced School Safety Measures

- \$30 million for 100 Homeland Security agents across all 95 counties to serve both public and private schools
- \$140 million for armed School Resource Officer (SRO) for every public school
- \$40 million for public school security upgrades; \$14 million for private school security upgrades
- \$8 million for additional School-Based Behavioral Health Liaisons across the state

Public Safety

- \$4.52 million for 25 new TBI forensic services positions.
- \$357 million to expand TN Advanced Communications Network (TACN)
- \$30 million for TN Law Enforcement, Hiring, Training Recruitment program

New state parks, natural areas

- \$288 million to create four new state parks and make improvements to three existing state natural areas.

Sports and entertainment facilities

- A \$350 million state grant for the City of Memphis for renovations to FedExForum and Simmons Bank Liberty Stadium
- \$200M to relocate Tennessee Performing Arts Center as part of a revamp with a new TN Titans stadium

Rainy Day Fund

- Allocated \$250 million to Tennessee's Rainy Day Fund, bringing the total to \$2.05 billion.

Tax Cuts (Local Governments held harmless)

- \$273 million for a one-time, three-month sales tax holiday on grocery items (August – October). Local governments held harmless on loss of local sales tax but not state shared sales tax.
- \$45.8 million for small business excise and franchise tax exemptions,
- Increases the filing threshold for the business tax from \$10,000 to \$100,000. Local governments are held harmless.



Gov. Lee signs the Transportation Modernization Act into law. The \$3.3 billion plan will add "choice lanes" that Tennessee drivers will pay to use to avoid congestion during peak times.

Bills Affecting Municipalities

In 2023, our legislative team identified 720 bills out of the total 1596 filed that either directly affected or had the potential to directly affect municipal authority or operations. More than a third of these bills, 250, were put on notice for consideration in a committee.

Here's how these bills breakdown by issue area and final status: General Government legislation typically has the highest amount of bills. The high number of Utility and Public Safety bills is also common. Land Use legislation was on par for a typical session with several harmful bills requiring extra attention from our team. The outlier this year was the high number of Finance/Taxation bills considered.

Consideration of legislation by the various Senate and House Committees began in earnest the week of January 23 and peaked during the weeks February 27 and March 6. Our team engaged and monitored each week with a peak of 128 bills the week of March 20. This high of 128 is more than the peak of last year's session when 112 bills were considered the week of March 7, 2022.

This report does not address each of the 720 bills that staff identified as directly affecting or having the potential to directly affect municipalities. Moreover, the report does not attempt to detail the specific contents of each of the 250 bills identified by the team that were considered this year nor does it attempt to relate all the happenings surrounding each bill. Rather, it highlights a select portion of the 250 bills identified and considered that address one of five main subjects; including municipal finance and taxation, state preemption, municipal elections, land use, and open records or public meetings' law.

Municipal Finance and Taxation

About 50 bills introduced this year in the arena of municipal finance and taxation warranted monitoring or direct engagement of the team. Of these, legislation in three areas captured most of the team's attention; including property tax, business tax, as well as impact fees and the adequate facilities tax. Although none of the bills in these subsets became law, the level of interest surrounding these bills coupled with the organizations and individuals involved in the debate on these bills suggests we can expect to see these or similar bills again next year and beyond.



Rep. Patsy Hazlewood, chair of House Finance, Ways and Means

- **Exploring a Property Tax Cap.** Legislation proposing to impose a cap on property tax rates is not new. However, in March, Speaker Sexton amended a caption bill he introduced with Lt. Governor McNally, which called for the creation of a study of the local property tax, including the imposition of a cap. Subsequent conversations with the Speaker's office and other legislators indicated this was a genuine initiative intended to begin a dialogue about consequential legislation. In the end, the Speaker opted to convene a meeting of a House finance subcommittee to receive a presentation from Dr. Arthur Laffer, a Reagan Administration supply-side economist and author, who advocated for the imposition of a local property tax cap. Your TML team fully appreciates the complexities involved and comprehends the potential consequences inherent in this effort. We will continue discussions with the Speaker, Lt. Governor, and other legislators about their interests and plans and ensure municipal interests and perspectives are fully represented.

- **Impact Fees and Adequate Facilities Tax Return.** This year brought the first meaningful effort to revisit local impact fees and adequate facilities taxes since 2006. Led by officials in Rutherford County and Maury County, proponents contend restoring a local government's authority to levy such fees and taxes is the most logical and immediate avenue to relief from growth-related pressures. This effort was met with fierce opposition from homebuilders and realtors. Unable to either negotiate a compromise or to secure the necessary votes to ensure passage, the legislation stalled. Supporters have vowed to continue their pursuit next year and discussions are expected to continue over the summer.
- **Concerted Efforts by Business Interests Continue.** In addition to the increase in the filing exemption for business taxpayers included in the governor's budget, the General Assembly considered four other bills related to the business tax. Included in these four bills was one calling for the complete repeal of the state and local business tax and another shifting responsibility for the administration of local businesses licenses to the Tennessee Department of Revenue.

For several years, TML has observed and reported a marked increase in instances in which legislators sought to have the state preempt local authority. TML and cities have made a concerted effort to work together to educate legislative leaders, fellow municipal officials, and the public about the ills of preemption. This year was the first in recent memory that we have noted a decrease in preemption bills. This does not mean this year's legislative session was devoid of preemption legislation. However, unlike preemption bills considered in the recent past, this year's bills were largely targeted at a specific city(ies) or at an activity only engaged in by a few cities. It remains to be seen whether this year is an early indication that our collective outreach has resulted in a waning interest in preemption legislation or if this year is simply an anomaly and that we will experience a return to preemption at the levels previously seen next year.

While the introduction of municipal election-related legislation is commonplace, such bills are often confined to the question of timing and whether municipal elections should be required to coincide with a statewide primary or general election. However, this year, we saw a significant shift in the intent of these bills. The most notable departure from the norm was the introduction of several bills that either required or created an avenue to partisan municipal elections.

Land use is not the hotbed of legislative activity that it was five or more years ago but one can always count on several legislative battles related to land use issues each year. The decade-long pursuit of the deannexation of agricultural properties continued and a controversial approach to addressing PC1101 in a post-referendum environment was also presented. This session also brought about a legislative repeal of the “Pending Ordinance Doctrine.”

The issues of open records and public meetings consistently generate legislation. Many of the bills in these areas originate with the Tennessee Coalition on Open Government (TCOG). TCOG did not disappoint with the introduction of legislation calling for expansive requirements regarding the availability of meeting agendas and all other meeting-related materials. TML actively opposed TCOG's proposal and, ultimately, substantially improved the bill by amendment. Other legislation in this area touched on notice, public comment and records requests.

The General Assembly considered a number of other bills affecting municipalities that were not included in one of the five issue areas discussed above. About a dozen of those bills touch on a broad assortment of topics such as the creation of a new consolidated state utility board, depreciation, and drones among others.



RESTORE RETURN RELIEF

The General Assembly adjourned without adopting TML's primary legislative initiative to restore the historic revenue sharing relationship. In the final weeks our team provided several alternatives to lawmakers, including a phase in over four to six years. This was done at the request of our House sponsors, leadership and finance chair. During consideration on the Senate Floor, our Senate sponsor, Dr. Richard Briggs, made a statement that included calling on the Governor to put this in his budget proposal next year.

Together, in year two of this campaign, we made progress and positioned our legislation to be adopted and funded in 2024. In year two we:

- Increased House Sponsors to 36; increased our Senate Sponsors to 17 – including leaders, chairs and members of House and Senate Finance Committees
 - Produced 35 videos, 12 of which were made by member cities, which amassed 2,566 views
 - A total of 30 Social Media posts reached 25,332 people over a 4-month period during the legislative session
 - Sent 24 email alerts with materials and updates to TML members
 - Developed a Member Campaign Kit with 17 documents: talking points, issue briefs, projected allocations, letters to the editor, sample press releases, and numerous videos
 - Continued coverage in Tennessee Town & City
 - Updated and engaged affiliate organizations and members including TN City Management Association, TAMCAR, West TN Mayors and individual city visits
 - Campaign focus during our Annual Conference, District Meetings, Legislative Conferences
 - Zoom meetings with PIOs & targeted officials key to the Senate / House Finance Committee
 - Widespread media coverage: Kingsport Times, Greeneville Sun, Chattanooga, Chattanooga Times, Maryville Times, Daily Memphian
 - More than 250 cities were engaged in the campaign
- Economic activity.*

Sen. Richard Briggs
Chair, Senate State &
Local Gov Committee
-

Our Campaign Continues

Our staff remains committed to continuing this effort on behalf of our cities until this important funding is secured. City officials can take these steps today to continue the Campaign this off season:

- Call your legislator and thank them again for being a cosponsor or urge them to become one
- Be explicit about what this increased funding will do for their voters
- Share your expectation that this legislation is adopted and funded in 2024
- Ask them to talk to Governor Lee, leadership, finance chairs, and fellow members

Action Steps

Your community leaders, business owners, HOAs, social media influencers, and other passionate citizen groups are valuable allies in our campaign. They and their customers pay the sales tax every day in your municipality, and they appreciate that bringing more of these sales tax revenues back to their town or city can relieve the pressure to increase property taxes.

- Host a meeting at city hall to educate community leaders about our campaign
- Have attendees sign a letter to Governor Lee and other state leaders with the city
- Provide attendees with talking points and sample letters from TML. Ask them to make calls, send emails, and mail letters to their legislators and state leaders

During consideration on the Senate Floor, our Senate sponsor, Dr. Richard Briggs, made a statement that included calling on the Governor to put our proposal in his budget for next year.

"I'm asking Gov. Lee to put it in next year's budget so that we can give back some of the revenues that municipalities have generated for the state in economic activity."



Sen. Richard Briggs
Chair, Senate State &
Local Gov Committee

Summary of Key Legislation 2023



This report does not address each of the 720 bills that staff identified as directly affecting or having the potential to directly affect municipalities. Moreover, the report does not attempt to detail the specific contents of each of the 250 bills identified by the team that were considered this year nor does it attempt to relate all the happenings surrounding each bill. Rather, it highlights a select portion of the 250 bills identified and considered that address one of five main subjects; including municipal elections municipal finance and taxation, land use, state preemption, and public records or open meetings' law.

Key

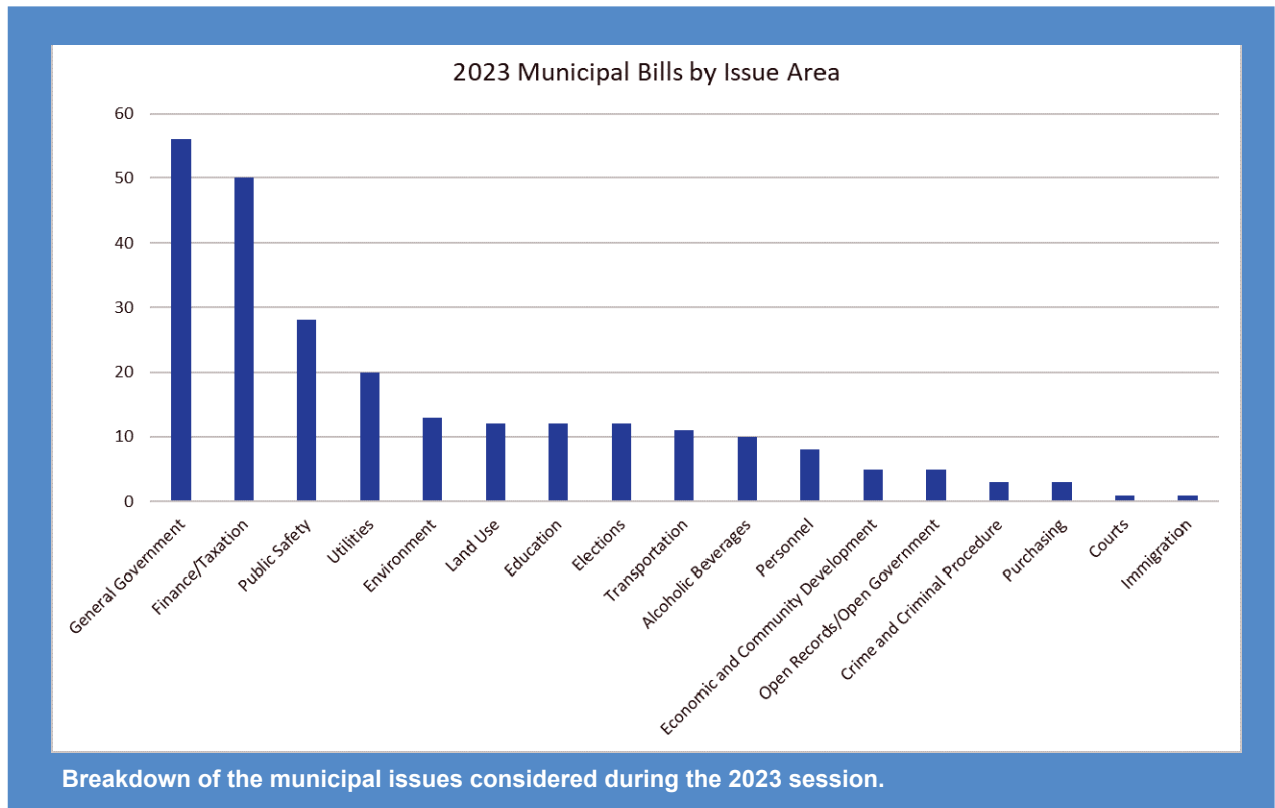
- Legislation Approved
- Deferred
- Failed / Taken Off Notice / Withdrawn

Bills Affecting Municipalities

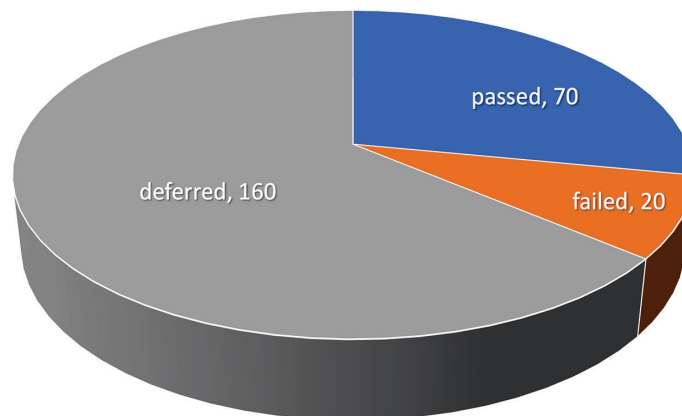
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Here's how these bills breakdown by issue area and final status



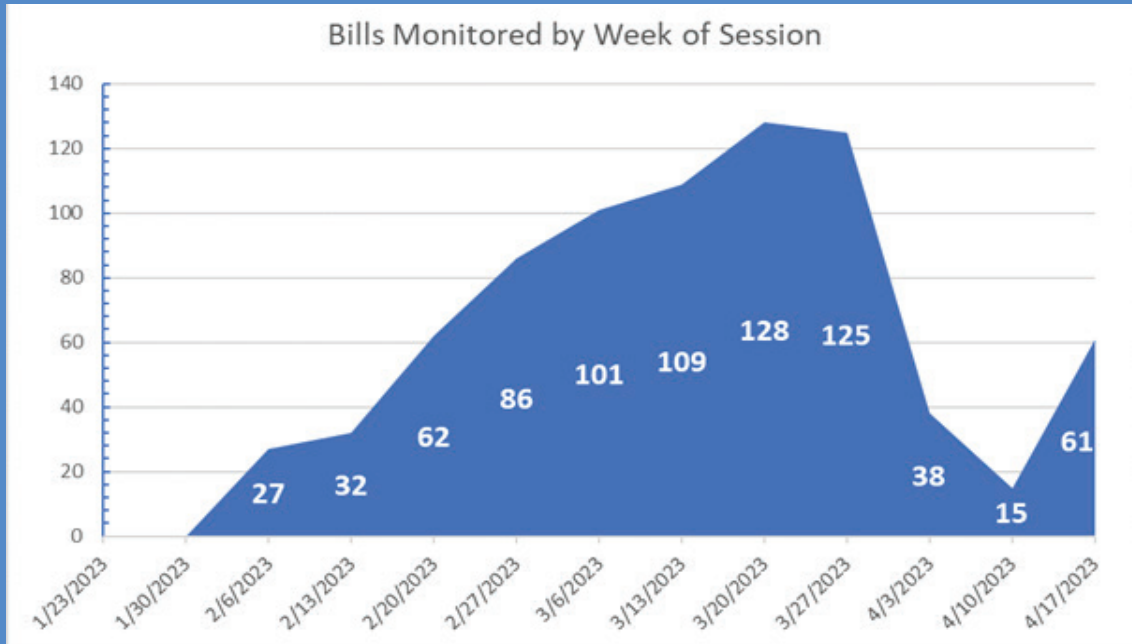
2023 Municipal Bills Considered by Final Status



Of the 250 bills identified and considered, 70 passed, 160 were deferred and 20 failed.



Consideration of legislation by the various Senate and House Committees began in earnest the week of January 23. The graph above shows how many committees and floor sessions our team closely followed each week of the legislative session with a peak of 27 sessions during the weeks February 27 and March 6.



This above graph illustrates how many bills our team monitored and engaged with legislators each week with a peak of 128 bills the week of March 20. This high of 128 is more than the peak of last year's session when 112 bills were considered the week of March 7, 2022.

ELECTIONS

While the introduction of election-related legislation is commonplace, few typically relate to municipal elections. Those few bills addressing municipal elections are often confined to the question of timing and whether municipal elections should be required to coincide with a statewide primary or general election. However, this year, we saw a sharp increase in the number of bills relating to municipal elections as well as a significant shift in the intent of these bills. Generally, the election bills struck a more disruptive and interventionist tone. The most notable departure from the norm was the introduction of several bills that either required or created an avenue to partisan municipal elections.

● **So-Called “Knoxville Election Bill” SB526 (Niceley)/HB817 (Davis)**

This legislation emanated from Knoxville-area legislators’ concerns with the decades-old election process included in the city of Knoxville’s Charter. The bill prohibits a member of any elected board or commission of a county or municipality to be elected through an election procedure requiring candidates to be nominated from a district and elected at-large. Working with the State’s Coordinator of Elections, your TML team determined the legislation was drafted in such a way as to adversely affect more than a dozen other cities; including some conducting elections this spring. As a result of our efforts, the sponsors agreed to delay the implementation of the bill until January 1, 2024, thereby eliminating any impact on municipal elections occurring this calendar year. However, the threat remains and TML will work with affected cities to develop legislation with the hope of negating any adverse effects. Passed.



The bill prohibits a member of any elected city or county board to be elected through an election procedure that nominates candidates from a district, but is elected by at-large votes.

● **Party Choice Partisan Municipal Elections SB474 (Rose)/HB505 (Todd)** This bill would allow the county primary board of either political party to choose to conduct municipal elections on a partisan basis. As such, a person seeking to be elected to a municipal office in that municipality is authorized to campaign as a nominee or representative of a political party. Deferred to 2024.

● **Board Vacancy City Manager—Commission SB424 (Johnson)/HB335 (Bulso)** Authorizes the board of commissioners of a city chartered under the city manager-commission general law charter to call for a special election to fill a vacancy on the board. Enacted.

● **Reporting of Campaign Contributions and Expenditures SB865 (Reeves)/HB486 (Boyd)** Requires political campaign committees to report contributions and expenditures for a local election to the registry of election finance rather than to the local county election commission. The bill also requires complaints on statements of local political campaign committees to be filed in the office of the registry of election finance rather than with the local district attorney. Enacted.

● **LLC Voting Rights SB176 (Massey)/HB169 (Wright)** Authorizes up to two members of an LLC that owns property in a city to vote in municipal elections, if the city’s charter permits non-resident property owners to vote. Failed.

● **Local Term Limits SB580 (Pody)/HB118 (Richey)** The bill requires a referendum in each county and municipality to determine whether to establish 16-year term limits for local government officials. Failed.

● **Party Request Partisan Municipal Elections SB1512 (Southerland)/HB561 (Todd)** This legislation seeks to require a municipality to hold partisan elections if requested by either political party. Failed.

● **State-Mandated Partisan Local Elections SB405 (Hensley)/HB262 (Richey)** The initiative requires state and local elections for public office to be partisan elections. This legislation is projected to cost local governments an additional \$66,400 this fiscal year, \$702,500 next fiscal year with costs incurred every four years thereafter. Taken off notice.

Impact Fees and Adequate Facilities Tax

This year brought the first meaningful effort to revisit local impact fees and adequate facilities taxes since 2006. Counties experiencing financial stress that is largely associated with a sustained period of significant growth were the impetus for this push. Led by officials in Rutherford County and Maury County, supporters contend the growth is the direct result of an increase in population and that these new residents need to share in the costs incurred by other taxpayers because of development. They further contend restoring a local government's authority to levy such fees and taxes is the most logical and immediate avenue to relief. In 2006, the General Assembly prohibited counties from adopting impact fees and precluded cities and counties from adopting an adequate facilities tax. Any local government that had an impact fee, adequate facilities tax, or both in place at the time was permitted to retain the fee or tax but was subject to a cap. While the legislation expressly prohibited counties, but not cities, from levying an impact fee, most cities do not possess the independent authority to impose impact fees. As such, any municipality seeking to enact an impact fee is required to obtain a private act. However, no such private act has been successful as legislators have soured on approving acts for this purpose. This year's legislation was met with fierce opposition from homebuilders and realtors. Despite several efforts to negotiate a compromise, the parties could not reach an agreement and the sponsors were unable to secure the necessary votes to ensure passage. Supporters have vowed to continue their pursuit next year and discussions are expected to continue over the summer.



Legislation to grant cities and counties the authority to impose an impact fee on new growth was met with fierce opposition from the homebuilders and realtors.

● **Restoring Local Authority to Adopt Impact Fee and Adequate Facilities Tax SB820 (Hensley)/HB1206 (Cepicky)**

This legislation sought to simplify the process and promote local autonomy by reversing the 2006 legislation. The substance of the bill and subsequent amendments were hotly debated and subjected to numerous revisions. The last amendment proposed allowing Rutherford County and Maury County and municipalities located within such counties to adopt such a fee or tax with the approval of two-thirds of the governing body and subject to a referendum. This authority was temporary as it was to expire on December 1, 2023. No agreement was reached and the bill was deferred to 2024. Deferred.

● **Authorizing Impact Fees and Adequate Facilities Tax SB25 (Hensley)/HB 12 (Cepicky)** This legislation grants local governments the authority to levy an adequate facility tax or impact fee. Withdrawn.

Business Tax

Four bills relating to the business tax were considered this year. One of these bills proposed shifting the responsibility for issuing new as well as the renewal of local business licenses over to the Tennessee Department of Revenue. Currently, these responsibilities are handled locally. Another of these bills was of more consequence as it proposed eliminating the business tax. As far-fetched as this might sound to a local official, there are many business organizations that have been advocating for either elimination or substantial reductions in the amount of business taxes paid. Moreover, some legislators as well as some in the Lee Administration appear to be warming to the idea of more substantial reforms. As a testament to this fact, the recently adopted budget includes some business tax relief. While locals are held harmless from the effects of this year's change, there is no guarantee such protections will be afforded in any future modifications to the business tax.

● **Exemption for Appraisers SB173 (Hensley)/ HB247 (Barrett)** This legislation seeks to exempt services furnished by persons engaged in the appraisal of real estate or real property from the business tax. It is estimated that exempting appraisers from the business tax would result in a loss of \$115,700 in local business tax revenues each year. Taken off notice.

● **Electric Charger Deduction SB351 (Campbell)/HB295 (Freeman)** Allows businesses that are engaged in either the hospitality or lodging industry and that install electric vehicle chargers on site to deduct five percent from business tax. Allows all other retailers a four percent deduction for installing electric vehicle chargers. If adopted, the

bill is estimated to decrease local business tax revenues by \$1.3 million next fiscal year. Action deferred to 2024.

● **Elimination of Business Tax SB1310 (Bailey)/ HB157 (Baum)** Eliminates the state and local business tax beginning in 2024. If this bill had been adopted this year it would have reduced local government revenues by \$274 million next fiscal year and at least \$323 million annually thereafter. Action deferred to 2024.

● **Responsibility for Issuance and Renewal SB1433 (Roberts)/HB1526 (Kumar)** Transfers the duty to issue and renew business licenses from the county clerks and city officials to the Tennessee Department of Revenue. Local revenue losses from this change could exceed \$489,000 next year and more than \$575,000 in future years. Taken off notice.



Legislation that would allow hospitality-related businesses who install EV charging stations to deduct five percent from the business tax was deferred to 2024.

Other Key Finance and Taxation Legislation

- **Streamlining of the Personal Property Tax Filings SB384 (Lundberg)/HB804 (Marsh)** The bill authorizes a taxpayer to certify to the assessor of property a depreciated value on their business tangible personal property of up to \$2,000 or up to \$10,000, in lieu of detailing acquisition costs on the reporting schedule. Requires the assessor to accept the certification and fix the value of tangible personal property assessable to the taxpayer at either \$2,000 or \$10,000 depending on the certification received. Directs the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to monitor implementation of the act and periodically report its findings on the impact of this act on collections and administration of the business personal property tax to the General Assembly. Enacted.

● **Megasite Related Purchases Exempt from Sales Tax SB272 (Johnson)/HB320 (Lamberth)** Exempts /Reduces the purchases of machinery, equipment and associated parts by the Tennessee Department of General Services or a contracted entity for the Megasite Authority of West Tennessee. This bill is projected to decrease local revenues by \$295,600 next fiscal year. Enacted.

● **Border Region and Regional Retail Tourism SB316 (Watson)/HB776 (Helton-Haynes)** This legislation restricts the types of costs that can be covered by apportionment of state sales and use taxes to a municipality or industrial development corporation under the Border Region Retail Tourism Development District Act and the Regional Retail Tourism Development District Act. This bill was adopted by the Senate but not considered in the House. Taken off notice.

● **Proration of Tangible Personal Property Tax SB397 (Kyle)/HB33 (Gant)** Authorizes a county or municipal governing body to adopt by two-thirds vote a provision to allow proration of property taxes for tangible personal property that is destroyed, demolished, or substantially damaged because of a disaster. Enacted.

- **Cost Recovery of Nuisance and Overgrown Properties SB779 (Stevens)/HB903 (Grills)** This TML initiative authorizes a municipality to add the cost of remedying a condition on real property that endangers the health, safety, and welfare of other citizens to the property tax notice of the owner of the real property, if the owner fails or refuses to remedy the condition in a specified time period. Enacted.

- **Sports Gaming Revenues SB791 (Crowe)/HB954 (Campbell)** Currently, local governments may use revenues derived from the Tennessee Sports Gaming Act for local infrastructure projects. This bill allows local governments to also use such revenues for emergency services. Enacted.

● **Locals Set Eligibility for Elderly Freeze SB871 (Akbari)/HB366 (Love)** Authorizes local legislative bodies to set the income limit for persons who are 65 years of age or older and otherwise eligible for property tax relief under the Property Tax Freeze Act at \$60,000. Requires a municipality that adopts the Property Tax Freeze Program to use the \$60,000 income limit if the municipality is located in a county that has adopted the \$60,000 income limit. Enacted.

● **LOST Administrative Fee SB385 (Briggs)/HB419 (Wright)** The Tennessee Department of Revenue is permitted to withhold an amount equal to 1.125% of all local option sales tax collections. This fee is intended to allow the department to recover the costs of collecting and allocating local sales tax revenues. A recent report revealed that the funds realized from the fee exceed the department's administrative costs. This bill seeks to reduce this fee from the current 1.125% to .50% over three years, which is estimated to result in local governments receiving an additional \$30 million, when fully phased in. Taken off notice.

● **Courthouse Square Pilot Project SB784 (Walley)/HB1079 (Shaw)** Currently, municipalities participating in the since-repealed Courthouse Square Revitalization Pilot Project are set to see the allocation of state revenues discontinued at the end of Fiscal Year 2028. This legislation seeks to continue the allocation indefinitely; allowing such cities to avoid an annual loss of more than \$3.5 million. Taken off notice.

● **Authorized Dealer's LOST Fee SB1140 (Lundberg)/HB886 (Hawk)** The law enabling grocers, retailers, and other authorized dealers to retain a portion of the state and local option sales tax as compensation for collecting and remitting these taxes at the time of sales expires in July 2023. The most recent data suggests that about \$5 million in local option sales tax collections will be retained by dealers this year. This bill sought to extend this provision of law indefinitely. Taken off notice.

Land Use

Land use is not the hotbed of legislative activity that it was five or more years ago, but one can always count on several legislative battles related to land use issues each year. In that regard, this session did not disappoint as the decade-long pursuit of the deannexation of agricultural properties continued and a controversial approach to addressing PC1101 in a post-referendum environment was also presented. This session also brought about a legislative repeal of the “Pending Ordinance Doctrine.”



TML Deputy Director Chad Jenkins testified before the House Local Government Committee to ensure that only those properties legitimately engaged in agricultural operations were eligible for deannexation.

● **Deannexation of Agricultural Property SB851 (Watson)/ HB 938 (Alexander)** As introduced, this legislation would have allowed a property that was “primarily used for agricultural purposes” and annexed by ordinance against the owner’s wishes to deannex within 90 days of notifying the city of his/her intentions. This legislation has been pursued more than half a dozen times over the last decade. TML has always opposed the bill, primarily because the criteria for being designated a property that is “primarily used for agriculture” is so broad as to allow virtually any property to qualify. In addition, the threat of the creation of donut holes and the resulting confusion and inefficiencies has long been a source of contention. While legislators’ opposition to this legislation was initially strong, it has softened over the years as new legislators arrive and the annexation and deannexation battles of the past fade from memory. When the bill was first heard this year, the sponsors offered an amendment that precluded the creation of donut holes. As a result of this meaningful concession, the legislation gained significant traction and seemed

destined for passage. However, TML's concerns regarding the definition and scope remained. The TML team sought to ensure the definitions and criteria were refined to prevent owners from exploiting this special exception. To that end, TML worked with representatives of the Tennessee Farm Bureau to strengthen the bill's requirements to better ensure that only those properties legitimately engaged in agricultural operations were eligible. The House and Senate passed differing versions. TML fought to retain the changes secured in negotiations with the House sponsor and the Tennessee Farm Bureau. In the final hour of the session, a conference report was adopted that precluded the creation of donut holes and included the provisions negotiated to substantially reduce the risk that an owner could game the process. In order to qualify for deannexation under the conference report, the property must have been annexed by the city without the owner's consent, the annexation may not be the result of a referendum, and the deannexation may not result in the creation of a donut hole.

- The property must be owned by either the same individual(s) that owned the property at the time of annexation or by a child, grandchild or sibling of such person.
- The owner must have filed either a Schedule F or Schedule E on the property for at least three (3) years.
- The owner must be recognized by the State as either a farmer, a nurseryman or timberman.
- The property was classified by the county assessor as an agricultural property and enrolled in the Greenbelt program at the time of annexation and has maintained this status since annexation, unless the property was annexed prior to January 1, 1977, and the enactment of the Greenbelt law.
- The property has been engaged in agricultural production since annexation.

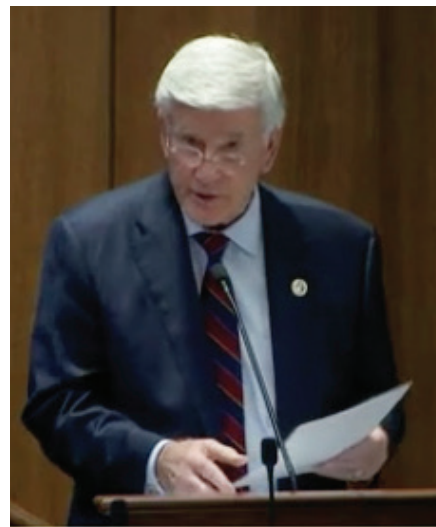
County Approval of Annexations SB75 (Watson)/HB28 (Lamberth) The question of the future of Public Chapter 1101 and Comprehensive Growth Plans following the adoption of a law prohibiting any annexation, unless approved at referendum or the city obtains the consent of the owner(s) is a legitimate one. Several legislators have attempted to address this question through the introduction of legislation. While the favored legislative approach seems to consist of proposals to eliminate comprehensive growth plans, TML and our county counterparts have been able to convince a sufficient number of legislators that this approach is overly simplistic and fraught with challenges. Originally, this legislation seemed to follow script by deleting the vast majority of law originally enacted as Public Chapter 1101, including the elimination of urban growth boundaries, planned growth areas and rural areas, while preserving authority for contiguous and non-contiguous annexations. Many cities and counties, alike, registered their concerns with their individual legislators. Eventually, the bill was amended to require county approval prior to any annexation, whether such annexation is pursuant to a referendum or at the request of the owner(s). As such, the county would be the supreme authority on any question of annexation, potentially superseding the wishes of both the property owner and the city. In addition, the amended version alters the authority vested in a municipal planning commission that is designated as a regional planning commission. Under the amended version, the authority bestowed upon any such commission already in existence would be preserved but only until that commission had satisfied the objectives established in its regional plan. The amendment also made the creation of new regional planning commissions contingent upon the adoption of an interlocal agreement between the respective city and county that is approved by the governing bodies of both parties. In the final days of the session, the sponsors elected to defer further consideration of the bill until next year. Deferred.

● **Require Local Compensation for Diminution of Value SB490 (Stevens)/HB560 (Todd)** This legislation is identical to legislation TML and its member cities opposed last year. In short, the bill creates another method for a property owner to seek just compensation for a diminution in value of the property caused by the enactment or enforcement of land use regulations on the property. The bill was placed on the calendar but there was no discussion and the sponsor elected to take the bill off notice. Taken off notice.

● **Agenda 21 SB1147 (Niceley)/HB1346 (Powers)** Prohibits this state and its political subdivisions from adopting or implementing policy recommendations that deliberately or inadvertently infringe or restrict private property rights without due process, as may be required by policy recommendations originating in, or traceable to, “Agenda 21,” adopted by the United Nations in 1992 or any other international law or ancillary plan of action that contravenes the constitution of the United States or the constitution of this state. Enacted.

Public Records/Open Meetings

● **Advance Publication and Posting of Agenda SB27 (Gardenhire)/HB23 (Moon)** This bill was promoted by the Tennessee Coalition on Open Government and originally required advanced notification and posting of agendas of all local government meetings, including legislative bodies, committees, commissions, and boards. In addition, it would have required the advance posting or guarantee of public access to all materials made available to members of the body, committee or commission. TML opposed this legislation and the team worked with the sponsors, county representatives, and Senate and House committee members to develop and gain support for an amendment. Under the amended bill, the requirement to post meeting agendas 48-hours in advance of a meeting either online or in a place accessible to the public only applies to meetings of the municipal legislative body, not the various committees, commissions, or boards. In addition, the requirement to make all meeting materials provided to members available to the public was eliminated. Enacted.



Legislation passed that requires local governments to post city and county commission meeting notices 48-hours in advance of meeting.

● **No Occupational Privilege SB86 (Walley)/HB734 (Rudd)** This bill clarifies that when it comes to requesting a public record, all are equal. A person is not entitled to special or more expeditious access to a public record due to the person's occupation or association with a specific profession. Enacted.

● **Limited Authority for Remote Participation SB294 (Briggs)/HB389 (Wright)** Authorizes a member of a local government's legislative body to participate in a scheduled meeting by electronic means if the member is dealing with a family or medical emergency, has been called into military service, or is unable to attend in person due to inclement weather. Failed.

● **Posting of Meeting Notices Online In Lieu of Paper SB550 (Lowe)/HB449 (Davis)** This initiative authorizes a governmental entity to publish notices of public meetings on a secure website of the governmental body. The legislation also establishes that a person is entitled to receive either an electronic or hard copy of an e-newsletter or notice published by the governmental body if the governmental body provides such documents electronically. Failed.

● **Public Comment Period SB1331 (Bailey)/HB1124 (Sherrell)** This bill requires a governing body to provide members of the public the opportunity to comment at a meeting of the governing body if the meeting is open to the public pursuant to the Open Meetings Law and if members of the public give proper notice to the governing body. No action.

● **Required Public Comment at Meetings of a Governmental Body SB551 (Lowe)/HB448 (Davis)** Requires a governing body to reserve a period for public comment for each public meeting of such body. Authorizes a governing body to place reasonable restrictions on the period for public comment and to require persons desiring to provide comments at a meeting to give advanced notice. Requires a notice for a public meeting to indicate the manner in which persons may indicate their desire to provide public comment at the meeting. Enacted.

Other Noteworthy Legislation

● **Comptroller Utility Board Consolidation SB845 (Reeves)/HB947 (Boyd)** Creates the Tennessee Board of Utility Regulation; consolidating existing water, wastewater boards, and utility management review boards under the newly-created board. In addition, this new board is granted oversight of municipal electric and gas entities. Initially, many municipalities and municipal entities raised a number of concerns regarding the scope and authority of the new board. Following several meetings and discussions with the Comptroller and the bill's sponsors, several changes were made that either clarified intentions or modified the bill's language. However, some concerns remain. In particular, TML and municipalities remain concerned about provisions relating to distressed utilities, the board's ability to require expansion or extension of utilities, and some of the provisions pertaining to the mandatory merger or consolidation of utilities. This is a Comptroller of the Treasury bill. Enacted.



This Comptroller-sponsored legislation consolidates existing water, wastewater boards, and utility management review boards under a newly-created board.

● **Employment of a Municipal or County Inspector SB723 (Yarbro)/HB296 (Freeman)** This legislation is similar to SB707/HB1010 (see preemption section). However, there is one key difference – this bill allows local government the choice rather than mandating that local governments accept outside inspections. Under this legislation, a local government could elect to accept an electrical inspection whether residential or commercial, issued by an electrical engineer so long as the engineer is registered with the SFMO and such inspection is performed by the engineer on a form approved by the SFMO. If a local government elects to accept outside inspections, then it must review and approve such an inspection provide and written notice of any deficiencies, within five business days of receipt. Further requires the local government to maintain a record of such inspection performed by an engineer for no less than three audit years. Enacted.

● **Use of Certain Foreign-Manufactured Drones Prohibited SB776 (Stevens)/HB1070 (Carringer)** Prohibits a state agency, local agency, or law enforcement agency from purchasing, acquiring, or otherwise using a drone or other covered telecommunications equipment or service produced by a manufacturer banned under the federal National Defense Authorization Act of 2019. Enacted.

● **Clean or Renewable Energy Sources SB1389 (Southerland)/HB946 (Boyd)** This bill requires a political subdivision that imposes requirements or expectations related to the type of clean or renewable energy used by a public utility in an ordinance, resolution, or other regulation to include certain sources of energy as permissible sources of clean or renewable energy. Enacted.

● **State Fire Permit for Food Trucks SB907 (Niceley)/HB814 (Davis)** Requires the state fire marshal to create a state fire permit that mobile food units may obtain annually to demonstrate fire safety and electrical code compliance to local governments. The fire marshal is authorized to conduct up to two inspections on permitted units annually. The legislation also requires a local government to recognize a state fire permit in its jurisdiction and prohibits the local government from requiring a local fire permit if the mobile food unit holds a state fire permit. Enacted.



Legislation was approved that creates a state fire permit for mobile food trucks and prohibits local governments from requiring a local fire permit if the food truck holds a permit from the state marshal's office.

● **Reverses Prohibition of Possession of a Firearm at Meeting SB1037 (Stevens)/HB746 (Barrett)** Removes the authorization for an individual, corporation, business entity, or local, state, or federal government entity to prohibit the possession of weapons by a person who is at a meeting conducted by or on property owned, operated, or managed or under the con-

trol of the individual, corporation, business entity, or government entity. The bill also provides that the possession of a weapon in a building or on a property that is properly posted is no longer a criminal offense. Deferred.

● **Energy Conservation Code SB1377 (Southerland)/HB799 (Zachary)** This legislation was supported by the Tennessee Home Builder's Association. It seeks to establish a new state energy standard for new residential and non-residential buildings. Establishes the 2018 Energy Conservation Code as the state standard for new residential construction. Prohibits a local government from adopting a more stringent standard for new residential construction. Enacted.

● **Law Enforcement Cameras on Interstates and Highways SB439 (Jackson)/HB445 (Whitson)** This bill allows law enforcement agencies to install surveillance cameras on interstates and state highways with the approval of the Tennessee Department of Transportation. Enacted.

● **Manager-Commission City Purchasing Limits SB423 (Johnson)/HB336 (Bulso)** Increases the threshold for sealed bids under the city manager-commission general law charter from above \$10,000 to above \$25,000. This legislation also permits the board of commissioners to delegate authority to approve contracts below \$25,000 to the city manager. This legislation was adopted prior to the shooting at Nashville's Covenant School but will take on added significance in the wake of the expanded school safety funds provided for in the final budget. Enacted.



Legislation was approved that allows law enforcement agencies to install surveillance cameras on interstates and state highways with TDOT's approval.

● **Private School Resource Officers SB315 (Niceley)/HB1456 (Faison)** This initiative authorizes a private school and a local government to execute a contract or memorandum of understanding to allow a local law enforcement agency to provide school resource officers to the private school. Enacted.

● **Depreciation of Water/Wastewater Grants and Loans SB129 (Walley)/HB526 (Haston)** This legislation seeks to remove the depreciation requirement for certain grants and loans for water and wastewater treatment infrastructure projects. Taken off notice.

● **CMFO Stipend SB1130 (Jackson)/HB1458 (Campbell)** This TML initiative seeks to address a group of municipal employees that were left out of last year's legislation authorizing stipend to those receiving their CMFO certification. The bill provides a \$1,000 stipend to each municipal finance officer who becomes certified and remains employed as a certified municipal finance officer for at least three years. This legislation was not pursued so as to avoid conflicting with efforts to secure funding for state shared sales tax.

