

TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: TACIR Commission Members

FROM: Harry A. Green *Harry*
Executive Director

DATE: September 16, 2009

SUBJECT: Today and Tomorrow: A TACIR Work Program Update

- 1) The work program, approved at the June Commission meeting, includes several new studies mandated by the General Assembly during the most recent session.
- 2) A list of mandated projects by due date is attached for your review.

PROJECTS DUE IN FISCAL YEAR 2009-10

Underground Utility Damage Prevention Program Effectiveness*

- Study the effectiveness of Tennessee's current program and report to the general assembly:
 - Review federal standards and other state initiatives to improve their programs and whether a reduction in underground damage has resulted.
 - Determine whether any legislative action is needed to improve the effectiveness of the program, including but not limited to, provisions related to program enforcement.
 - If a need for improvement is found, recommend to the legislature what entity or entities would be best suited to undertake further responsibilities.
- Source: Public Chapter 475, Acts of 2009 [HB 0852 by Odom, SB 0818 by Norris]
 - Due date: no later than January 29, 2010.

Electric Generation and Transmission Cooperatives, Effect on TVA PILOTS*

- Study whether the current wholesale power supply arrangements between the Tennessee Valley Authority (TVA) and municipal utilities and electric cooperatives are likely to change in the future in a way that could affect payments in lieu of taxes from TVA to the state and to its local governments.
 - Report written findings to the senate commerce, labor and agriculture committee, the house commerce committee, and the finance, ways and means committees of the senate and house.
 - Include recommendations, if any, on adjustments to the state tax system that would keep the state and local governments whole from such future changes.
- Source: Public Chapter 470, Acts of 2009 [SB 1089 by McNally, HB 1518 by Fitzhugh]
 - Due date: February 1, 2010.

PROJECTS DUE IN FISCAL YEAR 2009-10

Regional Jail (See Attachment A)

- Study feasibility of a regional jail for Clay, Fentress, Overton, and Pickett Counties.
- Source: General Assembly (Appropriations Bill) [SB 2355 by Kyle, HB 2392 by Fitzhugh]
- Due date: none in law, but promised for 2010 legislative session.

Emergency Communications District Funding* (See Attachment B)

(referred by committee for study, report findings) The bill imposes a minimum fee to increase revenue for 911 emergency telephone services, increases the percentage of funds that is to be distributed to emergency communications districts from 25% to 65%, and requires the Emergency Communications Board to distribute an additional 5% of the revenue generated by the fee to the 50 lowest population districts.

- Source: House State and Local Committee of 106th General Assembly [HB 0204 by Matheny, SB 0208 by Stewart]
- Due date: 2010 Legislative Session.

County Revenue Partnership Fund

- Study the provisions of the law creating the fund (a separate account within the state general fund) and related policy matters and report findings and recommendations to the finance, ways, and means committee of each house of the general assembly.*
- Source: Public Chapter 1057, Acts of 2008 [SB 3934 by Norris, HB 3863 by Tindell]
- Due date: June 20, 2010.

PROJECTS DUE IN FISCAL YEAR 2011-12

Non-emergency Public Service Answering Points (PSAPs)*

- Study the impact on public safety of non-emergency communications district affiliated PSAPs.
 - Review the emergency communications equipment capabilities of non-affiliated PSAP's.
 - Report findings and recommendations to House and Senate Government Operations Committees, including any proposed legislation or interim reports, upon conclusion of the study.
- Source: Public Chapter 473, Acts of 2009 [SB 1006 by Johnson, HB 0999 by Lynn]
 - Due date: December 1, 2011.

MANDATED PROJECTS WITH NO DUE DATE

Purchases by Water And Waste Water Treatment Authorities*

(referred to TACIR for study) The bill would have required any purchase, lease, or lease-purchase by a water and waste water treatment authority to be preceded by competitive bidding or proposals if purchase, lease, or lease-purchase exceeds the amount established in the county purchasing law of 1983. Senate amendment 3 would have required that water and waste water treatment authorities comply with the purchasing laws of the creating governmental entity, except in cases where two or more creating governmental entities form a water and waste water treatment authority in which case the authority would be subject to either the County Financial Management System of 1981 or the County Purchasing Law of 1983.

- Source: Local Government Committee of House State and Local Government, 105th General Assembly (2007) [HB 1267 by Lynn, SB 1780 by Beavers]
- Due date: none.

Efficiency of Water And Waste Water Treatment Authorities*

(referred to TACIR for study) The bill would have required any city, metropolitan government, or county that creates a water and wastewater treatment authority to conduct a public hearing to review the efficiency and success of the authority and the rates imposed by such authority and the level of customer satisfaction. It would have directed the governmental entity to also review the financial and performance audits of the authority.

- Source: State Government Committee of House State and Local Government, 105th General Assembly (2007) [HB 1946 by Lynn, SB 2006 by Beavers]
- Due date: none.



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FROM: Harry A. Green
 Executive Director

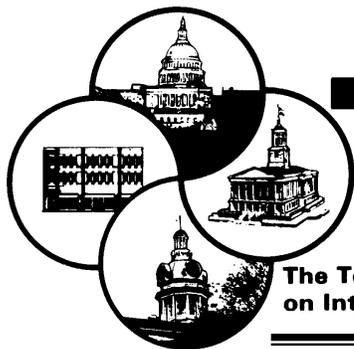
DATE: September 16, 2009

SUBJECT: Progress Report on Regional Jail Study

Public Chapter 554 of 2009 appropriated funds to the Tennessee Advisory Commission on Intergovernmental Relations for the purpose of completing a regional jails feasibility study. After speaking with Representatives Charles Curtiss and Les Winningham, who requested the appropriation for the study, TACIR staff determined that the counties to be included in the study are Clay, Fentress, Overton, and Pickett Counties. Each of these counties has been pursuing the possibility of a regional jail for several years and each has passed a resolution supporting a regional jail feasibility study. TACIR staff has consulted with the County Technical Assistance Service (CTAS) on the implementation of the study and has met with county mayors and sheriffs from three of the counties.

Thorough needs assessments for each county will comprise a substantial portion of the study. The needs assessments will evaluate past, present and projected inmate populations and costs, and will take into account issues such as services provided to inmates, liabilities, and the capacities of current structures. The feasibility study will utilize this information to outline viable courses of action for each county.

To ensure a timely report that reflects a high level of expertise, TACIR will be contracting with a vendor to conduct the regional jails feasibility study. Staff has written a Request for Proposals (RFP) which outlines the study scope and which we will employ to solicit proposals from vendors. Staff hopes to issue the RFP in early September and begin the selection process in October. The tentative contract start date is early November and the tentative end date is May 2010.



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MEMORANDUM

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FROM: Harry A. Green
Executive Director

DATE: September 16, 2009

SUBJECT: Progress Report on Emergency Communication District Funding Study

The House State and Local Government Committee referred HB 0204 by Matheny (SB 0208 by Stewart) to TACIR for study with instructions to report back to the committee during the 2010 legislative session. The bill would increase the monthly cell phone service charge from \$1 to \$1.50 and reallocate the distribution of this service charge from the Tennessee Emergency Communications Board (TECB) to local Emergency Communications Districts (ECDs) from 25 percent to 65 percent. An additional five percent of the revenue generated would be distributed to the 50 lowest populated ECDs. According to Fiscal Review, the net impact of the bill in fiscal year 2011 would be an increase in state revenue of \$29 million and an increase in state expenditures of \$46 million (fiscal note attached). The \$46 million increase in state expenditures would be the result of the reallocation to local governments, who would in turn experience a \$46 million increase in revenue.

TACIR completed a lengthy report on E-911 technology and funding in 2006. In that report, TACIR noted that a shift in usage from land line phones to wireless phones was undercutting the ECDs' revenue base. The basic funding mechanisms used to finance E-911 service in Tennessee continues to be two-pronged: a state fee on wireless service currently set at \$1 per month (collected by the TECB), and locally determined landline/wireline fees that vary from \$.45-\$1.50 on residential line service and \$2.00-\$3.00 on business line service (remitted by telecommunication providers to each separate Emergency

Communications District). In the 2006 report, TACIR recommended that the TECB, with input from an advisory committee from ECDs, local governments, and other E-911 technical experts, provide direction and data on what E-911 fees are expected to cover and recommend a more specific funding method. The TECB followed this recommendation, creating a study committee that eventually recommended the creation of a special fund to offset ECD losses in landline revenue. The current report will review the impact of this study, as well as the status of other funding findings and recommendations from the 2006 study (see attached summary of report findings and recommendations).

TACIR staff is in the early stages of the new study. It has gathered preliminary information and drafted a research plan. The final draft of that plan should be available at the September Commission meeting. The staff will present preliminary findings at the December meeting and will provide the Commission with a draft report for approval prior to reporting back to the House State and Local Government Committee.

Appendix: Findings and Recommendations from *Emergency Challenge: A Study of E-911 Technology and Funding Structure in Tennessee: A TACIR Commission Report to the General Assembly Pursuant to Public Chapter 810 of 2004*, February, 2006.

GENERAL

The material in the 2006 report was obtained using a comprehensive methodology that consisted of five major research components:

1. Interviews;
2. Literature review;
3. Comprehensive survey of local Emergency Communication District (ECD) directors;
4. Review of additional material; and
5. TACIR staff analysis of rate structure scenarios.

TACIR's survey of ECD directors was integral to the study. A major goal of the survey was to obtain complete and comparable organizational, financial, staffing, equipment, and call data from all ECDs across Tennessee. The survey also asked for the directors' opinions on other issues related to E-911. Additional comments from the director or Board of Directors were welcomed. Unfortunately, TACIR initially received responses from only sixty-five of the one hundred districts in Tennessee. Five additional ECDs eventually responded. Each non-responding ECD was contacted by telephone at least twice to encourage their response.

Many responses were not complete. The low response and completion rates hindered the completion of the report.

FINDINGS

- The Tennessee Emergency Communications Board (TECB) and the state's Emergency Communications Districts have worked together to make Tennessee a national leader in E-911 coverage for both wireline and wireless phones, with coverage in every county of the state.
- Emergency Communication Districts' directors responding to the TACIR survey rated the programs and assistance of the Tennessee Emergency Communications Board very highly.
- In March 2005, the TECB received national recognition by the E-911 Institute as the top state program in the nation.
- The TECB has made significant strides toward ensuring standard E-911 service across Tennessee. More specific operational standards would allow for uniformity of action by public safety answering points (PSAPs), resulting in a similar service level statewide for all 911 calls.

TECHNOLOGY

Today's communications devices are wired, wireless, and integrated into a host of other electronics such as computers, automobiles, and personal digital assistants (PDA) that were nonexistent when the 911 system was developed over thirty years ago. Communications innovations are expected to continue. As communication systems, devices and regulations have moved beyond traditional phone lines, so have the technology, tools, and resources needed to receive and respond to emergency calls.

FINDINGS

- The wireline customer base has been stagnating or declining in most states, including Tennessee for several years while wireless customers have continued to grow.
- Specific data to analyze trends in landlines by ECD is limited. Only twenty-one of Tennessee's one-hundred ECDs could provide valid landline counts for the last five years or information on the number of 911 calls received to analyze trends for individual ECDs in Tennessee. The Tennessee Regulatory Authority was able to provide landline counts by county for two years for most providers.
- Based on available data, the number of residential wirelines is clearly down but the change in business lines varies. The fiscal impact can vary among ECDs based on the differing fee levels for residential and business lines in the ECD. Most ECDs still have some flexibility to raise surcharge rates.
- Voice over Internet Protocol (VoIP) represents a new voice communication technology carried over broadband internet connections that is beginning to replace traditional landline phones.
- A growing number of vehicles are equipped with telematics and automatic crash notification (ACN) that allow access through a telematics call center to PSAPs in emergencies and could eventually provide a quicker and better emergency response if integrated with E-911 systems.
- All seventy districts responding to the TACIR survey rated the quality of their service as good to excellent.
- Almost all of the seventy districts responding to the TACIR survey rated the adequacy of their equipment as good to excellent.
- While the TECB has issued some policies and provided some funding and technical assistance related to necessary E-911 equipment, each of the one-hundred ECDs statewide ultimately makes its own equipment purchases.
- Rapid advances in communications technology are continuing to pose major challenges to current 911 systems that will require changes in the 911 systems in the near future.

RECOMMENDATIONS

- As part of an overall effort to ensure that all ECDs meet a defined and consistent level of E-911 service, the TECB, in conjunction with an advisory committee, should develop more specific minimum equipment standards and specifications on the type and ability of equipment needed at each PSAP and projected replacement times.
- The TECB should consider developing a voluntary centralized purchasing capability to allow ECDs the option of taking advantage of increased economies of scale.
- The TECB should commission a comprehensive cost-benefit study of the development of a statewide E-911 network to take advantage of new technologies. Statutory changes may be necessary to broaden the TECB's authority to address the evolving changes in E-911 technology, networks, and systems.

STRUCTURE

The organization of emergency communications within an ECD in Tennessee is determined locally. Tennessee has one-hundred emergency communications districts in its ninety-five counties: eighty-five districts cover a one-county area and one district covers a two-county area. However, six districts are just for a city area and eight districts cover the county outside the city districts (two cities with districts are located in multiple counties). Most districts (75%) have one primary PSAP that receives 911 calls. An additional 9% have one primary PSAP and one or more secondary PSAPs. Sixteen districts have multiple primary PSAPs that answer calls, seven of these also have one or more secondary PSAPs.

FINDINGS

- The organization of emergency communications within an ECD is determined locally. Most districts have one primary public safety answering point to receive initial 911 calls. About half of the seventy districts responding to the TACIR survey dispatch emergency service directly from the primary PSAP while others choose to transfer some or all calls to other agencies for dispatch.
- In most of the seventy districts responding to the TACIR survey, telecommunicators are employees of one public safety agency.
- Several districts indicated that they have shifts with only one telecommunicator working. In these districts, phones may go unattended when the telecommunicator needs to be away from their console or provide additional information to callers or public safety officers.
- In 29% of the districts responding, no pre-arrival instructions are available. In these districts, callers must wait for emergency personnel to arrive before treatment can begin.

- Potential savings and benefits are available to ECDs and local governments from further consolidating PSAPs within an ECD or among adjacent ECDs. Consolidation may become more of an issue as technological changes in telecommunications result in the need for a new E-911 system network and major changes in PSAP equipment.
- Tennessee has a policy of encouraging consolidation within and among ECDs.
- ECDs in Tennessee are generally consolidated on a county basis.
- Overall, ECD Directors were positive toward the possibilities and benefits of consolidation within a county. Directors were not as supportive of the consolidation of ECDs among more than one county.
- There is controversy within some ECDs on whether municipalities are adequately represented on ECD Boards.
- If emergency communications are consolidated within or between districts, TCA 7-86-105(6) allows the parties involved to negotiate an interlocal agreement including the size and appointment of the board of directors of the combined district.
- In a 2005 survey by the Tennessee Emergency Number Association, thirty-four of the forty-one districts responding included city representatives on their boards.
- Most ECD Directors responding to the 2005 TACIR survey did not think the state law should prescribe the make-up of the local boards.

RECOMMENDATIONS

- The TECB in conjunction with an advisory committee should define minimum operational standards for personnel and staffing needs.
- The TECB in conjunction with an advisory committee should consider the need and alternatives to offer pre-arrival instructions statewide.
- The Tennessee Emergency Communication Board should continue its education efforts and policies that encourage consolidation of PSAPs and Emergency Communications Districts.
- If the General Assembly feels that changes should be made to the TCA to require municipal representation on ECD boards, it is recommended that the change require the county mayor to appoint either the mayor, city manager, or their appointed representative, of the largest municipality, by population, providing emergency services and located within the ECD area to the ECD board in order to represent municipal interests. This requirement should not be applicable to boards that already require municipal representation through an interlocal agreement.

FUNDING

Existing 911 funding mechanisms in Tennessee continue to produce a growing level of revenue statewide. However, some individual ECDs may be experiencing declining 911 revenues and some may still need additional funding to raise their 911 service levels to acceptable standards. Revenue problems resulting from the introduction of new communications technologies may create some short term challenges, but do not as yet appear to threaten the long run viability of funding 911 resources from surcharges on users. Total 911 surcharges from wireline and wireless services should produce over \$80 million during fiscal 2005, based on data reported by the Federal Communications Commission (FCC). However, neither the FCC, ECD, nor TRA data on landlines are sufficiently detailed to evaluate the impacts on individual ECDs or revenue losses associated with exempt business lines.

The TACIR staff did not have the data required to objectively determine the level of service fees needed to cover the costs of E-911 in Tennessee. Information needed to determine the revenue needed to adequately provide E-911 service in a district would include:

- What E-911 operating and capital costs are the fees expected to cover;
- What support is expected from local county and city governments;
- What are the operating standards for districts in terms of service provided;
- What minimum level of equipment, technology, and staffing is needed to provide the expected service;
- What level of reserves do districts need to cover future capital costs and emergencies; and
- What is the revenue base in each ECD?

FINDINGS

- Sufficient information is not available for TACIR staff to determine the level of service fees needed to cover the cost of E-911 in Tennessee and how best to fund those costs.
- The most common funding method used by state and local governments for funding 911 service is a surcharge or fee imposed on telephone customers. Tennessee's average residential surcharge of \$.87 is only slightly higher than the average of \$.81 for the forty states for which residential surcharges could be approximated. If Tennessee's surcharge rate on business wirelines is added to residential surcharges, Tennessee's overall average surcharge rate likely exceeds \$1. Only six of the forty states, for which reasonably comparable surcharge rates could be determined, have an average surcharge rate in excess of \$1.
- As of June 30, 2005, the state Emergency Communications Fund had a balance of \$32.6 million. These funds are reserved for payments to

wireless service providers for their costs of providing enhanced wireless 911 service, which had not yet been approved or incurred. As of August 2005, the board estimated an additional \$8.14 million in non-reoccurring Phase II wireless requests and \$13 million per year in recurring costs. However, these figures could increase as providers add to their service areas or location technology or costs change. After the bulk of the initial non-recurring costs of wireless service providers are paid in FY2005-06, the TECB should have additional funds available to address other statewide and district E-911 needs.

- Most of the wireless surcharge revenue from fiscal year 2001-02 through fiscal year 2004-05 has been paid to wireless carriers to cover their costs in implementing wireless E-911, as provided by state statute. While the FCC no longer requires cost recovery for wireless providers from state or local governments, Tennessee's cost recovery provisions and policies have allowed Tennessee to be one of a very few states to fully deploy wireless E-911.
- About 34% (\$34 million) of TECB wireless revenue (\$99.1 million) from FY2002-03 to FY2004-05 went directly to ECDs. A large part of the TECB discretionary grants went to ECDs with smaller populations and thus, a smaller surcharge revenue base.
- Revenue problems resulting from the introduction of the new communications technologies may create some short-term challenges, but do not as yet appear to threaten the long run viability of funding 911 resources from surcharges on users.
- Despite overall increases in total 911 surcharge revenue statewide, some individual ECDs may be experiencing declining 911 revenues and some or many may still need additional funding to raise their 911 service levels to acceptable standards.
- Current Tennessee statutes do not require Voice over Internet Protocol (VoIP) service providers to impose and collect 911 fees from their customers, thus, threatening the stability of 911 revenue.
- District directors were overwhelmingly in favor of keeping the service fees for access to E-911, but to include all devices with access to E-911 including landlines, wireless, Voice over Internet.
- Overall, ECD directors favor local autonomy to set 911 surcharge fees with some differences on the maximum fee level that can be determined locally.
- Emergency Communications Districts vary on the costs they try to cover with E-911 service fees. The costs paid with E-911 service fees have also expanded over time.
- There is a discrepancy among districts and within the law on what E-911 service is to be and the costs the E-911 service fees are intended to cover. Are 911 surcharges intended to fund only the equipment and

related costs to receive and answer E-911 calls or also include the cost to dispatch calls?

- Overall, districts indicated that fees cover the equipment, technology, and other costs needed to receive and answer 911 calls. Areas where districts thought that fees should cover more of the costs than they currently cover included dispatch personnel, building, and radio costs.
- For a limited sample of districts providing complete data, current fees appear to cover more than current non-personnel 911 operating costs but less than the full operating costs including dispatch.
- Most ECDs rely on local government contributions to cover part of the full cost of E-911. However, the contributions for E-911 by local governments vary and are not reported for all districts.
- There is no standard or guideline on the appropriate level of cash reserves for districts to maintain for equipment purchases or emergencies.
- ECDs have difficulty tracking the number of landlines and relevant service fees. The TECB does not have the authority to gather this information statewide. The TRA does not maintain line count information in the format needed to track fees. The Tennessee Code Annotated requires providers to report this data to ECDs, but there is no enforcement mechanism.
- Rural areas, with a much smaller fee base, have difficulty funding current technologies and staffing centers.
- Businesses fund a high share of total 911 wireline surcharge revenue which may not be reasonable given the absence of any data showing a significant business share of 911 emergency calls.

RECOMMENDATIONS

- The TECB, with input from an advisory committee from ECDs, local governments, and other 911 technical experts, should provide direction and data on what 911 fees are expected to cover and recommend a more specific funding method, if needed, and any legislative changes required. The advisory committee will include a representative of the TACIR, appointed by the chair of the TACIR. The advisory committee will report its findings to the TACIR no later than June 2006.
- Require providers to report line counts and service fees statewide by ECD to a central state agency and include penalties for not reporting.
- Consider requiring state audits of local exchange carriers to ensure that fees are properly collected and remitted to the ECDs.
- Amend the Emergency Communications statutes to include all devices, VoIP as well as other potential technologies, with access to 911 to pay 911 surcharge fees.
- The TECB should appoint an advisory committee of PSAP officials and other public safety personnel as well as persons with E-911 technical

expertise to develop minimum operational standards and related costs to be reviewed and approved by the TECB. The development of standards should provide a means to determine the costs and necessary revenue to provide a minimum level of service statewide. Once the standards are set the TECB should work with the districts to determine if the level and distribution of revenue needs to change.

- The TECB should use the standards to identify ECDs that are not able to fund the minimum level of service with the revenue base in their district and determine if a change in the level and distribution of revenue is needed.