Public Finance Legislative Update from the Final Session of 114th Tennessee General Assembly

In the Final Session of the 114th General Assembly, Tennessee legislators enacted several public chapters of particular interest to local government officials related to changes affecting local government construction procurement requirements, approvals of payment in lieu of tax agreements as well as new open meetings requirements. This update summarizes 12 newly enacted public chapters with particular emphasis on requirements affecting local governing bodies and options for financing public infrastructure and workforce housing.

Project Finance Initiatives

Construction Delivery Methods for Qualified Local Projects. Public Chapter No. 863, which went into effect on April 27, 2026, authorizes certain local governments to use the project delivery method that the local government determines best meets its needs for construction of qualified local projects. To use this supplemental authority, the local government must have the following:

- A full-time purchasing agent or other full-time procurement employee satisfactory to the Comptroller or the Comptroller's designee.
- Meet specified revenue thresholds or receive Comptroller approval.
- Select the party providing the project delivery method through a competitive proposal process.
- Have ordinances, rules, regulations, or policies authorizing that competitive proposal process.

The act defines "project delivery method" to include construction manager at-risk, design-bid-build, and design-build, and defines a "qualified local project" as a construction project, including renovation or expansion of an existing building, with an estimated cost to the local government in excess of $5 million. The required competitive proposal process includes public disclosure of evaluation criteria and relative weights, disclosure of the number and occupations of selection committee members, written conflict-of-interest disclosures, publication of selection results and evaluation materials, a protest mechanism, and designation of procurement documents and final contracts as public records available upon request.

Tax Increment Financing and Taxpayer Agreement Liens. Public Chapter No. 915, which went into effect on May 1, 2026, authorizes a tax increment agency to enter into a taxpayer agreement with a property owner in a plan area to guarantee, enhance, or otherwise further secure bonds or lease obligations of the tax increment agency. The obligation to make payments under a taxpayer agreement, including taxpayer direct payments, must be treated in the same manner as property taxes. A taxpayer agreement lien is a first and prior lien against the affected property from the date the taxpayer agreement is recorded, has parity with real estate tax liens, takes priority over existing and subsequent mortgages and other encumbrances, and may be enforced and collected in the same manner as real property taxes. The lien runs with the land, and the tax increment agency must file and record each taxpayer agreement with the register of deeds in the county where the property is located.

Industrial Development Corporations and Housing-Related PILOTs. Public Chapter No. 987, which went into effect on May 19, 2026, authorizes the board of directors of an industrial development board to initiate a merger with another industrial development board in the manner provided for public benefit corporations under the Tennessee Nonprofit Corporation Act. In addition, for certain tax-credit housing projects where payments in lieu of taxes (PILOT) would be less than the taxes that would have been paid to an affected taxing jurisdiction for the prior tax year, the new law requires the chief executive officer of each affected taxing jurisdiction to execute a letter supporting the project that is filed with the industrial development board. More broadly, if a proposed PILOT agreement would result in payments to any taxing jurisdiction that are less than the taxes otherwise payable to that jurisdiction, the industrial development board may not enter into the agreement until it has given written notice to the chief executive officer of each affected taxing jurisdiction and the applicable response or approval process has been satisfied.

Community Workforce Housing Innovation Pilot Program. Public Chapter No. 1037, which generally took effect on July 1, 2026, establishes the community workforce housing innovation pilot program which will be administered by the Tennessee Housing Development Agency (THDA). The purpose of the pilot program is to provide affordable rental and home ownership community workforce housing for persons affected by high housing costs, using regulatory incentives and state and local funds to promote public-private partnerships and leverage public and private resources. The act defines workforce housing as housing affordable to natural persons or families whose total annual household income is more than 80% but does not exceed 150% of area median income, adjusted for household size. THDA may provide loans for construction or rehabilitation of workforce housing. Applications must be received on or before March 31, 2027. Priority is given to projects where the local jurisdiction has adopted or is committed to adopting regulatory incentives or local contributions and financial strategies, including expedited review, support for development near transportation hubs and major employment centers, flexible land development regulations, employer-assisted housing programs, tax increment financing, PILOTs, or provision of land. Eligible applications must: 1) demonstrate that the applicant is a public-private partnership; 2) provide evidence of required grants, land donations, contributions, property tax savings, or other sources; and 3) identify plans to market units to essential services personnel.

Development Review and Bond Release Requirements. Public Chapter No. 1044, which takes effect on January 1, 2027, establishes new timelines and procedures for local government review of development applications, development plans, and site inspections submitted by developers. Under this new law, a municipality, county, or metropolitan government responsible for reviewing a development application, development plan, or site inspection must, within specified timeframes, approve the submission or place it on the next available agenda, provide a written report of deficiencies, or request additional information necessary to determine compliance with applicable regulations. If the local government fails to act within the applicable timeframe, the submission is deemed approved.

The act also limits a local government to no more than two written reports of deficiencies, and, if deficiencies identified in a second report are not resolved, requires either a denial with written justification and partial fee refund or conditional approval or placement on the next available agenda for conditional approval. In addition, the act creates new procedures for release of required bonds, letters of credit, or other assurances posted for completion of development improvements when a professional engineer determines after an independent inspection that the contractor or developer has completed all work required by the contract.

Infrastructure Development Districts. Public Chapter No. 1089, which went into effect on May 22, 2026, revises various provisions of the Real Estate Infrastructure Development Act of 2025. Among other changes, the act revises provisions governing district administration, including authority for a host municipality to manage district administration, delegate administration to another municipality administering the host municipality's ad valorem real property taxes by approved interlocal agreement, or delegate administration to outside professional administrators under a written contract. The act further authorizes collection and enforcement of special assessments in the same manner as real property taxes, including billing special assessments on the same invoice as those ad valorem taxes.

Essential Government Employee Housing. Public Chapter No. 1101, which went into effect on May 22, 2026, authorizes eligible local governments – defined as counties, municipalities, or metropolitan governments carrying the highest credit rating (AAA/Aaa) – to acquire, lease, develop, and operate housing developments of at least 100 dwelling units for essential employees such as teachers, law enforcement officers, and other personnel deemed critical to effective service delivery. The act requires local governments to submit a funding, financing, and operations plan for any such development to the Comptroller of the Treasury for a best-interest determination before proceeding.

Open Government Initiatives

Public Comment Periods for Local Governing Bodies. Public Chapter No. 620, which went into effect on March 26, 2026, expands the public comment requirement for local governing bodies. Under this act, a local governing body must reserve a period for public comment at each public meeting to allow the public to comment not only on matters germane to agenda items, but also on any matter germane to the jurisdiction of the local governing body, regardless of whether the matter appears on the agenda. For this purpose, “local governing body” means the governing body of an incorporated city or town, county, metropolitan government, school district, regional authority, or other political subdivision of the state other than a state governmental agency or entity.

Expanded Advance Agenda Publication Requirements. Public Chapter No. 699, which went into effect on April 14, 2026, expands the list of bodies required to make meeting agendas available to the public in advance of meetings. The act adds the governing body of a local education agency and any other local governing body, as defined in the open meetings law, which has authority to make binding decisions or the ability to appropriate funds, excluding certain private nonprofit community organizations eligible to receive community services block grant funds. Local governments and covered local bodies should review their agenda publication practices to determine whether bodies not previously treated as covered by the advance agenda requirement must now comply.

Community Meetings with Electronic Participation. Public Chapter No. 895, which went into effect on May 5, 2026, authorizes local governing bodies to allow participation in community meetings by electronic means of communication. The act defines a “community meeting” as the convening of members of a community in a political subdivision to discuss and receive information about community public business. If members of the local governing body participate electronically, the body must allow the public to view and listen to the meeting in real time or listen in real time if the meeting is audio-only, and must allow electronic public participation if participation would normally be allowed at the community meeting. The notice for the meeting must state that members of the local governing body will participate electronically, identify the physical location for public attendance if there is an in-person component, and provide information necessary for the public to access the meeting electronically. The local governing body must make a recording of the community meeting, post the recording or a link to it on the body’s website as soon as possible and no later than four business days after the meeting, keep the recording or link published for at least one year, and retain the recording for at least three years.

The act also requires members participating electronically to be able to hear and speak to each other, requires identification of persons present in the room from which a member participates, requires members participating electronically to be identifiable by name to the public throughout the meeting, and prohibits voting on any matter during a community meeting where members participate electronically.

Executive Sessions for Director-Level Hiring Interviews. Public Chapter No. 1048, which went into effect on May 21, 2026, authorizes a governing body to conduct an executive session to interview applicants for employment as director-level staff of the body. A governing body conducting such an executive session is not required to provide public notice of the executive session. It may not make hiring decisions or deliberate in the executive session, and all deliberation and voting must occur in an open, publicly noticed meeting. Attendance must be limited to members of the governing body, relevant staff invited by the body, and the applicants, and the minutes must disclose all persons in attendance except applicants who attend to be interviewed. Upon request by an applicant, the applicant’s application materials must be treated as confidential and not open to public inspection, but the selected applicant’s interview, if recorded, and application materials become public records subject to a public records request upon selection for employment or appointment. For this purpose, "director-level" generally means a position filled by the mayor or by vote of the governing body, or by the mayor with confirmation by the governing body, excluding the chief of police, that has authority over the operations and employees of a department, agency, or division of the governmental entity.

Electronic Participation for Emergency Communications District Boards. Public Chapter No. 1099, which went into effect on May 22, 2026, amends the open meetings law definition of "governing body" to include emergency communications district boards of directors assisted by the Emergency Communications Board created by Tennessee Code Annotated Section 7-86-302. By placing these boards within the definition used in Tennessee Code Annotated Section 8-44-108, the act authorizes them to participate in board meetings electronically under the open meetings law.

If you have any questions about these new public chapters or are looking to take advantage of any new funding opportunities, please contact the author or any member of our Public Finance team.

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