

# TMEPA

Tennessee Municipal Electric Power Association

## TMEPA Legislative Update February 2016

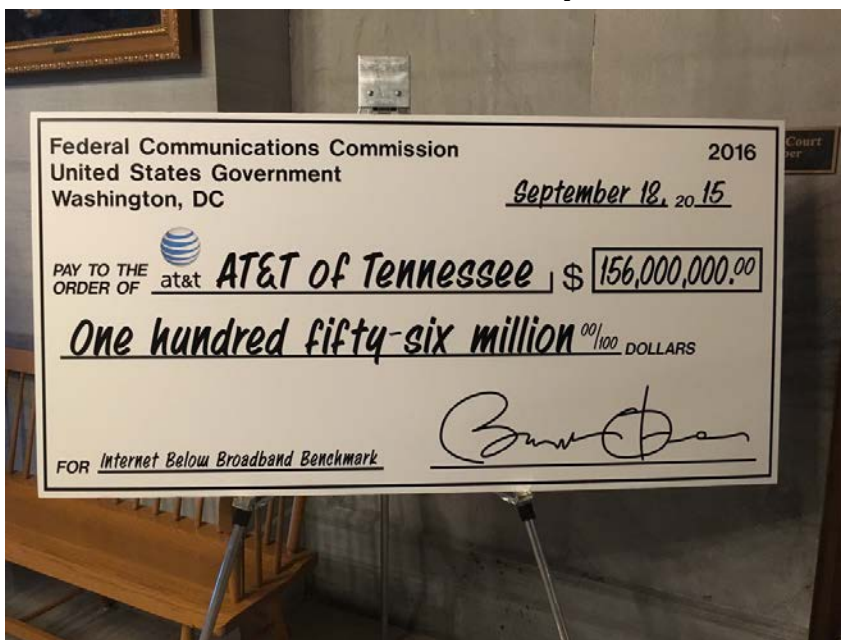
While the Tennessee General Assembly is in session, we'll be updating how things are going around Legislative Plaza, including the bills of most importance and concern to Tennessee's municipal electric systems. With the Senate beginning a new schedule, and the earliest bill filing deadline in memory, this year's legislative session started fast out of the gate. This year legislators have one of those rarest of things in government: a huge surplus to the tune of \$750 million. As one legislator said, it's already been spent about five times over. This may add to acrimony as sometimes it's harder to put a budget together when there is extra money than when it's balanced or needs trimming. Of course there is the usual, yearly battle to chip away at fixing the state's education system, which is something that always seems just one idea and year away. Overall, the General Assembly looks to conduct its business and adjourn in early to mid-April.

### Expansion of Municipal Electric Broadband

TMEPA renewed the fight to allow municipal electric systems to offer broadband service to more Tennesseans. Currently, municipal electric broadband can only be offered within the system's electric service area. [SB1134/HB1303](#), carried over from last year, would allow a municipal electric system to offer broadband service outside of its electric service area with the permission of the local electric utility. On February 3 at the State Capitol, grassroots supporters and legislators that support TMEPA's expansion bill held a press conference to call for legislation to pass this year to help more Tennesseans get access to high speed broadband. Several newspapers across the state carried stories about the need for more broadband, and that there is new momentum for the legislation this bill, even in the face of the incumbent providers asking legislators to delay action on legislation for yet another year. The most compelling grassroots supporter was a ten year student that spoke of the challenges she faces just to get her homework done on a nightly basis. Also in a show of the momentum on the issue, Rep. Art Swann, chairman of the Business and Utilities Subcommittee where the TMEPA bill is referred to, also spoke in favor of the cause at the press conference. AARP voiced their support of the bill as the need for access to broadband is important to their members in Tennessee. TACIR and the Department of Economic and Community Development are

undertaking studies of broadband in Tennessee, but we are continuing to be encouraged by the increasing level of support for the legislation as the public and many legislators are wanting and willing to finally find a solution to getting more broadband service to more people this year.

AT&T often alleges that municipals shouldn't be allowed to compete in the broadband because they are subsidized by taxpayer funds. What isn't told is that AT&T of Tennessee has received more federal funding than all the Tennessee municipals combined. Left is a replica check representing a \$156 million FCC grant to AT&T of Tennessee to expand rural internet service at 10mpbs speeds. Interesting, isn't it?



### **Residents Voting on Disposing of an Electric Plant**

This year TMEPA is carrying legislation to the General Assembly that clarifies the statute on how to dispose or sell a municipal electric system. The bill ([HB1766](#)) amends the [statute](#) that requires a referendum before a city can dispose of its electric system *so that the language matches the clear intent of the statute*. TMEPA's legislation seeks to make sure that every system would need the final approval of the residents of the city before a city could sell or dispose of the electric system. The bill will be heard Wednesday in the House Local Government Subcommittee.

### **Cogeneration and Distributed Generation Act**

Legislation has been deferred to later in the session that attempts to give the Tennessee Regulatory Authority the ability to regulate rates and other aspects of cogeneration and distributed generation facilities. [SB1853](#) gives us great concern as it gives the state the ability to regulate this area, and the bill also may violate the TVA wholesale power contract. We're still evaluating the effects of the bill, including the potential costs as the bill put into place a net metering structure and would violate wholesale power contracts with TVA.

### **Makeup of Municipal Electric System Boards**

TMEPA is still studying the effects of a bill that would add seats to the boards of municipal electric systems that serve more than one county. [SB1602](#) would require the governing body of a city operating a municipal electric systems to create a new position on the supervisory board for every county served by the utility. This would affect many of systems that offer electric service in multiple counties. The [Municipal Electric Plant Act](#) already requires two additional positions on a board to represent a county whose residents represent more than sixty percent (60%) of the utility's customers. We'll be communicating concerns about the bill with the sponsors and legislators as we continue to compile possible effects of the bill. Even should the bill be amended to limit how many systems it applies to, the precedent for all systems would be a dangerous one.

### **Residency Requirements to be Prohibited for Construction Contracts**

State and local governments would not be allowed to require a company bidding on construction projects to employ individuals who reside within their jurisdiction. The legislation ([SB1621/](#)[HB1674](#)) was filed as a result of a ballot initiative in Nashville-Davidson County that passed last August which requires at least 40% of workers on public projects live in Davidson County. Both House and Senate bills look on track for passage.

### **Protect Infrastructure from Drones**

With the increasing use of drones for personal and business use, state law is trying to keep up. [SB2106](#) would create the offense of using a drone to fly within 250 feet of a critical infrastructure facility for the purpose of conducting surveillance, gathering information about the facility or electronically recording critical infrastructure data. The bill has cleared Senate Judiciary after being amended to include in the definition of critical infrastructure "an electrical power generation system, electrical transmission system, either as a whole system or any individual component of the system, or electrical distribution substation."

### **Tennessee Workers Protection Act**

Legislation has been filed to expand employment law regarding E-Verify and employees that are in the state illegally. Titled the "Tennessee Workers Protection Act," [SB1486](#) also expands on the law and requirements of local and state governments in regards to persons residing in the state illegally. The bill has been deferred several times in Senate Commerce.

### **Home Rule City Creating an Energy Authority**

Some Northeast Tennessee legislators have filed legislation ([SB2430](#)) to allow Tennessee's home rule cities to convert their electric system to an energy authority. Other cities are able to have the legislature pass a private act authorizing such a shift, but home rule cities are not subject to private acts. The bill still follows a nearly similar process as the private acts have called for in the past.

### **Property Assessed Clean Energy Act**

[SB2352](#) revisits an idea from last year, allowing local governments to lend money to property owners who would install energy efficient devices or alternative energy generation, with the loans paid back with each year's property taxes. Last year saw a similar "Property Assessed Clean Energy Act" ([SB1043](#)) which didn't make it out of committee, and this year's bill attempts to address the concerns by some about the idea. Last year TMEPA "watched" the legislation to see how it would affect municipal electric systems.

### **State and Local Government Pensions Recognizing a Domestic Relations Order**

[SB1587](#) authorizes all public pension and retirement plans, including those local governmental entities, to recognize a qualified domestic relations order that directs the entity to allocate a portion of a member's benefits to the member's former spouse. While many municipal electric systems wouldn't see much impact from the legislation, we're concerned about the possible added expense to implement the bill.

### **Government Imposter and Deceptive Advertisements Act**

Proposed legislation strengthens Tennessee law in regards to people or documents claiming to be from the government. [HB2049](#) is very broad and covers many areas of possible fraudulent activity, but for municipal electric systems it will give another tool against telephone or mail scammers that target ratepayers.

### **Local Governments Collecting Credit Cards Fees**

[HB1698](#) removes the current restriction that no more than five percent of the payment amount paid by credit or debit card can be collected. If the bill were to pass, a local government entity could charge more than five percent of the payment amount to recover its costs in processing fees. Many systems pass on the credit or debit card processing fee to customers, so we will be watching this bill closely.

### **No Pole Attachment Bill Filed**

This year there are no bills filed that deal with pole attachments. This has been a perennial issue, but this year it looks like it will be a quiet one on it, at least far. There is the possibility this issue may come up in the debate over municipal electric broadband expansion in an attempt to distract legislators, but we will be sure to let them know of TVA's role as our regulator.

### **Senate Gets a New Schedule**

This year the Senate is operating under a new schedule, calling for the body to meet in floor session and committee for only three days a week. Senate floor session starts at 1:00 pm on Mondays, with committee meetings that afternoon and all day Tuesday. On Wednesdays, there are floor session and committee meetings. Senate staff says this will allow more time for committees to meet. It is certainly an adjustment for legislators, lobbyists and staff.

### **TMEPA Legislative Rally & Reception**

The TMEPA Annual Rally & Reception will be held Tuesday, February 23<sup>rd</sup> at the Hermitage Hotel. [Visit online](#) for more information, including the registration form. Lieutenant Governor Ron Ramsey will be speaking at the Rally Meeting.