

Last month the legislature adjourned for the year. Representatives and senators passed the state budget in relatively easy fashion, but debate and discussion over several other issues prolonged the legislative session several days beyond the hoped for adjournment day. No matter when it comes, the legislature adjourning for the year is always a welcome time. During the year legislators dealt with the budget, broadband and bathrooms among many issues, and they are now able to turn their attention to reelection. Like the rest of Tennessee, municipal electric systems can also now turn to seeing the full effect of what the legislative process has wrought. Below are many of the bills and issues we followed for the year.

Legislature Denies Municipal Electrical Broadband Expansion - Again

After another year fighting to expand broadband, getting better access to more Tennesseans will have to wait at least another year. All broadband expansion bills ([HB1333](#) and [HB2408](#)) were pulled from committee calendars in the House and Senate last month after it was clear they did not have the votes for passage. The lack of votes was illustrated when Rep. Kevin Brooks attempted to amend a caption bill ([HB2133](#)) to allow for EPB of Chattanooga to conduct a demonstration expansion project to go along with the studies being conducted by the Tennessee Department of Economic and Community Development and TACIR. The project would have allowed EPB to serve the rest of Hamilton County and into Bradley County. The amendment failed 3-5, with one committee member absent that likely would have voted “no” as well. While no bill went forward this year, the chairman of the subcommittee Rep. Art Swann placed all broadband bills into a summer study. Several legislators both publicly and privately have committed this is the last year they would oppose any expansion legislation, and that next year they would support a bill of some kind. This is encouraging, however promises of “next year” have been heard for several years. This year was perhaps the most promising so far, particularly with Rep. Swann’s hard work of trying to find a solution to help rural areas. Also, the development of legislators asking for the electric cooperatives to become broadband providers added another aspect to the fight to get more broadband service to more Tennesseans, especially in rural areas which have the most unserved and underserved. The Department of Economic and Community Development broadband study is due in June 2016, while the TACIR broadband study is set to be completed in January 2017.

Residents Voting on Disposing of an Electric Plant

This year TMEPA sought passage of legislation ([HB1766](#)) to clarify the statute that requires a referendum before a city can dispose of its electric system so the language matches the clear intent of the statute. The statute insures the process of selling or disposing of an electric system is an open one, with the city’s residents having the final say over whether to sell what is oftentimes a city’s largest asset. Nearly all legislators expressed support of the legislation when we discussed it with them, however the opposition was too much to overcome. Due to this bill, legislators now know our dedication to public power and doing what is in the best interest of our ratepayers.

Cogeneration and Distributed Generation

The hot topic for the electric utility industry had several bills in this year’s legislative session. [SB2352](#) allowed 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. [SB1853](#) gives the Tennessee Regulatory Authority the ability to regulate rates and other aspects of cogeneration and distributed generation facilities, and imposes net metering. A caption or placeholder bill ([HB2114](#)) was filed with amendments recently circulated that would allow entities to install distributed generation, offer it for resale, and not be classified as an electric utility. None of these bills gained traction this year, but the topic will likely see more discussion at the legislature in the near future.

De-annexation

A bill that garnered the attention this year of every city (and therefore every legislator) dealt with de-annexation. Last year the Senate passed legislation that added to the options for areas of municipalities to de-annex. This year, the House passed a version of the legislation ([HB779](#)) that would allow a referendum in area that was annexed by the city if 10% of the registered voters in the area sign a petition. The House passed the bill so that it only applied to five cities: Monteagle, Kingsport, Chattanooga, Knoxville, and Memphis. When the bill returned to the Senate several amendments filed on it, including one filed at the request of TMEPA and other municipal utilities that clarified municipal utility systems could still offer their services in the de-annexed areas. Because of the many amendments, and the opposition of several senators to the House version that only applied to a select few cities, the bill was re-referred to the Senate State and Local Government Committee. During several committee meetings over two weeks, mayors from Memphis, Chattanooga and Knoxville spoke in opposition of the bill. Sen. Watson, the Senate sponsor, agreed to language requested by TMEPA and several municipal utilities that would clarify de-annexation would not “require a municipal utility to cease providing electrical service, sanitary sewer service, other utility services, or street lighting in the territory” being de-annexed. During committee discussion as they were amending the bill, in a surprising move the Senate State and Local Government Committee voted to send the bill to summer study, a tactic used many times each legislative session. With this legislation, we’ll have to see if the tactic was used to kill the bill, or if the committee will make a genuine effort to examine this complicated issue.

Makeup of Municipal Electric System Boards

A bill that would have required seats be added to the boards of municipal electric systems that serve more than one county did not go forward year. [SB1602](#) required the governing body of a city operating a municipal electric system to create a new position on the supervisory board for every county served by the utility. This would have affected many of systems that offer electric service in multiple counties, resulting in a total of at least 79 new board members being added to systems across the state. 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.

Pensions Recognizing a Domestic Relations Order

[SB1587](#), which passed the legislature this year, 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. The legislation has an effective date of July 1, 2016.

Cooperative Purchasing with Federal Entities

Towards the end of session the legislature passed [SB1615](#), which allows local governments to enter into cooperative purchasing agreements with federal agencies. The bill limits the items or services that can be purchased through a purchasing agreement, with construction equipment and engineering services being excluded from them. TMEPA worked with the House and Senate sponsors to clarify that anything municipal electric systems purchase or use through TVA will be allowed.

Creating an Tennessee Energy Policy Council

A bill that had worked its way through several committees but ended up not passing would have created an Energy Policy Council within state government. Under [SB1877](#), the council would make recommendations to the governor and general assembly on how to manage energy resources in this state and to increase domestic energy exploration and development. As originally drafted, TVA had a seat on the council, but the bill was amended to only include a seat for large industrial electric customers without a seat for either a municipal or cooperative electric utility. The bill had a cost to the state which ultimately doomed the legislation, but TMEPA was worried about the potential make-up of a council that would make recommendations on how the state handles its energy resources and providers.

Local Governments Collecting Credit Cards Fees

This year the legislature passed a bill that deals with how much credit and debit card fees a local government entity can collect. [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 passes, a local government entity would pass on whatever processing fee the vendor charges, whether it be a flat rate or a percentage of the transaction amount. Many systems pass on the credit or debit card processing fee to customers.

Requiring Public Records Policy

Every local governmental entity will be required to establish a written public records policy no later than July 1, 2017 ([HB2082](#), [Public Chapter 722](#)). The entity would be able to use a model public records policy, which the bill requires the Comptroller's Office of Open Records Counsel to develop. The bill also revises requirements for protecting personally identifying information in records held by governmental entities. The governor has signed the bill.

Protecting Infrastructure from Drones

With the increasing use of drones for personal and business use, the legislature passed legislation to keep up with this growing issue. [SB2106](#) creates 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 final version of the bill that passed the Senate and House contained language that includes 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."

Local Governments and Utilities Writing Off Debt

A bill that would have addressed local governments writing off uncollectible debts did not go forward this year. [HB2461](#) required that accounts receivable owed to governmental entities that remain unpaid and owing for at least 15 years must be deemed uncollectible and written off. The bill also requires the governmental claimant to provide written notice to the debtor that the outstanding payment is discharged and not required within 30 days of an account receivable being deemed uncollectible. TMEPA worked with both House and Senate sponsors so that both writing off debt and providing notice when it's written off were optional. The bill ended up not going forward due to a legal technicality with the way the bill was drafted, but the sponsor will be working on the bill over the summer with a return likely next year.

Regulatory Takings of Land

Legislation to protect landowners from regulatory takings by government did not make it out of committee this year. [SB2369](#) allowed an owner of land subject to a regulatory taking to file a petition for a jury of inquest or sue for damages. A regulatory taking is when city, county, or state regulations cause deprivation of all economically beneficial use of the land, permanent physical invasion of the land, or diminishment of property values.

New Energy Authorities

Legislation ([SB2430](#)) passed the House and Senate in the final week of session 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 was filed at the request of Johnson City, and it still follows a nearly similar local approval process as the private acts have called for in the past. A private act ([HB2633](#)) also passed the legislature that would allow Tullahoma Utilities Board to become an energy authority. After local approval, Johnson City and Tullahoma would join three other cities who operate their electric utilities as energy authorities - Jackson, Bolivar and Brownsville.