SENATE BILL 220

By Taylor

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 9; Title 13; Title 48 and Title 67, relative to property tax incentives to encourage economic and community development.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-248(a), is amended by adding the following as a new subdivision:

( ) Commercial development board, created by § 67-5-2902;

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 5, is amended by adding the following as a new part:

67-5-2901.

(a) The general assembly finds that authorizing payment in lieu of ad valorem tax agreements and leases with private commercial developers who lease publicly owned property for a specified period of time will encourage economic growth and community development, including:

(1) Revenue gains from expanded economic activity attributable to the tax incentives;

(2) Increases in property tax collections after expiration of the incentives;

(3) Enhancements in fiscal health and urban revitalization in local communities; and

(4) Positive changes in community character.

(b) As used in this section:

(1) "Board" means the commercial development board created by § 67-5-2902;

(2) "Developer-lessee" means one (1) or more private persons or entities identified as the developer in a PILOT and lease agreement entered into pursuant to this section that leases a new commercial property and develops, and places in service, the new commercial property on or after the effective date of this act, and prior to the expiration of the PILOT agreement;

(3) "New commercial property" means a real property that:

(A) Is located within a county in which the combined property tax rate imposed by all affected taxing jurisdictions within that county exceeds five dollars and fifty cents ($5.50) per one hundred dollars ($100) of assessed value;

(B) Is solely developed for commercial use by a developer-lessee; and

(C) Is owned by the commercial development board; and

(4) "PILOT" means payments in lieu of ad valorem taxes that are equal to the taxes that would have been paid to the affected taxing jurisdictions if, for the tax year prior to the year the property becomes a new commercial property, the property was assessed at ten percent (10%) of its appraised value.

(c) Notwithstanding this chapter or other law to the contrary, upon written requests submitted by developer-lessees to the commercial development board to enter into agreements with respect to PILOTs and leases, and upon submission of a reasonable fee in an amount determined by the board to offset the costs of administering this part, the board shall approve the requests and receive from the developer-lessees PILOTs with respect to new commercial property.

(d) The board shall remit the PILOTs to each affected taxing jurisdiction. The commercial development board shall attach to the PILOT agreements an analysis of the costs and benefits of entering into such agreements. The analysis must contain a finding by the board that the PILOTs are in furtherance of the board's public purposes. A PILOT agreement entered into by the board must contain the following terms and conditions:

(1) The PILOTs are payable to all affected taxing jurisdictions in which the new commercial property is located; and

(2) The chair of the board has executed a letter supporting the lease of new commercial property to developer-lessees.

(e) The board is serving a public purpose by negotiating and receiving from developer-lessees PILOTs with respect to new commercial property.

(f) The board may acquire and lease a new commercial property in furtherance of the public purpose of promoting economic and community development in the state.

(g) An agreement providing for the acceptance of PILOTs, including any renewal or extension of such agreement, entered into by the board must not result in a developer-lessee making PILOTs for a period that is greater than ten (10) years.

(h) PILOTs and any lease payments payable to the board are and remain a first lien upon the fee interest in the leased property from January 1 of the year in which such PILOTs or lease payments are due. The board may enforce such lien, and also obtain interest at ten percent (10%) per annum from the date due and reasonable attorneys' fees, by suit filed in the circuit or chancery court.

(i) On or before October 1, 2026, and on or before October 1 of each subsequent year, the board shall submit to the comptroller of the treasury an annual report containing:

(1) A list of all new commercial property owned by the board;

(2) The value of each listed new commercial property as estimated by the board;

(3) The date and term of the lease for each listed new commercial property;

(4) The amount of PILOTs for each listed new commercial property;

(5) The date each listed new commercial property is scheduled to return to the regular tax rolls;

(6) The property address and parcel identification number of the new commercial property assigned by the assessor of property;

(7) The amount of rents paid;

(8) The amount of any property taxes paid on any leasehold assessment under § 67-5-502; and

(9) How the PILOTs are allocated between each affected city and county.

(j) A copy of the filing made pursuant to subsection (i) must be filed with the assessor of property in the county where the property is located on or before October 15 of the year in which the filing is made with the comptroller of the treasury. The assessor of property may audit or review, or both, the data report on all PILOT agreements and conduct comparative analysis to ensure that all agreements are reported to the assessor of property. The board shall timely complete and file the report.

(k) The board shall prepare biannual reports detailing all developer-lessees' compliance with the terms and conditions of the PILOT agreement or any other agreement whereby ad valorem taxes are substituted in favor of a PILOT. Such report must detail the developer-lessees' compliance and noncompliance where applicable, and its fiscal impact on revenues generated from ad valorem taxes in each city and county affected by such PILOT.

(l) All PILOT agreements must be reduced to writing and submitted to the chief executive officer of each jurisdiction in which the property is located and to the comptroller of the treasury, for review, but not approval. An agreement may be submitted in advance of its execution but must be submitted within ten (10) days after its execution. The name of individuals that are parties to the agreement may be obscured on copies of agreements submitted in advance of their execution.

67-5-2902.

(a) There is created the commercial development board. The board consists of eight (8) members as follows:

(1) Two (2) members to be appointed by the governor;

(2) Two (2) members to be appointed by the speaker of the house of representatives;

(3) Two (2) members to be appointed by the speaker of the senate;

(4) The commissioner of economic and community development, or the commissioner's designee, as an ex officio member; and

(5) The comptroller of the treasury, or the comptroller's designee, as an ex officio, nonvoting member.

(b) The members appointed pursuant to subdivisions (a)(1)-(4) are voting members.

(c) The terms for the initial board members who do not serve ex officio begin on October 1, 2025, and must be staggered as follows:

(1) The members appointed pursuant to subdivision (a)(1) shall serve an initial term of six (6) years;

(2) The members appointed pursuant to subdivision (a)(2) shall serve an initial term of five (5) years; and

(3) The members appointed pursuant to subdivision (a)(3) shall serve an initial term of four (4) years.

(d) Following the terms for initial board members as provided in subsection (b), the term for a board member who does not serve ex officio is four (4) years. A board member who does not serve ex officio is eligible for reappointment and may serve a maximum of two (2) full terms; provided, however, that an appointment to fill an unexpired term as a result of a vacancy does not count toward the term limit. At the expiration of a board member's term, the member may continue to serve until a successor is appointed or until the member is reappointed.

(e) Five (5) board members constitute a quorum for the transaction of business. If a quorum is present, a vacancy on the board does not prevent the board from transacting business or otherwise taking an action authorized pursuant to this part. Any form of board action must be passed by a majority of the voting members present.

(f) The commissioner of economic and community development serves as chair. The board shall meet at the call of the chair. The board may elect other officers as the board deems appropriate.

(g) The members appointed pursuant to subdivisions (a)(1)-(3) serve without compensation, but may receive reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(h) The department of economic and community development shall provide administrative support to the board.

(i) The board may exercise the powers and duties necessary to implement this part.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.