

Sunset Public Hearing Responses for  
**Industrial Development Division, Building Finance Committee**  
Created by Section 4-14-109, *Tennessee Code Annotated*  
(Sunset termination June 2014)

1. Provide a brief introduction to the Building Finance Committee, including information about its purpose, statutory duties, staff, and administrative attachment.

Small communities engaged in the process of publicly financing the purchase or development of industrial properties must first obtain a Certificate of Public Purpose and Necessity (“CPPN”) from the Building Finance Committee—an administrative procedure requiring significant time and resources by municipalities, lawyers, bond houses, engineers, and government officials. After public hearing, the issuance or denial of CPPNs is the committee’s sole function. More generally, the purposes of this process are to provide a state-level review of certain municipal debt issuances, to ensure proper economic and industrial development by local governments, and to protect taxpayers from unwise investments.

The Building Finance Committee was created by T.C.A. §4-14-109 to issue or deny CPPNs as required by the Industrial Park Act of 1959 (“Industrial Park Act”) at T.C.A. §13-16-201 *et seq.*, the Industrial Building Bond Act of 1955 (“Building Bond Act”) at T.C.A. §7-55-101 *et seq.*, as well as the Local Government Public Obligations Act of 1986 (“Public Obligations Act”) at T.C.A. §9-21-101 *et seq.*, the Industrial Development Corporations Act of 1955 (“IDC Act”) at T.C.A. §7-53-101 *et seq.*, and T.C.A. §6-54-117 regarding the construction of entertainment facilities by municipal corporations. Under its enabling statute, the committee is housed within the Industrial Development Division of the Department of Economic and Community Development (“ECD”) and voting members are appointed by the Governor. ECD Rule Chapters 0500-2-1 and 0500-2-2 establish procedures for the activities of the committee.

As described above, the Committee has only one function: to hear applications from local governments for CPPNs and to either issue or deny them. Copies of each application, along with administrative staff memoranda, are provided to voting committee members for prior review. A hearing is arranged and public notices are posted. During the hearing, the committee hears the applicant’s presentation and may ask additional questions about the project. The committee reviews all evidence and documents presented and on the basis of these facts, and before a CPPN is issued, must favorably find that the industrial park or site project:

- (a) is well conceived and has a reasonable prospect of success;
- (b) that there is good probability that the project will be self-sustaining from the sale and lease of land and fees charged for services, utility revenues, and taxes resulting from the development of the project;
- (c) will provide proper economic development of the municipality and will encourage industry to locate there;
- (d) will not likely become a burden upon the taxpayers; and
- (e) that there are adequate property values and suitable financial conditions, so that the total bond indebtedness of the municipality, solely for the purpose authorized by these acts, shall not exceed ten percent (10%) of the total assessed valuation of all property in the municipality ascertained by the last completed assessment at the time of the issuance of such bonds or notes.

An affirmative finding on each of these criteria is formalized as a motion passed by the committee and recorded on paper as a CPPN, which is effective for a period of three years. A CPPN authorizes but does not mandate that the municipality actually follow through with a bond or note issue.

TCA § 4-14-109(f) specifies that the Director of the Industrial Development Division shall serve as secretary to the committee. Presently, this duty has been delegated to the department's Attorney/Director of Contracts Unit. While not specifically stated in the Tennessee Code, the committee rules provide that administrative staff to the committee consists of advisory personnel from the Office of the Attorney General (legal opinions), the Office of the Comptroller (bond and local finance expertise), and ECD (site engineering and project cost expertise). Administrative staff attached to the Committee are as follows:

**Secretary**

David Goodman, Staff Attorney  
Department of Economic and Community Development

**Industrial Site Engineer**

Kendrick Curtis, Director of Community and Rural Development  
Department of Economic and Community Development

**Attorney General Staff**

Scott Jackson, Senior Counsel  
Office of the Attorney General

**Comptroller Staff**

Sandra Thompson, Director of State and Local Finance  
Office of the Comptroller of the Treasury

2. Provide a list of current committee members and describe how membership complies with 4-14-109(b), Tennessee Code Annotated.

Current committee members are as follows:

**Chairman**

Randall L. Gibson  
Chief Operating Officer/General Counsel  
Lawler-Wood Real Estate Development  
900 South Gay Street, Knoxville, TN 37902  
865-637-7777  
[rgibson@lawlerwood.com](mailto:rgibson@lawlerwood.com)  
Term expires: 06/30/2015

**West Tennessee**

Lonnie M. Haley, III  
General Contractor  
1040 Richland Drive, Memphis, TN 38116

901-484-5834

[lmhaley@msn.com](mailto:lmhaley@msn.com)

Term expires: 06/30/2016

**West Tennessee**

Michael P. Sadler

Financial Services Representative

6522 Birch Walk Drive, Memphis, TN 38115

901-270-7156

[Mpsadler1@gmail.com](mailto:Mpsadler1@gmail.com)

Term expires: 06/30/2016

**Middle Tennessee**

Stephen Betts

Financial Services Representative

4907 Roselawn Circle, Nashville, TN 37215

615-373-1971

[scarterbetts@comcast.net](mailto:scarterbetts@comcast.net)

Term expires: 06/30/2016

**Middle Tennessee**

Debbie C. Small

President

Community Bank & Trust

575 South Main Street, Ashland City, TN 37015

615-792-0029

[Debbie.small@cbtcc.com](mailto:Debbie.small@cbtcc.com)

Term expires: 06/30/2016

**East Tennessee**

Scot Braun

Managing Director

Gray Shadow Financial Services, LLC

PO Box 2735, Knoxville, TN 37901

865-851-1381

[scot@grayshadowfinancial.com](mailto:scot@grayshadowfinancial.com)

Term expires: 06/30/2016

**East Tennessee**

Frank (John F.) McGuffin

Member

McGuffin Holdings, LLC

P.O. Box 1639, Morristown, TN 37816

423-581-5655

[frank@mcguffinholdingstn.com](mailto:frank@mcguffinholdingstn.com)

Term expires: 06/30/2016

3. Are there any vacancies on the committee? If so, what steps have been taken to fill the vacancies?

There are currently no vacancies on the committee.

4. Does membership include a member who is sixty years of age or older? A member who is a racial minority? A member who is female?

Yes to each question above. Membership includes members who are sixty years of age or older, a member who is a racial minority, and a member who is female.

5. What per diem or travel reimbursement do members receive? How much was paid to committee members during fiscal years 2013 and 2014?

Reimbursement for travel expenses, if any, are made in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter. No per diem or travel reimbursements were paid to committee members during fiscal years 2013 and 2014.

6. What were the committee's revenues (by source) and expenditures (by object) for fiscal years 2013 and 2014?

The committee had no revenues or expenditures for fiscal years 2013 and 2014.

7. How many times did the committee meet in fiscal years 2013 and 2014? How many members were present at each meeting?

The committee did not meet in fiscal years 2013 and 2014. However, the committee expects to meet to hear two applications during the current fiscal year.

8. Is the committee subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes and public access to minutes?

Yes, the committee is subject to the requirements above.

9. What were the major accomplishments of the committee during fiscal years 2013 and 2014? Specifically what orders, findings, acts and/or certificates were issued during that period?

The committee took no official actions, made no orders or findings, and issued no certificates during fiscal years 2013 and 2014.

10. How many applications did the committee approve during fiscal years 2013 and 2014 for certificates of public purpose and necessity (as authorized by Section 7-53-307, *Tennessee Code Annotated*) to allow a municipality to pledge the full faith and credit of the municipality as surety to the payment of principal and interest of bonds? How many, if any, applications were rejected and for what reasons?

The committee neither approved nor rejected any such applications for certificates of public purpose and necessity during fiscal years 2013 and 2014.

11. How many applications did the committee approve during fiscal years 2013 and 2014 for certificates of public purpose and necessity (as authorized by Section 7-55-106, Tennessee Code Annotated) to allow a municipality to engage in enterprises deemed essential and in compliance with public welfare demands and sound state public policy requirements? How many, if any, applications were rejected and for what reasons?

The committee neither approved nor rejected any such applications for certificates of public purpose and necessity during fiscal years 2013 and 2014.

12. What reports does the committee prepare on its operations, activities, and accomplishments and who receives the reports?

The committee prepares minutes and other relevant meeting documents for submission to the Secretary of State. No other reports are prepared.

13. Does the committee have any policies in place to address potential conflicts of interest by committee members, committee employees, or other state employees who work with the committee in any capacity? If yes, please describe?

During each meeting, committee members are asked whether they have a personal conflict of interest in the project before the committee. If a conflict exists, the member must disclose the conflict and abstain from voting on that particular application. If more than one application is being heard during that meeting, the conflicted member may vote on the application for which no conflict exists.

14. Describe any items related to the committee that require legislative attention and your proposed legislative changes.

If the committee is continued, it may prove more effective to house the committee within the Comptroller's Office, Division of Local Finance, which possesses the bonding and local finance expertise that is most relevant to the committee's deliberations and functions. If the committee is not continued, scattered references throughout the Tennessee Code to the committee and to CPPN requirements should be revised.

15. Should the committee be continued? To what extent and in what ways would the absence of the committee endanger the public health, safety or welfare?

The committee should not be continued, or in the alternative, should be housed within the office of the Comptroller. Although the cost of committee operations to the State is negligible, the cost to the municipal applicant is not. As described above, the application process is lengthy, involved, and complex. Whether these costs are justified depends, in part, on whether the committee actually and adequately protects local taxpayers from interested transactions or otherwise unwise investments, and whether these protections are not already afforded by modern institutions, bond counsel, and state agency oversight that did not exist at the time most of this law was passed in the 1950s. Thus, it is unclear whether the absence of the committee

would pose significant risks to the public health, safety, or welfare. The central risk addressed by the committee is that small local governments will obligate taxpayers with unwise investments. Whether the State should be involved in mitigating any such risks is debatable. That is, the role of state government has generally not been to substitute its judgment with respect to economic and industrial development efforts by local governments. However, to the extent that the State is responsible for ensuring local governments remain solvent and financially sound, this role rests with the Comptroller of the Treasury, rather than ECD.

16. Please list all committee programs or activities that receive federal financial assistance and therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The committee receives no federal financial assistance.

***If the committee does receive federal assistance, please answer questions 17 through 24. If the committee does not receive federal assistance, proceed directly to question 23.***

17. Does your committee prepare a Title VI plan?

Not applicable. The committee does not receive federal assistance.

18. Does your committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

Not applicable. The committee does not receive federal assistance.

19. To which state and federal agency (if any) does your committee report concerning Title VI? Please describe the information your committee submits to the state or federal government and/or provide a copy of the most recent report submitted.

Not applicable. The committee does not receive federal assistance.

20. Describe your committee's actions to ensure that committee staff and clients/program participants understand the requirements of Title VI.

Not applicable. The committee does not receive federal assistance.

21. Describe your committee's actions to ensure it is meeting title VI requirements. Specifically, describe any committee monitoring or tracking activities related to Title VI, and how frequently these activities occur.

Not applicable. The committee does not receive federal assistance.

22. Please describe the committee's procedures for handling Title VI complaints. Has your committee received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

Not applicable. The committee does not receive federal assistance.

23. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

There are a total of eleven (11) committee staff composed of seven (7) voting committee members appointed by the Governor and (4) state agency designees serving as administrative staff, including (2) representatives of ECD, one (1) representative of the office of Attorney General, and one (1) representative of the office of the Comptroller of the Treasury. As described above, voting members' occupations include real estate development, banking and financial services industries, and construction. Committee staff comprises two (2) Caucasian females, two (2) African-American males, and seven (7) Caucasian males.

24. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner. There are no committee contracts.

There are no committee contracts.