

Item #: 46

Moved by: SUGARMON

Prepared by: Comm. Henri E. Brooks

Seconded by: CASWELL

Reviewed by: \_\_\_\_\_

RESOLUTION RECEIVING THE P.I.L.O.T. AD HOC COMMITTEE'S RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS ON REFORMS TO THE PAYMENT-IN-LIEU-OF-TAXES (PILOTS) PROCESS. SPONSORED BY COMMISSIONER HENRI E. BROOKS.

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WHEREAS, Pursuant to the Shelby County Board of Commissioners Permanent Rules of Order, Rule 7(c)(vii), the Chair of the Shelby County Board of Commissioners authorized the Shelby County P.I.L.O.T. Ad Hoc Committee; and

WHEREAS, The P.I.L.O.T. Ad Hoc Committee was duly convened to evaluate tax incentive programs by the Shelby County Board of Commissioners, such that every PILOT application and/or extension is subject to Legislative approval, as further stated in Exhibit B (The Charter) attached hereto and incorporated herein by Reference; and

WHEREAS, Due to the importance of tax incentives for the County's budget and economy, it is vital to know whether these programs are achieving their goals. To this end, this Ad Hoc Committee has established four goals: **create, manage, measure, and monitor** tax incentive programs in Shelby County, so that policymakers will have the most up-to-date, reliable information; and

WHEREAS, When the County can establish criteria to create, manage, monitor, and measure all of its tax incentive programs, it can identify how well these incentives are working and how they can be improved. In turn, County policymakers can use this information to get the best possible results for taxpayers and the economy; and

WHEREAS, The P.I.L.O.T. Ad Hoc Committee seeks greater accountability, quantifiable community benefits, and better economic outcomes for the citizens of Shelby County; and

WHEREAS, The P.I.L.O.T. Ad Hoc Committee met on 19 occasions and developed specific recommendations which are intended to evaluate tax incentive programs by the Shelby County Board of Commissioners, such that every PILOT application and/or extension is subject to local legislative approval; and

WHEREAS, Accordingly, the P.I.L.O.T. Ad Hoc Committee proposes the following recommendations as provided for in **Exhibit B** (The Reforms) to reform the review, approval, monitoring and compliance mechanisms governing the payment in lieu of taxes processes, attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the P.I.L.O.T. Ad Hoc Committee's recommendations, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference, are hereby received.

BE IT FURTHER RESOLVED, That this Resolution shall take effect in accordance with the Shelby County Charter, Article II, Section 2.06(B), the general welfare of the public requiring same.



Lee Harris  
County Mayor

Date: 12/22/2025

ATTEST.

Clerk of County Commission

ADOPTED: December 15, 2025

## EXHIBIT A

SHELBY COUNTY GOVERNMENT  
SHELBY COUNTY BOARD OF COMMISSIONERS  
160 North Main #600  
Memphis, TN 38103  
901.222.1000  
Fax 901.222.1002

## MEMORANDUM

**TO:** SHELBY COUNTY BOARD OF COMMISSIONERS

**FROM:** Michael Whaley,  
Chairman

**DATE:** September 19th, 2024

**RE:** Reconstituting the P.I.L.O.T. (Payment In Lieu of Taxes) Ad Hoc Committee

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Pursuant to the Shelby County Permanent Rules 7 (c) (vii)-Standing Committees/Special Rules for Committees, I am requesting the reinstatement of the P.I.L.O.T. Ad Hoc Committee to seek greater accountability and better economic outcomes (analyze, reform, and rationalize) of our Pilot program.

### MISSION/GOALS/OBJECTIVES

**MISSION:** Evaluation of tax incentive programs by the Shelby County Board of Commissioners. Every PILOT-granting agency must be subject to legislative review and reform.

**GOALS:** Due to the importance of tax incentives for the County's budget and economy, it is vital to know whether these programs are achieving their goals. To this end, this Ad Hoc Committee has established four goals: create, manage, measure, and monitor tax incentive programs in Shelby County so that policymakers will have the most up-to-date, reliable information. When counties can establish criteria to create, manage, monitor, and measure all of their tax incentive programs, they can identify how well these incentives are working and how they can be improved. In turn, County policymakers can use this information to get the best possible results for taxpayers and the economy.

### **OBJECTIVES:**

(1) **Create** – Review, revise and recommend (as necessary) criteria, eligibility and/or terms and conditions for creation of PILOTs. Recognizing PILOTs are a form of tax incentive, used to support development in the State of Tennessee/Shelby County, it is important that such agreements are structured correctly to ensure they are only entered into when it is in the best interests of the County, e.g., education, economic and/or community development, critical services, e.g., workforce development, affordable housing options, etc.

(2) **Manage** – Review, revise, and recommend (as necessary) current data management. What is needed is a data management system that organizes and transforms data into a user-friendly format,

creates knowledge and enables better decision-making. Review, revise, and recommend (as necessary) policies, procedures, and controls to ensure that the tax incentive organization operates in alignment with its objectives, legal requirements, and ethical standards.

(3) **Monitor** – Review, revise, and recommend (as necessary) best practice tools for observing and keeping a continuous record of processes and quantity. Observe and check the progress of tax incentive programs over some time and keep them under systematic review. Review the economic impact of tax incentive programs quantitatively, ranging from capital investment, jobs, and revenue impact. Revise, review, and recommend (as necessary) tax incentive program performance indicators to determine if goals are being met.

(4) **Measure** – Identify the best practice tools for measurement. Review, revise, and recommend (as necessary) performance versus goals for the last five years. Compare outcomes versus the County's needs. View other counties in Tennessee, using the same tax incentive programs. Review, revise, and recommend (as necessary) metrics to determine how well incentives are working and identify opportunities for improvement. Create an evaluation plan to measure the tax incentive program's impact and result. Identify what is working and what is not. Establish regular, rigorous policy-relevant evaluations that will make the County more economically prosperous and fiscally sound to the benefit of businesses, workers, and taxpayers.

The next meeting is scheduled for September 19<sup>th</sup>, 2024, at 11:30 a.m. at 160 North Main Street in the County Commission Chambers located on the 1st floor.

### **LEADERSHIP**

Chair: Commissioner Henri E. Brooks  
Vice Chair: Commissioner Mickell Lowery

### **MEMBERS**

Shelby County Trustee Regina Newman  
Attorney Javier Bailey  
Natalie McKinney  
Professor Austin Harrison  
Memphis City Council designee  
JoAnn Massey



## SHELBY COUNTY BOARD OF COMMISSIONERS PAYMENT IN LIEU OF TAXES REFORMS

EXHIBIT B

**MISSION:** The evaluation of tax incentive programs by the Shelby County Board of Commissioners, such that every PILOT application and/or extension is subject to local legislative approval.

**GOALS:** The impact of tax incentives on the County's budget and economy, make it vital to know whether these programs are achieving the community benefits outlined in State statute and in keeping with priorities established by Shelby County Government. To this end, this Ad Hoc Committee has established four goals: **Create, Manage, Monitor, and Measure** tax incentive programs in Shelby County, so that policy-makers have the most up-to-date, reliable information, and best possible results for taxpayers and the economy.

### DEFINITIONS:

**Quality Affordable Housing** – Housing that is financially attainable for low- to moderate-income households and meets certain standards for safety, durability, and livability, often incorporating features like energy efficiency and proximity to amenities. The most common benchmark for affordability is that housing costs, including utilities, do not exceed **30% of a household's gross income**. Beyond cost, quality housing must also be in good condition, stable, and in a context that supports residents' health and well-being. (*Source: HUD Housing Quality Standards*)

**Workforce Development** – A strategic approach to improving the skills, knowledge, and capabilities of a workforce to meet current and future labor market demands. It involves a range of programs and services, such as education, training, and support systems, that help individuals gain or advance in their careers while also helping businesses find skilled workers. (*Source: Workforce Innovation and Opportunity Act of 2014, federal law*)

**Workforce Training** – A component of workforce development that focuses on teaching specific, job-related skills for immediate use. (*Source: Department of Labor*)

### PAYMENT IN LIEU OF TAXES (PILOT) REFORMS:

**CREATE** – Review, revise and recommend (as necessary) criteria, eligibility and/or terms and conditions for creation of PILOTs. It is important that tax abatement agreements are structured to ensure they are only entered into when it is statutorily in the best interests of the County, e.g., workforce development, quality affordable housing options improved household incomes, etc.

1. Ensure Legislative Approval:
  - a. Require County Commission approval for new and extension PILOT applications.
  - b. Disallow any retroactive changes to the term periods of PILOTs, be they initiations, amendments or resurrections of terms.
  - c. Legislate and specify a maximum ten-year term for a housing or job creation/workforce PILOT; and a maximum tax abatement of 55% for all PILOTs. With the maximum abatement set at 55%, each PILOT shall pay at least 45% as their PILOT contract payment. Exclusive of any debt service calculation and payment from the PILOT contract

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payment, the remaining portion of each contract payment shall be divided and allocated by the County Trustee as follows: 44% shall go to the Education Trust Fund for expenses unrelated to Maintenance of Effort; 10% shall go to the Affordable Housing Trust Fund (AHTF) as established hereinbelow; and the remaining 46% portion shall go to the County General Fund.

- d. Prohibit any municipality or Industrial Development Board from abating County taxes. Such abatement request must be brought before the County legislative body for approval.
- e. Any PILOT that includes a housing component shall meet the grounds of the statutory criteria for quality affordable housing, such that no housing projects shall receive PILOTs, unless they are providing quality affordable housing.

2. Implement Strong, Independently Verifiable But-For Analysis or Cost-Benefit Analysis:

a. **But-For Analysis must:**

- 1) Show the minimum incentive needed to have the project move forward, not just what the developer requested.
- 2) Provide Financial Projections: The analysis requires a detailed look at the project's financial feasibility without the PILOT. This involves estimating:
  - Development costs (construction, land acquisition, etc.)
  - Operating expenses
  - Expected revenues
  - Financing requirements
  - Profitability
- 3) Provide Documentation and Supporting Evidence: The developer must provide sufficient documentation to support the claims made in the "but-for" analysis. This may include:
  - Detailed financial statements
  - Market studies
  - Cost estimates
  - Evidence of financing attempts
- 4) In compliance with T.C.A. § 7-53-102, which gave birth to the Payment-In-Lieu-of-Tax (PILOT) Program, no PILOT shall be approved which does not facilitate: a) workforce development, or b) the creation of new or refurbished quality affordable housing, or c) increase the production of agricultural commodities.
- 5) Prohibit the abatement or diversion of the debt service portion of property taxes.

b. **Test the But-For Analysis:**

1) **Sensitivity Analysis:**

- Analyze how changes in key variables (e.g., construction costs, interest rates, rental rates, occupancy rates) would impact the project's financial feasibility.
- Embed Community/Tenant Benefit Agreement in the PILOT application.

- This helps determine if the project is marginally viable without the PILOT or if it's highly dependent on the incentive.
- 2) **Review of Financing Efforts:**
- Require the developer to provide documentation of their efforts to secure financing without the PILOT.
  - This can include loan applications, rejection letters, or correspondence with potential lenders that illustrate the difficulty of obtaining funding without the incentive.
  - Engage an independent financial consultant or expert to review the developer's financial projections and assumptions.
- 3) **Assessment of Project Risks:**
- Evaluate the risks associated with the project, such as construction delays, unforeseen site conditions, or changes in market conditions.
  - A higher-risk project may warrant a PILOT, but the "but-for" analysis must clearly demonstrate the impact of the PILOT on mitigating these risks and making the project feasible.
  - **PILOT-reviewing agencies will investigate and evaluate recent company/developer performance in the granting of new PILOTs** - For **companies** – do they have a record of treating workers poorly, treating the communities surrounding their company poorly, or not holding their end of a PILOT agreement (like Electrolux did us a few years back). For **developers** – do they evict often? Do their other developments have code enforcement issues? Have they been in the news for all the wrong reasons? Then, they shouldn't receive or be recommended for a PILOT.
- 4) **Public Input and Transparency:**
- Make the "but-for" analysis and related financial information publicly available to allow for scrutiny by community members and stakeholders.
  - Hold public hearings or meetings to gather input and address concerns about the PILOT agreement.
- 5) **Comparison to Alternative Scenarios:**
- Compare the economic benefits of the proposed PILOT project to what might happen on the site without the PILOT (e.g., vacant land, a different type of development).
  - This comparison helps determine if the PILOT is driving a truly beneficial outcome that wouldn't otherwise occur.
3. Connect the incentive to **public benefits** (quality affordable housing units, job creation/workforce development, infrastructure improvements, increased per-capita or household incomes) to or abatement of public revenue is warranted.

4. Ensure that job creation PILOTs minimally comply with the MIT-based livable wage salary chart for a family of four with two working adults.
5. Include a claw-back provisions in all PILOT lease agreements.
6. **Graduated PILOT Structures:** Introduce structures that decrease the tax abatement over time, easing the transition for businesses and ensuring properties eventually pay full taxes.
7. **Annual Caps:** Establish annual caps on total PILOT abatement amounts to force prioritization of the highest-impact projects.

8. **Community Benefit Requirements**

To qualify for PILOT incentives that include a housing component, businesses/developers must:

- a. **On-Site Quality Affordable Housing Development.** Allocate at least 20% of housing units in new or renovated developments for quality affordable housing.
- b. **Fulfill at least two of the following requirements:**
  - 1) **Quality Affordable Housing Contributions.** Housing Trust Fund Allocation: Contribute a percentage of tax abatement savings to a dedicated quality affordable housing fund (in addition to a. above).
  - 2) **Rehabilitation of Existing Housing.** Invest in rehabilitating and maintaining quality affordable housing stock.
  - 3) **Educational Contributions.** School Infrastructure Support: Fund school renovations, classroom technology upgrades, or new educational facilities.
  - 4) **Scholarships & Workforce Training.** Provide scholarships, vocational training, and apprenticeships for local students.
  - 5) **Public-Private Partnerships:** Encourage the business to collaborate with non-profit housing organizations or local developers to build or renovate quality affordable units.
  - 6) **Mixed-Income Housing Incentives:** Structure PILOT agreements to encourage developments that blend market-rate and quality affordable housing.

9. **Transparent Agreements & Community Involvement**

- a. **Community Input:** Engage community stakeholders, including local governments, residents, and businesses, in discussions about PILOT agreements.
- b. **Clear Agreements:** Ensure that PILOT agreements specify how funds will be used to benefit public services such as quality affordable housing, livable wage jobs, workforce training, schools, infrastructure, or emergency services.
- c. **Project Approval/Disapproval and Design:** Any appeals processes made available to corporation, developers or other applicants must also be made available to neighborhoods, community organizations and taxpayers.

**10. Establishment of the Shelby County Affordable Housing Trust Fund (AHTF).**

Shelby County shall create an Affordable Housing Trust Fund to receive, hold, and deploy revenues dedicated to the development, preservation, and rehabilitation of quality affordable housing across the County. Ten percent of the PILOT payment shall be distributed to the Affordable Housing Trust Fund. PILOT-generated community benefit contributions and other eligible sources may be escrowed into this fund. All monies placed into the Trust Fund shall be reserved exclusively for housing-related purposes and expended according to a prescribed deployment schedule established through County policy. An entity designated by the legislative body of Shelby County may be authorized to administer the Trust Fund, including managing deposits, disbursements, and required reporting consistent with County guidelines.

- 11. Education Trust Fund. Education Trust Fund.** With the maximum abatement set at 55%, each PILOT shall pay at least 45% as their PILOT contract payment. Exclusive of any debt service calculation and payment from the PILOT contract payment, the remaining portion of each contract payment shall be divided and allocated by the County Trustee as follows: 44% shall go to the Education Trust Fund for expenses unrelated to Maintenance of Effort; 10% shall go to the Affordable Housing Trust Fund (AHTF) as established hereinbelow; and the remaining 46% portion shall go to the County General Fund.

**MANAGE** – Strengthen Data Infrastructure, Systems and Tools

**Purpose:** Build a modern, transparent, and integrated data management ecosystem that ensures accurate, accessible, and efficient handling of all PILOT-related information.

**1. Modernize Data and Contract Management Systems:**

- a. Implement contract management software with automated alerts for deadlines, compliance checkpoints, and updates.
- b. Maintain a centralized, updated database containing all contracts and PILOT documentation.
- c. Ensure original and updated contracts are sent to the Trustee and Assessor promptly to support accurate and timely billing.

**2. Develop an Integrated County-wide PILOT Data Infrastructure:**

- a. Create a County-managed integrated database accessible to all Boards.
- b. Resolve data comparability issues, reduce billing errors, and streamline parcel-level reporting.
- c. Ensure data are organized in user-friendly formats that enable decision-making and public transparency.

**3. Enhance Data Access and Transparency:**

- a. Build and maintain a public-facing online portal with agreements, performance reports, but-for analyses, and compliance records.
- b. Provide real-time access to PILOT status, delinquencies, and performance outcomes.
- c. Communication and collaboration platforms: Foster communication between stakeholders by using platforms that facilitate information sharing and discussion.
- d. Contract management software: Implement software to manage contracts, automate alerts for key dates and deadlines, and track performance metrics.
- e. Data analysis tools: Use tools to analyze collected data, identify trends or patterns, and generate reports on performance.

**4. Strengthen Interagency Coordination**

- a. Improve communication and data-sharing between IDBs, other municipalities and their IDBs, the Shelby County Assessor, and the Trustee.

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- b. Use collaboration platforms for timely problem-solving, feedback loops, and data reconciliation.
- c. All Boards must maintain an updated database of contract information. The creation and maintenance of same would enable the Boards to manage, monitor and measure the effectiveness of their efforts to positively impact Shelby County's economic conditions.
- d. The Trustee currently publishes a monthly "PILOT Delinquent Report by Granting Authority" on the Trustee's website and notifies the Boards of PILOT delinquencies. Boards will take note of delinquent contracts in order to determine and act on the appropriate next steps, including terminating PILOTs, as necessary, to protect the County's tax base.
- e. The stakeholders will seek funding for the development of an integrated database that each Board can update and maintain. This integrated database would provide a centralized information source, resolve comparability issues, simplify record or parcel maintenance, ease reconciliation, reduce billing errors, and speed up the transfer process when a parcel returns to the tax rolls; and most importantly, provide a mechanism for accurate and timely reporting.

**5. Build Support Tools for Decision-Making**

- a. Use data analysis tools to detect trends, analyze performance, and support evaluation.
- b. Maintain a central repository for reports, financial data, monitoring documents, and compliance actions.

**6. Enforcement and Compliance** – Shelby County shall formally designate the Shelby County Equal Opportunity Compliance (EOC) Office as the centralized compliance authority for all PILOT-related monitoring and enforcement.

- a. The EOC Office will:
  - 1) Develop the implementing rules, standardized compliance exhibits, and reporting templates.
  - 2) Review all required compliance documentation.
  - 3) Maintain a centralized repository of all PILOT agreements and compliance records.
  - 4) Issue formal notices of non-compliance.
  - 5) Recommend corrective actions, suspension, or clawbacks when obligations are unmet.
  - 6) Manage compliance checklists, timelines, and an Active Compliance Status dashboard, ensuring timely verification of commitments related to quality

affordable housing, workforce development, wage standards, and community benefits.

- b. **Conditional Clawback Provision:** If business fails to meet obligations, **non-compliance triggers an automatic clawback** and potential disqualification from future incentives.
- c. **Performance Benchmarks:** Establish measurable goals for housing units built, livable wage jobs created, quality affordable housing funds allocated, etc.
  - 1) **Define quantifiable goals:** The PILOT agreement must include specific, measurable objectives, such as job creation targets, investment levels, square footage developed, or other relevant metrics aligned with the initial application.
  - 2) **Set benchmarks:** Establish baseline data before the PILOT is granted and set realistic targets for measuring progress over time.
- d. **Regular Audits:** Shelby County will conduct independent audits to verify compliance.
  - 1) **Outline monitoring frequency:** Determine how often data will be collected and analyzed (e.g., quarterly, annually).
  - 2) **Assign responsibilities:** Clearly designate who within the municipality is responsible for collecting data, conducting analysis, and reporting on compliance.
  - 3) **Establish data collection methods:** Define the processes for gathering information, which may include site visits, reviewing financial reports, or collecting data on job creation.
  - 4) **Create a central repository:** Maintain a secure and accessible location for all contract data, including agreements, reports, and relevant documentation.
- e. **Implement a robust compliance process for PILOT programs, especially those targeting quality affordable housing, is essential to ensure that developers adhere to their commitments and that the intended community benefits are realized.** Below are examples of effective compliance metrics and processes drawn from various programs:

**MONITOR** – Observe, Track and Verify Performance.

**Purpose:** Ensure that PILOT commitments are fulfilled through continuous tracking, verification, and reporting—supporting accountability, transparency, and early detection of issues.

**1. Track Economic Impact and Performance**

- a. Monitor capital investment, job creation, property tax benchmarks, and revenue impacts.
- b. Compare reported outcomes with required metrics and performance benchmarks.
- c. Housing trust fund reserves must be directed to building or renovating quality affordable housing on a prescribed schedule.

**2. Continuous Compliance Monitoring**

- a. Conduct regular independent audits (quarterly or annual).
- b. Ensure that any job creation PILOTs minimally comply with MIT-based livable wage salary chart for a family of four with two working adults.
- c. Require annual compliance reports from businesses detailing performance vs. commitments.
- d. Monitor rent levels, occupancy, income eligibility, and unit set-asides for housing-related agreements.
- e. Utilize the existing Equal Opportunity Compliance function and infrastructure to monitor and report compliance with stipulations in PILOT contract agreements.
  - 1) Breach of payment stipulations in the contract agreement may necessitate the County Trustee, on behalf of the County, to sue for the right to terminate the contract agreement if the IDB fails to bring the developer into compliance, because the County is a third-party beneficiary of the contract.
  - 2) Failure to comply with conditions upon which the PILOT was granted will constitute a breach of the agreement and cause the developer to be sued by the County Attorney on behalf of the County's third-party interests.

**3. Structured Monitoring Processes**

- a. **Conditional Clawback Provision:** If business fails to meet obligations, non-compliance triggers an automatic clawback and potential disqualification from future incentives.
- b. **Performance Benchmarks:** Establish measurable goals for housing units built, livable wage jobs created, quality affordable housing funds allocated, etc.

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- 1) Define quantifiable goals: The PILOT agreement must include specific, measurable objectives, such as job creation targets, investment levels, square footage developed, or other relevant metrics aligned with the initial application.
  - 2) Set benchmarks: Establish baseline data before the PILOT is granted and set realistic targets for measuring progress over time.
  - c. **Regular Audits:** Shelby County will conduct independent audits to verify compliance.
    - 1) Outline monitoring frequency: Determine how often data will be collected and analyzed (e.g., quarterly, annually).
    - 2) Assign responsibilities: Clearly designate who within the municipality is responsible for collecting data, conducting analysis, and reporting on compliance.
    - 3) Establish data collection methods: Define the processes for gathering information, which may include site visits, reviewing financial reports, or collecting data on job creation.
    - 4) Create a central repository: Maintain a secure and accessible location for all contract data, including agreements, reports, and relevant documentation.
  - d. Implement a robust compliance process for PILOT programs, especially those targeting quality affordable housing, is essential to ensure that developers adhere to their commitments and that the intended community benefits are realized. Below are examples of effective compliance metrics and processes drawn from various programs:
4. **Key Performance Indicator (KPI) Processes** – Shelby County will conduct independent audits to verify compliance.
- a. **Regular Audits:**
    - 1) Outline monitoring frequency: Determine how often data will be collected and analyzed (e.g., quarterly, annually).
    - 2) Assign responsibilities: Clearly designate who within the municipality is responsible for collecting data, conducting analysis, and reporting on compliance.
    - 3) Establish data collection methods: Define the processes for gathering information, which may include site visits, reviewing financial reports, or collecting data on job creation.
    - 4) Create a central repository: Maintain a secure and accessible location for all contract data, including agreements, reports, and relevant documentation.
  - b. Implement a robust compliance process for PILOT programs, especially those targeting quality affordable housing, is essential to ensure that developers adhere to their commitments and that the intended community benefits are realized.

c. Below are examples of effective compliance metrics and processes drawn from various programs:

1) **Quality Affordable Housing Contribution Compliance**

- **Unit Allocation Verification:** Confirm that the agreed-upon percentage of housing units are designated as affordable. For instance, in Memphis, residential projects with 50 or more units must comply with the Affordable Housing Program, ensuring a specific portion of units meet affordability criteria.
- **Rent Level Monitoring:** Regularly assess that rents for quality affordable units are set according to predefined affordability standards, often pegged to a percentage of the Area Median Income (AMI).

2) **Financial Contributions and Fund Allocation**

- **Housing Trust Fund Payments:** Track developer contributions to housing trust funds, ensuring payments are made in full and on schedule.
- **Use of Funds Auditing:** Audit the allocation of funds to verify they are utilized for intended purposes, such as quality affordable housing development or rehabilitation.

3) **Resident Eligibility and Occupancy**

- **Income Verification:** Implement processes to verify that residents of quality affordable units meet income eligibility requirements, maintaining compliance with program guidelines.
- **Occupancy Rate Monitoring:** Monitor occupancy rates to ensure quality affordable units are occupied and that vacancies are addressed promptly, maintaining the availability of quality affordable housing.

4) **Regular Reporting and Audits**

- **Annual Compliance Reports:** Require developers to submit detailed annual reports outlining compliance with all PILOT agreement terms, including quality affordable housing provisions.
- **Independent Audits:** Conduct periodic independent audits to objectively assess compliance and identify any discrepancies or areas for improvement.

5) **Performance Metrics and Community Impact**

- **Resident Satisfaction Surveys:** Collect feedback from residents of quality affordable units to gauge satisfaction and identify areas needing attention.
- **Community Benefit Assessments:** Evaluate the broader impact of the PILOT program on the community, such as improvements in local economic development or neighborhood revitalization.

5. **Public and Community Monitoring**

- a. Establish clear monitoring frequency and assign responsibility for data collection and analysis.

- b. Conduct site visits, verify financial documentation, and review job creation data.
- c. Track delinquent contracts using the Trustee's monthly delinquency report and enforce corrective actions.
- d. A breach in contract stipulations, e.g., a change in credit status, ability to perform/produce a specified number of jobs in a specified timeframe, etc., will trigger an escalation of actions to bring the developer/entity back into compliance with the contract.
- e. Hold quarterly community engagement meetings to report progress and collect feedback.
- f. Use resident satisfaction surveys and community benefit assessments as qualitative measurement tools.
- g. Ensure but-for analyses and financial documentation are publicly available for community review.
- h. Public Disclosure – All agreements and reports must be accessible to the public through an online portal.

**6. Continuous Improvement Feedback Loop**

- a. Identify emerging problems early and recommend corrective actions.
- b. Use monitoring data to refine future incentive structures, policy guidelines, and performance benchmarks.
- c. Document what is working, what is not, and what must be adjusted.

**MEASURE** – Evaluate Performance Impact

**Purpose:** Ensure that PILOT programs deliver measurable, evidence-based economic and community benefits by using validated metrics, trend data, and comparative analysis.

**1. Evaluate Program Outcomes vs. Goals**

- a. Review performance against stated goals over the past five years.
- b. Compare outcomes with County needs, including job creation, capital investment, affordable housing units, and fiscal returns.
  - 1) **Comparable Tax Benchmarks:** Ensure that PILOT payments are in line with the property taxes that would otherwise be paid.
  - 2) **Avoid Undervaluation:** Negotiate rates that reflect the true economic impact of the entity receiving tax breaks.
- c. Use annual community impact reports, resident satisfaction surveys, occupancy data, and Housing Trust Fund contributions as key indicators.
  - 1) **Resident Satisfaction Surveys:** Collect feedback from residents of quality affordable units to gauge satisfaction and identify areas needing attention.
  - 2) **Community Benefit Assessments:** Evaluate the broader impact of the PILOT program on the community, such as improvements in local economic development or neighborhood revitalization.

**2. Develop and Refine Metrics**

- a. Define quantifiable goals for each PILOT (jobs, wage levels, investment, square footage, affordability percentages, etc.).
- b. Set baseline data prior to project approval and use standardized metrics for year-over-year comparisons.
- c. Regularly revise and update the County's metric framework to ensure relevance and rigor.

**3. Comparative Analysis Across Counties and Markets**

- a. Benchmark Shelby County's PILOT results against other Tennessee counties using similar tax incentive structures.
- b. Use market analyses, alternative scenario modeling, and sensitivity analyses to determine relative performance.

**4. Rigorous Evaluation Systems**

- a. Create a formal evaluation plan detailing what is measured, how often, and by which tools.
- b. Conduct cost-benefit analyses and require hearings for PILOTs with benefit-to-cost ratios below 1.0.
- c. Engage independent evaluators to review the accuracy of "but-for" claims and impact projections.

# EXHIBIT C



**PILOT Reform Community Engagement  
 Breakout Groups Feedback**



**Purpose:** The purpose of this community engagement event is to receive feedback from you on issues related to property tax abatements given to developers/corporations; and whether they achieve their purpose as stated in the legislation authorizing PILOTs. Your input will assist in potential reforms and actions the County can take to meet the law's requirement to facilitate workforce development, increase quality affordable housing and positive economic impact.

**Process:** More than 50 emerging and best practices were identified in national and peer cities benchmarking. The Top 6 or most referenced priorities were presented to participants in the Community Engagement events. Twenty-five participants took part in these events.

1. Participants ranked, by order of importance, those Top 6 priorities.
2. Participants then shared what other priorities should have been included in the Top 6.
3. Participants explained why they were important.

**Top 6 Benchmarked Priorities Ranked:**

Highest Ranked

Lowest Ranked

1                      2                      3                      4                      5                      6

BENCHMARKED PRIORITIES	1	2	3	4	5	6
Stronger criteria for evaluating & granting PILOTs						
Standards for monitoring, compliance & reporting community benefits						
Protect school funding						
Independent financial justification and oversight						
Target desired PILOT types, i.e., jobs, quality affordable housing						
Legislative bodies re-engage in PILOT approval						
<b>SHOULD BE PRIORITIES</b>						
Increased quality affordable housing						
Increased workforce opportunities and jobs						
Establish independent oversight						
Monitor and report community benefits						
Ensure community benefit						
Hire local residents first						
Train people for jobs/work						
Invest in Black-owned Businesses						

## ATTENDEE COMMENTS

- Grants are hand-outs. Tax breaks are hand-up. PILOTs are a real challenge because they can get the tax break and then leave. They need monitoring and accountability. Shelby County should take the money and put it in a housing or jobs-related community benefit fund. It should be a revolving loan fund, which can be applied to once a year.
- There should be residency requirements for company/developer leadership.
- Identify the boards doing it right. IDBs do too much yes-ing to PILOTs:
  - All the 11 boards do it differently.
  - The similarities are that it all happens in the process before the staff receives the application for the PILOT.
  - A group that does this really well is the Downtown Memphis Commission. You can see how many PILOTs they turn down. Before they present it to their board, their staff looks at the proforma; looks at the budget; goes deep into the numbers; how much revenue they are taking in; and responds in an appropriate manner and may determine that the applicant doesn't need the level of tax break being requested. Not a lot of the boards do that, but that is a part of the process.
- Require payment to promote community benefit – invest in community
- If we stay with boards, change process for appointment
- Have PILOTs provide strategic long-term plan
- Rank request and benefit or blighted properties
- To be "Attainable," applications should include mixed income units
- No one should pay more than 30% of their income for housing. Consider ALICE-based (Asset Limited, Income Constrained and Employed) income to measure livable wage criteria.
- Address issues Memphis Housing environmental court and code enforcement
- Investigate developers/corporations' practices elsewhere
- Investigate environmental assessments for commercial developments
- Community/tenant benefits should focus on place-making, ending blight, upkeep and landscaping
- There should be a carve-out for education. Protecting school funding should be politically easy, palatable to the community. Going through the priorities, we had some different questions come up, such as:
  - How is potential community being tracked amongst the number of properties that are granted PILOTs?
  - If developers/corporations say they provide some kind of community benefit, where are we tracking that?
  - If they say they are going to provide X number of jobs, is that being tracked? Who is monitoring what corporations are actually doing? What are the standards for tracking?

## SHELBY COUNTY BOARD OF COMMISSIONERS

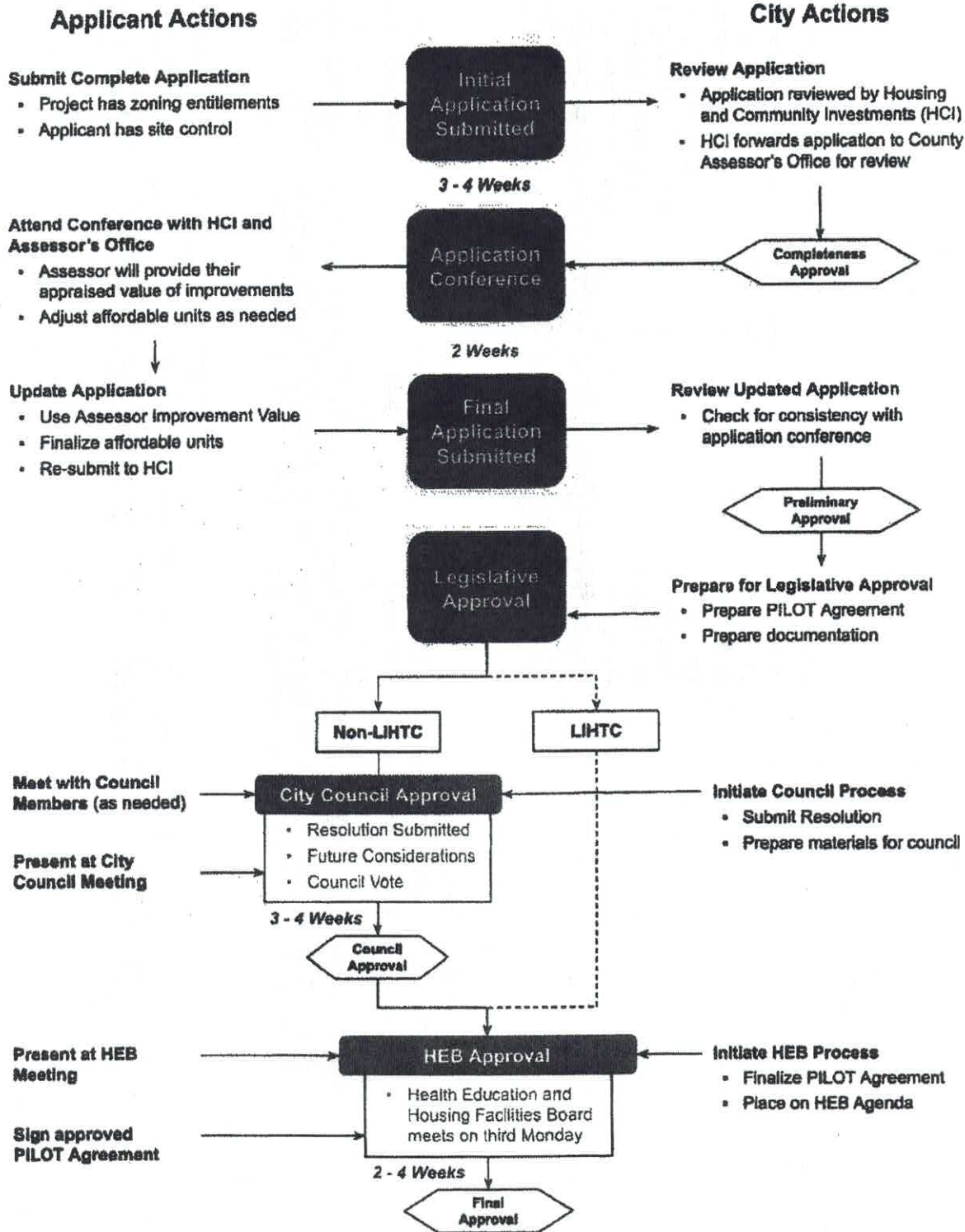
### Payment in Lieu of Taxes (PILOT) Reforms

- For every new PILOT, we lose school funding. How do we protect that funding or recuperate it?
- Can independent oversight be a reform; what would that look like?
- Why do legislative bodies have no role in the approval or oversight of PILOTs? That does not appear wise, since they do represent the community.
- Many housing PILOTs are going to out-of-town developers. We must re-engage and support more local developers, so that dollars stay locally.
- We should target desired PILOT types.
- Ensure a strong but-for analysis and that the project would not happen otherwise. We must be very intentional and ensure that money going into a project is truly required for that project to happen. The 11 boards do that differently. Standardizing the process would create a lot of transparency.
- Shelby County (and its municipalities) should require a community investment. With that, the community should be consulted.
- If the County stays with the current IDB structure, it should consider who is appointed to the board.
- Rank the industry requesting the PILOT, whether it is an industry that will benefit the County in technology, livable wage jobs (ALICE livable wage criteria = Asset Limited, Income Constrained and Employed), benefit to the community, polluters, future-focused industries, etc.
- Independent justification and oversight – “independent from whom.” This question goes back to who is in power; who is going to make the appointment. Therefore, the legislative bodies should re-engage. The process needs **truly independent audits**, not just paid to give IDBs/developers the result they want.
- Develop and agree on a standard for “quality” affordable housing.

**Shelby County Trustee  
Active Pilots  
September, 2025**

Downtown Memphis Commission (ICC)	98
EDGE - Shelby (IDB)	268
Industrial Development of Arlington (IDB)	10
Industrial Development of Bartlett (IDB)	9
Industrial Development of Collierville (IDB)	10
Industrial Development of Germantown (IDB)	3
Industrial Development of Millington (IDB)	1
Health & Education Board - Memphis (IHE)	126
Health & Education Board - Shelby (IPH)	5
Miscellaneous Contracts (IMC)	10
City / County Government Contracts (CCG)	5
<b>Total</b>	<b>545</b>

# Chattanooga, TN Affordable Housing PILOT Approval Process



# TAX INCENTIVES & BURDEN PER CAPITA (PILOTS/TIFs)

## Estimated Tax Incentive Burden in 4 Most Populous TN Cities/Counties

Prepared by Shelby County Trustee as of 12/02/2025

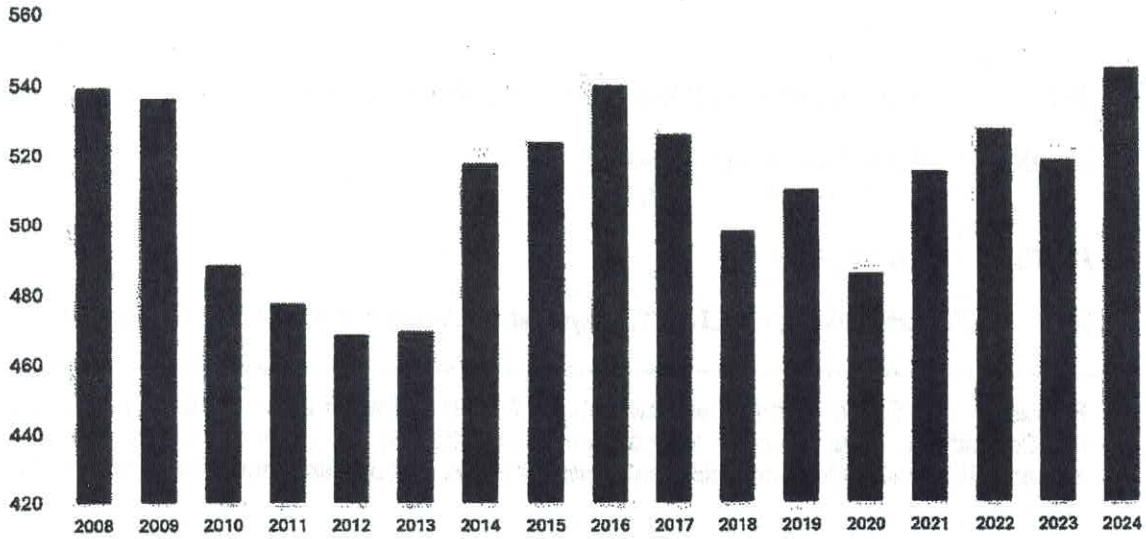
COUNTIES BY BURDEN	2024 Population	2024 Estimated Property Taxes Foregone due to Incentives		Tax Incentive Burden Per Capita	Government Type
		2024 Population	Taxes Foregone due to Incentives		
Shelby County	910,530	\$51,157,423	\$56.18	Separate City & County Govts	
Davidson County	729,505	\$26,611,873	\$36.48	METRO	
Hamilton County	386,256	\$10,512,086	\$27.22	Separate City & County Govts	
Knox County	506,748	\$7,462,286	\$14.73	Separate City & County Govts	

COUNTY TAX INCENTIVES	PILOT / TIF Count	2024 Estimated Property Taxes Foregone due to Incentives	
		PILOT / TIF Count	Taxes Foregone due to Incentives
Davidson County PILOTS	9	\$7,072,060	
Davidson County TIFs	107	\$19,539,813	
Hamilton County PILOTS	28	\$9,973,548	
Hamilton County TIFs	6	\$538,538	
Knox County PILOTS	90	\$5,255,091	
Knox County TIFs	25	\$2,207,195	
Shelby County PILOTS	545	\$41,828,584	
Shelby County TIFs	15	\$9,328,839	

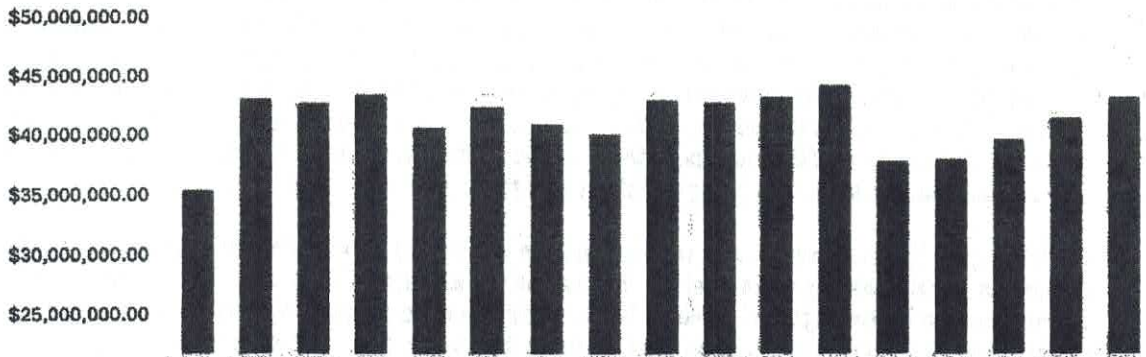
# SHELBY COUNTY PILOT DATA

PREPARED BY TRUSTEE, 12-1-2025

## NUMBER OF COUNTY PILOTS - 2008-2024



## NET COUNTY TAX ABATEMENT - 2008-2024



**SHELBY COUNTY GOVERNMENT**  
**SHELBY COUNTY BOARD OF COMMISSIONERS**  
160 North Main #600  
Memphis, TN 38103  
901.222.1000  
Fax 901.222.1002


**MEMORANDUM**

**TO: SHELBY COUNTY BOARD OF COMMISSIONERS**

**FROM: Miska Clay Bibbs** *MCB* *Avon*  
Chairwoman

**DATE: July 22, 2024**

**RE: RE. Establishing a P.I.L.O.T. (Payment In Lieu of Taxes) Ad Hoc Committee**

 Pursuant to the Shelby County Permanent Rules 7 (c) (vii)-Standing Committees/Special Rules for Committees, I am forming an Ad Hoc Committee for the purpose of seeking greater accountability and better economic outcomes (analyze, reform, and rationalize) of our Pilot program.

Tax incentive programs deserve serious evaluation by the Shelby County Board of Commissioners. Every PILOT-granting agency must be subject to legislative review and reform.

Due to the importance of tax incentives for the County's budget and economy, it is vital to know whether these programs are achieving their goals. To this end, this Ad Hoc Committee has established three goals: manage, measure, and monitor tax incentive programs in Shelby County so that policymakers will have the most up-to-date, reliable information. When counties can manage, monitor, and measure all of their tax incentive programs, they can identify how well these incentives are working and how they can be improved. In turn, County policymakers can use this information to get the best possible results for taxpayers and the economy.

(1) Manage – Review, revise, and recommend (as necessary) current data management. What is needed is a data management system that organizes and transforms data into a user-friendly format, creates knowledge and enables better decision-making. Review, revise, and recommend (as necessary) policies, procedures, and controls to ensure that the tax incentive organization operates in alignment with its objectives, legal requirements, and ethical standards.

(2) Monitor – Review, revise, and recommend (as necessary) best practice tools for observing and keeping a continuous record of processes and quantity. Observe and check the progress of tax incentive programs over some time and keep them under systematic review. Review the economic impact of tax incentive programs quantitatively, ranging from capital investment, jobs, and revenue impact. Revise, review, and recommend (as necessary) tax incentive program performance indicators to determine if goals are being met.

(3) Measure – Identify the best practice tools for measurement. Review, revise, and recommend (as necessary) performance versus goals for the last five years. Compare outcomes versus the County's needs. View other counties in Tennessee, using the same tax incentive programs. Review, revise, and recommend (as necessary) metrics to determine how well incentives are working and identify opportunities for improvement. Create an evaluation plan to measure the tax incentive program's impact and result. Identify what is working and what is not. Establish regular, rigorous policy-relevant evaluations that will make the County more economically prosperous and fiscally sound to the benefit of businesses, workers and tax payers.

The first meeting will take place on August 22, 2024 at 11:30 a.m. at 160 North Main Street in the County Commission Chambers located on the 1<sup>st</sup> floor. Commissioner Henri E. Brooks will serve as the Chair of this Ad Hoc Committee and Commissioner Mickell Lowery will serve as the Vice Chair. Other members of the Ad Hoc Committee include Shelby County Trustee Regina Newman, Attorney Javier Bailey, Natalie McKinney, and Professor Austin Harrison.

# Shelby County Assessor's Office

## HEHFB PILOTs Review

### OVERVIEW:

Our team's review was focused on the privately-owned apartments subsidized by PILOT incentives awarded by the Memphis and Shelby County Health, Education and Housing Board.

We performed a physical exterior inspection of ninety (90) complexes which encompassed about 292 taxable parcels. **(That's 90 out of 126 active PILOTs.)**

Per our review, we concluded that:

- Most of the apartment complexes were in fair condition at best.
- Deferred maintenance, landscape, streets and security measures require immediate attention.
- In the absence of expected good physical condition, a look into the rental rates should be reviewed.
- It is possible the tax relief is being used to offset raising rental rates. We estimate vacancy rates are low (estimated 5%).

We suggest the next phase of our review should be centered around comparing market rates to the rates of those subsidized PILOT units.