

HOUSE BILL 1814

By Cooper

AN ACT to amend Tennessee Code Annotated, Title 49  
and Title 67, relative to the development of  
promise zones.

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

SECTION 1. Tennessee Code Annotated, Title 67, is amended by adding the following  
as a new chapter 11:

Section 67-11-101. This chapter shall be known and may be cited as the "Tennessee  
Promise Zone Act".

Section 67-11-102. As used in this chapter:

(1) "Authority" means a promise zone authority created under this chapter;

(2) "Board" means the governing body of an authority;

(3) "Eligible entity" means a city, county, or local school district, in which the  
percentage of families with children under age eighteen (18) that are living at or below  
the federal poverty level is greater than or equal to the state average of families with  
children under age eighteen (18) living at or below the federal poverty level, as  
determined by the department of revenue;

(4) "Federal poverty level" means the poverty guidelines published annually in  
the federal register by the United States department of health and human services under  
its authority to revise the poverty line under § 673(2) of subtitle B of title VI of the  
omnibus budget reconciliation act of 1981, Public Law 97-35, 42 USC 9902, as  
amended;

(5) "Governing body" means the elected body of an eligible entity having  
legislative powers;

(6) "Nonpublic high school" means a high school operated by a nonpublic school that includes grades 9 through 12 or 10 through 12 and that awards a high school diploma. Nonpublic high school also includes a general education development test;

(7) "Nonpublic school" means that term as defined in § 49-6-3001(c)(3);

(8) "Promise of financial assistance" means a commitment by an eligible entity to provide financial resources for postsecondary education to eligible students living in a promise zone and who have graduated from a public high school or nonpublic high school located within that promise zone;

(9) "Promise zone" means an area created by a governing body under this chapter;

(10) "Promise zone development plan" means a plan developed by an authority under this chapter that will ensure that the financial resources are available to adequately fund the promise of financial assistance;

(11) "Public high school" means a public school that includes grades 9 through 12 or 10 through 12 and that awards a high school diploma;

(12) "Public school" means that term as defined in § 49-6-3001(c)(3);

(13) "School district" means that term as defined in § 49-1-103; and

(14) "State education tax" means the tax revenues generated pursuant to title 67, chapter 6, and allocated in accordance with § 67-6-103(a)(2).

Section 67-11-103.

(a)

(1) If a governing body determines that it is necessary for the best interests of the public to promote access to postsecondary education, then the governing body may, by resolution, declare its intention to establish a promise zone.

(2) The promise zone may be designed in order to be consistent with and eligible for federal assistance through the federal promise zones initiative.

(b) The governing body shall set a date for a public hearing on the adoption of a proposed resolution establishing the promise zone. Notice of the public hearing shall be published twice in a newspaper of general circulation in the eligible entity, not less than twenty (20) nor more than forty (40) days before the date of the hearing. Notice of the hearing shall be posted in at least twenty (20) conspicuous and public places in the eligible entity not less than twenty (20) days before the hearing. The notice shall state the date, time, and place of the hearing and shall describe the proposed promise zone, the details of the promise of financial assistance, and the criteria for eligibility to receive financial assistance.

(c) Not less than thirty (30) days after the public hearing, if the governing body of the eligible entity intends to proceed with the establishment of the promise zone, it shall submit an application to the department of revenue seeking approval to establish a promise zone.

(d) The department of revenue shall review the application submitted under subsection (c) and shall certify that the governing body of the eligible entity is eligible to establish a promise zone under this chapter.

(e) If the department of revenue certifies that the governing body of the eligible entity is eligible to create a promise zone, the governing body shall, by resolution, establish a promise zone.

(f) Not more than ninety (90) days after the governing body approves a resolution to establish a promise zone, a local school district may by resolution elect not to participate in the establishment of a promise zone by the governing body of the eligible entity in which the local school district is located. The resolution shall include a provision that the local school district will establish a separate promise zone under this chapter. If the local school district does not establish a promise zone within a reasonable period of

time, the department of revenue may include that local school district in the promise zone established by the eligible entity in which the local school district is located.

Section 67-11-104.

(a) If the department of revenue certifies the eligibility of a governing body to establish a promise zone and the governing body, by resolution, establishes a promise zone under § 67-11-103, the governing body shall, by resolution, create a promise zone authority.

(b) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this chapter shall not be construed as a limitation upon the general powers of an authority.

(c) An authority shall be under the supervision and control of a board consisting of eleven (11) members appointed by the chief executive officer of the eligible entity with the advice and consent of the governing body. Not more than five (5) members shall be government officials. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for one (1) year, two (2) years, three (3) years, and four (4) years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of four (4) years. An appointment to fill a vacancy shall be made by the chief executive officer of the eligible entity for the unexpired term only. Members of the board shall serve without compensation, but may be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board. As used in this subsection (c), for a local school district or local education agency, "chief executive officer" means the superintendent of the local school district or local education agency.

(d) Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office.

(e) The proceedings and rules of the board are subject to title 8, chapter 44. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(f) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(g) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to title 10, chapter 7, part 5. Section 67-11-105.

(a) A promise zone authority created under § 67-11-104 shall prepare a promise zone development plan.

(b) The promise zone development plan shall include, but is not limited to, all of the following:

(1) A complete description of the proposed promise of financial assistance. The proposed promise of financial assistance shall include, but is not limited to, a promise of financial assistance to all students residing within the promise zone and who graduate from a public high school or nonpublic high school located within that promise zone. The proposed promise of financial assistance shall, at a minimum, provide funding sufficient to provide an eligible student the tuition necessary to obtain a bachelor's degree or its equivalent at a public postsecondary institution in this state or combination of public postsecondary institutions in this state, subject to any limitations authorized under this section. The proposed promise of financial assistance may also

authorize the expenditure of funds for educational improvement activities designed to increase readiness for postsecondary education at public schools located in the promise zone;

(2) A complete description of any limitation on the promise of financial assistance:

(A) If the promise of financial assistance will be prorated based on the number of years the student has resided within the promise zone;

(B) If the promise of financial assistance will be restricted to students who have resided within or attended a public high school or nonpublic high school within the promise zone for a minimum number of years;

(C) If the promise of financial assistance is predicated on the student maintaining a minimum college grade point average and carrying a minimum college credit hour class load; or

(D) If the promise of financial assistance is restricted to attendance at one (1) or more institutions of postsecondary education in this state;

(3) Whether graduates of a public high school or nonpublic high school will be required to exhaust all other available publicly funded scholarships before receiving financial assistance under this act. As used in this subdivision (b)(3), "other available publicly funded scholarships" includes any institutional aid from a postsecondary institution in this state and grants for postsecondary education provided by a federal, state, or local governmental entity, but does not include loans;

(4) How the funds necessary to accomplish the promise of financial assistance will be raised. Any amount received under title 49, chapter 3, part 3, shall not be included as a method of raising the necessary funds. The promise zone development plan shall be financed from one (1) or more of the following sources:

(A) Donations;

(B) Revenues; or

(C) Money obtained from other sources approved by the governing body or otherwise authorized by law; and

(5) An actuarial model of how much the proposed plan is estimated to cost, based on actuarial formulas developed by the department of revenue.

(c) The proposed promise of financial assistance under subsection (b) shall not include funding for attendance at a postsecondary institution not located in this state.

(d) The board shall submit the promise zone development plan to the department of revenue promptly after its adoption. The promise zone development plan shall be published at least once in a newspaper of general circulation in the eligible entity.

(e) The department of revenue shall review the promise zone development plan submitted under subsection (d) and shall certify that the proposed promise zone development plan meets all requirements under this chapter and is sustainable.

(f) The department of revenue shall review any proposed amendments to a promise zone development plan and certify that any proposed amendments meet all requirements under this chapter.

Section 67-11-106. The establishment of a promise zone or a promise zone

development plan does not create a cause of action in law or in equity against this state, an eligible entity, or a promise zone authority, if the proposed promise of financial assistance set forth in the promise zone development plan is not paid to an eligible student.

Section 67-11-107.

(a) The board may employ and fix the compensation of a director. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before beginning the duties of office, the director shall take and subscribe to the constitutional oath and furnish bond by posting a bond in the sum determined in the resolution establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the clerk of the eligible entity. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority.

(b) Subject to the approval of the board, the director shall supervise and be responsible for implementing the promise zone development plan and the performance of the functions of the authority in the manner authorized by this chapter. The director shall attend the meetings of the board and shall provide to the board, the governing body, and the chief executive officer of the eligible entity a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning the duties of office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.



(c) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish a bond in an amount prescribed by the board.

(d) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

(e) The board may retain legal counsel to advise the board in the proper performance of its duties.

(f) The board may employ other personnel considered necessary by the board.

(g) Money received by the authority shall immediately be deposited to the credit of the authority, subject to disbursement under this chapter.

(h) The authority shall not expend more than five percent (5%) of the money received for administrative costs.

Section 67-11-108. The board may do any of the following:

(1) Prepare an analysis of the postsecondary educational opportunities for the residents of the promise zone;

(2) Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the promise zone;

(3) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or

interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this chapter, and grant or acquire licenses, easements, and options;

(4) Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property;

(5) Lease, in whole or in part, any facility, building, or property under its control; and

(6) Solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Section 67-11-109. The director of the authority shall submit a budget to the board for the operation of the authority for each fiscal year before the beginning of the fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget shall be submitted to the governing body. The governing body must approve the budget before the board may adopt the budget. Unless authorized by the governing body, funds of the eligible entity shall not be included in the budget of the authority.

Section 67-11-110.

(a) The authority shall determine the base year for calculating the amount of incremental growth for the capture of the state education tax as provided in this section. The base year is the amount of revenue received from the collection of the state education tax in the promise zone in the year immediately preceding the year in which an authority makes its initial tuition payment in accordance with the promise of financial assistance or the amount of revenue received from the collection of the state education

tax in the promise zone in any one (1) of the three (3) immediately succeeding years, whichever is less.

(b) If the authority continues to make annual payments in accordance with the promise of financial assistance, in the year immediately succeeding the base year determined in subsection (a) and each year thereafter, this state shall capture one-half ( $\frac{1}{2}$ ) of the increase in revenue, if any, from the collection of the state education tax. This state shall not capture any revenue from the collection of the state education tax under this act if that revenue is subject to capture under any other law of this state. Proceeds from the capture of the state education tax under this section shall be deposited in the state revenue fund and credited to a restricted fund to be used solely for the purposes of this chapter.

(c) If the authority continues to make annual tuition payments in accordance with the promise of financial assistance, two (2) years after the authority's initial payment of financial assistance and each year thereafter, this state shall pay to the authority the state education tax captured under subsection (b). If the boundaries of two (2) or more promise zones created under this chapter overlap, payments under this section shall only be made to the first authority eligible for payment under this subsection (c).

(d) If at any time the authority does not make annual tuition payments in accordance with the promise for financial assistance, any amount captured from that promise zone in the restricted fund created under subsection (b) shall be paid into the state school fund as provided in § 49-3-101.

(e) For purposes of this section, payments under this section shall not be included in determining payments for financial assistance in the immediately preceding year.

Section 67-11-111.

(a) The department of revenue shall oversee the operations of any promise zone authority or board created under this chapter. If the department of revenue determines that the actions of a promise zone authority or board are not in accordance with the promise zone development plan, the department of revenue may assume operational control of that promise zone authority or board.

(b) An authority that has completed the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the eligible entity.

Section 67-11-112.

(a) A city, county, or local school district that is not an eligible entity may create a promise zone under this chapter, but shall not capture revenue from the state education tax under § 67-11-110.

(b) This section shall not prevent an eligible entity located within a city, county, local school district, or intermediate school district that is not an eligible entity from creating a promise zone under this act and capturing revenue from the state education tax under § 67-11-110.

SECTION 2. This act shall take effect July 1, 2014, the public welfare requiring it.