

HOUSE BILL 2804

By Hulsey

AN ACT to amend Tennessee Code Annotated, Title 9,
relative to precious metals.

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

SECTION 1. Tennessee Code Annotated, Section 9-4-802, is amended by deleting the section and substituting instead:

(a) Subject to a state appropriation, the state treasurer, with the approval of the comptroller of the treasury, may purchase and sell precious metal bullion or specie that will be directly owned by the state, and in the custody of the state treasurer. The appropriated funds for the purchase and sale of precious metal bullion or specie may come from the reserve for revenue fluctuations account under § 9-4-211, and be placed in a restricted account within the reserve account. Any appropriated funds remaining at the end of any fiscal year must be carried forward in the reserve account and remain available for the purposes of this section. It is the intent of the general assembly that a minimum of three percent (3%) of the total value of the funds in the reserve for revenue fluctuations account be held in precious metal bullion or specie.

(b) The state treasurer, with the approval of the comptroller of the treasury, may make and enter into contracts, trust instruments, agreements, trade confirmations, warrants, and other instruments with a person to effectuate this section, including, but not limited to, financial institutions, brokers, dealers, securities markets and exchanges, accountants, auditors, attorneys, consultants, the entity described in subsection (c), and other contractors. Procurements may be made in a manner prescribed by the state

treasurer with the approval of the comptroller of the treasury without regard to the requirements contained in title 12, chapter 3.

(c) The physical precious metal bullion or specie purchased under this section must be custodied by the state treasurer in a financial institution as defined in § 45-11-102, or in an entity designated by the state treasurer with the approval of the comptroller of the treasury.

(d) The state treasurer, with the approval of the comptroller of the treasury, shall ensure that the precious metal bullion or specie is securely maintained and transported; adequately insured; independently audited; and physically segregated from the other assets custodied at the financial institution or other entity described in subsection (c).

(e) The expenses for the administration and implementation of the purchase, sale, transportation, maintenance, valuation, security, insurance, and custody of the precious metal bullion or specie may:

(1) Be paid from state funds appropriated in the general appropriations act; or

(2) Be charged to the earnings of the general fund balances in the state pooled investment fund, subject to appropriation.

(f) Records, documents, and papers in the possession of the treasury department or any other state agency containing the following information relative to the precious metal bullion or specie purchased, sold, and maintained in accordance with this section, are confidential and are not open for inspection by members of the public:

(1) Location;

(2) Amount;

(3) Value;

(4) Custody;

(5) Valuation;

(6) Maintenance;

(7) Transportation;

(8) Insurance;

(9) Procurement processes;

(10) Proposals relative to the procurement of goods or services, and related records, including, but not limited to, evaluations, notices, communications, and memoranda;

(11) Procurement solicitations, requests for quotes, and requests submitted to the state's central procurement office for the procurement of goods and services;

(12) Contracts, agreements, warrants, and confirmations; and

(13) Security, including, but not limited to, alarm systems; security codes; access codes; passwords; security procedures and protocols; security and vulnerability testing; business continuity plans and testing; disaster recovery plans and testing; and audit reports.

SECTION 2. Tennessee Code Annotated, Section 9-4-801, is amended by adding the following new subdivision:

() "Precious metals" means gold, silver, platinum, or palladium;

SECTION 3. Tennessee Code Annotated, Section 9-4-211(a)(1), is amended by deleting the subdivision and substituting instead:

(1) There is hereby created on the books and records of the state treasury a reserve account in the general fund to be known as the "reserve for revenue fluctuations." The funds in this account may be used from time to time, as provided in this section, to meet unexpected shortfalls of revenue, to meet expenditure requirements

in excess of budgeted appropriation levels, or to fund the purchase of precious metal bullion or specie in accordance with § 9-4-802 and pursuant to an appropriation.

SECTION 4. Tennessee Code Annotated, Section 9-4-211, is amended by adding the following new subsection:

(e) Subject to an appropriation, the amounts available in the reserve for revenue fluctuations account in excess of the funds used to meet unexpected shortfalls of revenue or expenditure requirements in excess of budgeted appropriation levels may be transferred to a restricted account within the reserve account to be used to purchase precious metal bullion and specie in accordance with § 9-4-802.

SECTION 5. Tennessee Code Annotated, Title 9, Chapter 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Legal tender" means a recognized medium of exchange for the payment of debts and taxes;

(2) "Precious metals" means gold, silver, platinum, or palladium; and

(3) "Specie" means:

(A) Precious metals fabricated into products of uniform shape, size, design, content, weight, and purity that are suitable for or customarily used as currency, as a medium of exchange, or as the medium for purchase, sale, storage, transfer, or delivery of precious metals in retail or wholesale transactions; or

(B) Refined precious metal bullion, stamped or imprinted with its weight and purity and valued primarily based on its metal content and not its form.

(b) Specie legal tender must be accepted as legal tender for payment of all public debts in this state and may be accepted as payment for all private debts in this state, in the discretion of the receiving entity.

(c) This state, and any department, agency, court political subdivision, or instrumentality thereof, shall accept specie legal tender and electronic currency as payment for any debt, tax, fee, or obligation owed. Costs incurred in the course of verification of the weight and purity of any specie legal tender or electronic currency during any such transaction shall be borne by the receiving entity.

(d) A person shall not have the right to compel any person to tender specie or accept specie as tender, unless expressly provided by law or contract.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it.