

SENATE BILL 271

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 53, Part 3; Title 9, Chapter 23; Title 67, Chapter 4, Part 20 and Title 68, Chapter 212, Part 2, relative to brownfields.

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

SECTION 1. Tennessee Code Annotated, Section 7-53-316(a), is amended by deleting the subsection and substituting:

(a) It is the intent of the general assembly to encourage the redevelopment of brownfield sites in this state. In addition to the authorization provided in § 7-53-312, a corporation located in a municipality in which a brownfield redevelopment project is located may prepare and submit to the municipality for approval an economic impact plan with respect to the brownfield redevelopment project in the manner provided in this section. Except to the extent modified under this section, § 7-53-312 applies to an economic impact plan for a brownfield redevelopment project.

SECTION 2. Tennessee Code Annotated, Section 7-53-316(f)(4), is amended by deleting the subdivision and substituting instead:

(4) "Qualified costs" include:

(A) Public infrastructure costs, including, but not limited to, costs for all roads, streets, sidewalks, access ways, ramps, bridges, landscaping, signage, utility facilities, grading, drainage, parks, plazas, greenways, public parking facilities, public recreational facilities, public educational facilities, public meeting facilities, and similar improvements that are necessary for or otherwise useful for

the brownfield redevelopment project or for the development or redevelopment of the area subject to the economic impact plan;

(B) All administrative, architectural, legal, engineering, and other expenses as may be necessary or incidental to the development and implementation of the economic impact plan or the financing of expenses under this section;

(C) Costs that are directly related to the investigation, remediation, or mitigation of the brownfield redevelopment project as required by a voluntary agreement or consent order pursuant to § 68-212-224;

(D) Costs of acquisition of the project site; and

(E) Costs of improvements to the project site, including, but not limited to, demolition, clearing, grading, utility connections to public or private utilities, buildings constructed on the project site, landscaping for the project site, and stormwater facilities on the project site;

SECTION 3. Tennessee Code Annotated, Section 7-53-316(f), is amended by deleting subdivisions (5), (6), and (7).

SECTION 4. Tennessee Code Annotated, Section 7-53-316(f)(2), is amended by deleting the language "investigation or remediation" and substituting instead "investigation, remediation, or mitigation".

SECTION 5. Tennessee Code Annotated, Section 7-53-316(f), is amended by adding the following as a new subdivision (2) and renumbering existing subdivision (2) and the remaining subdivisions accordingly:

(2) "Brownfield redevelopment project":

(A) Means the development or redevelopment, in one (1) or more phases as specified in the economic impact plan, of all or a portion of a parcel or parcels

of contiguous, adjacent, or related properties. The parcel or parcels must contain:

(i) At least one (1) brownfield site; or

(ii) A site of at least ten (10) acres that has remained vacant or substantially unoccupied for at least five (5) years and, at any time within twenty (20) years prior to June 1, 2011, included manufacturing, industrial, distribution, or retail facilities, in total, containing at least one million square feet (1,000,000 sq. ft.); and

(B) Includes a project as defined in § 7-53-101 and a publicly or privately owned or operated retail, commercial, industrial, or mixed-use facility, including a visitor center, recreation, administrative facilities, offices, restaurants, and other amenities constructed or acquired as part of the project;

SECTION 6. Tennessee Code Annotated, Section 7-53-316(g), is amended by deleting the language "An urban brownfield redevelopment project" and substituting instead "A brownfield redevelopment project".

SECTION 7. Tennessee Code Annotated, Section 67-4-2009, is amended by adding the following new subdivision:

(10)

(A) For purposes of this subdivision (10):

(i) "Capital investment" has the same meaning as defined in subdivision (9)(B)(ii);

(ii) "Investment period" has the same meaning as defined in subdivision (9)(B)(iii);

(iii) "Qualified development project" has the same meaning as defined in subdivision (9)(B)(iv); and

(iv) "Remediation costs" means costs that are directly related to the investigation, remediation, or mitigation of a brownfield property as required by a voluntary agreement or consent order pursuant to § 68-212-224.

(B) Notwithstanding subdivision (9), there is allowed against the sum total of the taxes imposed by the Franchise Tax Law of 1999 and by this part, a credit equal to the remediation costs for a brownfield property for a qualified development project in a tier 3 or tier 4 enhancement county in this state; provided, however, that the credit must not exceed five hundred thousand dollars (\$500,000), and provided, further, that the credit, together with any carry forward thereof, taken on a franchise and excise tax return must not exceed one hundred percent (100%) of the combined franchise and excise tax liability shown on the return before a credit is taken. An unused credit may be carried forward in a tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(C) In order to receive the credit, the taxpayer must submit a claim for the credit, along with documentation as required by the commissioner showing that the capital investment was made toward the qualified development project during the investment period and that the costs claimed are remediation costs. The taxpayer is not eligible to receive the credit until the minimum capital investment has been met and the commissioner has approved the tax credit amount.

(D) The commissioner shall review the claim for the credit in consultation with the commissioner of environment and conservation and notify the taxpayer of the approved tax credit amount.

SECTION 8. Tennessee Code Annotated, Section 67-4-2009, is amended by deleting the language "investigation or remediation" in subdivisions (8)(B)(i) and (9)(B)(i) and substituting instead "investigation, remediation, or mitigation".

SECTION 9. Tennessee Code Annotated, Title 68, Chapter 212, Part 2, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Brownfield site" has the same meaning as defined in § 7-53-316;

(2) "Department" means the department of environment and conservation;

(3) "Eligible entity" means a political subdivision of the state, including, but not limited to, a county, municipality, development district, or development board; and

(4) "Remediation costs" has the same meaning as defined in § 67-4-2009(10)(A)(iv).

(b) It is the intent of the general assembly to strengthen communities throughout this state and to promote conservation of this state's agricultural, recreational, and open space lands by encouraging environmentally sound redevelopment of properties blighted by real or perceived contamination.

(c)

(1) There is established a special account in the state treasury to be known as the "brownfield redevelopment area fund," hereinafter referred to as the "fund" to assist this state's communities with the redevelopment of brownfield sites. The fund must be administered by the department.

(2)

(A) It is the legislative intent that moneys for the fund be appropriated each year in the general appropriations act. Gifts, other donations, and grants received by the department for brownfield redevelopment purposes may be deposited in and remain part of the fund in addition to funds appropriated by the general assembly.

(B) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of a fiscal year must not revert to the general fund, but must be carried forward until expended in accordance with this section.

(C) Moneys in the fund must be invested by the state treasurer pursuant to title 9, chapter 4, part 6, for the benefit of the fund. Interest accruing on investments and deposits of the fund must be credited to the fund, must be returned to the fund, and must remain part of the fund.

(d) Moneys in the fund must be used by the department to administer a brownfield redevelopment area grant program as provided in this section.

(1) The department may award grants to eligible entities for the remediation costs and reasonable administrative expenses relative to the redevelopment of brownfield sites. Administrative expenses must not exceed five percent (5%) of a grant awarded. An eligible entity shall not be awarded a grant exceeding five hundred thousand dollars (\$500,000) from the fund in a fiscal year.

(2) The department shall establish criteria and guidelines for the brownfield redevelopment area grant program and shall publish the criteria and guidelines on its website.

(3) Sites approved for grants under this section must be designated as brownfield redevelopment areas.

(4) The departments of environment and conservation, revenue, and economic and community development shall post a list of brownfield redevelopment areas on their websites.

(e) The department shall report to the governor, no later than December 31, 2023, and each December 31 thereafter, regarding the department's administration of the fund. The report must include the obligated and unobligated balances of the fund as of June 30 of the reporting calendar year and the grants awarded in the immediately preceding fiscal year. Grant information must include the amount of the grant awarded and the recipient of the grant. The report must also be transmitted to the speakers of the house of representatives and the senate, the commissioner of finance and administration, and the commissioner of economic and community development.

SECTION 10. This act takes effect July 1, 2023, the public welfare requiring it.