



State of Tennessee

PUBLIC CHAPTER NO. 508

HOUSE BILL NO. 377

By Representatives Boyd, Marsh, Moon, Timothy Hill, Leatherwood

Substituted for: Senate Bill No. 308

By Senator Lundberg

AN ACT to amend Tennessee Code Annotated, Title 5; Title 6; Title 7; Title 45; Title 47, Chapter 18 and Title 65, relative to charitable donations.

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

SECTION 1. Tennessee Code Annotated, Section 7-34-115, is amended by deleting subsection (i) and substituting instead the following:

(1) In addition to the authority granted under otherwise applicable law, a municipality operating a municipal utility system may, acting through the authorization of the board or supervisory body having responsibility for the municipal utility system, accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal utility system pursuant to programs authorized by subdivision (i)(1) are not considered revenue to the municipal utility system, and the municipality may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (i):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes listed in this subdivision (i)(3); and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)

(A) A municipal utility system that establishes a program authorized by subdivision (i)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (i)(1) may opt out of the program by providing notice to the utility of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)

(A) Any municipal utility system that on the effective date of this act utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis shall send a written notice to each municipal utility system customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt out of participation in the program.

(B) The written notice required by this subdivision (i)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipal utility system.

(C) A municipal utility system that on the effective date of this act utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (i)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (i)(4).

(6) Any municipal utility system that utilizes a program authorized by subdivision (i)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipal utility system's utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

SECTION 2. Tennessee Code Annotated, Section 7-36-107(a), is amended by deleting subdivision (12) and substituting instead the following:

(A) To accept and distribute excess receipts for bona fide economic development or community assistance purposes pursuant to programs approved by the board, which programs may include, but are not limited to, programs in which bills to customers are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the bill, and excess receipts accepted pursuant to such programs are not considered revenue to the authority, and the authority may only use the excess receipts for economic development or community assistance purposes;

(B)

(i) An authority that establishes a program authorized by subdivision (a)(12)(A) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer;

(ii) A customer who is enrolled in a program authorized by subdivision (a)(12)(A) may opt out of the program by providing notice to the authority of the customer's desire to cease participation in the program;

(iii) Upon receiving an opt-out notice from a customer, the authority shall remove the customer from enrollment in the program no later than the first day of

the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice;

(C)

(i) Any authority that on the effective date of this act utilizes a program authorized by subdivision (a)(12)(A) and operates the program on an opt-out basis shall send a written notice to each customer of the authority no later than November 1, 2020, that contains, but is not limited to, the following information:

(a) A statement that the authority utilizes a program authorized by subdivision (a)(12)(A), the program is operated on an opt-out basis, and a description of the program;

(b) Notification that a customer whose bill is currently rounded up by the authority has the right to opt out of participation in the program; and

(c) Contact information for the authority and instructions on how the customer may contact the authority to opt out of participation in the program;

(ii) The written notice required by this subdivision (a)(12)(C) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the authority;

(iii) A municipal utility system that on the effective date of this act utilizes a program authorized by subdivision (a)(12)(A) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (a)(12)(C) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (a)(12)(B); and

(iv) For purposes of this subdivision (a)(12), "opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program; and

(D) Any authority that utilizes a program authorized by subdivision (a)(12)(A) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the authority's utilization of the program, the following information:

(i) A statement that the authority utilizes a program authorized by subdivision (a)(12)(A) and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the authority has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

SECTION 3. Tennessee Code Annotated, Section 7-52-103, is amended by deleting subsection (e) and substituting instead the following:

(1) In addition to the authority granted under otherwise applicable law, a municipality operating an electric plant may, acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, accept and distribute excess receipts for bona fide economic development or community assistance purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal electric plant pursuant to programs authorized by subdivision (e)(1) are not considered revenue to the municipal electric plant or the municipality's other utility systems, and the municipality may only use the excess receipts for economic development or community assistance purposes.

(3)

(A) A municipality that establishes a program authorized by subdivision (e)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (e)(1) may opt out of the program by providing notice to the municipality of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the municipality shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(4)

(A) Any municipality that on the effective date of this act utilizes a program authorized by subdivision (e)(1) and operates the program on an opt-out basis shall send a written notice to each municipal electric plant customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipality utilizes a program authorized by subdivision (e)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the municipality has the right to opt out of participation in the program; and

(iii) Contact information for the municipality and instructions on how the customer may contact the municipality to opt out of participation in the program.

(B) The written notice required by this subdivision (e)(4) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipality.

(C) A municipality that on the effective date of this act utilizes a program authorized by subdivision (e)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (e)(4) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (e)(3).

(D) For purposes of this subsection (e), "opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(5) Any municipality that utilizes a program authorized by subdivision (e)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipality's utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (e)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

SECTION 4. Tennessee Code Annotated, Section 7-82-304, is amended by deleting subsection (b) and substituting instead the following:

(1) In addition to the authority granted under otherwise applicable law, a utility district created under this chapter, or any private act of the general assembly, upon the adoption of a resolution by its board of commissioners, may accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board of commissioners, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a utility district pursuant to programs authorized by subdivision (b)(1) are not considered revenue to the utility district, and the utility district may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (b):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes set forth in this subdivision (b)(3). This section prohibits discrimination by a utility district in the distribution of excess receipts for bona fide charitable purposes to organizations whose mission is to assist persons regardless of their race, color, creed, religion, national origin, gender, disability, or age; and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)

(A) A utility district that establishes a program authorized by subdivision (b)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (b)(1) may opt out of the program by providing notice to the utility district of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility district shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)

(A) Any utility district that on the effective date of this act utilizes a program authorized by subdivision (b)(1) and operates the program on an opt-out basis shall send a written notice to each utility district customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the utility district utilizes a program authorized by subdivision (b)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility district has the right to opt out of participation in the program; and

(iii) Contact information for the utility district and instructions on how the customer may contact the utility district to opt out of participation in the program.

(B) The written notice required by this subdivision (b)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the utility district.

(C) A utility district that on the effective date of this act utilizes a program authorized by subdivision (b)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (b)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (b)(4).

(6) Any utility district that utilizes a program authorized by subdivision (b)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the utility district's utilization of the program, the following information:

(A) A statement that the utility district utilizes a program authorized by subdivision (b)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

SECTION 5. Tennessee Code Annotated, Section 65-25-105, is amended by deleting subsection (d) and substituting instead the following:

(1) In addition to all other powers set forth in this chapter, a cooperative may make contributions for bona fide charitable purposes and accept excess receipts pursuant to programs approved by the board of directors, which programs may include, but are not limited to, programs in which bills for electric power are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the electric bill.

(2) Excess receipts accepted by a cooperative pursuant to programs authorized by subdivision (d)(1) are not considered revenue to the cooperative and the cooperative may only use the excess receipts for charitable purposes.

(3) This subsection (d) prohibits discrimination by a cooperative in the distribution of excess receipts for bona fide charitable purposes to organizations whose mission is to assist persons regardless of their race, color, creed, religion, national origin, gender, disability, or age.

(4)

(A) A cooperative that establishes a program authorized by subdivision (d)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (d)(1) may opt out of the program by providing notice to the cooperative of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the cooperative shall remove the customer from enrollment in the program no later than the first

day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)

(A) Any cooperative that on the effective date of this act utilizes a program authorized by subdivision (d)(1) and operates the program on an opt-out basis shall send a written notice to each cooperative customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the cooperative utilizes a program authorized by subdivision (d)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the cooperative has the right to opt out of participation in the program; and

(iii) Contact information for the cooperative and instructions on how the customer may contact the cooperative to opt out of participation in the program.

(B) The written notice required by this subdivision (d)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the cooperative.

(C) A cooperative that on the effective date of this act utilizes a program authorized by subdivision (d)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (d)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (d)(4).

(6) Any cooperative that utilizes a program authorized by subdivision (d)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the cooperative's utilization of the program, the following information:

(A) A statement that the cooperative utilizes a program authorized by subdivision (d)(1) and a description of the program;

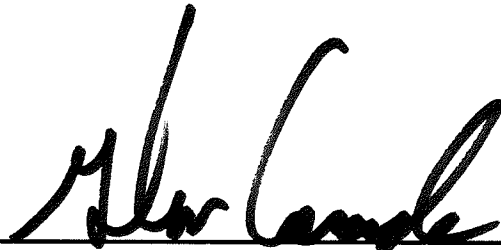
(B) Notification that a customer whose bill is currently rounded up by the cooperative has the right to opt out of participation in the program; and

(C) Contact information for the cooperative and instructions on how the customer may contact the cooperative to opt into or out of participation in the program.

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

HOUSE BILL NO. 377

PASSED: May 1, 2019



GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 3rd day of June 2019



BILL LEE, GOVERNOR