

SENATE BILL 1766

By Johnson

AN ACT to amend Tennessee Code Annotated, Section 7-34-106; Section 7-35-432; Section 68-221-604; Title 68, Chapter 221, Part 10 and Section 68-221-1304, relative to the water and wastewater financing board.

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

SECTION 1. Tennessee Code Annotated, Section 7-34-106, is amended by deleting the section and substituting instead the following:

It is unnecessary for a municipality proceeding under this chapter to obtain a certificate of convenience or necessity, franchise, license, permit, or other authorization from a bureau, board, commission, or other like instrumentality of the state to acquire, construct, purchase, reconstruct, improve, extend, maintain, or operate public works, except as provided in Section 4.

SECTION 2. Tennessee Code Annotated, Section 7-35-432, is amended by deleting the section and substituting instead the following:

This part creates an additional and alternate method for the acquisition of waterworks or a sewerage system by any incorporated city or town and does not include, amend, alter, or repeal any other statute. A proceeding is not required for either the acquisition of a waterworks or sewerage system, or for the issuance of bonds under this part, except as provided by this part or Section 4, notwithstanding any other law to the contrary.

SECTION 3. Tennessee Code Annotated, Section 68-221-604, is amended by deleting the section and substituting instead the following:

(a) A city, metropolitan, or county government may create a water or wastewater treatment authority in the manner provided in this part.

(b)

(1) The governing body of the creating governmental entity shall adopt, and its executive officer shall approve, a resolution to submit a petition to the water and wastewater financing board for review and approval. The petition must include:

(A) A statement of the service the proposed authority will provide and the necessity of that service;

(B) The proposed corporate name and boundaries of the authority's service area;

(C) A statement explaining why an existing utility district, treatment authority, or municipal or county service cannot adequately provide the needed service because of cost, time, or other service delivery factors; and

(D) An estimate of:

(i) The cost of the acquisition or construction of the facility;

(ii) The cost of operating the proposed facility;

(iii) Anticipated personnel needs; and

(iv) The rates and charges for the proposed utility service.

(2) An estimate under subdivision (b)(1)(D)(i) is not a limitation on the financing of improvements or extensions of a facility.

(3) A majority of the governing body of the creating governmental entity and its executive officer must sign the petition.

(4) The petition must include the notarized signatures and residential addresses of both a majority of the governing body and its executive officer.

(c)

(1) The water and wastewater financing board shall issue an order approving or disapproving the petition for the incorporation of the authority within ninety (90) calendar days of receipt of the petition by the board, its agent, or its representative.

(2) If the water and wastewater financing board approves the petition, then the water and wastewater financing board shall forward its order of approval and the original petition to the governing body of the creating governmental entity and its executive officer.

(3) If the water and wastewater financing board fails to act on the petition within ninety (90) calendar days of receipt of the petition, then the water and wastewater financing board, its agent, or its representative shall return the original petition to the governing body of the creating governmental entity and its executive officer.

(4) If the water and wastewater financing board disapproves the petition, then the water and wastewater financing board shall forward its order of disapproval to the governing body of the creating governmental entity and its executive officer. Petitioners may appeal the order disapproving the petition to the circuit court of the county in the manner provided by law for appeals from the court of general sessions.

(d)

(1) If the water and wastewater financing board approves a petition under subdivision (c)(1), or fails to act on a petition under subdivision (c)(3), then the governing body of the creating governmental entity shall adopt, and its executive officer shall approve, a resolution calling a public hearing on the question of creating an authority.

(2) The creating governmental entity shall publish notice of the date, time, place, and purpose of the hearing at least once each week for two (2) consecutive weeks in a newspaper of general circulation, the last publication occurring at least one (1) week prior to the date of the hearing.

(e) The hearing will be before the governing body and all interested persons shall have an opportunity to be heard.

(f)

(1) If the governing body determines, after a hearing, that the public convenience and necessity require the creation of an authority, then the governing body shall adopt, and its executive officer shall approve, a resolution or an ordinance so declaring and creating an authority.

(2) A resolution or ordinance under subdivision (f)(1) must designate the name and principal office address of the authority.

(3) A governing body shall file a certified copy of the resolution or ordinance with the secretary of state, along with the resolution approving the appointment of the board of commissioners as provided for in § 68-221-605. The authority constitutes a body politic and corporate upon adoption and filing.

(g) A creating governmental entity and a participating governmental entity shall enter into an agreement with the authority for the orderly transfer to the authority of the treatment works' properties, functions, service area, and outstanding obligations. The agreement may include provisions for the reimbursement of any such governmental entity for its obligations issued for treatment works.

SECTION 4. Tennessee Code Annotated, Title 68, Chapter 221, Part 10, is amended by adding the following new section:

(a) Notwithstanding any law to the contrary, any city or county attempting to purchase, develop, acquire, or build a new water or wastewater system shall seek the approval of the water and wastewater financing board in the manner provided for in this section before finalizing plans for purchase, development, acquisition, or construction.

(b) The governing body of a city or county shall adopt, and its executive officer shall approve, a resolution to submit a petition to the water and wastewater financing board for review and approval of a new water or wastewater system. The petition must include:

(1) A statement of the service the proposed water or wastewater system will provide and the necessity for that service;

(2) The boundaries of the proposed system's service area;

(3) The statutory authority for the purchase, development, acquisition, or building of the water or wastewater system;

(4) A statement describing the managerial structure of the new water or wastewater system, including the type of governing body;

(5) A statement explaining why an existing utility district, treatment authority, or municipal or county service cannot adequately provide the needed service because of cost, time, or other service delivery factors; and

(6) An estimate of:

(A) The cost of the acquisition or construction of the system;

(B) The cost of operating the proposed facility;

(C) Anticipated personnel needs; and

(D) The rates and charges for utility service.

(c) An estimate pursuant to subdivision (b)(6)(A) is not a limitation on the financing of improvements or extensions of a facility.

(d) A majority of the governing body of the creating governmental entity and its executive officer must sign the petition.

(e) The petition must include the notarized signatures and residential addresses of both a majority of the governing body and its executive officer.

(f)

(1) The water and wastewater financing board shall issue an order approving or disapproving the petition for the incorporation of the authority within ninety (90) calendar days of receipt of the petition by the board, its agent, or its representative.

(2) If the water and wastewater financing board approves the petition, then the water and wastewater financing board shall forward its order of approval and the original petition to the governing body of the city or county and its executive officer.

(3) If the water and wastewater financing board fails to act on the petition within ninety (90) calendar days of receipt of the petition, then the water and wastewater financing board, its agent, or its representative shall return the original petition to the governing body and its executive officer.

(4) If the water and wastewater financing board disapproves the petition, then the water and wastewater financing board shall forward its order of disapproval to the governing body of the creating governmental entity and its executive officer. The petitioners may appeal the order disapproving the petition to the circuit court of the county in the manner provided by law for appeals from the court of general sessions.

SECTION 5. Tennessee Code Annotated, Section 68-221-1304, is amended by deleting the section and substituting instead the following:

(a) Any contiguous city, metropolitan, or county government or utility district may create a water or wastewater treatment authority in the manner provided for in this part.

(b)

(1) The governing body of the creating governmental entity shall adopt, and its executive officer shall approve, a resolution to submit a petition to the water and wastewater financing board for review and approval. The petition must include:

(A) A statement of the service the proposed authority will provide and the necessity of that service;

(B) The proposed corporate name and boundaries of the authority's service area;

(C) A statement explaining why existing utility districts, treatment authorities, or municipal or county services cannot adequately provide the needed service because of cost, time, or other service delivery factors; and

(D) An estimate of:

(i) The costs of the acquisition or construction of the facility;

(ii) The cost of operating the proposed facility;

(iii) Anticipated personnel needs; and

(iv) The rates and charges for the proposed service.

(2) An estimate pursuant to subdivision (b)(1)(D)(i) is not a limitation on the financing of improvements or extensions of a facility.

(3) A majority of the governing body of the creating governmental entity and its executive officer must sign the petition.

(4) The petition must include the notarized signatures and residential addresses of both a majority of the governing body and its executive officer.

(c)

(1) The water and wastewater financing board shall issue an order approving or disapproving the petition for the incorporation of the authority within ninety (90) calendar days of receipt of the petition by the board, its agent, or its representative.

(2) If the water and wastewater financing board approves the petition, then the water and wastewater financing board shall forward its order of approval and the original petition to the governing body of the creating governmental entity and its executive officer.

(3) If the water and wastewater financing board fails to act on the petition within ninety (90) calendar days of receipt of the petition, then the water and wastewater financing board, its agent, or its representative shall return the original petition to the governing body of the creating governmental entity and its executive officer.

(4) If the water and wastewater financing board disapproves the petition, then the water and wastewater financing board shall forward its order of disapproval to the governing body of the creating governmental entity and its executive officer. Petitioners may appeal the order disapproving the petition to the circuit court of the county in the manner provided by law for appeals from the court of general sessions.

(d)



(1) If the water and wastewater financing board approves a petition under subdivision (c)(1), or fails to act on a petition under subdivision (c)(3), then the governing body of the creating governmental entity shall adopt, and its executive officer shall approve, a resolution calling a public hearing on the question of creating an authority.

(2) The creating governmental entity shall publish notice of the date, time, place, and purpose of the hearing at least once each week for two (2) consecutive weeks in a newspaper of general circulation, the last publication occurring at least one (1) week prior to the date of the hearing.

(e) The hearing will be before the governing body and all interested persons shall have an opportunity to be heard.

(f)

(1) If the governing body determines, after a hearing, that the public convenience and necessity require the creation of an authority, then the governing body shall adopt, and its executive officer shall approve, a resolution or an ordinance so declaring and creating an authority.

(2) A resolution or ordinance under subdivision (f)(1) must designate the name and principal office address of the authority.

(3) A governing body shall file a certified copy of the resolution or ordinance with the secretary of state, along with the resolution approving the appointment of the board of commissioners as provided for in § 68-221-1305. The authority constitutes a body politic and corporate upon adoption and filing.

(g)

(1) A creating governmental entity and a participating governmental entity shall enter into an agreement with the authority for the orderly transfer to

the authority of the treatment works' properties, functions, service area, and outstanding obligations.

(2) The agreement may include provisions for the reimbursement of any governmental entity for its obligations issued for treatment works.

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