

SENATE BILL 2315

By Pody

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 84; Title 9, Chapter 21; Title 66, Chapter 5 and Title 67, relative to residential infrastructure development districts.

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

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 84, is amended by adding the following as a new part:

7-84-701. Short title.

This part is known and may be cited as the "Residential Infrastructure Development Act of 2024."

7-84-702. Findings.

(a) It is hereby determined and declared that, in light of the rapid growth of the state's population and the need for new residential and related development, there is a need for a reasonable alternative for the funding and financing of the infrastructure costs associated with such new residential and related development, and that an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver necessary capital infrastructure in order to service projected growth without overburdening counties and municipalities and their taxpayers.

(b) It is the legislative intent and purpose of this part to authorize a uniform procedure to establish an independent special district as an alternative method to fund and finance capital infrastructure through the levy and collection of special assessments. It is further the legislative intent and purpose to provide for the uniform operation, exercise of power, and procedure for termination of any such independent district.

7-84-703. Definitions.

As used in this part, unless the context otherwise requires:

(1) "Assessed value" means value as assessed for municipal property tax purposes;

(2) "Developer" means one (1) or more persons or entities identified as the developer in the establishment resolution and as being responsible for the development of a district, together with the successors and assignees of the person or entity;

(3) "Establishment resolution" means the resolution of the governing body, adopted pursuant to this part, establishing a district;

(4) "Governing body" means the council, commission, board, or other body exercising general legislative power in a host municipality;

(5) "Host municipality" means:

(A) For a district the boundaries of which are not located entirely within a single incorporated town or city that levies and directly administers the billing of ad valorem real property taxes, each county within which the boundaries of the district are located; and

(B) For districts the boundaries of which are located entirely within a single incorporated town or city that levies and directly administers the billing of ad valorem real property taxes, such town or city;

(6) "Infrastructure" means:

(A) The streets, roads, bridges, and sidewalks, and water, wastewater, natural gas, electric, telecommunications, and storm water facilities, required for the development of a district, as identified in the

establishment resolution, whether within or without the boundaries of the district; and

(B) Land within the boundaries of the district required to be donated, dedicated, or otherwise made available to a governmental entity for public purposes;

(7) "Infrastructure costs" means:

(A) All costs that may be capitalized under generally accepted accounting principles for purchasing, constructing, installing, and equipping infrastructure;

(B) The fees or costs imposed by a municipality or utility service provider:

(i) Related to the construction or installation of infrastructure; or

(ii) As a condition to the delivery of utility services to properties within the district; and

(C) The cost of any land required to be donated, dedicated, or otherwise made available to a governmental entity for public purposes, which land shall be valued at either the developer's demonstrated cost or, if the value of the land has subsequently been appraised, its appraised value, whichever is higher;

(8) "Infrastructure development district" or "district" means the infrastructure development district created by an establishment resolution;

(9) "Municipality" means a county, incorporated city or town, or a metropolitan government of this state; and

(10) "Owner" means the record owner in fee of a parcel within a district or the owner's duly authorized representative.

7-84-704. Construction with other laws.

This part is intended to afford an alternative method for the making of improvements by municipalities, the creation of special improvement districts for infrastructure development districts of the various municipalities, the levy of assessments and the issuance of bonds by municipalities, and does not deprive any municipality of the right to make improvements, create special improvement districts, levy assessments or other special taxes, or issue bonds under authority of any other law of this state, including chapters 32 and 33 of this title and parts 1-6 of this chapter; provided, that this part constitutes full authority for the making of improvements, creation of infrastructure development districts, levy of assessments, and issuance of bonds under the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21, to the extent applicable, by such municipalities who choose to act under this part.

7-84-705. Authority to establish and govern infrastructure development districts.

This part provides independent authority, separate and apart from chapters 32 and 33 of this title, and parts 1-6 of this chapter, for the establishment and governance of an infrastructure development district, and constitutes an alternative method of establishing and governing such a district. This part does not affect the operation and effect of chapters 32 and 33 of this title, and parts 1-6 of this chapter, which continue in full force and effect as separate and independent authority for the establishment and governance of a central business improvement or infrastructure development district; provided, however, that notwithstanding another law to the contrary, a central business improvement must not overlap any area within an infrastructure development district created by a municipality pursuant to this part.

7-84-706. Municipal powers.

This part does not affect or impair the control and jurisdiction that a municipality has over all property within its boundaries. The powers and authority granted by this part are in addition to all other powers and authority now residing with, or later granted to, municipalities in this state, and all powers granted by this part are subject to the general control and jurisdiction of such municipalities.

7-84-707. Liberal construction.

This part, being necessary to secure and preserve the public health, safety, convenience, and welfare, must be liberally construed to effectuate its purposes.

7-84-708. Conflicts of laws.

In the event of conflict between this part and another law of this state, this part governs.

7-84-709. Authority of municipality to create infrastructure development districts.

The governing body of a host municipality of the state may create, by resolution, one (1) or more infrastructure development districts located in whole or part within the boundaries of such municipality in the manner provided in this part. An infrastructure development district must be approved by the governing body of each host municipality.

7-84-710. Initiation of process to establish district.

(a) The establishment of a district may be initiated by a petition filed in the office of the clerk or other officers responsible for keeping the records of the governing body of each host municipality required to approve the establishment of such district, signed by:

(1) The developer;

(2) A majority of the owners of real property in the district having an assessed value of not less than two-thirds (2/3) of the assessed value of all the real property proposed to be included in the district; and

(3) The owners of each parcel of property within the district which is, at the time of the filing of the petition, being assessed as residential property.

(b) After the filing of the petition, a petitioning owner is not permitted to withdraw the petitioner's name from the petition. A petition with the requisite signatures is not void on account of formal or insubstantial defects. The governing body of each host municipality, at any time, may permit the petition to be amended to correct any errors in the description of the territory, or in any other particular. Similar petitions for the organization of the same district may be filed, and together must be regarded as one (1) petition with the original. All such petitions filed prior to the hearing on the first petition filed must be considered by the governing body of each of the host municipalities in the same manner as if filed with the first petition placed on file.

(c) The initiating petition must set forth:

(1) The name of the proposed district, which must include the words "Infrastructure Development District";

(2) An identification of each host municipality;

(3) A description of the boundaries of the district or the territory to be included in the district, identified with sufficient certainty to enable owners to determine whether their property lies within the district; provided, that the boundaries must not overlap with the boundaries of another district established pursuant to this part;

(4) A list of each parcel in the district, identified by parcel identification number of the county assessor, with the owner of each parcel and the address of such owner as shown on the property records of the county assessor;

(5) A site development plan for the district showing the area in the district that is anticipated to be utilized for residential housing, including owner-occupied housing and rental housing;

(6) The name and address of the developer;

(7) A description of the infrastructure required to develop the district;

(8) A description of the estimated infrastructure costs and an estimate of the cost of the entire development in the district upon completion;

(9) The proposed rate of levy of the special assessment to be imposed;

(10) A statement that the petition is filed pursuant to the terms of this part; and

(11) A request that a district be established pursuant to this part and that the administration of the district be governed by this part.

7-84-711. District area — Residential requirement.

(a) An infrastructure development district created by one (1) or more host municipalities must:

(1) Be composed of not less than five (5) acres; or

(2) Contemplate a capital cost for the development of the district of not less than five million dollars (\$5,000,000).

(b) At least one half (1/2) of the area in the district must be expected to be used for residential housing, whether single family or multifamily, as described in the petition.

(c) An infrastructure development district created by one (1) or more host municipalities may embrace two (2) or more separate property areas. The jurisdiction of a host municipality to make and provide, finance, and levy assessments for infrastructure costs within a district is not impaired by a lack of commonness, unity, or singleness of the location, purpose or character of the infrastructure, or by the fact that

any one (1) or more of the properties included in the district are subsequently determined not to be benefited by such infrastructure, or by a particular portion of the infrastructure, and is not assessed for such infrastructure costs.

(d) The creation or existence of a district is not subject to challenge if any of the projections of capital costs, residential use, or other matters contained in the petition are not achieved.

7-84-712. Public hearing requirement.

(a) Upon the filing of an initiating petition purporting to contain the requisite number of signatures, each governing body of a host municipality required to receive filing of such petition must order a public hearing to determine whether the infrastructure development district will be established.

(b) Notwithstanding subsection (a), when a district must be approved by two (2) or more host municipalities, the governing bodies may hold one (1) or more joint public hearings.

(c) A hearing held pursuant to this section must be held not less than thirty (30) days, nor more than forty-five (45) days, following the filing of the initiating petition with the clerk or secretary of the applicable governing body or bodies.

7-84-713. Notice.

(a) Notice of the public hearing must be provided to the public by posting the notice in a location where a member of the community may become aware of such notice as well as on a website maintained by the host municipality, if the host municipality has a website. The notice must provide a summary detailing those facts required to be included in the initiating petition, but is not required to set out in full the proposed establishment resolution.

(b) The notice must be posted not less than least fourteen (14) days before the governing body convenes for the public hearing. The notice must also be provided by mail to each owner of real property within the proposed district at the address of each such owner as shown in the records of the county assessor or county trustee for providing tax notices.

7-84-714. Public hearing procedure.

(a)

(1) All persons whose property may be affected by such improvement may appear at the public hearing in person, by attorney, or by petition and protest against the creation of the infrastructure development district. The governing body shall consider the objections and protests, if any, and may change the district boundaries or modify the proposal in such manner as may be deemed advisable by the governing body.

(2) At the conclusion of the public hearing, each applicable governing body shall adopt, adopt as amended, or reject the organization of the proposed infrastructure development district by the adoption or rejection of a resolution setting out the district. In host municipalities requiring two (2) or more readings before passage of a resolution due to local charter or ordinance requirements, all required readings must be held prior to the public hearing, except the final reading, so that the adoption may take place at the conclusion of the public hearing.

(b) A person who fails to file a protest, or who fails to appear at the public hearing or protest, or, having filed a protest, withdraws the protest, is deemed to have waived any objection to the creation of the district, the making of the improvements, and the inclusion of the person's property in the district.

(c) An infrastructure development district may only be established by resolution passed by a majority vote of the members of the governing body present and voting upon conclusion of the public hearing procedure as set forth in this section.

(d) In the event two (2) or more host municipalities are required to approve the establishment of an infrastructure development district, and the establishment resolutions adopted by the governing bodies of such municipalities vary in any material respect, then the establishment resolutions do not go into effect until one (1) or more of the governing bodies adopts amendatory resolutions sufficient to cause the establishment resolutions to be consistent in all material respects.

7-84-715. Establishment resolutions.

The establishment resolution adopted by the governing body of the municipality must include:

- (1) The name of the district as set forth in the original or amended initiating petition;
- (2) An identification of each host municipality;
- (3) A description of the boundaries of the district as set out in the original or amended initiating petition;
- (4) A statement that the properties in the area established by the resolution must be subject to the special assessment;
- (5) The name and address of the developer;
- (6) A statement of the infrastructure and infrastructure costs authorized to be funded with special assessment revenues within the district;
- (7) The rate of levy of the special assessment to be imposed;
- (8) The time and manner in which special assessments authorized by the resolution must be paid;

(9) The portion of special assessments to be retained by the host municipality for the payment of administrative expenses, as described in § 7-84-718; and

(10) A statement that the district is established pursuant to this part and that the administration of such district is governed by this part.

7-84-716. Bonds, notes, and other obligations — Definitions.

(a) A host municipality has the authority and power to borrow money and issue bonds, notes, or other obligations for the purpose of paying infrastructure costs identified in the establishment resolution, reimbursing the developer for the prior payment of infrastructure costs, or refunding or refinancing such bonds, notes, or obligations, under and pursuant to all the procedures and requirements set forth in the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21.

(b) A host municipality is further authorized to:

(1) Pledge to the payment of the principal, premium, and interest on the bonds, notes, or other obligations, and use for the payment of the bonds, notes, or other obligations the special assessment revenues authorized to be collected by the host municipality pursuant to this part in the same manner as revenues may be pledged pursuant to the Local Government Public Obligations Act of 1986. For purposes of this subdivision (b)(1), "revenues" has the same meaning as defined in § 9-21-105, and includes the special assessment revenues described in this part;

(2) Delegate to an industrial development corporation incorporated by the host municipality or another host municipality for the district the authority to issue the revenue bonds, in which case such host municipality must enter into an agreement with the industrial development corporation pursuant to which the

host municipality agrees to promptly pay to the industrial development corporation the assessments, including any interest on the assessments, as collected. The assessments must be held in trust by the host municipality for the benefit of the industrial development corporation when received. The host municipality may direct any property owner that is required to pay assessments to make the payments directly to an industrial development corporation or its assignee. If an industrial development corporation issues such bonds, then the assessments, and any interest collected on the assessments, constitutes "revenues" as defined in § 7-53-101, and the infrastructure financed thereby, whether transferred to the industrial development corporation on behalf of the host municipality, to the host municipality itself, or to another governmental entity or provider of public utilities, constitutes a project, as that term is defined in § 7-53-101; and

(3) Delegate to a public building authority the authority to issue the revenue bonds, in which case the host municipality must enter into an agreement with the public building authority pursuant to which the host municipality agrees to promptly pay to the public building authority the assessments, including any interest on the assessments, collected. The assessments must be held in trust by the host municipality for the benefit of the public building authority when received. The host municipality may direct a property owner that is required to pay an assessment to make the payment directly to a public building authority or its assignee. If a public building authority issues such bonds, then the assessments, and any interest collected on the assessments, constitutes "revenues" as defined in § 12-10-103, and public facilities and related expenses described in this part, whether transferred to the public building authority on

behalf of the host municipality, to the host municipality itself, or to another governmental entity or provider of public utilities constitutes a project, as that term is defined in § 12-10-103.

(c) A host municipality, industrial development corporation, or public building authority, as the case may be, is authorized to:

(1) Refund or refinance or otherwise cause the refunding or refinancing of any bonds or other obligations issued pursuant to this section in the manner provided in the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21, the Public Building Authorities Act of 1971, compiled in title 12, chapter 10, or chapter 53 of this title, as applicable. Without limiting this subdivision (c)(1), a host municipality may refund or refinance any bonds or loan agreements secured by the full faith and credit of the municipality and revenues received from assessments with bonds or a loan agreement secured only by such revenues. Upon any such refunding, the amount of assessment payments may be adjusted pursuant to policies approved by the host municipality; provided, that the assessment rate must not exceed that set forth in the establishment resolution; and

(2) Make the proceeds of bonds, except any bonds secured by the full faith and credit and taxing power of a municipality, issued pursuant to this section available to a developer pursuant to one (1) or more loan agreements, and to assign or pledge the host municipality's rights under the loan agreement to the holders of the bonds.

7-84-717. No limitation on municipal powers.

This part does not limit the powers and authority of the host municipality, this state, or a political subdivision of this state.

7-84-718. Special assessments.

(a) Upon the filing of a petition in the manner required by § 7-84-710 and the adoption of an establishment resolution that satisfies § 7-84-715, each host municipality is authorized to levy special assessments against all properties located within that portion of the infrastructure development district lying within the boundaries of such host municipality. When a portion of an infrastructure development district lies within the boundaries of more than one (1) host municipality, only one (1) of the host municipalities may levy special assessments in the area, and the identification of the host municipality responsible for levying assessments for the area must be identified in the establishing resolution. The proceeds of the special assessments must be applied to the cost of all infrastructure costs and expenses of making public improvements within the district.

Such costs and expenses may include:

(1) Infrastructure costs;

(2) Administration expenses required in order to comply with the terms of this part, including costs incurred to establish the district, abstracts and other title costs, costs incurred by the host municipality in order to provide for the billing, collection, and enforcement of special assessments, and the reimbursement of the developer or host municipalities for the prior payment of such costs; and

(3) The payment of the principal, premium, and interest on any bonds, notes, or other debt obligations issued pursuant to this part, and the funding of necessary reserves for debt service, capitalized interest, and costs of issuance related to any such bonds, notes, or other debt obligations issued.

(b) Any special assessments proceeds in excess of the amounts needed for the foregoing must be applied to the defeasance or prepayment of any bonds, notes, or other obligations issued as provided in this part, and upon the payment of such bonds,

notes, or other obligations, any remaining special assessment proceeds may be retained by the host municipality.

(c) Special assessments must be levied on an assessed value basis, in the amount set forth in the establishment resolution.

(d) Notwithstanding this part, an establishment resolution may provide that a total of up to five percent (5%) of special assessments may be set aside for administrative expenses, including expenses incurred by the host municipality and the officers of the municipality in administering the collection and allocation of special assessments, including a reasonable allocation of overhead expenses.

7-84-719. Government-owned property.

Notwithstanding § 7-84-718, a special assessment must not be levied on government-owned property without the approval of the governing body of the applicable governmental entity.

7-84-720. Assessment roll.

After all assessments have been determined, the host municipality must prepare an assessment roll that shows the location of the property and the owner of the property as shown in the records of the assessor and the amount of the assessment. The assessment roll must be updated whenever a parcel within the district is subdivided. The host municipality may include the projected cost of maintaining the assessment roll in the special assessment.

7-84-721. Administration of assessments.

(a) The governing body of a host municipality is authorized to adopt policies and procedures that the governing body deems appropriate to administer assessments imposed under this part, including policies relating to the rate and methodology governing the implementation of the assessment. The policies and procedures may also

address the reapportionment of assessments upon the request of property owners, reallocation of assessments upon subdivision of property, credits against assessment payments based upon other available funds, including earnings on reserve funds, maintenance of an assessment roll, and procedures for the prepayment of assessments.

(b) A host municipality may levy a maximum assessment under this part based upon the estimated costs of the infrastructure and other permitted costs being assessed, and, in such case, the amount of the assessment must be reduced by the host municipality once the actual costs are established by the host municipality. The host municipality may provide that such assessments may become effective at different periods of time to take into account when the costs being assessed will be incurred. The governing body of the host municipality may also provide that assessments must only be effective upon any issuance of bonds, notes, or other obligations imposed or incurred pursuant to this part.

(c) As long as a district remains in existence, the host municipality must maintain a record of the general description of the boundaries of such district and the rate of assessment for properties within such district. The record must be made publicly available in substantially the same manner as ad valorem property tax rates.

7-84-722. Liens.

(a) An assessment, any interest accruing on the assessment, and the costs of collection of the assessment constitutes a lien on and against the property upon which the assessment is levied as of the effective date of the resolution levying the assessment. The lien is superior to a lien of any trust deed, mortgage, mechanic's or material supplier's lien, or other encumbrance, except a lien of the state, county, or municipality for taxes.

(b) Notwithstanding any provision of this part, amounts collected by the host municipality must not be allocated to the payment of a special assessment by an owner in the district until all taxes, penalties, and interest relating to real property taxes imposed by any governmental entity with the power of taxation, including municipalities and special school districts, have been paid in full.

(c) The host municipality is authorized to allocate any payment received by an owner that is designated to pay special assessments to the payment of taxes, penalties, and interest until such amounts are paid in full. Otherwise, a host municipality shall collect and enforce special assessments in a district in the same manner as the collection and enforcement of real property taxes.

7-84-723. Delinquent assessments.

If any assessment is or becomes delinquent and the property subject to the delinquency has been or is to be sold to the host municipality for the delinquency, redemption of such property is permitted upon payment, not later than one (1) year after the date of sale, of the full amount due, plus interest, any taxes paid by the host municipality, and accrued costs and redemption fees as may be prescribed by resolution of the host municipality, unless, in the judgment of the governing body of the municipality, the interest of the host municipality is served by accepting a lesser sum in settlement for the delinquency.

7-84-724. Interest and penalties.

In case of failure to pay an assessment or installment provided for under this part on or before the date prescribed by the governing body for such payment, there is added to the assessment both interest of one percent (1%) per month and a penalty of one percent (1%) per month of the amount of such assessment or installment.

7-84-725. No operating authority — Compliance with laws.

This part does not authorize, in any manner, the developer or an owner to operate infrastructure, and the governmental or private entities authorized to provide any utility service to an area in a district retain the right to provide such service after the creation of a district. A development agreement entered into pursuant to this part between a developer and the host municipality may require the dedication or transfer of all infrastructure by the developer or owner to the appropriate governmental or private entity that provides the applicable service, and each such governmental or private entity is authorized to be a party to the development agreement. All infrastructure shall be constructed in a district in compliance with all applicable laws of the applicable governmental entity.

7-84-726. Joint action among host municipalities.

In the case of a district that has two (2) or more host municipalities, the host municipalities may enter into agreements between or among the host municipalities, and take collective or cooperative action, as may be required or appropriate to effectuate this part.

7-84-727. Dissolution of districts.

Each district established pursuant to this part must be dissolved by the governing bodies of the host municipalities immediately upon:

(1) Written petition filed by the owners of either seventy-five percent (75%) of the assessed value of the property in the district, based on the most recent certified city property tax rolls, or fifty percent (50%) of the owners of record within the district; or

(2) The payment and discharge of all outstanding bonds, notes, or other obligations payable solely from the special assessment revenues levied on the

property within the district; provided, that dissolution must not occur prior to the payment in full and discharge of such debt obligations.

SECTION 2. Tennessee Code Annotated, Section 66-5-210, is amended by inserting the following as a new subdivision (C)(17) to the residential property disclosure and renumbering the subsequent subdivisions accordingly:

(17) Is the location of the property within an improvement district that is subject to special assessment:

YES

NO

UNKNOWN

Rate of Special Assessment: _____

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.