

Amendment No. 1 to HB0740

**Kisber
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Comm. Amdt. _____

AMEND Senate Bill No. 899

House Bill No. 740*

by deleting from the amendatory language of Section 4 the following words:

with respect to which an energy acquisition corporation may be organized and for the benefit of which such corporation will function.

AND FURTHER AMEND Section 9 of the bill to add at the end of the last sentence of the amendatory language therein designated as Section 7 and the last sentence of the amendatory language therein designated as Section 8 the following:

provided, however, jurisdiction over any corporation against which an action on such a contract or agreement is brought shall lie solely in a court located in Tennessee which would otherwise have jurisdiction of actions brought in contract against such corporation.

AND FURTHER AMEND Section 12 by deleting the introductory language thereof and substituting in its place the following:

Tennessee Code Annotated, Section 7-39-304(a), is hereby amended to delete subdivisions (2), (3) and (4) thereof (exclusive of the paragraph following subdivision (4)) and to substitute in place thereof the following:.

AND FURTHER AMEND Section 13 by deleting the introductory language thereof and substituting in place thereof the following:

Tennessee Code Annotated, Section 7-39-304, is hereby amended to designate the unnumbered paragraph following subdivision (a)(4) as subdivision (b)(1) and to add two new paragraphs immediately following said subdivision (b)(1) designated as subdivisions (b)(2) and (b)(3) as follows and to redesignate the current subdivision (b) as new subdivision (c):

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AND FURTHER AMEND by deleting Section 16 of the bill and substituting in place thereof the following:

SECTION 16. Tennessee Code Annotated, Section 7-39-305 is hereby amended to add the following new subsections:

(f) With respect to all or any portion of any issue of bonds issued or anticipated to be issued hereunder, at any time during the term of the bonds, and upon receipt of a report of the comptroller of this state or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations as set forth below, a corporation by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings, or both, and other interest rate hedging agreements under such terms and conditions as the board of directors of the corporation may determine, including, without limitation, provisions permitting the corporation to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(g) The governing body of a corporation may enter into an agreement to sell its bonds under this part providing for delivery of its bonds on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the comptroller or his designee) from the date of execution of such agreement only upon receipt of a report of the comptroller of the state or his designee finding that such an agreement or contract of a corporation to sell

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its bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board in accordance with the provisions below. Agreements to sell bonds for delivery ninety (90) days or less from the date of execution of the agreement to sell the bonds do not require a report of the comptroller of the state or his designee.

(h) Prior to the adoption or promulgation by the state funding board of guidelines, rules or regulations with respect to the contracts and agreements authorized in subsections (f) and (g), a corporation may enter into such contracts or agreements to the extent otherwise authorized in this chapter or in any other law notwithstanding the provisions of subsections (f) and (g) hereof. Nothing in the provisions of this section is intended to alter any existing authority in this chapter or in any other law otherwise providing authority for a corporation to enter into the contracts or agreements described in subsections (f) and (g) heretofore entered into prior to the adoption or promulgation by the state funding board of guidelines, rules or regulations.

(i) The state funding board shall establish guidelines, rules or regulations with respect to the agreements and contracts authorized in subsections (f) and (g), which may include, but shall not be limited to, the following: (1) the conditions under which such agreements or contracts can be entered into; (2) the methods by which such contracts are to be solicited and procured; (3) the form and content such contracts shall take; (4) the aspects of risk exposure associated with such contracts; (5) the standards and procedures for counterparty selection,

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including rating criteria; (6) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts or agreements; (7) the methods of securing the financial interest in such contracts; (8) the methods to be used to reflect such contracts in the corporation's financial statements; (9) financial monitoring and periodic assessment of such contracts by the corporation; (10) the application and source of non-periodic payments; and (11) educational requirements for officials of any corporation responsible for approving any such contract or agreement. Prior to the adoption by the board of directors of the corporation of a resolution authorizing such contract or agreement, a request shall be submitted to the comptroller of the treasury or his designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or regulations of the state funding board. Within fifteen (15) days of receipt of the request, the comptroller or his designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the corporation. If the report of the comptroller or his designee finds that the contract or agreement complies with the guidelines, rules or regulations of the state funding board or the comptroller shall fail to report within said fifteen (15) day period, then the corporation may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the state funding board. If the report of the comptroller or his designee finds that such contract or agreement is

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not in compliance with the guidelines, rules or regulations, then the corporation is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for a process for the appeal of a determination of noncompliance.