

HOUSE BILL 2390

By Fitzhugh

AN ACT to authorize the State of Tennessee, acting by resolution of its funding board, to issue and sell its interest-bearing bonds and bond anticipation notes in amounts not to exceed seven hundred one million one hundred thousand dollars (\$701,100,000) for the purpose of providing funds to the Department of Finance and Administration and the Department of Transportation; to provide for acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvements, betterments, and extraordinary repairs to existing structures, for construction of highways, and for grants to any county, metropolitan government, incorporated town, city, special district of the state, or any governmental agency or instrumentality of any of them; to make grants to The County of Bradley, Tennessee, The Southeast Tennessee Development District, and The Chattanooga Area Regional Council of Governments to provide for acquisition of equipment and acquisition, site preparation, erection, construction and equipment of sites and buildings, and infrastructure improvements and development; to provide funds for the state office buildings and support facilities revolving fund, and to provide for the expenditure of said fund; to issue its debt in excess of the previously stated amount to fund discount and costs of issuance; and to provide for the expenditure of said funds. This act makes appropriations for an indefinite period of time for the purpose of allocating the proceeds of the bonds and notes authorized by this act. This act cancels a portion of the amount of bonds authorized by Chapter 850, Public Acts of 1994, by Chapter 990, Public Acts of 1996, by Chapter 831, Public Acts of 1998, by Chapter 958, Public Acts of 2004, by Chapter 962, Public Acts of 2006 and by Chapter 591, Public Acts of 2007.

WHEREAS, the General Assembly recognizes the importance to the economic welfare and prosperity of the State of promoting economic growth, employment and community

development in the State and has in the past created the department of economic and community development to further such development and authorized the department to seek businesses to locate in the State; and

WHEREAS, the department has entered into memoranda of understanding with Wacker Chemie AG, a German corporation, with the project to be undertaken by MM-Cleveland TN, LLC (collectively, "Wacker Chemie AG") to locate a new facility in Bradley County, Tennessee, and

WHEREAS, this new facility will provide a substantial number of jobs and promote further economic growth, employment and community development not only in that county but in the State as a whole; and

WHEREAS, the General Assembly finds that making grants to The County of Bradley, Tennessee, The Southeast Tennessee Development District, and The Chattanooga Area Regional Council of Governments for acquisition of equipment and acquisition, site preparation, erection, construction and equipment of sites and buildings, and infrastructure improvements and development in support of the location of Wacker Chemie AG in Tennessee in accordance with the memoranda of understanding will serve the public purpose of promoting economic and community development in the State and for its inhabitants as a body and is related to the function of the department of economic and community development in furthering such growth; now, therefore,

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

SECTION 1. The State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell direct general obligation interest-bearing bonds of the State of Tennessee in amounts not to exceed seven hundred one million one hundred thousand dollars (\$701,100,000) to effectuate the purposes specified in Section 4 of this act. Further, the funding board is authorized to sell bonds in amounts not to exceed 2.5% of

the amounts specified above and authorized in Section 4, for the purpose of funding discount and costs of issuance. Such bonds may be issued and sold in one (1) block or in several installments and separately or together with other general obligation bonds of the State of Tennessee as the board may determine, either at public or private sale as provided by law.

SECTION 2. The bonds and the interest-bearing coupons attached thereto, if any, shall be in such form, mature at such time or times within twenty (20) years from the date of their issuance (subject to Section 7 of this act) be executed in such manner, be payable at such place or places both as to principal and interest, and be in such denominations and bear such rate or rates of interest, payable in such manner, as the funding board shall by resolution direct; provided, however, that the maximum rate determined by the funding board in no instance shall exceed the legal rate as provided in Section 47-14-103 of the Tennessee Code Annotated. The proceeds derived from the sale of the bonds shall be paid to the state treasurer to be disbursed by the treasurer and other fiscal officers and agencies of the state as provided by general law and this act. The bonds and interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes.

SECTION 3. When the bonds are so issued and sold, they shall be direct general obligations of the State of Tennessee for the payment of which well and truly to be made according to the tenor, effect and terms thereof the full faith and credit of the state together with its taxing power, shall irrevocably be pledged; and the bonds as authorized herein shall be issued agreeable to the terms of Title 9, Chapter 9, Tennessee Code Annotated; and they shall be financed, retired, and paid both as to principal and interest as provided in that chapter and shall be subject to the terms and conditions therein and herein contained. When the bonds are sold and proceeds paid over to the state treasurer, the funds shall be paid out by the treasurer and the proper fiscal officers of the state, as provided by general law, but only (except for

accrued interest paid as part of the purchase price) on order of the proper administrative authorities of the agency or department herein named for the benefit of which such bonds have been authorized and only to the extent such bonds have in fact been issued for the benefit of such agency or department.

SECTION 4. The proceeds of any and all issues of bonds herein authorized shall be allocated to the following departments:

(1) Department of Finance and Administration in the amount of two hundred ten million nine hundred thousand dollars (\$210,900,000) and expended for the purposes of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvements, betterments and extraordinary repairs to existing structures, and for the purpose of making grants to any county, metropolitan government, incorporated town, city, special district of the state, or any governmental agency or instrumentality of any of them, if such project grant is approved by the State Building Commission. Such grants so identified and approved are determined to be for a public purpose.

(2) Department of Finance and Administration in the amount of fifty-six million nine hundred thousand dollars (\$56,900,000) and expended for the purpose of making grants to The County of Bradley, Tennessee, The Southeast Tennessee Development District, and The Chattanooga Area Regional Council of Governments for the Wacker Chemie AG Project and expended for the purpose of acquisition of equipment and acquisition, site preparation, erection, construction and equipment of sites and buildings, and infrastructure improvements and development including but not limited to sewer, water, utility infrastructure, and rail infrastructure, whether or not such infrastructure is owned by The County of Bradley, Tennessee, The Southeast Tennessee Development District or the Chattanooga Area Regional Council of Governments. Such grants shall

be made by the Department of Finance and Administration only if such project grant is approved by the State Building Commission. Such grants so identified and approved are determined to be for a public purpose for the reasons and findings previously set forth.

(3) Department of Finance and Administration in the amount of three million three hundred thousand dollars (\$3,300,000) to provide funds for the state office buildings and support facilities revolving fund to be allocated and expended for the purpose of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvements, betterments and extraordinary repairs to existing structures, and for the purpose of making grants to any county, metropolitan government, incorporated town, city, special district of the state, or any governmental agency or instrumentality of any of them, if such project grant is approved by the State Building Commission. Such grants so identified and approved are determined to be for a public purpose.

(4) Department of Transportation in the amount of eighty million dollars (\$80,000,000) and expended for the construction of highways and for the purpose of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvements, betterments and extraordinary repairs to existing structures.

(5) Department of Transportation in the amount of three hundred fifty million dollars (\$350,000,000) and expended for the construction of highways and for the purpose of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvements, betterments and extraordinary repairs to existing structures. Federal highway trust funds currently are intended to provide approximately eighty percent (80%)

of the cost of interest and repayment of principal on bond anticipation note or notes and general obligation bonds issued pursuant to this allocation.

In its discretion the funding board is authorized to issue bonds in amounts not to exceed 2.5% of the amounts specified above, the proceeds of which are to be allocated to the funding board and expended for the purpose of funding discount and the costs of issuance.

SECTION 5. The proper authorities heretofore enumerated and charged with the duty of expending the funds shall have authority to proceed with the projects authorized herein and for that purpose may hire an architect or architects, advertise for low bids and award contracts to low bidders, all within the provisions of the general law, expressly including the provisions of Title 4, Chapter 15, Tennessee Code Annotated, and in agreement with the terms of this act. No contract, including a contract for architectural services, involving a project authorized by this act which is subject to the approval of the State Building Commission shall be entered into unless and until that contract shall have been approved by the building commission.

SECTION 6. The appropriation made to each agency or department as provided in Section 4 may be applied as determined by the funding board to bear its appropriate portion of discount and costs of issuance.

SECTION 7. Pending the issuance of the definite bonds authorized by this act, the State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell, either at public or private sale, together with accrued interest thereon, its interest-bearing bond anticipation note or notes. Such note or notes shall be authorized by resolution of the funding board, shall bear such date or dates, as such resolution or resolutions provide. The note or notes shall bear interest at such rate or rates, be in such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places and mature on such date(s), subject to such terms and conditions as such

resolution or resolutions may provide. In its discretion, the funding board may provide that a bond anticipation note or any renewal of such note may mature more than five (5) years from the date of issue of the original note; provided, that an amortization schedule of repayment of principal is established for the project funded by the note and provisions are made such that any note or renewal note or bond refunding such note attributed to the financing of such project shall be redeemed or retired no later than either twenty-five (25) years from the date of issue of such original note or twenty (20) years from the date the project is completed and placed in full service, whichever is earlier. Provisions of general law with respect to authentication, execution and registration of general obligation bonds of the State of Tennessee shall also apply to the notes to the extent applicable. The note or notes and the interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes. Any resolution or resolutions of the funding board authorizing the issuance of such bond anticipation note or notes shall provide that the same are issued in anticipation of the bonds authorized hereunder and shall further provide that the full faith and credit of the State of Tennessee are pledged to the payment thereof.

SECTION 8. No bonds shall be issued under the authority of this act until such time as the general assembly has appropriated sufficient funds to pay the first year's obligation of principal and interest on the amount of bonds to be issued and the state funding board has determined that such funds are available.

SECTION 9. Notwithstanding any other provision of this act to the contrary, the bonds and bond anticipation notes authorized by this act may be designated "college savings bonds" and be issued pursuant to the provisions of the Baccalaureate Education Savings for Tennessee Act, Chapter 190, Public Acts of 1989.

SECTION 10.

(1) The amount of thirteen million eight hundred thousand dollars (\$13,800,000) authorized by Chapter 850, Public Acts of 1994, the proceeds of which were allocated to the Department of Finance and Administration for the purpose of providing funds for the development of an information system for the judiciary, is hereby repealed.

(2) The amount of ten million nine hundred thirty-five thousand dollars (\$10,935,000) authorized by Chapter 990, Public Acts of 1996, the proceeds of which were allocated to the Department of Environment and Conservation for the purpose of establishing a park facility near Clifton, Tennessee, is hereby repealed.

(3) The amount of eleven million one hundred fifty thousand dollars (\$11,150,000) authorized by Chapter 831, Public Acts of 1998, the proceeds of which were allocated to the Department of Mental Health and Mental Retardation for the purpose of refunding certain outstanding debt of the Tennessee Local Development Authority related to the Community Provider Pooled Loans Program, is hereby repealed.

(4) The amount of two hundred thousand dollars (\$200,000) authorized by Chapter 958, Public Acts of 2004, the proceeds of which were allocated to the Department of Finance and Administration for the purpose of providing funds for the capital outlay program, is hereby repealed.

(5) The amount of one million eight hundred fifty thousand dollars (\$1,850,000) authorized by Chapter 962, Public Acts of 2006, the proceeds of which were allocated to the Department of Finance and Administration for the purpose of providing funds for the capital outlay program, is hereby repealed.

(6) The amount of three million three hundred fifty thousand dollars (\$3,350,000) authorized by Chapter 591, Public Acts of 2007, the proceeds of which were allocated to the Department of Finance and Administration for the purpose of providing funds for the capital outlay program, is hereby repealed.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. No expenditure of public funds pursuant to this act shall be made in violation of the provisions of Title VI of the Civil Rights Act of 1964, as codified in 42 United States Code 2000(d).

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.