

HOUSE BILL 401

By Dunn

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7; Title 9; Title 54; Title 55 and Title
67, relative to transportation.

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. This part shall be known and may be cited as the "Transit Improvement District Act."

7-84-702.

(a) It is hereby determined and declared that high capacity transit systems both facilitate and require high quality, pedestrian scale, mixed-use development around stations. Such transit-oriented development supports and justifies the investment in high capacity transit; that such transit-oriented development provides a sound market alternative for those who either need or desire to live, work, shop, and recreate in communities wherein the residents, employees, and other users of community facilities and amenities are not wholly dependent on single occupancy vehicles; municipalities and counties are able to achieve their goals of increased population, higher tax revenues, and healthier, more vibrant communities without excessive traffic congestion, pollution, and other negative factors associated with many common development patterns.

(b) The general assembly further finds that:

(1) Municipalities and counties should be encouraged to create self-financing transit improvement districts in conjunction with a regional

transportation authority to enhance their local business climate and encourage population growth in a manageable and sustainable fashion;

(2) Municipalities should be given the broadest possible discretion in establishing these districts in cooperation with regional transportation authorities and other municipalities within the transit corridor, and with private development interests, in order to encourage the development of high quality communities within the transit corridor; and

(3) It is necessary to protect and respect the rights of private property owners to utilize their property as they decide in their sole discretion.

7-84-703.

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

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

(2) "District" or "transit improvement district" means the transit improvement district created by the establishment ordinance of the municipality;

(3) "Establishment ordinance" means the ordinance of the governing body adopted pursuant to § 7-84-717 establishing a district;

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

(5) "Initiating petition" means the petition filed pursuant to § 7-84-712 requesting the establishment of a district pursuant to this part;

(6) "Municipality" means any incorporated city, town, or metropolitan government of this state exercising general governmental functions in the state;

(7) "Owner" means record owner in fee, or a duly authorized representative; and

(8) "Regional transportation authority" means an authority representing member municipalities and counties within a legally defined service area and created pursuant to title 64, chapter 8.

7-84-704.

This part shall apply only to proposed public transit system improvements, projects, and services within the geographical boundaries of Knox County and Blount County that will utilize property on which an existing transportation facility or existing transportation infrastructure is located as of the effective date of this act. Nothing in this part shall be construed as obligating the owner of such infrastructure facility or existing infrastructure improvement to consent to any such projects or plans that a transportation improvement district may propose. The owner of such existing infrastructure facility or existing infrastructure improvement shall retain the ultimate right to approve or reject any proposed usage of their existing infrastructure facility or existing infrastructure improvement as they decide in their sole judgment.

7-84-705.

This part does not affect any proceedings under title 13, chapter 20, parts 1-3, and all or any part of the area within the boundaries of a transit improvement district created pursuant to this part may be part of any urban renewal area created pursuant to such provisions or other laws.

7-84-706.

(a) This part is intended to afford an alternative method for the making of improvements by a municipality, the creation of special improvement districts for transit improvement districts of the various municipalities, the levy of assessments, and the issuance of bonds by municipalities, and shall not be so construed as to 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 parts 1-6 of this chapter; nevertheless, this part shall constitute full authority for the making of improvements, creation of transit improvement 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 that act under this part.

(b) No act later passed by the general assembly amending other acts relating to the same subject matter as covered by this part shall be construed to affect the authority to proceed under this part in the manner provided in this part, unless such future act amends this part and specifically provides that it is to be applicable to proceedings taken and to bonds issued under this part.

7-84-707.

This part shall constitute independent authority, separate and apart from parts 1-6 of this chapter, for the establishment and governance of a transit improvement district, and shall constitute an alternative method of establishing and governing such a district. None of this part shall in any way affect the operation and effect of parts 1-6 of this chapter, which shall continue in full force and effect as separate and independent authority for the establishment and governance of a transit improvement district.

7-84-708.

Nothing in this part shall 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 shall be in addition to any and all other powers and authority now residing with, or hereafter granted to, municipalities in this state, and all powers in this part shall be subject to the general control and jurisdiction of such municipalities.

7-84-709.

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

7-84-710.

In the event of conflict between this part and any other laws or parts of laws governing the state, this part shall govern.

7-84-711.

The governing body of any municipality of the state is authorized to create, by ordinance, one (1) or more transit improvement districts in the manner provided in this part.

7-84-712.

The establishment of a district shall be initiated by a petition filed in the office of the clerk of the governing body of the municipality, signed by not less than a majority in number 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. After the filing of the petition, and at any time prior to the public hearing held pursuant to § 7-84-715, a petitioner shall be permitted to withdraw the petitioner's name from the petition, if the petition is altered with a substantive amendment, with which the petitioner disagrees. No petition with the requisite signatures shall be declared void on account of formal or insubstantial defects. The governing body, at any time, may permit the petition to be amended to conform to the facts by correcting 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 shall be regarded as one (1) petition with the original. All such petitions filed prior to the hearing on the first petition filed shall be considered by the governing body in the same manner as if filed with the first petition placed on file. The initiating petition shall set forth:

- (1) The name of the proposed district, which shall include the name of the municipality in which the district is to be located, together with the words, "Transit Improvement District";

(2) A general description of the boundaries of the district or the territory to be included in the district, identified with sufficient certainty to enable any and all owners to determine whether their property lies within the district;

(3) A general description of the improvements, services, projects proposed for the district, and other proposed uses of special assessment revenues to support the transit system within the district or within the transit corridor and system serving the district;

(4) The total estimated costs of the proposed improvements, services, projects, and other proposed uses and the estimated rate of levy of the special assessment, with a proposed breakdown by property classification if such classification is to be used;

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

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

7-84-713.

(a) Before a special assessment may be imposed under this part, a transit improvement district program shall be developed and adopted in accordance with this section.

(b) A transit improvement district program must indicate and describe in reasonable detail the public transit system projects and services to be funded and implemented under the program.

(c) A transit improvement district program must state:

(1) The type and rate of a special assessment that will provide funding to the program;

(2) When a special assessment will terminate or the date or conditions upon which the special assessment will be terminated or reduced;

(3) Any other sources of funding for the program;

(4) An estimate of the initial and recurring cost of the program;

(5) The implementing agencies responsible for carrying out the program;

and

(6) The geographic location of the public transit system projects.

(d)

(1) Prior to the adoption of an ordinance pursuant to this part, a municipality must prepare a plan of financing that demonstrates a proposed transit improvement district program's financial feasibility that includes the methodology and assumptions used in the financial forecasts and projections supporting the plan's analysis.

(2) The plan of financing shall include information on the amount of the transit improvement district program's infrastructure to be financed through the issuance of bonds or other debt.

(3) The plan of financing's analysis will be based on forecasts and projections for at least a ten-year period after the planned inception date for the program.

(4) A municipality shall obtain a determination or opinion in accordance with the attestation standards from an independent certified public accounting firm that the assumptions in the municipality's plan of financing provide a reasonable basis for the municipality's forecast or projection given the hypothetical assumptions supporting its analysis that the proposed transit improvement program is financially feasible.

(5) Prior to obtaining the determination or opinion, the municipality shall obtain approval from the comptroller of the treasury of the selection of the firm and the procedures to be used by the firm in making the determination or opinion.

(6) Upon approval of the firm and the procedures to be used by the firm by the comptroller of the treasury, the municipality shall submit to the firm a plan of financing for any of the projects or services to be provided as part of the transit improvement program. Other relevant information may be considered in making the determination or opinion required by this subsection (d).

(7) The municipality shall publish the completed financial feasibility determination or opinion in its entirety with the plan of financing on its website as soon as practicable after completion.

(8) For the purposes of this subsection (d), "financial feasibility" means the transit improvement program is likely to be viable after taking into account the anticipated costs, risks, and liabilities of the transit improvement program, the anticipated revenue generated by the surcharge and transit improvement program, and the municipality's financial position.

7-84-714.

Any transit improvement district created by a municipality may embrace two (2) or more areas. Each district shall be of such size and form as to include all properties that, in the judgment of the governing body, shall be benefited by the transit-related or -oriented improvements and services that are proposed to be made and provided in such district; and such district shall include or be adjacent to, and be reasonably accessible to, a transit station, either existing or planned.

7-84-715.

Upon the filing of an initiating petition purporting to contain the requisite number of signatures, the governing body shall order a public hearing to determine whether the transit improvement district shall be established. The hearing shall be held not less than thirty (30) nor more than forty-five (45) days following the filing of the initiating petition with the clerk of the governing body.

7-84-716.

Notice of the public hearing shall be given by publishing a notice once a week for three (3) consecutive weeks in some newspaper of general circulation in the municipality and upon the municipality's website for the same three-week period. It shall not be necessary to set out in full in the notice the proposed establishment ordinance, but the notice shall state in summary detail those facts required to be included in the initiating petition. The notice shall state the time and place of such public hearing, which shall be at least seven (7) days following the date of publication of the first notice, and shall include information on filing a protest against the creation of such transit improvement district. The notice shall also be given by mail to each owner of real property within the proposed district.

7-84-717.

(a) At the time and place thus appointed, the governing body shall meet, and at such meeting, or at the time and place to which the meeting may be adjourned from time to time, all persons whose property may be affected by such improvement or improvements may appear in person, by attorney or by petition, and protest against the creation of such transit improvement district; and the governing body shall consider such 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. At the conclusion of the public hearing, the governing body shall adopt, adopt as amended, or reject the organization of the transit improvement district by the adoption or rejection of

an ordinance setting out the district. In all municipalities requiring two (2) or more readings before passage of an ordinance, all readings shall have been held prior to the public hearing, except the final such reading, so that the adoption may take place at the conclusion of the public hearing.

(b) Any person who fails to file a protest within thirty (30) days of the date of publication of the third and final notice, or who fails to appear at the public hearing or protest, or, having filed, withdraws the protest, shall be 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) A transit improvement district may only be established by ordinance passed by a majority vote of the members of the governing body entitled to vote upon conclusion of the public hearing procedure as set forth in this part.

7-84-718.

The establishment ordinance adopted by the governing body of the municipality shall include:

(1) The name of the district as set forth in the original or amended initiating petition;

(2) A description of the boundaries of the district as set out in the original or amended initiating petition;

(3) A statement that the properties in the area established by the ordinance shall be subject to the provisions of the special assessment;

(4) A statement of the improvements, services, and projects authorized to be provided within and for the district and other proposed uses of special assessment revenues to support the transit system within the district or within the transit corridor and system serving the district;

(5) The initial or additional rate of levy of the special assessment to be imposed with a breakdown by property classification if classifications are used;

(6) The time and manner in which special assessments authorized by the ordinance shall be paid;

(7) A statement that the district is established pursuant to this part and that the administration of such district shall be governed by this part; and

(8) Information on the procedure for filing a protest against the creation of the district.

7-84-719.

(a) The municipality or the regional transportation authority has the authority and power to borrow money and issue bonds, notes, or other obligations for the purpose of paying the costs of transit system improvements made pursuant to the establishment ordinance, or the refunding or refinancing of any 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) The municipality or the regional transportation authority is further authorized to pledge to the payment of principal of and premium and interest on such bonds, notes, or other obligations, and use for the payment thereof, the special assessment revenues authorized to be collected by the municipality pursuant to this part in the same manner as revenues may be pledged pursuant to the Local Government Public Obligations Act of 1986.

(c) "Public works project," as defined in § 9-21-105 of the Local Government Public Obligations Act of 1986, includes all public improvements made within the district and the proceeds of any such bonds, notes, or other obligations may be used for any purpose for which bond proceeds may be used under the Local Government Public Obligations Act of 1986.

(d) "Revenues," as defined in § 9-21-105 of the Local Government Public Obligations Act of 1986, includes the special assessment revenues described in this part.

(e) Transit system improvements include any and all capital costs, and operations and maintenance costs, associated with the provision of high capacity transit services to the district if such district improvements include a station or stations serving the district directly, and adjacent to or internal to the district.

(f) A municipality is authorized to obligate and transfer funds collected by assessment in the district to a regional transportation authority in exchange for transit services provided by the regional transportation authority to the district, which may include both transit services and transit-oriented development improvements. A municipality may make transit-oriented development improvements in the district utilizing allocated funds, but only with the concurrence of the regional transportation authority.

7-84-720.

In addition to all other powers of a municipality enumerated in this part or elsewhere, a municipality has the following powers, limited only by the establishment ordinance, all of which powers may be delegated to the regional transportation authority by the establishment ordinance or other ordinance of the governing body of the municipality:

- (1) Acquire, construct, or maintain parking facilities;
- (2) Acquire, construct, or maintain transit system improvements;
- (3) Acquire real property or an interest in property in connection with a transit system improvement;
- (4) Provide services for the improvement and operation of the district;
- (5) Enter into contracts and agreements;

(6) Hire employees or retain agents, engineers, architects, planners, consultants, attorneys, and accountants; and

(7) Acquire, construct, install, and operate transit system improvements contemplated by the establishment ordinance and all property, rights, or interests incidental or appurtenant to the transit system improvements and dispose of real and personal property and any interest in real and personal property, including leases and easements in connection with real and personal property.

7-84-721.

(a) To cover all costs and expenses of making transit system improvements within the district and providing the services, projects, and activities to the district, the municipality is authorized to levy special assessments against properties that are:

- (1) Located within the transit improvement district;
- (2) Located within the corporate limits of the municipality; and
- (3) Owned by persons who filed a petition pursuant to § 7-84-712

requesting the establishment of a district pursuant to this part.

(b) Such costs and expenses may include:

- (1) All costs of acquisition, construction, and maintenance of transit system improvements within the district or serving the district;
- (2) Costs of planning and feasibility studies, engineering, accounting, legal, surveying, consultant, and other professional fees;
- (3) 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, payment of principal of and premium and interest on any bonds, notes, or other obligations issued as provided in this part and in the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21;

(4) Funding of necessary reserves for debt service, maintenance, depreciation, or other items, and payment of all costs and expenses of the regional transportation authority that are authorized in this part and approved by the governing body pursuant to the budget review process described in this part or otherwise approved by the governing body; and

(5) Provision for additional costs or losses of assessment revenue for the development and construction of such improvements and provision of such services and activities as are authorized by the governing body.

(c) The assessment authorized in this section includes all such costs, even though some of the construction, engineering, inspection, and administrative or other services necessary are performed by the municipality.

(d) The aggregate amount of a special assessment to be imposed on any lot or parcel of land shall not exceed fifteen percent (15%) of the assessed value of the lot and improvement on the lot. The municipality shall pay any part of the special assessment imposed on any such lot or parcel of land as may be in excess of fifteen percent (15%) of the assessed value.

7-84-722.

(a) The governing body of the municipality shall determine annually the total costs and expenses to be paid from the special assessments, and annually apportion such costs and expenses upon the various properties located within the district in accordance with the benefits conferred upon the various properties.

(b) In determining the benefits to each lot or parcel of property within the district, the governing body may consider any of the following factors: square footage, front footage, assessed value, type of use, business classification, property location, zones of benefit, or a combination of such factors.

(c) The fact that assessments may be spread uniformly over a large area within the district shall not be conclusive that such assessment was arbitrarily made.

(d) Special assessments shall be imposed and collected annually, or on another basis specified in the ordinance establishing the transit improvement district.

(e) Changes may be made in the rate or additional rate of the special assessment as specified in the ordinance establishing the district.

(f) The governing body must hold a public hearing to change the rate or impose an additional rate of special assessment.

7-84-723.

Notwithstanding §§ 7-84-721 and 7-84-722, no special assessment shall be levied on any government-owned property, including, but not limited to, any property owned by a county or by a public building authority, without the approval of the governing body of such governmental entity or of the public building authority that contains representatives of each participating governmental entity.

7-84-724.

After all assessments have been determined, an assessment roll shall be prepared by the governing body, which shall show the location of the property, the owner of the property as shown in the records of the assessor, and the amount of the assessment.

7-84-725.

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

7-84-726.

In case any assessment shall become or has become delinquent and the property subject to the delinquency has been or shall be sold to the municipality for the delinquency, redemption of such property shall be permitted upon payment, no later than one (1) year after the date of sale, of the full amount due, plus interest, any taxes paid by the municipality, and accrued costs and redemption fees as may be prescribed by ordinance of the municipality, unless, in the judgment of the governing body of the municipality, the interest of the municipality will be subserved by accepting a lesser sum in settlement for the delinquency.

7-84-727.

In case of failure to pay any assessment or installment provided for under this part on or before the date prescribed by the governing body for such payment, there shall be 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.

7-84-728.

(a) The governing body is authorized to dissolve the district upon written petition filed by the owners of either:

- (1) 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
- (2) Fifty percent (50%) of the owners of record within the district.

(b) The district shall not be dissolved if the municipality has outstanding any bonds, notes, or other obligations payable solely from the special assessment revenues levied on the property within the district, and such dissolution may occur only at such time as such bonded indebtedness has been repaid in full or the municipality pledges to the payment of such indebtedness its full faith and credit and unlimited taxing power.

7-84-729.

This part is deleted on July 1, 2020, unless re-enacted or extended by the 111th general assembly prior to such date and a municipality that has created, or plans to create, a transit improvement district pursuant to this part and that supports the re-enactment or extension of this part submits a resolution to the transportation and safety committee of the senate and the transportation committee of the house of representatives no later than February 1, 2020, supporting the re-extension or extension of this part, and submits a report detailing an estimate of the initial cost of the projects or services to be provided as part of the transit improvement district program developed, or to be developed, by the municipality, and an estimate of the initial investment secured by, or proposed to be secured by, the municipality to finance the projects or services.

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.