

HOUSE BILL 681

By Helton

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 3, Part 4, relative to the Volunteer Public Education Trust Fund Act of 1985.

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

SECTION 1. Tennessee Code Annotated, Section 49-3-406, is amended by deleting the language "The state treasurer, in consultation with the commissioner of education, is" and substituting instead the language "The trustees are".

SECTION 2. Tennessee Code Annotated, Section 49-3-403(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) There is established within the state treasury a special trust fund for education known as the volunteer public education trust fund that shall be administered by the state treasurer and the commissioner of education as trustees.

SECTION 3. Tennessee Code Annotated, Section 49-3-403(b)(1), is amended by deleting the subdivision in its entirety and substituting instead the following:

(1) The state treasurer, on behalf of the fund, is authorized to accept money contributed to the fund from any individual, association, trust, corporation, partnership, firm, venture, agency, organization, governmental entity, or political subdivision, including, but not limited to, state-appropriated funds or monetary gifts, grants, or any other monetary aids received by the program from public or private sources.

SECTION 4. Tennessee Code Annotated, Section 49-3-403(b), is amended by adding the following language as new, appropriately designated subdivisions:

() The state treasurer may accept funds from a private or public entity that may be earmarked for a specific purpose and for a specific local education agency (LEA), as

defined in § 49-3-302, and the income from these funds must be disbursed to the LEA in the name of the private or public entity as long as the funds are used for public education.

() For all funds deposited into the trust fund, the income from the funds may be expended by the trustees in accordance with the trustees' operational guidelines for the expenditure of income in an amount certain to one (1) or more LEAs, subject to the earmarked purpose of the money contributed to the fund.

() The trust fund must be divided into the following two (2) general accounts: one (1) for public funds and one (1) for private funds.

() Each general account must be divided into subaccounts for each LEA to the extent that the trust fund money is allocated for a specific LEA.

() Corpus from the fund must be allocated to each subaccount in an amount sufficient to fund a public education purpose or project in accordance with the expenditure authorization from the trustees. All income on the corpus allocated must be paid to the subaccount.

() Income on the remaining corpus in each general account that has not been allocated must be maintained in a special reserve at the general account level.

() Income in excess of the funding for a subaccount must be maintained in a special reserve at the subaccount level.

() Regardless of the allocation of funds, all moneys in the trust fund may be commingled for investment purposes with other trust funds and other funds subject to investment by the state treasurer in accordance with the trustees' investment policy and applicable law.

SECTION 5. Tennessee Code Annotated, Section 49-3-403(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) Funds in the special trust fund for education established by this part shall be invested and reinvested by the state treasurer. The trust may invest in any security or investment in which the Tennessee consolidated retirement system is permitted to

invest, subject to the requirements of other applicable law; provided, that investments by the trust must be governed by the investment policies and guidelines adopted by the trustees in accordance with this part.

SECTION 6. Tennessee Code Annotated, Section 49-3-403(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d) The trust income must be expended only in accordance with §§ 49-3-404 and 49-3-405 and to pay expenses incurred in administering and investing the trust assets. The corpus, as set forth in § 49-3-405, shall not be expended for any purpose. Under no circumstances shall any of the money in the fund be used for any purpose other than public education.

SECTION 7. Tennessee Code Annotated, Section 49-3-404, is amended by deleting the section in its entirety and substituting instead the following:

In addition to the powers granted by this part, consistent with the purpose of the fund, the trustees have the authority to:

- (1) Develop a written plan to implement this part;
- (2) Develop investment policies for the investment of the money in the fund;
- (3) Expend income from the fund in accordance with this part;
- (4) Establish rules, policies, or guidelines relative to the expenditure of income from the fund. The rules, policies, or guidelines may contain factors or criteria for disbursements to LEAs participating in the basic education program, and may include, but not be limited to, special projects or programs that would not otherwise be funded that are deemed by the trustees to improve the overall quality of the total educational program for individual or all LEAs. The rules, policies, or guidelines may contain a competitive award process developed by

the trustees that will be administered and implemented by the commissioner of education;

(5) Promote, advertise, and publicize the fund by developing and implementing campaigns for contributions to the trust fund and programs making the public aware of the purpose and operation of the fund. In their promotion of the fund, the trustees may develop partnerships and agreements with and among state agencies, local governments, nonprofit organizations, and private entities;

(6) Raise funds and solicit contributions to the fund on behalf of the fund;

(7) Request from any branch, department, division, board, bureau, commission, or other agency of the state or any entity that receives state funds, such information as will enable the trustees to perform the duties contained in this part;

(8) Contract for the provision of all or any part of the services necessary for the management, operation, promotion, advertisement, and publicizing of the fund; and

(9) Enter into donor agreements with public or private individuals or entities contributing to the fund.

SECTION 8. Tennessee Code Annotated, Section 49-3-405, is amended by deleting the section in its entirety and substituting instead the following:

The corpus of the trust fund consists of funds appropriated by the state as well as any other contributions from public or private sources in accordance with § 49-3-403. Income from the fund includes the income from the fund's investment portfolio from whatever source derived, including, but not limited to, interest, dividends, and realized capital gains and losses. Income accruing on contributions to the fund must be deposited in the trust fund and shall not be disbursed until the minimum trust fund

amount is met. The minimum trust fund amount is the threshold amount of the corpus that must be accumulated in the trust fund until income may be disbursed. The trustees shall establish the minimum trust fund amount pursuant to the plan required by § 49-3-404. Once the minimum trust fund amount is met, the trustees may allow the income on the minimum trust fund amount to be available for disbursement from the fund pursuant to the plan required by § 49-3-404. The state treasurer is authorized to establish separate accounting for the fund's corpus and income.

SECTION 9. Tennessee Code Annotated, Section 49-3-408, is amended by deleting the section in its entirety and substituting instead the following:

(a) The trustees are authorized to create a nonprofit corporation in accordance with the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68, and after such incorporation, to apply for tax exempt status under 26 U.S.C. § 501(c)(3).

(b) The corporation has all the rights and powers of a nonprofit corporation under the Tennessee Nonprofit Corporation Act, and has such powers as are necessary to carry out the intent of this part, including, but not limited to, the solicitation of contributions and disbursement of funds.

SECTION 10. This act shall take effect upon becoming law, the public welfare requiring it.