House Business & Utilities Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

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Signature of Sponsor

AMEND Senate Bill No. 368* **House Bill No. 1182**

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding the following as a new chapter:

66-33-101. Short title.

This chapter is known and may be cited as the "Real Property Records Integrity Act."

66-33-102. Definitions.

As used in this chapter:

(1) "Person" means a natural person, partnership, association, cooperative, corporation, trust, or other legal entity;

(2) "Recording" means presenting a document to a county register in this state for official placement in the public land records;

(3) "Residential real estate" means real property located in this state that is used primarily for personal, family, or household purposes and is improved by one (1) to four (4) dwelling units;

(4) "Service agreement" means a contract pursuant to which a person agrees to provide services in connection with the sale of residential real estate or the sale of any product or the performance of any personal service on or for the maintenance of residential real estate; and

(5) "Service provider" means a person who provides services or products to a consumer.

66-33-103. Service agreements.

(a) The general assembly finds and declares that:

(1) The public policy of this state favors the transferability of interests in real property free from unreasonable restraints on alienation and covenants or servitudes that do not touch and concern the property; and

(2) A recorded service agreement violates this public policy by impairing the marketability of title to the affected real property and constitutes an unreasonable restraint on alienation, regardless of the duration of the contract or the amount of the consideration set forth in the agreement.

(b) A recorded service agreement is void and unenforceable under this chapter if the agreement:

(1) Purports to run with the land or to be binding on future owners of interests in the real property;

(2) Allows for assignment of the right to provide services without notice to and the consent of the owner of residential real estate; or

(3) Purports to create a lien, encumbrance, or other real property security interest.

(c) This chapter does not impair:

(1) The rights granted or applied involving a mechanic's or materialmen's lien under title 66, chapter 11;

(2) The furnishing of a loan or other thing of value to be secured by real property as otherwise provided by law;

(3) An agreement entered into by a nonprofit, mandatory membership organization comprised of owners of homes, condominiums, cooperatives, or manufactured homes; or

(4) Any interest in real property created pursuant to a declaration, covenant, or other applicable law, pertaining to the oversight or management of real property.

66-33-104. Recording prohibited.

(a) A service provider shall not record or cause to be recorded a service agreement or notice or memorandum of the agreement in this state.

(b) A service provider who records or causes to be recorded a service agreement or notice or memorandum of the agreement in this state in violation of § 66-33-103 is liable to an affected party for ten thousand dollars ($10,000) in statutory damages.

(c) Notwithstanding chapter 24 of this title, a register in this state may refuse to accept for recordation a service agreement and is not liable for mistakenly recording an unfair service agreement.

(d) If a service agreement is recorded in violation of this chapter, then it does not constitute actual or constructive notice to an otherwise bona fide purchaser or creditor.

66-33-105. Recording of court order.

If a service agreement or a notice or memorandum of the agreement is recorded in violation of this chapter, then a person with an interest in the real property that is the subject of the agreement may apply to a court of competent jurisdiction in the county where the recording exists to record a court order declaring the agreement unenforceable.

66-33-106. Rights of recovery.

(a) If a service agreement or a notice or memorandum of the agreement is recorded in violation of this chapter, then a person with an interest in the real property that is the subject of the agreement:

(1) May recover actual damages, court costs, and attorney's fees in addition to the statutory damages described in § 66-33-104(b); and

(2) Has all rights and remedies available to the person under § 47-18-109.

(b) This chapter may also be enforced by the attorney general and reporter on behalf of the citizens of this state.

SECTION 2. 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 3. This act takes effect upon becoming a law, the public welfare requiring it.

House Business & Utilities Subcommittee Am. #1

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Signature of Sponsor

AMEND Senate Bill No. 845* **House Bill No. 947**

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 4-29-246(a), is amended by deleting subdivision (52) and substituting:

(52) Tennessee board of utility regulation, created by § 7-82-701.

SECTION 2. Tennessee Code Annotated, Section 4-29-247(a), is amended by deleting subdivision (54).

SECTION 3. Tennessee Code Annotated, Section 7-34-115, is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 4. Tennessee Code Annotated, Section 7-36-113, is amended by adding the following as new subsections:

(g)

(1) An authority, whether created pursuant to this chapter or another public or private act, shall not issue a bond, or a note other than a note issued in anticipation of the collection of revenues, as authorized by this chapter or the public or private act creating the authority, until the resolution authorizing the issuance of the bond or note is submitted to the comptroller of the treasury, or the comptroller of the treasury's designee, for review, together with a statement as of the beginning of the then current fiscal year, which must show:

(A) The authority's total outstanding bonds, notes, warrants, refunding bonds, and other forms of indebtedness;

(B) The maturity dates of the bonds, notes, warrants, refunding bonds, other forms of indebtedness, interest rates, and special provisions for payment;

(C) The project to be funded by the bonds or notes; and

(D) The current operating financial statement of the authority and other pertinent financial information.

(2) The comptroller of the treasury, or the comptroller's designee, shall immediately acknowledge, in writing, receipt of the proposed bond or note issue statement and information.

(3)

(A) The comptroller of the treasury, or the comptroller's designee, shall, within fifteen (15) days from the date the proposed bond or note issue statement and information is received by the comptroller of the treasury, or the comptroller's designee, issue a report on the proposal to the authority. In addition, the report must:

(i) Be published on the authority's website during the week following the report's receipt; and

(ii) Be made a part of the bond transcript.

(B) The authority may take an action with reference to the proposed bond or note issue as it deems advisable after:

(i)

(*a*) Receipt of the report of the comptroller of the treasury, or the comptroller's designee; and

(*b*) Publication of the report made in accordance with subdivision (g)(3)(A); or

(ii) Expiration of fifteen (15) days from the date that the proposed bond or note issue was received by the comptroller of the treasury, or the comptroller's designee, whichever is earlier.

(h) A provision of this section related to the review or approval of a bond or note issued by the comptroller of the treasury, or the comptroller's designee, or another state agency, does not apply when the bond or other evidence of indebtedness of the authority is to be purchased, or the loan is to be made, by the farmers home administration or another direct lending department of the federal government.

(i)

(1) Prior to the beginning of the fiscal year, an authority shall adopt a balanced annual operating budget that identifies the authority's anticipated revenues by source and anticipated expenses by type of expense. The budget must be:

(A) Based upon historical operating results and reasonably anticipated future operations; and

(B) Created in conformity with generally accepted accounting principles and prepared in a form consistent with accepted governmental standards and as approved by the comptroller of the treasury or the comptroller's designee.

(2) A budget as adopted must be submitted to the comptroller of the treasury, or the comptroller's designee, for approval.

(3) The comptroller of the treasury, or the comptroller's designee, shall provide guidance to the form of a budget, including supplemental schedules, as necessary, to demonstrate that an authority has adequate cash to meet current obligations, including principal and interest, as applicable.

(4) If a proper budget is not approved by or submitted to the comptroller of the treasury, or the comptroller's designee, within two (2) months of the

beginning of the fiscal year, then the authority shall not issue a debt or financing obligation until the comptroller of the treasury, or the comptroller's designee, has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury, or the comptroller's designee.

(5) In the case of an emergency, the comptroller of the treasury, or the comptroller's designee, may waive the requirement of budget approval in order to allow the authority to enter into emergency financial transactions.

SECTION 5. Tennessee Code Annotated, Section 7-51-2301, is amended by deleting the section and substituting:

As used in this part, "utility" means:

(1) An entity subject to the jurisdiction of the Tennessee board of utility regulation in accordance with § 7-82-701;

(2) A cooperative, as defined in § 65-25-102; or

(3) A county-owned or municipal-owned utility that provides electric, natural gas, or propane services to the public.

SECTION 6. Tennessee Code Annotated, Section 7-51-2303, is amended by deleting subsection (b) and substituting:

(b) If a utility:

(1) As described in § 7-51-2301(1), has not implemented or updated a cyber security plan within the timeframe required by § 7-51-2302, then the comptroller of the treasury, or the comptroller's designee, shall refer the utility to the Tennessee board of utility regulation to order reasonable sanctions against the utility; or

(2) As described in § 7-51-2301(2) or (3), has not implemented or updated a cyber security plan within the timeframe required by § 7-51-2302, then the comptroller of the treasury, or the comptroller's designee, shall impose reasonable sanctions against the utility.

SECTION 7. Tennessee Code Annotated, Section 7-82-102, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 8. Tennessee Code Annotated, Section 7-82-112(a), is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 9. Tennessee Code Annotated, Section 7-82-201(a), is amended by deleting "utility management review board" and substituting "Tennessee board of utility regulation".

SECTION 10. Tennessee Code Annotated, Section 7-82-202, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 11. Tennessee Code Annotated, Section 7-82-301(b), is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 12. Tennessee Code Annotated, Section 7-82-302, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 13. Tennessee Code Annotated, Section 7-82-307(b)(3)(A)(i)(c), is amended by deleting "pursuant to § 7-82-709(b)" and substituting "pursuant to part 7 of this chapter".

SECTION 14. Tennessee Code Annotated, Section 7-82-307, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 15. Tennessee Code Annotated, Section 7-82-308, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 16. Tennessee Code Annotated, Section 7-82-308(a)(1), is amended by deleting "as defined in § 7-82-401(g)" and substituting "as defined in § 7-82-401(f)".

SECTION 17. Tennessee Code Annotated, Section 7-82-314, is amended by deleting the section.

SECTION 18. Tennessee Code Annotated, Section 7-82-401, is amended by deleting subsections (d) through (i) and substituting:

(d) A copy of such annual statement and audit shall be filed with the county mayor or mayors where publication is required in accordance with this section and § 7-82-608.

(e) Audits performed by the internal audit staffs of the utility districts must be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9).

(f)

(1) Any utility district that is a financially distressed utility district is subject to the supervision and evaluation of the Tennessee board of utility regulation created pursuant to part 7 of this chapter.

(2) A government joint venture that supplies or treats water or wastewater for wholesale use only to other governments does not fall under the jurisdiction of the Tennessee board of utility regulation for the purpose of reporting negative change in net position annually, but must be referred to the board if the government joint venture is in a deficit or default position as described in subdivision (f)(3).

(3) For the purposes of this chapter, "financially distressed utility district" means a utility district, and its system or systems, that, as shown by the audited annual financial reports, has a deficit in total net position in any one (1) year, has a deficit unrestricted net position in any one (1) year, is in default on an indebtedness, or has a negative change in net position for two (2) consecutive years without regard to any grants or capital contributions. For purposes of this

section, "change in net position" means total revenues less all grants, capital contributions, and expenses.

SECTION 19. Tennessee Code Annotated, Section 7-82-402, is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 20. Tennessee Code Annotated, Section 7-82-402(a)(1), is amended by deleting subdivision (A) and substituting:

(A) Within sixty (60) days of the fiscal year end, a customer of the district may file with the commissioners of the district a protest, giving reasons why, in the opinion of the customer, the utility's adopted rates are too high or too low. Within a period of fifteen (15) days after the end of this sixty-day period during which such protest may be filed, the commissioners shall notify each protestant of a hearing to be held by the commissioners on such protests as may have been filed within the sixty-day period. Upon the hearing date, which must be a date within a period of sixty (60) days after giving the notices to the protestants, the commissioners shall hear all protests during the same hearing. After hearing and examining statements, exhibits, and arguments of the protestants or their counsel, the commissioners shall make and spread upon the minutes of the commission their finding as to the reasonableness or unreasonableness of the published rates, and, at the same time, the commission may increase or decrease such rates upon a finding that they are too low or too high, as the case may be.

SECTION 21. Tennessee Code Annotated, Section 7-82-402(c), is amended by deleting subdivision (6) and substituting:

(6) Notify its customers at least once a year that decisions by a utility district board of commissioners on customer complaints may be reviewed by the Tennessee board of utility regulation in accordance with § 7-82-702(b), and of the method used to fill vacancies on the utility district's board of commissioners. The utility district shall provide the notice described in this subdivision (c)(6) by publishing it on the utility's website,

publishing it in a newspaper of general circulation in the county or counties in which the district is situated, or mailing it annually to the district's customers in a separate correspondence, an annual report, an annual newsletter, or other writing provided annually to the district's customers.

SECTION 22. Tennessee Code Annotated, Section 7-82-501, is amended by deleting subsection (e) and substituting:

(e)

(1) Prior to the beginning of the fiscal year, a utility district, whether created pursuant to this chapter or a public or private act, shall adopt a balanced annual operating budget that identifies the utility district's anticipated revenues by source and anticipated expenses by type of expense. The budget must be:

(A) Based upon historical operating results and reasonably anticipated future operations; and

(B) Created in conformity with generally accepted accounting principles and prepared in a form consistent with accepted governmental standards and as approved by the comptroller of the treasury, or the comptroller's designee.

(2) A budget as adopted must be submitted to the comptroller of the treasury, or the comptroller's designee, for approval.

(3) The comptroller of the treasury, or the comptroller's designee, shall provide guidance to the form of a budget, including supplemental schedules, as necessary, to demonstrate that a utility district has adequate cash to meet current obligations, including principal and interest, as applicable.

(4) If a proper budget is not approved by or submitted to the comptroller of the treasury, or the comptroller's designee, within two (2) months of the beginning of the fiscal year, then the utility district shall not issue a debt or financing obligation until the comptroller of the treasury, or the comptroller's

designee, has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury, or the comptroller's designee.

(5) In the case of an emergency, the comptroller of the treasury, or the comptroller's designee, may waive the requirement of budget approval in order to allow the utility district to enter into emergency financial transactions.

SECTION 23. Tennessee Code Annotated, Title 7, Chapter 82, Part 7, is amended by deleting the part and substituting:

7-82-701.

(a) There is created in the office of the comptroller of the treasury a Tennessee board of utility regulation for the purpose of advising and directing utility systems in the area of utility management, and to determine and ensure the financial integrity of those utility systems. The board is charged with the responsibility of furthering the legislative objective of self-supporting water systems, wastewater facilities, and natural gas systems in this state and is deemed to be acting for the public welfare.

(b) As used in this part, "utility system" includes:

(1) The water, wastewater, or natural gas systems of a county, metropolitan government, or incorporated town or city;

(2) A treatment authority created pursuant to:

(A) The Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6;

(B) The Regional Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 13; or

(C) Another public or private act of the general assembly that operates a water, wastewater, or natural gas facility;

(3) The water, wastewater, and natural gas systems of an energy or utility authority created pursuant to the Municipal Energy Authority Act, compiled in title 7, chapter 36, or a private act of the general assembly; and

(4) Any utility district created under this chapter, or any other public or private act of the general assembly.

(c)

(1) The board is composed of eleven (11) members as follows:

(A) The comptroller of the treasury, or the comptroller's designee, who serves as chair;

(B) The commissioner of environment and conservation, or the commissioner's designee, who serves as vice chair;

(C) One (1) member, appointed by the governor, who represents the interests of utilities under the jurisdiction of the Tennessee board of utility regulation. The governor shall consult with the Tennessee Association of Utility Districts to determine a qualified person to fill this appointment;

(D) One (1) member, appointed by the governor, who is an active municipal employee or elected official in a county that owns or operates a utility system, who represents the municipalities of this state. The governor shall consult with the Tennessee Municipal League to determine a qualified person to fill this appointment;

(E) One (1) member, appointed by the governor, who represents the interests of minority citizens of this state. The member must have experience in governmental finance and not otherwise be a state employee;

(F) One (1) member, appointed by the governor, who is an active employee or sits on the governing board of a municipal water utility under the jurisdiction of the Tennessee board of utility regulation. The governor shall consult with the Tennessee Association of Utility Districts to determine a qualified person to fill this appointment;

(G) Two (2) members, appointed by the governor, who are active employees or commissioners of a utility district under the jurisdiction of the Tennessee board of utility regulation. The governor shall consult with the Tennessee Association of Utility Districts to determine qualified persons to fill these appointments;

(H) One (1) member, appointed by the comptroller of the treasury;

(I) One (1) member, appointed by the speaker of the senate, who sits on the governing body, or is an active employee, of a utility system; and

(J) One (1) member, appointed by the speaker of the house, who sits on the governing body, or is an active employee, of a utility system.

(2) In addition to the requirements for members in subdivision (c)(1), at least one (1) member must sit on the governing body or be an active employee of a utility system that owns or operates a natural gas system.

(d)

(1) Members are appointed to four-year terms; provided, that the initial appointments are for terms, not to exceed four (4) years, as are necessary so that the terms of no more than three (3) members of the board end in any one (1) year.

(2) A board member continues to serve until a successor has been appointed.

(3) Appointments to succeed a board member who is unable to serve the board member's full term are for the remainder of that term.

(4) Board members are eligible for reappointment, but do not succeed themselves automatically.

(5) Appointments to the board for the remainder of an unexpired term and reappointments must be made in the same manner as under subsection (c).

(6) Each member of the board is entitled to receive reimbursement for the member's traveling and other necessary expenses actually incurred while engaged in the performance of any official duties when so authorized by the board, but such expenses must be made in accordance with the comprehensive state travel regulations duly promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(7) A majority of the board constitutes a quorum, and the concurrence of a majority of those present and voting on a matter is required for a determination of matters within the board's jurisdiction.

(8) A board member shall not participate in making a decision in a case involving a utility system in which the board member has a direct financial interest, including a contract of employment.

(9) The comptroller shall designate a staff person to serve as manager to the board. In that capacity, the designee shall report the proceedings of the board to the comptroller and perform such other duties as the board may require.

(e) The Tennessee board of utility regulation combines the former utility management review board and the water and wastewater financing board. Any references to either board in state law, rules, or policy, are considered to refer to the Tennessee board of utility regulation.

7-82-702.

(a) In order to further the legislative objective of self-supporting and well-managed utility systems, the board has the power and authority to:

(1) Adopt, modify, repeal, promulgate, and enforce rules for:

(A) The conduct of the affairs of the board;

(B) Enforcement of the board's orders;

(C) Administration of the utility revitalization fund; and

(D) Training of the commissioners, aldermen, or other members of the governing body of a utility system;

(2) Issue subpoenas requiring the attendance of witnesses and production of such evidence as requested, administer oaths, and take such testimony as the board deems necessary in fulfilling its purpose. If a person or entity refuses to obey a subpoena issued by the board under this part, then the chancery court of Davidson County has jurisdiction upon application of the board to issue an order requiring the person to appear and testify or produce evidence as the case may require, and a failure to obey the order of the court may be punished by the court as contempt;

(3) Conduct a contested case hearing and issue an order on the question of whether a member of a utility district board should be removed from office and a new board or member appointed or elected as provided in § 7-82-307(b);

(4) Conduct a contested case hearing and issue an order in the manner prescribed under § 7-82-307(c) on the question of whether a utility district that fills vacancies on its board using a method other than appointment by a county mayor should be required to fill a vacancy under the uniform method for the filling of vacancies set forth by § 7-82-307(a)(4) and (5);

(5) Establish parameters that define excessive water loss, and order reasonable measures to cure excessive water loss;

(6)

(A) Review and approve the model of ethical standards prepared by the Tennessee Association of Utility Districts (TAUD) for water, wastewater, and gas authorities created by a private act or under the general law;

(B) Review and approve the ethical standards prepared for utility districts pursuant to § 8-17-105; and

(C) Review and find, by order, that the ethical standards adopted by a water, wastewater, or gas authority created by a private act or under the general law, or a utility district that differ from the TAUD model are more stringent than the TAUD model;

(7) Review and approve the incorporation of a utility district in accordance with part 2 of this chapter;

(8) Review and approve the purchase, development, acquisition, or construction of a new water or wastewater system by a city or county in accordance with § 68-221-1017;

(9) Require a utility system to merge or consolidate with a financially distressed utility system in accordance with the process provided under § 7-82-704;

(10) Administer and make grants from the utility revitalization fund established under § 7-82-708;

(11) Make and enter into contracts;

(12) Accept gifts, grants, or other moneys, and receive appropriations made by law;

(13) Offer advisory technical assistance to any utility system, to the extent it may be competently offered; and

(14) Exercise all the powers and take all the actions necessary, proper or convenient, for the accomplishment of the purposes enumerated in this part.

(b)

(1) In addition to the powers described under subsection (a), the board also has the authority to review and conduct informal hearings of the following:

(A) The justness and reasonableness of a utility system's rates, fees, or charges;

(B) The justness and reasonableness of a utility system's requirement that a customer or developer build infrastructure or fixtures to be dedicated to the utility system;

(C) The failure of a utility system to adopt and enforce policies or rules necessary for the efficient and financially responsible operation of the utility system, including policies regarding ethics or financial controls, or for water loss, water leak adjustment, purchasing, or other industry standard policies;

(D) The inadequacy of a utility system's policies regarding ethics or financial controls, or for water loss, water leak adjustment, purchasing, or other industry standard policies; and

(E)

(i) The failure of a utility system to offer or extend utility service to a customer:

(a) Located within the utility system's covered area;

(b) Located within an area in which the utility system offers similar services;

(c) Located within an area in which the utility has the infrastructure to offer similar services; or

(d) Pursuant to a request made in accordance with § 7-82-112.

(ii) For any complaint submitted pursuant to subdivision (b)(1)(E)(i), the utility system has the affirmative burden to show that

(*a*) It does not have the capacity to serve the customer;

(*b*) Service to the customer is not economically feasible; or

(*c*) Service is not in the best interest of the utility and its existing customers.

(2) A complainant to the Tennessee board of utility regulation shall first appeal or make a complaint to the utility system's governing board, or utilize any other available remedy offered by the utility system, prior to seeking an informal hearing before the board.

(3) The board shall consider the reasonableness of the utility system's rules, policies, and cost of service as well as evidence presented during the hearing, if applicable, in making the board's decision.

(4) The request for an informal hearing under this subsection (b) must be received within thirty (30) days of the adverse decision of the utility system's governing board.

(5) Appellate review of the board's decisions is governed by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The Davidson County chancery court has jurisdiction over judicial review of the board's decisions.

(6) In the conduct of an informal hearing upon request or complaint, the board may receive affidavit evidence, in addition to minutes, transcripts, and other evidence of actions by the utility system, and may render its decision on the basis of that evidence or, if the board deems an open hearing appropriate, may order the interested parties be notified of the date, time, and place that such hearing will be held.

(7) The board may order such remedial actions as necessary to address a customer's complaint, including the exercise of any authority conferred upon the board by this part.

(8) Board staff may consolidate complaints that raise substantially similar issues against the same utility system to be heard together before the board.

(9)

(A) The board may only conduct an informal hearing under this subsection (b) pursuant to a referral from the comptroller of the treasury or board staff.

(B) Board staff shall recommend that the board conduct an informal hearing pursuant to a customer complaint so long as the complaint presents a dispute that, if resolved in favor of the complainant, would justify the board ordering remedial action.

7-82-703.

(a) The comptroller of the treasury shall file with the Tennessee board of utility regulation a copy of the audited annual financial report of any financially distressed utility system within sixty (60) days from the date that the audit is filed with the comptroller of the treasury, for administrative review by the board.

(b) A utility system is financially distressed when it has a deficit total net position in any one (1) year, has a deficit unrestricted net position in any one (1) year, has a negative change in net position for two (2) consecutive years without regard to any grants or capital contributions, or is currently in default on any of its debt instruments.

(c)

(1) The comptroller of the treasury shall refer a utility system to the board if the utility system:

(A) Fails to complete and submit to the comptroller for administrative review an audited annual financial report for two (2) consecutive years;

(B) Is found to have used utility funds to pay non-utility expenses, used non-utility funds to pay utility expenses, or transferred utility funds to

any other non-utility fund or account, unless the use or transfer is allowed by law; or

(C) Is found to have made an illegal payment or transfer of funds.

(2) The board is authorized to take one (1) or more remedial actions as described under § 7-82-706(b) for a financially distressed utility system.

(d) After reviewing the audited annual financial report and operations of the financially distressed utility system, and after holding a public hearing, which may be held as part of a regularly scheduled or specially called board meeting, the board may prescribe a rate structure to be adopted by the financially distressed utility system to:

(1) Eliminate the utility system's negative changes in net position;

(2) Liquidate any deficit total net position, in an orderly fashion; or

(3) Cure a default on any indebtedness of the utility system.

(e) In the event the governing body of the financially distressed utility system fails to adopt the prescribed rate structure described in accordance with subsection (d), the board shall petition the chancery court in a jurisdiction in which the utility system is operating or in the chancery court of Davidson County to require the adoption of the rate structure prescribed by the board. The court may also order other remedies that, in the court's discretion, may be required to cause the utility system to operate in accordance with state law and in a financially self-sufficient manner.

(f) Notwithstanding any other law to the contrary, this section does not preclude a public utility system from operating water and sewer systems as individual or combined entities.

(g) Notwithstanding any other law to the contrary, a government joint venture that supplies or treats water or wastewater for wholesale use only to other governments does not fall under the jurisdiction of the board for the purpose of reporting negative change in net position annually; provided, however, that the government joint venture

must be referred to the board if the government joint venture is in a deficit or default position as described under this section.

(h) As used in this section, "change in net position" means total revenues less all grants, capital contributions, and expenses.

7-82-704.

(a) The board may order the merger or consolidation of an ailing utility system with another utility system if the merger is necessary to restore financial stability of the system, ensure continued operation, or otherwise ensure the well-being of the public being served by the utility system. A utility system is ailing if the utility system:

(1) Is financially distressed, as described in § 7-82-703(b);

(2) Is financially unable to expand the amount or type of service as set forth and described in its founding documents or petition for creation as described under § 7-82-201, § 68-221-604, § 68-221-1304, or any other section or private act; or

(3) Displays a pattern of severe managerial incompetence such that the utility system cannot provide the public it serves with safe, consistent access to its services. As used in this subdivision (a)(3), "severe managerial incompetence" includes:

(A) Frequent interruptions in service to multiple customers, lasting multiple days;

(B) Frequent infrastructure failures that result in interruptions in service or cause the quality of service to fall below safe levels; or

(C) Failure to:

(i) Respond to reports of damage to, or failure of, infrastructure within a reasonable timeframe;

(ii) Improve or attempt to improve infrastructure, including necessary maintenance, upgrades, or construction of redundant infrastructure where necessary; or

(iii) Correct a deficiency in oversight, operational management, or finance management, which leads to repeated harm to the utility system, a violation of state or federal law, or fraud, waste, or abuse of the utility system's resources.

(b)

(1) After reviewing the audited annual financial report and operations of the ailing utility system, the board may order the ailing utility system to obtain a study from a qualified expert on the feasibility and benefit of the ailing system merging or consolidating with another utility system. For purposes of this subdivision (b)(1), the board may determine by vote that an expert is not qualified to conduct the study, or determine that the study is not sufficient for any reason deemed appropriate in the board's discretion.

(2) After the results of the study are submitted to the board or the board's staff, and if the results favor a merger or consolidation, then a representative of the board shall hold a public hearing within the service area of the ailing utility system to notify the customers of the potential merger or consolidation.

(c) After the public hearing described in subdivision (b)(2) occurs, the board shall conduct an informal hearing on the questions of whether:

(1) The consolidation or merger:

(A) Is in the best interest of the public being served by the ailing utility system; and

(B) Harms the public being served by the utility system with which the ailing utility system may consolidate or merge; and

(2) The ailing utility system should be merged or consolidated with another utility system.

(d) In making the determination pursuant to subsection (c), the board shall consider:

(1) The results of the study described in subdivision (b)(1);

(2) Comments that the board representative received at the public hearing that occurred within the service area of the system;

(3) Other evidence presented by the ailing system and the system with which the ailing system may merge or consolidate; and

(4) Other evidence presented to the board.

(e) The board shall properly notify the ailing utility system and the system with which the ailing utility system may merge or consolidate of the date and time of the informal hearing and allow each party a reasonable opportunity to address the board.

(f) If the board determines that it is in the best interest of the public being served by the ailing utility system that the ailing utility system merge or consolidate with another utility system, and that it is not harmful to the public being served by the utility system with which the ailing utility system should merge or consolidate, then the board shall order the systems to develop a merger or consolidation agreement between the systems. The agreement must include, at a minimum, the following components:

(1) An assurance that the systems have sought and obtained, or will seek and obtain, all necessary approvals from the United States department of agriculture, the Tennessee local development authority, the Tennessee department of environment and conservation, or another interested party for the assumption of the ailing utility system's outstanding debt obligations;

(2) A transfer of all other rights and duties of the ailing utility system to the system with which the ailing utility system is to merge or consolidate;

(3) An assumption of all assets and liabilities of the ailing utility system to the system with which the ailing utility system is to merge or consolidate;

(4) A transfer of all appropriate documents to vest legal title of the ailing utility system to the system with which the ailing utility system is to merge or consolidate;

(5) A provision that the system with which the ailing utility system is to merge or consolidate will operate the system and account for the revenues from the system in a manner as not to impair contractual or other legal obligations of the ailing utility system;

(6) A provision describing the merged or consolidated system's new territorial boundaries;

(7) An initial rate structure for the newly merged or consolidated utility system; and

(8) Other provisions necessary to comply with applicable state and federal laws such that the systems are solely responsible for ensuring that the terms of the merger or consolidation agreement address all necessary topics.

(g)

(1) After the systems have drafted a complete agreement, the board shall enter an order approving the merger or consolidation agreement and shall require the utility systems to enter into the merger or consolidation agreement.

(2)

(A) If the board finds that a provision of the agreement is unreasonable or deficient, then the board may order the parties to amend the agreement or resolve the deficiency in a fair and reasonable manner.

(B) If, after the parties have attempted to develop an agreement in good faith, they are unable to come to an agreement, then the board may resolve topics of disagreement in a fair and reasonable manner and

have the parties amend the agreement to reflect the determination of the board.

(3) If the board determines that the systems have refused or failed to enter into good faith negotiations on a merger or consolidation, then the board shall petition the chancery court in a jurisdiction in which a utility system that is a party to the merger or consolidation is operating to require the party or parties to engage in good faith negotiations concerning the merger or consolidation.

(h) If the governing body of the utility system does not enter into the approved merger or consolidation agreement or fails to abide by the terms and conditions of the merger or consolidation agreement, then the board shall petition the chancery court in a jurisdiction in which the utility system is operating to enforce the board's order to require the board of commissioners to enter into the approved merger or consolidation agreement and to abide by and implement all of the terms and conditions of the merger or consolidation agreement.

(i) A merger or consolidation approved by the board under this section is not subject to the petition, public hearing, or mayoral order requirements of § 7-82-202, § 7-82-601, or § 7-82-603. A merger or consolidation approved under this section is not subject to approval by a county legislative body under § 7-82-202(a)(3)(B).

(j) After the board has ordered the utility systems to enter into the merger or consolidation agreement negotiated under this section, and after the utility systems have entered into the agreement, the board shall issue an order like that required under § 7-82-202(e). After the board issues the order, a party to the agreement may secure judicial review of the decision by filing a petition for judicial review in the appropriate venue as set forth in § 4-5-322(b).

(k) The board shall file the order required by subsection (j) in the same manner as described under § 7-82-202(d). The board shall also file a copy of its order with the

county or municipal mayor or mayors where the consolidated or merged systems are located.

(l)

(1) When utility systems merge or consolidate and the merging utility systems are utility districts, the utility systems may agree to expand the size of the board of commissioners of the surviving district as permitted by § 7-82-202(e)(2) and (3). If the utility systems agree to expand the size of the board of commissioners of the surviving district, then the systems shall assert their intention to expand the size of the board of commissioners of the surviving district and name qualified individuals to serve on the new board in the consolidation or merger agreement. If the board approves of the agreement, then the named qualified individuals serve on the board of commissioners of the surviving merged or consolidated district until their terms expire, at which time the county mayors shall appoint commissioners in accordance with the procedures set out in this section.

(2) If the utility systems do not agree to expand the size of the board of commissioners of the surviving district, then the current commissioners of the surviving district must serve the remainder of their terms. Upon the first expiration of a commissioner's term after the merger or consolidation is completed, the list of three (3) nominees submitted to the appropriate county mayor to fill the vacancy created by the expiration of the term must include at least one (1) nominee from the service area of the previously ailing utility system to fill the seat.

(m) The board is authorized to develop a plan of mitigation payments to the merged or consolidated utility system in order to mitigate any negative financial impact of the merger or consolidation on the utility system agreeing to merge or consolidate with

an ailing utility system. The mitigation payments must be made from funds available in the utility revitalization fund and may include:

(1) Amounts to offset increased administrative costs relating to the merger or consolidation, to the extent those costs cannot reasonably be recovered from customer revenues or other assets of the ailing utility system;

(2) Amounts that may be necessary to cure a default on indebtedness of the ailing utility system to the extent the defaults can, in the opinion of the board, reasonably be cured;

(3) Amounts that may be necessary to renovate and repair the facilities of the ailing utility system to the level necessary to enable the merged or consolidated utility system to provide continued service to the public being served by the ailing utility system;

(4) Amounts sufficient to fund capital improvements or connect one (1) utility system to another, if the merger is not achievable without the improvements; or

(5) Other payments as may be necessary in the opinion of the board to accomplish the merger or consolidation and mitigate the financial impact of the merger or consolidation.

7-82-705.

The Tennessee board of utility regulation shall publish annually on its public website a report describing the activities of the board for the preceding year. The board shall receive and consider from any source, whether private or governmental, suggestions for amendments to this chapter, and, on the basis of the suggestions, may recommend amendments to the governor or the comptroller of the treasury.

7-82-706.

(a) Notwithstanding any law to the contrary, the Tennessee board of utility regulation has the authority to review utility systems under its jurisdiction and may

include the assistance of the department of environment and conservation, the comptroller of the treasury, the Tennessee Association of Utility Districts, or any other governmental entity or entity approved by the board. The board may review utility systems:

(1) To determine the financial, technical, and managerial capacity of a utility system to comply with the requirements of applicable federal and state law; or

(2) To determine the financial, technical, and managerial capacities of a utility system to efficiently manage its system, including reasonable and just user rates, debt structures, and water loss.

(b)

(1) The board may require a utility system to take appropriate remedial action to correct a deficiency identified by the board. A remedial action may include:

(A) Changes in ownership, management, accounting practices, or user rates;

(B) Adoption or change to maintenance practices, software, or hardware, or development of alternative supplies of resources, means of distribution of resources, or methods of water and wastewater management;

(C) Merger or consolidation of a utility system with another system, as described under § 7-82-704; or

(D) Development of rules and policies by the utility system as necessary for effective and responsible management of a utility system.

(2) The board may only require remedial action under subdivision (b)(1) when the review was initiated pursuant to a referral from the comptroller of the treasury or at the recommendation of board staff.

(c) In addition to the authority granted under subsections (a) and (b), the board has the authority to review a utility system whose water loss as reported in the utility system's annual water loss report submitted pursuant to § 7-82-707 is excessive, as established by parameters determined by the board. If a utility system fails to take the appropriate actions required by the board to reduce water loss to an acceptable level, then the board may petition the chancery court in a jurisdiction in which the utility system is operating to require the utility system to take the appropriate actions.

7-82-707.

(a) Each utility system shall submit to the Tennessee board of utility regulation by the first day of the system's fiscal year an annual report on a form approved by the board. If a utility system fails to submit the annual report in accordance with this section, then the board may order reasonable sanctions against the system or facility.

(b) The form approved by the board shall inform the public of:

(1) The financial condition of the utility system at the end of the fiscal year;

(2) A statement of the utility rates then being charged by the system;

(3) Other information the board finds would assist the board and the public in understanding the financial health of the system or any challenges the system faces.

(c) A utility system that purchases more than fifty percent (50%) of its total water for resale must include the contract for the purchase of water for resale simultaneously with the report required under subsection (a).

(d) A utility system shall submit to the comptroller of the treasury a water loss report on a form prescribed by the board, simultaneously, with the report required under subsection (a). Failure of a utility system to submit the water loss report constitutes excessive water loss, and the board may order appropriate remedial measures.

(e) The comptroller of the treasury shall annually publish on its website the annual reports and water loss reports submitted by utility systems.

(f) A utility system shall ensure that each member of the utility's governing body completes all required training and shall collect an annual training statement, on a form approved by the board, from each member of the governing body.

(g) An employee of, or member of, the governing body of a utility system who becomes aware of a transfer, loan, grant to or from the utility fund, or another transaction in violation of § 7-34-115 or another applicable law, shall immediately report the transaction to the comptroller of the treasury. The report must be made no later than fifteen (15) calendar days after the employee or member becomes aware of the unauthorized transaction.

7-82-708.

(a)

(1) There is created in the state treasury a fund to be known as the "utility revitalization fund." The fund must be initially funded by a deposit of the balance of funds held in the utility district revitalization fund previously created in accordance with § 7-82-707(a)(1) as such section existed prior to July 1, 2023.

(2) The Tennessee board of utility regulation shall administer the fund for grants to utility systems that have merged or consolidated under § 7-82-704 to mitigate the financial impact of the merger or consolidation.

(3) Utility systems pursuing a voluntary merger, consolidation, or acquisition may apply to the board for grants from the fund. The board has discretion to grant the application if it finds that the merger is in the best interest of at least one (1) utility system's service population, does not harm another service population, and the grant is necessary to achieve the merger.

(4) The board may adopt rules for the fund's administration.

(5) Interest and earnings of the fund remain a part of the fund.

(6) No part of the fund reverts to the general fund at the end of a fiscal year, but remains a part of the fund available for expenditure in accordance with this part.

(b)

(1) It is the intent of the general assembly that, to the extent practicable, money from the fund is spent in all areas of the state.

(2) In addition to subdivision (b)(1), it is the intent of the general assembly that in each fiscal year the fund be managed so that actual expenditures and obligations to be recognized at the end of the fiscal year do not exceed available reserves and appropriations of the fund.

(c)

(1) The board shall provide a report to the commissioner of finance and administration regarding the status of the appropriations for the fund by June 30 of each year. The report must include, at a minimum, the following information:

(A) The amount of each grant accepted since the previous report and the name of the utility system receiving the grant;

(B) The total outstanding commitments; and

(C) The total unobligated appropriation.

(2) The board shall transmit a copy of the report required under subdivision (c)(1) to the speaker of the house of representatives, the speaker of the senate, the state treasurer, the state comptroller of the treasury, the office of legislative budget analysis, the legislative librarian, and the secretary of state by July 30 of each year.

(d) The board shall determine the appropriate amount of each grant based on:

(1) Available funds in the fund;

(2) The findings of a study performed pursuant to § 7-82-704;

(3) Evidence provided by the Tennessee Association of Utility Districts; or

(4) Another source or authority determined to be reliable, in the discretion of the board.

(e) A utility system that is a recipient of a grant under this section shall submit quarterly reports to the board on a form approved by the board.

(f)

(1) A grant from this fund may be used to mitigate a utility system's operating expenses.

(2) The board's order approving the grant must specify the total maximum amount of the grant, the time period over which the grant will be disbursed, the disbursement schedule, and a description of the expenses the grant is meant to mitigate. The grant must be used only as described in the board's order.

(3) The comptroller of the treasury and the board may consider a disbursement made under this section to be operating revenue for purposes of determining whether a utility system is in financial distress.

(4) The board may only approve grants to mitigate operating expenses if the applicant utility system establishes that, after the last disbursement from the grant is made, the system will be financially solvent.

SECTION 24. Tennessee Code Annotated, Section 7-82-804, is amended by deleting the last sentence and substituting:

Questions of the appropriateness or adequacy of any utility district purchasing policy must be submitted in writing to the Tennessee board of utility regulation.

SECTION 25. Tennessee Code Annotated, Section 8-17-105, is amended by deleting subsection (b) and substituting:

(b)

(1) In order to provide guidance and direction to water, wastewater, and gas authorities created by a private act or under the general law and to utility districts, the Tennessee Association of Utility Districts (TAUD) shall prepare a model of ethical standards for officials and employees of water, wastewater, and gas authorities created by private act or under the general law and of utility districts. The model must be submitted to the Tennessee board of utility regulation for its review and approval pursuant to § 7-82-702(a)(6). The board shall approve by order the TAUD model of ethical standards before the model is adopted by a water, wastewater, or gas authority created by a private act or under the general law or by a utility district. After the board approves the TAUD model, the TAUD model must be filed with the commission.

(2) The governing body of a water, wastewater, or gas authority created by a private act or under the general law, or of a utility district, that adopts ethical standards for its officials and employees shall either adopt the TAUD model of ethical standards approved by the board or adopt ethical standards that are more stringent than the TAUD model. If a water, wastewater, or gas authority created by a private act or under the general law, or a utility district, adopts ethical standards that are different from and more stringent than the TAUD model, then the more stringent ethical standards must be submitted to the board, which shall make a finding by order that the ethical standards adopted are more stringent than the TAUD model.

SECTION 26. Tennessee Code Annotated, Section 8-44-111, is amended by deleting subsection (c) and substituting:

(c) The Tennessee board of utility regulation shall develop a program for members of the governing bodies of utility systems under the board's jurisdiction to educate the board members about the open meetings laws and how to remain in compliance with such laws.

SECTION 27. Tennessee Code Annotated, Section 64-9-107(c), is amended by deleting "utility management review board, water and wastewater financing board" and substituting "Tennessee board of utility regulation".

SECTION 28. Tennessee Code Annotated, Section 65-5-401, is amended by deleting subdivision (2) and substituting:

(2) "Utility" means:

(A) An entity subject to the jurisdiction of the Tennessee board of utility regulation in accordance with § 7-82-701;

(B) A county-owned or municipal-owned utility that provides electric, broadband, or propane services to the public;

(C) A public utility, as defined in § 65-4-101; and

(D) A cooperative, as defined in § 65-25-102.

SECTION 29. Tennessee Code Annotated, Section 65-5-403, is amended by deleting subsection (a) and substituting:

(a) If a utility:

(1) As defined in § 65-5-401(2)(A), fails to comply with § 65-5-402, then the Tennessee board of utility regulation shall order reasonable sanctions against the utility;

(2) As described in § 65-5-401(2)(B) or (2)(D), fails to comply with § 65-5-402, then the comptroller of the treasury, or the comptroller's designee, shall order reasonable sanctions against the utility; and

(3) As described in § 65-5-401(C), fails to comply with § 65-5-402, then the Tennessee public utility commission shall order reasonable sanctions against the utility.

SECTION 30. Tennessee Code Annotated, Section 67-3-901(j), is amended by deleting "utility management review board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 31. Tennessee Code Annotated, Section 68-221-109, is amended by deleting the section.

SECTION 32. Tennessee Code Annotated, Section 68-221-604, is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 33. Tennessee Code Annotated, Section 68-221-605(f), is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 34. Tennessee Code Annotated, Section 68-221-611, is amended by deleting subsection (m) and substituting:

(m)

(1) Prior to the beginning of the fiscal year, an authority, whether created pursuant to this chapter or a public or private act, shall adopt a balanced annual operating budget that identifies the authority's anticipated revenues by source and anticipated expenses by type of expense. The budget must be:

(A) Based upon historical operating results and reasonably anticipated future operations; and

(B) Created in conformity with generally accepted accounting principles and prepared in a form consistent with accepted governmental standards and as approved by the comptroller of the treasury or the comptroller's designee.

(2) A budget as adopted must be submitted to the comptroller of the treasury, or the comptroller's designee, for approval.

(3) The comptroller of the treasury, or the comptroller's designee, shall provide guidance to the form of a budget, including supplemental schedules, as necessary, to demonstrate that an authority has adequate cash to meet current obligations, including principal and interest, as applicable.

(4) If a proper budget is not approved by or submitted to the comptroller of the treasury, or the comptroller's designee, within two (2) months of the beginning of the fiscal year, then the authority shall not issue a debt or financing obligation until the comptroller of the treasury, or the comptroller's designee, has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury, or the comptroller's designee.

(5) In the case of an emergency, the comptroller of the treasury, or the comptroller's designee, may waive the requirement of budget approval in order to allow the authority to enter into emergency financial transactions.

SECTION 35. Tennessee Code Annotated, Section 68-221-1003, is amended by deleting subdivision (2) and substituting:

(2) "Board" means the Tennessee board of utility regulation established under § 7-82-701;

SECTION 36. Tennessee Code Annotated, Section 68-221-1007, is amended by deleting the section.

SECTION 37. Tennessee Code Annotated, Section 68-221-1008, is amended by deleting the section.

SECTION 38. Tennessee Code Annotated, Section 68-221-1009, is amended by deleting the section.

SECTION 39. Tennessee Code Annotated, Section 68-221-1010, is amended by deleting the section.

SECTION 40. Tennessee Code Annotated, Section 68-221-1011, is amended by deleting the section.

SECTION 41. Tennessee Code Annotated, Section 68-221-1012, is amended by deleting the section.

SECTION 42. Tennessee Code Annotated, Section 68-221-1013, is amended by deleting the section.

SECTION 43. Tennessee Code Annotated, Section 68-221-1015, is amended by deleting subsection (d).

SECTION 44. Tennessee Code Annotated, Section 68-221-1016, is amended by deleting the section.

SECTION 45. Tennessee Code Annotated, Section 68-221-1017, is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 46. Tennessee Code Annotated, Section 68-221-1206(a)(3), is amended by deleting "water and wastewater financing board" and substituting "Tennessee board of utility regulation".

SECTION 47. Tennessee Code Annotated, Section 68-221-1304, is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 48. Tennessee Code Annotated, Section 68-221-1305, is amended by deleting "water and wastewater financing board" wherever it appears and substituting "Tennessee board of utility regulation".

SECTION 49. Tennessee Code Annotated, Section 68-221-1306, is amended by deleting subdivision (c)(3) and substituting:

(3)

(A) Prior to the beginning of the fiscal year, an authority, whether created pursuant to this chapter or a public or private act, shall adopt a balanced annual operating budget that identifies the authority's anticipated revenues by source and anticipated expenses by type of expense. The budget must be:

(i) Based upon historical operating results and reasonably anticipated future operations; and

(ii) Created in conformity with generally accepted accounting principles and prepared in a form consistent with accepted governmental

standards and as approved by the comptroller of the treasury, or the comptroller's designee.

(B) A budget as adopted must be submitted to the comptroller of the treasury, or the comptroller's designee, for approval.

(C) The comptroller of the treasury, or the comptroller's designee, shall provide guidance to the form of a budget, including supplemental schedules, as necessary, to demonstrate that an authority has adequate cash to meet current obligations, including principal and interest, as applicable.

(D) If a proper budget is not approved by or submitted to the comptroller of the treasury, or the comptroller's designee, within two (2) months of the beginning of the fiscal year, then the authority shall not issue a debt or financing obligation until the comptroller of the treasury, or the comptroller's designee, has approved the budget, or as otherwise provided for in a manner approved by the comptroller of the treasury, or the comptroller's designee.

(E) In the case of an emergency, the comptroller of the treasury, or the comptroller's designee, may waive the requirement of budget approval in order to allow the authority to enter into emergency financial transactions.

SECTION 50. Notwithstanding Tennessee Code Annotated, Section 4-29-112, the utility management review board, created by Tennessee Code Annotated, Section 7-82-701, terminates and ceases to exist.

SECTION 51. All administrative rules filed by the utility management review board or the water and wastewater financing board in the office of the secretary of state and in effect on July 1, 2023, shall remain in effect as rules of the comptroller of the treasury, and all rulemaking authority, procedures, records, reports, functions, and duties of the utility management review board or the water and wastewater financing board shall be transferred to the comptroller of the treasury.

SECTION 52. All ongoing business of the utility management review board and the water and wastewater financing board, and the supervision of all entities under the utility management review board and the water and wastewater financing board are transferred to the Tennessee board of utility regulation.

SECTION 53. This act takes effect July 1, 2023, the public welfare requiring it.

House Business & Utilities Subcommittee Am. #1

Amendment No._____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

_____

Signature of Sponsor

AMEND Senate Bill No. 975 House Bill No. 921*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 7-36-112(a), is amended by deleting "fifty thousand dollars ($50,000)" and substituting "one hundred thousand dollars ($100,000)".

SECTION 2. Tennessee Code Annotated, Section 7-36-112, is amended by adding the following new subsections:

( ) In addition to the authorization set forth in subsection (a), the president may let other contracts with the approval of the supervisory board, or pursuant to the purchasing policy or other delegation of authority adopted by the board; provided, that purchasing exceeding in cost the amount specified in subsection (a) must, before a contract is let or work is done, be advertised by the president or the president's designee for bids in accordance with the purchasing policy of the authority.

( ) The authorization set forth in this section supplements the authorization provided to an energy authority or utility authority created by a private act of the general assembly that operates an electric, water, wastewater, gas, telecommunications, cable television, internet, or broadband facility, and is applicable to the extent provided by the board or other supervisory board of the utility authority.

SECTION 3. Tennessee Code Annotated, Section 7-52-117, is amended by deleting subsections (d) and (e) and substituting:

(d) The superintendent shall let all contracts, subject to the approval of the supervisory body, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the supervisory body, but not to exceed

one hundred thousand dollars ($100,000). The superintendent shall let all other contracts with the approval of the supervisory body or pursuant to a purchasing policy or other delegation of authority adopted by the supervisory body. Work or construction exceeding in cost the amount specified in this subsection (d) must, before a contract is let or work is done, be advertised by the superintendent for bids as required by applicable law; provided, that the supervisory body may reject any and all bids.

(e) The superintendent shall make and keep full and proper books and records, subject to the supervision and direction of the supervisory body.

(f) If the supervisory body has jurisdiction over other utility systems, and the superintendent of the plant serves in a similar role for such other utility systems, then this section applies to all purchases of services or property, whether real or personal, all leases and lease-purchases, all contracts, and the disposition of all property for the other utility systems. As used in this subsection (f), "other utility systems" means waterworks, sewerage works, gas, telecommunications, cable television, internet, or broadband systems.

(g)

(1) In addition to the powers provided to boards of public utilities operating pursuant to this section, the authorization set forth in this section supplements the authorization provided to a municipal electric system or other similar system that operates an electric, waterworks, sewerage works, gas, telecommunications, cable television, internet, or broadband facility pursuant to otherwise applicable law, and applies to the extent provided by the supervisory body for the system or, if there is no supervisory body, by the legislative body of the municipality.

(2) Subdivision (g)(1) does not supersede any authority, limitation, or requirement established by the legislative body of the municipality in accordance with the charter of the municipality.

(h) For the purposes of this section, "superintendent" includes a designee of the superintendent or another officer or person as may be authorized by the superintendent of the electric system.

SECTION 4. Tennessee Code Annotated, Title 12, Chapter 3, Part 12, is amended by adding the following as a new section:

Where any local or private act, charter, or general law requires that a local governmental unit purchase by competitive procurement method, the local governmental unit may, notwithstanding the local or private act, charter, or general law, purchase, without public advertisement or competitive soliciting, under contracts or price agreements entered into by the state building commission.

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