State of Tennessee

PUBLIC CHAPTER NO. 952

HOUSE BILL NO. 1673

By Representatives Bricken, Russell, Vaughan, Marsh

Substituted for: Senate Bill No. 1595

By Senators Jackson, Bailey, Bowling, Hatcher

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 34; Title 7, Chapter 82; Title 9, Chapter 21 and Title 68, Chapter 221, relative to utility regulation.

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

SECTION 1. Tennessee Code Annotated, Section 7-34-115, is amended by deleting subsections (j) and (k).

SECTION 2. Tennessee Code Annotated, Section 7-82-202, is amended by deleting the last sentence of subdivision (a)(2).

SECTION 3. Tennessee Code Annotated, Section 7-82-202(g), is amended by deleting "municipality or county" and substituting "municipality, county, or utility authority".

SECTION 4. Tennessee Code Annotated, Section 7-82-202, is amended by deleting subsection (e) and substituting:

(e)

(1) As used in this subsection (e):

(A) "Agreement" means the written agreement between a utility district and another utility system for the utility district to consolidate into the utility system along with the resolutions passed by the utility district's board of commissioners and the governing body of the utility system concurring in the consolidation;

(B) "Consolidated utility" means the surviving utility district, municipality, county, or utility authority following a consolidation under subdivision (e)(1)(C)(i) or (iii), or the new utility district created by a consolidation under subdivision (e)(1)(C)(ii);

(C) "Consolidation" means:

(i) The merger of a utility district into another utility district;

(ii) The consolidation of two (2) or more utility districts to create a new utility district; or

(iii) The merger of a utility district into a municipality, county, or utility authority resulting in the dissolution of the utility district;

(D) "Order" means the order entered by a county mayor ordering the consolidation of a utility district;

(E) "Public hearing" means the hearing regarding the consolidation of one (1) or more utility districts into a utility system as required by subdivision (e)(2)(D); and

(F) "Utility system" has the same meaning as the term is defined in § 7-82-701.

(2)

(A) One (1) or more utility districts may agree to consolidate with another utility district, municipality, county, or utility authority to more efficiently and conveniently furnish the utility district's services authorized by its order of creation.

(B) The governing body of each utility system involved in the consolidation shall pass a resolution to concur in the consolidation and to initiate the consolidation.

(C) The governing body of each utility district seeking consolidation shall submit a petition to the county mayor of the county in which the utility district was created to approve consolidation. If the utility district is a multi-county utility district, the petition must be submitted to the county mayor of any county in which the multi-county utility district was created in whole or in part.

(D)

(i) The county mayor or mayors shall proceed with the petition in the same manner as provided in this chapter for the creation of a utility district, except as set forth in this subdivision (e)(2)(D) and subsection (g).

(ii) If the petition was submitted to more than one (1) county mayor, each mayor must hold a public hearing within the mayor's respective county.

(iii) The county mayor shall give notice of the date, place, and purpose of the public hearing not more than fifteen (15) days nor less than seven (7) days prior to the date of the public hearing.

(iv) Notice of the public hearing must be posted in a newspaper of general circulation in the service area of the utility district or districts being consolidated. If there is no such newspaper in the service area of the utility district or districts being consolidated, or no newspaper in the service area will run within the timeframe set forth in subdivision (e)(2)(D)(iii), then notice must be posted in five (5) conspicuous public places within the boundaries of the utility district or utility districts being consolidated.

(v) Notice of the public hearing must be sent to the chief executive officer of each utility district, municipality, county, or utility authority involved in the consolidation proceeding. The chief executive officer may choose to waive the notice requirement under this subdivision (e)(2)(D)(v).

(vi) Notice of the public hearing must be sent to the chief executive officer of each utility district, municipality, county, or utility authority, with territory that overlaps the territory of the proposed consolidated utility system, or with territory located within five (5) miles of the territory of the proposed consolidated utility system.

(3)

(A) The county mayor or mayors shall enter an order approving the petition if the mayor or mayors find that the consolidation:

(i) Would enhance the public convenience and necessity;

(ii) Is economically sound and feasible; and

(iii) Is in the best interest of the public served by the utility district or utility districts being consolidated.

(B) The order must:

(i) Designate a name for the new utility district, if created under subdivision (e)(1)(C)(ii);

(ii) Define the consolidated utility's services and boundaries, and provide that the consolidated utility assumes the operation of the utility district or utility districts being dissolved by the consolidation;

(iii) Account for the revenues from the utility district or utility districts being dissolved by the consolidation in such a manner as not to impair the legal obligations of the consolidated utility district or utility districts, and preserve and protect the contract rights vested in the owners of any outstanding bonds, obligations, or contractual interests;

(iv) Provide for the termination of the existence of the utility district or utility districts being dissolved by the consolidation; and

(v) If the consolidation results in the creation of a new utility district, the order must:

(*a*) Establish the legal rights, duties, and obligations of the new utility district;

(*b*) Appoint commissioners to the new utility district; and

(*c*) Establish the initial terms for a new utility district with three (3) board members under § 7-82-202(a)(3).

(C) The order must be entered by the mayor or mayors to whom the petitions were submitted. If a petition was submitted to more than one (1) mayor, a joint order must be entered by the mayors.

(4)

(A) Notwithstanding this section or another law to the contrary, two (2) or more utility districts may establish in the utility districts' consolidation agreement that the board of commissioners of the surviving utility district or newly created utility district will consist of five (5) commissioners.

(B) The petition for consolidation must name in the petition five (5) individuals to serve as commissioners for the surviving utility district or newly created utility district, each of whom must be an existing member of the board of commissioners of one (1) of the utility districts being consolidated and is qualified to serve under § 7-82-308(d).

(C) The county mayor or mayors conducting the public hearing or hearings shall appoint the individuals identified in the consolidation agreement and petition as commissioners for the surviving utility or newly created utility district, unless the county mayor or mayors find such individuals are not qualified to serve as commissioners under § 7-82-308(d).

(D) If the consolidating districts do not name five (5) individuals who are qualified to serve as commissioners under § 7-82-308(d), then the county mayor or mayors must appoint a sufficient number of

individuals who are qualified under § 7-82-308(d) to serve as commissioners on the five-member board.

(E) The county mayor or mayors shall appoint one (1) commissioner for an initial two-year term, two (2) commissioners for initial three-year terms, and two (2) commissioners for initial four-year terms.

(F) If the petition is submitted to more than one (1) county mayor and the county mayors cannot agree as to the appointment of a commissioner in subdivision (e)(4)(D), then the county mayor of the county in which the greatest number of customers in the surviving utility district or newly created utility district reside must make the appointment, including the commissioner's initial term.

(5) Notwithstanding this section or another law to the contrary, four (4) or more utility districts that agree to consolidate may agree to increase the size of the board of commissioners of the surviving utility district or newly created utility district to seven (7) commissioners under the requirements of subdivision (e)(4). The county mayor or county mayors shall appoint two (2) commissioners for initial two-year terms, two (2) commissioners for initial three-year terms, and three (3) commissioners for initial four-year terms.

SECTION 5. Tennessee Code Annotated, Section 7-82-307, is amended by deleting subdivision (b)(5).

SECTION 6. Tennessee Code Annotated, Section 7-82-308, is amended by deleting subsection (f).

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

(d) The utility district shall keep the result of each audit as a public and permanent record. The utility district shall make the record available for inspection by each customer and shall provide copies of each audit to the press upon request.

SECTION 8. Tennessee Code Annotated, Section 7-82-401, is amended by deleting subdivision (f)(2).

SECTION 9. Tennessee Code Annotated, Section 7-82-608, is amended by deleting the section.

SECTION 10. Tennessee Code Annotated, Section 7-82-702(b)(1), is amended by deleting subdivision (G) and substituting:

(G) Petitions for reinstatement of a person's eligibility to serve on a utility system's governing body pursuant to SECTION 17(j).

SECTION 11. Tennessee Code Annotated, Section 7-82-702, is amended by deleting subdivision (b)(5) and substituting:

(5) The board's decision in an informal hearing is subject to appellate review in the same manner as a contested case under 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.

SECTION 12. Tennessee Code Annotated, Section 7-82-703, is amended by deleting subsection (g) and substituting:

(g)

(1)

(A) Notwithstanding another law to the contrary, the board does not have jurisdiction over a utility system for the purpose of reporting negative change in net position annually if the utility system:

(i) Supplies wholesale water service only or treats wastewater for wholesale use only, unless otherwise allowed under subdivision (g)(3); and

(ii) Is approved by the board under subdivision (g)(2).

(B) Notwithstanding subdivision (g)(1)(A), the utility system must be referred to the board if the utility system:

(i) Has a deficit total net position in any one (1) year;

(ii) Has a deficit unrestricted net position for any one (1) year; or

(iii) Is currently in default on any of its debt instruments, as described under this section.

(2) Any utility system proposing to supply wholesale water service only or to treat wastewater for wholesale use only under subdivision (g)(1) must first obtain approval from the board by submitting a plan of service to the board for approval. Upon receipt of a request for approval of a plan of service, board staff may request any additional information as may be required to properly review the proposed plan of service. Once board staff determines the request is complete, the board must review the request at the next available board meeting; provided, however, that the board meeting date must be no more than ninety (90) days from the date of the submission of the plan of service unless agreed to in writing by board staff and the utility system. Upon receipt of approval, if the utility system's plan of service is materially amended in the discretion of board staff, then the utility system must obtain subsequent board approval of such amendment under the same requirements as the original plan of service approval.

(3) The board has discretion to allow for the provision of a minimal amount of retail service by a utility system primarily serving as a wholesale provider when the board determines such allowance is in the public's interest.

SECTION 13. Tennessee Code Annotated, Section 7-82-703, is amended by adding the following as a new subsection:

(i) The financial distress designation for a utility system continues until:

(1) The board issues an order closing the utility system's financial distress case; or

(2) For a period of two (2) or more consecutive years, the utility system does not meet any criteria for financial distress, as described in subsection (b), and the board has not:

(A) Included the utility system on a board meeting agenda; or

(B) Discussed the utility system at a board meeting, regardless of whether the utility system was on the meeting agenda.

SECTION 14. Tennessee Code Annotated, Section 7-82-704, is amended by deleting subsections (a) and (b) and substituting:

(a)

(1) The board may order the merger or consolidation of an ailing utility system with another utility system if the merger is necessary to ensure:

(A) The long-term financial stability of the ailing utility system;

(B) Continued utility service to the ailing utility system's customers;

(C) The well-being of the public being served by the ailing utility system; or

(D) The best interests of the ailing utility system and the utility system into which the ailing utility system is consolidating or with which the ailing utility system is merging.

(2) A utility system is ailing if the utility system:

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

(B) 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 another section or private act; or

(C) 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)(2)(C), "severe managerial incompetence" includes:

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

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

(iii) Failure to:

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

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

(*c*) Correct a deficiency in oversight, operational management, or financial 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 the board deems appropriate.

(2)

(A) If the board determines that the ailing utility system is unable or unwilling to obtain a feasibility study from a qualified expert, or if the feasibility study performed by a qualified expert is inconclusive, the board may order board staff to conduct a feasibility study of a merger or consolidation with utility systems surrounding the ailing utility system.

(B) Board staff may review any information necessary to determine whether a merger or consolidation with a surrounding utility system:

(i) Is feasible;

(ii) Is in the best interests of the ailing utility; and

(iii) Would harm the utility system or systems with which a merger or consolidation is being considered.

(C) The board shall adopt a minimum list of factors and information that board staff must collect as part of its feasibility study. The board shall review the factors and information collected prior to ordering board staff to conduct a public hearing as described in subdivision (b)(3).

(3)

(A) After reviewing the results of the study and determining the results favor a merger or consolidation, the board may order board staff to hold a public hearing regarding the merger or consolidation.

(B) If the board orders the board staff to hold a public hearing, the board staff must:

(i) Hold the public hearing within the service area of the ailing utility system or within ten (10) miles of the ailing utility system's administrative headquarters;

(ii) Notify customers of the potential merger or consolidation and allow customers a reasonable opportunity to provide feedback in response to the potential merger or consolidation; and

(iii) Present feedback from the public hearing to the board at the board's next meeting, or at the informal hearing required by subsection (d). Feedback from the public hearing must be presented to the board before it takes final action on the merger or consolidation.

SECTION 15. Tennessee Code Annotated, Section 7-82-704(c), is amended by deleting the language "subdivision (b)(2)" and substituting "subdivision (b)(3)".

SECTION 16. Tennessee Code Annotated, Section 7-82-702(a)(3)(A)(iv), is amended by deleting the language "as described in § 7-82-704(a)(3)" and substituting "as described in § 7-82-704(a)(2)(C)".

SECTION 17. Tennessee Code Annotated, Title 7, Chapter 82, Part 7, is amended by adding the following as a new section:

7-82-711.

(a) As used in this section:

(1) "Continuing education period" means a period of three (3) years beginning January 1 after the calendar year in which a governing body member completes the continuing education requirements set forth in subdivision (b)(2) and each succeeding three-year period thereafter; and

(2) "Governing body" means the elected or appointed body that supervises, controls, or operates a utility system.

(b)

(1) All members of a governing body shall meet the continuing education requirements in this section.

(2) All members of a utility system's governing body shall attend a minimum of twelve (12) hours of continuing education in one (1) or more of the subjects listed in subdivision (b)(4), within one (1) year of initial election or appointment to the utility system's governing body.

(3) In each continuing education period after the initial continuing education period established in subdivision (b)(2), a governing body member shall attend a minimum of six (6) hours of continuing education in one (1) or more of the subjects listed in subdivision (b)(4).

(4) The subjects for the continuing education required by this section include, but are not limited to, board governance, financial oversight, policymaking responsibilities, and other topics reasonably related to the duties of the members of a utility system's governing body.

(c)

(1) For purposes of this section, a governing body member may request a continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. If the extension is granted, the governing body member must complete any additional required continuing education hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The request for an extension must be made in writing and shall only be granted upon:

(A) A reasonable showing of substantial compliance with this section; or

(B) Unforeseeable hardship.

(2) The governing body member shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the member's utility system, together with or supplemental to the annual written statement required by subsection (g).

(d)

(1) The comptroller of the treasury shall offer online continuing education courses for purposes of compliance with this section.

(2) Any association or organization with appropriate knowledge and experience may prepare a continuing education curriculum for governing body members covering the subjects set forth in subdivision (b)(4) to be submitted to the comptroller of the treasury for review and approval prior to use.

(3) The comptroller of the treasury shall file a copy of approved continuing education curricula with the Tennessee board of utility regulation. Changes and updates to the curricula must be submitted to the comptroller of the treasury for approval prior to use. Any continuing education curriculum approved by the comptroller of the treasury must be updated every three (3) years and resubmitted to the comptroller of the treasury for review and approval.

(e)

(1) A person required to complete continuing education under this section may take online courses in lieu of attending continuing education courses in person. Online courses are subject to the requirements of subdivisions (d)(2)-(3).

(2) The online continuing education provider shall provide a certificate of completion or attendance that must be submitted by the governing body member to the utility system, or submitted by the provider directly to the utility system.

Each utility system shall keep the certificate of completion or attendance for six (6) years after the calendar year in which the certificate of completion or attendance is submitted.

(f) The utility system shall pay the continuing education course registration and travel expenses for the continuing education required by this section for the members of the utility system's governing body. A utility system is not required to pay any costs associated with continuing education required pursuant to subsection (j).

(g)

(1) By January 31 of each year, each governing body member shall file with the utility system an annual written statement on a form developed by the comptroller of the treasury that certifies the continuing education courses attended by the member during the prior calendar year.

(2) The annual written statement must:

(A) Identify the date of each course attended; the course's subject matter, location, and sponsor; and the hours attended for each course; and

(B) Include a certificate of attendance, on a form acceptable to the comptroller of the treasury, for each course listed on the annual written statement that certifies the governing body member attended the course.

(3) For years in which the governing body member did not attend continuing education courses, the governing body member shall file an annual written statement certifying that the governing body member attended no continuing education that year.

(4) A utility system shall keep the annual written statements filed pursuant to subdivisions (g)(1) and (g)(3), in addition to any extension request letters and corresponding comptroller determination letters, for six (6) years following the calendar year in which the annual written statement was filed.

(h) If a member of a utility system's governing body fails to meet the continuing education requirements set forth in this section before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then the Tennessee board of utility regulation has full discretion to order reasonable sanctions against the utility system.

(i)

(1)

(A) A governing body member who fails to meet the continuing education requirements set forth in this section before the end of any continuing education period or before the end of an extension approved by the comptroller of the treasury or the comptroller's designee is not eligible to receive any payment or benefit from the utility system as a result of the governing body member's position on the utility system's governing body.

(B) The Tennessee board of utility regulation may order the utility system to:

(i) Take any necessary and legal action to recover funds paid to a governing body member who was ineligible to receive them; and

(ii) Cease providing any payment or benefit that violates subdivision (i)(1)(A).

(2) A governing body member who fails to meet the continuing education requirements set forth in this section before the end of any continuing education period or before the end of an extension approved by the comptroller of the treasury or the comptroller's designee is not eligible for reappointment or reelection to another term of office, except as described in subsection (j).

(3) An existing governing body member who is nominated for reappointment under this part shall certify to the appointing authority prior to reappointment that the governing body member has complied with the continuing education requirements in this section.

(4) A governing body member serving on the governing body of a utility district who is seeking reelection shall certify to the utility district prior to being placed on the ballot that the governing body member has complied with the continuing education requirements set forth in this section. This subdivision (i)(4) only applies to governing body members serving on the governing body of a utility district where the governing body is elected.

(5) This subsection (i) does not apply to a governing body member of a city or county utility system that was elected by the electorate of such city or county.

(j)

(1) If a person becomes ineligible to serve on the governing body of a utility system for failing to meet the continuing education requirements or any other requirements in this section, the person may file a petition for reinstatement of the person's eligibility with the Tennessee board of utility regulation. The board shall treat the petition as an informal hearing under § 7-82-702(b)(1).

(2) The petitioner cannot file a petition for reinstatement until after the completion of the term of office for which the petitioner has failed to meet continuing education requirements that caused the petitioner's ineligibility to serve.

(3)

(A) The board will conduct an informal hearing on the petition and may issue an order establishing the terms and conditions for the reinstatement of the petitioner's eligibility to serve.

(B) The board's order:

(i) Must require the petitioner to obtain twelve (12) hours of continuing education within one (1) year of the date of the order;

(ii) Must include an effective date for reinstatement of eligibility, contingent upon the petitioner meeting all requirements of the order; and

(iii) May include any other terms and conditions the board deems appropriate.

SECTION 18. Tennessee Code Annotated, Section 9-21-408, is amended by deleting subsection (a) and substituting:

(a)

(1) Local governments may make internal loans under procedures for issuance of notes or bonds in part 5, 6, 7, or 8 of this chapter.

(2) Utility systems, as defined in § 7-82-701, may make internal loans under with procedures and guidelines established by the comptroller of the treasury or the comptroller's designee as authorized in § 4-3-305.

SECTION 19. Tennessee Code Annotated, Section 68-221-605, is amended by deleting subsections (f) and (g).

SECTION 20. Tennessee Code Annotated, Section 68-221-1305, is amended by deleting subsections (f) and (g).

SECTION 21. Tennessee Code Annotated, Section 7-82-201(b), is amended by deleting the subsection and substituting:

> (b) A nonprofit property owners' association whose membership is constituted by at least six thousand (6,000) owners of lots, which owns, operates, or maintains water or sewer service systems for the exclusive use of the association, and which is unable to obtain such services from the local utility district, may petition the county mayor of the county in which the association is located for incorporation of the association as a utility district. If the association is located within the service area of an existing utility district that does not provide both water and sewer service, the association may petition the county mayor for exclusion from such utility district and for recognition and incorporation as a separate and independent utility district providing the service that the existing district does not provide. The association, once designated as a utility district, continues to own, operate, or maintain water or sewer service systems for the exclusive use of its property owner members. The commissioners of a utility district incorporated pursuant to this subsection (b) are the board of directors of the association, as long as the members of such board are elected by a vote of all the property owners in the association. If the members of the board of directors of the association are not elected by vote of the property owners, then the commissioners must be appointed by the county mayor as set forth in § 7-82-307. Commissioners serve in office until their successors are elected and qualified.

SECTION 22. This act takes effect July 1, 2026, the public welfare requiring it.

HOUSE BILL NO. 1673

PASSED: April 22, 2026

CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 7th day of May 2026

BILL LEE, GOVERNOR