

HOUSE BILL 649

By Darby

AN ACT to amend Tennessee Code Annotated, Title 7,
Chapter 82, Part 7, relative to the utility
management review board.

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

SECTION 1. Tennessee Code Annotated, Section 7-82-704-, is amended by deleting the section and substituting the following:

(a)

(1) If a utility district is financially distressed or is financially unable to expand the amount or type of service or services as set forth and described in its petition for creation pursuant to § 7-82-201, then the utility management review board may consider the merger of the financially distressed utility district with another utility district or districts, or the consolidation of the financially distressed utility district with a municipal utility system or county utility system, to restore financial stability and to ensure continued operations for the benefit of the public being served by the financially distressed utility district.

(2) The utility management review board may initiate and participate in negotiations among the financially distressed utility district; another utility district, municipal utility system, or county utility system with whom the financially distressed utility district may merge or consolidate; and other affected parties concerning a merger or consolidation.

(3) If the utility management review board determines that a merger or consolidation is in the best interest of the public being served by the financially distressed utility district, and the utility management review board is able to

negotiate an agreement among all affected parties for the merger or consolidation, then the utility management review board shall enter an order approving the merger or consolidation agreement and shall require the financially distressed utility district to enter into the merger or consolidation agreement.

(4) If the utility management review board determines that the financially distressed utility district; another utility district, municipal utility system, or county utility system with whom the financially distressed utility district may merge or consolidate; or another affected party has refused or failed to enter into good faith negotiations on a merger or consolidation, then the utility management review board shall petition the chancery court in a jurisdiction in which the financially distressed utility district is operating to require the party or parties to engage in good faith negotiations concerning a merger or consolidation.

(5) If the board of commissioners of the financially distressed utility district 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 utility management review board shall petition the chancery court in a jurisdiction in which the financially distressed utility district is operating to enforce the utility management review board's order to require the board of commissioners to enter into the approved merger or consolidation agreement and to abide by and implement the terms and conditions of the merger or consolidation agreement.

(b)

(1) In order to mitigate any negative financial impact of the merger or consolidation on the utility district or districts, municipal utility system, or county utility system agreeing to merge or consolidate with the financially distressed

utility district, the utility management review board is authorized to develop a plan of mitigation payments to the merged utility district or districts, or the consolidated municipal or county utility system.

(2) Mitigation payments must be made from funds available in the utility district revitalization fund and must include:

(A) 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 financially distressed utility district;

(B) Amounts that may be necessary to cure a default on indebtedness of the financially distressed utility district to the extent those defaults can, in the opinion of the utility management review board, reasonably be cured;

(C) Amounts that may be necessary to renovate and repair the facilities of the financially distressed utility district to the level necessary to enable the merged utility district or districts, or the consolidated municipal or county utility system, to provide continued service to the public being served by the financially distressed utility district; and

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

(c)

(1) The utility management review board shall contract with a resulting merged utility district, or consolidated municipal or county utility system, to

provide for the repayment of mitigation payments over a period of time as may be agreed upon by the utility management review board and the merged utility district, or consolidated municipal or county utility system.

(2) Repayments may be made from surcharges levied upon the customers in the service area of the financially distressed utility district being merged or consolidated as long as those surcharges do not result in user fees in the service area of the financially distressed utility district being in excess of the maximum level of user fees as may be determined by the utility management review board to be reasonable for the service area.

(3) If the utility management review board determines that repayment of the mitigation payments would be unduly burdensome and financially detrimental to the customers described in subdivision (c)(2), then the utility management review board may waive repayments required pursuant to this section as long as the waiver is also approved by the commissioner of finance and administration.

(4) Repayments received by the board pursuant to this section must be deposited into, and become part of, the utility district revitalization fund.

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