



# State of Tennessee

## PUBLIC CHAPTER NO. 488

### SENATE BILL NO. 1326

By Bailey

Substituted for: House Bill No. 1176

By Garrett, Williams, Todd, Lamberth, Howell, Grills, Marsh, Cochran, McCalmon, Cepicky

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5, Chapter 6 and Title 42, relative to airport authorities.

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

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of eight (8) commissioners as follows:

(i) Two (2) persons to be appointed by the speaker of the house of representatives;

(ii) Two (2) persons to be appointed by the speaker of the senate;

(iii) Two (2) persons to be appointed by the governor; and

(iv) Two (2) persons appointed by the mayor of the county having the metropolitan form of government;

(B) In making appointments to the board:

(i) At least one (1) person appointed by each appointing authority must be a resident of the county having the metropolitan form of government;

(ii) One (1) person appointed by each appointing authority must be a resident of the county, or a county contiguous to the county, having the metropolitan form of government; and

(iii) Persons appointed to the board must have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026;

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027; and

(iv) Commissioners appointed under subdivision (d)(1)(A)(iv) serve initial terms that expire on June 30, 2028;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the geographic and demographic composition of the county or state;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) In addition to subdivision (d)(1)(E), in making the appointments to the board, the appointing authorities shall ensure only that each commissioner is generally a person of excellent character and reputation and a person in good standing and reputation in one (1) of the following fields:

(i) Engineering, with a license to practice in the state and an active practice in such profession for the preceding five (5) years;

(ii) Law, with a license to practice before the highest court in this state for a period of not less than five (5) years;

(iii) Industry or commerce; and

(iv) Finance;

(G) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(H) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate prior to the expansion or improvements;

(I) The authority shall maintain its books and prepare its financial statements in a timely manner satisfactory to the state and pay the state for all costs the state incurs in reviewing and auditing the authority's finances; and

(J) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-102(a), is amended by adding the following language at the end of the subsection:

The acquisition of any land, or interest in land, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports, air navigation facilities, and aviation easements, including the acquisition or elimination of airport hazards and the exercise of any other powers granted in this chapter to authorities are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of an authority

in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 4. Tennessee Code Annotated, Section 42-4-106(b), is amended by deleting the subsection and substituting instead the following:

(b) The president shall appoint, and the board shall confirm, the following additional officers: secretary, auditor, legal counsel, treasurer, and chief engineer. Notwithstanding this section to the contrary, for a board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, the president shall appoint, and the board shall confirm, an independent financial auditing firm and the following additional officers: secretary, chief financial officer, general counsel, and chief operating officer.

SECTION 5. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following language as a new subdivision (3):

The president shall submit the approved annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 6. Tennessee Code Annotated, Section 42-4-107(3), is amended by deleting the subdivision and substituting instead the following:

(3) Acquire real or personal property or an interest in real or personal property by gift, lease, or purchase, or for an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, by eminent domain proceedings, for any of the purposes provided by this chapter, including the elimination, prevention, or marking of airport hazards; sell, lease, or otherwise dispose of any such property; and acquire real property or any interest in real property in areas most affected by aircraft noise for the purpose of resale or lease, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise;

SECTION 7. Tennessee Code Annotated, Section 42-4-107, is amended by adding the following as new subdivisions:

(20) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may regulate aircraft hazards, compatible land use, or other factors impacting the safe and efficient operation of the airport by submitting a map to the county or to an applicable contiguous county that requires the review and approval, conditional approval, or denial of building permits within the designated boundaries;

(21) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may construct, authorize, widen, narrow, relocate, vacate, change in the use, accept, acquire, sell, or lease any street or other public way, ground, place or space, or public utility, whether publicly or privately owned, pursuant to an agreed upon license agreement or prescriptive or express easement, or any portion thereof; provided, that the authority owns all of the real property abutting the street or other public way, ground, place or space, or public utility, or owns all of the real property abutting the portions thereof that are to be constructed, authorized, widened, narrowed, relocated, vacated, changed in use, accepted, acquired, sold, or leased;

SECTION 8. Tennessee Code Annotated, Section 42-4-108, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b) Notwithstanding subsection (a) to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, shall proceed in accordance with title 29, chapter 16, in the acquisition of property by eminent domain proceedings authorized by this chapter. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding another law to the contrary, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of the proceedings. The authority shall not be precluded from abandoning the proceedings in a case where possession of the property

has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings.

SECTION 9. Tennessee Code Annotated, Section 42-4-112, is amended by deleting the section and substituting instead the following:

This chapter does not limit any power of a municipality to regulate airport hazards by zoning. Notwithstanding this section to the contrary, in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, airport hazards must be regulated pursuant to § 42-4-107(20).

SECTION 10. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 11. For purposes of appointing commissioners to the new airport authority board, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, including the vacation and reconstitution of any board, this act takes effect July 1, 2023, the public welfare requiring it.

SENATE BILL NO. 1326

PASSED: April 21, 2023

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 19<sup>th</sup> day of May 2023

  
BILL LEE, GOVERNOR