

SENATE BILL 632

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 69,  
Chapter 3, Part 1, relative to the jurisdiction of  
waters of the state and hydrologic determinations.

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

SECTION 1. Tennessee Code Annotated, Section 69-3-103, is amended by adding the following language as new, appropriately designated subdivisions:

( ) “Wet weather conveyance” means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and which do not support fish or aquatic life and are not suitable for drinking water supplies. The term “do not support” as used in this subdivision means that due to natural, ephemeral, intermittent or low flow conditions or water levels the watercourse is incapable of meeting the water quality standards and criteria established by the board pursuant to § 69-3-105(a)(2) for the fish and aquatic life classification. Wet weather conveyances may contain aquatic life but do not support fish and aquatic life within the meaning of this definition;

( ) “Stream” means a watercourse that is not a wet weather conveyance;

( ) “Watercourse” means a man-made or natural hydrologic feature with a channel and a defined bed and bank capable of conveying flowing water;

SECTION 2. Tennessee Code Annotated, Section 69-3-103(33), is amended by adding the language “for wet weather conveyances and” between the language “portion thereof, except” and “those bodies”.

SECTION 3. Tennessee Code Annotated, Section 69-3-107, is amended by adding the following language as a new appropriately designated subdivision:

( ) Develop within one hundred eighty (180) days of the effective date of this act, protocols, guidance, qualifications, and training necessary for persons to accurately and consistently make hydrologic determinations for streams, wetlands and wet weather conveyances. All procedures and guidance established by this procedure shall be developed as part of a public process and shall provide an opportunity for all stakeholders to provide input. At a minimum such protocols, guidance, qualifications and training shall include:

(A) Standard operating procedures which take into consideration site geology, geomorphology, precipitation and other scientifically based principles. A hydrologic determination for a stream must not be based solely on the presence of aquatic life unless the watercourse is capable of meeting the water quality standards and criteria established by the board pursuant to § 69-3-105(a)(2) for the fish and aquatic life classification;

(B) Detailed written guidance that provides instructions, examples and definitions based upon scientifically based principles for consistently and accurately making hydrologic determinations;

(C) Minimum qualifications for staff who are responsible for making hydrologic determinations or reviewing such determinations; and

(D) Training sufficient to enable such staff to make hydrologic determinations consistent with the protocols and guidance.

SECTION 4. Tennessee Code Annotated, Section 69-3-108, is amended by adding the following language as a new appropriately designated subsection:

( ) In reviewing whether and to the extent a permit is required under this section, where an applicant or person seeking a jurisdictional determination provides a hydrologic determination report that complies with the standard operating procedures, protocols and guidance and such report is certified by a qualified hydrologic professional, such determination shall be presumed conclusive. A qualified hydrologic professional shall include:

(1) A professional geologist licensed by this state with at least five (5) years in relevant experience in making hydrologic determinations;

(2) A professional engineer licensed by this state with at least five (5) years in relevant experience in making hydrologic determinations;

(3) A person holding a doctor of philosophy in biology, geology, ecology or related sciences and at least five (5) years of relevant experience in making hydrologic determinations; or

(4) A person holding any other degree in biology, geology, ecology or related sciences and at least ten (10) years in relevant experience.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.