

SENATE BILL 1306

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 8; Title 9; Title 54; Title 55 and Title 67,
relative to financing infrastructure projects.

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

SECTION 1. Tennessee Code Annotated, Title 9, is amended by adding Sections 2 through 8 as a new chapter.

SECTION 2. This chapter is known and may be cited as the "Tennessee Infrastructure Bank Act."

SECTION 3.

There is created the Tennessee infrastructure bank (bank) for the purpose of sustainably financing infrastructure projects and driving economic growth in this state.

SECTION 4.

The purpose of this chapter is to create a financing entity structured with broad authority to issue bonds, provide guarantees, and leverage state, federal, and other funds to facilitate sustainable infrastructure investment and generate economic growth. The assistance provided in this chapter, with respect to financing infrastructure projects, is in the public interest and serves a public purpose of this state in creating economic development and growth.

SECTION 5.

(a) The bank shall monitor and oversee infrastructure projects, establish criteria for determining project eligibility for financial assistance under this chapter, and have the following powers:

(1) To issue bonds and provide direct subsidies to infrastructure projects;

(2) To borrow on the global capital market and lend to entities and commercial banks for funding infrastructure projects;

(3) To purchase, pool, and sell infrastructure-related loans and securities on such market; and

(4) To request the assistance, on a reimbursable basis, of personnel from any state agency with specific expertise not available from within the bank or elsewhere. The head of any state agency may assign, on a reimbursable basis, any personnel of such agency requested by the board of directors (board) established by Section 7 and shall not unreasonably refuse the assistance of any personnel requested by the board.

(b) Financial assistance is available from the bank if the applicant for such assistance has demonstrated to the satisfaction of the board that the project for which such assistance is being sought meets:

(1) The requirements of this chapter; and

(2) Any criteria established in accordance with this chapter by the board.

(c) The bank shall conduct an analysis that considers the economic, environmental, and social benefits and costs of each project under consideration for financial assistance, and shall prioritize projects that contribute to economic growth, lead to job creation, and are of regional or local significance.

(d) The criteria established by the board must provide for the consideration of the following factors in considering eligibility for financial assistance:

(1) The means by which development of the infrastructure project under consideration is being financed, including the terms and conditions and financial structure of the proposed financing and the financial assumptions and projections on which the project is based;

(2) The likelihood that the provision of assistance by the bank will cause such development to proceed more promptly and with lower costs for financing than would be the case without such assistance;

(3) Job creation, including workforce development for women and minorities, responsible employment practices, and quality job training opportunities;

(4) Reduction in carbon emissions;

(5) Reduction in surface and air traffic congestion;

(6) Smart growth in urban areas;

(7) Poverty and inequality reduction through targeted training and employment opportunities for low income workers;

(8) Use of road user charging, such as vehicle miles traveled, for highway, road, and bridge projects;

(9) Public health benefits;

(10) Pollution reductions;

(11) Environmental justice;

(12) Expanded use of renewable energy, including, but not limited to, hydroelectric, solar, wind, and waste-to-energy;

(13) Smart grid development;

(14) Energy efficient building, housing, school modernization, and weatherization;

(15) Improvement of public housing or other public spaces;

(16) Mobility improvements for residents; and

(17) Expansion or improvement of broadband and wireless services in underserved communities.

(e) The board shall conduct assessments of the criteria in subsection (d) with qualified personnel, including from relevant state agencies.

(f) A fee may be charged for the review of any project proposal in such amount as may be considered appropriate by the executive committee established under Section 7 to cover the cost of the review.

(g) Any determination of the board to provide assistance to any project, and the manner in which the assistance is provided, including the terms, conditions, fees, and charges, is at the sole discretion of the board.

(h) The provision of assistance by the board in accordance with this chapter does not relieve any recipient of assistance or the related project of any obligation to obtain required, state, local, and federal permit and approvals.

(i) An entity receiving assistance from the board shall make annual reports to the board on the use of any such assistance, criteria set forth in this section, and a disclosure of all entities with a development, ownership, or operational interest in a project assisted or proposed to be assisted by the bank.

(j) To carry out the purposes of the bank, the bank shall:

(1) Establish disclosure and application procedures for entities nominating projects for assistance;

(2) Accept, for consideration, project proposals relating to the development of infrastructure projects, which meet the basic criteria established by the board and which are submitted by an entity;

(3) Provide recommendations to the board and place accepted project proposals on the list for consideration for financial assistance from the board; and

(4) Provide technical assistance to entities receiving financing from the bank and otherwise implement decisions of the board.

SECTION 6.

(a) All notes, debentures, bonds, or other such obligations issued by the bank, and the interest on or credits with respect to the bonds or other obligations, are not subject to taxation by this state or another state, or any county, municipality, or local taxing authority of this state or another state.

(b) The bank shall comply with all federal and state laws regulating budgetary, auditing, and ethics practices of a governmental entity.

(c) Bonds issued by the bank do not constitute a debt or a pledge of the full faith and credit of this state, or any of its political subdivisions other than the bank, but are payable solely from the revenue, money, or property of the bank as provided in this chapter. The bonds issued do not constitute an indebtedness of this state within the meaning of any constitutional or statutory limitation. A member of the bank or any person executing bonds of the bank is not liable personally on the bonds by reason of their issuance or execution. Each bond issued under this chapter must contain on its face a statement to the effect that: "Neither the State, nor any of its political subdivisions, nor the bank is obligated to pay the principal of or interest on the bond or other costs incident to the bond except from the revenue, money, or property of the bank pledged; neither the full faith and credit nor the taxing power of the State, or any of its political subdivisions, is pledged to the payment of the principal of or interest on the bond; the bank does not have taxing power.".

(d) The board shall submit to the governor and general assembly, on or before October 1 of each fiscal year, a complete and detailed report with respect to the preceding fiscal year.

SECTION 7.

(a) The bank has a board of directors consisting of five (5) members representing the regions of this state to be appointed by the governor from a list of members recommended by the speaker of the senate and the speaker of the house of representatives as follows: two (2) members must have public sector experience and three (3) members must have private sector experience. Directors on the board must serve staggered six-year terms.

(b) Initial appointments by the governor must be made not later than sixty (60) days after the effective date of this act. All subsequent appointments must be made no later than August 1 of the year in which the appointment is to be made.

(c) A director shall not participate in any review or decision affecting a project under consideration for assistance under this chapter if the director has a direct business or familial relation to, or is otherwise affiliated with, any person who has an interest in such project.

(d) The board shall meet not later than ninety (90) days after the date on which all of the directors of the board are first appointed and otherwise at the call of the chair.

(e) The chair of the board shall appoint, remove, fix the compensation of, and define the duties of such qualified personnel to serve under the board, including a chief risk officer, chief compliance officer, executive committee, risk management committee, or audit committee.

(f) The board has an executive committee consisting of nine (9) members, to be appointed by the executive director of the bank. A majority of the board has the authority to appoint and reappoint the executive director.

(g) The executive director is the chief executive officer of the bank, with such executive functions, powers, and duties as may be prescribed by this chapter, the bylaws of the bank, or the board.

(h) The executive director and other executive officers shall have demonstrated experience and expertise in one (1) or more of the following:

- (1) Transportation infrastructure;
- (2) Environmental infrastructure;
- (3) Energy infrastructure;
- (4) Telecommunications infrastructure;
- (5) Economic development;
- (6) Workforce development;
- (7) Public health; or
- (8) Private or public finance.

(i) Executive officers shall not:

- (1) Hold any other public office;
- (2) Have any interest in an infrastructure project considered by the board;
- (3) Have any interest in an investment institution, commercial bank, or other entity seeking financial assistance for any infrastructure project from the bank; or
- (4) Have any such interest during the two-year period beginning on the date such officer ceases to serve in such capacity.

SECTION 8. The bank may be funded from state funds as appropriated by the general assembly in the appropriations act or from federal funds available to or received by the state.

SECTION 9. This act takes effect upon becoming a law, the public welfare requiring it.