

SENATE BILL 2170

By Yager

AN ACT to amend Tennessee Code Annotated, Section 7-82-307 and Title 7, Chapter 82, Part 6, relative to filling vacancies occurring on the board of commissioners of multi-county utility districts.

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

SECTION 1. Tennessee Code Annotated, Section 7-82-307(a), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(a)

(1) Each utility district shall have three (3) commissioners, except those multi-county utility districts and utility districts having a greater number of commissioners on May 6, 2004.

(2)

(A) Each utility district shall select board members using the selection method set forth in subdivisions (a)(4) or (5).

(B) No later than July 1, 2013, the commissioners of any single-county utility district using a selection method other than appointment by a county mayor as provided in subdivision (a)(4) on May 6, 2004, shall be appointed by the county mayor unless, on July 1, 2011, or hereafter approved by the general assembly, the selection method used by a single-county utility district is a plurality vote of customers of the utility district voting in an election held by the utility district or the single-county district is located in a county with a metropolitan form of government and the selection method is by appointment by a county probate judge.

(C) No later than July 1, 2014, vacancies occurring in multi-county utility districts shall be as provided in (a)(5) or (h).

(3) The term of office of each commissioner shall be four (4) years after the initial appointment by the county mayor to create staggered terms, except for replacement commissioners filling unexpired terms. Each member, upon expiration of such member's term, shall continue to hold office until a successor is appointed or elected and qualified.

(4) Until July 1, 2013, vacancies on the board of commissioners of single-county utility districts shall be filled under the method currently being utilized by a utility district. Following such date, vacancies shall be by appointment of the county mayor. Within sixty (60) days after the occurrence of a vacancy in the office of any commissioner caused by death, resignation, disability, or forfeiture of office, and no later than thirty (30) days prior to the expiration of the term of office of any incumbent commissioner, the board of commissioners or its remaining members shall select three (3) nominees to fill such office, in full accordance with any residential requirements that may apply to the office vacated or to be vacated, and under the seal of the board of commissioners, shall certify such list of nominees in order of preference recommended by such commissioners, to the county mayor of the county in which the utility district or its principal office is located; or of the county in which the commissioners of the district customarily meet if the district has no principal office. Within twenty-one (21) days after the issuance of any certification by the board of commissioners to the county mayor, the county mayor may enter an order either appointing one (1) of the nominees or rejecting the entire list or may

refrain from taking any action, in which event the first name on the list of nominees shall be deemed appointed to fill the vacancy or new term by operation of law. Any order either appointing or rejecting a list of nominees shall be entered of record on the minutes of the county legislative body and a certified copy of the order shall be furnished to the board of commissioners and to the appointee; provided, however, that upon the rejection of any entire list of nominees by the county mayor, the board of commissioners shall, to the extent authorized in this subdivision (4) submit a new non-identical list or lists of three (3) nominees to the county mayor within sixty (60) days after rejection of the previous list. If the county mayor fails to make an appointment for a position from the first or second list of nominees submitted, then the county mayor shall appoint a commissioner for such position from the third list of nominees submitted.

(5)

(A) Effective July 1, 2014, and thereafter, unless, on July 1, 2011, or hereafter approved by the general assembly, the selection method used by a multi-county utility district is a plurality vote of customers of the utility district voting in an election held by the board of commissioners of the utility district, the procedure as provided in subdivision (a)(4) for submitting nominees to the county mayor to fill a vacancy shall be followed by the board of commissioners of multi-county utility districts for the filling of vacancies occurring on the board of commissioners of such multi-county utility district, except that, the utility district's charter, bylaws, state law or prior order creating or recreating such utility district board of commissioners shall be followed to determine which county mayor is the

appropriate county mayor to fill the vacancy. In certifying the list of nominees to the appropriate county mayor, the board of commissioners shall send copies of the certification to the county mayor of every county which is a part of the multi-county utility district. The original certification shall include a statement listing all counties to which copies of the certification shall be furnished to the county mayors.

(B) As provided in its charter, bylaws, state law or prior order creating or recreating the multi-county utility district, if an appointee to the board of commissioners rotates between or among the counties which are included in the multi-county utility district, then the appropriate county mayor to make the appointment shall be the county mayor in the next rotation for the appointment. If a vacancy must be filled for an unexpired term, the county mayor which made the original appointment for that commissioner shall be the appropriate county mayor to fill the appointment for the unexpired term.

(C) Except for the appointment of the commissioner which is a rotating appointment, in all multi-county utility districts, the appointee shall be a resident of the same county as the appointee's predecessor.

(6) Any order either making an appointment or rejecting the entire list of nominees shall be entered of record on the minutes of the county legislative body by the county mayor making the appointment, and a certified copy of the order shall be furnished to the board of commissioners of the utility district. In addition, if the first or second list is rejected in its entirety, then within fourteen (14) days following the entry of such order, the county mayor shall request the board of

commissioners or its remaining members to submit additional lists in accordance with subdivision (a)(4) or (5).

(7) The method of filling vacancies set forth in subdivisions (a)(2), (4) and (5) is the uniform method created by the legislature for the filling of vacancies on a utility district board of commissioners. It is the legislature's intent to create a uniform general law of statewide application for selecting utility district commissioners.

(8) Notwithstanding any law to the contrary, the board of commissioners of a utility district excepted by subdivision (a)(2) from the uniform method created by the legislature for the filling of vacancies may, by resolution, choose to change its present method of selection to appointment by a county mayor or mayors under subdivision (a)(4) or (a)(5). Upon the filing of a certified copy of the resolution with the utility management review board, the board shall enter an order either approving or disapproving the resolution. The board shall approve the resolution upon finding that a change in the method of filling vacancies to appointment by a county mayor under subdivision (a)(4) or (a)(5) is in the best interest of the utility district and its customers. All vacancies on the utility district's board of commissioners that occur after the entry of an order approving the resolution shall be by appointment by a county mayor under subdivision (a)(4) or (a)(5). If the board enters an order disapproving the resolution, then the utility district's method of filling vacancies shall remain unchanged, and the utility district shall continue to fill vacancies under the method the utility district has been using before the adoption of the resolution.

SECTION 2. Tennessee Code Annotated, Section 7-82-307(h), is amended, by deleting subdivision (4) in its entirety effective July 1, 2014.

SECTION 3. Tennessee Code Annotated, Section 7-82-307, is amended by deleting subsection (i) in its entirety.

SECTION 4. Tennessee Code Annotated, Section 7-82-607, is amended by deleting subsection (b) in its entirety.

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