

SENATE BILL 3513

By Yager

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 82, Part 3; Title 7, Chapter 82, Part 6 and Title 7, Chapter 82, Part 7, relative to utility districts.

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

SECTION 1. Tennessee Code Annotated, Section 7-82-307(b)(1)(A), is amended by deleting the language, “and may conduct a contested case hearing in accordance with subdivision (b)(1)(B), within the service area of the utility district” in the first sentence in its entirety.

SECTION 2. Tennessee Code Annotated, Section 7-82-307, is amended by redesignating existing subdivision (b)(1)(A) as new subdivision (b)(1).

SECTION 3. Tennessee Code Annotated, Section 7-82-307, is amended by redesignating existing subdivision (b)(1)(B) as new subdivision (b)(2)(A) and redesignating existing subdivision (b)(2) as new subdivision (b)(2)(B).

SECTION 4. Tennessee Code Annotated, Section 7-82-307(b)(3)(A)(ii), is amended by deleting the following language in its entirety:

If the utility management review board elects to hold a contested case hearing on this issue, then the hearing shall be conducted within the service area of the utility district.

SECTION 5. Tennessee Code Annotated, Section 7-82-307(b), is amended by adding the following language as new subdivision (b)(4):

(4)

(A) When the member of a utility district board of commissioners is absent from four (4) consecutive regular board meetings or from one-

half ($\frac{1}{2}$) or more of the regular board meetings in a calendar year, that member is subject to removal from office by the utility management review board in accordance with this subdivision (b)(4).

(B) When a utility district commissioner is absent from four (4) consecutive regular board meetings, the utility district shall report such absenteeism in writing to the utility management review board within thirty (30) days of the fourth consecutive board meeting from which the utility district commissioner has been absent, and a copy of such written report shall be sent to the utility district commissioner by certified mail. When a utility district commissioner is absent for one-half ($\frac{1}{2}$) or more of the regular board meetings held in a calendar year, the utility district shall report such absenteeism in writing to the utility management review board within thirty (30) days of the end of the calendar year, and a copy of such written report shall be sent to the utility district commissioner by certified mail. The utility district commissioner who becomes subject to removal for absenteeism under this subdivision (b)(4) shall have thirty (30) days from the date the board receives such written notice to request in writing that the board not remove him or her from office giving the reason or reasons why such district commissioner should not be removed from office for absenteeism. If the board does not receive such a request within the thirty-day period, the board shall enter an order removing the utility district commissioner from office. If the board receives a request from the utility district commissioner that he or she not be removed from office, the board shall grant the utility district commissioner an opportunity to be heard on such request. The board shall enter an order removing

such commissioner from office unless the board finds that the utility district commissioner's absences were excusable and that the utility district commissioner's continuing to serve on the utility district's board would not adversely affect the conduct of business by the utility district's board. The utility district commissioner requesting that he or she not be removed from office has the burden of showing to the board that the absences were excusable and that the utility district commissioner's continuing to serve on the utility district's board would not adversely affect the conduct of business by the utility district's board.

(C) The vacancy on the board of commissioners created by an order of removal under this subdivision (b)(4) shall be filled by the selection method used by the utility district to fill vacancies on its board of commissioners; provided, that the utility district commissioner removed from office shall not be eligible for reappointment or reelection and shall not participate in either the nomination, appointment or election of a new member to the utility district's board of commissioners to fill the vacancy created.

SECTION 6. Tennessee Code Annotated, Section 7-82-307(b), is further amended by adding the following language as new subdivision (b)(5):

(5) A utility district commissioner who fails to meet the training and continuing education requirements set forth in § 7-82-308(h) shall be removed from office by order of the utility management review board after notice and a hearing on the removal of the utility district commissioner unless the utility management review board concludes such failure was excusable. If the utility management review board finds that the failure was excusable, it shall enter an order giving the utility district commissioner six (6) months to complete the

required training and continuing education and providing that if the required training and continuing education is not completed within six (6) months, the utility district commissioner shall be removed from office at the end of the six-month period.

SECTION 7. Tennessee Code Annotated, Section 7-82-307(c), is amended by deleting the language “within the service area of the utility district” in the second sentence in its entirety.

SECTION 8. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as new subsection (f) and by redesignating the present language accordingly:

(f) Immediately upon the indictment of a member of a utility district board of commissioners for misconduct in office, the utility district commissioner shall become ineligible to continue to serve as an utility district commissioner and shall be suspended from office pending the final disposition of the criminal proceeding or until the expiration of his or her term of office, whichever occurs first. In a single county utility district, the county mayor of the county in which the single county utility district is located shall have the power and responsibility to make an interim appointment to the board of commissioners to fill the vacancy created by the suspension from office until the final disposition of the case or until the expiration of the term of office of the suspended utility district commissioner. In a multi-county utility district, the county mayor of the county in which the indicted utility district commissioner resides or is a customer shall have the power and responsibility to make an interim appointment to the board of commissioners to fill the vacancy created by the suspension from office until the final disposition of the case or until the expiration of the term of office of the suspended utility district commissioner. If the criminal proceeding against the suspended utility district

commissioner is terminated without a finding or verdict of guilty on any of the charges on which he or she was indicted, the utility district commissioner shall become eligible to serve his or her office, the suspension shall be removed and the county mayor's interim appointee shall cease to hold office.

SECTION 9. Tennessee Code Annotated, Section 7-82-308, is amended by adding the following language as new subsection (h):

(h)

(1) Within one (1) year of initial appointment or election to the board of commissioners of a utility district or within one (1) year of the reappointment or reelection to the board of commissioners of an incumbent utility district commissioner holding office on the effective date of this subsection, a utility district commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (h)(5). An incumbent utility district commissioner holding office on the effective date of this subsection (h) who has received the certificate of utility district commissioner training from the Tennessee association of utility districts before the effective date of this subsection (h) shall be exempt from the training and continuing education requirements set forth in this subdivision (h)(1).

(2) In each continuing education period after the initial training and continuing education required by subdivision (h)(1), a utility district commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (h)(5). For the purposes of this subdivision (h)(2), a "continuing education period" is a period of three (3) years beginning

January 1 after the calendar year in which a utility district commissioner completes the training and continuing education requirements set forth in subdivision (h)(1) and each succeeding three-year period thereafter.

(3) Each utility district commissioner shall certify by January 31 of each year the training and continuing education courses attended during the prior calendar year by filing an annual written statement with the Tennessee association of utility districts. Each annual statement shall identify the date of each course attended, its subject matter, location, sponsor, and the hours attended for each course and shall include a certificate of attendance for each course listed on the annual statement. Each utility district commissioner shall be responsible for obtaining a certificate of attendance signed by a representative of the sponsor of any training and continuing education course for which credit is claimed which acknowledges that the utility district commissioner attended the course. The failure to file the annual statement shall be a Class C misdemeanor.

(4) The utility district shall be responsible for paying the training and continuing education course registration and travel expenses for the training and continuing education required by this subsection (h) for the members of the utility district's board of commissioners.

(5) The subjects for the training and continuing education required by subdivisions (h)(1) and (2) shall include, but not be limited to, the following:

- (A) Board member qualifications;
- (B) Board governance principles;
- (C) Roles and responsibilities of board members;

(D) Roles and responsibilities of board officers;

(E) Conduct of board meetings and board meeting procedures;

(F) Compliance with the Tennessee open meetings act;

(G) Compliance with the Tennessee public records laws;

(H) Fiduciary duties of board members;

(I) Compensation of board members;

(J) Ethics;

(K) Fraud prevention;

(L) Rule-making, regulation and policy-making responsibilities;

(M) Budget responsibilities;

(N) Rate-setting responsibilities;

(O) Board and chief executive officer relationships;

(P) Board and utility district employee relationships; decision-making and problem-solving skills;

(Q) Strategic and tactical planning responsibilities and skills for utility districts;

(R) How to set performance goals for utility districts;

(S) How to monitor performance for utility districts; and

(T) Other topics reasonably related to the duties of the members of the board of commissioners of a utility district.

(6) The Tennessee association of utility districts (TAUD) shall prepare a training and continuing education curriculum for utility district commissioners covering the subjects set forth in subdivision (h)(5). TAUD

shall submit the training and continuing education curriculum to the municipal audit division of the comptroller of the treasury ("the division") for review and approval. After the division approves the training and continuing education curriculum, the division shall file a copy of the approved training and continuing education curriculum with the utility management review board. After the division approves the training and continuing education curriculum for utility district commissioners submitted by TAUD, no further approval is required for the specific training and continuing education courses conducted by TAUD incorporating the approved curriculum. TAUD shall update its training and continuing education curriculum every three (3) years for review and approval by the division.

(7) Training and continuing education courses may be presented in the traditional lecture and classroom formats or in multi-media formats with the successful completion of a written post-experience examination to evaluate material retention. Multi-media courses may include courses using the following:

- (A) The Internet;
- (B) Satellite broadcasts;
- (C) Videotapes;
- (D) CD-ROM;
- (E) DVD; and
- (F) Videoconferencing.

(8) Each utility district shall keep in its official public records a copy of the annual statements of attendance filed by members of the

board of commissioners of the utility district with TAUD for six (6) years after the calendar year in which each annual statement is filed. Annual statements shall be produced for inspection and verification upon the request of the utility management review board. The utility management review board shall not maintain training and continuing education files.

(9) If a utility district commissioner fails to complete the requisite number of hours of training and continuing education set forth in subdivisions (h)(1) and (h)(2) within the time periods set forth in such subdivisions, such failure shall constitute just cause for the removal of the utility district commissioner from the utility district's board of commissioners on which he or she serves pursuant to § 7-82-307(b)(5).

(10) Nothing in this subsection shall prohibit the utility management review board from requiring training and continuing education in addition to that required under this subsection (h) for utility district commissioners of a utility district which is financially distressed under § 7-82-703.

(11) As used in this subsection (h), "utility district commissioners" include the members of the governing board of any utility district created pursuant to this chapter or any public or private act and the members of the governing board of any water, sewer or gas authority created by any public or private act.

SECTION 10. Tennessee Code Annotated, Section 7-82-308(d), is amended by deleting the present language in its entirety and by substituting instead the following:

(d) Only persons who reside within the district's boundaries or who are customers of the district shall be eligible for appointment or election to the board.

As used in this subsection, “customer” means a person who is regularly billed and pays for a utility service rendered by the district.

SECTION 11. Tennessee Code Annotated, Section 7-82-607(a)(1), is amended by deleting the language “own property” and by substituting instead the language “be a district customer”.

SECTION 12. Tennessee Code Annotated, Section 7-82-607(b), is amended by deleting the language “or owner of real property” and substituting instead the language “or a district customer”.

SECTION 13. Tennessee Code Annotated, Section 7-82-702(13), is amended by deleting the language “§ 7-82-307(b)” and by substituting instead the language “§ 7-82-307(b)(2)”.

SECTION 14. Tennessee Code Annotated, Section 7-82-702, is amended by adding the following as a new, appropriately designated subdivision:

() Remove a utility district commissioner from office in accordance with the provisions of §7-82-307(b)(4) and (5).

SECTION 15. Notwithstanding Tennessee Code Annotated, Section 8-48-101, the office of a district commissioner will not be vacated upon the effective date of this act when the district commissioner is qualified to be a district commissioner solely because the district commissioner owns real property within the district, and the district commissioner shall continue in office until the expiration of his or her term of office in effect on the effective date of this act.

SECTION 16. This act shall take effect upon becoming a law, the public welfare requiring it.