

CHAPTER NO. 603

HOUSE BILL NO. 3140

By Representative White

Substituted for: Senate Bill No. 3093

By Senator Henry

AN ACT to amend Titles 4, 7, 64 and 68 of the Tennessee Code Annotated relating to water and wastewater systems and to the state revolving loan programs.

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

SECTION 1. Tennessee Code Annotated, Section 68-221-1003(7)(A)(i) is hereby amended by deleting the words "or state agency" and by substituting instead the following:

State agency, or any instrumentality of government created by any one or more of the foregoing or by an act of the General Assembly

SECTION 2. Tennessee Code Annotated, Section 68-221-1005 is hereby amended by adding a new subsection, as follows:

(k) With consent of the authority and upon provision of such other security as required by the authority for loans under this part, any local government is authorized to assign its rights and obligations under a loan received pursuant to this part to any other local government. Any local government is authorized to receive such assignment and to assume such obligations. Upon such assignment, the local government originally obligated under the loan and any security provided therefore shall be released from all obligations under the loan, provided, however, the local government originally obligated under the loan may agree upon resolution of the governing body to retain its obligation to make payments under the loan in the event that the local government to which the loan is assigned fails to make such payments.

SECTION 3. Tennessee Code Annotated, section 68-221-1006(a)(6) is hereby amended by deleting the existing language and adding in its place the following:

Agree to maintain financial records in accordance with governmental accounting standards and to conduct an annual audit of the facility's financial records in accordance with generally accepted governmental auditing standards and with minimum standards prescribed by the comptroller of the treasury, and to file such audit with the comptroller; in the event of the failure or refusal of the local government to have the audit prepared, then the comptroller of the treasury may appoint an accountant or direct the department of audit to prepare the audit at the expense of the local government; and

SECTION 4. Tennessee Code Annotated, Section 68-221-1006(a), is hereby amended by adding the following new subsection to be appropriately designated:

( ) In the case of local governments with taxing power, agree to be subject to the jurisdiction of the water and waste water financing board established by this part

and, in the case of all other local governments, notwithstanding any charter provisions to the contrary, agree to be subject to the jurisdiction of the utility management review board created by Title 7, Chapter 82; provided, however, that any local government in existence on the effective date hereof and under the terms hereof subject to the jurisdiction of the utility management review board, other than utility districts formed under the provisions of Title 7, Chapter 82, at any time after the effective date hereof, may irrevocably elect to come under the jurisdiction of the water and waste water financing board, and any such local government not in existence on the effective date hereof may make such irrevocable election prior to obtaining a loan from the board. All such elections shall be submitted in writing to the director, with a copy to the authority.

SECTION 5. Tennessee Code Annotated, Section 68-221-1006 is further amended by adding the following as a new subsection to be numbered accordingly:

( ) The comptroller of the treasury, through the department of audit, shall be responsible for determining that any audit required in this chapter is prepared in accordance with generally accepted governmental auditing standards. The comptroller of the treasury is authorized to direct the department of audit to make an audit of financial review of the books and records of the local government.

SECTION 6. Tennessee Code Annotated, Section 68-221-1203(6) is hereby amended by deleting in its entirety and by substituting instead the following:

(6) "System" and "Water System" means the community public water systems of a county, incorporated town or city, metropolitan government, utility district formed pursuant to chapter 82 of title 7, state agency, or an instrumentality of government created by any one or more of the foregoing or by an act of the General Assembly as well as such governmental entity; and

SECTION 7. Tennessee Code Annotated, Section 68-221-1205(k) is hereby amended by deleting the existing language and by substituting instead the following:

(k) Water systems and the authority shall have the powers discussed in §68-221-1005(g), (h), (i), and (k), and may use such powers in the manner stated therein in relation to projects receiving loans under this part.

SECTION 8. Tennessee Code Annotated, section 68-221-1206(7) is hereby amended by deleting the existing language and by substituting instead the following:

Agree to maintain financial records in accordance with governmental accounting standards and to conduct an annual audit of the system's financial records in accordance with generally accepted governmental auditing standards and with minimum standards prescribed by the comptroller of the treasury, and to file such audit with the comptroller; in the event of the failure or refusal of the system to have the audit prepared, then the comptroller of the treasury may appoint an accountant or direct the department of audit to prepare the audit at the expense of the system; and

SECTION 9. Tennessee Code Annotated, Section 68-221-1206(a), is hereby amended by adding the following new subsection to be numbered appropriately:

( ) In the case of local governments with taxing power, agree to be subject to the jurisdiction of the water and waste water financing board established by this part and all other local governments, notwithstanding any charter provision to the contrary, agree to be subject to the jurisdiction of the utility management review board created by Title 7, Chapter 82; provided, however, any local government in existence on the effective date hereof and under the terms hereof subject to the jurisdiction of the utility management review board, other than utility districts formed under the provisions of Title 7, Chapter 82, at any time after the effective date hereof, may irrevocably elect to come under the jurisdiction of the water and waste water financing board, and any such local government not in existence on the effective date hereof may make such irrevocable election prior to obtaining a loan from the board. All such elections shall be submitted in writing to the director, with a copy to the authority.

SECTION 10. Tennessee Code Annotated, Title 64 is hereby amended by adding the following new chapter to be numbered accordingly:

All entities created under the provisions of this title must file an annual financial audit with the comptroller of the treasury, and are subject to audit by the comptroller.

SECTION 11. Tennessee Code Annotated, Section 7-82-701(a) is amended by adding the following sentence at the end of the subsection:

For purposes of this Part 7, "utility district" will include agencies, authorities or instrumentalities of government created by public or private act having the authority to administer a water or wastewater facility, other than those agencies, authorities or instrumentalities of government electing pursuant to Section 68-221-1006(a) or 68-221-1206(a) to come under the jurisdiction of the water and waste water financing board.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: April 10, 2002



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 11<sup>th</sup> day of April 2002



DON SUNDQUIST, GOVERNOR