

PUBLIC CHAPTER NO. 593**SENATE BILL NO. 2084****By Burchett, Lowe Finney, Marrero, Kyle, Tate, Ford, Stanley, Norris****Substituted for: House Bill No. 1587****By Fitzhugh, Hardaway, John Deberry, Moore, Cooper**

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71, relative to taxation.

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

SECTION 1. Tennessee Code Annotated, Section 7-88-103, is amended by deleting items (6) and (7) in their entirety and by substituting instead the following:

(6) "Qualified associated development" means parks, plazas, recreational facilities, schools, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures attached to, adjacent to or located in the qualified public use facility and other public improvements constructed or renovated by the municipality or the public building authority in connection with the public use facility and related infrastructure and utility improvements for public or private peripheral development included in a master development plan for the tourism development zone and that is constructed, renovated or installed by the municipality or the public authority. The total costs of the qualified associated development must not exceed thirty percent (30%) of the costs of the entire qualified public use facility. Qualified associated development, except for public utility improvements, including water, sewer, electricity, or gas, associated with the qualified public use facility, must be located within one and one half (1 ½) miles of the qualified public use facility and shall be considered qualified associated development if leased by a municipality or a public building authority;

(7) "Qualified public use facility" includes:

(A) any building, complex, center, facility or any two (2) adjacent buildings, complexes, centers or facilities containing at least two hundred fifty thousand (250,000) square feet, in the aggregate, inclusive of exhibit halls, ballrooms, meeting rooms, lobbies, corridors, seating areas, service areas and other building areas or areas enclosed thereby, constructed, leased, equipped, renovated, acquired or expanded after January 1, 1998, as a project meeting the requirements of Title 9, Chapter 21, Title 12, Chapter 10 or Title 7, Chapter 53 by a public authority or municipality for purpose of furnishing economic development centers, renovated or new or expanded community facilities for conventions, meetings, exhibitions, trade shows, sports events or other events for educational,

entertainment, business, association, cultural, public interest, public service and common interest groups, organizations and entities and that requires:

(1) on or after January 1, 1998, a local investment of public funds in excess of seventy-five million dollars (\$75,000,000), and is reasonably anticipated to attract private investment in the tourism development zone of more than fifty million dollars (\$50,000,000) after such date; or

(2) on or after January 1, 2007, a local investment of public or private funds of not less than two hundred million dollars (\$200,000,000);

(B) any privately owned or operated amusement or theme park that involves an investment of funds of more than one hundred million dollars (\$100,000,000); or

(C) any privately owned or operated tourism attraction involving an aggregate investment of public and private funds in excess of two hundred million dollars (\$200,000,000) that is designed to attract tourists to the State of Tennessee, including a cultural or historical site, a museum or visitors center, a recreation or entertainment facility, and all related hotel or hotels, convention center facilities, administrative facilities and offices, mixed use facilities, restaurants and other tourism amenities constructed or acquired as a part of such attraction.

"Qualified public use facility" also includes "qualified associated development". An investment in qualified public use facilities required by a lease from a municipality shall be considered a local investment of public funds for the purposes of this chapter.

SECTION 2. Tennessee Code Annotated, Section 7-88-103(8), is amended by deleting subdivision (C) and by substituting instead the following:

(C) Under the terms of the lease the municipality has the right to direct or cause the issuer to exercise any rights, including the right of termination, under such agreement as if the municipality were a direct party to such agreement. A "structured lease agreement" shall also include a lease by a municipality of a public use facility where the lease payments are limited to a pledge of all proceeds or taxes received by the municipality pursuant to this chapter; and

SECTION 3. Tennessee Code Annotated, Section 7-88-106, is amended by deleting subsection (b) and by substituting instead the following:

(b) Except as otherwise provided in subsection (c), tax revenue distributed to the municipality shall be for the exclusive use of the municipality or the public authority formally designated by the municipality, in accordance with the provisions of Title 9, Chapter 21, Title 12, Chapter 10 or Title 7, Chapter 53 for payment of the cost of the public use facility, including interest and debt service on any indebtedness related to the public use facility, or the lease

payments with respect to any public use facility, and shall apply to only one (1) tourism development zone per municipality. The apportionment and payment shall be made by the Department of Revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter. Notwithstanding the provisions of this subsection (b), a county having a metropolitan form of government with a population of more than five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census, and a municipality in a county having a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall not be limited to one (1) tourism development zone eligible to receive a distribution of tax revenue, and such county and such municipality are not required to designate additional tourism development zones as a secondary tourism development zone to receive a distribution of tax revenue.

(c) If there has been designated within such municipality a secondary tourist development zone, then the incremental increase in state and local sales and use tax revenue derived from the sale of goods, products and services within such secondary tourist development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax, shall be apportioned and distributed to the municipality for deposit in its general fund. Apportionment and distribution of such taxes shall continue until the earliest of:

(1) The first date on which the indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone has been paid in full;

(2) The date on which the cumulative amount apportioned and distributed equals the cumulative amount of principal and interest on indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone;

(3) The date on which the qualified public use facility ceases to be a qualified, public use facility; or

(4) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

SECTION 4. Tennessee Code Annotated, Title 7, Chapter 88, Part 1, is amended by adding new appropriately designated sections, as follows:

Section ____. The provisions of this part shall only apply to tourism development zones which, as of the date of enactment of this act, either have already been approved by the state or for which a letter of intent has been filed with the Commissioner of Finance and Administration.

Section ____. The comptroller of the treasury and the Commissioner of Revenue shall jointly monitor and evaluate the economic impact and fiscal effect of the "Convention Center and Tourism Development Financing Act of 1998", as amended, and shall submit a written report of findings and recommendations no later than February 1, 2009. The report shall be delivered to the Speaker of the

Senate; the Speaker of the House of Representatives; the chair of the Finance, Ways and Means Committee of the Senate; and the chair of the Finance, Ways and Means Committee of the House of Representatives.

SECTION 5. Tennessee Code Annotated, Title 7, Chapter 88, Part 1, is amended by adding a new appropriately designated section, as follows:

Section __. (a) For the purposes of this section, unless the context otherwise requires:

(1) "Covered qualified public use facility" means a qualified public use facility created after January 1, 2007, in any county that does not have a metropolitan form of government;

(2) "Local government" means a municipality that creates a tourism development zone for the benefit of a covered qualified public use facility;

(3) "Minority owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African Americans; and

(4) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(b) Any person, in soliciting bids for the construction of a covered qualified public use facility in a tourist development zone within the territory of a local government and receiving any benefit, directly or indirectly, from public financing pursuant to the provisions of this act, shall actively solicit bids from minority owned businesses. Such person shall strive to maximize participation of minority owned businesses through both prime and second tier business contracting opportunities.

(c) (1) The local government shall monitor the results of minority owned business participation. Such local government shall periodically investigate to ascertain whether minority owned business participation is being achieved at a level contemplated pursuant to subsection (b) of this Section and shall report such information to the comptroller of the treasury in the manner proscribed in subdivision (2) of this subsection.

(2) The local government shall prepare and submit an annual report entitled "The Conference and Convention Center Facilities Compliance Report" which shall be submitted to the comptroller of the treasury. Such report shall include:

(A) Data on the race, religion, ethnic background and sex of each person employed in the construction of a covered qualified public use facility that is located within the territory of the local government and that receives any benefit, directly or indirectly, from public financing pursuant to the provisions of this act;

(B) Data on the actual expenditures to minority owned businesses employed in the construction of any such qualified public use facility; and

(C) Data summarizing the findings of all periodic investigations conducted in accordance with subdivision (1) of this subsection.

(3) The comptroller of the treasury shall, upon receipt of the report from the local government, transmit a synopsis of the report to the chairs and membership of the Senate and House State and Local Government Committees.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications 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 7. Tennessee Code Annotated, Title 7, Chapter 88, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 7-88-1___. (a) For the purpose of this section, unless the context otherwise requires:

(1) "Minority owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African Americans; and

(2) "Minority owned business participation plan" means a business plan for actively soliciting bids from minority owned businesses

when a municipality or public authority purposes to finance, construct, lease, equip, renovate or acquire a qualified public use facility within a tourism development zone. Any such plan shall strive to maximize participation of minority owned businesses through both prime and second tier business contracting opportunities throughout the tourism development zone and shall strive to achieve a level of minority owned business participation representative of the population demographics of the county in which the tourism development zone is located.

(b) Notwithstanding § 7-88-108(a) or any other provision of law to the contrary, to be entitled to receive the allocations of state and local sales and use taxes as provided in this chapter, a municipality or public authority must first file with the Department of Finance and Administration an application seeking certification of the tourism development zone and the planned public use facility as a qualified public use facility. The application shall include a master development plan for the proposed tourism development zone, containing such information as may be reasonably required by the department, and a minority owned business participation plan for the tourism development zone. No application shall be approved by the department that fails to include a master development plan or a minority owned business participation plan. A master development plan shall be approved by the legislative body of the municipality creating the tourism development zone and such plan shall take into consideration any historic site, structure, or object listed on the national register of historic places. The department shall review the application to confirm that:

(1) The planned public use facility is qualified under the requirements of this chapter;

(2) The planned public use facility will be located within a qualified tourism development zone; and

(3) The minority owned business participation plan includes the following information:

(A) The proposal for purchasing goods and services from minority owned businesses;

(B) Information on programs to provide technical assistance to such businesses;

(C) A statement of intent to make a concerted effort to follow its minority owned business participation plan; and

(D) Any other information deemed relevant in the discretion of the commissioner.

(c) Notwithstanding any provision of this chapter to the contrary, the Department of Finance and Administration shall annually review each municipality or public authority receiving an allocation pursuant to the provisions of this chapter for compliance with such municipality's or public authority's minority owned business participation plan.

(d) The provisions of this section shall only apply to any county having a population in excess of eight hundred thousand (800,000) according to the 2000 federal census or any subsequent federal census.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 12, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of June 2007



PHIL BREDESEN, GOVERNOR