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Opinion No. 06-115

Term Limits on Gibson County Utility District Commissioners

QUESTION

Are commissioners of the Gibson County Utility District subject to term limits?

OPINION

Yes, under 2002 Tenn. Priv. Acts Ch. 141, commissioners who took office September 1, 2002, may serve no more than two full four-year terms in addition to any term of less than four years.

ANALYSIS

This opinion addresses whether commissioners of the Gibson County Utility District (the "District") are subject to term limits. The county judge's order creating the District in 1951 was confirmed under 1953 Tenn. Priv. Acts Ch. 192, as amended. We assume this order was entered under the Utility District Act of 1937, now codified, as amended, at Tenn. Code Ann. §§ 7-82-101, *et seq.* The private act was most recently amended in 2002. 2002 Tenn. Priv. Acts Ch. 141. The 2002 private act substituted a new section 4 in the private act regarding District commissioners. Under the new section 4, the terms of the five District commissioners taking office September 1, 2002, were staggered. The commissioners elected from Districts 1, 3, and 5 served for four years; the commissioners elected from Districts 2 and 4 served for two years. The 2002 private act provides:

> Thereafter, each commissioner shall be elected to a four (4) year term. *The commissioners taking office September 1, 2002 shall serve no more than two (2) full four-year terms in addition to any term of less than four (4) years.*

(Emphasis added). The 2002 private act provides that District commissioners are to be popularly elected. But, under the 2002 private act, "[a]ll other duties, rights, compensation, and powers of the Commissioners of the Gibson County Utility District shall be governed by the Utility District Act of 1937." As noted, that act, as amended, is now codified at Tenn. Code Ann. §§ 7-82-101, *et seq.* Under Tenn. Code Ann. § 7-82-307(a)(7), a board of commissioners of a single-county utility district that, as of May 6, 2004, fills vacancies by a method other than appointment by a county mayor may change its method of selection to appointment by a county mayor. The board must file

a certified copy of its resolution changing the method of selection with the Utility Management Review Board, which may approve or disapprove the resolution. Research indicates that the Utility Management Review Board approved such a resolution by the commissioners of the District at the Review Board's March 2, 2006, meeting. As a result, selection of District commissioners is now governed by Tenn. Code Ann. § 7-82-307(a)(4), which must be read in conjunction with the applicable private acts. Tenn. Code Ann. § 7-82-307(a)(4) does not impose term limits on utility district commissioners, but the general statute does not purport to repeal the term limits imposed on District commissioners under 2002 Tenn. Priv. Acts Ch. 141. For that reason, District commissioners who took office on September 1, 2002, may serve no more than two full four-year terms in addition to any term of less than four years.

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