

STATE OF TENNESSEE

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Opinion No. 11-13

Change in Selection of Utility District Commissioners under Tenn. Code Ann. § 7-82-307(a)(7)

QUESTION

Under Tenn. Code Ann. § 7-82-307(a)(7), a utility district board may adopt a resolution changing the method by which board vacancies are filled. If the Utility Management Review Board approves the resolution, then subsequent members are appointed under the new method. The Utility Management Review Board approved such a resolution for the Gibson County Utility District by an order dated March 23, 2006. Formerly, commissioners from this district were popularly elected under 2002 Tenn. Priv. Acts Ch. 141. This act provides in relevant part that, “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.” Does the Utility Management Review Board’s order approving the change in method of selection affect this provision on term limits?

OPINION

No, the approval of the Utility Management Review Board does not affect term limits on commissioners imposed by private act. But, as written, the term limits under 2002 Tenn. Priv. Acts Ch. 141 apply only to commissioners taking office September 1, 2002. They do not apply to those taking office at a later date.

ANALYSIS

This opinion addresses the effect of a change in the method of selection of utility district commissioners on term limits for commissioners imposed by a private act. The request asks, specifically, about the Gibson County Utility District. We addressed a similar issue in Op. Tenn. Att’y Gen. 06-115 (July 25, 2006).

Commissioners of the Gibson County Utility District were popularly elected under 2002 Tenn. Priv. Acts Ch. 141. Under this act, 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).

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.” 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, filled vacancies by a method other than appointment by a county mayor may change its method of selection to appointment by a county mayor from a list of three nominees submitted by the board under Tenn. Code Ann. § 7-82-307(a)(4). 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.

The request indicates that the Utility Management Review Board approved such a resolution by the commissioners of the Gibson County Utility District by an order dated March 23, 2006. 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. At the same time, this general statute does not purport to repeal the term limits imposed on Gibson County Utility District commissioners under 2002 Tenn. Priv. Acts Ch. 141. For this reason, those term limits remain in effect. As it is written, however, the term limits under this private act apply only to commissioners taking office September 1, 2002. They do not apply to commissioners who take office at a later date.

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