STATE OF TENNESSEE

PUBLIC CHAPTER NO. 320

HOUSE BILL NO. 876

By Representative Haynes

Substituted for: Senate Bill No. 1540

By Senator Burchett

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 82, Part 2, relative to utility districts.

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

SECTION 1. Tennessee Code Annotated, Section 7-82-201(a), is amended by deleting the first sentence in this subsection and by substituting instead the following:

> A petition for the incorporation of a utility district shall be filed with the utility management review board for review and approval and to the county mayor of any county in which the proposed district is situated, the petition to be signed by not less than twenty-five (25) owners of real property, who shall reside within the boundaries of the proposed district.

SECTION 2. Tennessee Code Annotated, Section 7-82-202(a), is amended by deleting the first sentence in this subsection and substituting instead the following:

> The utility management review board shall issue an order approving or disapproving the petition for the incorporation of the utility district within ninety (90) calendar days of receipt of such petition by the board, its agent or representative. If the board approves the petition, the board shall forward its order of approval and the original petition to the county mayor of any county in which the proposed district will serve. If the board fails to act on the petition within ninety (90) calendar days of receipt of such petition, the board, its agent or representative shall forward the original petition to the county mayor of any county in which the proposed district will serve. If the board disapproves the petition, the board shall not forward the original petition to the county mayor of any county in which the proposed district will serve, and the petitioners may pray and obtain an appeal from the order disapproving the petition as provided in § 7-82-204.

SECTION 3. Tennessee Code Annotated, Section 7-82-202(e)(1), is amended by deleting subdivision (e)(1) in its entirety and substituting instead the following:

(e)

(1)

(A) Whenever two (2) or more utility districts by resolution adopted by the respective governing bodies concur in a merger or consolidation of such utility districts, or whenever a utility district by resolution of its governing body agrees or proposes to consolidate with a municipality or a county by transferring all of its property and obligations to the municipality or county, such governing body or bodies shall petition the county mayor of the county or counties in which they were created, or in case of multi-county utility districts the county mayor of any county in which they are situated in whole or in part, for an order permitting such merger, consolidation, or transfer of its franchise facilities, assets and obligations to a municipality or a county for the purpose of more efficiently and conveniently furnishing the service or services authorized by their order of creation. Upon such petition being filed, the county mayor or mayors shall proceed in exactly the same manner as provided in this chapter for the creation of a utility district except as set forth in subsection (g).

(B) Upon a finding that the public convenience and necessity requires the merger or consolidation of two (2) or more utility districts or the transfer of any utility district into a municipality or county and that the same is economically sound and feasible and in the public interest, an order shall be entered approving the merger, consolidation or transfer of the utility district or districts.

(i) If the petition is for a merger, the order shall designate the surviving utility district, and the boundaries of the surviving utility district shall be the boundaries of the merging utility districts. The members of the board of commissioners of the surviving utility district shall continue to serve their existing terms of office subject to the provisions of § 7-82-202 (e)(2).

(ii) If the petition is for a consolidation of utility districts, the order shall designate the name of the newly created consolidated utility district as the _____ Utility District of _____ County or Counties, Tennessee, shall define its territorial limits and shall appoint the commissioners of the utility district, all in accordance with the requirements of this chapter for the creation of a utility district subject to the provisions of § 7-82-202 (e)(2).

(iii) If the petition is for the transfer of all franchises, assets and liabilities to a municipality or a county, then such utility district shall be dissolved and provision made in the order for an equitable distribution of the assets and for the termination of the existence of the utility district and shall establish the legal rights, duties and obligations of the entities and parties involved.

(iv) The order shall provide that the surviving utility district in a merger, the newly consolidated utility district or the municipality or county to which a transfer is made shall assume the operation of the system or systems then being merged, consolidated or transferred and shall account for the revenues from the system or systems in such a manner as not to impair the obligations of the contract with reference to bond issues or other legal obligations of the utility district or districts, and shall fully preserve and protect the contract rights vested in the owners of such outstanding bonds, obligations, or contractual interests.

SECTION 4. Tennessee Code Annotated, Section 7-82-202, is amended by adding a new subsection (g) as follows:

(g) Petitions for a merger or consolidation of utility districts or for a consolidation of a utility district with a municipality or county under subsections (e) and (f) shall be filed with the utility management review board simultaneously with the filing of the petition with the county mayor or mayors under subsections (e) and (f) but are not subject to approval or disapproval by the utility management review board as set forth in §§ 7-82-201(a) and 7-82-202(a).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 14, 2009

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27th day of May 2009

PHIL BREDESEN, GOVERNOR