

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 362

SENATE BILL NO. 1471

By Haynes, Burchett, Tate, Henry, Johnson, McNally, Harper, Berke

Substituted for: House Bill No. 1263

By Sontany, Mike Turner, Gilmore, Pruitt, Sherry Jones, Moore, Odom, Stewart, Harwell, Dean, Sargent, Ulysses Jones, Haynes, Coleman, Bone

AN ACT to amend Tennessee Code Annotated, Title 64, Chapter 8, relative to regional transportation authorities.

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

SECTION 1. Tennessee Code Annotated, Title 64, Chapter 8, is amended by designating the existing language as Part 1 and adding a new Part 2 as follows:

§ 64-8-201.

The express purposes of the regional transportation authority are to improve mobility and expand multimodal transportation options for residents and visitors in Tennessee's large urban areas. The intent of the legislation is to respond to the growing need for regional approaches and solutions to managing traffic congestion and improving transportation options for residents, businesses, and visitors in Tennessee's large urban areas. In an effort to ensure continued economic growth and prosperity and to encourage environmental sustainability, the legislation seeks to establish additional tools for local governments in those areas to work cooperatively to plan, finance, construct, operate, maintain, and manage mass transit systems and related activities to include, but not be limited to, demand-response transit services, vanpool programs, rideshare programs, local bus services, regional bus services, bus rapid transit services, light rail transit services, commuter rail services, park-and-ride lots, transit oriented development nodes, and all infrastructure that would be required to support or sustain such facilities or services and developments.

§ 64-8-202.

As used in this chapter, unless the context otherwise requires:

(1) "Authority" means a regional transportation authority created pursuant to this chapter;

(2) "Board" means the board of directors of an authority;

(3) "Creating municipality" means any metropolitan form of government, city, town, or county that creates an authority pursuant to this chapter;

(4) "Executive officer" means the mayor, county mayor, or other chief executive officer of any creating municipality;

(5) "Governing body" means the chief legislative body of any creating municipality;

(6) "Mass transit system" means, without limitation, a combination of real and personal property, structures, improvements, buildings, terminals, parking facilities, equipment, plans, and rights-of-way, public rail and fixed guideway transportation facilities, rail or fixed guideway access to, from, or between other transportation terminals, and commuter railroads and commuter rail facilities, or any combination thereof or addition thereto, used, directly or indirectly, useful or convenient for the purpose of public transportation by automobile, truck, bus, rapid transit vehicle, light rail, or heavy rail;

(7) "Metropolitan government" means the political entity created by consolidation of all, or substantially all, of the political and corporate functions of a county and a city or town or cities or towns;

(8) "Metropolitan planning organization" means the federally designated regional transportation planning agency established for urbanized areas of at least fifty thousand (50,000) people to develop a long-range regional transportation plan and short-range transportation improvement program;

(9) "Regional transportation authority of Middle Tennessee" means the regional transportation authority created by Public Chapter 1026 of 1988, and composed of certain counties and the cities and towns contained in those counties, such counties being Davidson, Sumner, Williamson, Wilson, Robertson, Cheatham, Maury, Dickson and Rutherford;

(10) "State" means the State of Tennessee;

(11) "Transit adjacent development" means development near or next to a transit station that promotes or takes advantage of transit ridership but is not designed specifically around a transit station; and

(12) "Transit oriented development" or "TOD" means, without limitation, land use development centrally located around a transit station, sometimes part of the station or where the station is a prominent feature of the development, that has a mixture of land uses in close proximity to one another including office, residential, retail, public and civic uses, occurring at a relatively high density. TOD is designed to be walkable and easy to navigate by bicycles and other nonmotorized modes of transportation.

§ 64-8-203.

(a)(1) Except as provided in subsection (b), any metropolitan government of a population of not less than two hundred thousand (200,000), according to the most recent federal census, or any combination of local governments including metropolitan governments, adjacent counties, or municipalities in adjacent counties, having a combined population of not less than two hundred thousand (200,000), according to the most recent federal census, may create a regional transportation authority in the manner provided in this chapter.

(2) The governing bodies of all creating municipalities for a proposed new regional transportation authority, upon a determination that there is a public purpose, a public and governmental function for the services a regional transportation authority may provide, and the public convenience and necessity requires the creation of a regional transportation authority, may adopt a joint resolution so declaring and creating an authority, which resolution shall designate the name and principal office address of the authority. A certified copy of the joint resolution bearing the signatures of each of the creating municipalities shall be filed with the secretary of state and with the Commissioner of Transportation, and upon adoption and filing, the authority shall constitute a body politic and corporate, with all the powers provided in this chapter.

(3) Using the process described for creation in subdivision (a)(2), additional metropolitan governments, counties, or municipalities may join an established regional transportation authority so long as such entity is part of a county that is adjacent to the existing boundaries of a regional transportation authority and accepted into the authority with at least a simple majority vote of acceptance by the board of the authority.

(b) The regional transportation authority of Middle Tennessee shall continue to operate as a regional transportation authority under Part 1 of this chapter, but may, by a simple majority vote of its governing board, assume and have the authority to exercise the powers, duties and functions of a regional transportation authority under this part in addition to powers authorized in Part 1; provided, that the continued participation of each local government in the regional transportation authority of Middle Tennessee shall be ratified by a vote of its local legislative body. Such vote shall take place within the timeframe established by the board of the authority, but not less than sixty (60) days from the date on which the vote is taken to assume the powers, duties and functions of a regional transportation authority under this part.

§ 64-8-204.

(a)(1) An authority shall be governed by a board consisting of the following representation:

(A) The county mayor, county executive or metropolitan mayor or executive of each county included within the authority;

(B) The mayor of each incorporated town or city included in the authority;

(C) The Commissioner of Transportation or the commissioner's designee; and

(D) One (1) person residing in each county of the authority to be appointed by the governor. In making such appointments, the governor shall appoint persons who are knowledgeable concerning mass transit and who reflect the composition and interest of the population of the county from which they are appointed.

(2) The ex officio members of the board shall serve during their terms of office, and the appointed members of the board shall be appointed to five-year terms, and may be reappointed.

(b) The board shall elect a chair from its membership and such other officers as it may deem necessary.

(c) The board shall meet at least annually, and special meetings may be called at any time by the chair or upon request of a majority of the membership, following the service of reasonable notice on all board members.

(d) The Commissioner of Transportation or any ex officio member may have a designated alternate who shall be entitled to vote and fully participate in the actions of the board in the stead of the ex officio member. The authority in the bylaws shall establish the process, scope, tenure, and procedure of designation of an alternate.

(e) Actions of the board shall require a majority vote of a quorum of the board, such quorum being set by the authority's bylaws.

(f) The board may establish through bylaws an executive committee and such procedures and rules for its operation as it may deem necessary. The executive committee may be empowered to perform as the administrative body of the board. The executive committee may be empowered by the board to act in its stead.

(g) Members of the board shall serve without compensation, but appointed members may receive reimbursement for necessary travel expenses from funds available to the authority.

(h) The board may adopt ethical standards for all board members, officials and employees of the authority. If an ethical standard established by the board is more stringent than an ethical standard established by or pursuant to a law of general application, public law of local application, local option law, or private act applicable to an individual board member, official or employee of the authority, then the more stringent standard adopted by the board shall control. Any violation of ethical standards pursuant to this subdivision may be enforced by the board in accordance with the provisions of existing law in the same manner as is applicable to officials or employees of entities pursuant to Title 8, Chapter 17.

§ 64-8-205.

The board may employ such personnel or contract for professional planning, engineering, management, operating, and support services as it may deem necessary from funds available to it. The board may also utilize services or assistance including the loan of personnel from any member county or municipality, public transit agency, metropolitan planning organization, rural planning organization, regional council of governments, development district or state agency or department.

§ 64-8-206.

(a) The board shall develop a plan for the operation and expansion of mass transit services in the authority's region. The plan shall be consistent with the multi-modal regional transportation plan adopted by the region's metropolitan planning organization or similar regional transportation planning body and be reflective of the transportation goals and objectives of the municipalities and counties located within the authority's area. An authority shall work cooperatively with any state or federally mandated metropolitan planning organization having planning and programming powers in the authority's area, to produce a regional transit plan. It is not the intent of this legislation to establish or designate an authority as the metropolitan planning organization for any particular region. The plan shall include, but not be limited to, the following:

(1) A map and description of existing and proposed transit corridors;

(2) A map and description of areas to be served;

(3) A description of the frequency and method of providing existing and proposed transit services in those areas;

(4) A description of how regional services will be coordinated with local public and private transportation operators and agencies;

(5) A description of how existing and proposed regional services will be funded, including a plan to coordinate

contributions from public and private sources throughout the region;

(6) A description of how the regional transportation authority plans to deliver service, either directly or through contract, agreement or some other method, with other public or private transportation agencies or other entities;

(7) A provision for the conduct of special services for disabled persons or other persons unable to use regularly scheduled and equipped services sufficient to meet the requirements of the Americans with Disabilities Act;

(8) A provision of services for special events or occasions;

(9) A description for how the regional transportation authority intends to use its property around existing and proposed transit stations to encourage ridership and to support local community goals for quality growth. The description shall include an overview of any intent of the authority to pursue transit oriented development or transit adjacent development plans, or both, in cooperation with local governments and within local zoning regulations and land use policies. It is the legislative intent to allow the authority to negotiate with private developers or other public agencies for the best use of land owned or leased by the authority including long-term land leases or sub-leases or the development of office, retail, or residential establishments, or both, on transit district property to generate transit ridership and to support local and regional economic growth; and

(10) Any other provisions necessary or desirable to establish a coordinated, reliable, scheduled regional service.

(b) In addition to the powers to plan for mass transit services, the authority shall have the following additional powers and duties in order to implement its plans for mass transit and other transportation services and plans for transit adjacent and transit oriented development:

(1) To organize itself into a public body, elect officers and adopt bylaws for the purpose of carrying out the functions authorized by this part;

(2) To sue and be sued in its name with any causes of action against the authority or recovery against the authority governed by and subject to the limitations imposed by the Governmental Tort Liability Act, codified in Title 29, Chapter 20. No claim may be brought or judgment entered against any metropolitan government, municipality, or county which creates or joins an authority for the acts or omissions of the authority;

(3) To enter into contracts and cooperative agreements with governmental, not-for-profit, and for-profit entities;

(4) To purchase, own, lease, and dispose of real and personal property, construct buildings and other structures, in furtherance of the purposes of and the implementation of the authority's transit and transportation plans and plans for transit adjacent and transit oriented development. The authority shall comply with all local land use and land development laws and regulations, including zoning ordinances and resolutions, subdivision regulations and building codes, in the implementation of the authority's plans. Local governments may waive all or part of applicable local laws and regulations to assist the authority in plan implementation;

(5) To employ personnel or contract with public or private entities to construct or operate transportation and transit services and to participate in the development of transit adjacent and transit oriented developments. An authority shall not operate local transit services in an area already receiving those services without the consent of the local governing body of that area;

(6) To employ or contract for professional services such as, but not limited to, management, planning, support, engineering, legal, accounting and auditing services;

(7) To utilize for transit or transportation services any property, right-of-way, easement or other similar property owned or held by the state or any municipality, county or metropolitan government, or federal government department or agency within the transportation service area of the authority that may be necessary and convenient for the implementation of the authority's transit and transportation plans so long as the governmental entity owning or controlling such property shall consent to the authority's use;

(8) To establish local assessments for the purposes of paying expenses related to the administration of the authority's activities including, but not limited to, the costs associated with insurance policies and deductibles, to be paid by its city, town, metropolitan government, and county government members. Local assessments shall not be used for the construction or operation of transportation facilities or services. The local assessment shall be based on a per capita and a flat rate. In establishing the per capita assessment, the authority shall use the population figures of the latest census as described for the use of development districts in § 13-14-111(d). For any regional transportation authority created under this chapter, the per capita assessment shall be established by a majority vote of the governing board, but shall not be less than ten cents (10¢) per capita. For the purpose of calculating the assessment for any

county or metropolitan government, the population of any town or city located wholly or partly within the county, or the towns or cities within the geographic boundary of the metropolitan government, but which are not a part of the metropolitan government, shall not be included in the population of the county or metropolitan government. The authority's local assessment shall be imposed on October 1 of each calendar year, and the member government shall pay either the per capita rate or the flat assessment, whichever is greater. Failure of a city, town, metropolitan or county government to pay such assessment shall result in the loss of that government's participation in the governance and benefits of the authority;

(9) To impose fees for the services provided by the authority;

(10) To accept grant funds from the state or federal government, subject to the approval, restrictions, and requirements of the state or federal government grantor and to accept contributions or donations from other public or private entities. Metropolitan governments, counties, cities, and towns may provide, and the authority may accept, funds from any source allowable by law and not prohibited by the Tennessee Constitution. The authority shall not claim any federal or state grants used to provide local transit services awarded to a local transit operator or local government without the consent of the local government(s). Such restriction shall not prohibit a metropolitan planning organization, the governor, or other grantor from allocating or programming funds to transportation projects as required by federal law; and

(11) To borrow money in order to proceed with or finish the construction of mass transit or other transportation services or to fund the operations and capital cost of such services and purchase of real property and the construction of infrastructure and improvements or contract for the construction of the infrastructure and improvements to implement the authority's plans. The authority may enter into a security agreement pledging, as appropriate, to secure the loan with:

(A) Anticipated forthcoming grants from the state or federal government, subject to the approval, restrictions, and requirements of the state or federal government grantor; provided, however, that such approval must be reauthorized if such funds are not received within one (1) year of the initial approval;

(B) Anticipated assessments from local governments pursuant to subdivision (b)(8) herein;

(C) The authority's real or personal property; or

(D) Other revenues.

(c) The implementation of the authority's transit and transportation plans and plans for transit adjacent and transit oriented development will necessitate the acquisition, construction, operation, and maintenance of properties, facilities, and equipment and the employment of personnel or contracting for services all of which the authority is authorized to undertake and accomplish and all of which are hereby declared and deemed to be for public and governmental functions conducted by the authority. The authority is a public body corporate and politic and all powers and duties granted by this part are and shall be declared public and corporate purposes and matters of public necessity.

§ 64-8-207.

In order to finance the construction, operation, maintenance, and management of the mass transit and transportation plans and plans for transit adjacent or transit oriented development established by the authority, the authority shall have the following powers:

(1) To fix, alter, establish, and collect rates, fares, fees, rentals, tolls, and other charges for the services planned, financed, constructed, operated, maintained or managed by the authority associated with transit and transit oriented development including, but not limited to, demand-response transit services, vanpool programs, rideshare programs, local bus services, regional bus services, bus rapid transit services, light rail transit services, commuter rail services, park-and-ride lots, transit oriented development nodes, and all infrastructure that would be required to support or sustain such facilities or services. These rates, fares, fees, rentals, tolls, sales, and other charges shall always be sufficient to comply with any covenants made with the holders of any bonds issued pursuant to this chapter;

(2) To solicit, accept and expend grants, appropriations, contributions or other funds from any source, public or private, and maintain an accounting of such receipts and expenditures, subject to audit by the comptroller of the treasury;

(3) To sell, convey, exchange, lease as a lessor, transfer, or otherwise dispose of any real or personal property, or interest therein, acquired by the authority, including air rights, or to purchase, lease, condemn (pursuant to the provisions in this chapter governing the exercise of the power of eminent domain by the authority) or otherwise acquire real property as needed for the construction or operation of mass transit or transportation services and to implement transit adjacent or transit oriented development plans;

(4)(A) The authority shall have power and is authorized to issue its bonds in order to finance:

(i) The costs of any project authorized by this chapter;

(ii) The payment of the costs of issuance of such bonds, including underwriter's discount, financial advisory fees, preparation of the definitive bonds, preparation of all public offering and marketing materials, advertising, credit enhancement, and legal, accounting, fiscal and other similar expenses;

(iii) Reimbursement of the authority for monies previously spent by the authority for any of the foregoing purposes;

(iv) The establishment of reasonable reserves for the payment of debt service on such bonds, for repair and replacement of any project, or for such other purposes as the board shall deem necessary and proper in connection with the issuance of any bonds and operation of any project for the benefit of which the financing is being undertaken; and

(v) The contribution of the authority's share of the funding for any joint undertaking for the purposes hereinabove set forth.

(B) The authority shall have the power and is hereby authorized to issue its bonds to refund and refinance outstanding bonds of the authority heretofore or hereafter issued or lawfully assumed by the authority. The proceeds of the sale of the bonds may be applied to:

(i) The payment of the principal amount of the bonds being refunded and refinanced;

(ii) The payment of the redemption or tender premium thereon, if any;

(iii) The payment of unpaid interest on the bonds being refunded, including interest in arrears, for the payment of which sufficient funds are not available, to the date of delivery or exchange of the refunding bonds;

(iv) The payment of fees or other charges incident to the termination of any interest rate hedging agreements, liquidity or credit facilities, or other agreements related to the bonds being refunded and refinanced;

(v) The payment of interest on the bonds being refunded and refinanced from the date of delivery of the refunding bonds to maturity or to, and including, the first or

any subsequent available redemption date or dates on which the bonds being refunded may be called for redemption;

(vi) The payment of the costs of issuance of the refunding bonds, including underwriter's discount, financial advisory fees, preparation of the definitive bonds, preparation of all public offering and marketing materials, advertising, credit enhancement, and legal, accounting, fiscal and other similar expenses, and the costs of refunding the outstanding bonds, including the costs of establishing an escrow for the retirement of the outstanding bonds, trustee and escrow agent fees in connection with any escrow, and accounting, legal and other professional fees in connection therewith; and

(vii) The establishment of reserves for the purposes set forth in subdivision (4)(A)(iv) above.

Refunding bonds may be issued to refinance and refund more than one issue of outstanding bonds, notwithstanding that such outstanding bonds may have been issued at different times. Refunding bonds may be issued jointly with other refunding bonds or other bonds of the authority. The principal proceeds from the sale of refunding bonds may be applied either to the immediate payment and retirement of the bonds being refunded or, to the extent not required for the immediate payment of the bonds being refunded, to the deposit in escrow with a bank or trust company to provide for the payment and retirement at a later date of the bonds being refunded;

(C) No bonds shall be issued hereunder unless authorized to be issued or assumed by resolution of the governing board of the authority. Bonds authorized to be issued hereunder may be issued in one or more series, may bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds may be issued for money or property at competitive or negotiated sale for such price or prices as the governing board, or its designee, shall determine. The authority may enter into such agreements in connection with the issuance of any bonds as its governing board may approve, including, without limitation, agreements related to municipal bond insurance, credit or liquidity facility agreements, remarketing agreements and bond purchase agreements;

(D) Bonds may be repurchased by the authority out of any available funds at such price as the governing board shall determine, and all bonds so repurchased shall be cancelled or held as an investment of the authority as the governing board may determine;

(E) Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchasers of bonds;

(F)(i) With respect to all or any portion of any issue of bonds issued hereunder, at any time during the term of the bonds, and upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the contracts and agreements authorized in this subdivision are in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board, as set forth in Section 9-21-130, the authority, by resolution of the governing board, may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing board may determine, including, without limitation, provisions permitting the authority to pay to, or receive from, any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement;

(ii) The authority may enter into an agreement to sell bonds (other than its refunding bonds) under this act providing for delivery of its bonds on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the comptroller of the treasury or the comptroller's designee), from the date of execution of such agreement or to sell its refunding bonds providing for delivery thereof on a date greater than ninety (90) days from the date of execution of the agreement and not greater than the first optional redemption date on which the bonds being refunded can be optionally redeemed resulting in cost savings or at par, whichever is earlier, only upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the agreement or contract of the authority to sell its bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board in accordance with the provisions of Section 9-21-130. Agreements to sell bonds and refunding bonds for delivery ninety (90) days or less from the date of execution of the agreement do not require a report of the comptroller of the treasury or the comptroller's designee;

(iii) Prior to the adoption by the governing board of a resolution authorizing a contract or agreement described in subdivision (4)(F)(i) or (ii) above, a request shall be submitted to the comptroller of the treasury or the comptroller's designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or regulations of the state funding board. Within fifteen (15) days of receipt of the request, the comptroller of the treasury or the comptroller's designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the authority. If the report of the comptroller of the treasury or the comptroller's designee finds that the contract or agreement complies with the guidelines, rules or regulations of the state funding board or the comptroller of the treasury shall fail to report within the fifteen (15) day period, then the authority may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the state funding board. If the report of the comptroller of the treasury or the comptroller's designee finds that such contract or agreement is not in compliance with the guidelines, rules or regulations, then the authority is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for an appeal process upon a determination of noncompliance;

(iv) When entering into any contracts or agreements facilitating the issuance and sale of bonds, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of the bonds, evidencing a transaction bearing a reasonable relationship to this state and also to another state or nation, the authority may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this state or the laws of such other state or nation; provided, that jurisdiction over the authority shall lie solely in the courts of any participating metropolitan government, county, city, or town;

(G)(i) All bonds issued by the authority shall be payable out of the revenue and receipts derived from any projects, or of any portion of projects owned, operated or leased to or from the authority, as may be designated by the board of directors of the authority, or from any revenues to be derived directly or indirectly by the authority from such

projects, or from any revenues derived directly or indirectly by the authority from the allocation, transfer, contribution or pledge of tax revenues or other monies of any nature by the State or any county, municipality or other public instrumentality thereof;

(ii) The principal of and interest on any bonds issued by the authority shall be secured, as may be designated by the governing board, by a pledge of revenues and receipts of the authority described in subdivision (4)(G)(i) above, by a pledge of the authority's rights under agreements, leases and other contracts, or by a mortgage or deed of trust covering all or any part of the projects from which the revenues or receipts so pledged may be derived. The proceedings under which the bonds are authorized to be issued and any such pledge agreement or mortgage or deed of trust may contain any agreements and provisions respecting the maintenance of the projects covered by the bonds, the fixing and collection of rents for any portions of projects leased by the authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the governing board shall deem advisable and not in conflict with the provisions of this chapter. Each pledge, agreement, or mortgage or deed of trust made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on the bonds for the benefit of which the pledge, agreement, or mortgage or deed of trust were made shall have been fully paid. In the event of default in such payment or in any agreement of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any mortgage or deed of trust executed as security for the bonds, such payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity or by foreclosure of any such mortgage or deed of trust, or any one (1) or more of such remedies;

(H) The authority may issue interim certificates, bond anticipation notes or other temporary obligations pending the issuance of its revenue bonds, which such temporary obligations shall be payable out of revenues and receipts of the authority in like manner as such revenue bonds and shall be retired from the proceeds of such bonds upon the issuance of the revenue bonds, and shall be in such form and contain such terms, conditions and provisions consistent with the provisions of this chapter as the governing board may determine;

(I) Bonds and notes of the authority shall be executed in the name of the authority by such officers of the authority and in such manner as the governing board may direct, and shall be sealed with the corporate seal of the authority. If so provided in the proceedings authorizing the bonds, the facsimile signature of any of the officers executing such bonds and a facsimile of the corporate seal of the authority may appear on the bonds in lieu of the manual signature of such officer and the manual impress of such seal;

(J) Any bonds and notes of the authority may be sold at public or private sale, for such price and in such manner and from time to time as may be determined by the governing board of directors of the authority to be most advantageous, and the authority may pay all expenses, premiums and commissions that its board of directors may deem necessary or advantageous in connection with the issuance of the bonds;

(K) Any participating metropolitan government, county, city, or town is authorized to aid or otherwise provide assistance to an authority created pursuant to the provisions of this chapter, including entering into leases of projects, or parts of projects with an authority, for such term or terms and upon such conditions as may be determined by resolution of the governing body of such metropolitan government, county, city, or town, notwithstanding and without regard to the restrictions, prohibitions, or requirements of any other law, whether public or private, or granting, contributing or pledging revenues of the metropolitan government, county, city, or town to or for the benefit of the authority derived from any source;

(L) Any participating metropolitan government, county, city, or town is authorized, upon recommendation of the governing board of the authority, to issue and sell its bonds to finance the acquisition, construction, improvement or expansion of the facilities authorized in this chapter, and to refund bonds previously issued by such metropolitan government, county, city, or town or by the authority, or refinance indebtedness previously incurred for such purposes. The facilities authorized by this chapter shall be deemed to be "public works projects" for purposes of Title 9, Chapter 21, Section 105 of the Local Government Public Obligations Act (LGPOA), and any such bonds issued by a participating metropolitan government, county, city, or town hereunder shall be issued, and the proceeds thereof applied, in accordance with the applicable provisions of the LGPOA. Notwithstanding the foregoing, prior to the issuance of any general obligation bonds by a metropolitan government, county, city, or town under the authority of this chapter, a referendum shall be held concurrently with a general election in the metropolitan government, county, city, or town. Said referendum shall in all other respects be conducted in compliance with the requirements

of the LGPOA, and specifically with those contained in § 9-21-205 through 9-21-209;

(M) Each participating metropolitan government, county, city, or town, upon approval by resolution of its governing body, is authorized to enter into such agreements with the authority and the other participating metropolitan governments, counties, cities, or towns as may be determined by the governing body of such metropolitan government, county, city, or town to be convenient or necessary to accomplish the purposes set forth in subdivisions (K) and (L) above;

(N) Except to the extent of any revenues that may be specifically allocated, transferred, contributed or pledged by a participating metropolitan government, county, city, or town in accordance with the provisions of this chapter and laws, rules and regulations applicable to this chapter, no metropolitan government, county, city, or town shall in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the authority, and none of the bonds of the authority or any of its agreements or obligations shall be construed to constitute an indebtedness of a participating metropolitan government, county, city, or town within the meaning of any constitutional or statutory provision whatsoever;

(O) Nothing in this chapter shall be construed to allow the governing board of the authority to pledge unilaterally the full faith and credit and unlimited taxing power of any metropolitan government, county, city, or town as surety to the payment of the authority's bonds or to impose unilaterally an ad valorem tax in any metropolitan government, county, city, or town;

(5) To delineate and create a special district in all or portions of the areas of the regional transportation authority for the purposes of facilitating the raising of revenues to be dedicated to the authority for the implementation of the authority's plan within the special district. A special district may be created only in those areas of the authority that have or are planned to have a benefit from services being provided by the authority, and shall be permitted to include multiple metropolitan governments, counties, cities, and towns. An authority may create more than one special district and special districts may overlap. Local governments, by majority vote of their governing bodies, shall have the right to opt out of a special district created by the board of an authority prior to the levy of any tax or assessment within the special district;

(6) To accept funds from taxes or assessments levied by local governments served by the authority, or act of the general assembly in order to provide funding for the plan adopted by the authority pursuant to

§ 64-8-206(a). Such act of the general assembly may be initiated upon either:

(A) A formal request made by local governing bodies within the authority in the form of a local resolution; or

(B) The receipt of the certified results of a non-binding advisory election. For such an election to be held, the governing body is authorized to direct the county election commission in the affected local governments to place the question on the ballot to be submitted to the voters in the affected local governments on the matter of general and vital concern of whether a particular tax or assessment with a certain rate should be levied within a special district of the authority by means of the general assembly in order to obtain the advice and direction of the voters as to such matters. The expense of any special election held within the territory of the special district of the authority shall be borne by the authority. The results of such election shall be advisory and non-binding; and

(7) To petition its participating local governments to levy any tax or assessment authorized by law for state, county, or municipal purposes and not prohibited by the Tennessee Constitution and dedicate the proceeds of such tax or assessment to the authority. Any city or county government levying a tax pursuant to this subdivision (7) may limit the levy of the tax to the area included within the special district created by the regional transportation authority. Any local government levying a tax pursuant to this subdivision may make such levy subject to approval by the qualified voters in the area subject to the tax in accordance with § 2-3-204 in the following manner:

(A)(i) Any ordinance or resolution of a participating local government levying the tax under authority of this part shall not become operative until approved in an election herein provided in such local government;

(ii) The county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote "FOR" or "AGAINST" the ordinance or resolution, after the receipt of a certified copy of such ordinance or resolution, and a majority vote of those voting in the election shall determine whether the ordinance or resolution is to be operative; and

(iii) If the majority vote is for the ordinance or resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns; provided, however, that no tax shall be collected under any such ordinance or resolution until the first day of a month occurring at least thirty (30) days after the operative date;

(B)(i) If a county legislative body adopts a resolution to levy the tax at the same rate that is operative in a city or town in the county, the election under this section to determine whether the county tax is to be operative shall be open only to the voters residing outside of such city or town. If the county tax is at a higher rate than the rate of the city or town tax, the election shall also be open to the voters of the city or town; and

(ii) Should any county or city or town hold an election under this subdivision, and the ordinance or resolution is rejected, no other election thereon shall be held by such county, city or town for a period of six (6) months from the date of the holding of such prior election.

§ 64-8-208.

It is hereby declared that the sections, clauses, and sentences of this part are severable, are not matters of mutual essential inducement, and any of them shall be excised if such provisions would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, or sentences of this part shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 20, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of June 2009



PHIL BREDESEN, GOVERNOR