STATE OF TENNESSEE

PUBLIC CHAPTER NO. 475

SENATE BILL NO. 1089

By McNally, Burks

Substituted for: House Bill No. 1518

By Fitzhugh, Sargent

AN ACT to amend Tennessee Code Annotated, Title 7 and Title 48, relative to energy.

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

SECTION 1. Tennessee Code Annotated, Title 48, is amended by adding the following as a new chapter thereto:

Section 48-__-101. This chapter shall be known and may be cited as the "Electric G&T Cooperative Act".

Section 48-__-102.

(a) The general assembly finds that a need has developed for electric utility systems engaged in the distribution of electric power and energy in this state and adjoining states to have additional sources of electrical energy through traditional sources of generation and through renewable, clean and passive sources of electrical energy, as well as through other sources known and those sources yet to be known and discovered.

(b) The general assembly finds that because of economies of scale needed for many forms of electrical energy supply resources, there are opportunities to acquire and operate these additional sources of energy on a cooperatively owned basis from owned or leased facilities to fulfill growing needs in and around this state.

(c) The general assembly finds a need to provide a statutory framework for the creation and operation of nonprofit cooperative entities to allow groups of nonprofit cooperatives and municipally, county or other governmentally owned electric utility systems to make electrical power available at the lowest feasible cost, consistent with sound business principles, for wholesale sales to retail suppliers in communities within and without this state.

Section 48-__-103. As used in this chapter:

(1) "Area" or "TVA area" means the area of the Tennessee Valley Authority as described in Section 15(d)(a) of the Tennessee Valley Authority Act of 1933, as amended, codified in 16 U.S.C. § 831n-4;

(2) "Board" means a G&T cooperative's board of directors or the necessary number thereof to take action;

(3) "Distribution cooperative" means an electric cooperative that has been heretofore incorporated under the former "Electric Cooperative Law", or that has been or hereafter is incorporated under Title 65, Chapter 25, Part 2, or that has been or is created as an electric cooperative, electric power association or other similar nonprofit organization or association under the laws of another state, and that is also engaged, in whole or in part, in the distribution of electrical power at retail to its members as the ultimate end-users of such electrical power and energy;

(4) "Energy acquisition corporation" means an entity created and operating pursuant to the authority established in the Energy Acquisitions Corporation Act, compiled in Title 7, Chapter 39;

(5) "Existing G&T cooperative" means a nonprofit corporation created, under Title 48, Chapters 51-68, Title 65, Chapter 25, Part 2, or by a charter of incorporation relying upon both or parts of either of the foregoing statutes that, as of the date of enactment, does not have retail residential, commercial or industrial customers and that, as of the date of enactment, has secured a determination of exemption from taxation as a § 501(c)(12) organization under the United States Internal Revenue Code;

(6) "Governmental electric system" means a state, municipal, county or other political subdivision or local governmental entity of this state or of any other state that is engaged, in whole or in part, in the distribution of electrical power at retail to its customers as the ultimate end-users of such electrical power and energy;

(7) "G&T cooperative" or "G&T cooperatives" means one (1) or more nonprofit cooperative membership corporations organized under or otherwise subject to this chapter;

(8) "Lease-sale" means an agreement whereby the possession and use of assets and properties would be transferred to a lessee-purchaser for a stated or determinable period in time, during or at the end of which such lessee-purchaser would have the right and be obligated, or would have the option, to purchase and acquire, or would without further act acquire fee simple title to such assets and properties for a price expressly stated in the agreement or for a price determinable by a formula contained in the agreement, whether or not any portion of any lease-hold or rental payments would be creditable as a part of such price;

(9) "Member" means a distribution cooperative or governmental electric system, as applicable, having the right through its duly appointed agent or representative to vote for the directors of a G&T cooperative and upon other matters as provided in this chapter and as provided in a G&T cooperative's charter or bylaws, and includes each incorporator of a G&T cooperative. Each such cooperative or system shall exercise its

respective voting rights through its duly appointed or designated agent or representative. Such rights shall be exercised as prescribed in the charter, bylaws or other organizational or governance instruments of a G&T cooperative;

(10) "Patron" means a person agreeing to receive or already receiving, or who in the past has received, one (1) or more of the services rendered by a G&T cooperative, whether such person is a member or not. "Nonmember patron" means a person who or which is not or was not a member; and

(11) "Person" includes any natural person, firm, association, corporation, cooperative, membership corporation, distribution cooperative, electric power association, business trust, partnership and federal, state or local governments, or departments, agencies or any other political subdivision thereof including, without limitation, an energy acquisition corporation.

Section 48-__-104. Any corporation hereafter created, organized and operated pursuant to this chapter shall be operated as a nonprofit membership cooperative corporation.

Section 48-__-105. Any existing G&T cooperative shall be deemed to have been created, organized and operating under this chapter without further action by its members or board of directors and shall have all rights, privileges, duties and obligations as are provided in this chapter.

Section 48-__-106.

(a) A G&T cooperative shall have the following purposes:

(1) To supply or furnish at wholesale electric power and energy services to one (1) or more patrons;

(2) To own, lease, construct, acquire, operate or otherwise have control, either alone or with others, plants, equipment, facilities, lines and all property necessary to transmit, generate, supply or otherwise furnish electrical energy and power for the needs of its wholesale customers;

(3) To supply, furnish or exchange wholesale electrical power, capacity and energy to or with any other entity;

(4) To provide management or operating services by contract with any distribution cooperative, energy acquisition corporation or governmental electric system or other cooperatively organized or governmentally-owned utility system; and

(5) Such other purposes as may be prescribed in the charter of the G&T cooperative to the extent such purposes are for the benefit of the members of the G&T cooperative and are not prohibited by this chapter or any other laws.

(b) In addition to the powers set forth in Title 48, Chapter 53, and subject only to the limitations provided in this chapter, a G&T cooperative shall have the powers to:

(1) Have a corporate seal and alter the same at will; provided, that it need not have, nor shall it for any purpose be necessary for the cooperative to use such seal;

(2) Become a member in or stockholder of one (1) or more other nonprofit cooperatives, corporations or other legal entities and to own the same, wholly or in part;

(3) Solely on its own, or jointly, as tenant in common or as a partner with one (1) or more other entities, construct, purchase, take, receive, lease as lessee or lessor, or otherwise acquire, and own, hold, use, equip, maintain, and operate and sell, assign, transfer, convey, exchange, lease back, mortgage, pledge, or otherwise dispose of or encumber any and all property, of whatever kind or nature and of whatever estate, real and personal, tangible and intangible, including choses in action;

(4) Purchase or otherwise acquire, and own, lease as lessor or lessee, lease back, hold, use, and exercise, and sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way, and easements;

(5) Incur indebtedness in the form of notes, bonds, loans or other evidence of indebtedness and secure any of its liabilities or obligations by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues, or income;

(6) Make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, but not limited to, contracts with any person, federal agency, or municipality, for the purchase or sale of electric power and energy and, in connection with any such electric power and energy contract, stipulate and agree to such covenants, terms, and conditions as the board may deem appropriate, including covenants, terms, and conditions with respect to resale rates, financial and accounting methods, services, operation and maintenance practices, and, consistent with § 48-__-113, the manner of disposing of the revenues of the properties operated and maintained by the cooperative;

(7) Conduct its business and exercise any or all of its powers within or without this state;

(8) Adopt, amend, and repeal bylaws;

(9) Organize and promote and otherwise foster and participate in, through membership or ownership, including stock ownership, community, regional, or statewide or national organizations whose purposes are or include the promotion and assistance of economic, industrial or commercial development which the board of the cooperative determines will, or likely will, result in economic benefits to the cooperative or its members;

(10) Do and perform any and all other acts and things and have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the cooperative's purpose or purposes;

(11) Construct, maintain, and operate electric transmission and distribution lines or other conducting facilities along, upon, under, and across all public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways, and upon, under, and across all publicly owned lands; provided, that the respective authorities having jurisdiction shall consent thereto; provided, further, that such consent shall not be unreasonably withheld or conditioned or withheld or conditioned for the purpose of enabling such an authority to gain competitive advantage with respect to the rendition by itself or any other entity of a service which the cooperative also has a right to render; and

(12) Without limiting the generality or particularity of subdivisions (b)(1)-(11):

(A) Generate, manufacture, purchase, acquire, and transmit, and transform, supply, distribute, furnish, deliver, sell, and dispose of, electric power and energy;

(B) Condemn either the fee or such other right, title, interest or easement in and to property as the board may deem necessary, and such property or interest in such property may be so acquired, whether or not the same is owned or held for public use by corporations, associations, cooperatives or persons having the power of eminent domain, or otherwise held or used for public purposes, and such power of condemnation may be exercised in the mode of procedure prescribed by Title 29, Chapter 16, or in the mode of procedure prescribed by Title 65, Chapter 22, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain; provided, that no property that is owned or held for public use, nor any interest therein, shall be condemned if, in the judgment of the court the condemnation of such property or interest therein will obstruct, prevent, burden, interfere with, or unduly inconvenience the continued use of such property for the

public use to which it is devoted at the time the same is sought to be condemned; provided, further, that where title to any property sought to be condemned is defective, it shall be passed by decree of court; provided, further, that where condemnation proceedings become necessary, the court in which such proceedings are filed shall, upon application by the cooperative and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just; but, provided further, that in cases where condemnation of property already devoted to a public use is sought, no order as to right of possession shall issue until it is finally determined that the condemnor is entitled to condemn such property. The power of eminent domain provided by this subdivision (b)(12)(B) shall be supplemental to, not in lieu of or in conflict with, § 48-51-103.

(c) Neither this chapter nor any other law of this state shall be construed to authorize a G&T cooperative to own or otherwise acquire a legal or beneficial interest in a governmental electric system or in a distribution cooperative, except such interest as the G&T cooperative may acquire as a member-customer of a distribution cooperative.

Section 48-__-107.

(a) The original bylaws adopted by a board of directors of a G&T cooperative created or operating and subject to this chapter shall continue in effect until at any time thereafter such bylaws are changed by adoption, amendment, or repeal by the members by the process as established in the bylaws, except that:

(1) The members may, by bylaw provision, delegate to the board the power to change all or any specified provision of the bylaws, but such delegation shall not forfeit or restrict any right of the members thereafter as may be established in the bylaws to change such provision whether or not the board has exercised such delegated power; and

(2) Either the board or the members of a G&T cooperative may change any bylaw provision when, as established by law, such provision is illegal or has become a legal nullity.

(b) The bylaws shall provide for such process as may permit the members to amend or repeal such provisions that are established in the original bylaws or as may have been thereafter amended, repealed or otherwise modified by the board of directors or the members.

(c) The bylaws shall specify the rules of parliamentary procedure applicable to meetings of its board of directors and members, provided

that in the absence of such a specification the then-current edition of *Robert's Rules of Order* shall apply.

Section 48-__-108.

(a) The business and affairs of a G&T cooperative shall be managed under the direction of a board of directors of not less than five (5) directors or such greater number as may be prescribed by the bylaws of the G&T cooperative. All of the powers of a G&T cooperative shall be vested in and exercised by the board of directors, except such as are conferred upon or reserved to the members pursuant to this chapter, the charter, bylaws or any other applicable law.

(b) To be eligible to serve, a director shall be a full-time employee of a patron member of the G&T cooperative and shall have senior management level managerial, financial, engineering or administrative responsibilities for the electric system of a patron member of the G&T cooperative. No person holding elective office of any state, county or municipal entity or other political subdivision of any state or of the federal government, and no person whose employment or appointed responsibilities are not principally limited to utility operations of a patron member shall be eligible to serve as a director. Additional eligibility requirements for directors may be established pursuant to the bylaws of the G&T cooperative.

(c) The bylaws shall prescribe the number of directors, their qualifications, if any, in addition to those provided for in subsection (b), the manner of holding meetings of the board and of the election and appointment of successors to directors who shall resign, die, or otherwise be incapable of or disqualified from acting, and any other rule, manner, procedure or matter relating to the board and its exercise of the powers conferred upon it by this chapter or by other law, the charter of the G&T cooperative or the bylaws.

(d) The bylaws shall provide the manner and method by which directors shall be elected or appointed, as applicable. The bylaws may establish classes of directors to be elected and divide them into classes for terms of office that permit either approximately one-half (1/2), one-third (1/3), or one-fourth (1/4) to be elected each year by the members; provided, that the initial bylaws may provide for a period of time during which the initial board of directors specified in the charter or the initial bylaws shall serve for the purposes of allowing continuity during a start-up period specified in the bylaws, which start-up period may be contingent upon the anticipated date of commencement of both ownership and direct operations and direct control of a plant for the generation of electrical power and energy to be acquired, constructed or operated, all as may be more specifically described in the bylaws.

(e) Directors may, but only if so provided in a G&T cooperative's bylaws, be removed and their successors elected under such process as may be provided in the bylaws.

Section 48-__-109.

(a) Notwithstanding any other provision of this chapter or other laws of this state, the bylaws may provide that a G&T cooperative may elect its directors on an at-large basis or by districts or divisions, or by a combination of some number of directors to be elected at-large and some number by districts or divisions, all as the bylaws shall provide.

(b) The composition of districts or divisions shall have an equitable regard for the aggregate number of end-users of the electrical power and energy served by all of the patron members in such district or division, and the amount of electrical power and energy consumed by the end-users served by each of the patron members, other communities of interest and any boundaries or other aggregations of patron members into districts or divisions. Districts or divisions may, but are not required to, be contained in the bylaws of the G&T cooperative; but if not contained in the bylaws shall be ascertainable in a reasonable form and accessible for inspection by members at the offices of the corporation upon reasonable notice and request. The boundaries of districts and divisions and the members to be contained therein may, but are not required to, be contiguous.

(c) To be eligible for election as a district or division director, a person shall meet the qualifications for director as prescribed by § 48-__-108(b) and, in addition, the patron member for whom such person is a full-time employee shall satisfy the eligibility requirements by having its principal office within the district or division for which such person is seeking or has been nominated for election to the office of director.

Section 48-__-110. The principal officers of the G&T cooperative shall be a chairman of the board of directors, a vice chairman of the board of directors, a secretary and a treasurer and such other officers as may be determined from time to time by the bylaws or the board of directors provided that such other officers appointed are not in conflict with any provision of the bylaws. The offices of secretary and treasurer may be held by the same person.

Section 48-__-111. The board of directors of the G&T cooperative may, but is not required to, appoint a chief executive officer who may have the title of president, and may further appoint one (1) or more vice presidents, one (1) or more assistant secretaries, and one (1) or more assistant treasurers, and may by resolution provide for the creation, appointment and designation of title of other officers which it deems to be necessary or advisable to efficiently conduct the business of the G&T cooperative.

Section 48-__-112.

(a) Only distribution cooperatives, governmental electric systems, energy acquisition corporations, another G&T cooperative, and joint action agencies created under the laws of any state shall be eligible to be members of a G&T cooperative. Members must meet such other qualifications and criteria for membership as may be established in the bylaws of the G&T cooperative. To the extent not inconsistent with this

chapter, member classifications, qualifications, rights and obligations may be established for patron members and for non-patron members as the bylaws shall provide.

(b) Members that are governmental electric systems shall act through the board or supervisory body having responsibility for such members' electric systems or pursuant to ordinances or resolutions adopted by such governing boards, which may include ordinances or resolutions that delegate the authorization to act on behalf of such governmental electric system to one (1) or more employees or officials of such system.

(c) Members shall be subject to such other qualifications, limitations, rights and obligations in respect to membership and to other provisions in respect to a member's admission, resignation, withdrawal, suspension, expulsion and termination as the board of directors or the members shall establish through the G&T cooperative's bylaws.

Section 48-__-113.

(a) With respect to the supplying or furnishing of service by a G&T cooperative, there shall be an accounting of the revenues for any fiscal year that are in excess of the amount necessary to:

(1) Defray expenses of the G&T cooperative, including the operation and maintenance of its facilities during such fiscal year;

(2) Pay interest and principal obligations of the G&T cooperative coming due in such fiscal year;

(3) Finance, or to provide a reserve to finance, the construction or acquisition by the G&T cooperative of additional facilities to the extent determined by the board;

(4) Provide a reasonable reserve for working capital;

(5) Provide a major maintenance reserve; and

(6) Provide a reserve for the payment of indebtedness of the G&T cooperative maturing more than one (1) year after the date of the incurrence of such indebtedness in an amount up to the maximum amount of interest and principal payments to be made during any future fiscal year.

(b) Any funds in excess of revenues as described in subsection (a) shall be distributed by the cooperative to patrons in the manner provided for in the bylaws, either:

(1) As patronage refunds prorated in accordance with the patronage of the cooperative by the respective patrons paid for during or with respect to such fiscal year;

(2) By way of general reductions of rates or other charges;

(3) By crediting patrons with having furnished the cooperative capital in amounts equal to the amounts of their patronage not refunded pursuant to subdivision (b)(1) and not used for general reduction of rates or other changes pursuant to subdivision (b)(2), all or any portion of such capital to be redeemable and to be retired at such later time as the board in its sole discretion determines that such will not impair the cooperative's financial condition and will be in the cooperative's best interests; or

(4) By any combination of the methods described in subdivisions (b)(1)-(3).

(c) Nothing contained in subsection (a) shall be construed to prohibit the payment by a cooperative of all or any part of its indebtedness prior to the date when the same shall become due.

Section 48-__-114.

(a) Any mortgage, deed of trust, or other instrument executed by a G&T cooperative which, by its terms, creates a lien upon real and personal property, then owned or after-acquired, and which is recorded as a mortgage of real property in any county in which such property is located or is to be located, shall have the same force and effect as if the mortgage, deed of trust, or other instrument were also recorded or filed in the proper office in such county as a mortgage of personal property.

(b) Recordation of any such mortgage, deed of trust, or other instrument shall cause the lien to attach to all after-acquired property of the mortgagor described as being mortgaged or pledged immediately upon the acquisition of such property by the mortgagor, and such lien shall be superior to all claims of creditors of the mortgagor and purchasers of such property and to all other liens, except liens of prior record and tax liens, affecting such property.

Section 48-__-115.

(a) A G&T cooperative which has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged on behalf of the G&T cooperative by a majority of the incorporators, which shall state:

(1) The name of the G&T cooperative;

(2) The address of its principal office;

(3) That the G&T cooperative has not commenced business;

(4) That the amount, if any, actually paid in on account of membership fees, less any part disbursed for necessary expenses, has been returned to those entitled thereto and that all easements shall have been released to the grantors;

(5) That no debt of the G&T cooperative remains unpaid; and

(6) That a majority of the incorporators elect that the G&T cooperative be dissolved.

(b) Such articles of dissolution shall be submitted to the secretary of state for filing as provided in this chapter.

(c) A G&T cooperative that has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

(1) The board shall first recommend that the G&T cooperative be dissolved, which recommendation shall be submitted to the members of the G&T cooperative at any annual or special meeting, the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative votes of:

(A) If dissolution is or will be an incident of the sale, lease-sale or other disposition of the assets and properties of the G&T cooperative, as many as but not fewer than the percentage of the G&T cooperative's members required to authorize such sale, lease-sale or other disposition as provided in the G&T cooperative's bylaws; or

(B) If dissolution is or will be from any other cause, the number or percentage of its members, or of those voting, whichever may be the case, as provided in the cooperative's charter or bylaws; and

(2) Any assets remaining after the discharge or provision for the discharge of all of the G&T cooperative's liabilities and the distribution of any patronage capital still outstanding on its books shall be distributed on a pro rata basis and without priority to all present and former members of the cooperative to the extent practicable, as determined by the board; provided, that if the board determines that the amount of such surplus is so small in relation to the administrative cost of distributing it as to be prohibited, such surplus may be donated by the board to one (1) or more charitable or educational organizations which are exempt from federal income taxation.

Section 48-__-116.

(a) Any corporation organized on a nonprofit or a cooperative basis for one (1) or more of the purposes outlined in § 48-__-106(a) and

operating in a state adjacent to this state shall be permitted to transact business in this state without complying with any statute of this state pertaining to the qualification of foreign corporations for the transaction of business.

(b) Any such foreign corporation, as a prerequisite to its transaction of business in this state, shall, by an instrument executed and acknowledged in its behalf by its president or vice president and attested to by its secretary, designate to the secretary of state its agent to accept service of process in its behalf. In the event any such process shall be served upon the secretary of state, the secretary of state shall forward the same by registered mail to such corporation at the address specified in such instrument.

(c) Any such corporation may sue and be sued in the courts of this state to the same extent that a cooperative under this chapter may sue or be sued in such courts.

(d) Any such foreign corporation may secure its notes, bonds, or other evidences of indebtedness by mortgage, pledge, deed of trust, or other encumbrance of any or all of its then-owned or after-acquired real or personal property, assets, or franchise, located or to be located in this state, and also upon its revenues and income.

Section 48-__-117. Nothing in this chapter shall be construed to exempt cooperatives and foreign corporations transacting business in this state pursuant to this chapter from ad valorem property taxes. Assessment schedules for such property that is devoted to and used or useful in pursuance of the purposes of the G&T cooperative shall be filed with the comptroller of the treasury, and the payment of such taxes shall be in lieu of all other taxes of every kind or nature, unless it is otherwise specifically provided by law that such other tax or taxes shall be applicable to cooperatives formed or foreign corporations transacting business pursuant to this chapter.

Section 48-__-118.

(a) No G&T cooperative shall provide electrical power and energy services to retail customers in the TVA area.

(b) No G&T cooperative shall provide telephony, cable television, video programming, Internet access or other telecommunications services to retail customers in the TVA area; provided, however, nothing in this section shall preclude or prevent a G&T cooperative from owning, leasing, operating and maintaining equipment or facilities for its own purposes or for the purpose of enabling one (1) or more members to provide or utilize advance metering infrastructure, load control, appliance monitoring, power exchange, billing, electric services or functions, or any other similar or component service now or hereafter developed in connection with the provision of electricity to end-use customers.

Section 48-__-119. G&T cooperatives and foreign corporations transacting business in this state pursuant to this chapter shall be deemed to be

nonprofit cooperatives and non-utilities and exempt in all respects from the jurisdiction and control of the Tennessee regulatory authority.

Section 48-__-120. Title 48, Chapter 16, shall not apply to any note, bond, or other evidence of indebtedness issued by any G&T cooperative or foreign corporation transacting business in this state pursuant to this chapter, to the United States or any agency or instrumentality thereof, or to any mortgage or deed of trust executed to secure the same. This chapter shall not apply to the issuance of membership certificates by any G&T cooperative or any such foreign corporation.

Section 48-__-121. Notwithstanding any provision of this chapter to the contrary, it is the specific intent of this chapter that all utility districts hereafter created under Title 7, Chapter 82, or any similar provision, shall be specifically exempt from the provisions of this chapter.

Section 48-__-122.

(a) The following provisions in Title 48 shall not be applicable to G&T cooperatives incorporated under or otherwise subject to this chapter: §§ 48-56-103 and 48-56-204, Title 48, Chapter 56, Part 3, §§ 48-56-501, 48-57-102 — 48-57-105, 48-57-108, 48-57-201, 48-57-203 — 48-57-208, 48-57-301, 48-58-103 — 48-58-106, 48-58-108, 48-58-109, 48-58-304, 48-60-103, 48-60-202 — 48-60-204, 48-60-302, Title 48, Chapter 61, §§ 48-62-101, 48-62-102, 48-63-101, 48-63-102, and § 48-64-102.

(b) The following provisions contained in Title 48 shall, but only as qualified in this subsection (b), be applicable to G&T cooperatives incorporated under or otherwise subject to the provisions of this chapter:

(1) Section 48-51-201, except as provided in § 48-51-201(12) and (30) and in the second sentence of § 48-51-201(14); § 48-51-202, except that § 48-51-202(c) shall apply also as notice to directors of board meetings; § 48-51-601, except that the words "impractical or" in § 48-51-601(a) shall not be in effect;

(2) Section 48-52-101, except that incorporators under this chapter may be one (1) or more distribution cooperatives or one (1) or more governmental electric systems whose principal places of business are located in Tennessee;

(3) Title 48, Chapter 55, shall apply to G&T cooperatives:

(A) Unless and until changed, the registered offices and addresses of cooperatives shall be their principal offices and addresses and their registered agents shall be their general or acting managers or authorized individuals or entities, by whatever title known, and such agents' addresses shall be that of the registered offices; and

(B) Such G&T cooperatives need not file any statement of their registered offices or agents or of the

addresses of such offices or agents until they otherwise are required to file an amendment of their respective charters pursuant to § 48-68-101(b); provided, if such registered offices or agents or their addresses are changed after July 1, 2009, such G&T cooperatives shall file a statement with the secretary of state pursuant to § 48-68-102;

(4) Section 48-58-303, except that a G&T cooperative may make loans to guarantee the obligations of a member who is also a member of the G&T cooperative in the ordinary course of business for the same purposes on the same basis and the same manner and to the same extent as such loans may be made to, or obligation may be guaranteed on behalf of, other members of the G&T cooperative; and

(5) Only § 48-60-101(a) shall be applicable.

(c) The provisions of non-applicability and of qualified applicability set forth in subsections (a) and (b) shall not be exclusive. The provisions compiled in Title 48, Chapters 51-68, shall or shall not be applicable, wholly or on a qualified basis, to G&T cooperatives incorporated subject to this chapter, depending upon whether such provisions are consistent with or different from the provisions of this chapter, as provided for in § 48-51-104.

Section 48-__-123. This chapter shall be construed liberally. The enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manner, methods, or things. The authority and powers granted pursuant to this chapter may be exercised in accordance with the terms of this chapter, notwithstanding any other requirements, restrictions or procedural provisions contained in any general law, private act, or home rule charter, and notwithstanding any other provisions to the contrary contained in any general law, private act or home rule charter. Notwithstanding the foregoing, or any other provisions in this chapter to the contrary, this chapter shall not be construed to affect the powers conferred or the limitations imposed upon annexing municipalities and electric cooperatives in § 6-51-112.

SECTION 2. Tennessee Code Annotated, Title 7, Chapter 39, Part 3, is amended by adding the following as a new, appropriately designated section:

Section 7-39-3__.

(a) Notwithstanding any other provision of this chapter or Title 12, Chapter 9, to the contrary, the following provisions shall apply to any energy acquisition corporation that elects, either in its certificate of incorporation or in its bylaws, to be governed by the provisions of this section:

(1) An energy acquisition corporation operating pursuant to this section shall have a board of directors of not less than three (3) nor more than twenty-one (21) members.

(2) Not less than two-thirds (2/3) of such members shall meet the qualifications to serve as director pursuant to § 7-39-103, including directors serving on behalf of one (1) or more municipalities that have become associated municipalities pursuant to § 7-39-312. Up to one-third (1/3) of such members need not meet the qualifications to serve as director pursuant to § 7-39-103, provided that each such member is a natural person and is either an employee of a municipal utility, an employee of an electric cooperative, or an employee or member of the governing body of a G&T cooperative.

(3) Members of the board may be nominated and elected, and may be removed for cause, in any manner provided in the certificate of incorporation or bylaws of the corporation, provided that the terms of office of directors nominated and elected pursuant to the previous sentence shall be distributed evenly, as nearly as may be practicable, among all terms of office of the directors of the corporation.

(4) No more than one (1) person per associated municipality, one (1) person per municipal utility that is not an associated municipality, one (1) person per electric cooperative and one (1) person per G&T cooperative shall serve on the board of directors of the corporation at any one time.

(b) As used in this section:

(1) "Electric cooperative" means an electric cooperative or electric membership corporation, whether organized or operating under the provisions of Title 48, Chapter 25, or similar statutes of any other state, which, as of the effective date of this act, distributes electric power purchased from the Tennessee Valley Authority;

(2) "G&T cooperative" means a generation and transmission cooperative, organized or operating under Section 1 of this act; and

(3) "Municipal utility" means any governmental entity having a system for the distribution of electricity, whether operated under the authority of a board of the governmental entity, a department of the governmental entity or under the authority of a board created pursuant to the provisions of Title 7, Chapter 52, or by the authority of any other public or private act of the general assembly or pursuant to the charter of a municipality, and that operates an electric generation or distribution system which, as of the effective date of this act, distributes electricity purchased from the Tennessee Valley Authority and also includes any

municipality, county or other political subdivision of another state, whether operated under a board or as a county or municipal department, which, as of the effective date of this act, distributes electricity purchased from the Tennessee Valley Authority.

SECTION 3. 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 4. The Tennessee Advisory Commission on Intergovernmental Relations is directed to conduct, within existing resources, a study to consider whether the current wholesale power supply arrangements between the Tennessee Valley Authority and municipal utilities and electric cooperatives are likely to change in the future in a way that could affect payments in lieu of taxes from the Tennessee Valley Authority to the state and to its local governments. No later than February 1, 2010, the Tennessee Advisory Commission on Intergovernmental Relations shall report written findings to the Commerce, Labor and Agriculture Committee of the Senate; the Commerce Committee of the House of Representatives; the Finance Committee of the Senate; and the Finance Committee of the House of Representatives. The report shall include recommendations, if any, on adjustments to the state tax system that would keep the state and local governments whole from such future changes.

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

PASSED: June 1, 2009

RON RAMSEY
SPEAKER OF THE SENATE

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 23rd day of June 2009

PHIL BREDESEN, GOVERNOR