



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: TACIR Commission Members

FROM: Harry A. Green *Harry*
Executive Director

DATE: September 7, 2011

SUBJECT: Utility District Study

The Senate State and Local Committee referred two utility district bills to TACIR for study:

- SB 500/HB 479 (S: Burks/H: Curtiss) which would change the method of selecting the utility district board of commissioners of a water utility district in White County with over 1,000 customers from appointment by county mayor to election by customers.
- SB 830/HB 1295 (S: Summerville/H: Hensley) which would change the method of selecting the utility district board of commissioners of utility districts in Lawrence County serving fewer than 1,600 customers from appointment by county mayor to election by customers.

A copy of the bills and their fiscal notes are included in this tab.

Chairman Norris requested at the Senate State and Local Committee meeting that these bills be sent to TACIR for summer study. At that time, Chairman Norris also stated that TACIR could have a public hearing on this issue and invite the interested parties to give testimony. The TACIR staff has attempted to identify all parties with an interest in this issue and invited them to appear before TACIR to speak on these bills.

Below is a list of the individuals who will be speaking before the Commission today.

- Senator Jim Summerville, Senate sponsor of SB 830/HB 1295
- Representative Joey Hensley, House sponsor of SB 830/HB 1295
- Bob Freudenthal, Executive Director, Tennessee Association of Utility Districts

SB 500/HB 479

- Penny Whaley, Customer, Bon De Croft Utility District
- Danny Brock, Utility District Manager, Bon De Croft Utility District
- Alvin Klee, County Commissioner, White County

SB 830/HB 1295

- Ardeen Walters, Customer, Fall River Road Utility District
- David Didick, Manager, Fall River Road Utility District
- Phillip Palmer, Operator/Manager, Iron City Utility District
- John Sanders and Mark Masterson, Commissioners, Leoma Utility District

A completed report on these bills will be presented at the December 2011 Commission meeting.

SENATE BILL 500

By Burks

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

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

SECTION 1. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as a new subsection (i):

(i) Notwithstanding subdivision (a)(4) and (5), the utility subscribers of a water utility district located in the eastern portion of any county having a population of not less than twenty-three thousand one hundred (23,100) nor more than twenty-three thousand two hundred (23,200), according to the 2000 federal census or any subsequent federal census, which district serves at least one thousand (1,000) subscribers, shall fill vacancies and select commissioners of the water utility district in an election to be held at times and in such manner as prescribed by the commissioners of the water utility district.

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

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 479 – SB 500

February 19, 2011

SUMMARY OF BILL: Authorizes the utility subscribers of a water utility district in White County to fill vacancies and select commissioners by election.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- This bill affects four water districts in White County.
- The proposed bill requires commissioners to determine the time and manner of the election by utility subscribers to fill commissioner vacancies but it does not include specific election procedures.
- Elections to fill commissioner vacancies will be held at the time of a regularly scheduled utility district meeting.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "James W. White".

James W. White, Executive Director

/agl

HB 479 – SB 500

SENATE BILL 830

By Summerville

AN ACT to amend Tennessee Code Annotated, Section 7-82-307, relative to commissioners of certain water utility districts located in any county having a population of not less than thirty-nine thousand (39,900) nor more than forty thousand (40,000), according to the 2000 federal census or any subsequent federal census.

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

SECTION 1. Tennessee Code Annotated, Section 7-82-307, is amended by adding the following language as a new, appropriately designated subsection:

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(1) Notwithstanding the provisions of this section or any other law to the contrary, any water utility district having less than one thousand six hundred (1,600) customers in any county having a population of not less than thirty-nine thousand (39,900) nor more than forty thousand (40,000), according to the 2000 federal census or any subsequent federal census, shall be governed by a five-member board of utility district commissioners to be elected by the customers of the utility district.

(2)

(A) The regular term of office of each utility district commissioner shall be four (4) years. All unscheduled vacancies arising after the effective date of this act shall be filled, for the remainder of the unexpired term, in accordance with the requirements and procedures set forth in this subsection.

(B) No person shall be elected as utility commissioner nor shall a person be eligible to vote in an election for utility commissioners unless the person is a customer of the utility and resides within the service area of the utility district. As

used in this subsection "customer" means a person who is regularly billed for utility service rendered by the district and pays money for such service for water that passes through the meter connection to the customer's dwelling or business on a monthly basis.

(3)

(A) On or after the effective date of this act, upon a vacancy occurring on any board of commissioners of such utility district, the board of commissioners of the utility district shall conduct an election within sixty (60) days of the vacancy.

(B) Only customers of the utility district shall be eligible to vote. Each customer has one (1) vote, regardless of the number of meters registered to such customer and the customer voting must present a utility bill to vote.

(4) The election shall be held at the community center or fire hall or utility district office within the utility district. The board of commissioners shall schedule such election on a Saturday with the polls being open from 9:00 a.m. to 3:00 p.m. No member of the utility district's board of commissioners that is seeking election or any person or persons seeking election as a utility district commissioner shall be within one hundred (100') feet of the polling place during the time the polls are open.

(5)

(A) The incumbent commissioners shall give notice to all customers of the vacated, or soon to be vacant, office by mail and by publication in a local newspaper of general circulation. Each candidate and any organization of customers interested in preserving the purity of the election and in guarding against abuse of the elective franchise may appoint poll watchers. Poll watchers are permitted within the polling place during the time the election is being conducted and at the close of the election the vote shall be counted and the poll

watchers shall be present. The total votes cast in each vacancy must be signed by the commissioners and the poll watcher or poll watchers in attendance. The votes shall be counted where the election was held by the commissioners in the sight and presence of such of the customers as choose to be present and observe such count and tally and in the presence of the poll watchers.

(B)

(i) The commissioners shall on the next Monday after the election forward to the chairman of the county legislative body of any county to which this subsection applies the results of the election to be entered of record in the office of the county clerk.

(ii) The nominee for a particular vacancy receiving the highest number of votes shall be declared to be elected.

(iii) In the event of a tie vote, the county legislative body shall cast the deciding vote.

(6) The notice shall state that such vacancy exists or will exist, shall state the qualifications for holding such office, shall indicate the date, place and time for the election to fill the vacancy, shall indicate the deadline for nominating petitions to be filed, and shall state that persons desiring to be placed on the ballot must submit a nominating petition signed by not less than ten (10) adults who are customers of the district and who also reside in the district. The petition shall be filed at the utility district office. This notice shall be published in a local newspaper of general circulation at least thirty (30) days prior to the election. Immediately after the qualifying deadline, the remaining commissioners shall prepare a paper ballot of the nominees for the vacancy, which ballot shall be published in a local newspaper of general circulation not less than five (5) nor more than fourteen (14) days prior to the date of the election. The vacancy shall be

filled by a plurality of the votes cast for the vacant position on the board. Write-in votes shall be counted.

(7) In implementing this subsection, the nominating and appointing authorities shall give due consideration to the need for racial, gender, age and ethnic minority diversity on the utility district board of commissioners.

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

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 830 - HB 1295

March 29, 2011

SUMMARY OF BILL: Requires water utility districts in Lawrence County serving fewer than 1,600 customers to be governed by five-commissioner boards elected by utility district customers served by the respective district. Directs that commissioners will be elected to four-year terms and requires elections to occur, within 60 days of any commissioner vacancy, on Saturday between 9:00 a.m. and 3:00 p.m. at a community center, fire hall, or utility district office within the district's service area. Establishes the procedure for a candidate to be placed on the ballot. Requires incumbent commissioners to give notice of a vacant or a soon to be vacant office by mail and by publication in the newspaper of general circulation. Requires commissioners to prepare a paper ballot of the nominees for publication in the newspaper of general circulation between five and fourteen days preceding the election. Requires tabulation of ballots to occur publicly at the sight of the election, with commissioners forwarding election results to the county clerk for recording.

ESTIMATED FISCAL IMPACT:

On March 12, 2011, a fiscal note was issued estimating a fiscal impact as follows:

*Increase Local Revenue – \$100/FY11-12/Permissive
Not Significant/FY12-13 and Subsequent Years/Permissive
Increase Local Expenditures – \$9,000/Recurring**

Due to an incorrect assumption about the total number of utility districts and the cost to publish vacancy notices and ballots, this impact was in error. Based upon additional information, the estimated impact is:

(CORRECTED)

**Increase Local Revenue – \$100/FY11-12/Permissive
Not Significant/FY12-13 and Subsequent Years/Permissive
Increase Local Expenditures – \$2,300/Recurring***

Assumptions:

- This bill applies to five water utility districts in Lawrence County serving 4,328 total customers.

SB 830 - HB 1295 (CORRECTED)

- Two commissioners will be elected in FY11-12. One commissioner will be elected each year thereafter.
- Elections to fill commissioner vacancies will be held at local community centers, fire halls, or the utility district office at no additional cost to the district.
- Utility districts will utilize volunteers to administer commissioner elections.
- Pursuant to Tenn. Code Ann. § 8-21-701, county clerks may assess a fee of \$5 to record election results resulting in an increase to local government revenue of \$50 (10 vacancies x \$5) in FY11-12 and \$25 (5 vacancies x \$5) in subsequent years.
- Utility districts will notify approximately 4,328 customers of a commissioner vacancy in billing statements mailed by the utility district each month resulting in a not significant increase to local expenditures.
- Utility districts will give notice of a vacant position in the newspaper of general circulation. The cost of a quarter page advertisement to notify district customers is estimated to be \$93.75 resulting in an increase to local expenditure of \$468.75 (\$93.75 x 5 districts).
- Water utility districts will publish in a newspaper of general circulation a ballot containing the names of all eligible candidates for water district commissioner. The cost for a half-page advertisement to publish district ballots is estimated to be \$375 resulting in an increase to local expenditures of \$1,875 (\$375 x 5 districts).

**Article II, Section 24 of the Tennessee Constitution provides that: No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/agl

Amendment No. 1 to HB1295

McManus
Signature of Sponsor

AMEND Senate Bill No. 830*

House Bill No. 1295

By deleting subdivision (2)(A) from Section 1 and by substituting instead the following language:

(A)

(i) The regular term of office of each utility district commissioner shall be four (4) years. As appointed terms of office expire, each commissioner shall be elected in accordance with this subsection and thereafter to serve a four-year term. The term of office shall begin on the first regularly scheduled meeting of the board of commissioners held following the date of the election.

(ii) All unscheduled vacancies arising after the effective date of this act shall be filled, for the remainder of the unexpired term, in accordance with the requirements and procedures set forth in this subsection.

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 830 – HB 1295

April 19, 2011

SUMMARY OF AMENDMENT (005531): Requires water utility districts in Lawrence County serving fewer than 1,600 customers to be governed by five-commissioner boards elected by utility district customers served by the respective district. Directs that commissioners be elected, as appointed terms of office expire, to four-year terms and requires elections to occur, within 60 days of any commissioner vacancy, on Saturday between 9:00 a.m. and 3:00 p.m. at a community center, fire hall, or utility district office within the district's service area. Establishes the procedure for a candidate to be placed on the ballot. Requires incumbent commissioners to give notice of a vacant, or a soon to be vacant, office by mail and publication in the newspaper of general circulation. Requires commissioners to prepare a paper ballot of the nominees for publication in the newspaper of general circulation between five and fourteen days preceding the election. Requires tabulation of ballots to occur publicly at the sight of the election, with commissioners forwarding election results to the county clerk for recording.

FISCAL IMPACT OF ORIGINAL BILL:

Increase Local Revenue – \$100/FY11-12/Permissive
Not Significant/FY12-13 and Subsequent Years/Permissive
Increase Local Expenditures – \$2,300/Recurring*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- This bill applies to five water utility districts in Lawrence County serving 4,328 total customers.
- Two commissioners will be elected in FY11-12. One commissioner will be elected each year thereafter.
- Elections to fill commissioner vacancies will be held at local community centers, fire halls, or the utility district office at no additional cost to the district.
- Utility districts will utilize volunteers to administer commissioner elections.

- Pursuant to Tenn. Code Ann. § 8-21-701, county clerks may assess a fee of \$5 to record election results resulting in an increase to local government revenue of \$50 (10 vacancies x \$5) in FY11-12 and \$25 (5 vacancies x \$5) in subsequent years.
- Utility districts will notify approximately 4,328 customers of a commissioner vacancy in billing statements mailed by the utility district each month resulting in a not significant increase to local expenditures.
- Utility districts will give notice of a vacant position in the newspaper of general circulation. The cost of a quarter page advertisement to notify district customers is estimated to be \$93.75, resulting in an increase to local expenditure of \$468.75 (\$93.75 x 5 districts).
- Water utility districts will publish in a newspaper of general circulation a ballot containing the names of all eligible candidates for water district commissioner. The cost for a half-page advertisement to publish district ballots is estimated to be \$375, resulting in an increase to local expenditures of \$1,875 (\$375 x 5 districts).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/agl