



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Private Acts of 1977 Chapter 70

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1977 Chapter 70

SECTION 1. That in order to facilitate transportation in the County of Cheatham and Town of Ashland City in the State of Tennessee, and to promote navigation on the Cumberland River, which traverses portions of the said county; to facilitate the movement and transfer of people, goods, and merchandise to, from and through the said county; to aid in the utilization of the natural resources and recreation and water sports facilities and activities therein, and for the development of commerce and industry in said county, there is hereby established in Cheatham County and Town of Ashland City, Tennessee, a Port Authority, to be known as "The Ashland City Port Authority", "The Cumberland River Port Authority" or "The Ashland City Port Authority Commissioners," for the purposes of (a) acquiring, constructing, operating, and maintaining ports and navigation terminals on the Cumberland River and its tributaries, including docks, wharves, piers, loading and unloading machinery, scales, transportation equipment, harbor and river front improvements, storage and transfer facilities, elevators, and all other advisable appurtenant port and terminal facilities: (b) acquiring, holding, improving, and disposing of lands in the vicinity of such ports and terminals which are suitable for the various purposes herein set forth and for use by manufacturing, processing, or fabricating plants or other industries which require access to the waters of the Cumberland River and its tributaries in their operation; and (c) acquiring, constructing, operating, and maintaining concentration yards, recreation and water sports facilities, roads and bridges, and communication, electric power, gas, water, and all other utility facilities, including the aforesaid industrial sites, and to provide that the same shall be under the jurisdiction, control, and management of the Ashland City Port Authority as hereinafter provided.

SECTION 2. That the development, maintenance, and operation of such facilities are hereby declared to be essentially public and governmental functions. The Powers herein granted, in connection therewith, are declared to be public and corporate purposes and matters of public necessity.

SECTION 3. That the Ashland City Port Authority shall consist of the Ashland City Port Authority Commissioners, who shall be five in number, and such subordinate officers and employees as may be selected by said Ashland City Port Authority Commissioners, as hereinafter provided.

SECTION 4. That the said Ashland City Port Authority Commissioners shall have power, and they are hereby authorized:

(a) To acquire, construct, purchase, operate, maintain, replace, repair, rebuild, extend, and improve within the boundaries of Cheatham County and Town of Ashland City, Tennessee (except not within the present corporate limits of Ashland City without first obtaining express permission and authority from the governing body of such other municipality), the ports and other facilities described in Section 1 hereof, and any and all related facilities, equipment, and appurtenances necessary or convenient to the improvement of the access to all channels of commerce, and to make such facilities available to any firm, person, public or private corporation, to any other shipper, consignee, or carrier, and to charge for their use and for any and all services performed by the Authority.

(b) To accept donations to the Authority of cash, lands or other property to be used in the furtherance of the purpose of this act.

(c) To accept grants, loans, or other financial assistance from any federal, state, county or municipal agency, or in aid of the acquisition or improvement of any of the facilities herein provided for.

(d) To purchase, rent, lease, or otherwise acquire any and all kinds of property, real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances, for the said county which, in the judgment of the Port Authority Commissioner, is necessary or convenient to carry out the powers herein granted. The authority herein to acquire property shall include, but not be limited to, the acquisition of lands in the vicinity of the port and terminal facilities provided for herein, which is suitable for use by industries requiring access to the water of the Cumberland River and the navigable channel provided by the Cheatham Dam Reservoir.

(e) To make contracts and execute instruments containing such covenants, terms and conditions as, in the judgment of said Commissioners, may be necessary, proper, or advisable for the purpose of obtaining grants, loans, or other financial assistance from any federal or state agency, for or in the aid of the acquisition or improvement of the facilities herein provided; to make all other contracts and execute all other instruments including, without limitation, licenses, long or short term leases, mortgages, and deeds of trust, and other agreements relating to property and facilities under its jurisdiction, and the construction, operation, maintenance, repair, and improvement thereof, as in the judgment of said Board of Commissioners may be necessary, proper, or advisable for the furtherance of the purpose of this act, and the full exercise of the powers herein granted; and to carry out and perform the covenants, terms, and conditions of all such contracts or instruments.

(f) To establish schedules of tolls, fees, rates, charges, and rentals for the use of the facilities under its jurisdiction, and for services which it may render.

(g) To enter upon any lands, waters, and premises for the purpose of making surveys, soundings, and examination in connection with the acquisition, improvement, operation, or maintenance of any of the facilities herein provided for.

(h) To promulgate and enforce such rules and regulations as the said Board of Commissioners may deem proper for the orderly administration of the Port Authority and the efficient operation of its facilities.

(i) To do all acts and things necessary, or deemed necessary or convenient to carry out the powers expressly given in this act.

SECTION 5. That, except as otherwise expressly provided in this act, the Port Authority Commissioners shall have full and exclusive control of and responsibility for the administration of facilities constructed or acquired pursuant to this act; provided, however, that said Authority may lease or license lands or facilities under its jurisdiction for operation by private persons or corporations, as provided in Section 4(e) of this act.

SECTION 6. That the Port Authority is hereby authorized and empowered to condemn in the name of the Ashland City Port Authority, any land, easements, or rights-of-ways in Cheatham County that, in the opinion of the Board of Commissioners, are necessary or convenient to carry out the purposes of this act. Title to property so condemned shall be taken by and in the name of the Ashland City Port Authority, and the property shall thereafter be entrusted to said Authority, to accomplish the purposes of this act. Such condemnation proceedings shall be pursuant to and in accordance with Sections 23-1401 through 23-1525, inclusive of the Tennessee Code Annotated, or as the same may be hereafter enacted; provided, however, that where title to any property sought to be condemned is defective, it shall be passed by the judgment or decree of the court; provided, further, that where condemnation proceedings become necessary, the court in which any such proceedings are filed shall, upon application by the Port Authority taking such property, and upon 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 a writ of possession shall issue immediately, or as soon and upon such a writ of possession shall issue immediately, or as soon and upon such terms as the court, in its discretion, may deem proper and just.

SECTION 7. That bonds issued pursuant to this act, and income therefrom, shall be exempt from all state, county, municipal taxation, except inheritance, transfer, and estate taxes. So long as title to land or rights therein acquired, or facilities constructed or acquired pursuant to this act, remains in the County of Cheatham, Tennessee, such property, and income therefrom, shall be exempt from all state, county, and municipal taxation, provided, however, that such exemption shall not extend to the leasehold or other interest in such property which may be held by any private person or private corporation.

SECTION 8. That Cheatham County, The Ashland City Port Authority, and the Board of Commissioners shall not be required to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission, or other like instrumentality of the State of Tennessee, or any political subdivision thereof, in order to acquire, construct, purchase, operate, or maintain any of the facilities authorized by this act.

SECTION 9. That neither the Tennessee Public Service Commission nor any other board or commission of like character hereafter created shall have jurisdiction over the Port Authority with respect to the management and control of the facilities authorized by this act, including the establishment of rates, fees, and charges or otherwise.

SECTION 10. That the Board of Commissioners of the Port Authority shall consist of five members. Two of the initial members of the Board of Commissioners of the Port Authority shall be appointed by the Judge of the County Court and approved by a majority vote of the members of the County Court of Cheatham County. An additional two members of the initial Board of Commissioners shall be appointed by the Mayor of Ashland City and approved by a majority vote of the Town of Ashland City, Board of Aldermen. These initial four members shall meet within thirty days of their appointment and shall choose a fifth member of the initial Board of Commissioners by a majority vote. The terms of office shall be as follows:

(a) Two members, one appointed by the County Court and the other appointed by the Mayor and Board of Aldermen shall serve a term to expire one year from the date of their appointment.

(b) Two members, one appointed by the County Court and the other appointed by the Mayor and Board of Aldermen shall serve a term to expire two years from the date of their appointment.

(c) The member selected by the initial four appointed members of the Board of Commissioners shall serve a term to expire three years from the date of his appointment.

The successors in office, for each of the respective five initial members of the Board of Commissioners of

the Port Authority whose full terms of office have expired shall be appointed in the same manner as described above, but for regular terms of office of three years each thereafter.

In the event of failure to elect a successor to any member of said board the member and Commissioner whose term has expired shall continue to serve until his successor has been duly elected as herein provided.

In the event of the death or resignation of a member and commissioner, or his inability to serve, prior to the expiration of his term, his successor shall be elected for the unexpired term by the remaining members of the Board of Commissioners within thirty days of the event.

Any person at least twenty-five years of age who has resided within the boundaries of the county, for a period of at least one year immediately preceding his election, shall be eligible to serve as a member of the Board of Commissioners of The Port Authority, except the members of the County Court of Cheatham County and elected officials of the Town of Ashland City shall not be eligible to serve as members of said Board of Commissioners. Any commissioner who ceases to regularly reside within the boundaries of the county shall automatically become ineligible to serve in said office. All Commissioners shall be eligible for reelection, provided they are qualified as herein required.

Before entering upon their duties, all commissioners shall take and subscribe to an oath of office, as provided by the constitution and law for county officers, copies of said oath of each commissioner shall be filed with the clerk of the County Court of Cheatham County.

A majority of the commissioners shall constitute a quorum and the commissioners shall set by vote of a majority present at any meeting attended by a quorum, and vacancies among the commissioners shall not affect their power and authority, so long as quorum remains. Within thirty days after their election as herein provided, the commissioners shall hold a meeting to elect a chairman. The commissioners shall hold regular meetings at least once every four months, and at such regular time and place as the commissioners may, by resolution, determine, and may hold such additional meetings, either regular or special, as may be determined by the Board of Commissioners.

Special meetings may be called and held upon such notice and in such manner as the Board of Commissioners may, by resolution, determine. Save as otherwise expressly provided, the Board of Commissioners shall establish their own rules of procedure.

The Commissioners shall designate a Secretary and Treasurer, or the same individual as Secretary and Treasurer, and such Secretary and/or Treasurer may or may not be a Commissioner or Commissioners. The Secretary shall attend all regular and special meetings and keep minutes thereof. The minutes of said meetings shall be available for inspection by the public at the office of the Authority, at all reasonable times.

The Board of Commissioners, by resolution shall require the Treasurer or Secretary-Treasurer, if he is one and the same person, to execute a bond with approved corporate surety, for the faithful performance of his duties and the accounting of all monies and revenues that may come into his hands, as such, in such penalty as the Board shall specify, by resolution. Said bond shall be filed with the Secretary of the State of Tennessee.

The Board of Commissioners, by resolution may require all other subordinate officers, or employees, to execute such fidelity bonds for the faithful performance of their duties and the accounting of funds that may come to their hands, in such an amount, with such conditions and such sureties, as the Board of Commissioners may determine.

All members of the Board of Commissioners shall serve as such without compensation, except such per diem allowance, if any, as may be appropriated by the County Court of Cheatham County and the Town of Ashland City, but they shall be allowed necessary traveling and other expenses while engaged in the business of the Authority, as may be provided and approved by the Board, payable from the funds of the Authority, or such funds as may be appropriated by the County Court of Cheatham County and/or for the Town of Ashland City.

SECTION 11. That, except as otherwise herein provided, the Port Authority Commissioners shall be removable only for good cause, and after preferment of charges, as provided by law for county officers.

SECTION 12. That the Port Authority Commissioners shall be authorized to employ and fix the compensation of such architects, attorneys, engineers, superintendents, consultants, professional advisors and other subordinate officers and employees, as may be necessary for the efficient management and operation of The Port Authority, and the operation of the facilities provided for in this act, and who shall continue in the employment of the Authority, at the will and pleasure of the Board of Commissioners.

SECTION 13. That the County Court of Cheatham County and/or the Town of Ashland City are authorized to appropriate to the Port Authority from their general funds, or such other funds as may be

unappropriated, to pay the expenses of the Port Authority Board of Commissioners, or expenses or operation of any of the facilities authorized by this act, and said County Court and/or Town of Ashland City are authorized and empowered to levy a tax, in addition to all other taxes, upon all taxable property within each said county, sufficient to pay the appropriation made by it to the Port Authority.

SECTION 14. That all monies derived from the issuance of bonds hereunder, together with any federal or other grant or loan made, for the purposes of this act, shall be paid to the Treasurer of the Port Authority. The Treasurer shall deposit such monies, together with all the receipts from the Authority operations, in a separate bank account or accounts separate from all other county funds, and shall keep adequate records of all such receipts and other sources. The Treasurer shall pay out such monies only on vouchers signed by such Authority officials as the Port Authority Commissioners shall, by resolution, designate to sign such vouchers. No such vouchers for the payment of any such monies shall be issued except upon the resolution or order of the said Commissioners, a certified copy of which shall be filed in the Office of the Treasurer.

SECTION 15. That the revenues derived from the operation of the port, storage and transfer facilities, and any and all other facilities herein authorized, and the proceeds derived from the sale, transfer, lease or other disposition of any land or other facilities, shall be applied and used as follows:

- (1) The payment of all operating expenses of the Port Authority, except that the proceeds derived from the sale, transfer, or other disposition of any land or other facilities shall not be used for this purpose.
- (2) The establishment of necessary reserves for contingencies, depreciation, maintenance, replacement of said port, storage, transfer facilities and any and all other facilities, or other purposes as may be required under any bond indenture or as the Port Authority Commissioners may deem necessary or desirable.
- (3) Any revenue or proceeds remaining after all the above items have been provided for shall be held and used for the further development of and for additions to the Authority facilities, and for the acquisition or construction of new facilities, which may become necessary or desirable to further the purposes of this act. None of such revenue shall go into the general funds of the said county, except as may be directed by the Port Authority Commissioners.

SECTION 16. That except as otherwise herein expressly provided, all contracts of the Port Authority shall be entered into and executed in such manner as may be prescribed by the Board of Commissioners, but no contract or acquisition by purchase, of equipment, apparatus, materials or supplies, involving more than five hundred dollars (\$500.00), or for construction, installation, repair or improvement of the property or facilities, under the jurisdiction of the Board of Commissioners, involving more than one thousand dollars (\$1,000.00) shall be made except after said contract has been advertised for bids, provided that advertisement shall not be required when:

- (1) An emergency arises and requires immediate delivery of the supplies or performance of the service; or
- (2) Repair parts, accessories, supplemental equipment or services or required supplies, or services previously furnished or contracted for, in which case such purchase of supplies or procurement of services shall be made in the open market in the manner common among businessmen.

Provided, further, that in comparing bids and in making awards, the Commissioners may consider such features as quality and adaptability of supplies or services, the bidders' financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance service, the time of delivery, or performance offered, and whether the bidder has complied with the specifications.

Provided, further, that in the employment of architects, engineers and attorneys, or other professional advisors for personal service, no advertisement of bids shall be required, but the Board of Commissioners may employ or select such architects, engineers, attorneys or professional consultants and advisors, as in the judgment of the Commissioners best meet the qualifications for rendering such services.

Provided, further, that after advertisement for bids, as provided in this section, if no acceptable bid is received, the Port Authority Commissioners may reject any and all bids, or the Board of Commissioners may negotiate with contractors or suppliers to secure the construction of facilities, or the purchase of equipment, apparatus, materials or supplies at the best possible price, or the Board of Commissioners may construct such facilities, by "Force Account Construction", that is, the Board of Commissioners may employ the necessary engineers, supervisors and other personnel, purchase necessary materials, equipment and supplies, to construct such facilities authorized by this act with its own employees.

SECTION 17. That the Port Authority may use any property, right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of the facilities herein authorized, held by the State of Tennessee or any county or municipality in the State of Tennessee, or the Federal government, provided such governmental agency

shall consent to such use.

SECTION 18. That the Port Authority Commissioners may sell, transfer, lease, or otherwise dispose of any or all of the personal property in the custody and control of the Port Authority. The Commissioners may also as the agent of the County of Cheatham and/or the Town of Ashland City sell, transfer, lease, or otherwise dispose of any real property in the custody and control of the Port Authority.

SECTION 19. That the powers, authority and rights conferred by this act shall be in addition and supplemental to, and the limitations imposed by this act shall not affect the powers conferred by any other general, special, or local law.

SECTION 20. That if any clause, sentence, paragraph, section or any part of this act shall be held or declared to be unconstitutional or void, it shall not affect the remaining part or parts of this act, it being hereby declared to be the legislative intent to have passed the remainder of this act, notwithstanding the part held to be invalid, if any.

SECTION 21. That this act is remedial in nature, and shall be liberally construed to effect its purposes of promoting navigation on the Cumberland River and its tributaries, the navigable Channel of the Cheatham Dam Reservoir, facilitating the movement and transfer of goods and merchandise to, from, and through the County of Cheatham, encouraging utilization of the natural and recreational resources therein, and promoting the growth and development of commerce and industry in said county.

SECTION 22. That this act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Cheatham County and by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the Town of Ashland City. Its approval or nonapproval shall be proclaimed and countersigned by the Clerk of the Quarterly County Court of Cheatham County and the Recorder for the Town of Ashland City, and shall be duly certified by them to the Secretary of State of the State of Tennessee.

SECTION 23. That for the purpose of approving or rejecting this act as provided in Section 22, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall be effective upon being approved as provided in Section 22.

Passed: April 27, 1977.

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