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Upper Harpeth Regional Water Authority

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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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Table of Contents

Upper Harpeth Regional Water Authority	3
Public Acts of 1987 Chapter 168	3

Upper Harpeth Regional Water Authority

Public Acts of 1987 Chapter 168

COMPILER'S NOTE: The following act is a public act of special application and is not codified in Tennessee Code Annotated.

SECTION 1. A water and wastewater treatment authority, to be known and designated as the Upper Harpeth Regional Water Authority, is hereby created and established for and in behalf of the citizens of Williamson County, Tennessee.

SECTION 2. It is hereby declared that the Upper Harpeth Regional Water Authority created pursuant to this act shall be public and a governmental body; and that the planning, acquisition, operating and financing of water or waste-water treatment facilities by said authority is hereby declared to be a public and governmental purpose and a matter of public necessity.

The property and revenues of the authority or any interest therein shall be exempt from all state, county and municipal taxation.

SECTION 3. The following words or terms whenever used or referred to in this chapter shall have the following respective meanings unless different meanings clearly appear from the context:

- (1) "Authority" shall mean the Upper Harpeth Regional Water Authority created pursuant to the provisions of this Act.
- (2) "Creating governmental entity" shall mean the city of Franklin, Tennessee, a municipal corporation.
- (3) "Participating governmental entity" shall mean any rural water utility district, or municipality, or county, which, pursuant to a resolution of its governing body, shall have joined the authority or shall have sold, leased, dedicated, donated or otherwise conveyed its water treatment works, or any portion thereof, to the authority for operation by the authority in order to make such treatment works an operational part of its treatment works.
- (4) "Treatment works" shall mean any devices and systems used in the treatment and distribution of water or wastewater, including transmission lines, storage facilities, pumping, power, and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof.
- (5) "Governing body" shall mean the chief legislative body of any creating or participating governmental entity.
- (6) "Board" shall mean the board of commissioners of the authority.
- (7) "Executive officer" shall mean the mayor, county executive or other chief executive officer of the creating or a participating governmental entity.
- (8) "Bonds" shall include notes, interim certificates, or other obligations of an authority.
- (9) "Jurisdiction" shall include, collectively, all areas of jurisdiction encompassed by the creating governmental entity and each participating governmental entity.

SECTION 4. The governing body of the creating governmental entity shall adopt, and its executive officer shall approve, the resolution calling a public hearing on the question of creating a water and wastewater treatment authority. Notice of the date, hour, place and purpose of such hearing shall be published at least once each week for two (2) consecutive weeks in a newspaper of general circulation in Williamson County, the last such publication to be at least one (1) week prior to the date set for the hearing. The hearing shall be had before the governing body and all interested persons shall have an opportunity to be heard. After the hearing, if the governing body shall determine that the public convenience and necessity require the creation of a water and wastewater treatment authority it shall adopt, and its executive officer shall approve, a resolution or an ordinance so declaring and creating an authority, which resolution or ordinance shall also designate the name and principal office address of the authority. A certified copy of the resolution or ordinance shall be filed with the Secretary of State of the state of Tennessee, along with the resolution approving the appointment of the board of commissioners as provided for in Section 68-13-605 and upon such adoption and filing the authority shall constitute a body politic and corporate, with all the powers hereinafter provided.

The creating governmental entity and any participating governmental entity may enter into an agreement with the authority for the orderly transfer to the authority of any treatment works properties necessary for the functioning of the authority. The agreement may include provisions for the reimbursement of any such governmental entity for its obligations issued for treatment works. Nothing in this act shall be construed to require any transfer of function or service area by the creating entity or any participating entity to the authority.

SECTION 5. The governing body shall be a board of commissioners. Upon the passage of this act the chief executive officer of each participating governmental entity shall appoint one (1) person to be an initial member of the board. Each participating governmental entity, as it joins the authority, shall have one (1) commissioner to be appointed by the legislative body of the participating entity he/she shall represent. The terms of each commissioner shall be for two (2) years from the date of appointment. The commissioners serve at the will of the participating governmental entity and may be removed prior to the expiration of his/her term by a two-thirds (2/3) vote of the governing body of the governmental entity which approved his/her appointment. Any vacancy by reason of nonresidence, incapacity, resignation, death, or otherwise, shall be filled for the unexpired term in a manner identical to the method of selection of the original commissioner. A commissioner's term shall continue until the appointment and qualification of his/her successor.

The board shall elect from among its members a chair and vice chair, each of whom shall continue to be voting members, and shall adopt its own by-laws and rules of procedure. The presence of a majority of the commissioners shall constitute a quorum for the transaction of business. Except as herein expressly otherwise specified, all powers granted to the authority shall be exercised by the board. Each member of the board shall be entitled to an equal vote on all matters.

SECTION 6. The board shall be vested with full, absolute and complete authority and responsibility for the operation, management, conduct and control of the business and affairs of the authority herein created; such operation, management, conduct and control, however, shall not be inconsistent with existing contractual obligations of any participating governmental entity. Said authority and responsibility shall include, but shall not be limited to, the establishment, promulgation and enforcement of the rules, regulations or policy of the authority, the upkeep and maintenance of all property, the administration of the financial affairs of the authority, and the employment, compensation, discharge and supervision of all personnel.

SECTION 7. The board may appoint an executive director, who shall be the chief executive and administrative officer of the authority, and may enter into a contract with him establishing his salary, term of office, and duties. The executive director may appoint, and the board shall confirm, additional officers, employees, or independent contractors as they are needed.

The executive director may prepare annually the operating budget of the authority and submit the same to the board for approval at least sixty (60) days prior to the beginning of the fiscal year. If such budget shall not have been acted upon by the board on the first day of the fiscal year, it shall then automatically go into effect.

The executive director shall also submit such periodic reports to the board as it may direct.

The executive director shall attend all meetings of the board.

SECTION 8. The authority shall have all powers necessary to accomplish the purpose of this part (excluding the power to levy and collect taxes) including, but not limited to, the following:

- (1) To have perpetual succession, to use and to sue, and to adopt a corporate seal;
- (2) To plan for and implement the treatment or distribution of water and the collection and treatment of wastewater in Williamson County and to plan, establish, acquire, construct, improve and operate one (1) or more treatment works within or without the creating and participating governmental entities and within this state and with any adjoining state for the distribution or treatment of water and/or the collection and treatment of wastewater;
- (3) To acquire real or personal property or any interest therein by gift, lease, or purchase, for any of the purposes herein provided; and to sell, lease, or otherwise dispose of any such property;
- (4) To enter into agreements with the creating governmental entity or with participating governmental entities, to acquire by lease, gift, purchase, or otherwise, any treatment works, or property related thereto, of such governmental entity and to operate such treatment works as a part of its treatment works; or to enter into agreements with participating governmental entities providing for the operation by the authority of the treatment works, or any portion thereof, owned by a participating governmental entity for the purposes set forth herein;
- (5) To enter into, by contract with the creating governmental entity or otherwise, a plan for pension, disability, hospitalization and death benefits for the officers and employees of the authority;
- (6) To make application directly to the proper federal, state, county and municipal officials and agencies, or to any other source, public or private, for loans, grants, guarantees or other financial assistance in aid of treatment works operated by it and to accept the same;
- (7) To make studies and recommend to the appropriate commissions and legislative body of the creating and participating governmental entities, zoning changes in the area of any treatment works operated by the authority;

(8) To have control of its treatment works with the right and duty to establish and charge fees, rates and other charges, as set out herein, and to collect revenues therefrom, not inconsistent with the rights of the holders of its bonds;

(9) To appoint an executive director, and to confirm or reject the executive director's appointments of a secretary, a treasurer, an auditor, legal counsel, chief engineer, or other employees or independent contractors as they may be necessary; to prescribe their duties and qualifications; and to fix their compensation;

(10) To use in the performance of its functions the officers, agents, employees, services, property, facilities, records, equipment, rights and powers of the creating governmental entity or any participating governmental entity, and subject to such terms and conditions as may be agreed upon;

(11) To enter such lands, waters and premises as in the judgment of the authority may be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this chapter, the authority to be liable for actual damage done; and

(12) To designate an independent certified public accountant firm to do an annual audit of all books, accounts and records of the authority and issue a public report thereon.

SECTION 9. Any extension, relocation, improvement or modification of the authority's water or wastewater treatment plants or distribution facilities shall be referred by the authority to the planning commission having jurisdiction over the area within which the extension, relocation, improvement, or modification shall be constructed or extended, but the authority shall not be bound by the vote of any such planning commission, nor by the comments or recommendations of the planning commission.

SECTION 10. The authority shall have power to condemn either the fee or such right, title, interest, or easement in any property as the board may deem necessary for any of the purposes mentioned in this part, 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 or persons having the power to eminent domain, or otherwise held or used for public purposes; provided, however, such prior public use will not be interfered with by this use. Such power of condemnation may be exercised in the mode or method of procedure prescribed by any other applicable statutory provision now in force or thereafter enacted for the exercise of the power of eminent domain.

SECTION 11. (a) The authority shall have power to issue negotiable bonds from time to time in order to accomplish any of the purposes authorized by this part, and it shall also have power to issue bonds in the same manner and under the same provisions as municipalities or metropolitan governments or counties are empowered to issue bonds under the laws of this state, for the purposes authorized by this part. All such bonds shall be payable from all or any part of the revenues, income and charges of the authority and such bonds may also constitute an obligation of one or more of the creating and participating governmental entities.

(b) Such bonds shall be authorized by resolution of the board and shall bear such date, mature at such time or times, bear interest at such rate or rates payable annually or semiannually, be in such form and denominations, be subject to such terms of redemption with or without premium, carry such registration privileges, be payable in such medium and at such place or places, be executed in such manner, all as may be provided in the resolution authorizing the bonds. Such bonds may be sold at public or private sale in such manner and for such amount as the board may determine.

(c) Such resolution may include any covenants which are deemed necessary by the board to make such bonds secure and marketable, including, but not limited to, covenants regarding:

- (1) The application of the bond proceeds;
- (2) The pledging, application and securing of the revenues of the authority;
- (3) The creation and maintenance of reserves;
- (4) The investment of funds;
- (5) The issuance of additional bonds;
- (6) The maintenance of minimum fees, charges and rental;
- (7) The operation and maintenance of its treatment works;
- (8) Insurance and insurance proceeds;
- (9) Accounts and audits;
- (10) The sale of treatment works properties;
- (11) Remedies of bondholders;
- (12) The vesting in a trustee or trustees such powers and rights as may be necessary to secure the bonds and the revenues and funds from which they are payable;
- (13) The terms and conditions upon which bondholders may exercise their rights and remedies;
- (14) The placement of lost, destroyed or mutilated bonds;
- (15) The definition, consequences and remedies of an event of default;

- (16) The amendment of such resolution; and
- (17) The appointment of a receiver in the event of a default.

(d) Any holder of any such bonds, including any trustee for any bondholders, may enforce his or their rights against the authority, its board or any officer, agent or employee thereof by mandamus, injunction or other action in any court of competent jurisdiction, subject to the covenants included in the bond resolution.

(e) Sums received as accrued interest from the sale of any bonds may be applied to the payment of interest on such bonds. All sums received as principal or premium from such sale shall be applied to the purpose for which such bonds were issued, and may include, but without limitation, expenses for fiscal, legal, engineering and architectural services, expenses for the authorization, sale and issuance of the bonds, expenses for obtaining an economic feasibility survey in connection with such bonds, and to create a reserve for the payment of not exceeding one (1) year's interest on such bonds.

(f) Bonds issued pursuant to this part executed by officers in office on the date of such execution shall be valid obligations of the authority notwithstanding that before the delivery thereof any or all of the persons executing the same shall have ceased to be such officers.

(g) Bonds issued pursuant to this part, and the income therefrom, shall be exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes.

(h) All public officers and bodies of the state, municipal corporations, political subdivisions, all insurance companies and associates, all executors, administrators, guardians, trustees, and all other fiduciaries in the state may legally invest funds within their control in bonds of an authority.

(i) Any bonds issued for the purpose of financing the cost of the establishment, construction, installation, acquisition, extension or improvement of any treatment works, as defined by Section 3, which are to be the joint obligations of the authority and any creating governmental entity, or participating governmental entity, shall be authorized and issued by such governmental entity in the form and manner prescribed by the applicable provision of Chapter 11 of Title 5 and Chapter 36 of Title 7, and the construction, installation, acquisition, extension or improvement of any treatment works shall be deemed to be a public works project, as such term is defined in Chapter 11 of Title 5 and Chapter 36 of Title 7. To the extent any of the provisions of Chapter 11 of Title 5 and Chapter 36 of Title 7, relating to the terms and conditions of any bonds so issued, conflict with the provisions of this section, the provisions of the former shall prevail.

(j) Any bonds upon which any creating governmental entity, or participating governmental entity as provided in the chapters cited herein.

SECTION 12. (a) Notwithstanding any other provisions of the laws of this state or any of its political subdivisions, any authority which has contracted for and accepted an offer or a grant of federal or state aid or both, for a particular project for which the authority may raise or expend money, may, upon resolution of its board, incur indebtedness in anticipation of the receipt of such aid for the particular project by issuing its general obligation notes payable in not more than one (1) year, which notes may be renewed from time to time by the issue of other notes, provided that no notes shall be issued or renewed in any amount which at the time of such issuance or renewal exceeds the unpaid amount of the federal or state aid or both in anticipation of which such notes are issued or renewed. To any extent that the federal or state aid in anticipation of which the notes were issued when received exceeds the amount of such aid remaining to be paid under contract or accepted offer, plus the amount of any outstanding notes, issued in anticipation thereof, it shall be kept in a separate account and used solely for the payment of such outstanding notes.

(b) The authority shall have power and is hereby authorized:

- (1) To sell bonds at private sale to any federal agency without any public advertisement;
- (2) To issue interim receipts, certificates or other temporary obligations, in such form and containing such terms, conditions and provisions as the authority issuing the same may determine, pending the preparation or execution of definite bonds for the purpose of financing of the construction of a public works project; and
- (3) To issue bond anticipation notes in anticipation of the sale of bonds which have been duly authorized, but all such bond anticipation notes, including any renewals thereof, shall finally mature not later than three (3) years from the date of the original notes. All such bond anticipation notes shall have the same security as the bonds in anticipation of which such notes are issued.

SECTION 13. The creating governmental entity and any participating governmental entity shall have all necessary powers in order to further the purposes of this part, including, without limitation, the following, any or all of which powers may be exercised by resolution of its governing body:

- (1) To advance, donate or lend money on real or personal property to the authority;
- (2) To provide that any funds on hand or to become available to it for treatment works purposes shall be paid directly to the authority;
- (3) To sell, lease, dedicate, donate or otherwise convey to the authority any of its interest in any

existing treatment works or other related property, or grant easements, licenses or other rights or privileges therein to the authority;

(4) To enter into agreements with the authority with regard to the transfer of its treatment works employees to the authority with the retention by such employees of any civil service status and accrued rights in pension, disability, hospitalization and death benefits; and

(5) To permit its rights, duties and powers under its charter or the laws of the state to be performed or exercised by the authority.

SECTION 14. Whenever the governing bodies of the creating governmental entity and the participating governmental entities shall each by resolution determine that the purposes for which the authority was created have been substantially accomplished, that all of the bonds and other obligations of the authority have been fully paid, and that such governmental entities have agreed on the distribution of the funds and other properties of the authority, then the executive officers of such governmental entities shall execute and file for record with the Secretary of State of Tennessee a joint certificate of dissolution reciting such facts and declaring the authority to be dissolved. Upon such filing the authority shall be dissolved, and title to all funds and other properties of the authority at the time of such dissolution shall vest in and be delivered to such governmental entities in accordance with the terms of their agreement relating thereto.

SECTION 15. The provision of this part shall be liberally construed to effect the purposes hereof, and insofar as the provisions of this part may be inconsistent with the provision of any other law, the provisions of this part shall be controlling.

SECTION 16. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 4.

Passed: April 9, 1987.

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