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Public Acts of 1973 Chapter 409

Dear Reader:

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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

Public Acts of 1973 Chapter 409	3
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Public Acts of 1973 Chapter 409

SECTION 1. There is hereby created the Chickasaw Basin Authority, as a public body corporate, politic, and perpetual, which is hereinafter referred to as the "Authority". The Authority is created to implement the project as presently planned and as may be modeled by future studies. The Authority shall not exercise any broad governmental controls or police powers to regulate land use planning, zoning, subdivision regulations, building codes, and similar powers to regulate land use.

SECTION 2. It is the intent of the General Assembly that the various counties and cities of the state who are members of the Chickasaw Basin Authority and within the designated area have the most effective and efficient means of organizing themselves on a regional basis for the purpose of general and comprehensive water resources planning and development activities to provide coordinated, efficient and orderly development of the surface water management plans and projects within the area as established by the Chickasaw Basin Authority programs and all approved amendments thereto. Such development shall include all recreational and conservation developments adjacent to any water management project. It is the intent that local governments through the Authority be guided and assisted in making maximum use of coordinated federal, state and local programs designated to stimulate the development of all water and land resources within the drainage area of the Wolf and Loosahatchie Rivers and Nonconnah and Horn Lake Creeks. It is the further intent of this act, that in order to insure the success of such regional planning and development the state may provide financial assistance to the Authority for such purposes as are approved by the General Assembly. The Chickasaw Basin Authority and the counties and municipalities within the designated area are authorized to request, develop, maintain and make available to the residents of such counties and municipalities the recreational and conservation areas adjacent to any approved project within the area of the Chickasaw Basin Authority.

SECTION 3. The organization of the Authority shall be as follows:

- (1) The Authority shall be governed by a board of directors.
- (2) Membership of the board of directors shall consist of:
 - (a) The presiding officer of the county legislative body or his authorized representative and one other member from the county legislative body in each County which is a member of the Authority. The terms of such members shall coincide with their terms of office; but such membership may, at the discretion of the respective county legislative body, be rotated annually.
 - (b) The chairman or his authorized representative and one member of the Council of the City of Memphis. The terms of such members shall coincide with their terms of office; but such membership may, at the discretion of the Council, be rotated annually.
 - (c) One member at large, to be appointed by the Governor to serve during the Governor's term of office.
 - (d) The Mayor of Shelby County, Tennessee, or his authorized representative.
 - (e) One member from each county soil conservation district board of supervisors from each county which is a member of the Authority, as established under Tennessee Code Annotated, Sections 43-1501 through 43-1523, as amended. The term of such member shall coincide with his term of office on the district board; but such membership may, at the discretion of the district board, be rotated annually.
 - (f) The Mayor, or his authorized representative, of each incorporated municipality within counties which are members of the Authority.
 - (g) No person shall be appointed to the board by any legislative body or the Governor who has an interest, either indirect ownership or through a trustee, in real property which is to be acquired by the Chickasaw Basin Authority. Any person not eligible for appointment due to the preceding prohibitions who accepts such appointment shall be subject to the penalties set forth in Tennessee Code Annotated Sections 12-401 and 12-402. Whenever public officials who are members of the board by virtue of office including: the presiding officer of the county legislative bodies in each county which is a member of the Authority, the chairman of the council of the city of Memphis, the mayor of Shelby County, Tennessee, and the mayor of each incorporated municipality within counties which are members of the Authority, are not eligible to serve as a member of the board due to the provisions of this subsection, the legislative body of the respective county or municipality shall elect an authorized representative to serve in place of said public officials.

(3) (a) Upon completion of its membership, the appointees shall meet and organize at Memphis, Tennessee, elect a chairman, vice-chairman, and secretary-treasurer, and set a regular time and place for meetings of the board. The officers of the board of directors shall be elected annually at the first meeting of each calendar year.

(b) Directors and ex-officio members shall serve without compensation, except reimbursements for actual traveling and other expenses incurred in the performance of their official duties subject to such funds as may be available to the Authority and with the approval of their respective elected legislative bodies. All reimbursements for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general. The Authority shall act only by vote or concurrence of majority of a quorum of its membership; and a quorum shall be not less than one-half (1/2) of the members of the Authority.

As amended by: Public Acts of 1976, Chapter 806
Public Acts of 1976, Chapter 847
Public Acts of 1980, Chapter 757

SECTION 4. The powers, duties and functions of the Authority shall be as follows:

- (1) to have perpetual succession in corporate name.
- (2) to sue and be sued in corporate name.
- (3) to adopt, use and alter a corporate seal, which shall be judicially noted.
- (4) to enter into contract and cooperative agreements with state, federal and local governments, with private individuals and cooperations, and with associations and organizations as the board may deem necessary or convenient to enable it to carry out the purposes of this act. This Authority shall include, without limitations, the power to contract and make cooperative arrangements with the adjoining state of Mississippi, including cities, counties, and other public agencies within that state, for planning, land purchase and acquisition, construction, operation and maintenance of all works related to water resources, development, conservations, and open space. It is the intent of this provision that the Authority have full powers to operate across state lines subject only to contractual agreements with private, governmental and public bodies and agencies.
- (5) to adopt, amend and repeal by-laws.
- (6) to appoint such managers, officers, employees, attorneys, and agents as the board deems necessary or convenient for the transaction of its business and to fix their compensation, define their duties, and require bonds of such of them as the board may determine.
- (7) to accept grants, funds, and other assistance from any governmental agencies, private agencies and individuals, and to spend these in behalf of the program.
- (8) to investigate and study all water and related land resources of the Chickasaw Basin for overall planning and development.
- (9) to adopt a comprehensive plan for development of the water, land and related land resources of the Chickasaw Basin area which will include, as a minimum, the identification of the projects, works and facilities needed to protect, enhance and accelerate the orderly growth, safety, welfare and development of the area. Such plan shall take into account the plans and proposals adopted by other local, state and federal agencies dealing with water and related land resources development, conservation, and control, and shall be compatible with plans of the Memphis-Delta Development District. Special consideration shall be given to projects and work related to the U. S. Corps of Engineers, the U. S. Soil [sic] Conservation Service, and the U. S. Department of Interior.
- (10) to execute contracts with existing agencies involved in regional planning and development for providing combined staffs and operating personnel, including the Mississippi- Arkansas-Tennessee Council of Governments, and a development district organized under Tennessee Code Annotated, Sections 13-1401 to 13-1411.
- (11) to prepare preliminary architectural and engineering plans for specific projects and works of the authority.
- (12) to prepare detailed architectural and engineering plans and specifications for specific projects and works related to water resources and related land development, flooding, navigation, harbors, conservation, water quality and open space.
- (13) to arrange and cooperate with any city, county, state or supplier of utilities for the abandonment, relocation, or other adjustment on the roads, highways, bridges and utility lines and

services.

(14) to acquire by purchase or by gift, all land or interest in land, including easements, rights-of-way, and leasehold interests and facilities within the area needed for construction of water control structures, channel improvements, and facilities for navigation, drainage, irrigation, water conservation and supply, recreation, fish and wildlife conservation and open space. The Authority may hold, mortgage or otherwise encumber, sell, lease, or sublease such land or interest in land or easements deemed to be in the public interest. During the time that title to such property is held in public ownership, it shall be exempt from all taxes levied by the state and all political subdivisions thereof, and all other property and activities of the Authority shall be similarly exempt. The authority may lease or rent privileges in or upon any property under its control upon such terms and conditions as it deems to be in the public interest.

(15) The power of eminent domain for Authority purposes shall be exercised by cities and counties within the area and within their discretion. The governing bodies of cities and counties are hereby authorized through the power of eminent domain to acquire all lands, or interests in land, and facilities within the area needed for construction of water control structures, channel improvements and facilities for navigation, drainage, irrigation, water conservation and supply, recreation, fish and wildlife conservation, and open space. All such interests in land shall be acquired by the cities and counties in their name for the use and benefit of the Authority. Interests in land may be acquired, including leasehold interests and such may be held, mortgaged, or otherwise encumbered, sold, leased, or subleased in behalf of Authority purposes. The power of eminent domain may be exercised by the governing bodies of such cities and counties under the provisions of Tennessee Code Annotated, Sections 23-1501 through 23-1541, and shall include the power to condemn land in fee simple and to condemn water rights easements, and any other interest in real estate for general public purposes. During the time that title to such property is held in public ownership, it shall be exempt from all taxes levied by the state and all political subdivisions thereof.

(16) to build construct, operate, manage, lease and maintain all works, facilities and programs needed for water controls, channel improvements, navigation, drainage irrigation, water conservation, water quality, water supply, recreation, fish and wildlife conservation and open space.

(17) to fund jointly with the State of Tennessee, the planning, acquisition of land and facilities, construction, operation, management and maintenance of all works, facilities, and programs needed by the Authority.

(18) to fix, levy and collect fees, rents, tolls or other charges for the use of or in connection with any works or programs that shall be administered by the Authority and with the provisions of any bond issue which may be issued under this act.

(19) to develop reservoirs and shoreline lands for recreational use; and to provide for their operation.

SECTION 5. The Authority shall have the powers with respect to finance as follows:

(1) The Authority shall be an entity for purposes of general state obligation bond financing. The Authority shall have the power to issue its bonds from time to time in consultation with the state of Tennessee. Any bond issue wherein the general obligation of the state of Tennessee is attached must first be approved by the General Assembly of the state, and provision made for amortization of both principal and interest for a period not to exceed forty (40) years. The Authority shall present to the General Assembly its needs with regard to specific bond issues together with evidence that the legislative bodies of the counties and municipalities have appropriated or issued bonds sufficient for matching purposes and its estimate of annual revenues to be received therefrom. Specific bond issues shall describe the purpose, land, works, or improvements to be accomplished and their location.

(2) The state of Tennessee is hereby authorized to match funds raised by such local governments for the purposes authorized under this act. The state is authorized to match funds raised by such local governments for Authority purposes either through issuance of bonds or on pay-as-you-go basis, or a combination of the two, with the local governments providing their share of the costs through local appropriations of such funds by their respective legislative bodies. Bonds shall be issued in the usual manner that state bonds are authorized and sold after the approval of such bond issue by the General Assembly. In scheduling improvements, the Authority shall make maximum use of federal grant funds from any federal program for which it is eligible.

(3) It is the legislative intent that this act authorizes the five million dollar (\$5,000,000.00) bond issue as approved by the 87th General Assembly and the Governor, for the purposes of the Chickasaw Basin Authority as created by this act. The Authority bond issue of the 87th General

Assembly as provided in Chapter 794 of the Public Acts of 1972 is hereby ratified and approved.

(4) The State of Tennessee is hereby authorized to match funds raised locally to provide for the operations of the Authority, including costs of administration, planning, engineering, program development and administration, land acquisition, equipment and other capital improvements and bond financing and amortization.

(5) Each city, town, or county within the area is hereby authorized and empowered to contribute to the work of the Authority any amount which each respective governing body, acting in its sole discretion, shall approve to be paid from the general fund of the respective city or county or shall issue its general obligation bonds for and on behalf of the Authority.

(6) By October 1 of each year, the Authority shall transmit to the Commissioner of Conservation of the State of Tennessee an estimated budget with a request for an amount to be included in the Governor's budget recommendations for the next fiscal year. Such budget shall include the estimated administrative, operation, and maintenance expenses and shall include appropriate justification for such requested appropriation. Such amount, or other amount as deemed appropriate by the Commissioner and approved by the Governor, shall be included in the budget request transmitted to the General Assembly. It is the intent of this act that the Authority shall be operated as a state agency subject to all fiscal requirements and procedures which apply to other state departments and agencies, and subject to joint local funding as stipulated in this act.

SECTION 6. The board of directors of the Authority shall report annually to the governing bodies of the various counties, cities, and towns in the area and to the state of Tennessee. Such reports shall include, but not be limited to, statements of financial receipts and expenditures, a summary of activities and accomplishments for the period, and proposed plans for the next year, and for five subsequent years

SECTION 7. Nothing in this act shall be construed as interfering with existing contracts or works of improvements currently underway by state and local governments, or with works of improvements that are undertaken independently from the Authority and the state, if such works are not in conflict with basin-wide plans for control of water, recreation and conservation.

SECTION 8. Any one county, individually, or in combination with one or more counties, may undertake works of improvements as provided for in this act with the Authority and the state, if such works are not in conflict with the basin-wide plans for control of water. A majority of the members of the board of directors representing such county wanting to act individually, together with the member-at-large, as provided for in Section 3 (2) (c), shall be sufficient to make all decisions and take action for the board with regard to works of improvements for such county.

SECTION 9. Upon the final acceptance from the contractor of any specific project on the Chickasaw Basin Plan, the governing body or bodies of the county or counties wherein the project is physically located may, at their option require the Authority to relinquish the control and operation of the project to the county provided that such county shall thereafter be fully responsible for the cost of maintenance and operation of such revenues as might be pledged to the payment of obligations theretofore incurred by the Authority.

SECTION 10. The Authority shall develop its programs and plans for implementation in close cooperation with the existing county soil conservation districts as established under Tennessee Code Annotated, Sections 43-1501 through 43-1523, and county conservation boards as established by Tennessee Code Annotated, Section 11-1101 through 11-1109, so that such districts and boards shall be joint-sponsors of individual projects or works of improvements as related to small watersheds in individual counties.

SECTION 11. The provisions of this act shall apply to Shelby and Tipton counties for the purpose of implementing the programs established herein; and any or all of these counties are hereby expressly authorized by the General Assembly to participate in the programs established. However, prior to participation in such programs the Quarterly County Courts of Shelby and Tipton counties shall express their desire to participate in the programs, by means of a resolution to that effect, passed by each or all of the respective local legislative bodies of the counties involved. The resolution shall be approved by a two-thirds ($\frac{2}{3}$) vote of such legislative bodies within one hundred twenty (120) days of the date this act becomes effective.

Any county to which this act applies which has elected or elects to participate in the programs authorized by the act may withdraw from participation therein by resolution to that effect adopted by a two-thirds ($\frac{2}{3}$) vote of the Quarterly County Court of such county. However, such withdrawal shall not relieve such county of any of then existing obligation on account of bonds or other evidence of indebtedness incurred by such county on account of its participation in the programs of the authority and such obligation shall continue until discharged by the county.

As amended by: Public Acts of 1976, Chapter 847

SECTION 12. All agencies of the state of Tennessee are hereby authorized and directed to extend their

cooperation and to lend assistance to the Authority in the formulation and implementation of a development program.

SECTION 13. This act shall be considered supplemental and additional to any and all other laws and confers sufficient authority in and of itself for the purposes set forth herein. This act shall be liberally construed to effectuate its purpose of facilitating the development of the resources of the Chickasaw Basin. All laws and parts of laws in conflict herewith are hereby repealed. Chapter 412 of the Public Acts of 1971, Chapter 566 of the Public Acts of 1972 and the amendments thereto are hereby repealed.

SECTION 14. If any clause, sentence, paragraph, section or any part of this act shall be held or declared to [sic] unconstitutional and 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 or parts, if any, held to be invalid.

SECTION 15. This act shall take effect on becoming a law, the public welfare requiring it.

As amended by: Public Acts of 1976, Chapter 847

Passed: May 2, 1973.

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