64-1-601. Creation — Purpose — Additional sponsoring and participating governmental entities.

(a) There is hereby created and established the Tennessee Duck River development agency, being a public body corporate and politic. For the purpose of this part it is referred to as the "agency" in this part.
(b) The agency is created for the purpose of developing and effectuating plans and programs for comprehensive development, including the control and development of the water resources of those portions of the Upper Duck River watershed lying in Coffee, Bedford, Hickman, Marshall and Maury counties, and integrating plans, programs and development activities with the overall economic development of the area described.
(c) [Deleted by 2024 amendment.]

64-1-602. Board of directors — Officers — Meetings — Expenses — Removal.

(a) The organization of the agency shall be as follows:
(1) The agency shall be governed by a board of directors consisting of the following:
(A) Twelve (12) directors appointed by the governor pursuant to subdivision (a)(2); and
(B) The members of the technical advisory committee.
(2)
(A) The governor shall appoint one (1) director from each county named in § 64-1-601(b). Each director shall be chosen from a list of three (3) candidates nominated by majority vote of the county legislative bodies of each county. Candidates shall include persons active in municipal, industrial, agricultural, commercial and citizen organizations, such as the Upper Duck River development association, and active in promoting comprehensive unified development of the resources and economic growth of the Upper Duck River watershed. The presiding officer of the governing body of each county shall certify such nominations to the governor. From the nominations, the governor shall appoint three (3) directors for terms of three (3) years and two (2) directors for terms of four (4) years. Successors shall be appointed for terms of six (6) years. Directors shall serve until their successors are appointed. If a vacancy occurs, the governor shall appoint a successor for the unexpired term;
(B) The governor shall designate a member of the governor's staff or cabinet to serve as a director during the governor's term of office;
(C) The governor shall designate county mayors from two (2) counties of the area to serve as directors for two-year terms;
(D) The governor shall designate mayors of two (2) incorporated cities or towns of the area to serve as directors for two-year terms; and
(E) The governor shall appoint two (2) additional directors for terms of four (4) years. The governor may choose from a list of six (6) at-large candidates nominated by the board of directors. There is no residency requirement for the two (2) additional directors other than to be citizens of the state; and
(3) The board of directors shall elect a chair, vice chair and secretary-treasurer and set a regular time and place for meetings of the board.
(b) Directors serve without compensation, except reimbursement for actual traveling expenses and other necessary expenses incurred in the performance of their official duties, such expenses to be reimbursed from such funds as may be available to the agency. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.
(c)
(1) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year is removed as a member of the board.
(2) The presiding officer of the board shall promptly notify, or cause to be notified, the appointing authority of the member who fails to satisfy the attendance requirement as prescribed in subdivision (c)(1).

History

Acts 1965, ch. 80, § 2; 1976, ch. 806, § 1(134); impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; T.C.A., § 66-1-602; Acts 1991, ch. 257, §§ 1, 2; 1996, ch. 626, §§ 4, 5; 2003, ch. 90, § 2; 2012, ch. 986, §§ 1-4.; 2020, ch. 665, § 3; 2024, ch. 927, § 3.

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64-1-603. Powers and duties.

(a) The powers, duties and functions of the agency are as follows:

(1) General:

(A) Perpetual succession in corporate name;

(B) Sue and be sued in corporate name;

(C) Adopt, use and alter a corporate seal, which shall be judicially noticed;

(D) Enter into such contracts and cooperative agreements with the federal, state and local governments, with agencies of such governments, with private individuals, corporations, associations and other organizations as the board may deem necessary or convenient to enable it to carry out the purposes of this part;

(E) Adopt, amend and repeal bylaws; and

(F) Appoint such managers, officers, employees, attorneys and agents as the board deems necessary for the transaction of its business, fix their compensation, define their duties and require bonds of such of them as the board may determine. The salaries of any such employees may be paid out of such funds as may be available to the agency from any source;

(2) Formulation and Execution of Development Plans: The agency is authorized to:

(A) Investigate the resources of the Upper Duck River area and determine the requirements for their full development and for control and development of the Upper Duck River stream system as an integral part of the economy of the area;

(B) Develop and carry out a unified comprehensive program of resource development for economic growth of the area. These plans shall be consistent with plans for statewide economic development;

(C) In making such investigations and in formulating development plans, seek and utilize the assistance of appropriate federal, state and local agencies and of private citizens and citizen organizations interested in the conservation and development of the resources of the area;

(D) Provide, develop and help as appropriate the needed and feasible cooperative arrangements for the construction of water control structures, channel improvements and facilities for navigation, drainage, irrigation, water conservation and supply, industrial development and recreation as a part of comprehensive plans and, in aid of such activities, to accept loans, grants or other assistance from federal, state and local governments or from agencies of such governments; and

(E) Arrange with any city, county, municipality or supplier of utilities for the abandonment, relocation or other adjustment of roads, highways, bridges and utility lines;

(3) Land Acquisition: Acquire by purchase, lease, gift or in any manner other than by condemnation property of any kind, real, personal or mixed, or any interest therein, that the board deems necessary or convenient to the exercise of its powers or functions; and

(4) Management and Operation:

(A) Enter into contracts with municipalities, corporations and other public agencies or political subdivisions of any kind or with others for the sale of water for municipal, domestic, agricultural or industrial use or of any other services, facilities or commodities that the agency may be in a position to supply;

(B) Develop reservoirs and shoreline lands for recreational and other uses as may be determined by the board of directors and provide for their operation for these purposes directly or by concessionaires, lessees or vendees of shoreline lands;

(C) Sell or lease shoreline lands acquired in connection with development of the Upper Duck River system for uses consistent with the agency's development plan and subject to such restrictions as the agency deems necessary for reservoir protection and to such requirements as to character of

improvements and activities and the time within which such improvements or activities shall be undertaken as the agency deems appropriate to its overall development plan;
(D) Acquire or operate shoreline lands of reservoirs owned by the United States as the agent of the federal agency having custody and control thereof under appropriate agreements with such agencies;
(E) Acquire, construct or operate other facilities or works for improvement as are necessary to effectuate plans for comprehensive development of the area; and
(F) In addition to the investment of funds authorized by any other general law, invest funds to the same extent as utility districts are authorized to invest idle funds pursuant to § 7-82-108(a); provided, that the criteria set out in § 64-1-604(g) shall continue to apply to investments of refunding bond proceeds.
(b) The agency shall not exercise any broad governmental controls or police powers to regulate land use, planning, zoning, subdivision regulations, building codes, or similar powers to regulate land use.

History

Acts 1965, ch. 80, § 3; T.C.A., § 66-1-603; Acts 1991, ch. 257, §§ 3, 4; 2006, ch. 516, § 1; 2006, ch. 863, § 5; 2020, ch. 665, §§ 4, 5.

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64-1-604. Issuance of bonds, notes and other obligations.

(a)
(1) The agency is authorized and empowered to issue its bonds, notes or other obligations from time to time in an amount not to exceed a total of eight hundred million dollars ($800,000,000) for the purpose of paying in whole or in part the cost of acquiring necessary lands and interests in the land and of constructing and acquiring constructed facilities and improvements necessary in the development of the total economic resources of the Duck River watershed and the expenses incidental thereto. Prior to the adoption of any resolution of the board authorizing the sale of bonds, notes or other obligations or entering into any contract or other arrangement in the planning or preparation for the sale of bonds, notes or other obligations, the agency shall review such plans with the comptroller of the treasury or the comptroller's designee. The state funding board established by § 9-9-101 is authorized to contract or to make other arrangements as it may deem necessary to provide for the issuance of such bonds, notes or other obligations of the agency or, in the state funding board's discretion, the agency may enter into such contracts or other arrangements. Any contract or arrangement entered into for the purpose of the issuance of any bonds, notes or other obligations shall be subject to the approval of the state funding board.
(2) Any resolution of the board authorizing the sale of bonds, notes or other obligations shall be submitted to the state funding board, and such resolution shall only become effective upon receiving the approval of the state funding board. The state funding board, upon rejecting any resolution of the board authorizing the issuance of bonds, notes or other obligations, shall state in writing the reasons for this action.
(b)
(1) Except as otherwise expressly provided in this section, all bonds, including notes or other obligations of the agency, issued by the agency are payable solely out of the revenues and receipts derived from the agency's projects or of any revenues of the agency as may be designated in the proceedings of the board under which the bonds are authorized to be issued; provided, that notes issued in anticipation of the issuance of bonds may be retired out of the proceeds of such bonds. Such bonds may be executed and delivered by the agency at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest, or both, may be payable in such installments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places

whether within or without Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, may be executed by such officers of the agency and may contain such provisions not inconsistent with this section, all as shall be provided in the proceedings of the board whereunder the bonds shall be authorized to be issued.

(2) If deemed advisable by the board, there may be retained in the proceedings under which any bonds of the agency are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds; but nothing contained in this section shall be construed to confer on the agency any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued.

(3) Any bonds of the agency may be sold at public or private sale in such manner, at such price and from time to time as may be determined by the board to be most advantageous, and the agency may pay all expenses, premiums and commissions that its board may deem necessary or advantageous in connection with the issuance thereof. Issuance by the board of one (1) or more series of bonds for one (1) or more purposes shall not preclude it from issuing other bonds in connection with the same project or any other project, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds.

(4) Proceeds of bonds issued by the agency may be used for the purpose of:

(A) Constructing, acquiring, reconstructing, improving, equipping, furnishing, bettering or extending any project or projects, including the payment of interest on the bonds during construction of any such project, and for two (2) years after the estimated date of completion;

(B) Payment of engineering, fiscal, architectural and legal expenses incurred in connection with such project and the issuance of the bonds; and

(C) The establishment of a reasonable reserve fund for the payment of principal of and interest on such bonds in the event of a deficiency in the revenues and receipts available for such payment.

(c) Subject to the approvals required in subsection (a), any bonds or notes of the agency at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding the sum of the following:

(1) The principal amount of the obligations being refinanced;

(2) Applicable redemption premiums thereon;

(3) Unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds;

(4) In the event the proceeds from the sale of the refunding bonds are to be deposited in trust as provided in this section, interest to accrue on such obligations from the date of delivery to the first or any subsequent available redemption date or dates selected, in its discretion, by the board or to the date or dates of maturity, whichever shall be determined by the board to be most advantageous or necessary to the agency;

(5) A reasonable reserve for the payment of principal of and interest on such bonds and/or a renewal and replacement reserve;

(6) If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charges on the refunding bonds during the construction of such project and for two (2) years after the estimated date of completion, but only to the extent that interest charges have not been capitalized from the proceeds of the obligations being refinanced; and

(7) Expenses, premiums and commissions of the agency, including bonds discount, deemed by the board to be necessary for the issuance of the refunding bonds. A determination by the board that any refinancing is advantageous or necessary to the agency, or that any of the amounts provided in this subdivision (c)(7) should be included in such refinancing or that any of the obligations to be refinanced should be called for redemption on the first or any subsequent available redemption date permitted to remain outstanding until their respective dates of maturity shall be conclusive.

(d) Any such refunding may be effected whether the obligations to be refunded have then matured or thereafter mature, either by the exchange or the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds, and the application of the proceeds thereof to the payment of the obligations to be refunded thereby, and regardless of whether or not the obligations proposed to be refunded are payable on the same date or different dates or are due serially or otherwise.

(e) Prior to the issuance of the refunding bonds, the board shall cause notice of its intention to issue the refunding bonds, identifying the obligations proposed to be refunded and setting forth the estimated date of delivery of the refunding bonds, to be given to the holders of the outstanding obligations by mail to each registered holder and, if the outstanding bonds or coupons are not registered securities, by publication of an appropriate notice one (1) time each in a newspaper having general circulation in the area of the project and in a financial newspaper published in New York, New York, having national circulation. As soon as practicable after the delivery of the refunding bonds and whether or not any of the obligations to be refunded are to be called for redemption, the board shall cause notice of the issuance of the refunding bonds to be given in the manner provided in this subsection (e).

(f) If any of the obligations to be refunded are to be called for redemption, the board shall cause notice of redemption to be given in the manner required by the proceedings authorizing such outstanding obligations.

(g) The principal proceeds from the sale of any refunding bonds shall be applied only as follows:

(1) To the immediate payment and retirement of the obligations being refunded; or

(2) To the extent not required for the immediate payment of the obligations being refunded, then such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded; but provision may be made for the pledging and disposition of any surplus, including, without limitation, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of the United States government, obligations the principal of and interest on which are guaranteed by the United States government or obligations of any agency or instrumentality of the United States government or in certificates of deposit issued by a bank or trust company located in this state, if such certificates are secured by a pledge of any of such obligations having any aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this subdivision (g)(2) shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and that are not presently redeemable, or, if presently redeemable, have not been called for redemption.

(h) All such bonds, refunding bonds and the interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments.

(i) The principal of and interest on any bonds issued by the agency may be secured by a pledge of the revenues and receipts out of which the same shall be made payable and may be secured by a mortgage or deed of trust covering all or any part of the projects from which the revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made, and/or by an assignment and pledge of all or any part of the agency's interest in and rights under the leases, sale contracts or loan agreements relating to such projects, or any part thereof. The resolution under which the bonds are authorized to be issued and any such mortgage or deed of trust may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents or payments with respect to any projects or portions thereof covered by such resolution, mortgage or deed of trust, the creation and maintenance of special funds from such revenues and from the proceeds of such bonds and the rights and remedies available in the event of default, all as the board deems advisable and not in conflict with this subsection (i). Each pledge, agreement, mortgage and deed of trust made for the benefit or security of any of the bonds of the agency shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made have been fully paid. In the event of default in such payment or in any agreements of the agency made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any mortgage and deed of trust executed as security for the bond, such payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity or by foreclosure of any such mortgage and deed of trust, or any one (1) or more of the above remedies.

History

Acts 1965, ch. 80, § 4; T.C.A., § 66-1-604; Acts 1987, ch. 209, § 2; 1994, ch. 782, § 1; 2010, ch. 868, § 83.

64-1-605. Membership fees for water systems receiving water from the upper Duck River watershed — Setting and review of fees.

(a) The board of directors shall set a per thousand-gallon membership fee to charge water systems for finished water pumped to a water system from the upper Duck River watershed.
(b) The board of directors shall set the membership fee at a rate sufficient to fund only:
(1) The agency's operating costs; and
(2) The cost of regional water supply programs and projects approved by the technical advisory committee pursuant to § 64-1-608(d) and the board of directors.
(c) The board of directors shall review the membership fee at least once every five (5) years and when appropriate revise the fee to ensure sufficient funding for increased or new operating, program, or project costs.
(d) A water system shall pay to the agency the membership fee based on the finished water pumped to a water system coming from a water treatment plant that withdraws water from the upper Duck River watershed; provided, that the fee must not apply to water re-use from a wastewater treatment plant or recycled water from a water treatment plant.
(e) The board of directors shall designate the method of payment and payment schedule for the membership fee. The proceeds of membership fee payments must be deposited into the trust fund maintained pursuant to § 64-1-604(g)(2).

History

Acts 1965, ch. 80, § 5; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 66-1-605; Acts 1987, ch. 209, § 3; 1989, ch. 403, § 5; 2024, ch. 927, § 4.

64-1-606. Annual reports.

The board of directors of the agency shall report annually to the governor and shall likewise report annually to the governing bodies of the various counties, towns and incorporated municipalities of the area. Such reports shall include a statement of financial receipts and expenditures and a summary of all activities and accomplishments for the period and proposed plans for the next year.

History

Acts 1965, ch. 80, § 6; T.C.A., § 66-1-606.

64-1-607. Cooperation from state agencies.

All agencies of the state are hereby authorized and directed to extend their cooperation and lend assistance to the agency in the formulation and implementation of a development program.

History

Acts 1965, ch. 80, § 7; T.C.A., § 66-1-607.

64-1-608. Advisory board.

(a) There is established the Tennessee Duck River agency technical advisory committee. Members of the committee serve as members of the board of directors and as the technical advisory committee to the board.
(b) The technical advisory committee is composed of one (1) member from each water system, to be appointed by the governing body of the water system.
(c) For purposes of voting, the vote of each technical advisory committee member must be weighted based on the following formula:

Amount of finished water pumped to system

pursuant to § 64-1-605(d) by the water system

from the Upper Duck River watershed in the

previous fiscal year

Member's Eligible DRATAC Votes = 100 x

Total amount of finished water pumped to

system pursuant to § 64-1-605(d) by all water

systems from the Upper Duck River watershed

in the previous fiscal year

(d) Before an agency regional water supply program or project is approved, the program or project must receive sixty percent (60%) of the technical advisory committee's votes.
(e) A member of the technical advisory committee serves at the pleasure of the water system that appointed the member.

History

Acts 1965, ch. 80, § 8; T.C.A., § 66-1-608; Acts 2024, ch. 927, § 5.

64-1-609. Legislative findings — Alternative source analysis — Long-term plan for development of viable sources of water for watershed.

(a) The general assembly finds that:
(1) The Duck River is approximately two hundred sixty-nine (269) miles long, and is the longest river in Tennessee that is totally contained within the state;
(2) The watershed for the Duck River is one of the most biodiverse rivers in North America containing over one hundred fifty (150) species of fish, more species than the entire continent of Europe;
(3) Over two hundred thousand (200,000) Tennesseans rely on the Duck River for drinking water;
(4) The long-term viability of the Duck River may be impacted by increased utilization of its water for human consumption and agricultural purposes;
(5) A dependable source of water for human consumption and agricultural purposes is essential to the health, safety and welfare of the persons who live in the Duck River watershed, as well as the economic vitality of the region; and
(6) Increasing the use of the waters of the Duck River for human consumption and agricultural purposes may impact the health of the river and the ability of the river to support fish and aquatic life and to be a source of recreation for the citizens of the state.
(b) Consistent with the findings in subsection (a), the Duck River development agency is authorized and directed to undertake an alternative source analysis with the goal of establishing a long-term plan for the development of viable sources of water for the citizens of the Duck River watershed. The options to be considered by the alternative source analysis shall include pipelines to the Tennessee and Cumberland Rivers, the enlargement of existing impoundments, the development of new impoundments and other options that merit consideration as determined by the Duck River development agency. The alternative source analysis shall include the infrastructure required, the estimated costs and the feasibility of funding alternative source projects through bonds issued by the Duck River development agency supported by revenues generated from the sales of water. In conducting the alternative source study, the Duck River development agency shall seek input and cooperation from the Tennessee advisory commission on intergovernmental relations, local water districts and authorities, the department of environment and conservation, the Tennessee Valley authority, the army corps of engineers and other agencies, organizations and persons as the agency deems appropriate. The first alternative source analysis shall be set forth in a written report to be delivered to the speakers of the senate and the house of representatives by March 1, 2011, with copies sent to all legislators whose districts are wholly or partially within the Duck River watershed area. The alternative source analysis shall be updated annually by a report delivered to the speakers of the senate and the house of representatives by March 1 of each year beginning in 2012, with copies to all legislators whose districts are wholly or partially within the Duck River watershed area.

History

Acts 2008, ch. 1021, § 3; 2009, ch. 222, § 1.

64-1-610. Part definitions.

As used in this part, unless the context requires otherwise:
(1) "Technical advisory committee" or "DRATAC" means the Tennessee Duck River development agency technical advisory committee, created by § 64-1-608;

(2) "Upper Duck River watershed" means Normandy Reservoir and the Duck River in Bedford, Coffee, Hickman, Marshall, and Maury counties and the Duck River's tributaries in Bedford, Coffee, Marshall, and Maury counties; and
(3) "Water system" means a county, municipality, public water utility, or other governmental entity that:
(A) Withdraws water from the upper Duck River watershed; and
(B) Requires an aquatic resource alterations permit (ARAP).

History

Acts 2024, ch. 927, § 2.