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April 2, 2023

Mr. Kevin C. Willis
Director, Office of Airport Compliance and Management Analysis
U.S. Department of Transportation
Federal Aviation Administration
800 Independence Ave., SW.
Washington, DC 20591

RE: Legislation affecting Metropolitan Nashville Airport Authority (MNA) Board

Dear Mr. Willis:

This letter will acknowledge receipt of your correspondence, dated March 31, 2023 that your office sent to me via email at 4:50PM Eastern Time. In your letter you state that you just became aware of the existence of House Bill 1176 and Senate Bill 1326 that were filed in the Tennessee General Assembly on January 31, 2023. I have attached for your information copies of these bills along with their currently approved amendments. You can also obtain realtime information by using this link to the Tennessee General Assembly website:

<https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB1326&GA=113>


You've indicated that it's your understanding that if these bills were to become law, they "could be viewed as a substantial change impacting the governance of the Airport Authority". However, beyond saying that it "could" have that impact, you provide no explanation as to how it "could" happen.

Your letter then goes on to summarize the FAA's "Policy on Evaluating Disputed Changes of Sponsorship". You later acknowledge that "the FAA views the matter of who governs the airport as a local decision".

MNA has conducted significant legal review of the legislation and MNA has concluded that, as currently written, the bills do not change the ownership, sponsorship, governance, or operations that would trigger the FAA's policy. I agree with the FAA's position that this is a local decision. Since the legal entity, MNA, is not changing, I will continue to run the airport under the guidance of the MNA Board, which is and will be appointed pursuant to state law.

With regard to scheduling a meeting to discuss this legislation, I can make myself available at your convenience. Please provide me with some suggested date(s)/time(s), and I will adjust my schedule accordingly. Thank you.

Sincerely,

DocuSigned by:

9971F03A387B487...

Douglas E. Kreulen, A.A.E.
President and Chief Executive Officer

Eight (8) Attachments:

1. FAA Letter, dated March 31, 2023
2. Senate Bill (SB) 1326
3. Amendment 1 to SB1326 (Withdrawn)
4. Amendment 2 to SB1326 (Adopted)
5. Amendment 3 to SB1326 (Adopted)
6. Amendment 4 to SB1326 (Tabled)
7. House Bill (HB) 1176
8. Amendment 1 to HB1176 (Adopted)

cc: Honorable Bill Lee, Governor of Tennessee
John-Paul Saalwaechter, P.E., Tennessee Director of Aeronautics
Wallace Dietz, Director, Metropolitan Government of Nashville and Davidson County



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

March 31, 2023

Douglas Kreulen
President and CEO
Metropolitan Nashville Airport Authority
140 BNA Park Drive, Suite 520
Nashville, TN 37214

Re: Legislation affecting Metropolitan Nashville Airport Authority Board

Dear Mr. Douglas Kreulen:

The Federal Aviation Administration (FAA) recently became aware of proposed legislation introduced in the Tennessee legislature to substantially change the terms and methods of appointment of the Metropolitan Nashville Airport Authority Board, House Bill 1176 and Senate Bill 1326. The Airport Authority owns and operates the Nashville International Airport and John C. Tune Airport, both of which are federally obligated and receive substantial Federal assistance. We understand that under the proposed law, the local Mayors' authority to appoint the members to the Board will be terminated and transferred to the Governor and/or other State representatives. This could be viewed as a substantial change impacting the governance of the Airport Authority and both airports.

The FAA has not yet been contacted by any state representatives regarding the proposed legislation. Please be advised that any state or local governmental body proposing to draft legislation that would impact airport sponsorship or governance should consult the FAA well before taking any action. The FAA's *Policy on Evaluating Disputed Changes of Sponsorship* provides as follows:

Any state or local legislative body or public agency considering whether to take an action, such as drafting legislation, that would impact airport ownership, sponsorship, governance, or operations should (1) consult with and obtain the consent of the current sponsor/operator (absent extraordinary circumstances, such as substantial evidence of mismanagement on the part of the current sponsor/operator); and (2) request technical assistance from the FAA about the interrelationship between Federal and state or local requirements, and seek the FAA's review and comment as early in the deliberative process as is practicable. A failure to consult may cause the FAA to deny a proposed change to airport sponsorship and/or

operating authority. In all cases, final decisions regarding the proposed change will be made by FAA's Office of Airport Compliance and Management Analysis.

Policy on Evaluating Disputed Changes of Sponsorship at Federally Obligated Airports, 81 Federal Register 36144 (June 2, 2016)

While the FAA views the matter of who governs the airport as a local decision, only the FAA has the authority to issue an airport operating certificate under 49 U.S.C. § 44706 as implemented by 14 CFR Part 139 or approve the transfer of the Federal obligations to another eligible sponsor, if applicable, and to assure that all terms and conditions of grants agreements are satisfied. In the event the existing airport sponsor does not agree to the proposed change in governance or a governance dispute ensues, then the FAA's policy provides as follows:

In matters in which a proposed change is contested by a current sponsor or operator, the FAA will not act on a part 139 application or a change of airport sponsorship and/or operating authority until the dispute is definitively resolved to the satisfaction of the FAA. Resolution may be demonstrated by issuance of a final, non-reviewable judicial decision requiring such a change, by the issuance of a consent letter between the existing airport sponsor and/or operator and the proposed new sponsor and/or operator, or by other legally definitive means deemed acceptable to the FAA. *Id.*, 81 Federal Register at 36144.

The FAA has questions regarding the potential impact of the transfer of the appointment authority of all board members from the Mayor of the local community to State-appointed officials, including the impact of such a transfer on the airports' Federal obligations, operations and existing financial arrangements, including those with the Metropolitan Government of Nashville and Davidson County. The FAA would like to discuss the potential impact on the Airport Authority and the Airports. The FAA looks forward to working with the parties to resolve all possible issues involving Federal concerns or requirements. We are available to discuss these items at your convenience.

I am the point of contact and can be reached at (202) 267-8741 or via email at kevin.willis@faa.gov.

Sincerely,

KEVIN WILLIS Digitally signed by KEVIN WILLIS
Date: 2023.03.31 15:47:06
-04'00'

Kevin C. Willis
Director, Office of Airport Compliance
and Management Analysis

cc: Honorable Bill Lee, Governor of Tennessee
John-Paul Saalwaechter, P.E., Tennessee Director of Aeronautics
Wallace Dietz, Director, Metropolitan Government of Nashville and Davidson County

SENATE BILL 1326

By Bailey

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5, Chapter 6 and Title 42, relative to airport
authorities.

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

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of eleven (11) commissioners as follows:

(i) Four (4) persons to be appointed by the speaker of the house of representatives;

(ii) Four (4) persons to be appointed by the speaker of the senate;

(iii) Two (2) persons to be appointed by the governor; and

(iv) The mayor of the county having the metropolitan form of government or the mayor's designee, who serves as a voting ex officio commissioner;

(B) Persons appointed to the board must:

(i) Be residents of the county having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure as on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026; and

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the state's geographic and demographic composition;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(G) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate ninety (90) days prior to the expansion or improvements;

(H) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following as a new subdivision:

The president shall submit the annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB1326

Roberts
Signature of Sponsor

AMEND Senate Bill No. 1326

House Bill No. 1176*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of ten (10) commissioners as follows:

(i) Three (3) persons to be appointed by the speaker of the house of representatives;

(ii) Three (3) persons to be appointed by the speaker of the senate;

(iii) Three (3) persons to be appointed by the governor; and

(iv) The mayor of the county having the metropolitan form of government or the mayor's designee, who serves as an ex officio, nonvoting commissioner;

(B) Persons appointed to the board must:

(i) Be residents of the county having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026; and

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the geographic and demographic composition of the county or state;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) In making the appointments to the board, the appointing authorities shall ensure that each commissioner is generally a person of excellent character and reputation and a person in good standing and reputation in one (1) of the following fields:

(i) Engineering, with a license to practice in the state and an active practice in such profession for the preceding five (5) years;

(ii) Law, with a license to practice before the highest court in this state for a period of not less than five (5) years;

(iii) Industry or commerce; and

(iv) Finance;

(G) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(H) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate prior to the expansion or improvements; and

(I) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-102(a), is amended by adding the following language at the end of the subsection:

The acquisition of any land, or interest in land, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports, air navigation facilities, and

avigation easements, including the acquisition or elimination of airport hazards and the exercise of any other powers granted in this chapter to authorities are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of an authority in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 4. Tennessee Code Annotated, Section 42-4-106(b), is amended by deleting the subsection and substituting instead the following:

(b) The president shall appoint, and the board shall confirm, the following additional officers: secretary, auditor, legal counsel, treasurer, and chief engineer. Notwithstanding this section to the contrary, for a board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, the president shall appoint, and the board shall confirm, an independent financial auditing firm and the following additional officers: secretary, chief financial officer, general counsel, and chief operating officer.

SECTION 5. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following language as a new subdivision (3):

The president shall submit the approved annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 6. Tennessee Code Annotated, Section 42-4-107(3), is amended by deleting the subdivision and substituting instead the following:

(3) Acquire real or personal property or an interest in real or personal property by gift, lease, or purchase, or for an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according

to the 2020 federal census or a subsequent federal census, by eminent domain proceedings, for any of the purposes provided by this chapter, including the elimination, prevention, or marking of airport hazards; sell, lease, or otherwise dispose of any such property; and acquire real property or any interest in real property in areas most affected by aircraft noise for the purpose of resale or lease, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise;

SECTION 7. Tennessee Code Annotated, Section 42-4-107, is amended by adding the following as new subdivisions:

(20) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may regulate aircraft hazards, compatible land use, or other factors impacting the safe and efficient operation of the airport by submitting a map to the county or to an applicable contiguous county that requires the review and approval, conditional approval, or denial of building permits within the designated boundaries;

(21) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may construct, authorize, widen, narrow, relocate, vacate, change in the use, accept, acquire, sell, or lease any street or other public way, ground, place or space, or public utility whether publicly or privately owned, or any portion thereof; provided, that the authority owns all of the real property abutting the street or other public way, ground, place or space, or public utility, or owns all of the real property abutting the portions thereof that are to be constructed, authorized, widened, narrowed, relocated, vacated, changed in use, accepted, acquired, sold, or leased;

SECTION 8. Tennessee Code Annotated, Section 42-4-108, is amended by designating the existing language as subsection (a) and adding following as a new subsection (b):

(b) Notwithstanding subsection (a) to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, shall proceed in accordance with title 29, chapter 16, in the acquisition of property by eminent domain proceedings authorized by this chapter. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding another law to the contrary, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of the proceedings. The authority shall not be precluded from abandoning the proceedings in a case where possession of the property has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings.

SECTION 9. Tennessee Code Annotated, Section 42-4-112, is amended by deleting the section and substituting instead the following:

This chapter shall not be construed to limit any power of a municipality to regulate airport hazards by zoning. Notwithstanding this section to the contrary, in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, airport hazards must be regulated pursuant to § 42-4-107(20).

SECTION 10. For purposes of appointing commissioners to the new airport authority board, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. 2 to SB1326

Massey
Signature of Sponsor

AMEND Senate Bill No. 1326

House Bill No. 1176*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of eight (8) commissioners as follows:

- (i) Two (2) persons to be appointed by the speaker of the house of representatives;
- (ii) Two (2) persons to be appointed by the speaker of the senate;
- (iii) Two (2) persons to be appointed by the governor; and
- (iv) Two (2) persons appointed by the mayor of the county having the metropolitan form of government;

(B) Persons appointed to the board must:

- (i) Be residents of the county, or counties contiguous to the county, having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026;

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027; and

(iv) Commissioners appointed under subdivision (d)(1)(A)(iv) serve initial terms that expire on June 30, 2028;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the geographic and demographic composition of the county or state;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) In making the appointments to the board, the appointing authorities shall ensure that each commissioner is generally a person of excellent character and reputation and a person in good standing and reputation in one (1) of the following fields:

(i) Engineering, with a license to practice in the state and an active practice in such profession for the preceding five (5) years;

(ii) Law, with a license to practice before the highest court in this state for a period of not less than five (5) years;

(iii) Industry or commerce; and

(iv) Finance;

(G) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(H) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate prior to the expansion or improvements; and

(I) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-102(a), is amended by adding the following language at the end of the subsection:

The acquisition of any land, or interest in land, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports, air navigation facilities, and

avigation easements, including the acquisition or elimination of airport hazards and the exercise of any other powers granted in this chapter to authorities are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of an authority in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 4. Tennessee Code Annotated, Section 42-4-106(b), is amended by deleting the subsection and substituting instead the following:

(b) The president shall appoint, and the board shall confirm, the following additional officers: secretary, auditor, legal counsel, treasurer, and chief engineer. Notwithstanding this section to the contrary, for a board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, the president shall appoint, and the board shall confirm, an independent financial auditing firm and the following additional officers: secretary, chief financial officer, general counsel, and chief operating officer.

SECTION 5. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following language as a new subdivision (3):

The president shall submit the approved annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 6. Tennessee Code Annotated, Section 42-4-107(3), is amended by deleting the subdivision and substituting instead the following:

(3) Acquire real or personal property or an interest in real or personal property by gift, lease, or purchase, or for an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according

to the 2020 federal census or a subsequent federal census, by eminent domain proceedings, for any of the purposes provided by this chapter, including the elimination, prevention, or marking of airport hazards; sell, lease, or otherwise dispose of any such property; and acquire real property or any interest in real property in areas most affected by aircraft noise for the purpose of resale or lease, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise;

SECTION 7. Tennessee Code Annotated, Section 42-4-107, is amended by adding the following as new subdivisions:

(20) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may regulate aircraft hazards, compatible land use, or other factors impacting the safe and efficient operation of the airport by submitting a map to the county or to an applicable contiguous county that requires the review and approval, conditional approval, or denial of building permits within the designated boundaries;

(21) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may construct, authorize, widen, narrow, relocate, vacate, change in the use, accept, acquire, sell, or lease any street or other public way, ground, place or space, or public utility whether publicly or privately owned, or any portion thereof; provided, that the authority owns all of the real property abutting the street or other public way, ground, place or space, or public utility, or owns all of the real property abutting the portions thereof that are to be constructed, authorized, widened, narrowed, relocated, vacated, changed in use, accepted, acquired, sold, or leased;

SECTION 8. Tennessee Code Annotated, Section 42-4-108, is amended by designating the existing language as subsection (a) and adding following as a new subsection (b):

(b) Notwithstanding subsection (a) to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, shall proceed in accordance with title 29, chapter 16, in the acquisition of property by eminent domain proceedings authorized by this chapter. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding another law to the contrary, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of the proceedings. The authority shall not be precluded from abandoning the proceedings in a case where possession of the property has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings.

SECTION 9. Tennessee Code Annotated, Section 42-4-112, is amended by deleting the section and substituting instead the following:

This chapter does not limit any power of a municipality to regulate airport hazards by zoning. Notwithstanding this section to the contrary, in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, airport hazards must be regulated pursuant to § 42-4-107(20).

SECTION 10. For purposes of appointing commissioners to the new airport authority board, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. 3 to SB1326

Bailey
Signature of Sponsor

AMEND Senate Bill No. 1326

House Bill No. 1176*

by deleting the language "avigation easements" in the amendatory language of SECTION 3 and substituting instead the language "navigation easements".

Amendment No. 4 to SB1326

Yarbro
Signature of Sponsor

AMEND Senate Bill No. 1326

House Bill No. 1176*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of seven (7) commissioners as follows:

(i) One (1) person to be appointed by the speaker of the house of representatives;

(ii) One (1) person to be appointed by the speaker of the senate;

(iii) One (1) person to be appointed by the governor; and

(iv) Four (4) persons appointed by the mayor of the county having the metropolitan form of government;

(B) Persons appointed to the board must:

(i) Be residents of the county, or counties contiguous to the county, having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) The commissioner appointed under subdivision (d)(1)(A)(iii) serves an initial term that expires on June 30, 2025;

(ii) The commissioner appointed under subdivision (d)(1)(A)(i) serves an initial term that expires on June 30, 2026;

(iii) The commissioner appointed under subdivision (d)(1)(A)(ii) serves an initial term that expires on June 30, 2027; and

(iv) Commissioners appointed under subdivision (d)(1)(A)(iv) serve initial terms that expire on June 30, 2028;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the geographic and demographic composition of the county or state;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) In making the appointments to the board, the appointing authorities shall ensure that each commissioner is generally a person of excellent character and reputation and a person in good standing and reputation in one (1) of the following fields:

(i) Engineering, with a license to practice in the state and an active practice in such profession for the preceding five (5) years;

(ii) Law, with a license to practice before the highest court in this state for a period of not less than five (5) years;

(iii) Industry or commerce; and

(iv) Finance;

(G) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(H) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate prior to the expansion or improvements; and

(I) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-102(a), is amended by adding the following language at the end of the subsection:

The acquisition of any land, or interest in land, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports, air navigation facilities, and

navigation easements, including the acquisition or elimination of airport hazards and the exercise of any other powers granted in this chapter to authorities are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of an authority in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 4. Tennessee Code Annotated, Section 42-4-106(b), is amended by deleting the subsection and substituting instead the following:

(b) The president shall appoint, and the board shall confirm, the following additional officers: secretary, auditor, legal counsel, treasurer, and chief engineer. Notwithstanding this section to the contrary, for a board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, the president shall appoint, and the board shall confirm, an independent financial auditing firm and the following additional officers: secretary, chief financial officer, general counsel, and chief operating officer.

SECTION 5. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following language as a new subdivision (3):

The president shall submit the approved annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 6. Tennessee Code Annotated, Section 42-4-107(3), is amended by deleting the subdivision and substituting instead the following:

(3) Acquire real or personal property or an interest in real or personal property by gift, lease, or purchase, or for an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according

to the 2020 federal census or a subsequent federal census, by eminent domain proceedings, for any of the purposes provided by this chapter, including the elimination, prevention, or marking of airport hazards; sell, lease, or otherwise dispose of any such property; and acquire real property or any interest in real property in areas most affected by aircraft noise for the purpose of resale or lease, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise;

SECTION 7. Tennessee Code Annotated, Section 42-4-107, is amended by adding the following as new subdivisions:

(20) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may regulate aircraft hazards, compatible land use, or other factors impacting the safe and efficient operation of the airport by submitting a map to the county or to an applicable contiguous county that requires the review and approval, conditional approval, or denial of building permits within the designated boundaries;

(21) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may construct, authorize, widen, narrow, relocate, vacate, change in the use, accept, acquire, sell, or lease any street or other public way, ground, place or space, or public utility whether publicly or privately owned, or any portion thereof; provided, that the authority owns all of the real property abutting the street or other public way, ground, place or space, or public utility, or owns all of the real property abutting the portions thereof that are to be constructed, authorized, widened, narrowed, relocated, vacated, changed in use, accepted, acquired, sold, or leased;

SECTION 8. Tennessee Code Annotated, Section 42-4-108, is amended by designating the existing language as subsection (a) and adding following as a new subsection (b):

(b) Notwithstanding subsection (a) to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, shall proceed in accordance with title 29, chapter 16, in the acquisition of property by eminent domain proceedings authorized by this chapter. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding another law to the contrary, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of the proceedings. The authority shall not be precluded from abandoning the proceedings in a case where possession of the property has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings.

SECTION 9. Tennessee Code Annotated, Section 42-4-112, is amended by deleting the section and substituting instead the following:

This chapter does not limit any power of a municipality to regulate airport hazards by zoning. Notwithstanding this section to the contrary, in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, airport hazards must be regulated pursuant to § 42-4-107(20).

SECTION 10. For purposes of appointing commissioners to the new airport authority board, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.

HOUSE BILL 1176

By Garrett

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5, Chapter 6 and Title 42, relative to airport
authorities.

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

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of eleven (11) commissioners as follows:

(i) Four (4) persons to be appointed by the speaker of the house of representatives;

(ii) Four (4) persons to be appointed by the speaker of the senate;

(iii) Two (2) persons to be appointed by the governor; and

(iv) The mayor of the county having the metropolitan form of government or the mayor's designee, who serves as a voting ex officio commissioner;

(B) Persons appointed to the board must:

(i) Be residents of the county having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure as on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026; and

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the state's geographic and demographic composition;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(G) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate ninety (90) days prior to the expansion or improvements;

(H) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following as a new subdivision:

The president shall submit the annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to HB1176

Howell
Signature of Sponsor

AMEND Senate Bill No. 1326

House Bill No. 1176*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 42-4-105(a)(1)(B), is amended by deleting the subdivision.

SECTION 2. Tennessee Code Annotated, Section 42-4-105(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Notwithstanding this section to the contrary:

(A) The board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, is vacated and reconstituted to consist of ten (10) commissioners as follows:

(i) Three (3) persons to be appointed by the speaker of the house of representatives;

(ii) Three (3) persons to be appointed by the speaker of the senate;

(iii) Three (3) persons to be appointed by the governor; and

(iv) The mayor of the county having the metropolitan form of government or the mayor's designee, who serves as an ex officio, nonvoting commissioner;

(B) Persons appointed to the board must:

(i) Be residents of the county having the metropolitan form of government; and

(ii) Have no financial interest in an airport or its concessions at the time of the commissioner's appointment and during the commissioner's tenure on the board;

(C) In order to stagger the terms of the newly appointed board, initial appointments are made as follows:

(i) Commissioners appointed under subdivision (d)(1)(A)(iii) serve initial terms that expire on June 30, 2025;

(ii) Commissioners appointed under subdivision (d)(1)(A)(i) serve initial terms that expire on June 30, 2026; and

(iii) Commissioners appointed under subdivision (d)(1)(A)(ii) serve initial terms that expire on June 30, 2027;

(D) Following the expiration of a commissioner's initial term, as prescribed in subdivision (d)(1)(C), all terms are four (4) years, to begin on July 1 and terminate on June 30, four (4) years thereafter;

(E) In making the appointments to the board, the appointing authorities shall strive to ensure that:

(i) The membership is representative of the geographic and demographic composition of the county or state;

(ii) At least one (1) commissioner is a female; and

(iii) Another commissioner is of a racial minority;

(F) In making the appointments to the board, the appointing authorities shall ensure that each commissioner is generally a person of excellent character and reputation and a person in good standing and reputation in one (1) of the following fields:

(i) Engineering, with a license to practice in the state and an active practice in such profession for the preceding five (5) years;

(ii) Law, with a license to practice before the highest court in this state for a period of not less than five (5) years;

(iii) Industry or commerce; and

(iv) Finance;

(G) A commissioner:

(i) Serves in such capacity until the expiration of the term to which the commissioner was appointed and until the commissioner's successor is duly appointed and qualified; and

(ii) May be removed by the commissioner's appointing authority with or without cause. A vacancy created by the removal of a commissioner is filled by the appointing authority in the same manner as the original appointment;

(H) In addition to the reporting requirements under § 42-4-106(d) and (e), the authority shall submit quarterly reports or briefings of the activities, plans, and conditions of the authority, and any proposals for capital expansion or improvements to members of the legislative body of the creating municipality, the governor, the speaker of the house of representatives, and the speaker of the senate prior to the expansion or improvements; and

(I) The authority is subject to all other provisions of this chapter to the extent otherwise applicable, except as provided by this section.

SECTION 3. Tennessee Code Annotated, Section 42-4-102(a), is amended by adding the following language at the end of the subsection:

The acquisition of any land, or interest in land, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of airports, air navigation facilities, and

avigation easements, including the acquisition or elimination of airport hazards and the exercise of any other powers granted in this chapter to authorities are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of an authority in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 4. Tennessee Code Annotated, Section 42-4-106(b), is amended by deleting the subsection and substituting instead the following:

(b) The president shall appoint, and the board shall confirm, the following additional officers: secretary, auditor, legal counsel, treasurer, and chief engineer. Notwithstanding this section to the contrary, for a board of commissioners of the authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, the president shall appoint, and the board shall confirm, an independent financial auditing firm and the following additional officers: secretary, chief financial officer, general counsel, and chief operating officer.

SECTION 5. Tennessee Code Annotated, Section 42-4-106(d), is amended by adding the following language as a new subdivision (3):

The president shall submit the approved annual operating budget to the governor, the speaker of the house of representatives, and the speaker of the senate for review.

SECTION 6. Tennessee Code Annotated, Section 42-4-107(3), is amended by deleting the subdivision and substituting instead the following:

(3) Acquire real or personal property or an interest in real or personal property by gift, lease, or purchase, or for an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according

to the 2020 federal census or a subsequent federal census, by eminent domain proceedings, for any of the purposes provided by this chapter, including the elimination, prevention, or marking of airport hazards; sell, lease, or otherwise dispose of any such property; and acquire real property or any interest in real property in areas most affected by aircraft noise for the purpose of resale or lease, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise;

SECTION 7. Tennessee Code Annotated, Section 42-4-107, is amended by adding the following as new subdivisions:

(20) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may regulate aircraft hazards, compatible land use, or other factors impacting the safe and efficient operation of the airport by submitting a map to the county or to an applicable contiguous county that requires the review and approval, conditional approval, or denial of building permits within the designated boundaries;

(21) Notwithstanding a general law or charter provision to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, may construct, authorize, widen, narrow, relocate, vacate, change in the use, accept, acquire, sell, or lease any street or other public way, ground, place or space, or public utility whether publicly or privately owned, or any portion thereof; provided, that the authority owns all of the real property abutting the street or other public way, ground, place or space, or public utility, or owns all of the real property abutting the portions thereof that are to be constructed, authorized, widened, narrowed, relocated, vacated, changed in use, accepted, acquired, sold, or leased;

SECTION 8. Tennessee Code Annotated, Section 42-4-108, is amended by designating the existing language as subsection (a) and adding following as a new subsection (b):

(b) Notwithstanding subsection (a) to the contrary, an authority in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, shall proceed in accordance with title 29, chapter 16, in the acquisition of property by eminent domain proceedings authorized by this chapter. For the purpose of making surveys and examinations relative to eminent domain proceedings, it is lawful for the authority to enter upon the land, doing no unnecessary damage. Notwithstanding another law to the contrary, an authority may take possession of any property to be acquired by eminent domain proceedings at any time after the commencement of the proceedings. The authority shall not be precluded from abandoning the proceedings in a case where possession of the property has not been taken, even after a trial jury in circuit court has rendered a verdict as to damages for the property taken and at any time prior to the entry of a final decree disposing of the entire eminent domain proceedings.

SECTION 9. Tennessee Code Annotated, Section 42-4-112, is amended by deleting the section and substituting instead the following:

This chapter shall not be construed to limit any power of a municipality to regulate airport hazards by zoning. Notwithstanding this section to the contrary, in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2020 federal census or a subsequent federal census, airport hazards must be regulated pursuant to § 42-4-107(20).

SECTION 10. For purposes of appointing commissioners to the new airport authority board, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.