

**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

**IN RE:** )  
 )  
**CONSUMER ADVOCATE'S PETITION** ) **DOCKET NO. 11-00005**  
**FOR A DECLARATORY ORDER THAT** )  
**BERRY'S CHAPEL UTILITY, INC., IS A** )  
**PUBLIC UTILITY UNDER TENNESSEE** )  
**LAW AND SHOULD BE REGULATED** )  
**BY THE TRA**

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**NOTICE OF PENDING LEGISLATION**

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The Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter ("Consumer Advocate"), pursuant to Tenn. Rule of Evidence 201 (Judicial Notice of Adjudicated Facts), respectfully submits this Notice of Pending Legislation concerning House Bill 166 ("HB 166"). A copy of the unamended HB 166 is attached as **Exhibit A**; the two amendments to HB 166 are attached as **Exhibits B** and **C**, respectively.

HB 166 was introduced on January 25, 2011. A copy of actions taken on HB 166 is attached as **Exhibit D**. The unamended HB 166 provided as follows:

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

SECTION 1. Tennessee Code Annotated, Section 65-4-101(6)(E), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(E) Except for an association or corporation not organized or doing business for profit that provides water or sewer or both water and sewer for a residential development of single-family homes, any cooperative organization, association or corporation not organized or doing business for profit;

Section 2. This act shall take effect upon becoming a law, the public welfare requiring it.

The first amendment to HB 166 provides as follows:

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 65-4-101(6)(E), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(E) Any cooperative organization not organized or doing business for profit, cooperative association not organized or doing business for profit or cooperative corporation not organized or doing business for profit;

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

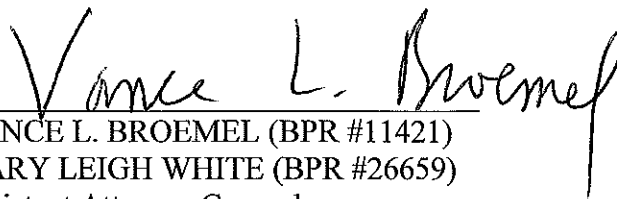
The second amendment to HB 166 provides as follows:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 65-4-101, is amended by deleting the following language as a new subdivision (9):

(9) "Public utility" does not mean any nonprofit corporation, as defined in 501(c)(4) of the Internal Revenue Code, which owns and operates a wastewater system primarily for the use of the members of the corporation and which has received a written statement of exemption from regulation as a public utility from the Tennessee regulatory authority prior to January 1, 2009.

HB 166 is currently on the Regular Calendar for April 7, 2011.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink that reads "Vance L. Broemel". The signature is written in a cursive style with a large, sweeping "V" and a long, trailing "l" in "Broemel".

VANCE L. BROEMEL (BPR #11421)

MARY LEIGH WHITE (BPR #26659)

Assistant Attorney General

Office of the Attorney General

Consumer Advocate and Protection Division

P.O. Box 20207

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CERTIFICATE OF SERVICE

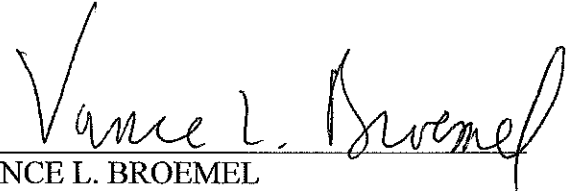
I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Donald L. Scholes  
Branstetter, Stranch & Jennings, PLLC  
227 Second Avenue North, Fourth Floor  
Nashville, TN 37201-1631

Vojin Janjic  
Department of Environment and Conservation  
401 Church Street  
L&C Annex 6<sup>th</sup> Floor  
Nashville, Tennessee 37243

Gary Davis  
Wade Murphy  
Department of Environment and Conservation  
401 Church Street  
L&C Annex 6<sup>th</sup> Floor  
Nashville, Tennessee 37243

This the 15<sup>th</sup> day of April, 2011.

  
VANCE L. BROEMEL



HOUSE BILL 166

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 65,  
Chapter 4, relative to regulation of certain utilities  
by the Tennessee regulatory authority.

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

SECTION 1. Tennessee Code Annotated, Section 65-4-101(6)(E), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(E) Except for an association or corporation not organized or doing business for profit that provides water or sewer or both water and sewer for a residential development of single-family homes, any cooperative organization, association or corporation not organized or doing business for profit;

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



Amendment No. 1 to HB0166

McManus  
Signature of Sponsor

AMEND Senate Bill No. 247

House Bill No. 166\*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 65-4-101(6)(E), is amended  
by deleting the subdivision in its entirety and by substituting instead the following  
language:

(E) Any cooperative organization not organized or doing business for  
profit, cooperative association not organized or doing business for profit, or  
cooperative corporation not organized or doing business for profit;

SECTION 2. This act shall take effect upon becoming a law, the public welfare  
requiring it.





Amendment No. 2 to HB0166

McManus  
Signature of Sponsor

**AMEND Senate Bill No. 247**

**House Bill No. 166\***

by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_ Tennessee Code Annotated, Section 65-4-101, is amended by adding the following language as a new subdivision (9):

(9) "Public utility" does not mean any nonprofit corporation, as defined in 501(c)(4) of the Internal Revenue Code, which owns and operates a wastewater system primarily for the use of the members of the corporation and which has received a written statement of exemption from regulation as a public utility from the Tennessee regulatory authority prior to January 1, 2009.

**D**

# BILL INFORMATION FOR HB0166

**\*HB 0166 BY \*SARGENT ( SB 0247 BY \*JOHNSON)**

Tennessee Regulatory Authority - As introduced, clarifies that only cooperative organizations, cooperative associations or cooperative corporations not organized or doing business for profit are exempt from regulation by TRA. - Amends TCA Title 65, Chapter 4.

## Bill Summary

Abstract summarizes the bill.

## Fiscal Note

FiscalNote for HB0166 / SB0247 filed under HB0166

## Votes

### House Votes on HB0166

### No Senate Votes on SB0247

[Bill History](#) [Amendments on Bill](#) [Video Clips](#)

### Bill History

Actions Taken on HB0166	Action Date	Actions Taken on SB0247	Action Date
H. Placed on Regular Calendar for 4/7/2011	03/31/2011	P2C, ref. to S. C,L&A Comm.	02/09/2011
Placed on cal. Calendar & Rules Committee for 3/31/2011	03/30/2011	Intro., P1C.	02/07/2011
Rec. for Pass. if Am. ref. to: Calendar & Rules Committee	03/29/2011	Filed for intro.	01/27/2011
Placed on cal. Commerce Committee for 3/29/2011	03/23/2011		
Rec. for pass. if am. by s/c ref. to Commerce Committee	03/23/2011		
Placed on s/c cal Commerce Subcommittee for 3/23/2011	03/16/2011		
Action Def. in s/c Commerce Subcommittee to 3/23/2011	03/16/2011		

Placed on s/c cal Commerce Subcommittee for 3/16/2011	03/09/2011
Action Def. in s/c Commerce Subcommittee to 3/16/2011	03/09/2011
Placed on s/c cal Commerce Subcommittee for 3/9/2011	03/02/2011
Assigned to s/c General Sub of Commerce	02/09/2011
P2C, ref. to Commerce Committee	02/09/2011
Intro., P1C.	02/07/2011
Filed for intro.	01/25/2011