Hot Topics for Tennessee cities and towns

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2000 Legislative Session Paves the Way for E-Commerce

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Action taken by the Tennessee General Assembly during the 2000 legislative session revises methods by which state and local governments may conduct business electronically and collect money.

ELECTRONIC COMMERCE ACT

CHAPTER NO. 841 (SB2430/HB3250) Amends T.C.A. Title 5, Chapter 24, Part 1. This act, known as the "Tennessee Electronic Commerce Act," authorizes public officials, including those of municipalities and utility districts, to conduct business transactions by electronic means. Public officials may determine whether and to what extent they will send, accept, and rely on electronic records and electronic signatures.

Any municipal official who decides to implement an electronic business system that provides for sending and receiving electronic records that contain electronic signatures and/or authorizations must file a statement with the Comptroller of the Treasury at least 30 days before offering the service. The statement must contain:

- a description of the computer hardware and software to be used;
- a description of policies and procedures related to the implementation of the system;
- documentation of the internal controls that will ensure the integrity of the system;
- a description of the public official's personnel who will be responsible for the implementation of the system;
- a description of the types of records and transactions to be electronically communicated, as well as a description of the transaction and of the record authorization process, including a description of any electronic signature to be used;
- the estimated cost of the system including development and implementation costs; and
- the expected benefits and/or estimated cost savings, if any, of conducting business by electronic means.

Within 12 to 18 months after the implementation of an electronic business system, a municipal official must provide a post implementation review to the Comptroller of the Treasury. This review must contain:

- an assessment of the system by the official;
- responses from a survey of users of the system; and
- any recommendations for improvements to the system.

Remember that electronic records are public documents. In addition to the current law governing the maintaining of public documents, the following standards must be met:

- electronic records must be available for public inspection, unless considered a confidential record according to law;
- electronic records must be maintained as public information for the appropriate retention period;
- daily backups must be performed on electronic records, and current backups shall be stored at a location other than the building where the original data is maintained; and
- the official must provide a paper copy of electronic records when necessary or when requested by a member of the public.

This act became effective October 1, 2000.

COLLECTION OF TAXES, FINES, FEES BY CREDIT OR DEBIT CARD

CHAPTER No. 706 (SB2429/HB3252). In an act designed to allow flexibility in the collection of funds by a municipal entity or officer, the General Assembly passed Public Chapter 706 amending T.C.A. § 9-1-108. This amendment makes it lawful for the local government to receive payments by credit or debit card for public taxes, licenses, fines, fees, or other moneys collected by the municipal officer.

The officer is required to set and collect a processing fee in an amount equal to the amount paid to the third party who processes the payment. This fee shall not be in excess of five percent of the amount of the payment.

In the event the card is not honored, a municipal officer may collect a service charge equal to that charged for a check drawn on an account that is returned for insufficient funds. This charge shall not apply if an electronic device is being used to conduct the transaction and the card and the cardholder are present when the officer learns that the card will not be honored by the third party.

Processing fees or service charges collected under this subsection shall be deposited into the general fund of the municipality.

Any municipal officer collecting funds through payment by credit or debit card shall state on any notice to the person owing taxes or fees either the percent of the processing fee or the actual fee imposed for the use of the card.

The use of a credit or debit card may not result in the municipal official collecting less than is otherwise required or permitted by law for taxes and fees that are due and payable.

This act became effective May 9, 2000.

LITIGATION TAX FOR PARKING SPACE VIOLATION

CHAPTER NO. 845 (SB2171/HB3071). Amends T.C.A. § 67-4-602(f). This bill clarifies application of a new $1 litigation tax on parking tickets.

A litigation tax of $1 shall apply to violation of any ordinance regulating public **parking** space. That's right—a violation of any parking ordinance also incurs a $1 state tax. This is for the privilege of violating said public ordinance and has nothing to do with any actual litigation. Apparently, there was some confusion as to whether this tax applied to non-metered parking violations. It does.

This is the only litigation tax or privilege tax that may be applied to these parking violations.

All revenue derived from this litigation tax shall be deposited into the civil legal representation of indigents fund authorized under T.C.A. § 16-3-808.

This act became effective on May 22, 2000.

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