

Hot Topics for Tennessee cities and towns

Attention City Contacts:

Due to the numerous subject matters included in this Hot Topic, it is not being generally distributed throughout city hall. Please make copies and distribute to the appropriate department heads.

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#39

Public Acts Affecting Cities

By Dennis Huffer
Director of Legal Services
TML Risk Management Pool

The 1998 Tennessee General Assembly passed into law several acts that affect Tennessee municipalities. This Hot Topic summarizes some of these acts. However, do not rely solely on these summaries before giving advice or taking action. Refer to the act itself. MTAS will publish the complete *1998 Tennessee Public Acts* this month.

Education & Schools

Chapter No. 903 (SB 3244/HB 3093). Sharing of school capital outlay note proceeds.
Amends *T.C.A.* § 9-21-120 to validate the disposition of proceeds of capital outlay notes issued by counties for school purposes before Jan. 15, 1998, unless there was a court challenge before January 15.

Amends *T.C.A.* Title 9, Chapter 21, Part 1 to require the sharing of county capital outlay note proceeds with municipal or special district school systems in the county on an average daily attendance basis just as bond proceeds are shared.

The governing body of the municipality or special district may waive its right to all or part of these funds.

The county does not have to share the proceeds if the notes are to be paid by a tax levied only outside the municipality or special district.

Proceeds required to be shared must be shared at the time of issuance.

Proceeds of refunding and refinancing notes or bonds need not be shared unless the original debt was payable from taxes levied on only a portion of the property in the county and the debt accomplishing the refinancing is payable from a general tax levy.

Effective date: May 7, 1998.

Emergency Services

Chapter No 1053 (SB 3445/HB 3449). Natural disaster relief for low income or disabled homeowners. Allows municipalities and counties to use public funds to clean up debris and fallen trees on private property after a natural disaster if the homeowner is qualified for property tax relief and asks for assistance. The municipality must adopt an ordinance to establish a plan for providing of this assistance.

Effective date: May 18, 1998.

Chapter No. 1108 (SB 3308/HB 3190). Emergency communications districts – state regulation; fee for wireless; wireless 911. Amends T.C.A. Title 7, Chapter 86 to do the following:

- Creates a state board in the Department of Commerce and Insurance to oversee emergency communications districts. The board has nine members. One must be a representative of municipal government appointed by the governor from a list of three submitted by TML.
- Effective April 1, 1999, enacts a service charge on commercial mobile radio service subscribers and users. The charge may not exceed \$3 per month and must be set by the board but ratified by joint resolution of the General Assembly.
- Prohibits local governments from levying any additional surcharge on wireless service.
- Creates a 911 Emergency Communications Fund from revenues derived from the wireless surcharge. This fund is to be used for board operations and to provide funds and grants to emergency communication districts to provide basic, enhanced, and wireless 911 service.
- Requires emergency communications districts to use a uniform financial accounting system developed by the comptroller effective July 1, 1999.
- Makes financially distressed districts subject to supervision by the board. The board may prescribe a rate structure for the district and petition the chancery court to have it implemented.
- Allows the board to order the merger of a financially distressed district with an adjacent district if this is in the public interest. The merger requires the approval of the board of the non-financially distressed district.
- Allows the board to establish technical operating standards for districts and standards for uses of revenue.
- Allows the board to raise the emergency telephone service charge rates of a district up to the maximum.

- Requires the board to develop and implement a plan for providing 911 service and wireless enhanced 911 service statewide.
- Requires any emergency communications district created after the effective date of the act to have its 911 system plan approved by the board before implementation.
- Requires board approval for the creation of a district within the boundaries of another district. The board must hold a public hearing within the area of the existing district before determining whether to allow a referendum.
- Requires the board to order an election in each county in which a district has not been created by Jan. 1, 2000, to determine whether a district will be created. If the voters do not approve, the board must develop a plan for the provision of wireless enhanced 911 service to the county.
- Allows any municipal governing body to request by resolution that the state board review a decision of the board of directors of the district serving the municipality that affects its financial standing or the quality of the 911 service.
- Allows any municipal governing body by resolution to request the state board to review the financial statements of the district serving the municipality. The board may petition the chancery court to implement a temporary rate structure.
- Prohibits district board members from having more than three consecutive unexcused absences from meetings. A member who has more than three unexcused absences may be ousted on petition of a municipal governing body in the service area.
- Allows members and entire boards that refuse to carry out the provisions of the chapter on emergency communications districts or an order of the board or who willfully neglect to carry out the duties of office to be ousted on petition of a municipal governing body in the service area. An ousted member is ineligible for reappointment for 48 months.
- Eliminates the referral method for providing 911 service.
- Provides that each public safety emergency services provider retains the right to dispatch its own services unless a voluntary agreement is made between the provider and the board of directors of the district.
- Allows consolidation of districts through interlocal agreement.
- Creates an exemption from public safety dispatcher requirements for any person more than 50 years old who has more than five years experience as a dispatcher, and has a congenital disability.

Effective date: May 19, 1998.

Finance

Chapter No. 728 (SB 3091/HB 2877). Business parks – issuance of debt. Amends T.C.A. §§ 9-21-105 (20)(B) and 9-21-402 to allow local governments to issue debt to develop business parks for corporate or professional office space. The park must contain at least five acres of land. Before engaging in a business park project, a local government must apply to the Building Finance Committee in the Industrial Development Division of the Department of Economic and Community Development for a certificate of public purpose and necessity. The committee must issue a certificate if it determines that (1) the total bonded indebtedness of the local government for this and other industrial development purposes will not exceed 10 percent of the total assessed valuation of all property in the local government and (2) the project is well conceived and will not become a burden on the taxpayers.

Effective date: April 8, 1998.

Chapter No. 729 (SB 3097/HB 2883). Revenue from sale of DUI vehicle – retention by local government. Amends T.C.A. § 40-33-211(c) and (f) to provide that revenues from the sale of vehicles when a driver is convicted of driving on a license canceled or revoked for DUI, or for a second or subsequent DUI, remain with the local government responsible for the seizure to pay the reasonable and direct expenses of confiscation, towing, storage, and sale. Expenses are subject to audit and review by the comptroller. Remaining revenue must be transmitted to the Department of Health by June 30 of each year to be placed in the Alcohol and Drug Addiction Treatment Fund.

Effective date: April 8, 1998.

Chapter No. 879 (SB 3178/HB 3087). Truth in lending. Amends T.C.A. § 9-21-151 to require persons entering financial advisory contracts with a public entity for debt issuance or entering a bond purchase or placement agreement under which the person acts as an underwriter or placement agent to file with the public entity and the Director of Local Finance the estimated costs of issuance. Estimated costs must include financial advisory fees, bond counsel fees, other legal fees, paying agent and register fees, trustee fees, credit enhancement fees, liquidity fees, remarketing agent fees, rating agency fees, underwriters discount, printing and advertising fees, and similar expenses. The filing must be made under State Funding Board procedures.

Effective date: May 6, 1998.

Law Enforcement

Chapter No. 901 (SB 3049/HB 2777). Litigation tax on criminal cases; fingerprint machines. Amends T.C.A. § 67-4-602 to increase the litigation tax on criminal cases by \$1. Revenues are earmarked for grants to local governments to purchase electronic fingerprint imaging systems. Grants will be administered by the office of Criminal Justice in the Department of Finance and Administration.

Before purchasing fingerprint machines, local governments must obtain certification from the TBI that the machine is compatible with TBI and FBI integrated systems.

Effective date: May 7, 1998.

Chapter No. 979 (SB 1469/HB 1621). Forfeiture of criminal proceeds; distribution. Replaces T.C.A. § 39-11-116 to enact new procedures for forfeiture of the proceeds of criminal activity.

Municipalities and other local governments share in the proceeds when they were the investigating and seizing agency. To share in the proceeds, the municipality must ratify this law by ordinance or resolution. The ordinance or resolution must authorize receipt of these funds and designate how they are to be distributed. Only law enforcement activities are eligible.

Funds awarded may not be used to supplement salaries and may not supplant other funds. This law is supplemental to other forfeiture laws and is retroactive.

Effective date: July 1, 1997.

Chapter No. 1020 (SB 3038/HB 2776). Fingerprinting. Amends T.C.A. § 39-17-420 to allow a continuation of the 20 percent set aside for maintenance and use of the equipment. Provides that it is the officers' responsibility to do fingerprinting if no provision is made by the agency.

Effective date: May 18, 1998.

Chapter No. 1030 (SB 3128/HB 2906). Law enforcement grants. Amends T.C.A. Title 38, Chapter 8, Part 1 to require the Department of Finance and Administration, by Oct. 1, 1998, to establish a program to award law enforcement assistance grants to local governments. The purpose is to help local governments meet local funding requirements under the federal Violent Crime Control and Law Enforcement Act of 1994.

Effective date: May 18, 1998.

Chapter No. 1079 (SB 2933/HB 3155). Drug penalties; reports on drug fund. Amends T.C.A. § 39-17-417 to change some penalties and procedures relative to drug violations.

Requires the governing body of a law enforcement agency responsible for a drug investigation and arrest to submit to the comptroller by August 1 of each year a report of the funds collected and paid

to the general fund under this section. Does not indicate what "this section" is. The report must reflect the amount of money spent on drug education and treatment.

Effective date: July 1, 1998.

Motor Vehicles – Traffic

Chapter No. 760 (SB 2692/HB 2549). Abandoned motor vehicles. Amends T.C.A. § 55-16-103 to include vehicles stored or parked in a garage, trailer park, or storage or parking lot for more than 30 consecutive days in the definition of "abandoned motor vehicle."

Amends § 55-16-105 to require public agencies that take possession of an abandoned vehicle to verify ownership through the Tennessee Information Enforcement System and place this information on the towing sheet form. If TIES does not have the information, the agency must contact the Title and Registration Division of the Department of Safety. The agency must provide ownership information to the towing company or garage keeper.

Effective date: July 1, 1998.

Purchasing

Chapter No. 990 (SB 2613/HB 2307). Procurement of architectural and engineering services. Amends T.C.A. § 12-4-106(a) to require procurement officials to seek qualifications and experience data when attempting to procure architectural or engineering services. The official must conduct discussions with firms, evaluate their qualifications and experience, and select a firm deemed qualified.

After the selection, the official must negotiate a contract at a fair and reasonable cost. If the official is unable to negotiate a fair price, negotiations may proceed with other qualified firms.

Municipalities having a satisfactory relationship with an architectural or engineering firm may expand the scope of their services if they are within the scope of their competence without going through the above procedures.

Effective date: May 18, 1998.

Chapter No. 1043 (SB 3260/HB 3187). Purchasing by official or employee from municipality or state. Amends T.C.A. Title 6, Chapter 54, Part 1 to prohibit municipal officials and employees from purchasing surplus municipal property except by bid at public auction.

Amends § 12-2-208 to enact the same prohibitions relative to the purchase of confiscated motor vehicles and intoxicating liquor sold by the state.

Effective date: July 1, 1998.

Recorders

Chapter No. 589 (SB 2160/HB 2117). Certification of recorders and clerks – grace period for new hires. Amends T.C.A. § 6-54-120 to allow four years for a municipal clerk or recorder, hired after July 1, 1994, to meet certification qualifications.

Effective date: March 10, 1998.

Retirement

Chapter No. 1011 (SB 2926/HB 2598). Public safety officers. Amends T.C.A. § 8-36-205 to allow municipalities by resolution to establish a mandatory retirement age for police officers and firefighters. The mandatory retirement age cannot violate the federal Age Discrimination in Employment Act.

The mandatory retirement age must:

- be the same for all affected employees,
- not be less than 60 years of age,
- take effect on the first day of the month following the attainment of the required age, and
- be subject to a supplemental bridge benefit if it is less than the age for obtaining Social Security benefits. In this case the municipality must authorize and pay for an actuarial study to determine the cost of providing the bridge benefit. This benefit must be paid by the municipality.

The bridge benefit is applicable unless the officer or firefighter serves in a supervisory or administrative position in which less than 50 percent of the employee's duties are in day-to-day law enforcement or firefighting. In this case, the employee may serve until 62 if he/she waives rights to retirement and bridge benefits. This waiver must be filed with the retirement division on or before the first day of the month in which the employee reaches 60.

The supplemental bridge benefit will equal .75 percent of the employee average final compensation multiplied by years of creditable service in the position for which mandatory retirement is required. Early retirees will have their supplemental benefit reduced. The maximum supplemental bridge benefit may not exceed 22.5 percent of the employee average final compensation.

Amends § 8-36-201(b)(1) to allow Group 2 members to retire on completion of 30 years of creditable service. This is optional for political subdivisions.

Amends § 8-36-201(b) to allow Group 2 members early retirement after 30 years if employed by a political subdivision that has not authorized unreduced service retirement benefits.

Effective date: July 1, 1998.

Solid Waste

Chapter No. 817 (SB 3148/HB 3267). Surcharge on solid waste at transfer stations. Amends T.C.A. § 68-211-835 to impose the 75 cents per ton surcharge on solid waste received at transfer stations that are not operated in conjunction with a convenience center. This surcharge will be imposed until June 30, 1999.

When solid waste is delivered to such a transfer station and subsequently delivered to a disposal facility or incinerator, the surcharge may be collected only once, and the operator of the transfer station is responsible for collection of the surcharge only if satisfactory arrangements have been made with the Department of Environment and Conservation.

Effective date: July 1, 1998.

Taxes – Property

Chapter No. 647 (SB 2161/HB 2116). Land acquired for delinquent taxes – conveyance to organizations creating affordable housing. Amends T.C.A. § 67-5-2509(d) to allow municipalities and counties to convey residential property acquired for nonpayment of property taxes to a private nonprofit entity that is tax exempt under § 501(c)(3) of the Internal Revenue Code and is chartered to construct or restore residential dwellings to create affordable housing for the needy. The property must be conveyed to an individual or family as an owner-occupied residence.

Effective date: March 24, 1998.

Chapter No. 827 (SB 2249/HB 2130). Delinquent municipal taxes – date certified to trustee. Amends T.C.A. § 67-5-2005(a) to change the date delinquent municipal taxes must be certified to the county trustee from May 1 of the year after they are due to April 1 of the second calendar year after they become due.

Effective date: April 28, 1998.

Chapter No. 949 (SB 3111/HB 2995). Contracts for personal property assistance. Amends T.C.A. § 67-5-507 to require municipalities to share in the cost when a county governing body contracts with a person or firm to examine personal property tax rolls and to give advice and assistance in personal property identification and valuation. The municipality must send its share of the cost to the county within one year of the execution of the contract. The municipality share is determined by the percentage of personal property value in the municipality in relation to total personal property value in the county, multiplied by the percentage the municipal tax rate bears to the combined county and municipal rates.

This Act does not apply in Shelby County.

Effective date: May 11, 1998.



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