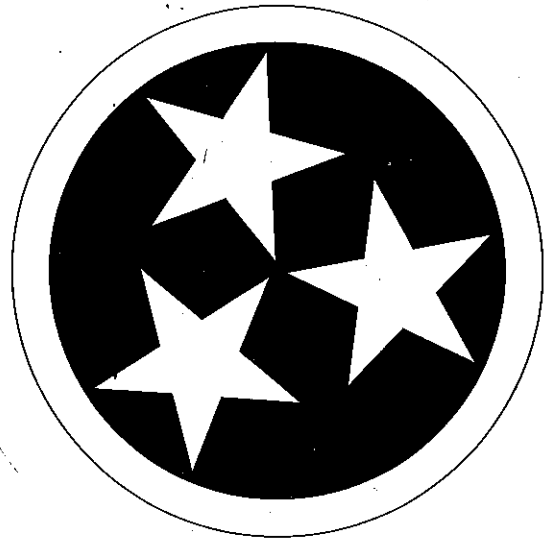


Tennessee Public Acts 1998

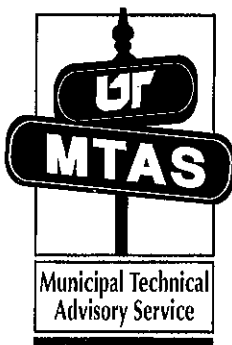


Summaries of Interest to Municipal Officials

By Dennis W. Huffer

Director of Legal Services

Tennessee Municipal League Risk Management Pool



Municipal Technical Advisory Service

A statewide agency of
The University of Tennessee's Institute for Public Service
in cooperation with the
Tennessee Municipal League

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Airports

Chapter No. 640 (SB 2328/HB 2416). Membership on the governing body. Amends T.C.A. § 42-4-105 (a)(2) to require four seats on the board of an airport authority that has regularly scheduled passenger service and is located in a county other than the county where the creating municipality is located to be filled by persons of good standing and reputation in one of these fields: engineering, law, industry, commerce, and finance.

Effective date: March 24, 1998.

Chapter No. 744 (SB 3171/HB 3066). Metropolitan airport authorities - civil service provisions. Amends T.C.A. § 42-4-110 to revise civil service provisions applicable to metropolitan airport authorities.

Effective date: April 15, 1998.

Alcoholic Beverages

Chapter No. 795 (SB 3140/HB 3003). Caterer license. Amends T.C.A. §§ 57-4-101, 102, 203 and 301 to allow caterers licensed by the Alcoholic Beverage Commission to sell beer and intoxicating beverages at catered events.

Effective date: April 23, 1998.

Chapter No. 798 (SB 1638/HB 1281). Gourmet coffee houses. Amends T.C.A. § 57-4-102(19) to include gourmet coffee houses in the definition of "restaurant" in which liquor for consumption on the premises may be served in municipalities with a population of more than 100,000.

Effective date: April 23, 1998.

Chapter No. 857 (SB 2658/HB 2408). Beer container size restrictions. Amends T.C.A. 57-5-112 to allow beer wholesalers or retailers to sell beer in 25.4 ounce containers only if it has a label in at least three-sixteenths inch type saying "flavored beer." This label need not be affixed before sale to a wholesaler.

A retail permittee may not indicate that a product in a 25.4 ounce container is not flavored beer. Repeals § 57-6-104(e) and (i) regulating the size of beer and malt beverage containers.

Effective date: July 1, 1998.

Chapter No. 939 (SB 2531/HB 2948). Sports authority facility. Amends T.C.A. §§ 57-4-101, 102, 201, and 203 to allow intoxicating liquor and beer to be consumed on the premises in sports authority facilities. Applies in Shelby and Davidson counties.

Effective date: May 11, 1998.

Annexation

Chapter No. 586 (SB 922/HB 1133). Annexation of territory served by another municipality's electric system - valuation. Amends *T.C.A.* § 6-51-111 to provide that the municipality annexing territory served by the electric system of another municipality or other state instrumentality may, after providing written notice, purchase the part of the other municipality or instrumentality's system serving the annexed area. The purchase price must be the fair market value, to be paid on terms agreed to by the parties. If the parties cannot agree, each must select a qualified appraiser who shall determine the value using the Uniform Standards of Professional Appraisal Practice. If the two appraisers cannot agree they must select a third appraiser whose determination will control. This is the sole method for determining purchase price. In the absence of agreement between the parties, this Act is the sole method for an annexing municipality to acquire the annexed facilities of another municipal electric system or state instrumentality.

Effective date: March 11, 1998.

Chapter No. 1101 (SB 3278/HB 3295). Annexation; planning; incorporations. Here is a section-by-section summary of this Act:

- § 1. Definitions.
- § 2. Amends Title 6 of *T.C.A.* by adding Sections 3-16 as a new chapter 58.
- § 3. With this Act the General Assembly intends to establish a comprehensive growth policy for this state that: (1) eliminates annexation or incorporation out of fear; (2) establishes incentives to annex or incorporate where appropriate; (3) more closely matches the timing of development and the provision of public services; (4) stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and (5) minimizes urban sprawl.
- § 4. Exempts counties having a metropolitan form of government. Any municipality lying partly in a metropolitan county and partly in another county, however, is subject to the provisions of this Act with respect to the portion of its territory located in the non-metropolitan county. If a metro government charter commission is established in any county after the effective date of this Act, but prior to July 1, 2001, and if the charter proposed by the commission is rejected prior to July 1, 2001, then the sanctions established by Sections 11 and 17 will not be imposed in that county before July 1, 2002.
- § 5. Effective Sept. 1, 1998, a coordinating committee is created in each county consisting of the following: the county executive (or designee); the mayor of each municipality (or designee); representatives of the municipal utility and the non-municipal utility serving the largest number of customers in the county; a representative of the soil conservation district; a representative of the largest school system in the county; a member appointed by the largest chamber of commerce; and two members appointed by the county executive, and two members appointed by the mayor of the largest municipality, to assure representation of environmental, construction, and

homeowner interests. The coordinating committee must develop a growth plan not later than Jan. 1, 2000, and submit it for ratification by the county legislative body and the governing body of each municipality.

The growth plan must establish urban growth boundaries (UGBs) for each municipality and planned growth areas (PGAs) and rural areas within the county in conformance with Section 7. The committee must give due consideration to the UGBs proposed by municipalities and to the PGAs and rural areas proposed by the county legislative body. The coordinating committee is encouraged to use the services of all planning resources, including city and county planning commissions, the local planning division of the Department of Economic and Community Development, and MTAS and CTAS.

Before completing the recommended growth plan, the coordinating committee must conduct two public hearings. Not later than Jan. 1, 2000, the committee must submit the recommended growth plan (RGP) for ratification by the county legislative body and the governing body of each municipality. If any municipality is completely contiguous to and surrounded by one or more municipalities, its corporate limits constitute its UGB and it is not eligible to ratify or reject the RGP.

The county and municipalities must either ratify or reject the RGP within 120 days. Failure to take action is deemed approval. If the county or a municipality rejects the RGP, it must state the reasons. In resolving disputes over which UGB should include certain territory, due consideration must be given to the municipality that is better able to provide urban services to the disputed territory and to any municipality that detrimentally relied upon priority status conferred under prior annexation law and incurred significant expenses in preparation for annexation of the disputed territory.

Municipalities and counties may make binding agreements with each other to refrain from exercising any power or privilege granted in *T.C.A.* Title 6 to cities or in *T.C.A.* Title 5 to counties. Any agreements between municipalities or between a municipality and a county establishing areas reserved for future annexation that are in effect on the effective date of this Act are ratified and remain in full force and effect. These agreements may be amended by mutual consent. In any county with a charter form of government, any annexation reserve agreements in effect on Jan. 1, 1998, satisfy the requirement for the RGP.

Nothing in this chapter prohibits written contracts between municipalities and property owners relative to annexation, and nothing invalidates an annexation done pursuant to a written contract between a municipality and a developer that was in existence on the effective date of this Act. In any county in which the largest municipality comprises at least 60 percent of the population and there is no other municipality with a population more than 1,000, the coordinating committee is the county planning commission (if there is one), and the planning commission of the largest municipality. The mayor of the largest city and the county executive may jointly appoint as many additional members as they desire. The coordinating committee must submit its RGP to the county legislative body, which can reject it only upon a finding, by two-thirds vote, that the committee's plan was arbitrary and capricious or an abuse of official discretion. Upon such a vote, the dispute resolution process of this section applies.

In any county, the county legislative body and the governing bodies of all municipalities, by unanimous agreement, can assign the duties of the coordinating committee to another entity.

If the county or any municipality rejects the RGP, the coordinating committee must reconsider its action. If the committee declines to make changes, or if a revised RGP is also rejected, any party to the RGP may declare the existence of an impasse and request the secretary of state to provide dispute resolution assistance. This assistance consists of a panel of three administrative law judges (ALJ) unless the parties agree to a single ALJ. The panel, or single ALJ, must mediate the dispute. If this fails, then a non-binding resolution must be proposed to the parties to the dispute. If this is rejected, the panel or single ALJ shall propose a final RGP.

No later than July 1, 2001, the RGP approved by the coordinating committee or submitted by the dispute resolution panel or ALJ must be submitted to and approved by the local government planning advisory committee (the LGPAC is a part of the Local Planning Assistance Division of the state Department of Economic and Community Development). If the RGP was approved by the coordinating committee, the LGPAC must accept it. If the RGP submitted is one resulting from an impasse, the LGPAC must approve it only if it is in compliance with Section 7 of this Act. If it is not in compliance, the LGPAC must adjust the RGP to bring it into compliance before approving it.

After a RGP has been approved it remains in effect for three years except for extraordinary circumstances. After three years, any party to the RGP may propose amendments that must be considered by the coordinating committee. The burden of proving reasonableness is on the party proposing the change.

Other provisions of Section 5 deal with allocating the costs of the dispute resolution process.

§ 6. The affected county, any municipality, any resident of the county, and any owner of real property in the county are entitled to judicial review of the RGP. Legal challenges must be filed in chancery court within 60 days of the final approval of the RGP by the LGPAC and the trial is de novo and without a jury. The burden of proof is on the plaintiff. If the preponderance of the evidence shows that the RGP was approved in an arbitrary, capricious, illegal, or other manner involving abuse of official discretion, the court can invalidate it and remand the matter back to the parties.

A legal challenge to the RGP does not stay its effectiveness, but the court may order a stay if any party is likely to suffer significant injury. If multiple suits are filed they must be consolidated and tried as a single action. The decision of the chancery court may be appealed to the court of appeals.

§ 7. Provides for the establishment of three types of planning areas for the next 20 years: (1) urban growth boundaries, in which residential, industrial, and commercial growth are expected to occur and to which the municipality is best situated to efficiently and effectively provide urban services; (2) planned growth areas, outside urban growth boundaries, but where some degree of growth can be expected; and (3) rural areas, which are to be preserved as agricultural lands,

forests, recreational areas, or wildlife management tracts. Two public hearings are required for each of the three boundary setting exercises. Municipal planning commission jurisdiction does not expand beyond an urban growth boundary. In any county that has no county zoning, however, a municipality may provide extraterritorial zoning and subdivision regulation beyond its corporate limits with the approval of the county legislative body. [NOTE: This appears to create some confusion as to the status of the jurisdiction of municipal planning commissions that are designated to serve as regional planning commissions.]

§ 8. Not later than July 1, 2001, a RGP for each county must be submitted to and approved by the LGPAC. Afterwards, all land use decisions must be consistent with the plan.

§ 9. In the interim period before approval of the RGP by the LGPAC, municipalities may annex by ordinance unless the county legislative body disapproves within 60 days of the final passage of the ordinance. If the county disapproves and the county is petitioned by a majority (by parcel) of the property owners affected, then the county has standing to challenge the annexation. In these suits the county has the burden of proof and the court hears the case without a jury. If the county approves the annexation, or declines to challenge the annexation, or if no legal action is filed within 90 days of final passage of the ordinance, or if a judge finds that the annexation is reasonable, then the annexation ordinance becomes operative. [NOTE: In the interim period it appears that the county has standing to sue only if the legislative body disapproves the annexation and a majority of property owners petition the county to represent their interests in opposing the annexation. If property owners, rather than the county, bring suit to contest the annexation, the burden remains on the municipality to prove that the annexation is reasonable, and the case can be tried by a jury.]

In the interim period before the RGP is approved by the LGPAC, cities may not annex along a corridor unless: (1) All parcels on at least one side of the right of way are included; or (2) The county legislative body gives its approval; or (3) The property owner at the end of the corridor petitions for annexation, agrees to pay for infrastructure improvements, is no farther than 1.5 miles from the existing city limits, the property to be annexed constitutes at least three acres, and the corridor annexation is not an extension of any previous corridor annexation.

Municipalities may continue to annex by petition or referendum, but if the territory to be annexed has no residents then the county must concur.

A municipality may not annex by ordinance upon its own initiative into a county other than the one in which its city hall is located unless: (1) the city was already located in two counties as of Nov. 25, 1997, and the county in which the city hall is not located has 7 percent or more of the total municipal population; or (2) the legislative body of the county in which the proposed territory is located gives its approval; or (3) on Jan. 1, 1998, the municipality was providing sewer service to at least 100 residential or commercial customers in the other county; or (4) the property in the other county is to be used only for industrial development purposes and the final reading of the annexation ordinance took place prior to the effective date of this Act.

Until Jan. 1, 1999, new incorporations must meet the distance and population requirements of existing law. After that date a new municipality may be incorporated only in accordance with this Act and with an adopted growth plan.

Any territory of 225 persons or more that held an incorporation election under Public Chapter 98, Public Acts of 1997, or Chapter 666, Public Acts of 1996, that was approved by the voters, and whose results were certified, may hold another incorporation election. If this territory votes again to incorporate, then the incorporation takes precedence over any annexation ordinance that encroaches upon any territory of the new municipality. Any municipalities incorporating under this section must levy a property tax that raises an amount equivalent to the state-shared taxes that the new municipality is entitled to receive.

§ 10. After July 1, 2000, municipalities and counties with approved growth plans will receive an additional five-point bonus when applying for grants from the Department of Economic and Community Development. A similar bonus will be given for applications for grants from the Department of Environment and Conservation and the Tennessee Housing Development Authority if not prohibited by federal law or regulation.

§ 11. Effective July 1, 2001, cities and counties without approved growth plans will not be eligible to receive funds from THDA, ISTEPA, TIIP, CDBG, or for tourism development or industrial training.

§ 12. Within its approved urban growth boundary, a municipality may annex by referendum, petition, or upon its own initiative. When an annexation ordinance is challenged, the plaintiff bears the burden of proof and the case will be tried without a jury. Municipalities desiring to annex beyond their urban growth boundaries must propose amendments to those boundaries to the coordinating committee in their county. As an alternative, municipalities may annex by referendum.

§ 13. After Jan. 1, 1999, new municipalities may be created only in planned growth areas. Counties may provide or contract for services within a PGA and set a separate tax rate for those services. Counties may establish separate zoning regulations within PGAs, UGBs, or rural areas.

No new municipal school systems may be established. New municipalities incorporated after the effective date of this Act must impose a property tax that raises revenue not less than the amount of revenues derived annually from state shared taxes. The county legislative body must approve the corporate limits and the proposed UGB of the proposed municipality before an election for incorporation may be held. Within six months of becoming incorporated, the new municipality must prepare and publish its plan of services. The county will be held harmless for revenue losses as if the territory had been annexed.

§ 14. Until Dec. 31, 2002, the Tennessee Advisory Commission on Intergovernmental Relations will monitor implementation of this Act and report its findings to the General Assembly.

§ 15. Requires a joint Economic and Community Development Board in each county consisting

of the county executive, the mayor or city manager of each municipality, one land owner, and other members determined by interlocal agreement. Activities of the Board must be jointly funded. Where cities and counties already have similar organizations in place, those entities are deemed to satisfy the requirement for the Economic and Community Development Board. When applying for any state grant, cities and counties must certify compliance with this section.

§ 16. The provisions of this chapter (Sections 3-16) do not apply to any annexation ordinance that was pending, but not yet effective, on Nov. 25, 1997.

§ 17. Blank. [NOTE: This section was reserved for changes in the Hall income tax, but legislators decided not to include the Hall tax in this legislation. A separate bill was passed that raises the Hall income tax exemption levels for low-income elderly persons.]

§ 18. Allows citizens to initiate the creation of a metropolitan government charter commission. Provides for members of the commission to be appointed or elected.

§ 19. Requires municipalities to adopt a plan of services for territory being annexed that is reasonable with respect to the scope and timing of the services. The plan may exclude services being provided by other public or private entities, other than services provided by the county. The plan must be submitted to the local planning commission, if there is one, and a public hearing must be held. A municipality that is in default on any prior plan of services may not annex any other territory.

If a municipality that has a school system annexes territory during the school year, any student in the affected area may continue to attend his or her present school until the beginning of the next school year unless the two boards of education provide otherwise by agreement.

§ 20. If an annexation ordinance was not final on Nov. 25, 1997, and the municipality has not prepared a plan of services, the municipality has 60 days to prepare a plan of services. For any annexation that is not final on the effective date of this Act, or for any annexation ordinance passed before the approval of the RGP, the county has standing to contest the reasonableness of the plan of services (but probably only if petitioned by a majority of the affected property owners - see note below.) If the court finds the plan of services unreasonable, an order must be issued vacating it, and the municipality must submit a revised plan of services within 30 days. The municipality may abandon the plan of services, however, and the annexation is nullified. The municipality may not attempt another annexation of that territory for 24 months. If a court finds any plan of service unreasonable, the municipality may not annex any other territory until the court determines that the municipality is in compliance with the revised plan of services. [NOTE: It is unclear whether counties have standing outright to challenge a plan of services. It is our understanding of legislative intent that county standing can be initiated only upon petition of a majority of the affected property owners, by parcel. It is also unclear which party bears the burden of proof in challenging a plan of services, and whether the plaintiff has the right to a jury trial on the reasonableness of the plan.]

§ 21. Six months after an annexation becomes final, and annually thereafter, the annexing

municipality must publish a report and hold a public hearing on the status of the implementation of the plan of service. A plan of service may be amended if: circumstances change due to natural disaster, act of terrorism, or other unforeseen events; the amendment does not substantially decrease the level of services or delay the provision of services specified in the original plan; or the changes have the approval of a majority of property owners.

Six months after an annexation becomes final, any aggrieved property owner may file suit to have the plan of services enforced. If the court finds no compelling justification for the failure to adhere to the plan of services, it must issue a writ of mandamus to require the services to be provided as promised, and establishing a timetable. The cost of the suit must be assessed against the municipality which must also be enjoined from any further annexations until the services subject to the court's order have been provided.

§ 22. A municipality may not use its zoning power in any way to interfere with the use of land for agricultural purposes. [NOTE: This prohibition, however, does not affect the right of municipalities to abate nuisances or to exercise other regulatory authority under the police power.]

§ 23. No part of this Act applies to the annexation of general service district territory into the urban services district in a metropolitan county.

§ 24. After annexing territory that is producing wholesale beer tax or local option sales tax revenues, the annexing municipality must hold the county harmless for these revenues for a period of 15 years with the following exceptions: (1) If the wholesale beer tax or local option sales tax is repealed or the distribution formulas changed, the hold harmless amounts will be adjusted accordingly; (2) Municipalities may annually petition the Department of Revenue for adjustment of the hold harmless amount if a tax-producing business has closed or relocated; and (3) Any revenues in excess of the amount being generated on the effective date of the annexation accrue to the annexing municipality. County governing bodies, by resolution, may waive their right to receive hold harmless revenues.

§ 25. Amends *T.C.A.* 13-3-102 which provides for the designation of a municipal planning commission as a regional planning commission. The amendment specifies that no part of the planning region may extend beyond the municipality's urban growth boundary.

§ 26. Makes the same change as Sec. 25 in *T.C.A.* 13-3-401(2), which deals with regional planning regulations.

§ 27. Allows the governing body of any city with more than 100,000 population to waive, by two-thirds vote, the prohibition against new incorporations within its five-mile reserve area under the mayor-aldermanic charter.

§ 28. If 33.3 percent of the registered voters in a territory proposed for incorporation petition for a municipal charter, the county election commission must hold an election. The commission has 20 days to determine whether the petition contains the requisite number of signatures. The

election for incorporation must be held not fewer than 45 nor more than 60 days after the petition is certified.

§ 29. Severability clause.

Effective date: May 19, 1998.

Authorities, Commissions, and Boards

Chapter No. 619 (SB 2410/HB 3065). Housing authorities - redevelopment powers. Amends T.C.A. § 13-20-202(4) to allow housing authorities, or parties engaged by them, to remediate environmental contamination of acquired areas, to install or reconstruct parks, open spaces, playgrounds, pedestrian ways, and parking garages and to pay relocation and other expenses in carrying out redevelopment plans and other powers.

Effective date: March 17, 1998.

Chapter No. 711 (SB 3192/HB 3248). Appointment of library board in Shelby County. Amends T.C.A. § 10-3-103 to provide that if the library is a joint operation in Shelby County, the legislative body of the county or city that funds the operational costs will appoint the seven members of the library board.

Effective date: July 1, 1998.

Chapter No. 904 (SB 3247/HB 3276). Indemnification of building authority. Amends T.C.A. §12-10-114 to allow municipalities to agree to indemnify building authorities, their officers, directors and employees for the authority's negligence. The agreement must be in writing.

Effective date: May 7, 1998.

Chapter No. 947 (SB 2963/HB 3115). Conflict of interests provision for housing authorities. Repeals T.C.A. § 13-20-410, which contained conflict of interests provisions for housing authority commissioners, officers, and employees.

Amends T.C.A. Title 13, Chapter 20, Part 4 to provide that housing authority personnel are subject to the general conflict of interests provisions in §§ 12-4-101 and 102.

Effective date: May 11, 1998.

Building and Utility Codes

Chapter No. 739 (SB 2223/HB 2208). Electrical inspections. Amends T.C.A. § 68-102-143 (b) to allow deputy inspectors appointed by city officials in municipalities authorized to conduct electrical inspections to do inspections upon request and to charge a fee as compensation. The state fire marshal may adopt rules to implement this Act.

Effective date: April 15, 1998.

Chapter No. 800 (SB 2373/HB 2628). Building and fire codes - conflicts between city and county over county building. Amends T.C.A. Title 68, Chapter 120, Part 1 to allow the state fire marshal's office to be used to hear an appeal and issue a ruling in a conflict between a municipality and county over the application of the municipality building or fire code to a county building in the municipality. The fire marshal must provide a decision within 10 working days.

Effective date: April 23, 1998.

Business Regulation

Chapter No. 865 (SB 2629/HB 2244). Private security service regulations - retired police officers. Amends T.C.A. § 62-35-103 (a) to exempt retired police officers who receive compensation as a guard or watchperson under contract with a legitimate business from the requirements of the Private Protective Services Licensing and Regulatory Act if:

The retired person completes firearms and marksmanship training, and he or she has a written directive issued by the police chief authorizing him/her to carry a handgun.

Effective date: July 1, 1998.

Chapter No. 1076 (SB 3259/HB 3082). Nonresidential methadone treatment facilities. Amends T.C.A. § 68-11-106(d)(3) to require applicants for a certificate of need for a nonresidential methadone treatment facility to notify by return receipt mail the mayor of the municipality in which the facility is to be located that an application has been made with the Health Facilities Commission.

Amends T.C.A. Title 68, Chapter 11, Part 1 to allow local governing bodies to support or oppose the facility in hearings before the commission. Support of the local governing body is not a prerequisite for a certificate of need.

Effective date: May 19, 1998.

Chapter No. 1090 (SB 1613/HB 1588). Adult oriented businesses. Amends T.C.A. Title 7, Chapter 51, Part 11 to establish a scheme to regulate adult businesses in each county that adopts the Act by two-thirds vote of the county legislative body.

This Act does not preempt other local regulation of adult businesses. If a municipality enacts and enforces its own regulatory scheme, this Act does not apply in the municipality.

Effective date: July 1, 1998.

City Courts

Chapter No. 1080 (SB 2947/HB 3169). Prosecution in municipal courts. Amends T.C.A. § 7-103 to require district attorneys general to prosecute state violations in municipal courts when the municipality provides sufficient personnel to the DA for that purpose.

Effective date: May 19, 1998.

City Manager Commission Charter (See also Annexation)

Chapter No. 651 (SB 2825/HB 2734). New incorporations - situs based taxes. Amends all three general law charters to provide that all situs based taxes continue to go to the county after incorporation until the next July 1, unless the incorporation takes effect on July 1. In this case, the municipality begins receiving revenues for the period beginning July 1. A new municipality must notify the Department of Revenue before the incorporation becomes effective for tax administration purposes.

Effective date: March 24, 1998.

Crimes & Criminal Procedure

(See also Juveniles, Law Enforcement and Motor Vehicles - Traffic)

Chapter No. 680 (SB 1908/HB 1740). Litter control - penalties changed, rewards offered. Amends T.C.A. § 39-14-502 to provide mandatory fines and litter removal requirements for persons convicted of littering.

Fines and litter removal requirements are as follows:

FINE	LITTER REMOVAL TIME
First offense:	\$200 Not less than 14 hours nor more than 6 months.
Second & subsequent offenses:	\$500 Not less than 40 hours nor more than 6 months

Persons reporting information to a law enforcement officer leading to the conviction of a litterer will receive a \$100 reward.

Effective date: July 1, 1998.

Chapter No. 684 (SB 2139/HB 2850). Child bicycle safety. Amends T.C.A. §§ 55-52-104 and 105 to make it unlawful for any child under age 16, rather than the previous 12, to ride a bicycle without a helmet. Also prohibits rental of a bicycle to a person under 16 unless the person has or rents a helmet.

Effective date: July 1, 1998.

Chapter No. 690 (SB 2188/HB 2952). False statements to law enforcement officers. Amends T.C.A. § 39-16-502 to make it unlawful to make a false statement to a police officer in response to a legitimate inquiry with the intent of hindering the officer in preventing an offense or apprehending the offender.

Effective date: July 1, 1998.

Chapter No. 755 (SB 2930/HB 3152). Indecent exposure. Amends T.C.A. § 39-13-511(b)(2) to make indecent exposure a Class E felony when the defendant is 18 or more years old, the victim is under 13, and the defendant has two or more prior convictions for indecent exposure.

Effective date: April 15, 1998.

Chapter No. 868 (SB 3251/HB 2957). Controlled drugs. Amends T.C.A. § 39-17-412(f) to add ketamine hydrochloride as a Schedule IV controlled substance.

Effective date: July 1, 1998.

Chapter No. 906 (SB 1920/HB 1935). Stolen records. Amends T.C.A. § 39-16-504 to allow city attorneys, county attorneys, and attorneys general to obtain a warrant for possession of public records unlawfully taken from a government office upon notification of an official having custody of government records.

Effective date: May 7, 1998.

Chapter No. 917 (SB 3210/HB 3183). Possession of traffic control signs. Amends T.C.A. Title 54, Chapter 10, Part 1 to make unlawful possession of a traffic control sign a Class B misdemeanor punishable by a fine of up to \$500. For this prohibition to apply, the sign must indicate the municipality or county that erected the sign and the date the sign was acquired or erected. In addition to the fine, restitution must be required.

This Act applies only to signs acquired or erected after July 1, 1998.

Effective date: July 1, 1998.

Chapter No. 926 (SB 998/HB 754). DUI multiple offenders. Amends T.C.A. § 55-10-403 (a) to provide that a person convicted of DUI is not considered a multiple offender if his/her most recent conviction was 10 or more years ago.

Effective date: May 11, 1998.

Chapter No. 986 (SB 2166/HB 2259). Aggravated drunk driving. Amends T.C.A. § 55-10-503 to increase the minimum confinement for a first offense DUI from 48 hours to seven days when the blood alcohol content is .20 percent or more.

Amends § 55-10-406 to increase the time of suspension of the driver's license to two years if a person is injured and to five years if a person is killed and the culprit refuses to take a blood alcohol test.

Effective date: July 1, 1998.

Chapter No. 1007 (SB2853/HB 2560). Solicitation of minor for sexual offenses. Amends T.C.A. Title 39, Chapter 13, Part 5 to make it a Class E felony to solicit a person under 18 to engage in conduct that would constitute a rape or sexual battery offense by the adult.

Effective date: July 1, 1998.

Chapter No. 1008 (SB 2861/HB 2571). Operation of water vessels by certain minors. Amends T.C.A. § 69-10-216 to allow persons 10 to 12 years old to operate motor driven water vessels when the vessel is at least 14 feet long with an outboard motor of less than 15hp and the operator has successfully completed a boat safety course approved by the Wildlife Resources Agency.

Effective date: July 1, 1999.

Chapter No. 1028 (SB 3098/HB 2884). DNA specimens. Amends T.C.A. Title 40, Chapter 35 to require DNA specimens from persons convicted of a felony committed on or after July 1, 1998.

Effective date: May 18, 1998.

Chapter No. 1034 (SB 3158/HB 2951). Sexual battery by parent or custodian. Amends T.C.A. § 39-13-527(a) to make sexual battery by a parent or custodian a Class C felony.

Effective date: May 18, 1998.

Chapter No. 1035 (SB 2982/HB 2981). Harassment by convict. Amends T.C.A. § 39-17-308 to make it a Class E felony for a person convicted of a crime to make threats against the victim or, if the victim died as a result of the crime, against the victim's family.

Effective date: July 1, 1998.

Chapter No. 1040 (SB 2932/HB 3154). Child neglect. Amends T.C.A. §§ 39-15-401, 402, and 39-13-202(a)(2) to clearly delineate the crimes of aggravated child abuse and aggravated child neglect.

Effective date: May 18, 1998.

Chapter No. 1046 (SB 3270/HB 3242). Driving under the influence and driving while impaired. Amends T.C.A. § 55-10-403 to make a 4th or subsequent DUI conviction a Class E felony punishable by a fine of \$3,000 to \$5,000, confinement of at least 150 days, and a driving prohibition of five years, if 1 of the violations happens after July 1, 1998.

Adds § 55-10-418 which prohibits driving while impaired for persons 21 or older. A blood alcohol level of .08 but less than .10 creates a presumption of driving while impaired.

A first conviction of DWI is a Class B misdemeanor; and a fourth or subsequent conviction is a Class E felony punishable the same as a fourth or subsequent DUI.

A conviction for DWI will be treated as a DUI for punishment enhancement purposes under DUI.

Effective date: July 1, 1998.

Chapter No. 1054 (SB 342/HB 1783). Removal of safety devices. Amends T.C.A. Title 39, Chapter 17, Part 1 to make it a Class A misdemeanor punishable by a fine only of up to \$2,500 for any person to remove a safety device from a machine and thereby cause injury to another. This prohibition does not apply if the removal is done to improve safety or the safety device is redesigned to make it better.

Evidence of a conviction cannot be used in a subsequent action against an employer by the employee.

Effective date: July 1, 1997.

Chapter No. 1068 (SB 2300/HB 2358). Aggravated spousal rape. Amends T.C.A. § 39-13-507 to create the offense of aggravated spousal rape and to designate it a Class B felony.

Effective date: July 1, 1998.

Economic Development

Chapter No. 1100 (SB 3277/HB 3111). Chickasaw Trail Economic Development Compact. Enacts the Chickasaw Trail Economic Development Compact and creates the Chickasaw Trail Economic Development Authority to promote the development of Fayette County, Tennessee, and Marshall County, Mississippi. Authorizes municipalities to aid the authority and make interlocal agreements with it.

Effective date: July 1, 1998.

Education & Schools

Chapter No. 562 (SB 297/HB 401). School use of vans. Amends T.C.A. § 49-6-2115 to exempt school vans from 23 C.F.R. 1204.4, Guide 17, or any other federal standards or guidelines. Requires that they comply with state rules.

Amends T.C.A. Title 49, Chapter 6, Part 21 to allow local education agencies to transport not more than 15 students to and from interscholastic athletic or school sponsored activities in a van if the van is operated by or for the agency under a rental or hire agreement with respect to the specific activity. Requires local education agencies to insure against liability and to comply with state rules.

Effective date: Jan. 30, 1998.

(NOTE: 23 C.F.R. 1204.4, mentioned in this Act, was removed from the Code of Federal Regulations in 1995.)

Chapter No. 617 (SB 2154/HB 2825). Use of sick leave by teachers. Amends T.C.A. § 49-5-710(a)(2) to allow teachers to use up to 30 days of sick leave for adoption.

Effective date: March 17, 1998.

Chapter No. 830 (SB 2715/HB 2808). Suspended students. Amends T.C.A. § 49-6-3401(f) to provide that local education agencies are not required by state law to enroll a student who is suspended or expelled from another LEA in Tennessee or another state.

Effective date: July 1, 1998.

Chapter No. 832 (SB 3092/HB 2878). Children with disabilities. Amends T.C.A. § 49-10-101, 102, and 105, to change the definition of "child with disabilities" and to reconstitute the advisory council for the education of children with disabilities.

Effective date: July 1, 1998.

Chapter No. 833 (SB 3100/HB 2886). Testing for high school graduation. Amends T.C.A. §§ 49-1-608 and 6001(a)(1) to require tests in subjects designated by the state Board of Education and approved by the Education Oversight Committee for high school graduation. Students may take the tests in any order after completion of coursework. The state board may establish additional requirements, including remedial work, for students who fail.

Effective date: April 28, 1998.

Chapter No. 867 (SB 2427/HB 2867). Teacher's child. Amends T.C.A. § 49-6-3113 to allow a board policy that the child of a teacher may enroll in the school where the parent teaches.

Effective date: May 1, 1998.

Chapter No. 871 (SB 2324/HB 2082). Tracking of zero tolerance violations. Amends T.C.A. § 49-6-4216 to require the State Board of Education to develop a standard form for collection of information relative to zero tolerance violations in local school systems.

Effective date: May 1, 1998.

Chapter No. 875 (SB 2256/HB 2330). Unauthorized persons on school buses. Amends T.C.A. § 49-6-2008 to make it a class A misdemeanor for unauthorized persons to be on school buses. Creates a civil cause of action of assault on a school vehicle and provides for treble damages, attorney fees, and costs.

Effective date: May 6, 1998.

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.

Chapter No. 912(SB 3131/HB 2904). Safe Schools Act of 1998. Amends T.C.A. § 49-6-4302 to provide that safe school grants are available to each LEA in the same percentage the LEA'S share of BEP funding bears to total BEP funding. Grants are subject to a 25 percent match and the filing of a proposed plan of expenditures.

Effective date: July 1, 1998.

Chapter No. 925 (SB 771/HB 1320). Agriculture teachers. Amends *T.C.A.* Title 49, Chapter 5, Part 4 to allow agriculture teachers in public high schools to be employed on a 12-month contract, subject to board of education approval.

Effective date: May 11, 1998.

Chapter No. 951 (SB 3202/HB 3266). Health coverage for school board members. Amends *T.C.A.* § 8-27-303 (a) (3) to allow school board members participating in the basic health insurance plan to participate in supplemental plans if the member applies before July 1, 1998, and pays the total premium.

Effective date: May 11, 1998.

Chapter No. 993 (SB 2215/HB 2394). Earthquake drills. Amends *T.C.A.* § 49-1-302(a) to require local education agencies within 100 miles of the New Madrid Fault to implement earthquake drills.

Effective date: May 18, 1998.

Chapter No. 1060 (SB 875/HB 613). Management of alternative schools. Amends *T.C.A.* § 49-2-203(b) to allow local boards of education to contract for the management of alternative schools with other local government agencies.

Effective date: May 19, 1998.

Elections

Chapter No. 618 (SB 2282/HB 2268). Elections on questions. Amends *T.C.A.* § 9-21-209 to provide that a referendum on the issuance of general obligation bonds will be held as an election on a question under § 2-3-204.

Amends *T.C.A.* § 67-6-706(a) to provide that a referendum on a local sales tax is an election on a question under § 2-3-204.

Effective date: March 17, 1998.

Chapter No. 650 (SB 2923/HB 2729). Dates of filing certain campaign reports changed. Amends *T.C.A.* § 2-10-105(c)(5) to require candidates who certify the name of the candidate's treasurer more than 1 year before the election to file contributions and expenditure reports by January 31, rather than on February 1, of each year through the election year. The ending date of the reporting period is changed from January 29 of the year of the filing to December 31 of the year before the filing.

Effective date: March 24, 1998.

Chapter No. 720 (SB 2431/HB 2356). Filing of nominating petitions. Amends *T.C.A.* § 2-5-104 to require candidates for municipal office to file the original nominating petition with the county election commission where the municipality is located. If the municipality is located in two or more counties, it must be filed with the commission of the county in which the city hall is located.

Effective date: April 8, 1998.

Emergency Services

Chapter No. 660 (SB 2305/HB 2278). Ambulance services - interlocal cooperation. Amends *T.C.A.* § 7-61-104(b) to allow municipalities and counties to make agreements with private persons for joint or cooperative ambulance service. This Act does not apply in Shelby and Davidson counties.

Effective date: March 25, 1998.

Chapter No. 958 (SB 2836/HB 2513). Exposure control for emergency response workers. Amends *T.C.A.* Title 68, Chapter 140, Part 5 to allow local governments to use an EMT-P as a designated exposure control officer for emergency response employees. Emergency response employees include paramedics, firefighters, first response workers, and emergency medical technicians. Procedures used by the exposure control officers must be done under direction of a medical doctor.

Infection control procedures must include TB skin tests, flu shots, hepatitis B shots, other immunizations ordered by the medical doctor, educational programs, and post-exposure evaluations.

Effective date: May 11, 1998.

Chapter No. 963 (SB 3125/HB 2970). Defibrillator regulations; Good Samaritan Law. Amends *T.C.A.* Title 68, Chapter 140 to require entities that acquire automatic external defibrillators to ensure that:

Expected users receive a nationally recognized course in defibrillator use and cardiopulmonary resuscitation. The defibrillator is maintained and tested according to the manufacturer's guidelines. A person who defibrillates another activates the emergency medical service system as soon as possible.

Amends *T.C.A.* § 63-6-218 (b) (1), part of the Good Samaritan Law, to include the use of an automatic external defibrillator in the protected activities under that law.

Effective date: May 11, 1998.

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. 1075 (SB 3176/HB 3026). Addresses in possession of emergency communications districts. Amends T.C.A. § 10-7-504(e) to make addresses held with unpublished telephone numbers in the possession of emergency communication districts available on request to the county election commission to compile voter mailing lists.

Effective date: May 19, 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.

Eminent Domain

Chapter No. 908 (SB 2425/HB 2289). Eminent domain for landfill. Amends T.C.A. Title 68, Chapter 211, Part 1 to prohibit a municipality from using eminent domain to acquire land for a landfill outside its corporate limits without the approval of the governing body of the area in which the landfill is to be located. The approval must be by majority vote at two regularly scheduled meetings.

Effective date: May 7, 1998.

Environment

Chapter No. 587 (SB 1729/HB 1885). Waste tires - beneficial end use. Amends T.C.A. § 68-211-867 to direct the Department of Environment and Conservation to develop a waste tire program aimed at beneficial end use of waste tires. Prohibits counties from disposing of shredded waste tires in a landfill after July 1, 2002, if the county's net cost for disposal exceeds the cost of the beneficial end use.

Effective date: March 11, 1998.

Chapter No. 659 (SB 2257/HB 2284). Advisory committee on stream stabilization. Amends T.C.A. Title 69, Chapter 3, Part 1 to create an advisory committee to the Division of Water Pollution Control on removal of debris from streams and stabilization of stream banks. Local governments are to have a representative.

Effective date: March 25, 1998.

Chapter No. 1089 (SB 695/HB 1061). Hazardous waste facilities. Amends T.C.A. § 68-212-105 to make it unlawful to place a new commercial hazardous waste facility less than 1,500 feet from residential, daycare, church, park or school property.

Effective date: July 1, 1997.

Finance

(See also Purchasing and the topics on Taxes)

Chapter No. 594 (SB 2242/HB 2227). Contraband tobacco - sharing of proceeds with local governments. Amends T.C.A. § 67-4-1021 to provide that local governments get 50 percent of the net proceeds of contraband tobacco products seized by an officer of the local government.

Effective date: March 10, 1998.

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. 751 (SB 2892/HB 2483). Public art and art design services. Amends T.C.A. §§ 9-21-105 and 109 to include public art and art design services in items eligible to be financed by public debt.

Effective date: April 15, 1998.

Chapter No. 763 (SB 3046/HB 2868). Equity investment. Amends T.C.A. § 7-34-115(a)(8) to provide that the definition of equity investment in that item does not change the status of any payments made under any provision of a city charter in existence on or before July 1, 1993.

Effective date: April 16, 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.

When there is an ongoing contract to provide financial advisory services for a specific period of time, the advisor is required to make the filing only with respect to specific debt issuances.

If a public entity uses both a financial advisor and an underwriter or placement agent, the financial advisor is responsible for the filing.

No filings will be required until after 30 days after the State Funding Board adopts guidelines. The Board may exempt debt obligations under an amount set by the Board.

If a filing is not made, the financial advisor, underwriter, or placement agent responsible for the filing gets no fee. If a fee has already been paid, the public entity may sue.

This Act does not apply to debt issued by industrial development boards or health, educational, and housing facility boards.

Effective date: May 6, 1998.

Chapter No. 899 (SB 3045/HB 2827). Committee to study fees for Geographic Information Systems. Creates a special joint committee consisting of members of the Senate and House and administration officials, as well as two local government representatives, to study the impact of charging fees for information generated by Geographic Information Systems. The committee must report its findings to the Information System Council by Nov. 15, 1998. This council must report its findings to the General Assembly by Jan. 29, 1999.

Effective date: May 7, 1998.

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.

Chapter No. 965 (SB 3007/HB 2890). Impact fee for Mount Juliet. Authorizes an impact fee for Mount Juliet. Requires local approval.

Effective date: May 8, 1998;
requires local approval before Oct. 1, 1998.

Chapter No. 981 (SB 2949/HB 2077). Small water systems - depreciation of grant fund assets. Amends *T.C.A.* § 68-221-1010(a) to provide that in determining whether a small water system (900 or fewer customers) has a retained earnings or operating deficit that would trigger jurisdiction of the Water and Wastewater Financing Board, depreciation does not include depreciation on assets acquired with state or federal grant funds. This provision is void, however, if the Commissioner makes a written determination that its implementation would jeopardize the receipt of federal funds under the Clean Water Act.

Effective date: May 18, 1998.

Chapter No. 1004 (SB 2800/HB 2523). Issuance of debt for telecommunications service. Amends *T.C.A.* § 7-34-104 to allow municipalities authorized to provide telecommunication services (those with electric plants) to borrow money and issue debt for this purpose.

Effective date: May 18, 1998.

Chapter No. 1055 (SB 3173/HB 3236). Convention Center and Tourism Development Financing Act of 1998 enacted. Amends *T.C.A.* Title 7 to provide a financing mechanism for the development of convention centers and similar public facilities that will attract tourists.

To qualify for financing under this Act, the facility must have at least 250,000 square feet to be constructed, leased, acquired or expanded after Jan. 1, 1998. The local investment of public funds must be in excess of \$75,000,000 and reasonably anticipated to attract investment in the tourist development zone of \$25,000,000. The facility must be located in the tourist development zone, an area designated by ordinance and determined by the Department of Finance and Administration to be an area in which state and local sales taxes will increase as a result of the facility.

When the municipality constructs or acquires a facility in a tourist development zone, the increase in state and local sales tax revenues over base tax revenues (revenues collected the year before the facility is acquired) accrue to the municipality to pay for the facility.

Effective date: July 1, 1998.

Chapter No. 1135 (SB 3307/HB 3009). Appropriations Act. Makes the following appropriations of interest to municipalities and municipal officials:

- An amount sufficient to provide a firefighter pay supplement not to exceed \$450.
- An amount sufficient to provide a police officer pay supplement not to exceed \$600.

- Directs TACIR to study liability limits for local governments but makes no appropriation.
- \$58,978,000 for Small Cities Community Development block grants.
- \$2,500,000 for the Safe Drinking Water Revolving Fund.
- \$14,500,000 for TIIP-95 County Jobs program.
- \$7,500,000 for law enforcement assistance grants to local governments.

Effective date: July 1, 1998.

Incorporation

Chapter No. 651 (SB 2825/HB 2734). New incorporations – situs based taxes. Amends all three general law charters to provide that all situs based taxes continue to go to the county after incorporation until the next July 1, unless the incorporation takes effect on July 1. In this case, the municipality begins receiving revenues for the period beginning July 1. A new municipality must notify the Department of Revenue before the incorporation becomes effective for tax administration purposes.

Effective date: March 24, 1998.

Industrial Development

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 5 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. 828 (SB 2401/HB 2414). Industrial development corporations. Amends T.C.A. § 7-53-302 to allow IDC's to make amendments to leases; extend the terms of leases; amend in lieu of tax provisions in leases; sell, exchange, donate, or convey rents, revenues and receipts; and to pledge rents, revenues, and receipts as security for bonds or notes.

Amends § 7-53-305 to provide that in lieu of tax and lease payments become a first lien on the fee interest of the leased property from January 1 to the extent they do not exceed ad valorem taxes that would apply to taxable property. The IDC may enforce the lien and obtain interest at 10 percent and reasonable attorney fees.

Amends § 7-53-305(b)(2) to delete a sentence providing that in lieu of tax payments are in full satisfaction of the lessees' obligations relative to use and ad valorem taxes.

Requires IDC's to submit to the State Board of Equalization by October 1 of each year a list of real and personal property owned by the corporation and associated entities; the value of each property; the dates and terms of leases; the amount of in lieu of tax payments for each property; the date property is to return to the regular tax rolls; and the amount of taxes due if the property was taxable.

Effective date: April 28, 1998.

Chapter No. 983 (SB 3083/HB 2099). Powers of industrial development corporations. Amends T.C.A. § 7-53-101 (11)(B) to include in the definition of "project" that IDC's may undertake the acquisition and equipping of hotels, motels, conference centers, and apartments on or adjacent to the site of a closed or substantially downsized facility, including a facility formerly operated by the federal Defense or Energy Departments.

Amends § 7-53-301 to provide that when such a project is within the IDC's jurisdiction, the IDC board may have a minority of directors who are not residents of the municipality.

Effective date: May 18, 1998.

Juveniles

Chapter No. 782 (SB 2671/HB 2517). Criminal gang offenses. Amends T.C.A. § 37-1-134(b) to allow consideration of whether a child's conduct would be a criminal gang offense in determining whether he/she is to be tried as an adult.

Effective date: July 1, 1998.

Law Enforcement

(See also Crimes and Criminal Procedure and Motor Vehicles - Traffic)

Chapter No. 594 (SB 2242/HB 2227). Contraband tobacco - sharing of proceeds with local governments. Amends T.C.A. § 67-4-1021 to provide that local governments get 50 percent of the net proceeds of contraband tobacco products seized by an officer of the local government.

Effective date: March 10, 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 2nd 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. 841 (SB 2235/HB 2220). Drug and violent crime task forces. Amends T.C.A. § 8-7-110 to expand the jurisdiction of judicial district drug task forces to include violent crimes. Limits investigations outside an officer's jurisdiction to those that originated within the officer jurisdiction but that are necessary to an ongoing investigation, or to those done in cooperation with another judicial district task force or under a mutual aid agreement.

Effective date: April 29, 1998.

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. 994 (SB 2758/HB 2403). Booking procedures; fingerprints. Amends T.C.A. § 8-4-115 to require a photograph of the arrestee, the delivery to the appropriate local law enforcement agency of a completed judgement order for completion of an R-84 Disposition Card, and an arrest report in standard booking procedures.

When a person is arrested multiple times for public intoxication, the officer must note on the arrest report that fingerprints are on file.

Provides that sanctions for failing to comply with fingerprinting requirements apply only for fingerprints taken or required to be taken on or after July 1, 1999.

Requires local departments to get certification that fingerprinting equipment is compatible with TBI and FBI equipment before purchase.

Creates the Tennessee Law Enforcement Advisory Council. The Tennessee Association of Chiefs of Police has one member.

Effective date: May 18, 1998.

Chapter No. 1019 (SB 2802/HB 2772). Bounty hunting. Amends T.C.A. Title 40, Chapter 11, Part 3 to require bounty hunters to present a copy of the applicable warrant, a copy of the bond, and proper credentials showing the bounty hunter is an agent of a bondsman to the proper law enforcement agency before taking a person who has failed to make a court appearance into custody. Failure to do so is a Class A misdemeanor.

Effective date: May 18, 1998.

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.

Grants will be awarded on merit based on rules to be adopted. Local governments must apply as prescribed by rule if they wish to receive a grant.

The numbers of grants awarded will depend on the amount appropriated. No grant may exceed 10 percent of the amount the local government will receive from the federal government.

To receive a grant, the local government must have been approved for a Universal Hiring Program grant for the employment of additional police officers.

Effective date: May 18, 1998.

Chapter No. 1036 (SB 3186/HB 3004). Expungement of records of persons arrested but not charged. Amends T.C.A. § 40-32-101(a)(1) to require the expungement of all public records of a person arrested and released without being charged.

Effective date: May 18, 1998.

Chapter No. 1070 (SB 2971/HB 2409). Forfeiture warrants; cause of action for bad faith. Amends T.C.A. § 40-33-204 to limit judges who may issue forfeiture warrants to general sessions, circuit, or criminal court judges. General sessions judges may authorize magistrates or judicial commissioners to issue forfeiture warrants, but they must be trained and certified to understand forfeiture warrant procedure and requirements.

Requires certified copies of forfeiture warrant proceedings that must be made available to any party. These copies are admissible as evidence.

The affidavit supporting the forfeiture warrant must state with specificity the officer probable cause for believing the owner or co-owner knew the property was being used in illegal activities when the owner or co-owner was not in possession of the property when seized. A similar requirement applies to secured parties.

The Act lists questions that must be put to officers seeking forfeiture warrants when the owner was not in possession when the property was seized or when the interest of a secured party is sought to be forfeited.

Requires the judge to retain the affidavit supporting the warrant and the officer to send the warrant, a copy of the affidavit and the notice of seizure to the applicable agency within seven working days. Upon receiving the documents, the agency must notify owners and secured parties that a forfeiture warrant has been issued. The agency, after receiving these documents and interviewing witnesses, must release the property if there is no legal and factual basis for forfeiture. The seizing agency must maintain a copy of the notice of seizure and these notices are public records.

Enacts a new § 40-33-215 that creates a cause of action against the agency if the seizing officer(s) acted in bad faith in seizing or failing to return seized property. A prevailing claimant is entitled to reasonable attorney fees, court costs, and damages. Damages are limited to the rental value of the property for the time it was seized but cannot exceed the value of the seized property. An officer acts in bad faith when he/she acts intentionally, dishonestly, or willfully or with no factual or legal basis for the seizure or retention of the property.

Effective date: July 1, 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.

Mayor - Alderman Charter
(See also Annexation)

Chapter No. 621(SB 2571/HB 2253). Board action, court costs. Amends *T.C.A.* § 6-2-102 to provide that any form of board action other than the passage of ordinances must be considered and adopted on one day. Also provides that a quorum of the board is a majority of the members to which the board is entitled.

Amends *T.C.A.* § 6-2-201(28) to allow the board to provide by ordinance for court costs.

Effective date: March 17, 1998.

Chapter No. 651 (SB 2825/HB 2734). New incorporations - situs based taxes. Amends all three general law charters to provide that all situs based taxes continue to go to the county after incorporation until the next July 1, unless the incorporation takes effect on July 1. In this case, the municipality begins receiving revenues for the period beginning July 1. A new municipality must notify the Department of Revenue before the incorporation becomes effective for tax administration purposes.

Effective date: March 24, 1998.

Chapter No. 691 (SB 2274/HB 2338). Change to two-year terms allowed. Amends § 6-3-102(b), part of the general law Mayor-Aldermanic Charter, to allow municipalities incorporated under that charter that have four-year staggered or non-staggered terms to change by ordinance to staggered or non-staggered two-year terms.

Effective date: April 1, 1998.

Chapter No. 954 (SB 3436/HB 3448). Change of terms in Spring Hill. Amends *T.C.A.* § 6-3-102 to allow Spring Hill by ordinance to provide for the election of the mayor for a two-year term and the alderman for staggered four-year terms for elections after Jan. 1, 1999.

Effective date: May 11, 1998.

Chapter No. 1126 (SB 3407/HB 3412). Installation of traffic signal by non-existent municipality. Amends T.C.A. 6-2-201(16) to authorize a non-existent municipality with a 1990 population of 700 to 705 (supposedly Thompson's Station, which according to the *Tennessee Blue Book*, had a 1990 population of 721) to install a traffic control signal.

Effective date: May 23, 1998.

Metropolitan Government

Chapter No. 744 (SB 3171/ HB 3066). Metropolitan airport authorities - civil service provisions. Amends T.C.A. § 42-4-110 to revise civil service provisions applicable to metropolitan airport authorities.

Effective date: April 15, 1998.

Chapter No. 774 (SB 2377/HB 2272). Conflict of interests. Amends T.C.A. § 12-4-101 (c)(3) to provide that a subsection requiring that any member of the governing body of a municipality who abstains from voting for cause not be counted to determine a majority vote does not apply in Metro Nashville.

Effective date: July 1, 1998.

Chapter No. 775 (SB 2530/HB 2927). Water or sewer utility - cooperation with housing authority. Amends T.C.A. Title 7, Chapter 3, Part 3 to allow a water or sewer utility operating in a metropolitan county to participate with the local housing authority to provide service (leak repairs, connections, etc.) for low and moderate income persons.

Effective date: April 22, 1998.

Modified Manager - Council Charter (See also Annexation)

Chapter No. 651 (SB 2825/HB 2734). New incorporations - situs based taxes. Amends all three general law charters to provide that all situs based taxes continue to go to the county after incorporation until the next July 1, unless the incorporation takes effect on July 1. In this case, the municipality begins receiving revenues for the period beginning July 1. A new municipality must notify the Department of Revenue before the incorporation becomes effective for tax administration purposes.

Effective date: March 24, 1998.

Motor Vehicles - Traffic

Chapter No. 654 (SB 54/HB 530). Certain speed limits changed. Amends *T.C.A.* § 55-8-152(d) to change the interstate speed limits for cars and trucks to 70 mph.

Effective date: March 25, 1998.

Chapter No. 671 (SB 2871/HB 2609). Trucks speed limit. Repeals *T.C.A.* § 55-8-152(b), which established a 50 mph speed limit for trucks on highways except interstates and four-lane controlled access highways.

Effective date: July 1, 1998.

Chapter No. 679 (SB 855/HB 390). Commercial driver license - medical qualifications. Amends *T.C.A.* § 55-50-411(b) to eliminate the following requirements that persons with visual acuity problems or diabetes must formerly have met to retain a CDL: (1) that the CDL driver must have been regularly employed for three years before April 30, 1990, and (2) that the driver must have a safe driving record for three years prior to April 30, 1990.

Effective date: March 30, 1998.

Chapter No. 684 (SB 2139/HB 2850). Child bicycle safety. Amends *T.C.A.* §§ 55-52-104 and 105 to make it unlawful for any child under age 16, rather than the previous 12, to ride a bicycle without a helmet. Also prohibits rental of a bicycle to a person under 16 unless the person has or rents a helmet.

Effective date: July 1, 1998.

Chapter No. 753 (SB 2616/HB 2679). Failure to stop for school bus. Amends *T.C.A.* § 55-8-151 to make it a Class B (rather than a Class C) misdemeanor punishable by fine only for a driver to fail to stop upon approaching a school bus.

Effective date: July 1, 1998.

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.

Chapter No. 886 (SB 2607/HB 3012). Accident reports. Amends *T.C.A.* § 55-10-108 to require traffic accident reports to be filed by law enforcement agencies within seven days rather than 24 hours with the Department of Safety. The Department must notify local departments that fail consistently to file timely reports.

Makes accident reports open to the public except for liability insurance information.

Makes it a Class A misdemeanor for any person to use a written accident report for solicitation that is prohibited by a standard of conduct of any profession licensed by the state.

Effective date: July 1, 1998.

Chapter No. 917 (SB 3210/HB 3183). Possession of traffic control signs. Amends *T.C.A.* Title 54, Chapter 10, Part 1 to make unlawful possession of a traffic control sign a Class B misdemeanor punishable by a fine of up to \$500. For this prohibition to apply, the sign must indicate the municipality or county that erected the sign and the date the sign was acquired or erected. In addition to the fine, restitution must be required.

This Act applies only to signs acquired or erected after July 1, 1998.

Effective date: July 1, 1998.

Open Meetings

Chapter No. 1102 (SB 3288/HB 3297). Application of Open Meetings and Open Records laws to certain organizations. Amends *T.C.A.* § 8-44-102(b)(1) to make the Open Meetings Law apply to the board of directors of any organization established for the benefit of local governments or officials, that receives at least 30 percent of its total annual income from those sources, and that was authorized as of Jan. 1, 1998, to obtain retirement coverage for its employees under the Tennessee Consolidated Retirement System. Executive sessions may be held to discuss "proprietary information."

Amends § 10-7-503 to make the Open Records Law apply to these same organizations unless the organization files an augmented annual audit with the Comptroller's office. In addition to regular audit information, the audit must include a listing, by name of recipient, of all remuneration to the organization's directors and officers; a similar listing for employees that earn more than \$25,000 per year; a listing by name of beneficiary of any deferred compensation, salary continuation, retirement, or other fringe benefit plan, other than health and life insurance plans available to all employees on a nondiscriminatory basis, and the amount of funds accruing to the plan in the year; and a listing, by name of recipient, but not the amount, of contractual fees exceeding \$2,500 during the year.

The Open Records or audit requirement does not apply to county associations.

Effective date: May 19, 1998.

Open Records

Chapter No. 886 (SB 2607/HB 3012). Accident reports. Amends *T.C.A.* § 55-10-108 to require traffic accident reports to be filed by law enforcement agencies within seven days rather than 24 hours with the Department of Safety. The Department must notify local departments that fail consistently to file timely reports.

Makes accident reports open to the public except for liability insurance information.

Makes it a Class A misdemeanor for any person to use a written accident report for solicitation that is prohibited by a standard of conduct of any profession licensed by the state.

Effective date: July 1, 1998.

Chapter No. 899 (SB 3045/HB 2827). Committee to study fees for Geographic Information Systems. Creates a special joint committee consisting of members of the Senate and House and administration officials, as well as two local government representatives, to study the impact of charging fees for information generated by Geographic Information Systems. The committee must report its findings to the Information System Council by Nov. 15, 1998. This council must report its findings to the General Assembly by Jan. 29, 1999.

Effective date: May 7, 1998.

Chapter No. 906 (SB 1920/HB 1935). Stolen records. Amends *T.C.A.* § 39-16-504 to allow city attorneys, county attorneys, and attorneys general to obtain a warrant for possession of public records unlawfully taken from a government office upon notification of an official having custody of government records.

Effective date: May 7, 1998.

Chapter No. 995 (SB 2750/HB 2406). Reproduced records. Amends *T.C.A.* Title 24, Chapter 7 to allow agencies of government to destroy originals of records when they have been reproduced. The reproduction, when properly identified, is admissible into evidence.

Effective date: May 18, 1998.

Chapter No. 1102 (SB 3288/HB 3297). Application of Open Meetings and Open Records laws to certain organizations. Amends *T.C.A.* § 8-44-102(b)(1) to make the Open Meetings Law apply to the board of directors of any organization established for the benefit of local governments or officials, that receives at least 30 percent of its total annual income from those sources, and that have authorized as of Jan. 1, 1998, to obtain retirement coverage for its employees under

the Tennessee Consolidated Retirement System. Executive sessions may be held to discuss "proprietary info."

Amends § 10-7-503 to make the Open Records Law apply to these same organizations unless the organization files an augmented annual audit with the Comptroller office. In addition to regular audit information, the audit must include a listing, by name of recipient, of all remuneration to the organization directors and officers; a similar listing for employees that earn more than \$25,000 per year; a listing by name of beneficiary of any deferred compensation, salary continuation, retirement, or other fringe benefit plan, other than health and life insurance plans available to all employees on a nondiscriminatory basis, and the amount of funds accruing to the plan in the year; and a listing, by name of recipient, but not the amount, of contractual fees exceeding \$2,500 during the year.

The Open Records or audit requirement does not apply to county associations.

Effective date: May 19, 1998.

Personnel

(See also Retirement and Workers' Compensation)

Chapter No. 852 (SB 2606/HB 3019). Disqualification for unemployment compensation.

Amends T.C.A. § 50-7-303(a) to provide that a claimant for unemployment compensation benefits is disqualified for the ensuing period of unemployment when the claimant's actions for which he or she was discharged, previously unknown and not permitted by the employer, placed the employer in violation of the Fair Labor Standards Act.

Effective date: May 1, 1998.

Chapter No. 1042 (SB 2798/HB 3177). Coverage for mental health services. Amends T.C.A.

Title 56, Chapter 7, Part 23 to require group health plans to provide coverage for mental health if the increase in cost is 1 percent or less.

Effective date: Jan. 1, 2000.

Planning and Zoning

(See also Annexation)

Chapter No. 721 (SB 2432/HB 2448). Board of zoning appeals in Chattanooga. Amends

T.C.A. § 13-7-205(a) to allow the board of zoning appeals in Chattanooga to have nine members.

Effective date: April 8, 1998.

Chapter No. 1076 (SB 3259/HB 3082). Nonresidential methadone treatment facilities. Amends T.C.A. § 68-11-106(d)(3) to require applicants for a certificate of need for a nonresidential methadone treatment facility to notify by return receipt mail the mayor of the municipality in which the facility is to be located that an application has been made with the Health Facilities Commission.

Amends T.C.A. Title 68, Chapter 11, Part 1 to allow local governing bodies to support or oppose the facility in hearings before the commission. Support of the local governing body is not a prerequisite for a certificate of need.

Effective date: May 19, 1998.

Purchasing

Chapter No. 764 (SB 3276/HB 2923). Definition of "contractor." Amends T.C.A. § 62-6-102(3)(A) to include electrical subcontractors, mechanical subcontractors and plumbing contractors and subcontractors in the definition of "contractor" under the Contractor Licensing Act.

Effective date: April 16, 1998.

Chapter No. 895 (SB 2237/HB 2222). Cooperative purchases. Amends T.C.A. Title 12, Chapter 3 to authorize the state Commissioner of General Services to make cooperative purchases with local governments if each contract is procured by sealed bids and is approved by the Board of Standards.

Effective date: May 7, 1998.

Chapter No. 938 (SB 2372/HB 2629). Internet bidding task force. Creates a task force consisting of state and local officials and employees, including one member appointed by the Tennessee City Managers Association and one municipal purchasing officer, to study open bidding procedures, including use of the internet. The task force must report its findings by Feb. 1, 1999.

Effective date: May 11, 1998.

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. This prohibition is in effect for 6 months after the official or employee leaves office. A violation is a Class A misdemeanor.

Amends § 12-2-208 to enact the same prohibitions relative to the purchase of confiscated motor vehicles and intoxicating liquor sold by the state. Any city official or employee violating this prohibition must be dismissed from the job, forfeit compensation due and forfeit the property. Violation is a Class C misdemeanor. This section also makes it unlawful for any city officer directly or indirectly involved in the confiscation of the property to purchase it at auction or otherwise.

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 (4) years for a municipal clerk or recorder, hired after July 1, 1994, to meet certification qualifications.

Effective date: March 10, 1998

Chapter No. 710 (SB 3293/HB 3095). Exemption from recorder certification. Amends T.C.A. § 6-54-120 (b) to exempt any person who has served as both a city judge and a city recorder for at least 25 years from initial recorder certification requirements.

Effective date: April 6, 1998.

Retirement

Chapter No. 625 (SB 3314/HB 3330). Acquired electric systems - retirement. Amends T.C.A. Title 7, Chapter 52 to allow a municipality that operates an electric plant that acquires an existing utility system from another municipality, electric cooperative or utility district to continue the retirement provisions applicable to employees of the acquired system.

Effective date: March 17, 1998.

Chapter No. 1009 (SB 2799/HB 2577). Maximum retirement allowance. Amends T.C.A. § 8-36-208(a) to limit the maximum retirement allowance for Group 1 members under TCRS to 80 percent of average final compensation.

Effective date: July 1, 1998.

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 fire fighters. 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.
- 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 fire fighting. 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 \$0.75 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.

Chapter No. 908 (SB 2425/HB 2289). Eminent domain for landfill. Amends T.C.A. Title 68, Chapter 211, Part 1 to prohibit a municipality from using eminent domain to acquire land for a landfill outside its corporate limits without the approval of the governing body of the area in which the landfill is to be located. The approval must be by majority vote at two regularly scheduled meetings.

Effective date: May 7, 1998.

Taxes - Gasoline

Chapter No. 694 (SB 2498/HB 2917). Pre-mixed two-cycle engine fuel. Amends T.C.A. Title 67, Chapter 3, Part 15 to provide a gas tax refund except for 1 cent per gallon to a manufacturer that uses gasoline in making pre-mixed two-cycle engine fuel sold in containers of one gallon or less and not used in aircraft propulsion. No refund is allowed of the special privilege tax on gasoline under § 67-3-1303 or of the environmental assurance fee under § 67-3-1304.

Amends § 67-6-329(a)(1) to extend the sales tax to pre-mixed two-cycle engine gasoline that is described above.

Effective date: April 1, 1998.

Taxes - General

Chapter No. 637 (SB 2238/HB 2223). Tax assessment conference. Amends T.C.A. § 67-1-1801 (c)(3) to provide that when a taxpayer requests an informal conference with the commissioner, the 90 day period for filing a suit to challenge the tax assessment and the 90 day period for stay of collection activity cease running until an informal conference decision is issued.

Effective date: March 24, 1998.

Chapter No. 651 (SB 2825/HB 2734). New incorporations - situs based taxes. Amends all three general law charters to provide that all situs based taxes continue to go to the county after incorporation until the next July 1, unless the incorporation takes effect on July 1. In this case, the municipality begins receiving revenues for the period beginning July 1. A new municipality must notify the Department of Revenue before the incorporation becomes effective for tax administration purposes.

Effective date: March 24, 1998.

Taxes - Hall Income

Chapter No. 1013 (SB 2199/HB 2607). Exemptions for education and Roth IRA's. Amends T.C.A. § 67-2-104 to exempt earnings or distributions resulting from education or Roth IRAs from income taxation.

Effective date: July 1, 1998.

Chapter No. 1032 (SB 3142/HB 2910). Tax relief for elderly low income persons. Amends T.C.A. § 67-2-104(b) to increase the income that qualifies persons over 65 for exemptions from the Hall Income Tax from \$9,000 to \$14,000 for single filers and from \$15,000 to \$23,000 for joint filers beginning Jan. 1, 1999. Beginning Jan. 1, 2000, the income limits increase to \$16,200 for single and \$27,000 for joint filers.

Effective date: Jan. 1, 1999.

Taxes - Litigation

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.

Taxes - Local Sales

Chapter No. 618 (SB 2282/HB 2268). Elections on questions. Amends T.C.A. § 9-21-209 to provide that a referendum on the issuance of general obligation bonds will be held as an election on a question under § 2-3-204.

Amends *T.C.A.* § 67-6-706(a) to provide that a referendum on a local sales tax is an election on a question under § 2-3-204.

Effective date: March 17, 1998.

Chapter No. 747 (SB 2182/HB 2143). Trustee's fee in Knox County. Amends *T.C.A.* § 67-6-712 to repeal subsection (c) which prohibited the trustee in Knox County from receiving compensation for receiving and distributing local sales tax revenues.

Effective date: July 1, 1998.

Taxes - Property

Chapter No. 606 (SB 3245/HB 3089). Assessments of utilities and carriers. Amends *T.C.A.* § 67-5-1329 to allow a utility or carrier 30 days from the date the comptroller distributes assessments to local officials in which to pay taxes without penalty and interest when the Board of Equalization fails to certify assessments to the comptroller on or before the third Monday in October.

Amends *T.C.A.* § 67-5-1505 to allow hearing examiners of the state Board of Equalization to hear complaints regarding assessments made by the comptroller.

Effective date: March 10, 1998.

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. 683 (SB 2801/HB 2613). Greenbelt law – rollback taxes. Amends *T.C.A.* § 67-5-1008 to provide that a buyer of Greenbelt land who declares in writing at the sale an intention to continue Greenbelt use but fails to file necessary forms within 90 days becomes solely responsible for rollback taxes.

Effective date: March 30, 1998.

Chapter No. 697 (SB 3013/HB 2998). Representation of taxpayers before state Board of Equalization. Amends *T.C.A.* § 67-5-1514 to allow CPA's to act as agents of taxpayers before the state Board of Equalization when the only issue is the valuation of tangible personal property. In other cases, registered agents may represent taxpayers. Establishes qualifications for registered agents.

Effective date: July 1, 1998.

Chapter No. 726 (SB 3061/HB 2903). Tax relief – income of owner of remainder or reversion. Amends *T.C.A.* §§ 67-5-702 and 703 relative to tax relief for elderly low income and disabled homeowners to include income of any owner of a remainder or reversion in the maximum amount of income allowed to qualify for tax relief if the property constitutes the person's legal residence at any time during the tax year.

Effective date: April 8, 1998.

Chapter No. 802 (SB 2769/HB 2466). Tax deferral – Ch. 659. Amends *T.C.A.* §§ 7-64-202 and 203 to increase the annual income limit for elderly and disabled low-income person property tax deferral from \$12,000 to \$25,000.

Repeals § 7-64-206, which limited the value of the residence on which property taxes were deferred to \$50,000.

Amends § 7-64-209 to lower the interest rate on deferred taxes from 10 percent to 6 percent.

Amends § 7-64-210 to provide that the deferral ends upon death of the person(s) to whom granted or upon sale of the property. When termination is by death, taxes and interest are due within 18 months or upon estate settlement, whichever happens first. When termination is by sale, taxes and interest become due within 60 days.

This Act has no effect in a municipality unless it is approved by two-thirds vote of the municipal governing body. Its approval must be certified to the Secretary of State.

Effective date: April 23, 1998.

Chapter No. 803 (SB 2771/HB 2464). Tax deferral - Ch 831. Amends *T.C.A.* § 7-64-101(b) to increase the income limit for property tax deferral from \$12, 000 to \$25,000.

Repeals § 7-64-102(b), which limited the value of the residence eligible for tax deferral to \$60,000.

Amends § 7-64-103(c) to increase the application fee from \$5 to \$6.

Amends § 7-64-104(b) to provide for an interest rate on deferred taxes of 6 percent.

This Act has no effect in a municipality unless it is approved by two-thirds vote of the municipal governing body. Its approval must be certified to the Secretary of State.

Effective date: April 23, 1998.

Chapter No. 804 (SB 3086/HB 3255). In lieu of tax payments by Health, Educational, and Housing Facility Corporations. Amends *T.C.A.* § 48-101-312 to allow municipalities to delegate to Health, Educational and Housing Facility Corporations the authority to negotiate in lieu

of tax payments from the corporation's lessees. The municipal governing body may require the corporation to submit the agreement to it for approval.

The agreement may include in lieu of tax deferral, require interest on the deferred amount, require a deed of trust as security, or provide that the deed of trust is subordinate to other liens.

Effective date: 1998 tax year.

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. 828 (SB 2401/HB 2414). Industrial development corporations. Amends *T.C.A.* § 7-53-302 to allow IDC's to make amendments to leases; extend the terms of leases; amend in lieu of tax provisions in leases; sell, exchange, donate, or convey rents, revenues and receipts; and to pledge rents, revenues, and receipts as security for bonds or notes.

Amends § 7-53-305 to provide that in lieu of tax and lease payments become a first lien on the fee interest of the leased property from January 1 to the extent they do not exceed ad valorem taxes that would apply to taxable property. The IDC may enforce the lien and obtain interest at 10 percent and reasonable attorney fees.

Amends § 7-53-305(b)(2) to delete a sentence providing that in lieu of tax payments are in full satisfaction of the lessees' obligations relative to use and ad valorem taxes.

Requires IDC's to submit to the State Board of Equalization by October 1 of each year a list of real and personal property owned by the corporation and associated entities; the value of each property; the dates and terms of leases; the amount of in lieu of tax payments for each property; the date property is to return to the regular tax rolls; and the amount of taxes due if the property was taxable.

Effective date: April 28, 1998.

Chapter No. 855 (SB 3156/HB 3312). Exemption for arts organization. Amends *T.C.A.* Title 67, Chapter 5, Part 2 to allow a property tax exemption for community and performing arts organizations if the property is used for a public museum, art gallery, performing arts auditorium or theater. Establishes requirements for the exemptions.

This exemption is subject to approval of county governing body, which may require periodic renewal.

Effective date: May 1, 1998;

applies to applications or appeals pending before the State Board of Equalization.

Chapter No. 894 (SB 2192/HB 2234). Search of records; utility property. Amends T.C.A. § 67-5-2502(c) to require delinquent tax attorneys to search records in the offices of the assessor of property, the trustee, the local offices where wills are recorded, and the register of deeds to ascertain persons having an interest in property.

Amends § 67-5-502(c) to require leased personal property used by a public utility to be assessed to the utility unless the property is subject to an in lieu of tax agreement.

Effective date: May 7, 1998.

Chapter No. 898 (SB 2877/HB 2726). Personal property schedule. Amends T.C.A. § 67-5-903 (b) to allow a taxpayer to certify that the depreciated value of tangible personal property is \$1,000 or less, rather than detailing the acquisition cost. The assessor must accept the stated value, subject to audit, and fix the value at \$1,000. This value is subject to equalization. The certification on the schedule must warn the taxpayer that it is made subject to penalty for perjury.

Effective date: May 7, 1998.

Chapter No. 940 (SB 2552/HB 2682). Review of State Board of Equalization actions Amends T.C.A. § 67-5-1511 (b) to provide that a petition for review of State Board of Equalization actions may be filed in the county where the disputed assessment was made or in Davidson, Washington, Knox, Hamilton, Madison, or Shelby Counties, whichever is closer to the subject property. If the property is in Knox, Hamilton, or Shelby Counties, the petition may be filed in Davidson County.

Effective date: May 11, 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.

Chapter No. 1031 (SB 3129/HB 2909). Tax relief for elderly low income and disabled homeowners. Amends T.C.A. §§ 67-5-702 and 703 to increase the value of dwelling on which property tax relief is provided from \$15,000 to \$18,000 for elderly low income and disabled homeowners.

Effective date: May 18, 1998.

Chapter No. 1066 (SB 646/HB 1480). Review of assessment. Amends T.C.A. §§ 67-5-1407 and 1412 to allow lessees obligated to pay property taxes to appeal assessments. A lessee obligated to pay some but not all property taxes may appeal only if the owner consents in writing. A property manager, attorney, or other authorized agent may authorize an appeal if the taxpayer authorizes this in writing.

Amends §§ 67-5-1407 and 1412 to provide that when duplicate appeals are filed and the local or state Board of Equalization has reason to believe that representation is not duly authorized, the board may require written authorization from the taxpayer. Prohibits any agent from filing an appeal before the county or state boards without written authorization from the taxpayer.

Effective date: May 19, 1998.

Chapter No. 1096 (2964/HB 2966). Redemption of property in Knox County. Amends T.C.A. § 67-5-2701, 2702, and 2705 to allow 90 days after entry of an order of confirmation of tax sale in Knox County for redemption of property. All owners of record must sign a waiver of their interest in the property.

Effective date: July 1, 1998.

Taxes – Sales

Chapter No. 635 (SB 516/HB 1520). Exemption for farm equipment, replacement parts, repairs. Amends T.C.A. § 67-6-207 to exempt from sales taxes farm equipment, replacement parts and repair labor.

Effective date: July 1, 1998.

Chapter No. 689 (SB 2178/HB 2091). Exemption for sales to members of uniformed services. Amends T.C.A. § 67-6-303 (a)(1) to expand the exemption for sales of automobiles to members of uniformed services to include those stationed at an air force base engineering development center located entirely within this state.

Effective date: April 1, 1998.

Chapter No. 694 (SB 2498/HB 2917). Pre-mixed two-cycle engine fuel. Amends T.C.A. Title 67, Chapter 3, Part 15 to provide a gas tax refund except for 1 cent per gallon to a manufacturer that uses gasoline in making pre-mixed two-cycle engine fuel sold in containers of one gallon or less and not used in aircraft propulsion. No refund is allowed of the special privilege tax on gasoline under § 67-3-1303 or of the environmental assurance fee under § 67-3-1304.

Amends § 67-6-329(a)(1) to extend the sales tax to pre-mixed two-cycle engine gasoline that is described above.

Effective date: April 1, 1998.

Chapter No. 732 (SB 3304/HB 3306). Exemption for certain material handling equipment. Amends *T.C.A.* § 67-6-102 (12) to exempt from sales taxes material handling equipment and racking systems used in warehouse and distribution facilities under certain conditions.

Effective date: July 1, 1998,
but applies to purchases or leases of previously occupied buildings.

Chapter No. 766 (SB 2653/HB 2991). Exemption for certain computer software. Amends *T.C.A.* § 67-6-314 to exempt computer software used to treat people with learning disabilities from sales taxes when the software is prescribed by a doctor.

Effective date: July 1, 1998.

Chapter No. 767 (SB 3200/HB 3139). Exemption for natural gas. Amends *T.C.A.* § 67-6-206 (b) to exempt natural gas used by manufacturers in producing aluminum and aluminum can sheet products from sales taxes.

Effective date: April 16, 1998.

Chapter No. 920 (SB 3440/HB 3442). Special allocation for minor league baseball stadium. Amends *T.C.A.* § 67-6-103 (d) to allow special allocations to take place before a new stadium is built.

Effective date: May 7, 1998

Chapter No. 976 (SB 1194/HB 1086). Exemption for aircraft. Amends *T.C.A.* Title 67, Chapter 6, Part 2 to exempt aircraft owned before May 1, 1998 and imported into Tennessee between June 30, 1998, and Dec. 31, 1998. Levies a state sales tax on other aircraft at 6 percent on \$100,000 of value and 3 percent on value over that.

Effective date: Exemption took effect May 18, 1998; tax on other aircraft effective July 1, 1999, and repealed July 1, 2001.

Chapter No. 1038 (SB 2725/HB 3050). Exemption for timber equipment sold to farmers. Amends *T.C.A.* § 67-6-102(8) to exempt from sales taxes equipment used by farmers for harvesting timber.

Effective date: July 1, 1998.

Chapter No. 1055 (SB 3173/HB 3236). Convention Center and Tourism Development Financing Act of 1998 enacted. Amends *T.C.A.* Title 7 to provide a financing mechanism for the development of convention centers and similar public facilities that will attract tourists.

To qualify for financing under this Act, the facilities must have at least 250,000 square feet to be constructed, leased, acquired or expanded after Jan. 1, 1998. The local investment of public funds must be in excess of \$75,000,000 and reasonably anticipated to attract investment in the

tourist development zone of \$25,000,000. The facility must be located in the tourist development zone, an area designated by ordinance and determined by the Department of Finance and Administration to be an area in which state and local sales taxes will increase as a result of the facility.

When the municipality constructs or acquires a facility in a tourist development zone, the increase in state and local sales tax revenues over bare tax revenues (revenues collected the year before the facility is acquired) accrue to the municipality to pay for the facility.

Effective date: July 1, 1998.

Chapter No. 1057 (SB 2473/HB 2975). Film processing. Amends T.C.A. § 67-6-102 to include film processing for resale in the definition of both "fabricating or processing tangible personal property for resale and sale."

Effective date: May 15, 1998.

Chapter No. 1084 (SB 3194/HB 3226). Credit for sprinkler contractors. Amends T.C.A. Title 67, Chapter 6, Part 3 to grant fire protection sprinkler contractors a credit against sales taxes of any special contractor tax paid in another state.

Effective date: July 1, 1998.

Tort Liability

Chapter No. 866 (SB 2756/HB 2732). Wrongful death - survival of action. Amends T.C.A. § 20-5-106(a) to provide that a cause of action for wrongful death of a child does not pass to the parents if they had abandoned the child pursuant to a court order removing the child from their custody.

Effective date: May 1, 1998.

Chapter No. 904 (SB 3247/HB 3276). Indemnification of building authority. Amends T.C.A. § 12-10-114 to allow municipalities to agree to indemnify building authorities, their officers, directors and employees for the authority negligence. The agreement must be in writing.

Effective date: May 7, 1998.

Chapter No. 937 (SB 2329/HB 2343). Public Building Authorities as governmental entities. Amends T.C.A. § 29-20-102 to clarify that Public Building Authorities are governmental entities under the Tennessee Governmental Tort Liability Act.

Effective date: May 11, 1998.

Urban Development

Chapter No. 619 (SB 2410/HB 3065). Housing authorities - redevelopment powers. Amends T.C.A. § 13-20-202(4) to allow housing authorities, or parties engaged by them, to remediate environmental contamination of acquired areas, to install or reconstruct parks, open spaces, playgrounds, pedestrian ways, and parking garages and to pay relocation and other expenses in carrying out redevelopment plans and other powers.

Effective date: March 17, 1998.

Chapter No. 628 (SB 2428/HB 2449). Central Business Improvement District Act of 1990 applicable in Hamilton County. Amends T.C.A. § 7-84-530 to make the Central Business Improvement District Act of 1990 apply in Hamilton County.

Effective date: March 19, 1998.

Chapter No. 948 (SB 3059/HB 2756). Blighted areas - commercial and industrial parcels. Amends T.C.A. § 13-21-202 to extend the scope of that chapter, which authorizes the acquisition and redevelopment of blighted areas, to include the acquisition of blighted commercial and industrial property.

Amends T.C.A. §§ 13-21-202, 204, and 205 to allow industrial redevelopment.

Effective date: May 11, 1998.

Chapter No. 987 (SB 2327/HB 2293). Community redevelopment. Enacts the Community Redevelopment Act of 1998 for Shelby County.

Effective date: July 1, 1998.

Utilities

Chapter No. 586 (SB 922/HB 1133). Annexation of territory served by another municipality electric system valuation. Amends T.C.A. § 6-51-111 to provide that the municipality annexing territory served by the electric system of another municipality or other state instrumentality may, after providing written notice, purchase the part of the other municipality or instrumentality system serving the annexed area. The purchase price must be the fair market value, to be paid on terms agreed to by the parties. If the parties cannot agree, each must select a qualified appraiser who shall determine the value using the Uniform Standards of Professional Appraisal Practice. If the two appraisers cannot agree they must select a third appraiser whose determination will control. This is the sole method for determining purchase price. In the absence of agreement

between the parties, this Act is the sole method for an annexing municipality to acquire the annexed facilities of another municipal electric system or state instrumentality.

Effective date: March 11, 1998.

Chapter No. 592 (SB 2231/HB 2216). New public water systems. Amends T.C.A. § 68-221-704(2) to authorize the Water Quality Control Board to require new community water systems beginning operation after Oct. 1, 1999, to demonstrate technical, managerial and financial capacity to comply with state and federal water regulations.

Amends T.C.A. § 68-221-705 to authorize the Commissioner of Environment and Conservation to assist public water systems in complying with state and federal regulations.

Effective date: March 10, 1998.

Chapter No. 625 (SB 3314/HB 3330). Acquired electric systems- retirement. Amends T.C.A. Title 7, Chapter 52 to allow a municipality that operates an electric plant that acquires an existing utility system from another municipality, electric cooperative or utility district to continue the retirement provisions applicable to employees of the acquired system.

Effective date: March 17, 1998.

Chapter No. 763 (SB 3046/HB 2868). Equity investment. Amends T.C.A. § 7-34-115(a)(8) to provide that the definition of equity investment in that item does not change the status of any payments made under any provision of a city charter in existence on or before July 1, 1993.

Effective date: April 16, 1998.

Chapter No. 981 (SB 2949/HB 2077). Small water systems - depreciation of grant fund assets. Amends T.C.A. § 68-221-1010(a) to provide that in determining whether a small water system (900 or fewer customers) has a retained earnings or operating deficit that would trigger jurisdiction of the Water and Wastewater Financing Board, depreciation does not include depreciation on assets acquired with state or federal grant funds. This provision is void, however, if the Commissioner makes a written determination that its implementation would jeopardize the receipt of federal funds under the Clean Water Act.

Effective date: May 18, 1998.

Chapter No. 1004 (SB 2800/HB 2523). Issuance of debt for telecommunications service. Amends T.C.A. § 7-34-104 to allow municipalities authorized to provide telecommunication services (those with electric plants) to borrow money and issue debt for this purpose.

Effective date: May 18, 1998.

Workers' Compensation

Chapter No. 1024 (SB 2973/HB 2803). Revisions to workers' compensation law. Amends T.C.A. § 50-6-203(a) to provide that, when voluntary payments are made to an injured employee, suit to recover any unpaid compensation may be brought within one year from the date of the last authorized treatment or the date the employer ceases making payments, whichever is later. Provides that when an employer or agent brings suit and nonsuits after the statute of limitation has run, either party has 90 days from the dismissal order to file an action.

Amends Title 50, Chapter 6, Part 2 to require the Department of Labor to develop a statistical data form. The form must be filed by the employers at the conclusion of each case.

Amends § 50-9-103(4), the definitions of "drugs" under the Drugfree Workplace Program, to require covered employers to test an individual for all covered drugs in accordance with 50-9-101, et seq.

Amends § 50-9-106(a)(2) to require a written record to be made of observations leading to a reasonable suspicion test within 24 hours of the observation or before test results are released, whichever is earlier. A copy must be given to the employee on request but must be kept confidential by the employer. The record must be retained at least one year.

Amends § 50-6-103(a)(3) to limit scheduled periodic testing for public employers to police officers, persons with drug interdiction responsibilities, persons authorized to carry guns, persons engaged in activities that directly affect the safety of others, and persons who work in direct contact with delinquent minors.

Drug or alcohol testing on a scheduled basis is not required if a covered employer's personnel policy on July 1, 1998, does not include drug or alcohol testing as part of a routine fitness-for-duty medical examination. The test must be conducted in a non-discriminatory manner. Routine fitness-for-duty testing does not apply to volunteer health screenings, wellness programs, government-mandated programs or limited medical surveillance procedures.

Amends § 50-9-106(a)(5) to require post-accident drug testing.

Amends § 50-6-225(e)(7) to extend the existence of the Workers Comp Appeals Panel to Sept. 1, 2006.

Amends § 50-6-204(a)(6)(A) to require reimbursement for an employee travel expenses to a doctor only if the doctor is farther than 15 miles from the worker's residence or workplace.

Amends § 50-6-113(f) to exempt persons building a dwelling on their own property from the requirement to carry workers' comp insurance.

Amends § 50-6-238 to allow workers' comp specialists to order benefits reinstituted as well as initiated.

Effective date: July 1, 1998.

Chapter No. 1054 (SB 342/HB 1783). Removal of safety devices. Amends T.C.A. Title 39, Chapter 17, Part 1 to make it a class A misdemeanor punishable by a fine only of up to \$2,500 for any person to remove a safety device from a machine and thereby cause injury to another. This prohibition does not apply if the removal is done to improve safety or the safety device is redesigned to make it better.

Evidence of a conviction cannot be used in a subsequent action against an employer by the employee.

Effective date: July 1, 1997.

APPENDIX

PUNISHMENT FOR FELONIES AND MISDEMEANORS

CRIMINAL CLASSIFICATION	INCARCERATION TERM	FINE
Class A Felony	15 - 60 years	Not more than \$50,000
Class B Felony	8 - 30 years	Not more than \$25,000
Class C Felony	3 - 15 years	Not more than \$10,000
Class D Felony	2 - 12 years	Not more than \$5,000
Class E Felony	1 - 6 years	Not more than \$3,000
Class A Misdemeanor	Not more than 11 months, 29 days	Not more than \$2,500
Class B Misdemeanor	Not more than 6 months	Not more than \$500
Class C Misdemeanor	Not more than 30 days	Not more than \$50

In felony cases, the fine may be assessed in addition to the prison terms. In misdemeanor cases, the term of incarceration or the fine, or both, may be imposed. In all cases, the punishment is as provided above unless otherwise provided by the particular statute.



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Inquiries concerning Title IX, Section 504, and the Americans With Disabilities Act of 1990 should be directed to Gary W. Baskette, Director of Business Services, 109 Student Services and Administration Building, Knoxville Tennessee 37996-0212, (423) 974-6622. Charges of violation of the above policy should also be directed to Mr. Baskette.

Authorization No. E14-1050-00-003-99

