

Hot Topics for Tennessee cities and towns

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Public Acts Affecting Cities

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The recently concluded session of the Tennessee General Assembly resulted in several measures passing that affect municipalities in the state. This Hot Topic summarizes some of these acts. However, do not rely solely on these summaries before giving advice or taking action. Refer to the act itself. Next month, MTAS will publish the complete *1995 Summary of Public Acts*.

Alcoholic Beverages

Chapter No. 124 (SB 62/HB 1158). Penalty for failure to pay privilege tax or provide information. Amends T.C.A. § 57-5-104 to give cities and counties the option of: (1) suspending or revoking a permit; or (2) imposing a civil penalty of up to \$1,500 against beer permit holders who are tardy in paying annual tax under T.C.A. § 57-5-104 or who do not provide information required by statute. Under former law, permit was automatically void under these two circumstances.

Effective date: 4/19/95.

Annexation

Chapter No. 283 (SB 429/HB 1367). Notice to include map. Amends T.C.A. § 6-51-101(3) to provide that the notice requirement of the statute is satisfied by inclusion of a map in the published notice with a general delineation of the area or areas to be annexed by using official road names or numbers, names of lakes or waterways, or other landmarks.

This notice requirement applies only to annexation ordinances passed on first reading on or after July 1, 1995.

Business Regulation

Chapter 421 (SB 226/HB 890). Adult-oriented establishments -- regulations. Amends T.C.A. Title 7, Chapter 51 to regulate adult-oriented establishments. The act sets hours of operation at 8 a.m. to 12 midnight Monday through Saturday. However, these restrictions do not apply to an establishment or the portion thereof that offers only live, stage, adult entertainment in a theatre, adult cabaret, or dinner-show type setting. In addition, these establishments may not operate on Sundays or legal holidays.



Local governments may establish stricter opening and closing times and reasonable regulations.

This act does not prevent municipalities from enacting and enforcing other reasonable restrictions, regulations, licensing, zoning, and other provisions regarding the location, configuration, code compliance, or other business requirements of adult-oriented establishments and sexually oriented businesses.

Charter Changes

Chapter No. 13 (SB 251/HB 337). General Law Charters amended. This act amends all three of the general law charters (city manager-commission charter, mayor-aldermanic charter, and the modified council-manager charter). *The effective date of these changes was March 17, 1995.*

City Manager-Commission Charter. Amends *T.C.A.* § 6-18-103 to eliminate obsolete provisions providing for an abeyance period if a municipality attempts to incorporate close to an existing city. During the abeyance period, the existing city could have annexed the proposed city, but present law prohibits incorporation in close proximity to existing cities.

Amends *T.C.A.* § 6-18-101 to allow municipal power to be exercised by means other than ordinances.

Amends *T.C.A.* §§ 6-19-101(29) and 6-21-502 to eliminate an obsolete provision limiting fines to \$50.

Amends *T.C.A.* § 6-20-215 to allow ordinances to be passed on two rather than three readings.

Amends *T.C.A.* § 6-21-108(2) to clarify the city manager's authority relative to personnel actions and to clarify that employees are at-will employees.

Amends *T.C.A.* § 6-22-124 to eliminate the requirement in this section that an amendment to the appropriations ordinance must be published.

Mayor-Aldermanic Charter. Amends the provisions below of the mayor-aldermanic charter to do the following:

T.C.A. § 6-1-201 to increase the population requirement for incorporating under this charter from 750 to 1,500.

T.C.A. § 6-1-203 to make the requirement for a plan of services consistent with the requirement in the city manager-commission charter and to make it clear that a property tax is not required in the plan.

T.C.A. § 6-1-205 to clarify that the provisions of this charter apply only to municipalities that have adopted the charter by referendum.

T.C.A. §§ 6-2-201(28)(B) and 6-4-302(c) to eliminate obsolete provisions limiting fines to \$50.

Modified Council-Manager Charter. This act amends *T.C.A.* § 6-30-106, part of the modified council-manager charter, to clarify that this charter applies only to cities that have adopted it by referendum.

Disabled Persons

Chapter No. 417 (SB 25/HB 1040). Disabled volunteers to enforce disabled parking. Amends *T.C.A.* § 55-21-101 et seq. to allow law enforcement agencies to appoint disabled volunteers who are at least 21 years old to issue citations for violations of state laws and local ordinances relative to disabled parking. The law enforcement agency appointing a volunteer may establish any other qualifications the agency deems desirable. The agency must provide the volunteer training and can set other qualifications. **This act applies only in counties that approve it by a two-thirds vote of the county legislative body.**

Education

Chapter No. 404 (SB 756/HB 557). Election of members of municipal board of education. Amends *T.C.A.* § 49-2-201 to allow members of municipal boards of education to be elected from districts, at large, or a combination of both if the municipal governing body is elected in the same manner. Municipal school districts that have already changed to district elections must maintain that method of election. This act does not apply in Davidson and Shelby counties.
Effective date: June 6, 1995.

Finance

Chapter No. 31 (SB 510/HB 408). Street aid funds -- use on the state and federal highways. Amends *T.C.A.* § 54-4-204(b) to allow state street funds to be used on state and federal highways within the corporate limits. Under previous law, no part of street aid funds could have been expended on such highways, except as specifically provided for in the statute.
Effective date: March 23, 1995.

Chapter No. 135 (SB 1660/HB 1651). Street aid and sales tax revenue distribution -- special censuses. Amends *T.C.A.* §§ 54-4-203(b) and 67-6-103(a)(3)(C) to allow municipalities to conduct three special censuses between decennial censuses. Distribution of funds will be based on results of these special censuses. Under previous law, municipalities could only conduct two special censuses between decennial censuses.
Effective date: April 21, 1995.

Chapter No. 297 (SB 1232/HB 814). Contributions to chambers of commerce. Amends *T.C.A.* § 6-54-111 to allow contributions to be made by municipalities to chambers of commerce. Eliminates the requirement that these contributions must be approved at two regularly scheduled meetings. Under previous law, contributions could be made to civic organizations exempt from taxation pursuant to paragraph (4) subsection (c) of Section 501 of the Internal Revenue Code of 1954. This amendment allows contributions to both Section 501(c)(4) or Section 501(c)(6) of the I.R.C., which specifically includes chambers of commerce.

In addition, any contributions made by municipalities in the past to chambers of commerce or other organizations authorized to receive contributions by this act are hereby ratified and approved.

Effective date: May 26, 1995.

Law Enforcement

Chapter No. 374 (SB 1634/HB 1608). Enforcement of traffic laws on private streets. Amends T.C.A. Title 55, Chapter 10, Part 3 to allow law enforcement agencies to enforce traffic laws on private streets in residential developments having single family and multifamily dwellings. A majority of residents of the development must request this in a petition to the governing body. The governing body must establish traffic laws in the development just as it does for public streets.

Chapter No. 507 (SB 774/HB 20). Domestic abuse -- requirements for law enforcement officers. Creates a Domestic Violence State Coordinating Council. This council is to design a policy for law enforcement response to domestic violence and a training course for law enforcement officers who are likely to encounter domestic violence. Each law enforcement agency must, no later than Dec. 31, 1997, adopt a policy regarding domestic violence and provide initial and continuing education regarding the dynamics of domestic violence and handling, investigating, and responding to domestic violence calls.

The Peace Officer Standards and Training (POST) Commission must also establish a domestic violence policy and curriculum. The commission must require all law enforcement agencies to comply with this act.

Effective date: July 1, 1995.

Chapter No. 514 (SB 259/HB 162). Use of seized vehicles. Amends T.C.A. §§ 53-11-201 and 40-33-211 to allow municipal and county agencies to use any vehicles that are seized and forfeited under T.C.A. § 40-33-201 et seq. in the local drug enforcement program for up to five years.

Effective date: June 12, 1995.

Chapter No. 178 (SB 964/HB 352). Driver improvement courses. Amends T.C.A. § 55-10-301(b)(2) to allow local government entities to provide driver improvement courses. Fees assessed for the driver improvement course may not exceed \$50 and no one can be refused admittance because of inability to pay. The local government's driver improvement course must be approved by the Department of Safety.

Effective date: May 5, 1995.

Public Building Authorities

Chapter No. 74 (SB 1481/HB 1173). Operating contracts with municipalities. Amends T.C.A. Title 12, Chapter 10, Part 1 to allow municipalities to make contracts with public building authorities relative to construction of improvements on and operation and maintenance of property owned or leased by someone other than the authority to the municipality. This act

provides that authorities that operate or maintain more than one project may maintain a common account or accounts and buy supplies and services in common, provided that expenditures are allocated to each project on an appropriate basis.

The act sets \$5,000 or the applicable limit for the municipality as the threshold for competitive bidding. The authority may contract for services by public invitation for proposals. Contracts are limited to three years. Construction contracts may be by request for proposals as well as competitive bid.

Effective date: April 5, 1995.

Purchasing

Chapter No. 160 (SB 1689/HB 1655). Competitive bidding under metro charter with bidding restrictions. Amends T.C.A. § 7-3-101 et seq. to define "competitive bidding" for metro governments with charters that require purchases in excess of \$1,000 to be competitively bid.

Effective date: July 1, 1995.

Chapter No. 176 (SB 295/HB 302). Competitive bidding by municipalities with a population of 150,000 or more. Amends T.C.A. Title 7, Chapter 3, Part 1 to set the threshold for competitive bids or proposals at \$10,000 for municipalities with a population of more than 150,000. The act includes special provisions for Metro Nashville. Under the act, each municipality retains the right to set a different competitive bidding threshold by charter amendment.

Effective date: May 5, 1995.

Chapter No. 179 (SB 1020/HB 1103). Increase allowed in competitive bidding limit. Amends T.C.A. § 6-56-306 to allow municipalities subject to the Municipal Purchasing Law of 1983 to increase by ordinance to \$5,000 the dollar amount before public advertisement and competitive bidding are required. The previous maximum dollar amount was \$4,000.

Effective date: July 1, 1995.

Solid Waste

Chapter No. 5 (SB 1549/HB 1619). Solid waste landfills in municipalities -- approval by county required. Amends T.C.A. § 68-211-701 to require the approval of a private solid waste landfill by both the municipal and county legislative bodies if the landfill is to be in a municipality. Under previous law, it was only necessary to get approval from the municipal legislative body for landfills within the corporate limits.

Repeals T.C.A. § 68-211-705, which prohibited pre-emption of local zoning ordinances and plans by the local approval law.

Repeals T.C.A. § 68-211-708, which provided for the expiration of the local approval law when the state solid waste plan was approved or June 30, 1995, whichever happened first.

Effective date: March 15, 1995. The legislation also provides that it shall apply to all permit applications pending and filed after the effective date.


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By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works, law, ordinance codification, communications, and wastewater management. MTAS houses a comprehensive library and publishes scores of documents annually.

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