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Hot Topic: Public Acts Affecting Cities

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Hot Topics

for Tennessee cities and towns

Attention City Contacts:

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

Sept. 7, 2001 #71

Public Acts Affecting Cities

The 2001 Tennessee General Assembly passed into law several acts that affect Tennessee municipalities. This Hot Topic summarizes some of these acts. However, do not rely solely on these summaries before giving advice or taking action. Refer to the act itself. MTAS will publish the complete 2001 Tennessee Public Acts this month.

Business Regulation

Chapter No. 183 (SB403/HB517). Adult businesses. Amends T.C.A. Title 7, Chapter 51, Part 11, the Adult-Oriented Establishment Registration Act.

Does the following:

- Allows the county board to adopt rules and regulations.
- Requires employer, escorts, entertainers, and operators to submit an application once this part is given local effect.
- Prohibits the board from denying an application for reasons other than those set out in this law.
- Allows a business to operate 30 days after application if there is an additional investigation after the initial one that is not the result of the actions of the applicant.
- Allows court to overturn decision of board that is clearly erroneous.
- Requires applicant to cooperate in declaratory judgment actions under the act.
- Prohibits operators, entertainers, or employees from performing, offering to perform, or permitting to be performed sexual intercourse, oral or anal copulation, or contact stimulation of the genitalia.
- Makes other housekeeping changes.

Effective date: May 10, 2001

Elections

Chapter No. 1 (SB5/HB108). Eligibility to run for commissioner. Amends T.C.A. § 6-20-103, part of the uniform city manager-commission charter, to provide that a person who is eligible to vote in city elections solely by nonresident ownership of property is not eligible for election as a commissioner.

Effective date: Feb. 20, 2001

Chapter No. 199 (SB818/HB1200). Filing nominating petitions. Amends T.C.A. § 2-5-101(a)(3) to require candidates in municipal elections held with the regular August election to file their nominating petitions by noon on the first Thursday in April. Candidates in other municipal elections must file their petitions by noon on the third Thursday in the third calendar month before the election.

Effective date: July 1, 2001

Emergency Services

Chapter No. 149 (SB458/HB1137). Emergency communications districts — appointment of board members; authority of state board relative to financially distressed districts. Amends T.C.A. § 7-86-105 to allow the county executive to appoint board members of districts created by the county, subject to confirmation by the county legislative body.

Amends T.C.A. § 7-86-304 to allow the state Emergency Communications District Board to set a rate structure for financially distressed districts to allow a district to produce revenues sufficient to provide for all expenses and maintenance of the district, including reserves.

Effective date: May 3, 2001

Chapter No. 263 (SB1841/HB1891). Local Government Emergency Assistance Act of 1987 re-enacted. Re-enacts the Local Government Emergency Assistance Act of 1987. This act places these provisions in T.C.A. § 58-2-111(c), but they might be codified elsewhere.

Section 3 of this act ratifies actions of local governments done since July 1, 2000, in reliance on the Local Government Emergency Assistance Act of 1987. Continues existing local policies.

Amends T.C.A. § 58-2-112 to remove the requirement that copies of mutual aid agreements be sent to the Tennessee Emergency Management Agency.

Effective date: May 22, 2001

Chapter No. 419 (SB1013/HB1555). Personal immunity restored for paramedics and emergency medical technicians. Amends T.C.A. § 29-20-310(b) and (c) to define “health care practitioner” as including only doctors and nurses. The effect of this is to restore personal immunity from liability for EMTs, paramedics, and others who might have been considered health care practitioners.

Effective date: June 27, 2001

Finance

Chapter No. 32 (SB462/HB873). Transactions with public building authorities for school purposes — resolution, notice, and election requirements eliminated. Amends T.C.A. § 12-10-115 to provide that municipalities entering into a lease, loan agreement, sales contract, or operating contract for school purposes with a public building authority need not comply with the resolution, notice, and election provisions in T.C.A. §§ 9-21-205 through 9-21-212.

Effective date: March 30, 2001

Chapter No. 119 (SB179/HB291). Stormwater management fees. Amends T.C.A. §§ 68-221-1101 and 1102 to allow all municipalities, not just those with populations of 75,000 or more, to levy fees for the privilege of discharging stormwater. This act also allows counties to levy these fees outside municipal jurisdictions.

Effective date: April 26, 2001

Chapter No. 231 (SB1228/HB1309). Abandoned property. Amends T.C.A. Title 66, Chapter 29, Part 1 to revise certain provisions on abandoned property. Amends § 66-29-129(b) to set a penalty equal to 10 percent of the value of the property for each year it is not delivered to the treasurer. The penalty cannot exceed 25 percent of the value of the property or \$50,000, whichever is less. These penalties do not apply to inadvertent omissions of property having a value less than 10 percent of total reportable property.

Effective date: May 15, 2001

Chapter No. 253 (SB1328/HB1531). Bonds and notes — interest and hedging agreements, etc. Amends T.C.A. § 7-34-109(f) and (c) relative to issuance of debt for municipal utilities to allow municipalities to make interest rate hedging agreements relative to notes as well as bonds.

Amends T.C.A. § 7-34-109(g) to allow delivery of notes as well as bonds more than 90 days but generally fewer than five years after execution of an agreement to do so.

Amends §§ 9-21-914(a)(2) and 9-21-1012(a)(2) to require proceeds of refunding bonds to be deposited in an institution located in Tennessee or regulated by a federal entity.

Amends other provisions relative to housing bonds and school bonds.

Effective date: July 1, 2001

Chapter No. 407 (SB893/HB1126). Public building authorities — bidding procedures. Amends T.C.A. § 12-10-124 to require public building authorities to do competitive bids for the construction of buildings or improvements costing more than \$10,000 but less than \$1 million. For buildings or improvements costing \$1 million or more, the authority must use competitive bids, a request for proposals with minimum required qualifications, or a request for qualifications with minimum required qualifications in which multiple proposers are selected and pre-qualified to submit bids.

This act establishes procedures for and restrictions on competitive bidding for public building authorities.

Effective date: June 19, 2001

Finance (continued)

Chapter No. 411 (SBB1366/HB1603). Union dues checkoff for firefighters. Amends T.C.A. § 7-51-204 to require municipalities with regular full-time firefighters to deduct union and association dues from paychecks when the union or association certifies that it represents 40 percent or more of those eligible. Amounts deducted must be remitted to the union within 30 days. Deductions must continue until 30 days after an employee revokes authorization in writing.

Effective date: June 20, 2001

Industrial Development

Chapter No. 339 (SB459/HB876). Payments in lieu of taxes — conditions and term limitation. Amends T.C.A. § 7-53-305(b) to require each in lieu of tax payment agreement to have a cost/benefit analysis attached as required by the commissioner of Economic and Community Development. This act also limits these agreements to 20 years, including extensions, unless both the commissioner and the comptroller have made a written determination that the agreement is in the best interest of the state. This act does not apply to agreements made before Jan. 1, 2002.

Effective date: June 5, 2001

Planning and Zoning

Chapter No. 265 (SB250/HB252). Transfers of development rights allowed statewide.

Amends T.C.A. § 13-7-201(a)(2) to delete item (d), which restricted that section allowing the transfer of development rights to metropolitan governments.

Amends § 13-7-201(a)(2)(A) to delete a requirement that the area of the receiving property be equal to or greater than the area donating the rights.

Allows municipalities, counties, metropolitan governments, the state, and nonprofit conservation organizations to receive through gift or testamentary disposition development rights without allocating them to any property under their ownership or control and notwithstanding local zoning regulations pertaining to required ratios of receiving to donating property or of the total amount of density a receiving property may obtain from a donating property.

Effective date: May 22, 2001

Taxes — Property

Chapter No. 104 (SB1507/HB1732). Suit for delinquent taxes. Amends T.C.A. § 67-5-2405 to require the county delinquent tax attorney to bring suit in the name of the county, rather than the state, on the county's behalf and for the benefit of any municipality that has certified a delinquent tax list.

Effective date: April 18, 2001

Chapter No. 152 (SB1068/HB1731). Tax break for greenbelt land; tax shifts to residential owners. Amends T.C.A. § 67-5-1008 to cap the amount greenbelt land can increase in value because of a reappraisal at 7 percent times the number of years since the latest reappraisal for 2001 and 6 percent for 2002 and subsequent years. These losses in revenue from this tax break for greenbelt land will be regained through increases in certified tax rates.

Property (continued)

Amends T.C.A. §§ 67-5-1005 and 1006 and 1007 to require an application for greenbelt status to be filed by March 1 rather than April 1.

Amends T.C.A. § 67-5-1008 to change valuation of greenbelt land from land schedule value to farmland value as determined by the Division of Property Assessments.

Amends T.C.A. § 67-5-1008(d)(2) to provide that rollback taxes are payable from the date written notice is provided by the assessor but are not delinquent until the following March 1. The assessor must give notice of disqualification of land to the property owner, seller, and tax-collecting officials. Rollback taxes are a first lien on the property and a personal responsibility of the owner or seller. The assessor may void the rollback assessment if it was in error. Liability for rollback taxes is appealable to the state Board of Equalization by March 1 of the year following notice.

Effective date: tax year 2001; provisions changing application date take effect Jan. 1, 2002

Chapter No. 424 (SB1347/HB1184). Tort liability limits increased; Catastrophic Injury Fund Commission created. Amends T.C.A. § 29-20-403 to increase tort liability limits for local governments as follows:

For causes of action arising on or after July 1, 2002, but before July 1, 2007

One person	One accident	Property damage per accident
\$250,000	\$600,000	\$85,000

For causes of action arising on or after July 1, 2007

One person	One accident	Property damage per accident
\$300,000	\$700,000	\$100,000

This act also creates a commission to develop and propose catastrophic injury fund legislation. The commission will consist of four members chosen from eight nominees submitted by local government interests, four members chosen from eight nominees submitted by the Tennessee Trial Lawyers Association, the state's constitutional officers (comptroller, treasurer, secretary of state), and the chairs of the State and Local Government, Judiciary, and Finance, Ways, and Means committees. The commission must propose legislation by July 1, 2006.

Effective date: June 27, 2001

Weapons

Chapter No. 345 (SB193/HB227). Firearms illegal where beer or intoxicating liquor served for on-premises consumption. Amends T.C.A. § 39-17-1305(a) to clarify that it is a Class A misdemeanor for persons to possess a firearm where beer or intoxicating liquor are served for on-premises consumption.

Effective date: July 1, 2001

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