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Tennessee Public Acts 2004: Summaries of Interest to Municipal Officials

Dennis Huffer

Municipal Technical Advisory Service

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TENNESSEE PUBLIC ACTS 2004

Summaries of Interest to Municipal Officials

Dennis Huffer, Legal Consultant



MTAS

**Municipal Technical
Advisory Service**

*In cooperation with the
Tennessee Municipal League*



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WARNING: Users of this publication are cautioned that much judgment is involved in determining which public acts to summarize and how to summarize them. Before taking action or giving advice based upon any public act summarized here, one should consult the act itself and not rely on the summary.

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The Municipal Technical Advisory Service (MTAS) was created in 1949 by the state legislature to enhance the quality of government in Tennessee municipalities. An agency of the University of Tennessee Institute for Public Service, MTAS works in cooperation with the Tennessee Municipal League and affiliated organizations to assist municipal officials.

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, and wastewater management. MTAS houses a comprehensive library and publishes scores of documents annually.

MTAS provides one copy of our publications free of charge to each Tennessee municipality, county and department of state and federal government. There is a \$10 charge for additional copies of "Tennessee Public Acts 2004."

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Alcoholic Beverages

Chapter No. 544 (SB 2694/HB 2860). Sale of wine in special historic districts in Shelby County. Amends T.C.A. 57-4-101, 102, and 301 to allow the sale of wine in special historic districts in Shelby County on Fridays and Saturdays and to levy an annual privilege tax of \$100 for selling wine within the district.

Effective date: April 22, 2004.

Chapter No. 598 (SB 2835/HB 2901). January 1, 1993, date for grandfathering of beer permits eliminated. Amends T.C.A. 57-5-109 to eliminate the requirement that a beer permit must have been validly issued as of January 1, 1993, for a beer place that subsequently is too close to a school, residence, church, or other place of public gathering to effect the grandfathering of the permit.

Effective date: July 1, 2004.

Animals

Chapter No. 765 (SB 2840/HB 3229). Anti-rabies law revised. Amends the Tennessee Anti-Rabies Law (T.C.A. 68-8-101, et seq.) in its entirety. Allows municipalities and counties to enact local ordinances requiring registration of dogs and cats. Registration fees must be used in the rabies or animal control program. Municipalities and counties with their own rabies control program are exempt from the requirements of this act as long as

the program meets the minimum requirements of the act.

Effective date: July 1, 2005.

Chapter No. 920 (SB 3209/HB 3458).

Animal cruelty; securing of costs. Amends T.C.A. 39-14-212(b)(1) to include failing to provide food and water to a companion animal that results in a substantial risk of death to the definition of animal cruelty.

Amends 39-14-210 to allow animal control agencies to petition the court requesting that the person from whom an animal is seized be ordered to post security to pay costs of caring for the animal. The amount of security will be determined by the court. The animal owner may relinquish the animal to the animal control agency rather than post security.

Effective date: July 1, 2004.

Chapter No. 957 (SB 3295/HB 3320).

Injuries to or death of guide dogs. Amends T.C.A. Title 39, Chapter 14, Part 2, to provide for criminal punishment and civil damages for injuring or killing a guide dog. Includes cost of training as well as the cost of the dog itself under both civil and criminal provisions.

Amends 44-17-403 to increase the amount of non-economic damages that may be awarded for killing of dog from \$4,000 to \$5,000.

Effective date: June 15, 2004.



Boards, Commissions, and Authorities

Chapter No. 444 (SB 2322/HB 2272). Tennessee Housing Development Agency—Conflict of interest provision softened for local government employees. Amends T.C.A. 13-23-128(a) to provide that the conflict of interest provision, which prohibits THDA board members and employees from having a financial interest in any housing sponsor or housing development financed or assisted by the agency, does not apply to a full-time employee of local government or a housing authority who has no financial interest other than as a public employee.

Effective date: March 15, 2004.

Chapter No. 672 (SB 2665/HB 2719). Railroad authorities—powers and financing. Amends various sections of T.C.A. Title 7, Chapter 56, Part 2, to refine and expand the power of railroad authorities, particularly relative to financing.

Effective date: May 17, 2004.

Building, Utility, and Housing Codes

Chapter No. 530 (SB 2684/HB 2347). Amended building and fire codes; codes must be current within seven years to retain local program.

Amends T.C.A. 68-120-101 to require amended versions of building and fire codes to afford a reasonable degree of safety to life and property. Amends 68-120-101(b)(4)(A) to require local government building and fire codes to be current within seven years of the latest edition rather than six years for the local government to retain its local enforcement program.

Effective date: April 13, 2004.

Chapter No. 709 (SB 3202/HB 2830). Standards for fire prevention and building inspectors.

Amends T.C.A. 68-120-113(a)(2) to require the

state fire marshal to accept certification from the International Code Council and the National Fire Protection Association, in addition to the Southern Building Code Congress International, as satisfying the standards and qualifications for certification of fire and building inspectors.

Effective date: May 18, 2004.

Chapter No. 884 (SB 3342/HB 2931).

Electrical inspection fees increased. Amends T.C.A. 68-102-143(b) to increase maximum electrical inspection fees.

Effective date: July 1, 2005.

Business Regulation

Chapter No. 826 (SB 905/HB 724). Limited

license plumbers. Amends T.C.A. Title 62, Chapter 6, to regulate limited license plumbers (plumbers who do less than \$25,000 in total plumbing work). This act does the following relative to municipal regulation:

- Allows the state board after January 1, 2006, to issue a license without an examination to a plumber who has been issued a license by a municipality or county and has done 2,000 hours of plumbing work in the municipality or county if the locality's examination is satisfactory to the board. The applicant must pay all local licensing fees.

- Allows the board to issue a license to a plumber upon application before January 1, 2006, when all fees have been paid, but this license must indicate that it does not automatically permit work in a municipality or county that issues its own license.

- Does not require a license from the state to allow a plumber to work in a municipality or county that issues its own licenses. This work, however, may be used to meet the minimum state requirements.



- Requires a plumber who requests a plumbing inspection to be licensed by the state or by the municipality or county. The plumbing inspection must be done by the municipality or county when the municipality or county does plumbing inspections.
- Requires the state board to develop a system for inspectors who do not work for a municipality or county to report any problems with workmanship or conduct of limited license plumbers.
- Allows municipalities and counties to have stricter testing and experience requirements for limited license plumbers than provided in this law.

The 24th and 25th senatorial districts apparently are exempt from this law.

Effective date: January 1, 2006.

City Courts

Chapter No. 756 (SB 2318/HB 2353). Study of court costs. Amends T.C.A. 16-21-107 to require the Judicial Council to create a committee to study and make recommendations on court costs. The study must make recommendations on making costs more uniform and simple and must recommend appropriate amounts. The report must be filed with the Judiciary Committee of each house by January 17, 2005.

Effective date: May 24, 2004.

Chapter No. 914 (SB 3355/HB 3423). Municipal Court Reform Act of 2004 enacted. Amends various sections of T.C.A. Does the following:

- Limits municipalities' ability to adopt state criminal statutes by reference to those that provide for a fine of \$50 or less and confinement for 30 days or less, but the municipal punishment can be no more than a \$50 fine.

- Makes an exception to the above for municipalities with a population of more than 150,000 for T.C.A. 55-50-301 (operating vehicle without a license), 55-10-205 (reckless driving), 1-3-113(b) (underage purchase of alcoholic beverages), 57-3-412(a)(3) (underage consumption, possession of alcoholic beverages), 57-3-412(a)(5) (underage attempt to purchase alcoholic beverages), 57-4-203(b)(2) (underage dealing with alcoholic beverages), 57-5-301(d) (underage purchase of beer), and 57-5-301(e) (underage possession or transportation of beer).

- Allows a municipal court to exercise concurrent criminal jurisdiction with general sessions courts only if it exercised that jurisdiction on and before May 11, 2003.

- Allows jurisdiction over juvenile traffic offenders when the juvenile judge waives this jurisdiction.

- Provides that court costs will be as provided by municipal law or ordinance when the court is exercising ordinance jurisdiction. One dollar must be transmitted to the Administrative Office of the Courts to be used for training of judges and clerks.

- Provides that when the court is exercising concurrent general sessions jurisdiction, costs will be the same and collected and distributed as costs in general sessions courts.

- Substantially continues existing litigation taxes. Continues authority to levy a municipal litigation tax equal to the state litigation tax (\$13.75).

- Continues provisions making failure to collect litigation taxes a debt of the clerk.

- Makes contempt punishable by a fine of up to \$50.



- Requires appeal of any case to be made within 10 days, except Sundays. Indicates that municipality may appeal.
- Prohibits judge from holding any other office or employment with the municipality. Grandfathers existing office holders.
- Requires judges to attend three hours of training each year under auspices of the Administrative Office of the Courts. Failure to comply renders judgments null and void. The municipality must pay the expenses of the judge in accordance with its travel policy.
- Requires the clerk of each municipal court also to receive three hours of training each year under auspices of the Administrative Office of the Courts. The municipality must pay the clerk's expenses in accordance with its travel policy. This training requirement does not apply to recorders and clerks required to be certified under 6-54-120.
- Requires the chief administrative officer of the municipality to notify the Administrative Office of the Courts when a clerk is selected.
- Requires an annual audit of the court's financial transactions and records.
- Establishes a complex procedure for conferring general sessions jurisdiction on municipal courts.
- Adds a municipal judge to the Judicial Council and the Court of the Judiciary.
- Creates a Tennessee Municipal Judges Conference. All municipal judges are members. The conference must meet annually and each judge must attend unless physically incapable. The municipality must pay the judge's expenses.

- Amends 55-10-308 to provide that municipalities with a population of 10,000 or less may enforce the rules of the road on the portions of interstate highways within their boundaries only in compliance with rules promulgated by the Department of Safety.
- Amends all three general law charters to conform to other changes made to the law. Prohibits recorder from serving as city judge.
- Amends 6-56-105(a) to require annual audits of municipal courts.
- Amends 67-4-602 relative to litigation taxes but makes this section apply to state violations.
- Prohibits general sessions jurisdiction from being conferred on a municipal court until March 1, 2005.

Effective date: March 1, 2005.

Civil Procedure

Chapter No. 570 (SB 2379/HB 3041). Obesity Liability. Protects food sellers, advertisers, and handlers from civil liability for weight gain and obesity claims brought by persons and governmental entities unless the weight gain or obesity resulted from long-term consumption of food based upon adulteration, misbranding, or other material violation of law.

Effective date: July 1, 2004.

Chapter No. 692 (SB 2832/HB 3009). Statute of limitations for solid waste charges and refunds.

Amends T.C.A. Title 28, Chapter 3, Part 3, to prohibit refunds by municipalities for overpayments or collection of amounts owed for solid waste collection or disposal charges if the payment is more than 36 months past the date the payment was first due.

Effective date: May 18, 2004.



Chapter No. 694 (SB 3228/HB 3360). Sport shooting ranges. Amends T.C.A. 39-17-316 to provide that the right to operate as a sport shooting range may not be terminated or restricted because of changing use of adjacent or surrounding properties when the range was issued permission to operate by an entity having zoning authority.

In situations in which there are no zoning restrictions when the range begins operation, the range is not protected from nuisance actions as provided in other parts of section 39-17-316 until one year after it begins operation.

Effective date: July 1, 2004.

Chapter No. 699 (SB 3391/HB 3504). Unemployment compensation—review of tax liability, etc. Amends T.C.A. 50-7-304(i)(1) to require any petition for judicial review of unemployment tax liability to be filed in the chancery court of Davidson County.

Amends 50-7-404(g) to repeal provisions for paying premiums under protest.

Amends 50-7-404(i)(4)(A) to provide that a redetermination becomes a final order not subject to review unless an appeal is filed with the appeals tribunal within 20 calendar days after written notice of the redetermination is mailed to the last known address of the interested party.

Effective date: June 1, 2004.

Chapter No. 763 (SB 2602/HB 2889). False claims against elected officials. Amends T.C.A. 4-18-104(d)(1) to prohibit claims under the False Claims Act against elected local officials when the action is based upon information known to the political subdivision when the action was brought.

Effective date: July 1, 2004.

Contracts

Chapter No. 518 (SB 2368/HB 2573). Requiring public works contract bond with particular surety prohibited. Amends T.C.A. 12-4-201 to prohibit public officials and contracts from requiring any bond to be from any particular surety, agent, broker, or producer. This does not preclude a city from requiring a contractor or subcontractor from obtaining a bond from a properly licensed surety, agent, broker, or producer.

Effective date: July 1, 2004.

Chapter No. 542 (SB 2434/HB 3081). Notice of laborer or materialman claim. Amends T.C.A. 12-4-205 to require the claim of a laborer or materialman on a contractor bond to be sent to the contractor or mayor of the contracting city by certified rather than registered mail.

Effective date: April 22, 2004.

Chapter No. 806 (SB 2594/HB 2633). Religious discrimination prohibited in contracts for services provided through or administered by the Department of Children's Services or Health and Human Services. Amends T.C.A. Title 12, Chapter 4, Part 1, to prohibit discrimination by state and local governments against religious organizations as well as discrimination based upon race, color, sex, or national origin when contracting for goods and services provided through or administered by the Department of Children's Services or the Department of Health and Human Services. Programs must be implemented consistent with the First Amendment to the U.S. Constitution. Governments cannot require the organization to alter its governance or its religious accouterments to receive a contract. If a person receiving services objects to the religious character of the organization, the government must provide alternative providers if they are available. The religious organization is subject to the same rules as other providers relative to providing



services without religious discrimination and financial accounting. Public monies cannot be used for proselytizing.

Effective date: June 3, 2004.

Crimes and Criminal Procedure

Chapter No. 471 (SB 2683/HB 2884).

Recording motion picture in theater. Amends T.C.A. Title 39, Chapter 14, Part 1, to make it a Class A misdemeanor to record a motion picture in a facility where it is being exhibited unless the owner gives consent. Establishes procedures for detaining alleged violators and otherwise enforcing the law. Absolves the owner and law enforcement officers of liability for reasonable efforts to enforce the law.

Effective date: April 5, 2004.

Chapter No. 476 (SB 3212/HB 3250). Tennessee Charitable Gaming Implementation Law enacted.

Amends various provisions of T.C.A. Titles 3 and 39 to allow 501(c)(3) organizations to hold gaming events. Enacts new crimes relative to gaming. Preempts local regulation of charitable gaming.

Effective date: April 7, 2004.

Chapter No. 514 (SB 2212/HB 2197).

Defacement of highway sign or structure.

Amends T.C.A. Title 54, Chapter 1, Part 1, to make it a Class A misdemeanor to carve upon, write, paint, or otherwise mark upon, or to destroy or steal a bridge, overpass, tunnel, fence, traffic control device, sign, or other highway structure. Provides for a \$250 reward to be paid by the county for information leading to the conviction of a violator. Proceeds from the fines imposed accrue to a special county fund to be used for the reward money. Excess funds may be expended for litter control programs.

Effective date: July 1, 2004.

Chapter No. 515 (SB 2453/HB 2326). Noise from vehicle amplification systems.

Amends T.C.A. Title 55, Chapter 8, Part 1, to make it a Class C misdemeanor for a person occupying a motor vehicle to operate a sound amplification system so the sound is plainly audible at a distance of 50 or more feet from the vehicle. This prohibition is not applicable to emergency, public safety, or utility vehicles. It also does not apply to activities for which a permit has been issued, to job related activities, to school and community activities, and to auctions and boats.

Effective date: July 1, 2004.

Chapter No. 552 (SB 3280/HB 3379). Access to TBI criminal history information.

Amends T.C.A. Title 38, Chapter 6, Part 1, to provide that criminal history information in TBI files from intrastate sources is available free of charge on a priority basis to criminal justice agencies for criminal justice purposes. The TBI may provide information to other agencies upon payment of a fee. The fee is \$29 per record per name submitted. The TBI Director may reduce the fee for good cause.

Effective date: April 22, 2004.

Chapter No. 652 (SB 2305/HB 2560).

False academic degrees.

Amends T.C.A. Title 39, Chapter 17, Part 1, to make it a Class A misdemeanor for any person knowingly to issue, sell, or manufacture a false academic degree. Makes it a Class C misdemeanor to use one.

Effective date: July 1, 2004.

Chapter No. 695 (SB 3257/HB 3365). Co-pays for substance abuse treatment for inmates.

Amends T.C.A. 41-4-115 to allow municipalities and counties to establish co-pays for substance abuse treatment by a licensed provider provided to inmates by the municipality or county. The municipality or county



cannot deny treatment to inmates who cannot pay the co-pay.

Effective date: May 18, 2004.

Chapter No. 727 (SB 3181/HB 3397). Failure to appear. Amends T.C.A. 39-16-609 to refine the crime of failure to appear to include responses to summonses.

Effective date: May 19, 2004.

Chapter No. 769 (SB 3256/HB 3364). Charging inmates for services. Amends T.C.A. 41-4-142 to allow municipalities and counties to charge inmates in jail or a workhouse for participation in GED or other scholastic testing for which the administering agency charges a fee and for escorts to health care facilities and to funeral homes for the sickness or death of a family member when these services are provided at the inmate's request. The plan to charge these fees must be adopted by a two-thirds vote of the governing body. Fees may be deducted from the inmate's trust account.

Effective date: May 24, 2004.

Chapter No. 770 (SB 3101/HB 3391). Telecommunication and cable theft laws revised. Amends T.C.A. 39-14-149 to revise completely the law on telecommunication and cable theft. Repeals 7-59-109, which dealt with cable theft.

Effective date: July 1, 2004.

Chapter No. 796 (SB 176/HB 591). Offensive movies visible to other motorists banned.

Amends T.C.A. 55-8-187 to add patently offensive movies to the list of prohibited messages from motor vehicles when the movie is visible to other motorists. Conviction subjects the offender to a fine of \$2 to \$50.

Effective date: July 1, 2004.

Chapter No. 845 (SB 2143/HB 2209).

Methamphetamine. Amends T.C.A. 39-17-417 to make methamphetamine manufacture a Class B felony and to reduce the amounts of methamphetamine in one's possession to constitute certain crimes.

Adds a new section to Title 39, Chapter 17, Part 4, making it a Class E felony to use a substance in the manufacture of a Schedule I or II controlled substance.

This act does not apply to the lawful manufacture of controlled substances.

Effective date: July 1, 2004.

Chapter No. 855 (SB 2979/HB 2385). Quarantine of drug manufacturing places.

Amends T.C.A. Title 68 to allow local law enforcement agencies to quarantine sites, including houses and hotel and motel rooms, where controlled substances are illegally manufactured. The local agency must post signs and notify property owners and lien holders to the extent possible. The property must remain quarantined until an industrial hygienist or other authorized person certifies to the agency that it is safe for humans. The Commissioner of Environment and Conservation will maintain a list of industrial hygienists and others qualified to do this work. This act establishes procedures for contesting the quarantine.

Effective date: July 1, 2004.

Chapter No. 889 (SB 2922/HB 3008). Exceptions to issuance of criminal summonses. Amends T.C.A. 40-6-205 and 215 to allow an arrest warrant rather than a summons to be issued under the following circumstances when the affiant is not a law enforcement officer:

- The alleged crime is a felony.



- There are multiple affiants and one or more are law enforcement officers.
- The magistrate has probable cause to believe an arrest warrant is necessary to prevent domestic abuse.
- The affiant has a written police report concerning the incident or one is on file.
- There is a reasonable likelihood the person will fail to appear.
- There are one or more outstanding warrants or summonses for the person.
- The person does not offer satisfactory identification.

Adds 40-6-117, which allows a judge who is a lawyer and elected for an eight-year term to issue an arrest warrant rather than a summons upon a finding of probable cause in any circumstances.

Effective date: June 8, 2004.

Chapter No. 907 (SB 3203/HB 3363). Work on public easements and waterways by county prisoners. Amends T.C.A. 41-2-123(b)(1) to allow county prisoners to be used to work in municipalities in the county on public easements and alongside public waterways up to a maximum of 50 feet from the shoreline.

Effective date: July 1, 2004.

Chapter No. 911 (SB 3364/HB 3403). Identity theft. Amends T.C.A. 39-14-150 to revise the law on identity theft.

Effective date: July 1, 2004.

Economic Development

Chapter No. 662 (SB 2415/HB 2600). Economic impact plans—use of incremental revenues for economic development. Amends T.C.A. Title 7, Chapter 53, Part 3, to allow industrial development corporations to prepare and submit to the municipality for approval economic impact plans. The plan must be written and must specify the area included in the plan. The area must be in the municipality and must include an industrial park or a project to which the corporation has rendered financial assistance. Other benefited properties may also be included in the plan. The plan must:

- Identify the boundaries.
- Identify the park or project.
- Discuss expected benefits to the municipality.
- Provide that property taxes imposed will be distributed as provided in this act.

Property taxes will be divided as follows:

- The amount of taxes payable for the prior year will be distributed to the respective taxing jurisdictions as before.
- Taxes in excess of this base tax amount will accrue to the corporation to be used for economic development purposes.

The corporation may propose and the municipality may approve a plan that allocates a greater amount to the base tax amount. The plan may not provide for an allocation of taxes to the corporation for more than 30 years.

The plan may be approved by resolution. If the area covered by the plan is in a municipality, the taxes



that would be paid to other taxing jurisdictions will not be paid to the corporation unless the other taxing jurisdiction has approved the plan.

The corporation must hold a public hearing on the plan before it is submitted to the municipality. Notice in a newspaper of general circulation must be published at least two weeks before the hearing. The notice must indicate the time, place, and purpose of the hearing and indicate how a map of the area can be viewed by the public.

After the plan is approved by the municipality, the recorder or clerk must transmit a copy of the description of all property in the plan to each affected taxing agency, along with a copy of the adopting resolution.

Taxes levied for payment of indebtedness or for the benefit of the state are not subject to allocation.

Effective date: May 14, 2004.

Education and Schools

Chapter No. 475 (SB 3152/HB 3066). Tuition discounts for children of teacher who dies.

Amends T.C.A. 49-7-119(a) to allow a child receiving a tuition discount to continue to receive the discount even though the child's parent who was a teacher died.

Effective date: April 5, 2004.

Chapter No. 493 (SB 2286/HB 2341). Student self-administration of asthma inhaler.

Amends T.C.A. 49-5-415 to require LEA's to permit possession and self-administration of asthma inhalers under these conditions:

- The student's parents or guardians must grant written authorization.

They must also provide a written statement from a doctor that the student has asthma and has been instructed in self-medication. The statement must contain the name of the medication, the dosage, the times to be administered, and the length of time for which the inhaler is prescribed.

The permission for self-medication is good for the school year. This act does not relieve the school or employees of liability for negligence.

Effective date: July 1, 2004.

Chapter No. 504 (SB 3223/HB 3236). Sale of surplus property by Internet auction.

Amends T.C.A. 49-6-2006(c) and 2007(b) to allow surplus property of a school board to be sold by Internet auction. The sale must be through a Web site maintained by the LEA or the local government.

The board must advertise the sale in a newspaper of general circulation and include the Web site and other necessary information regarding the sale. The board may also advertise the sale on the Web site.

Effective date: April 12, 2004.

Chapter No. 521 (SB 2735/HB 2782). Enrollment of student with power of attorney.

Amends T.C.A. 34-6-302 to provide that an LEA is not required to enroll a student with a power of attorney stating a hardship other than serious illness or incarceration of a parent, mental or physical condition of the parent or child, or loss or uninhabitability of the child's home because of a natural disaster. The LEA may enroll a student with a power of attorney for other reasons on a case-by-case basis.

Effective date: April 12, 2004.

Chapter No. 574 (SB 3349/HB 3417). Distribution of BEP funds.

Amends T.C.A. 49-3-351(d) to require an estimated 50 percent of appropriated BEP funds to be



distributed to an eligible LEA by February 1, with the remainder, subject to adjustment, to be distributed by the following June 30.

Effective date: April 30, 2004.

Chapter No. 585 (SB 2876/HB 2161). Child advocacy and student rights information to be contained in handbooks or other material.

Amends T.C.A. 49-2-203(b) to allow local boards of education to include in student handbooks or other material disseminated to parents or guardians information on contacting child advocacy groups and on how to contact the state Department of Education for information on student rights and services.

Effective date: July 1, 2004.

Chapter No. 586 (SB 2208/HB 2428). Health insurance for school board members.

Amends T.C.A. 8-27-303(a)(3) to allow a school board member to participate in the basic medical insurance plan as authorized in 8-27-302(a)(1) if the member pays the monthly premium.

Effective date: May 3, 2004.

Chapter No. 650 (SB 2242/HB 3261). Leave to hold statewide office in professional employees' association.

Amends T.C.A. Title 49, Chapter 5, Part 7, to require unpaid leave to be granted for teachers when the person is elected to statewide office in a professional employees' association. The person must provide the director of schools proof of election and the term of office. The organization must have at least 25,000 dues-paying members. The person or the association must pay for benefits. When the leave is over, the person must be returned to the same or a comparable position.

Effective date: May 14, 2004.

Chapter No. 670 (SB 3397/HB 3510).

Instructional salaries. Amends T.C.A. 49-3-356 to bring instructional salaries under the BEP and to provide that the state will provide 65 percent of the instructional positions component.

Amends 49-3-366 to provide that for 2004-2005, the dollar value of instructional positions is \$34,000 per position. For subsequent years, the dollar value will be set as part of the BEP. LEA's are not to receive any less in 2004-2005 than what they received in 2003-2004. The Commissioner of Education must provide a transition plan for each LEA in changing from appropriations to the BEP for the salary component.

Amends 49-1-302 to expand the review committee that evaluates the BEP. This committee will now include the director of TACIR and representatives of municipal governments that operate school systems. The committee will meet at least four times a year and must prepare an annual report by November 1 of each year. In reviewing the BEP for the 2005-2006 year, the committee is requested to give special attention to enhanced services for at-risk children and the cost of educating English language learners as well as developing a fiscal capacity model.

Amends 49-3-354(b) to require BEP instructional position funds to be spent on instructional positions.

Amends 49-3-306 to require the Commissioner to develop local salary schedules for each LEA for 2005-2006. The local schedule is to require a lower local salary supplement as long as the reduction is not larger than the increase in minimum salary resulting under this act. Reductions are subject to local collective bargaining agreements. If an agreement prohibits local reductions and an



agreement cannot be reached on local reductions, the state minimum will be reduced.

Effective date: May 14, 2004.

Chapter No. 679 (SB 2205/HB 2224). Uniform grading system. Amends T.C.A. 49-1-302(a) to require the state Board of Education to establish a task force by June 30, 2004, to make recommendations on a uniform grading system. The task force must report by December 31, 2004. Requires each LEA to adopt and use the uniform grading system for grades 9-12.

Effective date: May 18, 2004.

Chapter No. 680 (SB 2207/HB 2409). Notice to parents that school is on probation. Amends T.C.A. 49-1-602(d)(2) and (e)(2) to require the director of schools during the first year of a school's probation to notify the parents of students in a student subgroup not meeting standards for adequate yearly progress of the option to transfer the students to another public school, and requires this to be done by the Commissioner of Education during the second year of probation.

Effective date: May 18, 2004.

Chapter No. 686 (SB 2474/HB 2422). Continued enrollment in school even though parent relocated for military or other reasons. Amends T.C.A. Title 49, Chapter 1, Part 1, to allow LEA's to permit a legally enrolled child to continue in a school to complete the school year even though the custodial parent has been relocated because of military duty or other hardship to be reviewed by the LEA on a case-by-case basis.

Effective date: May 18, 2004.

Chapter No. 706 (SB 2582/HB 2635). Parental involvement plan required. Amends T.C.A. Title 49, Chapter 2, Part 3, to require each LEA in consultation with parents, teachers, and

administrators to develop a plan to promote the involvement of parents and guardians in the schools in the school district. The plan must include parent participation in such areas as homework, attendance, and discipline and procedures under which parents can learn about course study and have access to all learning materials.

Effective date: July 1, 2004.

Chapter No. 707 (SB 3081/HB 2656). Dental and vision screening. Amends T.C.A. 49-6-5004 to allow health care professionals to indicate the need for dental or vision screening on any report or form used in reporting immunization status of a child. The professional must provide a copy of the report to the parents or guardians.

Effective date: July 1, 2004.

Chapter No. 708 (SB 2743/HB 2783). Nutrition standards. Amends T.C.A. Title 49, Chapter 6, Part 23, to require the state Board of Education, in consultation with the Department of Education and the Department of Health, to promulgate rules to establish minimum nutritional standards for food items sold or offered for sale to pre-K-8 students. Non-compliant vendors must reimburse the school nutrition program for any penalties assessed for violations.

Effective date: 2005-6 school year.

Chapter No. 722 (SB 3379/HB 3523). Textbook committees. Amends T.C.A. 49-6-2207(c)(1) to eliminate the requirement that local textbook committees have three or five members.

Effective date: May 18, 2004.

Chapter No. 734 (SB 2122/HB 3006). Care of diabetic students. Amends T.C.A. 49-5-415 to allow local boards of education to permit school personnel to volunteer to assist with the care of diabetic students, not including insulin shots, under



conditions set out in the act. Grants immunity to persons who help as well as the school board. Prohibits assigning a student to a different zone because of diabetes.

Effective date: July 1, 2004.

Chapter No. 764 (SB 2859/HB 2934). Contract extension for director of schools. Amends T.C.A. 49-2-203(a)(14) to prohibit school boards from extending the contract of the director of schools without giving 10 calendar days' notice before the scheduled meeting and including the proposed extension as a specific, clearly stated agenda item.

Effective date: May 24, 2004.

Chapter No. 814 (SB 3305/HB 3341). Study of student school assignments. Requires the state Board of Education and state Department of Education to study a possible policy governing assignment and transfer of students and allocation among districts of funds for students who alternate between residences of parents. The study must be completed by February 1, 2005.

Effective date: June 3, 2004.

Chapter No. 832 (SB 1550/HB 1175). Innovative programs; grant authorization eliminated. Amends T.C.A. 49-1-207(a) to allow the Commissioner of Education to authorize up to 24 school systems or parts to operate innovative educational programs that emphasize school based decision-making and the creation of small learning communities. Eliminates authorization for grants of up to \$50,000 for LEA's for planning and implementation. Prohibits schools operating innovative programs from being charter schools.

Effective date: June 7, 2004.

Chapter No. 837 (SB 1364/HB 1433). Use of accumulated funds. Amends T.C.A. 49-3-352(c) to

allow the Commissioner of Education to approve the unrestricted use of accumulated funds by an LEA for 2004-2005 if state-shared revenues distributed to counties are equal to or greater than those distributed in 2002-2003.

Effective date: June 8, 2004.

Chapter No. 861 (SB 2685/HB 2565). Litigation tax and student drug testing program in Scott County. Amends T.C.A. 67-4-601 to authorize Scott County and municipalities in that county to levy an additional litigation tax to fund a pilot project on drug testing of students in the county or municipal schools. The tax must be passed by a two-thirds vote of the governing body.

Effective date: June 7, 2004.

Chapter No. 886 (SB 3099/HB 2960). CPR in schools. Amends T.C.A. 49-3-359(c)(2) to require public school nurses to maintain CPR certification.

Amends 49-5-414 to require the Department of Education to survey all public elementary and secondary schools relative to CPR proficiency. The report is due February 1, 2005.

Effective date: June 7, 2004.

Chapter No. 887 (SB 2255/HB 2978). Video-conference learning. Amends T.C.A. Title 49, Chapter 6, to authorize the Department of Education to establish a demonstration project for distance learning through videoconferencing for public school students through December 2004. The local LEA is responsible for providing a classroom, teacher, equipment, and materials for participation.

Effective date: June 7, 2004.

Chapter No. 919 (SB 3017/HB 3456). Recognition of character education. Amends T.C.A. 49-6-1007(d) to require the Department of Education to start a program to recognize schools



with model programs for character education and provide opportunities for dissemination of these practices to LEA's statewide.

Effective date: June 7, 2004.

Chapter No. 928 (SB 3395/HB 3511).

Schools on probation. Amends T.C.A. Title 49, Chapter 1, Part 6, to tighten requirements on schools on probation.

Effective date: June 7, 2004.

Elections

Chapter No. 435 (SB 2129/HB 2213). Property

rights voting allowed in Coalmont. Amends T.C.A. 6-53-102 to allow nonresident property owners to vote in municipal elections in Coalmont. Requires local approval.

Effective date: March 12, 2004.

Chapter No. 480 (SB 2485/HB 3460). Notice

to election commission of changes of house and street names and numbers. Amends T.C.A. 7-86-127 to require legislative bodies of municipalities and counties to provide the county election commission with an updated list of changes to house, road, and street names and numbers every six months.

Effective date: April 8, 2004.

Chapter No. 898 (SB 2347/HB 3175). Electronic

filing by local candidates. Adds T.C.A. 2-12-117, which authorizes county election commissions to develop Internet-based filing for candidates for local office. Candidates must be provided secure access.

Effective date: June 8, 2004.

Emergency Services

Chapter No. 525 (SB 3127/HB 3192).

Expiration of licenses and permits. Amends T.C.A. 68-140-506(f) to provide that licenses and

permits issued by the Emergency Medical Services Board expire on June 30 of the year after issuance.

Effective date: April 12, 2004.

Chapter No. 651 (SB 2260/HB 2971).

Appointment of medical examiner in Shelby and metro counties. Amends T.C.A. 38-7-104 to provide the method of appointment of the medical examiner in Shelby and counties with a metropolitan government.

Effective date: May 14, 2004.

Chapter No. 743 (SB 3139/HB 3094). Mutual

Aid and Emergency and Disaster Assistance Agreement Act enacted. Amends T.C.A. Title 58 to enact the MAEDAAA of 2004. This act:

- Enacts a statewide mutual aid agreement for local governments in Tennessee that is to be used at the option of the local government.
- Requires local governments that want to keep existing mutual aid agreements in force to pass a resolution to extend them before July 1, 2004.
- Provides that the provisions of this act become the agreement if the local government does not pass such a resolution.
- Does not affect service and operational agreements.
- Allows future mutual aid agreements if a local government wants to do this.
- Creates a distinction between aid, that is provided under the act on request in situations in which there has been no declaration of a state of emergency or disaster and for which no cost reimbursement is required, and assistance, that is provided after an emergency or disaster is



declared and for which cost reimbursement is required.

- Allows municipal and county mayors and executives to declare local states of emergency.
- Allows requests for aid or assistance to be made verbally, but requests for assistance must be confirmed in writing within 30 days of the initial request. Parties must keep records of all requests for assistance made under this act.
- Establishes procedures for requesting and responding to requests.
- Allows a responding entity to send personnel and equipment anywhere in the state to respond to a request for aid or assistance.
- Does not create a duty to respond or to stay at a scene for any length of time.
- Provides responding employees and entities acting outside their boundaries the same protections they have in their home jurisdiction.
- Provides that for liability purposes, employees of the responding party will be considered employees of the requesting party while under the requesting party's supervision. At all other times they will be considered employees of the responding party.
- Requires the requesting party to pay the responding party all documented costs incurred by the responding party in providing assistance after a state of emergency is declared.
- Provides that the responding party is entitled to its reimbursable costs for the first six hours of its response and to 100 percent after six hours are exceeded. This does not apply to responding

utilities, which are to be reimbursed for 100 percent of their costs from the beginning of the state of emergency.

- Requires the requesting party to reimburse personnel costs; also to reimburse equipment and material costs according to FEMA fee schedules.
- Requires the responding party to maintain records and submit invoices for reimbursement by the requesting party. The responding party must forward an itemized invoice to the requesting party no more than 60 days after the provision of assistance has ended.
- Does not affect agreements with entities in other states. These agreements continue to be governed by the Interlocal Cooperation Act (T.C.A. 12-9-101, et seq.).
- Allows local government entities to provide aid or assistance to any state or federal entity upon request in any part of the state.
- Repeals 58-2-111(a), (b), and (c)(1)B(9), the Local Government Emergency Assistance Act of 1987, which now becomes obsolete.
- Directs the recodification in Title 7, Chapter 51 of subdivision (c)(10) of 58-1-111. This provision, which was codified with the Local Government Assistance Act, was enacted after the tornado that hit downtown Nashville and authorizes government work on private property in certain circumstances.
- Repeals 58-2-112, which now is an obsolete section authorizing mutual aid agreements.

Effective date: July 1, 2004.



Chapter No. 810 (SB 3115/HB 3039). TACIR to study 911 districts. Directs the TACIR to study all aspects of Tennessee's emergency communication statutes and report to the General Assembly by February 1, 2006.

Effective date: June 3, 2004.

Chapter No. 873 (SB 2307/HB 2700). Criminal background checks on EMT's and EMT-P's. Adds T.C.A. 68-140-525, which authorizes criminal background checks on applicants as an EMT or EMT-P. This must be paid for by the employer.

Effective date: June 7, 2004.

Environment

Chapter No. 519 (SB 2770/HB 2584). Land application of wastewater allowed by permit.

Amends T.C.A. 69-3-108(e) to allow otherwise illegal discharges of wastewater, including land application of wastewater, under a conditional permit from the Department of Environment and Conservation. Conditions include effluent standards and periodic review.

Effective date: April 12, 2004.

Chapter No. 925 (SB 3413/HB 3496). Petroleum underground storage tanks. Amends T.C.A. 68-215-103 to define "local government agency" to mean departments of local governments.

Amends 68-215-109(b) to require local government agencies that own or operate underground petroleum storage tanks to pay a fee of \$710 for 2004-2005 as a maintenance fee into the underground petroleum storage tank fund. Allows the Commissioner to go to court to obtain unpaid fees.

Amends 68-215-106 to require a tank owner to pay all outstanding fees, interest, and penalties before the owner may be issued a certificate by the

Commissioner. Allows the Commissioner to affix a tag to a dispenser or fill port indicating that a tank does not have a current certificate.

Amends 68-215-104 to make it unlawful to receive or attempt to receive reimbursement from the underground petroleum storage tank fund fraudulently and to fail to comply with lawful orders of the Commissioner or the board.

Repeals 68-215-111(g), which placed certain limitations on reimbursements from the UST fund.

Amends 68-215-111(e) to require a tank owner, operator, or site owner to file an Application for Fund Eligibility for confirmed or suspected releases on or after July 1, 2004. The application must be filed within 90 days of discovery of evidence of a suspected release that is subsequently confirmed under applicable rules or within 60 days of a release identified in any other manner. A tank owner must notify the site owner by certified mail within seven days of a confirmation of a release. Failure to follow deadlines makes the release ineligible for reimbursement. Beginning July 1, 2004, all applications for cleanup cost payments must be made to the Department within one year of the tasks done.

Amends 68-215-120 to make a violation of 68-215-104 a Class C misdemeanor. Makes knowingly causing a release a Class E felony.

Creates a Tennessee Petroleum Underground Storage Tank Advisory Committee to be appointed by the Commissioner, to report by December 1, 2004, and to terminate on June 30, 2005.

Effective date: July 1, 2004.



Chapter No. 926 (SB 3410/HB 3498). Emissions test variances. Amends T.C.A. 55-4-128 to allow the Air Pollution Control Board to issue rules providing conditions under which owners of motor vehicles that fail emissions tests may apply for waivers or variances.

Amends Title 68, Chapter 201, Part 1, to allow the Air Pollution Control Board to specify the types of vehicle inspection programs to be established and to require that the inspection will be done once a year with registration renewal. Makes it unlawful to remove or disable pollution control devices on automobiles. Repeals 68-201-203 relative to a voluntary program to study emissions from light duty vehicles in and around Davidson County.

Effective date: June 8, 2004.

Finance

Chapter No. 436 (SB 2315/HB 2397). Biennial budgets allowed for certain departments.

Amends T.C.A. 4-3-305 to allow municipalities and counties to prepare and adopt biennial budgets for departments authorized by the Director of Local Finance. The budgets must be prepared in accordance with rules adopted by the Comptroller. The municipality's charter or ordinances must be amended as appropriate to authorize biennial budgeting. The local government must be careful to ensure that there is no impairment of any existing contract, bond obligation, or anticipation note in preparing the budget.

Effective date: March 12, 2004.

Chapter No. 454 (SB 2603/HB 2763). Collateral pool for public deposits—average monthly balance restricted. Amends T.C.A. 9-4-502(5) to limit the average monthly balance of public funds in a depository participating in the collateral pool to 110 percent of the average daily balance.

Effective date: March 25, 2004.

Chapter No. 466 (SB 2184/HB 2203).

Allowable terms of investments extended.

Amends T.C.A. 6-56-106(b) to extend the maximum maturity date for investments of idle funds in government securities, certificates of deposit, and money market funds from two to four years.

Amends 6-56-106(c)(3) to extend the maximum maturity date of investments in which bond and note proceeds can be invested from 24 to 48 months.

Effective date: July 1, 2004.

Chapter No. 536 (SB 17/HB 226). Grants for residential property in older neighborhoods.

Allows municipalities and counties by a resolution passed by a two-thirds vote of the governing body to establish a grant program for residential property in older neighborhoods (those in which a majority of the residential property was constructed 50 or more years before April 22, 2004). Grants must be based upon the estimated expense of renovating the property. The resolution must identify the neighborhoods in which grants will be made and establish criteria for the renovation. The resolution must also establish an application and appeal process, determine the maximum amount of a grant, set the time during which the grant must be used, and provide for a system of verification and accounting to make sure grant funds are being used accurately.

The governing body must hold a public hearing before adopting the resolution. Two weeks notice, including the time, place, and purpose of the hearing, must be given in a newspaper of general circulation.

Misuse of grant funds is theft under 39-14-105.

Effective date: April 22, 2004.



Chapter No. 541 (SB 2317/HB 2874). Financing underground utilities by special assessment.

Amends T.C.A. 7-33-301(5) to add placing electric and other utility cables underground, including streetscape improvements, to the list of projects that can be financed by special assessment under that law.

Effective date: April 22, 2004.

Chapter No. 578 (SB 877/HB 1418). Exemption from stormwater fees for persons not using system.

Amends T.C.A. 68-221-1107(a) to exempt persons, including owners and operators of agricultural land, from stormwater fees who do not discharge stormwater through the stormwater or flood control facilities of a municipality. Previously, exemption applied to “users.”

Effective date: May 3, 2004.

Chapter No. 589 (SB 3243/HB 3288). Interest rate agreements authorized for revenue bonds.

Amends T.C.A. 9-21-306, 9-21-1013, 7-34-109, 7-39-305, and 9-22-103 to authorize interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings, and other interest rate hedging agreements relative to revenue bonds.

Effective date: May 3, 2004.

Chapter No. 619 (SB 3246/HB 3285). Financially distressed utility and emergency communications systems—terminology changed to comply with new accounting rules.

Amends T.C.A. 68-221-1010, which gives the Water and Wastewater Financing Board jurisdiction over financially distressed water and wastewater systems, to replace the words “retained earnings deficit” with “deficit total net assets;” the words “operating deficit” with “negative change in net assets;” and the word “equity” with “net assets.” Repeals 68-221-1010(a)(2), which created an exemption from board jurisdiction for

certain water and wastewater systems with 900 or fewer customers.

Amends 7-86-304 relative to emergency communications districts to make similar changes in terminology. Further amends this section to give the state Emergency Communications Board jurisdiction over a district that (1) is subject to a lien by the IRS, (2) cannot in the opinion of the Board satisfy its financial obligations to the extent the continued operation of the district is at risk, or (3) has defaulted on indebtedness and has not cured the default within 60 days, and the continued operation of the district is at risk.

Effective date: May 6, 2004.

Chapter No. 656 (SB 3244/HB 3287). Notice to Comptroller of adoption of model MTAS travel policy.

Amends T.C.A. 6-54-904 to require any municipality adopting the model MTAS travel policy to notify the Comptroller in writing that the policy has been adopted and the date it was adopted.

Effective date: May 14, 2004.

Chapter No. 692 (SB 2832/HB 3009). Statute of limitations for solid waste charges and refunds.

Amends T.C.A. Title 28, Chapter 3, Part 3, to prohibit refunds by municipalities for overpayments or collection of amounts owed for solid waste collection or disposal charges if the payment is more than 36 months past the date the payment was first due.

Effective date: May 18, 2004.

Chapter No. 705 (SB 2982/HB 2539). Financing of railroad extensions; issuance of healthcare revenue anticipation notes.

Amends T.C.A. 9-21-105(21)(A) to include extension of railroads in the definition of “public works project” that can be financed by local governments.



Adds a new Chapter 11 to Title 9, Chapter 21, that allows local governments that operate nursing homes to issue healthcare revenue anticipation notes under these new provisions and Part 1 of Title 9, Chapter 21, to provide funds to be transferred to the state under an approved intergovernmental transfer agreement. Provides procedures and restrictions for issuing the notes. Allows interfund loans in accordance with procedures for the issuance of these notes.

Effective date: May 18, 2004.

Chapter No. 769 (SB 3256/HB 3364). Charging inmates for services. Amends T.C.A. 41-4-142 to allow municipalities and counties to charge inmates in jail or a workhouse for participation in GED or other scholastic testing for which the administering agency charges a fee and for escorts to health care facilities and to funeral homes for the sickness or death of a family member when these services are provided at the inmate’s request. The plan to charge these fees must be adopted by a two-thirds vote of the governing body. Fees may be deducted from the inmate’s trust account.

Effective date: May 24, 2004.

Chapter No. 909 (SB 3328/HB 3399). Convention center tax increment financing provisions modified. Amends T.C.A. 7-88-103, 105, 106, and 108, part of the Convention Center and Tourism Development Financing Act of 1998, to do the following:

- Provide that when the state sales tax rate changes, the increase will not be used for tax increment financing under this law.
- When the sales tax rate decreases, the state will adjust revenues so that substantially the same revenues will be used for tax increment financing.

- Require expected private investment of at least \$50,000,000 rather than the previous \$25,000,000 in the tourism zone.

- Include “qualified associated development” (sidewalks, signs, landscaping, etc.) in the tax increment financing scheme.

- Allow the state Department of Finance and Administration to reconfigure a tourism development zone.

- Generally to restrict the tourism zone to within one mile of the qualified public use facility. Allows more than one mile for necessarily unusually shaped zones but no zone may exceed three square miles.

- Limit each municipality to only one tourism development zone.

- Define “open to the public,” which determines when allocations begin, as financing being in place, a significant part being completed and open for use, the municipality making reasonable progress on the unfinished part, and all other provisions of the law having been completed.

Effective date: June 8, 2004

(does not affect pending applications for which a letter of intent has been filed).

Chapter No. 961 (SB 3415/HB 3551).

Appropriations act. Makes appropriations to defray the costs of state government. Of particular interest to municipalities, the act makes these appropriations:

- Local Parks Acquisition Fund. . . . \$3,500,000
- BEP and other LEA support. . . . \$2,767,247,200
- MTAS \$1,480,700
- Fire and Codes Enforcement Academy \$3,702,600



- Mass transit \$30,146,000
- Bridge replacement \$5,000,000
- Fire pay supplement Maximum of \$389
- Police pay supplement Maximum of \$518.70
- Small cities CDBG for 2003-2004
and 2004-2005 \$61,880,000

Section 63 of this act expresses the legislative wish that at least two of the state-shared revenues taken from local governments last year be restored in the 2005 fiscal year and the remainder in 2006.

Effective date: June 15, 2004.

Firefighting

Chapter No. 427 (SB 2430/HB 2520). Firefighter pay supplement changed to educational incentive. Amends T.C.A. 4-24-104 to require a member of the Commission on Firefighting Personnel Standards and Education whose term expires to serve until a new member is appointed.

Amends 4-24-106(4) to allow the Commission to set standards for “fire service personnel” and not just “firefighters.”

Amends 4-24-106, 107, 202, 203, and 205 to change references to income bonuses to “educational incentives.”

Amends 4-24-201(2) to remove from the definition of firefighter those who “are subject to call for such services.”

Effective date: July 1, 2004.

Chapter No. 863 (SB 3031/HB 2612). Immunity in donating fire equipment. Adds T.C.A. 29-34-205, which grants immunity to any person or entity, including governments, that donate fire control or rescue equipment to a volunteer fire department for injuries caused by a defect in the equipment. Also grants immunity

to any governmental agency that administers these donations. The immunity does not apply if the entity’s actions amount to malicious, gross, or intentional misconduct; the donating agency is the manufacturer; or the entity modified the equipment after it had been recertified as meeting manufacturer specifications.

Effective date: July 1, 2004.

Chapter No. 878 (SB 3093/HB 2831). Compensation for volunteer firefighters killed in the line of duty. Adds T.C.A.7-51-206, which grants \$25,000 to the estate of any unpaid volunteer firefighter killed in the line of duty. Payment is made from the state general fund after the Department of Finance and Administration receives a certificate of death and an affidavit from the employer that the firefighter was killed in the line of duty.

Effective date: June 8, 2004.

Health and Safety

Chapter No. 558 (SB 3452/HB 2311). Occupational safety and health—confidentiality of identifying information; election to develop own program or be treated as private employer. Amends T.C.A. 50-3-302 to provide that the name, job title, and other identifying information for witnesses interviewed in a TOSHA investigation are confidential and not a public record.

Amends 50-3-910(b) to give local governments until July 1, 2006, to elect whether to be treated as a private employer or to develop their own program of compliance. Local governments created after July 1, 2004, have two years after their creation to make the election.

Effective date: April 22, 2004.

Chapter No. 563 (SB 3408/HB 3489). Application of fluoride by public health clinics.



Amends T.C.A. 63-5-109 to exempt the application of fluoride varnish to the teeth of at risk persons under the auspices of a state, county, or municipal public health clinic by nurses or nurse practitioners from dental licensing requirements.

Effective date: April 22, 2004.

Chapter No. 855 (SB 2979/HB 2385). Quarantine of drug manufacturing places.

Amends T.C.A. Title 68 to allow local law enforcement agencies to quarantine sites, including houses and hotel and motel rooms, where controlled substances are illegally manufactured. The local agency must post signs and notify property owners and lien holders to the extent possible. The property must remain quarantined until an industrial hygienist or other authorized person certifies to the agency that it is safe for humans. The Commissioner of Environment and Conservation will maintain a list of industrial hygienists and others qualified to do this work. This act establishes procedures for contesting the quarantine.

Effective date: July 1, 2004.

Law Enforcement

Chapter No. 533 (SB 2797/HB 2753). Death and rape investigations on college campuses.

Amends T.C.A. Title 49, Chapter 7, Part 1, to require the campus police of any higher education institution to notify the local government law enforcement agency in cases of medically unattended death or any degree of rape on the campus. The local law enforcement agency must participate in a joint investigation. In the case of a death, the local law enforcement agency is the lead agency. In the case of an alleged rape, the campus police lead the investigation. A knowing violation of this statute is a Class C misdemeanor.

Effective date: April 15, 2004.

Chapter No. 593 (SB 3426/HB 3528). Police powers of officers of the Office of Homeland Security. Amends T.C.A. Title 38, Chapter 3, Part 1, to allow the Office of Homeland Security to apply to the Commissioner of Safety for the appointment of officers with police powers. These commissioned officers will have all the powers of a police officer anywhere in the state, including the power to make arrests. They may serve process and carry weapons. Jail keepers must receive persons arrested by these officers the same as they would for any other officer. Homeland security officers must have a badge in their possession while on duty. They must receive substantially the same training as other police officers. When the officer's duties are no longer required, the Office of Homeland Security will file a notice with the Commissioner of Safety and the officer's powers will cease.

Effective date: May 3, 2004.

Chapter No. 636 (SB 2745/HB 3452). Inmates may volunteer to work for governmental entities.

Amends T.C.A. 41-3-106(b)(2) to allow inmates housed in county and municipal workhouses to volunteer to work for a governmental entity, in addition to charitable organizations.

Effective date: May 10, 2004.

Chapter No. 661 (SB 2432/HB 2275). Private protective services. Amends T.C.A. 62-35-103 to exempt from private protective services regulation companies providing certified law enforcement officers for traffic control in temporary work zones established in accordance with the Manual on Uniform Traffic Control Devices. Any department providing officers may require the company to have a traffic control supervisor or traffic engineer on staff to ensure compliance with MUTCD and may require proof of liability insurance.



Amends 62-35-118 to exempt from training requirements as a private protective service provider a state or local correctional officer or jailer if the officer's training is up to date.

Effective date: May 14, 2004.

Chapter No. 757 (SB 2278/HB 2601). Officer may have parties in accident exchange insurance information. Amends T.C.A. 55-10-108(b) to allow an officer investigating a traffic accident to have the parties exchange insurance information, which includes the name of the company and the location of an agent.

Effective date: May 24, 2004.

Chapter No. 865 (SB 2935/HB 2629). Shooting ranges may be open to the public. Amends T.C.A. Title 38, Chapter 8, Part 1, to allow law enforcement agencies to open their shooting ranges to the public when they are not being used by the agency. Allows reasonable rules. Allows the agency to charge reasonable fees and to require persons or organizations using the range to make improvements to the range.

Effective date: July 1, 2004.

Chapter No. 869 (SB 2929/HB 2659). Electronic submission of final dispositions. Amends T.C.A. 8-4-115 to allow local law enforcement agencies and clerks of court to collaborate on a process for electronic submission of final dispositions of criminal cases to the TBI. After the system has been implemented, all submissions must be done electronically. The submission of an R-84 Disposition Card will no longer be required.

Requires as part of the standardized booking procedure the delivery to the court clerk of a warrant or capias for the offense containing the state control number assigned by the agency upon

arrest to be recorded in the court information system in the clerk's office.

Any automated court information system being used after July 1, 2005, must ensure that the final disposition is sent electronically to the TBI.

Effective date: July 1, 2004.

Chapter No. 899 (SB 3159/HB 3182). Satellite-based monitoring of serious and violent sexual offenders. Amends T.C.A. Title 40 to require the state Board of Probation and Parole to develop a continuous satellite-based system of monitoring serious offenders and violent sexual offenders in certain counties as a pilot project by December 31, 2004.

Effective date: July 1, 2004.

Chapter No. 908 (SB 3180/HB 3394). Officers of judicial district drug task forces. Amends T.C.A. 8-7-110(a) to require officers employed by or assigned to a judicial district drug task force to meet minimum POST certification requirements, but disqualifies them for the police pay supplement for certification.

Effective date: June 7, 2004.

Chapter No. 921 (SB 3217/HB 3467). Sexual offender registration. Amends T.C.A. Title 40, Chapter 39, to enact new provisions requiring sexual offenders to register within 48 hours of a change of address or job status and to report periodically to update information in law enforcement files.

Effective date: August 1, 2004.

Chapter No. 940 (SB 374/HB 1474). Animal behavior training for officers. Amends T.C.A. Title 38, Chapter 8, Part 1, to allow basic certificate of compliance training for police officers to include a course on animal and canine



behavior. Annual in-service training may also include this training.

Amends 44-17-403 to make that section, which allows non-economic damages for the death of a pet, apply statewide.

Amends 39-14-202 and 212 to increase penalties for animal cruelty.

Effective date: June 15, 2004.

Motor Vehicles and Traffic

Chapter No. 442 (SB 216/HB 453). Intersection where there is an inoperative traffic signal to be treated as four-way stop. Amends T.C.A. 55-8-110 to require a vehicle approaching an intersection at which there is an inoperative traffic signal to stop and then proceed with caution when it is safe. If two vehicles approach at the same time, the driver of the vehicle on the left must yield to the vehicle on the right.

Effective date: July 1, 2004.

Chapter No. 474 (SB 3109/HB 3448). White and amber light systems on highway maintenance and utility vehicles. Amends T.C.A. 55-9-402 to allow highway maintenance vehicles and utility vehicles to use a white light system within the headlight assembly or grill area or an amber light system in any location on the vehicle except in the tail lamp, stoplight area, or factory installed flasher and backup area.

Effective date: April 5, 2004.

Chapter No. 515 (SB 2453/HB 2326). Noise from vehicle amplification systems. Amends T.C.A. Title 55, Chapter 8, Part 1, to make it a Class C misdemeanor for a person occupying a motor vehicle to operate a sound amplification system so the sound is plainly audible at a distance of 50 or more feet from the vehicle. This prohibition

is not applicable to emergency, public safety, or utility vehicles. It also does not apply to activities for which a permit has been issued, to job related activities, to school and community activities, and to auctions and boats.

Effective date: July 1, 2004.

Chapter No. 622 (SB 875/HB 1568).

Off-highway vehicle program. Amends T.C.A. Title 70 to authorize the executive director of the Wildlife Resources Agency to establish an off-highway vehicle program. Provides for fees and safety requirements. Makes violations a Class B misdemeanor. Makes it unlawful to ride an off-highway motor vehicle on another's land without permission. Primary responsibility for enforcement is with state law enforcement officers but secondary responsibility is with local law enforcement officers.

Effective date: May 10, 2004.

Chapter No. 634 (SB 2673/HB 3298). Municipal authority to regulate parking near fire hydrants restricted.

Amends T.C.A. 55-8-160(a)(4) to require municipal regulations for parking close to fire hydrants to limit parking within 7.5 feet to 15 feet of the hydrant. Requires that the distance be appropriately identified.

Effective date: July 1, 2004.

Chapter No. 666 (SB 3231/HB 2823). Disabled drivers.

Amends T.C.A. 55-21-102 to tighten the definition of "disabled driver" to include only those who are so ambulatory disabled that they cannot walk more than 200 feet without stopping to rest, rather than those walking with difficulty or insecurity.

Amends 55-21-103 to require a new certification of disability before a handicapped placard is renewed.



Amends 55-21-108 to make it a Class A misdemeanor punishable by a \$1,000 fine to obtain a handicapped placard by willful and false representation.

Effective date: July 1, 2004.

Chapter No. 757 (SB 2278/HB 2601). Officer may have parties in accident exchange insurance information. Amends T.C.A. 55-10-108(b) to allow an officer investigating a traffic accident to have the parties exchange insurance information, which includes the name of the company and the location of an agent.

Effective date: May 24, 2004.

Chapter No. 778 (SB 3430/HB 3486). Certificate for driving. Amends T.C.A. Title 55, Chapter 50, to authorize issuance of certificates for driving to resident aliens. Certificates are not valid for identification.

Effective date: July 1, 2004.

Chapter No. 796 (SB 176/HB 591). Offensive movies visible to other motorists banned.

Amends T.C.A. 55-8-187 to add patently offensive movies to the list of prohibited messages from motor vehicles when the movie is visible to other motorists. Conviction subjects the offender to a fine of \$2 to \$50.

Effective date: July 1, 2004.

Chapter No. 893 (SB 2606/HB 3104). Failure to wear seatbelt made primary violation. Amends T.C.A. 55-9-603 to repeal subdivision (f)(1), which prohibited a citation or arrest for failure to wear a seatbelt unless the person is stopped for a different violation.

Exempts vehicles used in a parade, hayride, or vehicles crossing a highway from one field to

another from the seatbelt requirement when the top speed is less than 15 mph.

Effective date: July 1, 2004.

Chapter No. 926 (SB 3410/HB 3498). Emissions test variances. Amends T.C.A. 55-4-128 to allow the Air Pollution Control Board to issue rules providing conditions under which owners of motor vehicles that fail emissions tests may apply for waivers or variances.

Amends Title 68, Chapter 201, Part 1, to allow the Air Pollution Control Board to specify the types of vehicle inspection programs to be established and to require that the inspection will be done once a year with registration renewal. Makes it unlawful to remove or disable pollution control devices on automobiles. Repeals 68-201-203 relative to a voluntary program to study emissions from light duty vehicles in and around Davidson County.

Effective date: June 8, 2004.

Personnel

Chapter No. 508 (SB 3378/HB 3522).

Discrimination investigation and enforcement actions against local governments under TOSHA.

Amends T.C.A. 50-3-911 to allow investigation and enforcement actions by TOSHA against local governments based upon discrimination against employees who have filed a TOSHA complaint. The Commissioner of Labor and Workforce Development may sue the local government if an investigation reveals discrimination. Relief allowed includes reinstatement and "all appropriate relief."

Effective date: April 12, 2004.

Chapter No. 552 (SB 3280/HB 3379). Access to TBI criminal history information. Amends T.C.A. Title 38, Chapter 6, Part 1, to provide that criminal history information in TBI files from intrastate sources is available free of charge on



a priority basis to criminal justice agencies for criminal justice purposes. The TBI may provide information to other agencies upon payment of a fee. The fee is \$29 per record per name submitted. The TBI director may reduce the fee for good cause.

Effective date: April 22, 2004.

Chapter No. 558 (SB 3452/HB 2311).

Occupational safety and health—confidentiality of identifying information; election to develop own program or be treated as private employer.

Amends T.C.A. 50-3-302 to provide that the name, job title, and other identifying information for witnesses interviewed in a TOSHA investigation are confidential and not a public record.

Amends 50-3-910(b) to give local governments until July 1, 2006, to elect whether to be treated as a private employer or to develop their own program of compliance. Local governments created after July 1, 2004, have two years after their creation to make the election.

Effective date: April 22, 2004.

Chapter No. 631 (SB 2407/HB 2744).

Retirement provisions amended. Amends T.C.A. 8-34-101(14)(B) to include bonuses and incentive payments authorized by resolution of a local government governing body in “earnable compensation” used to determine retirement benefits under TCRS when the resolution provides for this. All employees or all employees in a reasonable class must qualify for the payment.

Amends 8-34-101(46)(B) to allow any teacher who has taught for at least one year and transfers to a position that does not require a teaching certificate to continue participation in TCRS as a teacher.

Amends 8-35-202(c) to eliminate the four-month deadline for local governments to determine whether to participate in new legislation that increases the retirement liabilities of the local government.

Amends 8-35-203(a)(2)(C) to allow credit for previous service to be paid for by transfers from other pension plans.

Amends 8-36-818 to allow persons retired under TCRS to serve on popularly elected local boards without a loss or decrease of benefits if the benefits are based on the previous salary.

Effective date: May 10, 2004.

Chapter No. 656 (SB 3244/HB 3287). Notice to Comptroller of adoption of model MTAS travel policy.

Amends T.C.A. 6-54-904 to require any municipality adopting the model MTAS travel policy to notify the Comptroller in writing that the policy has been adopted and the date it was adopted.

Effective date: May 14, 2004.

Chapter No. 699 (SB 3391/HB 3504).

Unemployment compensation—review of tax liability, etc. Amends T.C.A. 50-7-304(i)(1) to require any petition for judicial review of unemployment tax liability to be filed in the chancery court of Davidson County.

Amends 50-7-404(g) to repeal provisions for paying premiums under protest.

Amends 50-7-404(i)(4)(A) to provide that a redetermination becomes a final order not subject to review unless an appeal is filed with the appeals tribunal within 20 calendar days after written notice of the redetermination is mailed to the last known address of the interested party.

Effective date: June 1, 2004.



Chapter No. 873 (SB 2307/HB 2700). Criminal background checks on EMT's and EMT-P's.

Adds T.C.A. 68-140-525, which authorizes criminal background checks on applicants as an EMT or EMT-P. This must be paid for by the employer.

Effective date: June 7, 2004.

Planning and Zoning

Chapter No. 632 (SB 2446/HB 3061). Authority to transfer development rights in historic zones in metro governments repealed.

Repeals T.C.A. 13-7-402(c), which authorized the transfer of development rights in historic zones in metropolitan governments.

Effective date: May 10, 2004.

Chapter No. 694 (SB 3228/HB 3360). Sport shooting ranges.

Amends T.C.A. 39-17-316 to provide that the right to operate as a sport shooting range may not be terminated or restricted because of changing use of adjacent or surrounding properties when the range was issued permission to operate by an entity having zoning authority.

In situations in which there are no zoning restrictions when the range begins operation, the range is not protected from nuisance actions as provided in other parts of section 39-17-316 until one year after it begins operation.

Effective date: July 1, 2004.

Chapter No. 730 (SB 990/HB 107).

Off-premises signs and additional uses. Amends T.C.A. 13-7-208(b) to provide that when the nonconforming business use protected under that section is an off-premises sign, that use does not preclude any new or additional conforming use on the property on which the sign is located or on adjacent property under the same ownership if the new or additional use does not result in violations of the applicable zoning restrictions other than

those nonconformities associated with the off-premises sign.

Effective date: May 24, 2004.

Chapter No. 775 (SB 348/HB 1472). Nonconforming uses—limitation on protection after cessation of 30 months; limits on expansion of nonconforming off-site signs.

Amends T.C.A. 13-7-208 to end the grandfathering protection of nonconforming business and commercial uses when the establishment ceases operation for 30 continuous months. This 30-month period is tolled by court action in which the use of the property is in question, refurbishing if applicable permits were obtained during the 30-month period, the filing of an application for a building permit for a nonconforming building, and the reactivation of the use.

The burden is on the government to show that the property owner intentionally and voluntarily abandoned the nonconforming use.

This act limits expansion of nonconforming off-site signs as follows:

- A sign smaller than a standard eight-sheet poster may not be expanded to a size greater than an eight-sheet poster.
- An eight-sheet poster cannot be expanded to a size greater than a 30-sheet poster.
- A 30-sheet poster may not be expanded larger than a standard bulletin.
- A standard bulletin may not be expanded larger than a super bulletin.
- A super bulletin may not be expanded.



- Other nonstandard signs may not be expanded greater than 100 percent.

Notwithstanding subsection (d) of 13-7-208, except for off-site signs, any structure rebuilt on the site must conform to existing zoning requirements on setbacks, height, bulk, or requirements as to physical location of a structure.

The previous provisions do not apply to home rule municipalities, but they may opt into them.

The 30-month period does not apply to an industrial establishment that derives 25 percent of its annual sales under government contracts or subcontracts nor, to any industrial establishment that derives 75 percent of revenues from sales to agriculture or construction businesses.

Effective date: May 28, 2004.

Public Officials

Chapter No. 621 (SB 23/HB 56). Ouster—illegal gambling as grounds. Amends T.C.A. 8-47-101 to change one of the grounds for ouster from “any form of gambling” to “any form of illegal gambling.”

Effective date: May 10, 2004.

Chapter No. 651 (SB 2260/HB 2971). Appointment of medical examiner in Shelby and metro counties. Amends T.C.A. 38-7-104 to provide the method of appointment of the medical examiner in Shelby and counties with a metropolitan government.

Effective date: May 14, 2004.

Chapter No. 664 (SB 2612/HB 2683). Veterans’ services offices. Amends T.C.A. 58-3-109 to expand the scope of local veterans’ services offices to include the veterans of U.S. armed forces and not just veterans of wars. Requires that these local offices be staffed by accredited veterans’

service officers. They must be honorably discharged veterans. Repeals provisions requiring these local offices to help with employment opportunities for veterans.

Amends 58-3-111 to require the veterans’ service officer to be chosen by the governing body or bodies of the creating subdivision(s). If two or more subdivisions cannot agree, the officer will be chosen by the Commissioner of Veterans’ Affairs. The officer must undergo training and become accredited within one year of appointment. No veteran may be charged a fee for assistance provided by this office.

Effective date: July 1, 2004.

Chapter No. 763 (SB 2602/HB 2889). False claims against elected officials. Amends T.C.A. 4-18-104(d)(1) to prohibit claims under the False Claims Act against elected local officials when the action is based upon information known to the political subdivision when the action was brought.

Effective date: July 1, 2004.

Purchasing

Chapter No. 613 (SB 2767/HB 2619). Bid specifications for chemical products to require MSDS Web site information. Amends T.C.A. 6-56-307, part of the Municipal Purchasing Act of 1983, to require bid specifications for chemical products to require the manufacturer to create and maintain a material safety data sheet for the products on the national MSDSSEARCH repository or the manufacturer’s Web site. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable if the information is freely accessible by the public. A link to the MSDSSEARCH Web site will be included in the Web site of the Department of General Services. Instead of posting an MSDS on MSDSSEARCH,



a bidder may include the manufacturer's Web site for the MSDS in the bid or purchase order.

Effective date: May 5, 2004.

Solid Waste

Chapter No. 692 (SB 2832/HB 3009). Statute of limitations for solid waste charges and refunds.

Amends T.C.A. Title 28, Chapter 3, Part 3, to prohibit refunds by municipalities for overpayments or collection of amounts owed for solid waste collection or disposal charges if the payment is more than 36 months past the date the payment was first due.

Effective date: May 18, 2004.

Chapter No. 783 (SB 3409/HB 3499). Surcharge extended; plan revision requirements changed.

Amends T.C.A. 68-211-835(d)(1) to extend the authority to impose a solid waste surcharge of 75 cents per ton on solid waste at Class I facilities until June 30, 2008.

Amends 68-211-814(a) to allow solid waste regional plans to be revised at any time. Eliminates five-year requirement. Requires annual progress reports covering the next 10 years.

Effective date: May 28, 2004.

Chapter No. 848 (SB 2433/HB 2276). Disposal in sinkholes.

Amends T.C.A. 68-211-110 and 117 to make it unlawful after January 1, 2005, to dispose of solid waste in a sinkhole on one's own land and makes unlawful disposal of solid waste in a sinkhole subject to a civil penalty of \$700 to \$7,000 per day.

Effective date: July 1, 2004.

Streets and Public Ways

Chapter No. 514 (SB 2212/HB 2197).

Defacement of highway sign or structure. Amends T.C.A. Title 54, Chapter 1, Part 1, to make it a Class A misdemeanor to carve upon, write, paint, or

otherwise mark upon, or to destroy or steal a bridge, overpass, tunnel, fence, traffic control device, sign, or other highway structure. Provides for a \$250 reward to be paid by the county for information leading to the conviction of a violator. Proceeds from the fines imposed accrue to a special county fund to be used for the reward money. Excess funds may be expended for litter control programs.

Effective date: July 1, 2004.

Taxes—Alcohol

Chapter No. 876 (SB 2794/HB 2762). Alcohol taxes increased; locals not included.

Amends T.C.A. Title 57, Chapters 3 and 4, generally to increase certain taxes on alcohol applicants and licensees, but for taxes on which municipalities are allowed to piggyback, this is specifically not allowed for the increases.

Effective date: July 1, 2004.

Taxes—General

Chapter No. 420 (SB 902/HB 844). Refunds of municipal taxes erroneously collected.

Amends T.C.A. 67-1-707 to create an administrative method for refunding municipal taxes erroneously or illegally collected. The city recorder, city clerk, or director of finance, acting under the direction of the mayor or city manager, may make the refund. The claim for the refund must be made, supported by proper proof, within one year of payment of the taxes. If not claimed within a year, the refund is barred.

Effective date: March 4, 2004.

Chapter No. 800 (SB 2137/HB 2169). Due dates extended for taxes due from military personnel on active duty.

Amends T.C.A. 67-2-112(b)(1) relative to the Hall Income Tax, 67-4-1703(c)(1) relative to the occupational privilege tax, and 67-5-2011(a) relative to property taxes to extend the due date for property taxes owed by persons on active military duty to 180 days, rather than



90 days, after hostilities cease or the person is transferred from the hostile area.

The county trustee must approve applications for the delay and notify city collecting officials and the clerk and master.

Effective date: June 3, 2004.

Chapter No. 803 (SB 2419/HB 2796). Excise tax on illicit drugs and alcohol. Amends T.C.A. Title 67, Chapter 4, to levy an excise tax on illegal drugs and alcohol. Establishes a tax schedule. Requires illegal drug and alcohol dealers to report the taxes payable and to affix tax stamps to the illegal substances. The dealer does not have to report name, address, or other identifying information.

Law enforcement agencies must report to the Department of Revenue within 48 hours after seizing substances that are not stamped.

Seventy-five percent of the proceeds of the tax accrue to the law enforcement agency or agencies that conducted the investigation. Proceeds must be used for reducing drug crimes. The remaining 25 percent accrue to the state general fund.

Effective date: January 1, 2005.

Chapter No. 910 (SB 3326/HB 3400). Report of Tax Structure Study Commission delayed.

Amends T.C.A. 67-10-107 to delay the report of the Tax Structure Study Commission that was due by July 1, 2004, until December 31, 2004.

Effective date: June 7, 2004.

Taxes—In Lieu of

Chapter No. 813 (SB 3288/HB 3382). Roane County removed from class that limits IDC in negotiating in lieu of tax payments. Amends T.C.A. 7-53-305(g)(3) to remove Roane County from

the class of counties in which the ability of an industrial development corporation to negotiate in lieu of tax payments for county taxes was limited to the county taxes otherwise due in most circumstances.

Effective date: June 3, 2004.

Taxes—Litigation

Chapter No. 861 (SB 2685/HB 2565). Litigation tax and student drug testing program in Scott County. Amends T.C.A. 67-4-601 to authorize Scott County and municipalities in that county to levy an additional litigation tax to fund a pilot project on drug testing of students in the county or municipal schools. The tax must be passed by a two-thirds vote of the governing body.

Effective date: June 7, 2004.

Taxes—Property

Chapter No. 531 (SB 2220/HB 2172). Notice of taxable or tax exempt status. Amends T.C.A. 67-5-201(a) to require the grantor or lessor of tax-exempt property, including governmental entities, that conveys the property and renders it taxable to promptly notify the assessor. The grantee or lessee must do the same. The grantee or lessee is personally liable for taxes, penalty, and interest until the assessor is notified. No lien arises against a bona fide purchaser who records the deed or notifies the assessor of the change in ownership. The grantor or lessor of taxable property who transfers it to a nontaxable owner must promptly notify the assessor. The notice is a prerequisite to a tax refund for taxes paid relative to the use of the property after the transfer.

Amends 67-5-212(b)(3) to provide that when a religious institution acquires property previously used for religious purposes or replacement property, the effective date of the exemption is one year prior to the date of application or the date the



institution began using the property for tax exempt purposes, whichever is later.

*Effective date: April 14, 2004
(applies to pending claims).*

Chapter No. 635 (SB 2713/HB 2758).

Exemption for certain parking garage. Amends T.C.A. 67-5-212 to grant a property tax exemption to a parking garage that leases parking spaces to a metropolitan hospital authority to the extent of this use.

Effective date: Retroactive to January 1, 1998.

Chapter No. 667 (SB 3245/HB 3286). Pilot

program for leased personal property. Amends T.C.A. 67-5-502 to allow the Comptroller to establish a pilot program for assessing leased tangible personal property to the owner rather than the lessee. Participation will be voluntary.

The Comptroller may impose a fee to defray the cost of administration. Participants will report centrally rather than using the schedules set out in law. Participants may be allowed to claim the business tax credit for taxes paid under the central assessment pilot project.

Effective date: May 14, 2004.

Chapter No. 719 (SB 3242/HB 3289). Pipelines, wires, etc., defined as real property.

Amends T.C.A. 67-5-501(9) to define real property to include mains, pipes, pipelines, tanks, railroads and railroad structures, telephone poles, bridges, wharves, piers, and boat structures attached to the ground by anchors or cables or other attachment or connected to a utility service, and other structures, in the definition of real property for property tax purposes.

Effective date: Applies to tax year 2004 and subsequent years and to any claims for prior years that have not been finally adjudicated as of May 18, 2004.

Chapter No. 732 (SB 2077/HB 2147). Tax exemption for thrift shops of religious and charitable organizations.

Amends T.C.A. 67-5-212 to exempt from property taxation the real and personal property of thrift shops owned by religious and charitable organizations when the institution is exempt from federal taxes under 501(c)(3), the shop gets its merchandise by donation, the shop is operated as a training place or by volunteers, the merchandise is sold as used goods and are given to people who cannot afford them, and the proceeds are used for charitable purposes.

This act also provides that land not necessary to support any tax exempt structure, including land used for recreation or retreats, is not eligible for exemption beyond a maximum of 100 acres per county. Land owned by exempt institutions will be aggregated with land of related institutions under common ownership. Land not qualifying as tax exempt may be classified as open space.

*Effective date: May 24, 2004
(applies to pending appeals and applications).*

Chapter No. 737 (SB 2365/HB 3011). Electronic appeals. Amends T.C.A. 67-5-1412(c) to require rules of the state Board of Equalization to permit electronic appeals for a single parcel in a format required by rule.

Effective date: May 24, 2004.

Chapter No. 797 (SB 1337/HB 3148). Local option tax freeze for elderly homeowners in

Shelby County. Amends T.C.A. Title 67, Chapter 5, Part 15, to allow Shelby County by a two-thirds vote of its legislative body to approve a property tax freeze for homeowners who are 70 or more years old and have been a homeowner for at least 20 of the previous 30 years or who have a household income of less than \$25,000. The homeowner would transfer



title to the county clerk and lease it back for \$1 per year. The person would then agree to make in lieu of tax payments of the amount paid in taxes in the previous year.

This tax freeze option, which is exercisable by the county, applies to municipal taxes as well.

Effective date: June 3, 2004.

Chapter No. 800 (SB 2137/HB 2169). Due dates extended for taxes due from military personnel on active duty.

Amends T.C.A. 67-2-112(b)(1) relative to the Hall Income Tax, 67-4-1703(c)(1) relative to the occupational privilege tax, and 67-5-2011(a) relative to property taxes to extend the due date for property taxes owed by persons on active military duty to 180 days, rather than 90 days, after hostilities cease or the person is transferred from the hostile area.

The county trustee must approve applications for the delay and notify city collecting officials and the clerk and master.

Effective date: June 3, 2004.

Chapter No. 852 (SB 2351/HB 2352). Tax relief for disabled former prisoners of war.

Amends T.C.A. 67-5-704(b)(2) to eliminate the requirement that a disabled veteran, to qualify for tax relief as a disabled prisoner of war, must have been a prisoner of war for 30 or more days.

Effective date: July 1, 2004.

Taxes—Sales

Chapter No. 592 (SB 3418/HB 3480).

Distribution of taxes on telecommunications services.

Amends T.C.A. 67-6-221 to provide that before proceeds of the state sales tax on interstate telecommunications service are distributed to county and municipal governments, 9 percent will be deducted and transferred to the state general fund.

Amends 67-6-710(f) by repealing the requirement that 9 percent of revenues from the local sales tax on telecommunications service be transferred to the state general fund.

This act also amends 67-4-2109(c)(2) to increase the credit on the franchise tax for each full-time job created by a business in an economically distressed county from \$3,000 to \$4,500.

Effective date: May 3, 2004.

Chapter No. 725 (SB 3215/HB 3345). Exemption for certain property provided to U.S. contractors.

Amends T.C.A. 67-6-209 to exempt from sales taxation personal property owned by the United States and provided to federal contractors to be used in testing under the Small Business Innovation Research Program.

Effective date: May 19, 2004.

Chapter No. 782 (SB 3419/HB 3479).

Telecommunications services.

Amends T.C.A. Title 67, Chapter 6, to revise sales taxation of telecommunications services. Amends 67-6-702(g), part of the Local Sales Tax Act, to add international and ancillary services to telecommunications services subject to local tax.

Effective date: Generally, July 1, 2004.

Chapter No. 812 (SB 3189/HB 3301). Exemption for historic preservation organizations.

Amends T.C.A. 67-6-322 to exempt sales to nonprofit corporations or limited liability companies organized to preserve or rehabilitate property listed in the National Register of Historic Places from sales taxes.

Effective date: June 3, 2004.

Chapter No. 823 (SB 962/HB 235). Exemption for leased motor vehicle insurance proceeds.

Amends T.C.A. Title 67, Chapter 6, Part 3, to exempt from sales taxes the gross insurance proceeds on a leased



motor vehicle paid under a damage settlement to the owner of the leased vehicle when the vehicle is a salvage vehicle and the owner transfers title to the insurance company.

Effective date: June 7, 2004.

Chapter No. 842 (SB 2277/HB 2160). Exemption for vehicles sold to active duty reservists. Amends T.C.A. 67-6-303(a)(1) to exempt motor vehicles sold to reservists and members of the National Guard on active duty and entitled to combat compensation from sales taxes.

Effective date: June 8, 2004.

Chapter No. 924 (SB 3428/HB 3483). Exemption for certain auto detailing and repair services and fabrication and repair services to aircraft.

Amends T.C.A. Title 67, Chapter 6, Part 3, to exempt from sales taxes detailing and repair services to automobiles when the auto is held for resale by a dealer or automobile auction.

Amends 67-6-102(a)(9) to include fabrication and repair services to aircraft owned by a non-affiliated business in the definition of "fabricating or processing tangible personal property for resale" and thereby excluding it from sales taxes.

Effective date: June 7, 2004.

Chapter No. 959 (SB 3454/HB 3542). Amendments to state and local sales tax provisions.

Amends various sections of T.C.A. Title 67, Chapter 6, relative to state and local sales taxes. Of particular interest to municipalities, the act:

- Eliminates the special distribution of sales tax revenues to municipalities from interstate telecommunications sold to businesses (T.C.A. 67-6-103(g)) that was to take effect on

July 1, 2004, and provides for the distribution under the general sales tax distribution formula.

- Earmarks all funds generated by the 0.5 percent increase in sales tax that became effective on April 1, 1992, to K-12 education.

- Makes several changes made necessary by the Streamlined Sales and Use Tax Agreement.

- Expands and refines some exemptions.

- Provides that sales of personal property through vending machines are subject to a uniform local sales tax of 2.25 percent. Proceeds will be distributed to counties proportionally to sales. County proceeds will be distributed to education and the remainder to municipalities in the county based upon ratio of collections in the municipality to collections in the county.

- Provides that a new local sales tax may not be collected until the earliest date allowed under the local sales tax law.

- Provides for distribution of local sales tax revenue when the revenues cannot be identified to a particular situs: 50 percent to incorporated municipalities proportionally to population and 50 percent to counties proportionally to tax collections. County proceeds go 50 percent to education and 50 percent to municipalities in the county based upon collection ratios.

- Requires the Commissioner of Revenue to issue only general notification of a new local sales tax rate to affected dealers rather than making a reasonable effort to notify them.

- Provides for the distribution of the special tax on water and energy fuels in 67-4-2303, the tax on



common carriers for personal property used outside the state in 67-4-2305, and the tax on cable TV service in 67-4-2401 to municipalities proportionally based upon population.

- Provides that when the amount of local sales tax revenues in an annexed area cannot be determined from returns, the Commissioner of Revenue may determine the amount to be distributed to the county over the 15-year period based upon the best information available. The Commissioner may use business tax returns or obtain additional information.
- Provides that 67-6-716 controls the effective date of an annexation for sales and use tax purposes.
Effective date: July 1, 2005.

Tort Liability

Chapter No. 863 (SB 3031/HB 2612).

Immunity in donating fire equipment. Adds T.C.A. 29-34-205, which grants immunity to any person or entity, including governments, that donate fire control or rescue equipment to a volunteer fire department for injuries caused by a defect in the equipment. Also grants immunity to any governmental agency that administers these donations. The immunity does not apply if the entity's actions amount to malicious, gross, or intentional misconduct; the donating agency is the manufacturer; or the entity modified the equipment after it had been recertified as meeting manufacturer specifications.

Effective date: July 1, 2004.

Urban Development

Chapter No. 536 (SB 17/HB 226). **Grants for residential property in older neighborhoods.**

Allows municipalities and counties by a resolution passed by a two-thirds vote of the governing body to establish a grant program for residential property

in older neighborhoods (those in which a majority of the residential property was constructed 50 or more years before April 22, 2004). Grants must be based upon the estimated expense of renovating the property. The resolution must identify the neighborhoods in which grants will be made and establish criteria for the renovation. The resolution must also establish an application and appeal process, determine the maximum amount of a grant, set the time during which the grant must be used, and provide for a system of verification and accounting to make sure grant funds are being used accurately.

The governing body must hold a public hearing before adopting the resolution. Two weeks notice, including the time, place, and purpose of the hearing, must be given in a newspaper of general circulation.

Misuse of grant funds is theft under 39-14-105.

Effective date: April 22, 2004.

Chapter No. 843 (SB 2382/HB 2166).

Neighborhood preservation in Davidson and Shelby counties. Requires owners of residential rental property and unoccupied residential property in Davidson and Shelby counties to maintain the property to community standards.

Effective date: July 1, 2004.

Chapter No. 909 (SB 3328/HB 3399). **Convention center tax increment financing provisions modified.**

Amends T.C.A. 7-88-103, 105, 106, and 108, part of the Convention Center and Tourism Development Financing Act of 1998, to do the following:

- Provide that when the state sales tax rate changes, the increase will not be used for tax increment financing under this law.



- When the sales tax rate decreases, the state will adjust revenues so that substantially the same revenues will be used for tax increment financing.
- Require expected private investment of at least \$50,000,000 rather than the previous \$25,000,000 in the tourism zone.
- Include “qualified associated development” (sidewalks, signs, landscaping, etc.) in the tax increment financing scheme.
- Allow the state Department of Finance and Administration to reconfigure a tourism development zone.
- Generally to restrict the tourism zone to within one mile of the qualified public use facility. Allows more than one mile for necessarily unusually shaped zones but no zone may exceed three square miles.
- Limit each municipality to only one tourism development zone.
- Define “open to the public,” which determines when allocations begin, as financing being in place, a significant part being completed and open for use, the municipality making reasonable progress on the unfinished part, and all other provisions of the law having been completed.

Effective date: June 8, 2004

(does not affect pending applications for which a letter of intent has been filed).

Utilities

Chapter No. 474 (SB 3109/HB 3448). White and amber light systems on highway maintenance and utility vehicles. Amends T.C.A. 55-9-402 to allow highway maintenance vehicles and utility vehicles to use a white light system within the headlight assembly or grill area or an amber light system in

any location on the vehicle except in the tail lamp, stoplight area, or factory installed flasher and backup area.

Effective date: April 5, 2004.

Chapter No. 541 (SB 2317/HB 2874). Financing underground utilities by special assessment.

Amends T.C.A. 7-33-301(5) to add placing electric and other utility cables underground, including streetscape improvements, to the list of projects that can be financed by special assessment under that law.

Effective date: April 22, 2004.

Chapter No. 578 (SB 877/HB 1418). Exemption from stormwater fees for persons not using system.

Amends T.C.A. 68-221-1107(a) to exempt persons, including owners and operators of agricultural land, from stormwater fees who do not discharge stormwater through the stormwater or flood control facilities of a municipality. Previously, exemption applied to “users.”

Effective date: May 3, 2004.

Chapter No. 587 (SB 2455/HB 2435). Cable TV pilot project.

Amends T.C.A. 7-52-601(e) to require the Comptroller to include one municipal electric system in the eastern grand division of the state in the pilot project to provide cable TV service beyond its service area but within the county. The selection must be made by August 1, 2004. The Comptroller must report to the General Assembly by January 31, 2008, on whether the pilot project should be continued or expanded to other systems. No other municipal system may be selected to provide cable services until the Comptroller issues this recommendation.

Effective date: May 3, 2004.

Chapter No. 589 (SB 3243/HB 3288). Interest rate agreements authorized for revenue bonds.



Amends T.C.A. 9-21-306, 9-21-1013, 7-34-109, 7-39-305, and 9-22-103 to authorize interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings, and other interest rate hedging agreements relative to revenue bonds.

Effective date: May 3, 2004.

Chapter No. 619 (SB 3246/HB 3285). Financially distressed utility and emergency communications systems—terminology changed to comply with new accounting rules.

Amends T.C.A. 68-221-1010, which gives the Water and Wastewater Financing Board jurisdiction over financially distressed water and wastewater systems, to replace the words “retained earnings deficit” with “deficit total net assets;” the words “operating deficit” with “negative change in net assets;” and the word “equity” with “net assets.” Repeals 68-221-1010(a)(2), which created an exemption from board jurisdiction for certain water and wastewater systems with 900 or fewer customers.

Amends 7-86-304 relative to emergency communications districts to make similar changes in terminology. Further amends this section to give the state Emergency Communications Board jurisdiction over a district that (1) is subject to a lien by the IRS, (2) cannot in the opinion of the board satisfy its financial obligations to the extent the continued operation of the district is at risk, or (3) has defaulted on indebtedness and has not cured the default within 60 days, and the continued operation of the district is at risk.

Effective date: May 6, 2004.

Chapter No. 716 (SB 3198/HB 3240). Private water company may not charge municipality for fire hydrant service. Amends T.C.A. 65-5-201 to prohibit a private water company that supplies water to a municipal government from charging for

fire hydrant service. The utility may charge non-municipal customers for fire hydrant service. New rates will be set for this service by the Tennessee Regulatory Authority in a rate proceeding that must take place within 120 days after passage of this act. The utility will continue to charge the municipality until the new rate schedule goes into effect. The municipal government must reimburse the state up to \$50,000 for any increase in expenditures to the state caused by this act.

Effective date: May 18, 2004.

Chapter No. 754 (SB 2452/HB 2327). Public water systems and rural water supply. Amends T.C.A. Title 68, Chapter 221, Part 12, to require the water resources division of the Department of Environment and Conservation to investigate the needs of rural areas for service by public water systems. The division must file the report with the proper General Assembly committees by January 31, 2005.

Effective date: May 24, 2004.

Chapter No. 849 (SB 2264/HB 2285).

Cooperative collection of storm water fees.

Amends T.C.A. 68-221-1007(b) and 12-9-104(a)(1) to allow any municipality in any county not in the state’s computer assisted appraisal system to make a contract with the county to bill and collect storm water fees as an item on the property tax notice issued by the county trustee.

Effective date: June 8, 2004.

Workers’ Compensation

Chapter No. 433 (SB 1631/HB 1611).

Chiropractor required on panel of physicians for back injuries; inapplicable to local government employees.

Amends T.C.A. 50-6-204 to require a chiropractor on the panel of physicians when the injury is to the back, but this requirement specifically does not apply to local government



employees. This requirement for a chiropractor on the panel is repealed on June 30, 2005.

Effective date: March 12, 2004.

Chapter No. 443 (SB 1905/HB 1941). Calculation of temporary partial disability benefits

changed. Amends T.C.A. 50-6-207(2) to change the calculation of benefits for temporary partial disability benefits from 66 2/3 percent of the difference between the wage the employee was earning when injured and what the employee could earn in a disabled condition to 66 2/3 percent of the difference between the “average weekly wage” the employee was earning and the wage the employee is able to earn in a disabled condition.

Effective date: July 1, 2004.

Chapter No. 648 (SB 563/HB 527).

Extraterritorial application of law. Amends T.C.A. 50-6-115 to provide for extraterritorial application of workers’ comp benefits if at the time of the injury the worker was a Tennessee resident and there was a substantial connection between this state and the particular employer-employee relationship.

Effective date: July 1, 2003.

Chapter No. 962 (SB 3424/HB 3531). Workers’ compensation reform enacted.

Amends various sections of the state’s workers’ compensation law (T.C.A. Title 50, Chapter 6). Does the following:

- Allows the Commissioner of Labor and Workforce Development to adopt a medical fee schedule for workers’ comp injuries.
- Prohibits closing of future medical benefits until three years after the date of settlement. A claimant who is permanently disabled can never forfeit the right to future medical benefits.
- Requires the employer to provide an injured employee the names of doctors on the panel on a form provided by the Department. The employee must document the doctor chosen and sign and date the form. The employer must give a copy to the employee and keep a copy in the employee’s records.
- Allows penalties against employers and insurers who fail to make timely payment of temporary total disability benefits. The penalty will be assessed when the payment is 20 or more days late. The penalty is 25 percent of untimely paid benefits and goes to the employee.
- Allows workers’ compensation specialists to order certain medical benefits recommended by the doctor.
- Reduces the multiplier applied to the medical impairment rating to 1.5 times from 2.5 times when the employee is returned to work by the employer at the same or greater wage. Applies this multiplier to scheduled members as well as body as a whole injuries except for injuries to fingers, toes, hands, feet, eyes, or ears.
- Retains the 6.0 multiplier for cases in which the employer does not return the employee to work. Applies this multiplier to the same scheduled members as the 1.5 multiplier.
- Allows reconsideration of permanent partial benefits awards for scheduled injuries if the employee loses his/her job within the number of weeks the employee is eligible to receive benefits.
- Prohibits filing a court case until the Benefit Review Conference process is exhausted. Makes Benefit Review Conferences mandatory and attendance mandatory.



- Raises cap on weekly compensation rate for temporary disability benefits to 105 percent of the state's average weekly wage for injuries sustained on July 1, 2004, through June 30, 2005, and to 110 percent of state's average weekly wage for injuries sustained on or after July 1, 2005.
- Makes case management voluntary rather than mandatory. When used, it is at employer's expense and employees must cooperate.
- Requires judges to be trained in workers' comp issues.
- Prohibits self-insurance without a certificate from the Commissioner of Commerce and Insurance.
- Encourages insurers to provide semi-annual reports of claim status to employers at no charge.
- Expresses the legislative intent that workers' comp insurance premiums should be adjusted downward within 15 months of the effective date of this act to reflect cost savings.

Effective dates: provisions on benefit review conferences and self-insurance take effect on January 1, 2005; other provisions generally take effect on July 1, 2004, except for provisions about disputes over the medical impairment ratings, which take effect July 1, 2005.



MTAS

**Municipal Technical
Advisory Service**

*In cooperation with the
Tennessee Municipal League*

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