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# Tennessee Public Acts 2002: Summaries of Interest to Municipal Officials

Dennis Huffer

*Municipal Technical Advisory Service*

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# Tennessee Public Acts 2002

Summaries of Interest to  
Municipal Officials

Compiled by  
**Dennis Huffer**  
Legal Consultant



**MTAS**

**MUNICIPAL TECHNICAL  
ADVISORY SERVICE**

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

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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's 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.

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# Tennessee Public Acts 2002

Summaries of Interest to  
Municipal Officials

Compiled by  
**Dennis Huffer**  
Legal Consultant

September 2002



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## TABLE OF CONTENTS

Alcoholic Beverages .....	7
Animals .....	7
Annexation .....	8
Boards, Commissions & Authorities .....	8
Building, Utility & Housing Codes .....	9
Business Regulation .....	9
City Courts .....	10
Civil Procedure .....	11
Conflict of Interest .....	11
Crimes & Criminal Procedure .....	12
Education & Schools .....	13
Elections .....	17
Emergency Services .....	17
Environment .....	18
Finance .....	19
Health & Safety .....	22
Home Rule .....	24
Juveniles .....	25
Law Enforcement .....	25
Modified Manager-Council Charter .....	28
Motor Vehicles & Traffic .....	28
Personnel .....	31
Planning & Zoning .....	32
Purchasing .....	33
Records .....	33
Solid Waste .....	34
Streets & Public Ways .....	35
Taxes–Business .....	35
Taxes–General .....	35
Taxes–Hall Income .....	36
Taxes–Hotel-Motel .....	37
Taxes–In lieu of .....	37
Taxes–Property .....	38
Taxes–Sales .....	40
Tort Liability .....	41
Utilities .....	41
Weapons .....	44
Workers’ Compensation .....	44

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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 Acts summarized here, one should consult the act itself and not rely on the summary.

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## Alcoholic Beverages

**Chapter No. 672 (SB 3127/HB 2853). Retail liquor licensees – holding opened containers of unmarketable product and sales demonstrations.** Amends T.C.A. §§ 57-3-404(h) and 406(f) to allow retail liquor licensees to hold open containers of damaged or unmarketable product to return to the wholesaler or for sales demonstrations. Allows wholesalers and retailers to conduct sales demonstrations on the premises of retail establishments and to give free samples to permitted employees of the retailer for consumption on the premises. No one other than wholesalers or their representatives, retailers, and permitted employees may be present at these demonstrations.

*Effective date: April 24, 2002.*

**Chapter No. 716 (SB 2196/HB 2183). Server permits in liquor-by-the-drink establishments.** Amends T.C.A. § 57-3-707 to allow servers in liquor-by-the-drink establishments to work without a server permit for 61 days after being hired.

*Effective date: May 1, 2002.*

**Chapter No. 744 (SB 3036/HB 3101). Beer permit grandfather clause – “on that same location” defined.** Amends T.C.A. § 57-5-109, which is the grandfather clause for beer permit distance requirements, to define “on that same location” as being within the boundaries of the parcel or tract of the property that the business was located on as of January 1, 1993. This applies whether or not the business moves the building and whether or not it was conforming at the time of the move.

Provides that in cases in which beer is not sold within a continuous six-month period and the grandfathered business would lose its permit, if the business applies for a permit within the 6 months and the city denies the permit, a new six-month period begins.

*Effective date: May 8, 2002.*

## Animals

**Chapter No. 774 (SB 2929/HB 2882). Dog and cat dealers.** Amends T.C.A. Title 44, Chapter 17, Part 1, to allow cooperative agreements between the state Department of Agriculture and local governments for implementing the dog and cat dealer licensing law. The intent is not to impose duplicative licensing requirements and costs on dealers.

Amends § 55-4-290 to provide that it is the legislative intent to sustain a grant program to spay and neuter clinics using revenues from “Animal Friendly” license plates.

*Effective date: May 22, 2002.*

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**Chapter No. 858 (SB 1810/HB 1716). Aggravated cruelty to animals.** Amends T.C.A. Title 39, Chapter 14, Part 2, to create the offense of aggravated cruelty to animals. A first offense is a Class A misdemeanor. Subsequent offenses are Class E felonies.

*Effective date: July 15, 2002.*

## **Annexation**

**Chapter No. 572 (SB 2421/HB 2419). Airport made annexation-free zone.** Amends T.C.A. Title 6, Chapter 58, Part 1, to make the property of an airport with regularly scheduled commercial passenger service that is in a county rather than that of the creating municipality an annexation-free zone unless annexation is approved by resolution of the governing body of the creating municipality.

*Effective date: April 6, 2002.*

## **Boards, Commissions & Authorities**

**Chapter No. 542 (SB 1992/HB 2013). City housing authorities in Bradley County.** Amends T.C.A. § 13-20-408(a) to allow city housing authorities in Bradley County to have seven commissioners appointed by the mayor.

*Effective date: March 25, 2002.*

**Chapter No. 545 (SB 3092/HB 3073). Investments for proceeds of loans from Public Building Authorities.** Amends T.C.A. § 12-10-111 to authorize cities, counties, and metropolitan governments to invest proceeds of loans from Public Building Authorities in guaranteed investment contracts chosen or established by the authority under these conditions:

- The contract has a termination date of not more than 5 years from the issuance of the obligation by the authority to fund the loan.
- The contract is secured by government obligations equal in value to 105% of the obligation secured.
- The contract is issued by an issuer rated at least AA or equivalent by one national rating organization.
- The obligations securing the contract are deposited with an independent third party selected by the authority and are pledged to the city or entity receiving the loan.

*Effective date: March 25, 2002.*

**Chapter No. 562 (SB 2352/HB 2441). Membership on airport authority board in Hamilton County.** Amends T.C.A. § 42-4-105(a)(1)(D) to revise membership on the board of the metropolitan airport authority in Hamilton County.

*Effective date: April 3, 2002.*



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**Chapter No. 567 (SB 2473/HB 2337). Boards of emergency communications districts created by municipalities after July 1, 2002.** Amends T.C.A. § 7-86-105(b) to allow the board of directors of an emergency communications district created by a municipality after July 1, 2002, to be the municipal legislative body. Terms would be concurrent. If a member or members of the board are removed under § 7-86-314, the mayor appoints private citizens to serve until the person's term on the governing body expires. The appointment is subject to confirmation by the remaining members of the board.

*Effective date: April 3, 2002.*

## **Building, Utility & Housing Codes**

**Chapter No. 520 (SB 2797/HB 2662). Electrical safety code – latest edition.** Amends T.C.A. § 68-101-104 to adopt the August, 2001, edition of the American National Standard Electrical Safety Code for electric supply stations and lines.

*Effective date: March 19, 2002.*

## **Business Regulation**

**Chapter No. 615 (SB 2418/HB 2778). Judicial review of license denials for First Amendment activities.** Amends T.C.A. § 27-9-111 to make judicial review of decisions of boards and commissions that revoke, suspend, or deny permits or licenses required for engaging in conduct protected by the First Amendment (for example, certain adult business activity mandatory rather than discretionary). The court must hear and decide the matter within 40 days of the date the court granted certiorari.

*Effective date: This Act does not take effect until the U.S. Supreme Court either denies cert in or affirms the 6<sup>th</sup> Circuit case of *Deja vu v. Metropolitan Government of Nashville and Davidson County*. If the Supreme Court reverses that case, this Act never takes effect.*

**Chapter No. 750 (SB 389/HB 532. “Passenger Contract Carrier Safety Act of 2002” enacted.** Amends T.C.A. Title 55, Chapter 8, to enact state safety regulations for passenger contract carriers. This does not include taxicab companies using vehicles for fewer than seven passengers, school buses, ambulances, stretch limousines, courtesy vans, non-profits, and persons who transport others on a sporadic basis.

*Effective date: May 14, 2002.*

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**Chapter No. 774 (SB 2929/HB 2882). Dog and cat dealers.** Amends T.C.A. Title 44, Chapter 17, Part 1, to allow cooperative agreements between the state Department of Agriculture and local governments for implementing the dog and cat dealer licensing law. The intent is not to impose duplicative licensing requirements and costs on dealers.

Amends § 55-4-290 to provide that it is the legislative intent to sustain a grant program to spay and neuter clinics using revenues from “Animal Friendly” license plates.

*Effective date: May 22, 2002.*

**Chapter No. 793 (SB 2562/HB 2546). Regulation of mobile home installation preempted.** Amends T.C.A. § 68-126-412 to provide that the chapter regulating the installation of mobile homes preempts any local ordinances that regulate their installation. Previously, this section preempted only the regulation of the installation of stabilizing systems for mobile homes. This Act extensively amends the state statutes on mobile homes and their installation.

*Effective date: May 29, 2002, for rulemaking purposes; July 1, 2003, for licenses for installers; January 1, 2004, for other purposes.*

**Chapter No. 802 (SB 913/HB 1139). “Governmental employee” defined for probation supervisory services purposes.** Amends T.C.A. § 40-35-302 to define “governmental employee” for purposes of that section as law enforcement, probation, judicial, correctional, and jail or workhouse officers or employees. This section prohibits governmental employees from having a personal interest in any private entity that provides probation supervisory services. It also prohibits governmental employees from accepting anything of value from such a business.

*Effective date: May 31, 2002.*

## City Courts

**SJR 555. Fines for ordinance violations – proposed constitutional amendment.** Proposes amendment to Article VI, § 14, of the Tennessee Constitution to remove the \$50 limitation on the amount of each fine that may be levied without a jury and requires the General Assembly to prescribe the maximum fine that may be levied by a judge.

**Chapter No. 667 (SB 2744/HB 2618). Environmental court in Nashville – referees.** Amends Chapter No. 212 of the Public Acts of 1993 to allow the judge of the environmental court in Nashville to appoint referees who are attorneys to hear cases in the first instance.

*Effective date: April 24, 2002.*

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**Chapter No. 746 (SB 2422/HB 3109). Recovery of administrative expenses by home rule municipalities for violation of hoax ordinances.** Amends T.C.A. § 6-54-306 to allow home rule municipalities to recover actual administrative expenses incurred in enforcing ordinances that prohibit false threats or hoaxes involving biological weapons, destructive devices, or weapons of mass destruction.

*Effective date: May 14, 2002.*

## **Civil Procedure**

**Chapter No. 615 (SB 2418/HB 2778). Judicial review of license denials for First Amendment activities.** Amends T.C.A. § 27-9-111 to make judicial review of decisions of boards and commissions that revoke, suspend, or deny permits or licenses required for engaging in conduct protected by the First Amendment (for example, certain adult business activity) mandatory rather than discretionary. The court must hear and decide the matter within 40 days of the date the court granted certiorari.

*Effective date: This Act does not take effect until the U.S. Supreme Court either denies cert in or affirms the 6<sup>th</sup> Circuit case of *Deja vu v. Metropolitan Government of Nashville and Davidson County*. If the Supreme Court reverses that case, this Act never takes effect.*

**Chapter No. 621 (SB 2267/ HB 2334). “Educational Records as Evidence Act” enacted.** Amends T.C.A. Title 49, Chapter 50, to enact specific procedures for school records custodians to use in responding to a subpoena duces tecum for records in cases in which the school is neither a party nor the place where the cause of action allegedly arose.

*Effective date: April 17, 2002.*

## **Conflict of Interest**

**Chapter No. 596 (SB 2914/HB 2871). Conflict of interest disclosure statement – investment amount for disclosure increased.** Amends T.C.A. § 8-50-502(2) to increase from \$5,000 to \$10,000 the amount of investment in a business organization by an official or the official’s immediate family before disclosure is required on the conflict of interest disclosure form.

*Effective date: July 1, 2002.*

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**Chapter No. 802 (SB 913/HB 1139). “Governmental employee” defined for probation supervisory services purposes.** Amends T.C.A. § 40-35-302 to define “governmental employee” for purposes of that section as law enforcement, probation, judicial, correctional, and jail or workhouse officers or employees. This section prohibits governmental employees from having a personal interest in any private entity that provides probation supervisory services. It also prohibits governmental employees from accepting anything of value from such a business.

*Effective date: May 31, 2002.*

## **Crimes & Criminal Procedure**

(See also Law Enforcement and Motor Vehicles & Traffic)

**Chapter No. 511 (SB 2371/HB 2477). Sale of beedies to minors made unlawful.** Amends T.C.A. § 39-17-1503, part of the Prevention of Youth Access to Tobacco Act, to include beedies or bidis within the definition of “tobacco product” and therefore to make their sale or distribution to minors unlawful.

*Effective date: March 19, 2002.*

**Chapter No. 655 (SB 3016/HB 3038). HIV testing of persons convicted of patronizing prostitution.** Amends T.C.A. § 39-13-521(e)(1) to require the court to order HIV testing of persons convicted of patronizing prostitution.

*Effective date: July 1, 2002.*

**Chapter No. 749 (SB 2767/HB 2653). Solicitation of minor as sexual offense.** Amends T.C.A. § 40-39-102(3)(A) to include the crime of solicitation of a minor in the definition of “sexual offense.”

*Effective date: July 1, 2002.*

**Chapter No. 807 (SB 2503/HB 2234). Price gouging during states of emergency.** Amends T.C.A. Title 47, Chapter 18, to make it unlawful in any county or municipality covered by a state of emergency to charge a price grossly in excess of the price generally charged for food, repair or construction services, emergency supplies, medical supplies, building supplies, gasoline, freight and storage services, and housing. A grossly excessive price can be justified by increased costs. This Act does not preempt local ordinances prohibiting and penalizing similar conduct.

*Effective date: July 1, 2002.*

**Chapter No. 834 (SB 1072/HB 65). Victims of crime state council created.** Amends T.C.A. Title 40, Chapter 38, to create a Victims of Crime State Coordinating Council attached to the Tennessee Coalition Against Domestic and Sexual Violence. The president of the Tennessee Association of Chiefs of Police serves on this Council.

*Effective date: July 3, 2002.*

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**Chapter No. 847 (SB 2354/HB 2651). Forfeiture of vehicle in which prostitution or patronizing prostitution committed.** Amends T.C.A. § 29-3-101 to make the vehicle in which a second or subsequent crime of prostitution or patronizing prostitution was committed subject to seizure and forfeiture. A seizure may not occur before conviction. The violations must have occurred in Tennessee and must occur on or after July 1, 2002, and the second or subsequent offense must occur within 5 years of the prior offense.

*Effective date: July 1, 2002.*

## **Education & Schools**

**Chapter No. 535 (SB 2275/HB 2404). Teachers dismissed because of lack of enrollment – preferred list for reemployment.** Amends T.C.A. § 49-5-511(b) to provide that a teacher dismissed because of a lack of enrollment or other similar reason will remain on the preferred list for reemployment until the teacher refuses reemployment with the local agency or until the director notifies in writing a teacher who has been on the list for 2 consecutive years that he/she will be removed. The notice must be done by April 1 of the second consecutive year. The teacher may remain on the list by notifying the director by April 15 of each subsequent year that he/she wants to remain on the list.

*Effective date: July 1, 2002.*

**Chapter No. 537 (SB 2719/HB 2565). Board policies on website.** Amends T.C.A. § 49-2-207 to require the policies of local boards of education to be available on the board's website if the board has a website and the policies are kept in electronic format.

*Effective date: March 25, 2002.*

**Chapter No. 557 (SB 2953/HB 2906). Permit fee for school food service establishments.** Amends T.C.A. § 68-14-313(a) to establish a permit fee for school food service establishments of \$80.00 per year.

*Effective date: April 3, 2002.*

**Chapter No. 558 (SB 1959/HB 1993). Use of excess instructional time.** Amends T.C.A. § 49-6-3004(e)(1) to allow excess instructional time to be used for school closings caused by natural disaster, dangerous structural or environmental conditions, or serious outbreaks of illness when the closing is approved by the Commissioner of Education.

*Effective date: April 3, 2002.*

**Chapter No. 586 (SB 2175/HB 2779). Transfers by director of schools.** Amends T.C.A. § 49-5-409(b)(2) to give the authority to transfer teachers to the director of schools rather than the school board.

*Effective date: April 9, 2002.*

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**Chapter No. 609 (SB 1802/HB 1537). Pilot neighborhood schools program in Shelby County.** Amends T.C.A. Title 49, Chapter 6, to require the Department of Education to create a pilot neighborhood schools program in Shelby County by January 1, 2003.

*Effective date: April 17, 2002.*

**Chapter No. 621 (SB 2267/ HB 2334). “Educational Records as Evidence Act” enacted.** Amends T.C.A. Title 49, Chapter 50, to enact specific procedures for school records custodians to use in responding to a subpoena duces tecum for records in cases in which the school is neither a party nor the place where the cause of action allegedly arose.

*Effective date: April 17, 2002.*

**Chapter No. 683 (SB 467/HB 1913). Negotiations with unions – “terms and conditions of professional service” and “working conditions” defined.** Amends T.C.A. § 49-5-601 to define “terms and conditions of professional employment” and “working conditions” that are subject to negotiation between school boards and teacher unions as those fundamental matters that affect a professional employee financially or the employee’s employment relationship with the board of education. Requires good faith negotiation on these items. Prohibits negotiations from resulting in the director of schools being prevented from transferring faculty and staff to address performance and accountability deficiencies. Prohibits basic education policy from being a mandatory subject of negotiation.

Provides that directors of schools have the ultimate right to transfer employees subject only to present law, and that nothing in this section of the law may be construed as making transfers or assignments mandatory subjects of negotiation.

Provides that nothing in this Act may be construed to prevent either the board or the union from hiring consultants or advisors during the negotiations.

*Effective date: April 30, 2002.*

**Chapter No. 711 (SB 2947/HB 2900). Comprehensive writing assessment.** Amends T.C.A. § 49-6-6003 to require a comprehensive writing assessment to be conducted in at least one grade in elementary, middle, and high school rather than in the 4<sup>th</sup>, 7<sup>th</sup>, and 11<sup>th</sup> grades.

*Effective date: May 1, 2002.*

**Chapter No. 738 (SB 2944/HB 2897). Exit examinations.** Amends T.C.A. § 49-6-6001(b) to allow every student the opportunity to take an exit examination before graduation prescribed by the state board of education.

*Effective date: May 8, 2002.*

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**Chapter No. 765 (SB 2153/HB 2086). Cardio-pulmonary curriculum for junior and senior high schools.** Amends T.C.A. Title 49, Chapter 6, Part 12, to request the State Board of Education to implement a program of instruction in CPR no later than the 2004-2005 school year in junior and senior high schools. All students would participate at least once. The legislative intent is to require full certification.

*Effective date: July 1, 2002.*

**Chapter No. 770 (SB 2632/HB 2295). Substitute teachers; county school systems.** Amends T.C.A. § 49-2-203(a) to require local boards of education to have policies on employment of substitute teachers. Policies must address qualifications and training and ensure they are subject to a criminal records check. The policies must prohibit the hiring of someone with a revoked certificate.

Amends § 49-2-501(b) to allow counties in which all students are eligible to be served by special or city school districts not to have a county school system.

*Effective date: July 1, 2002.*

**Chapter No. 808 (SB 2525/HB 2105). Administration of glucagon.** Amends T.C.A. § 49-5-415 to allow volunteer school personnel who have been properly trained by the school nurse to administer glucagon in an emergency. Administration of glucagon must be based upon the student's individual health plan. If the school nurse is available, he/she must administer the substance. The school nurse must update and maintain IHPs. Guidelines for the administration of glucagon developed by the Department of Health and the Department of Education must be used uniformly by all local education agencies that allow volunteers to administer glucagon. Training must be repeated annually and documented in the personnel file.

*Effective date: June 11, 2002.*

**Chapter No. 813 (SB 1765/HB 1706). Notification of academic prerequisites for vocational technical education.** Amends T.C.A. Title 49, Chapter 11, to require the State Board of Education to notify local education agencies one year before the effective date of any academic prerequisite courses in vocational technical education.

*Effective date: July 1, 2002.*

**Chapter No. 820 (SB 2014/HB 2106). Persons convicted of certain crimes prohibited from being school bus drivers.** Amends T.C.A. § 49-6-2107 to prohibit the issuance of a certificate to drive a school bus to anyone who has been convicted in the 5 years before the request for the certificate of DUI, vehicular assault, vehicular homicide, or controlled substance violations.

*Effective date: July 1, 2002.*

**Chapter No. 823 (SB 2145/HB 2650). Enforcement of compulsory attendance laws.** Amends T.C.A. § 49-6-3007(i) to allow any local education agency to make an agreement with the appropriate law enforcement agency to assist in the enforcement of compulsory attendance laws. The LEA must create an advisory council to assist in forming the agreement, receive advice from

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neighborhood groups, hold a public hearing, provide for training for school personnel in truancy issues, provide for truancy training for involved law enforcement personnel, and include in the agreement safeguards to protect the civil rights of students and parents.

*Effective date: June 27, 2002.*

**Chapter No. 824 (SB 2432/HB 2984). Construction managers for schools – construction work.** Amends T.C.A. § 49-2-203(a)(C)(ii) to allow construction managers on school projects to do actual construction work when bids for the work are solicited but no bids are received. The school system may use its own employees to perform construction work and use a construction manager to oversee the work. This Act requires the Comptroller to study the use of construction managers on school projects to determine if the use of these managers increases costs or causes delays. The Comptroller must report to the General Assembly by January 31, 2005.

*Effective date: July 1, 2002.*

**Chapter No. 841 (SB 2599/HB 2549. Pledge of allegiance and flags.** Amends T.C.A. § 49-6-1001 to require the pledge of allegiance to be recited daily in each school classroom with a flag. Requires a flag in each classroom. Exempts students with religious objections, who must stand quietly while others recite the pledge.

*Effective date: October 1, 2002.*

**Chapter No. 843 (SB 934/HB 572). Assessment of students for disabilities.** Amends T.C.A. § 49-10-114 to require the evaluation of a student for possible disabilities to be carried out as specified by rules to be developed by the state Board of Education.

*Effective date: July 3, 2002*  
*Repealed June 30, 2003.*

**Chapter No. 850 (SB 887/HB 1131). Charter schools authorized.** Amends T.C.A. Title 49 to allow local education agencies to agree to allow individuals or organizations other than for-profit entities and religious organizations to form performance-based charter schools. The sponsor of a charter school may apply for waivers of state requirements that hinder their mission other than those relative to constitutional rights, safety, health, weapons, special education, open meetings, etc. Charter schools may be formed by converting public schools or creating new schools. Charters and renewal charters are for 5 years. This Act contains detailed procedures for creating charter schools.

*Effective date: July 4, 2002*  
*Sunset July 1, 2008, unless reenacted.*

**Chapter No. 860 (SB 3086/HB 3159). Schools on probation.** Amends T.C.A. § 49-1-602 to revise provisions relative to school and school system probation.

*Effective date: July 15, 2002.*



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## Elections

**Chapter No. 470 (SB 199/HB 277). Members of General Assembly – fundraising for local office.** Amends T.C.A. § 2-10-310(a) to allow members of the General Assembly to raise funds during session to run for local office at times when it would be prohibited to raise funds to run for state offices. This authority is subject to these restrictions:

- Fundraising events may be held only in the county where the member is a candidate.
- Funds may come only from residents of the county.
- Funds may not be raised or accepted on state property.
- Members may not accept contributions from lobbyists or employers of lobbyists.
- No other member can solicit or accept contributions for the candidate.
- Contributions must be reported to the Registry of Election Finance.

Amends T.C.A. § 2-10-114 to prohibit unexpended balances raised for local office under authority of this Act from being used for other state or national campaigns.

*Effective date: February 15, 2002.*

**Chapter No. 600 (SB 3066/HB 3103). Disposition of unexpended campaign funds by will.** Amends T.C.A. § 2-10-114(e) to allow unexpended campaign funds of deceased candidates to be disposed of by will.

*Effective date: April 9, 2002.*

## Emergency Services

**Chapter No. 516 (SB 2526/ HB 2239). Emergency services at major scheduled public events.** Amends T.C.A. § 68-140-506(h) to provide that out-of-state employees of emergency services agencies providing services at a major scheduled public event in Tennessee at the request of a county or municipality are deemed licensed in Tennessee to the extent of their foreign license for the duration of the event but must perform their services under the supervision of a physician licensed in Tennessee.

Amends T.C.A. § 68-140-516 to require emergency services agencies licensed in other states and providing services at a major scheduled public event in Tennessee to provide to the Emergency Medical Services Board upon request evidence that the agency has permission from an emergency services agency licensed in Tennessee to act under that agency's license. The Tennessee agency must also accept responsibility in writing for verifying that the foreign agency's license is current, that all personnel are currently licensed, that all ambulances are certified, and that a Tennessee physician will act as medical director for the agency at the event.

*Effective date: March 19, 2002.*

**Chapter No. 567 (SB 2473/HB 2337). Boards of emergency communications districts created by municipalities after July 1, 2002.** Amends T.C.A. § 7-86-105(b) to allow the board of directors of an emergency communications district created by a municipality after July 1, 2002, to be the

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municipal legislative body. Terms would be concurrent. If a member or members of the board are removed under § 7-86-314, the mayor appoints private citizens to serve until the person's term on the governing body expires. The appointment is subject to confirmation by the remaining members of the board.

*Effective date: April 3, 2002.*

**Chapter No. 589 (SB 2487/HB 2505). Testing for blood-borne pathogens of person exposing Good Samaritan.** Amends T.C.A. § 68-10-117 to allow persons rendering emergency aid as a Good Samaritan to request the testing of the person the Good Samaritan believes exposed him or her to blood-borne pathogens. This Act requires the belief of exposure to be "reasonable" for emergency workers and Good Samaritans.

*Effective date: April 9, 2002.*

**Chapter No. 767 (SB 2392/HB 2271). Tennessee Emergency Health Powers Act enacted.** Amends T.C.A. Title 68 to enact the Tennessee Emergency Health Powers Act to create a framework to plan for health emergencies caused by bio terrorism. Creates a Public Health Emergency Advisory Committee to be appointed by the Governor. In addition to other members, the Governor must appoint one representative of municipal governments, one representative of municipal fire chiefs, one representative of municipal police chiefs, and one representative of volunteer fire departments. The Committee must develop a plan, provide for periodic review, and recommend pertinent statutory changes.

This Act also creates a Hospital Bio-preparedness Planning Committee. The Governor must appoint one representative of municipal fire chiefs to this Committee. This Committee must develop regional plans for hospitals in dealing with health emergencies caused by bio terrorism.

This Act is subject to appropriation but will be implemented to the extent possible using federal funds.

This Act also amends § 68-8-111 to include cats, along with dogs, in the animals that can be confined by the county health department if they are suspected of having rabies.

*Effective date: May 22, 2002; repealed June 30, 2005.*

## **Environment**

**Chapter No. 821 (SB 2773/HB 2250). Petroleum underground storage tanks.** Amends T.C.A. Title 68, Chapter 215, Part 1, to make several housekeeping changes to the petroleum underground storage tank law.

*Effective date: July 1, 2002.*

**Chapter No. 878 (SB 3020/HB 2960). New technologies for subsurface sewage disposal systems.** Amends T.C.A. Title 68, Chapter 221, Part 4, to allow the Commissioner of Environment and

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Conservation to develop a program to evaluate new technologies for use in subsurface sewage disposal systems. If the Commissioner is satisfied with initial results, he/she may allow the experimental use of these systems. Fees will be set commensurate with costs of oversight.

*Effective date: July 19, 2002.*

## **Finance**

### **Chapter No. 514 (SB 2493/HB 3016). Consolidation of state and local investment funds.**

Amends T.C.A. § 9-4-704 to allow consolidation of state and local investment pools if accurate accounting is maintained. Participating local governments will be considered participants in the state pool. Local government administrative charges will be deposited and expended through the state's revolving account under § 9-4-603(g).

*Effective date: March 19, 2002.*

**Chapter No. 536 (SB 2325/HB 2261). Railroad crossings – construction or conversion.** Amends T.C.A. § 65-11-101(c)(1)(B) to require not just developers, but any entity--individuals, corporations, and other private entities--who wants a railroad crossing constructed or converted to a public crossing to pay all costs of the construction or conversion.

Repeals subdivision (c)(7) of 65-11-101. This subdivision provided that nothing in subsection (c) would be construed as allowing the Department of Transportation to permit the construction or conversion of railroad crossings on roads not designated as state highways.

*Effective date: March 25, 2002.*

**Chapter No. 545 (SB 3092/HB 3073). Investments for proceeds of loans from Public Building Authorities.** Amends T.C.A. § 12-10-111 to authorize cities, counties, and metropolitan governments to invest proceeds of loans from Public Building Authorities in guaranteed investment contracts chosen or established by the authority under these conditions:

- The contract has a termination date of not more than 5 years from the issuance of the obligation by the authority to fund the loan.
- The contract is secured by government obligations equal in value to 105% of the obligation secured.
- The contract is issued by an issuer rated at least AA or equivalent by one national rating organization.
- The obligations securing the contract are deposited with an independent third party selected by the authority and are pledged to the city or entity receiving the loan.

*Effective date: March 25, 2002.*

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**Chapter No. 603 (SB 3093/HB 3140). Water and wastewater loans to intergovernmental entities.** Amends T.C.A. § 68-221-1003(7)(A)(I) to include instrumentalities of government created by one or more cooperating governments in the eligible entities for wastewater loans from the revolving loan fund.

Amends 68-221-1005 to allow local governments to assign their rights and obligations to another local government under a loan received from the revolving loan fund. The assigning local government is released, but may agree to retain its obligation to make payments if the receiving local government fails to make payments.

Amends 68-221-1006(a)(6) to require audits of loan recipients to be done in accordance with generally accepted governmental auditing standards and minimum standards of the Comptroller. The audit must be filed with the Comptroller. If the government fails to have the audit done, the Comptroller may cause it to be done.

Amends 68-221-1006(a) to require municipalities and other governments with taxing power to agree to be subject to the jurisdiction of the Water and Wastewater Financing Board to obtain a loan.

Amends T.C.A. § 68-221-1203(6) to include instrumentalities of government created by one or more cooperating governments in the entities eligible for water loans from the revolving loan fund.

Amends 68-221-1205(k) to allow water systems to assign rights under loans the same as wastewater systems.

Amends 68-221-1206(7) and 1206(a) to enact the same requirements for audits and the receiving of loans for water systems that apply to wastewater systems as noted above.

*Effective date: April 11, 2002.*

**Chapter No. 818 (SB 594/HB 646). Guidelines for debt issuance for entities created by private act.** Amends T.C.A. Title 9, Chapter 9, Part 1, to allow the state funding board to establish guidelines relative to agreements facilitating the issuance and sale of debt by local governments created by private act. These may include agreements providing for liquidity and credit enhancement and related reimbursement agreements, interest rate swap agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of debt when these agreements have been authorized by private act subject to the guidelines of the funding board.

*Effective date: July 1, 2002.*

**Chapter No. 825 (SB 3135/HB 3116). Transfers from reserve funds authorized.** Authorizes transfers from the following reserve funds of interest to municipalities to meet requirements of funding state government for the fiscal year ending June 30, 2002: Tennessee Housing Development Authority assets fund, local parks land acquisition fund, finance and administration

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electronic fingerprint imaging systems fund, TBI fingerprint criminal history data base accumulated fees, TACIR accumulated balances, safe schools program, TDOT funds, emergency communications fund.

*Effective date: June 28, 2002  
Repealed January 1, 2003.*

**Chapter No. 842 (SB 2344/HB 2308). Appropriations Act.** Makes appropriations to defray the costs of state government. Of interest to municipalities, the Act makes the following appropriations:

Local Parks Acquisition Fund .....	\$3,000,000
Tennessee Industrial Infrastructure Program .....	\$18,074,300
BEP and LEA support .....	\$2,555,691,300
MTAS .....	\$1,539,700
Fire academy .....	\$4,749,600
Firefighter pay supplement .....	\$450 maximum
Police pay supplement .....	\$600 maximum
Small Cities Community Development Block Grants .....	\$63,140,000

*Effective date: July 4, 2002.*

**Chapter No. 856 (SB 3110/HB 3046). Tax Reform Act of 2002 enacted.**

Amends T.C.A. § 57-3-302 to increase the tax on each gallon of wine from \$1.10 to \$1.21 and on each gallon of spirits from \$4.00 to \$4.40. Big 4 cities will share in this increased revenue.

Amends § 57-5-201 to increase the tax on barrels of beer from \$3.90 per barrel to \$4.29. Municipalities receive 10.05% of this revenue for general purposes.

Amends §§ 67-6-103, 203, 204, and 205 to increase the state sales and use tax rate from 6% to 7% on non-food items. Also enacts a 2.75% state tax on single articles subject to the local sales tax on the portion of the purchase price from \$1,600 through \$3,200. Revenues from these sales tax increases accrue only to the state. This Act also provides that for unit price contracts entered into before July 15, 2002 (September 1, 2002, for subcontracts subject to the 6% rate), the 6% rate continues to apply for purchases after July 15 on items used to perform the contract.

Repeals § 67-4-506, which provided for a gross receipts tax on vending machines of 1.5% (2.5% for tobacco products) and applies the state and local sales taxes to vending machine sales beginning July 15. Revenues from this tax increase will be shared with municipalities.

Amends § 67-4-709(b) to increase business tax rates by 50%. Revenues from this tax increase accrue to the state and must be paid by local collectors to the Department of Revenue. This increase takes effect September 1, 2002.

Repeals § 67-6-410, which allowed local governments to reduce business tax rates.

Amends § 67-4-713(a) to provide that personal property tax credits do not apply to increases in the Business Tax rates enacted by this Act.

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This Act also does the following:

- Raises taxes on cigarettes from about 13 cents to about 20 cents a pack.
- Repeals the present tax on coin-operated amusement devices and enacts a new and larger tax.
- Raises the state Excise Tax rate from 6% to 6.5%.
- Increases the professional privilege tax from \$200 per year to \$400.
- Increases all vehicle registration fees.
- Allows the Commissioner of Revenue to waive tax liability and interest and penalties for noncompliance with these tax increases caused unavoidably by the close proximity of the enactment and effective date of the Act. This provision is repealed 60 days after July 4, 2002.
- Creates an independent study committee to study the state's tax structure and state shared taxes. Municipalities will have one representative on the 15 member committee. The committee must report its findings by July 1, 2004.

*Effective dates: Alcohol and tobacco taxes, July 15, 2002; sales taxes, July 15, 2002; business tax, September 1, 2002; excise tax, July 15, 2002; professional privilege tax, July 15, 2002; vehicle registration fees, October 1, 2002; coin operated amusement device tax, September 1, 2002; vending machine sales tax, July 15, 2002.*

## **Health & Safety**

### **Chapter No. 508 (SB 2316/HB 2259). Reporting by health care facilities.**

Amends T.C.A. Title 68, Chapter 11, Part 2, to enact the Health Data Reporting Act of 2002. This Act requires health care facilities, including hospitals and nursing homes, to report to the Department of Health any unexpected occurrences or accidents resulting in death or serious injury to a patient that is not the result of the normal course of the patient's condition. These reports must include patient abuse. Specific incidents that might result in a disruption of the delivery of health care services must also be reported. The facility must file corrective action reports with the Department on reported incidents.

*Effective date: March 19, 2002.*

**Chapter No. 589 (SB 2487/HB 2505). Testing for blood-borne pathogens of person exposing Good Samaritan.** Amends T.C.A. § 68-10-117 to allow persons rendering emergency aid as a Good Samaritan to request the testing of the person the Good Samaritan believes exposed him or her to blood-borne pathogens. This Act requires the belief of exposure to be "reasonable" for emergency workers and Good Samaritans.

*Effective date: April 9, 2002.*

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**Chapter No. 655 (SB 3016/HB 3038). HIV testing of persons convicted of patronizing prostitution.** Amends T.C.A. § 39-13-521(e)(1) to require the court to order HIV testing of persons convicted of patronizing prostitution.

*Effective date: July 1, 2002.*

**Chapter No. 709 (SB 2718/HB 2430). Disclosure of inmate's HIV test results in exposure incidents.** Amends T.C.A. § 41-51-102(d) to require jail or workhouse officials to report the results of an inmate's test results for blood borne pathogens to an exposed law enforcement officer within 24 hours after the results are known unless after reasonable effort the officer cannot be notified within that time.

*Effective date: July 1, 2002.*

**Chapter No. 767 (SB 2392/HB 2271). Tennessee Emergency Health Powers Act enacted.** Amends T.C.A. Title 68 to enact the Tennessee Emergency Health Powers Act to create a framework to plan for health emergencies caused by bio terrorism. Creates a Public Health Emergency Advisory Committee to be appointed by the Governor. In addition to other members, the Governor must appoint one representative of municipal governments, one representative of municipal fire chiefs, one representative of municipal police chiefs, and one representative of volunteer fire departments. The Committee must develop a plan, provide for periodic review, and recommend pertinent statutory changes.

This Act also creates a Hospital Bio-preparedness Planning Committee. The Governor must appoint one representative of municipal fire chiefs to this Committee. This Committee must develop regional plans for hospitals in dealing with health emergencies caused by bio-terrorism.

This Act is subject to appropriation but will be implemented to the extent possible using federal funds.

This Act also amends § 68-8-111 to include cats, along with dogs, in the animals that can be confined by the county health department if they are suspected of having rabies.

*Effective date: May 22, 2002*

*Repealed June 30, 2005.*

**Chapter No. 780 (SB 93/HB 976). Hospital and nursing home certificates of need.** Repeals T.C.A. Title 68, Chapter 11, Part 1, which created the Health Facilities Commission, and replaces it with Title 68, Chapter 11, Part 16, which creates the Health Services and Development Agency to issue certificates of need for health care institutions including hospitals, nursing homes, and methadone treatment facilities. Prohibits municipalities from approving any grant of funds or any license to any institution that is supposed to be certificated but is not. If this is done illegally, the license is voided and the funds must be refunded within 90 days. The HSDA may impose civil penalties and seek injunctions for violations.

This Act provides that members of local governing bodies may upon request appear before the HSDA and support or oppose the granting of a certificate of need to a nonresidential methadone

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treatment facility in the jurisdiction. The views of the local governing body are advisory and not determinative.

This Act also creates a health planning advisory board of 34 members. One member is to be a representative of municipal governments to be recommended by TML.

*Effective date: May 29, 2002.*

## **Home Rule**

**Chapter No. 746 (SB 2422/HB 3109). Recovery of administrative expenses by home rule municipalities for violation of hoax ordinances.** Amends T.C.A. § 6-54-306 to allow home rule municipalities to recover actual administrative expenses incurred in enforcing ordinances that prohibit false threats or hoaxes involving biological weapons, destructive devices, or weapons of mass destruction.

*Effective date: May 14, 2002.*

**Chapter No. 800 (SB 3076/HB 3148). Water Resources Information Act enacted.** Amends T.C.A. Title 69, Chapter 8, to enact the Tennessee Water Resources Information Act. Requires persons including local governments that withdraw or propose the withdrawal daily of 10,000 gallons or more water from a surface or groundwater source to register the withdrawal annually with the Commissioner of Environment and Conservation. This does not apply to emergency withdrawals nor to withdrawals for agricultural purposes.

The Commissioner may enforce these requirements by administrative orders, by the levy of a civil penalty of \$50.00 – 7,500.00 per day, and by seeking court orders.

This Act also requires the Commissioner and the Water Quality Control Board to encourage and support regional water planning. The Board may require regional planning if there is an appropriation of funds for this purpose. This Act also requires the Commissioner to appoint a technical advisory committee to advise on the status of the state's water resources and future planning efforts.

This Act also amends Title 68, Chapter 11, relative to wells and well drilling. It Allows home rule municipalities to enact regulations of well drilling that are at least as stringent as the state statutes. If the home rule municipality does this, it is exempted from the state's statutes except for licensing and license fee provisions. The municipality must apply for the certificate of exemption. The Commissioner decides whether to grant the certificate, but the power to enforce the local regulations is reserved to the state if the Commissioner determines that the municipality is not enforcing them. The Department must frequently determine whether the municipality meets the terms of exemption. The exemption may be suspended when the Commissioner determines it does not. Certificates of exemption must be for a fixed term not exceeding 5 years.

*Effective date: May 29, 2002.*



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## Juveniles

**Chapter No. 539 (SB 2853/HB 2579). Teen court participants – awards and expenses.** Amends T.C.A. § 37-1-704(b) to allow teen court participants to receive awards--not readily converted to cash--and travel expenses incurred in teen court participation.

*Effective date: March 25, 2002.*

## Law Enforcement

(See also Crimes & Criminal Procedure and Motor Vehicles & Traffic.)

**Chapter No. 469 (SB 917/HB 561). Sexual offenders – reports to law enforcement agencies of college towns.** Amends T.C.A. § 40-39-106(a) to require the TBI to report sexual offender registration information to the local law enforcement agency if an institution of higher education does not have a police department and a sexual offender is employed by or becomes a student at the institution or if the offender was employed by or was a student at the institution and a change of enrollment or employment is indicated.

Amends T.C.A. § 40-39-106(f) to make the name and address of a higher education institution in the state at which a sexual offender is employed or is a student a public record for offenses committed after October 27, 2002.

*Effective date: October 27, 2002.*

**Chapter No. 569 (SB 2978/HB 2648). Purported immunity for health care practitioners doing body cavity searches.** Amends T.C.A. § 40-7-121 to grant immunity from civil or criminal liability to physicians and nurses and their employers for doing body cavity searches at the written request of a law enforcement officer with a search warrant or written consent, except for negligence, gross negligence, willful misconduct, or unlawful conduct.

*Effective date: April 3, 2002.*

**Chapter No. 591 (SB 2561/HB 3088). Sudden Infant Death Syndrome training.** Amends T.C.A. § 68-1-1102(d) to eliminate continuing training requirements for law enforcement officers on SIDS. Requires the Department of Health to notify law enforcement associations of changes in policies and procedures relative to SIDS investigations. The associations must then notify law enforcement agencies, which must disseminate them to their enforcement personnel.

*Effective date: December 31, 2003.*

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**Chapter No. 619 (SB 2182/HB 2394). Issuance of citation instead of custodial arrest.** Amends T.C.A. § 40-7-118(b)(2) to provide that this general section authorizing citations rather than custodial arrest does not apply to traffic or financial responsibility citations instead of arrest as provided in §§ 55-10-207 and 55-12-139 (although § 55-12-139 does not itself authorize a citation instead of arrest).

*Effective date: April 17, 2002.*

**Chapter No. 622 (SB 2377/HB 2622). Posting of signs relative to stone walls.** Amends T.C.A. § 39-14-105 to allow municipalities to post this sign along the right-of-way close to any stone wall:

**Warning!**

**It constitutes the crime of theft to knowingly remove, without owner consent, any portion of a stone or rock wall located on the public right-of-way or on private property! Sanctions are substantial!**

*Effective date: July 1, 2002.*

**Chapter No. 709 (SB 2718/HB 2430). Disclosure of inmate's HIV test results in exposure incidents.** Amends T.C.A. § 41-51-102(d) to require jail or workhouse officials to report the results of an inmate's test results for blood borne pathogens to an exposed law enforcement officer within 24 hours after the results are known unless after reasonable effort the officer cannot be notified within that time.

*Effective date: July 1, 2002.*

**Chapter No. 769 (SB 2580/HB 2525). Order of protection documents – confidentiality.** Amends T.C.A. § 10-7-504(a)(16) to make any document required for filing with the court, except the forms prescribed by the Supreme Court under § 36-3-604(b), confidential. The clerk may transmit any of these confidential documents to the TBI, 911 or emergency response agency, or to law enforcement agencies.

*Effective date: July 1, 2002; applies to orders of protection filed on and after that date.*

**Chapter No. 805 (SB 1682/HB 1404). Interstate supervision of adult offenders.** Enacts an interstate compact for the supervision of adult criminal offenders. Creates an Interstate Commission for Offender Supervision to make rules.

*Effective date: July 1, 2002, or upon enactment by 35 states, whichever is later.*

**Chapter No. 823 (SB 2145/HB 2650). Enforcement of compulsory attendance laws.** Amends T.C.A. § 49-6-3007(i) to allow any local education agency to make an agreement with the

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appropriate law enforcement agency to assist in the enforcement of compulsory attendance laws. The LEA must create an advisory council to assist in forming the agreement, receive advice from neighborhood groups, hold a public hearing, provide for training for school personnel in truancy issues, provide for truancy training for involved law enforcement personnel, and include in the agreement safeguards to protect the civil rights of students and parents.

*Effective date: June 27, 2002.*

**Chapter No. 846 (SB 2753/HB 2613). Police officers acting as private law enforcement officers in Davidson and Rutherford Counties.** Amends T.C.A. Title 62, Chapter 35, Part 1, to require employers of full-time police officers who are privately employed to provide uniformed security, direct traffic, exercise crowd control, or perform similar duties in a jurisdiction other than the officer's primary jurisdiction to notify the chief law enforcement officer of the jurisdiction in which the officer will be working, the location, and the length of the assignment. The notification must be in writing and must be provided within five days before the date of first service unless other arrangements are made. The notice must be to the sheriff for unincorporated areas and municipalities with no police department and to the police chief of municipalities with a police department.

The police officer's clothing must bear insignia and markings clearly indicating the officer is a Private Duty Law Enforcement Officer. The POST Commission is to establish design criteria for these insignia and markings.

This Act applies only to officers engaged outside their primary jurisdiction and within Davidson or Rutherford Counties.

*Effective date: July 1, 2002.*

**Chapter No. 849 (SB 3192/HB 3232). "Terrorism Prevention and Response Act of 2002" enacted; certain utility related records made confidential; law enforcement subpoenas, etc.** Section 12 of this Act amends T.C.A. § 10-7-504(a), to make records confidential that would allow a person to identify areas of vulnerability of a utility service provider, including municipal utilities, or that would permit unlawful disruption of utility service. This section also makes contingency plans of governmental entities confidential that are prepared to respond to terrorist acts.

This section specifically provides that documents relative to costs of utility property and costs associated with protecting utility property and related documents are not confidential but that information that is confidential must be deleted from the record when it is made available to the public.

Section 11 of this Act amends T.C.A. Title 40, Chapter 17, Part 1, to establish extensive procedures for police officers to use in subpoenaing documents and other information to gather evidence for prosecuting criminal offenses.

This Act also amends various sections of T.C.A. Title 39 and Title 55 to create new crimes relative to terrorism and to enhance punishment for existing crimes when terrorism is involved.

*Effective date: July 4, 2002.*

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## Modified Manager-Council Charter

**Chapter No. 543 (SB 2496/HB 2368). Purchasing limit before sealed bids required increased.** Amends T.C.A. § 6-35-205(b)(2), part of the Modified Manager-Council Charter, to increase the amount of a purchase before formal sealed bids are required from \$2,500 to \$10,000.

*Effective date: March 25, 2002.*

### Motor Vehicles & Traffic

(See also Crimes & Criminal Procedure and Law Enforcement)

**Chapter No. 505 (SB 2181/HB 2509). Maximum fine for speeding while construction workers present.** Amends T.C.A. § 55-8-152(f)(2) to limit the fine that may be imposed on persons violating speed limits imposed by Department of Transportation at construction sites when workers are present to a maximum of \$500.00.

*Effective date: March 19, 2002; applies to fines imposed on or after that date.*

**Chapter No. 509 (SB 2317/HB 2269). Funeral processions – motorcycle escorts.** Amends T.C.A. § 55-8-183 to make subsection (b) relative to motorcycle escorts of funeral processions apply statewide rather than in only one county. Allows motorcycle escorts to have a green strobe light of a type approved by the county sheriff that is activated only when escorting a funeral procession. Allows motorcycle escorts to operate between lanes or rows of vehicles and to have a bell or siren approved by the sheriff that is activated only when escorting a funeral procession.

*Effective date: March 19, 2002.*

**Chapter No. 524 (SB 2912/HB 3009). Television in motor vehicles.** Amends T.C.A. § 55-9-105(b) to allow closed circuit video monitors in all motor vehicles, not just trucks and motor homes, when they are designed to operate only in rear view systems.

*Effective date: March 19, 2002.*

**Chapter No. 648 (SB 2374/HB 2393). Traffic citations – issuance by police service technicians in Shelby County; issuance for violation of financial responsibility law.**

Amends T.C.A. § 55-12-139 to allow police service technicians in Shelby County to issue traffic citations in Shelby County under § 55-10-207.

Amends § 55-10-207 to provide that traffic citations may be issued for failure to comply with the financial responsibility law.

*Effective date: April 24, 2002.*

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**Chapter No. 732 (SB 2022/HB 2111). Driving with canceled, revoked, or suspended license – official computer printout as evidence of prior conviction.** Amends T.C.A. § 55-50-504 to make the Department of Safety’s computer printout showing a prior conviction for driving with a canceled, revoked, or suspended license prima facie evidence of the prior conviction in a prosecution for a second or subsequent offense. Following indictment, the defendant must be given a copy of the printout at the time of arraignment. If the charge is by warrant, the defendant must be given a copy of the printout at the first court appearance or at least 14 days before trial on the merits. The court may require that a certified copy of the printout be provided to the court for inspection before it is introduced into evidence when the defendant makes a motion in writing alleging that a prior conviction is in error.

*Effective date: July 1, 2002.*

**Chapter No. 734 (SB 2302/HB 2539). Regulation of Electric Personal Assistive Mobility Devices (EPAMDs).** Amends T.C.A. Title 55 to regulate EPAMDs. Prohibits municipalities from enacting a general prohibition of EPAMDs but allows reasonable regulation. These regulations may include their restriction or exclusion in the interest of public safety or the preservation of natural areas, but only to the extent that bicycles are restricted or excluded.

Requires users to obey speed limits and to yield to pedestrians and human powered devices.

Provides that EPAMDs are not considered motor vehicles or motor-driven cycles under the state laws and that they do not have to be registered or the drivers licensed. Requires that the device be equipped with brakes and requires lights and reflectors when the device is operated between ½ hour after sunset and ½ hour before sunrise. Reflectors and lights on the person satisfy this latter requirement.

*Effective date: May 8, 2002.*

**Chapter No. 736 (SB2416/HB 2632). Definition of “abandoned motor vehicle” changed.** Amends T.C.A. § 55-16-103(1)(A) and (B) to provide that a motor vehicle that is over 4 years old and left unattended on public property for more than 10, rather than the previous 30, days is considered abandoned, and that a vehicle in an obvious state of disrepair that is left unattended on public property more than 3, rather than the previous 10, days is considered abandoned.

*Effective date: May 8, 2002.*

**Chapter No. 740 (SB 2964/HB 2916). Application of rules of the road to persons working on right-of-way.** Amends T.C.A. § 55-8-107 to provide that the rules of the road and other traffic regulations do not apply to persons working on the right-of-way adjacent to the surface of a highway. This, however, does not relieve the driver of a motor vehicle of the duty to drive with due regard for the safety of all persons.

*Effective date: May 8, 2002.*

**Chapter No. 747 (SB 2429/HB 2796). Low speed vehicles.** Amends T.C.A. Title 55, Chapter 8, to allow municipalities and counties to prohibit the operation of low speed vehicles on any street or road under their jurisdiction in the interest of public safety. A “low speed vehicle” is any four-

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wheeled electric vehicle whose top speed is 25 mph or less but greater than 20 mph, not including golf carts.

Low speed vehicles may be operated only on streets with a posted speed limit of 35 mph or less. Any person operating a low speed vehicle must possess a valid Class D driver license.

*Effective date: July 1, 2002.*

**Chapter No. 803 (SB 2399/HB 2693). Transport of mobile homes – issuance of citations.**

Amends T.C.A. Title 55, Chapter 4, Part 4, to revise extensively the state laws relative to the transportation of mobile homes, manufactured homes, and house trailers on streets and highways. Amends § 55-10-207 to allow police officers to issue citations rather than taking the alleged violator into custody for illegally transporting these homes or house trailers.

*Effective date: June 4, 2002.*

**Chapter No. 855 (SB 1471/HB 884). Driving under the influence; alcohol concentration level.**

Amends T.C.A. § 55-10-401(a)(2) to make it unlawful for a person to drive or be in physical control of a vehicle on a public road when the alcohol concentration level in the person's blood or breath is .08% rather than the previous .10%. Repeals the offense of adult driving while impaired.

Amends § 55-10-403(c) to require the court to order a person convicted of DUI who has a prior conviction to undergo drug and alcohol assessment and receive treatment. If the court does not find that the person is indigent, the cost of assessment and treatment must be borne by the convicted person. If the person is found indigent, full or partial expenses may be paid from the alcohol and drug addiction fund.

Amends § 55-10-412(l) to require the court to order a DUI offender with a previous conviction to drive only a vehicle with an ignition interlock device after the license revocation period. Allows a person required to use an interlock device to operate a vehicle owned or provided by the person's employer during the course of employment if the court expressly allows this, the employer has been notified of the driving restriction, and proof of that notification is in the vehicle.

Amends § 40-33-211 to allow monies in the alcohol and drug treatment fund to be used to pay for the ignition interlock device when the judge specifically finds that the offender is indigent.

Amends § 55-10-403(d)(1)(B)(i)(b) to allow Tennessee residents who have had their license revoked because of DUI convictions in other states to apply for a restricted license if the person does not have a prior conviction for DUI or DWI in Tennessee within 10 years of the present violation.

Amends § 55-10-403(d) to allow the judge to order the issuance after 1 year of a restricted license to any person whose license has been revoked for DUI or DWI for 2 years and who has a prior conviction. The judge must order the person to use an ignition interlock device through a period of 6 months after the license revocation period has expired.

Amends § 55-10-408 to create a presumption that a blood alcohol level of .08% is a violation of the DUI law.

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Amends § 55-10-403 to levy a fee of \$100 on DUI convictions to accrue to the alcohol and drug addiction treatment fund. Treatment programs may not exceed 28 days.

*Effective date: Provisions decreasing the blood alcohol level, allowing restricted licenses, and levying the \$100 fee take effect July 1, 2003; provisions relative to drug and alcohol assessments and interlock devices take effect October 1, 2002; other provisions take effect July 4, 2002.*

## **Personnel**

(See also Workers' Compensation)

**Chapter No. 541 (SB 1035/HB 565). Restraining orders and injunctions against workplace violence.** Amends T.C.A. Title 20 to allow employers, including political subdivisions, whose employee has suffered workplace violence to seek restraining orders and injunctions against further violence by the subject individual against the employee while the employee is in the workplace or performing work.

The court of competent jurisdiction in the county where the violence occurred has jurisdiction except in cases where there is a nonresident respondent, in which case jurisdiction resides in the court in the county where the petitioner's workplace is located.

The court may issue a temporary restraining order (TRO) upon the filing of the petition if the petitioner by affidavit reasonably shows that irreparable harm will result if an injunction is not granted. The affidavit must show that the petitioner has made a reasonable investigation into the underlying facts. The TRO may not remain in effect more than 15 days unless modified or terminated.

The court must hold a hearing on the petition within 10 days or as soon as possible after that, but not later than 30 days. If the judge finds by clear and convincing evidence that the respondent engaged in workplace violence or made a credible threat as alleged, the judge must issue the injunction. The injunction may not be in effect more than 3 years, but the petitioner may apply for a new injunction within 3 months before the expiration of the original injunction.

The court must order the petitioner or the petitioner's attorney to deliver a copy of each TRO or injunction and any modifications or terminations to the law enforcement agencies requested by the petitioner. Each law enforcement agency must make this information available to officers responding to the scene of workplace violence.

*Effective date: July 1, 2002.*

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## Planning & Zoning

**Chapter No. 593 (SB 2762/HB 2645). Approval of small subdivision plats by secretary of planning commission.** Amends T.C.A. § 13-4-302(a) to allow the secretary of the planning commission to approve the plat of a subdivision when the tract is divided into no more than 2 lots, the staff has certified that the subdivision complies with subdivision regulations, and no variance has been requested.

*Effective date: April 9, 2002.*

**Chapter No. 594 (SB 2795/HB 2564). Monitoring of growth planning law.** Amends T.C.A. § 6-58-113 to continue the requirement, which was to expire on December 31, 2002, that the Tennessee Advisory Commission on Intergovernmental Relations monitor implementation of the growth planning law.

*Effective date: April 9, 2002.*

**Chapter No. 862 (SB 2412/HB 2434). Training and continuing education for planning commission members, board of zoning appeal members, and staff; municipalities may opt out.** Amends T.C.A. §§ 13-3-101, 13-4-101, and 13-7-205 to require municipal and joint planning commission members, members of boards of zoning appeals, and full time or contract professional planners, building commissioners, or administrators who advise planning commissions or boards of zoning appeals to receive yearly training, unless the municipality opts out of this requirement, in land use planning, zoning, flood plain management, transportation, community facilities, ethics, public utilities, wireless telecommunications facilities, parliamentary procedure, public hearing procedure, land use law, natural resources and agricultural land conservation, economic development, housing, public buildings, land subdivision, powers and duties of the planning commission or board of zoning appeals as appropriate, or other reasonably related topics approved by the applicable body before December 31 of the year in which credit is sought.

Members of planning commissions and boards of zoning appeals must attend a minimum of four hours of training in one or more of the above subjects within one year of their initial appointment and each calendar year afterwards. Full-time or contract professional planners, building commissioners, and administrators must attend 8 hours of training each calendar year in these subjects. Professional planners who are members of the American Institute of Certified Planners and who have a current certificate in the AICP Continuing Professional Development Program are exempt from these training requirements.

Each affected individual must certify in writing to the secretary of the appropriate board by December 31 of each year that the individual attended training. The statement must identify the date, location, sponsor, subject matter, and time spent in each program. Each affected individual is responsible for obtaining written documentation of attendance from the sponsor.

Planning commissions and boards of zoning appeals must keep documentation of attendance at training for 3 years after the calendar year in which the statements are filed.

The municipality is responsible for paying for the training and travel expenses.



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Failure to complete training is grounds for removal.

A municipality may by ordinance opt out of the requirements of this Act. A municipality that opts out may later opt in by ordinance.

*Effective date: July 17, 2002.*

## **Purchasing**

**Chapter No. 543 (SB 2496/HB 2368). Purchasing limit before sealed bids required increased.** Amends T.C.A. § 6-35-205(b)(2), part of the Modified Manager-Council Charter, to increase the amount of a purchase before formal sealed bids are required from \$2,500 to \$10,000.

*Effective date: March 25, 2002.*

**Chapter No. 693 (SB 2255/HB 2511). Construction bids – statement of drug and alcohol testing programs.** Amends T.C.A. Title 50, Chapter 9, Part 1, to require all local governments to include within any bid or procurement specifications for construction services the following:

- A statement of whether the governmental entity has a drug and alcohol testing program for testing employees for workplace use of drugs or alcohol.
- A statement that describes the program if the governmental entity has one.
- A statement that any bidder or proposer must have a testing program for its employees at least as stringent as the government’s program.

Employers have 7 days to file suit to contest the award of a contract to another employer in violation of this section. Employers who fail to file within 7 days waive their right to challenge the contract. Contracts must be contested in the county where the contract was made. Trial is given priority over all but workers’ comp cases.

*Effective date: May 1, 2002.*

## **Records**

**Chapter No. 769 (SB 2580/HB 2525). Order of protection documents – confidentiality.** Amends T.C.A. § 10-7-504(a)(16) to make any document required for filing with the court, except the forms prescribed by the Supreme Court under § 36-3-604(b), confidential. The clerk may transmit any of these confidential documents to the TBI, 911 or emergency response agency, or to law enforcement agencies.

*Effective date: July 1, 2002; applies to orders of protection filed on and after that date.*

**Chapter No. 819 (SB 1304/HB 1210). Certain utility records made confidential.** Amends T.C.A. § 10-7-504(a) to make credit card numbers, social security numbers, tax identification numbers, financial institution account numbers, burglar alarm codes, security codes, and access codes of utilities confidential and not subject to public disclosure. Confidential information must be

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redacted when possible and the rest of the record made available. It is presumed that redaction is possible. The entity requesting the record must pay the reasonable costs of redaction. This Act may not be construed to limit access by law enforcement agencies, courts, or other governmental entities. The consumer may authorize the release of information made confidential by this Act.

*Effective date: June 27, 2002.*

**Chapter No. 849 (SB 3192/HB 3232). “Terrorism Prevention and Response Act of 2002” enacted; certain utility related records made confidential; law enforcement subpoenas, etc.**

Section 12 of this Act amends T.C.A. § 10-7-504(a), to make records confidential that would allow a person to identify areas of vulnerability of a utility service provider, including municipal utilities, or that would permit unlawful disruption of utility service. This section also makes contingency plans of governmental entities confidential that are prepared to respond to terrorist acts.

This section specifically provides that documents relative to costs of utility property and costs associated with protecting utility property and related documents are not confidential but that information that is confidential must be deleted from the record when it is made available to the public.

Section 11 of this Act amends T.C.A. Title 40, Chapter 17, Part 1, to establish extensive procedures for police officers to use in subpoenaing documents and other information to gather evidence for prosecuting criminal offenses.

This Act also amends various sections of T.C.A. Title 39 and Title 55 to create new crimes relative to terrorism and to enhance punishment for existing crimes when terrorism is involved.

*Effective date: July 4, 2002.*

## **Solid Waste**

**Chapter No. 556 (SB 2683/HB 2687). Solid waste facilities – liability of holders of security interest.** Amends T.C.A. § 68-211-106 to provide that nothing in the Tennessee Solid Waste Disposal Act may be construed as imposing liability on security interest holders in solid waste disposal facilities who do not participate in management of the facility.

*Effective date: April 3, 2002.*

**Chapter No. 720 (SB 2878/HB 2776). State surcharge on waste at transfer stations lifted.** Amends T.C.A. § 68-211-835(d) to eliminate the state surcharge of \$0.75 per ton on municipal solid waste received for disposal at transfer stations that are not operated in conjunction with a convenience center.

*Effective date: July, 2002.*

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## **Streets & Public Ways**

(See also Motor Vehicles & Traffic)

**Chapter No. 536 (SB 2325/HB 2261). Railroad crossings – construction or conversion.** Amends T.C.A. § 65-11-101(c)(1)(B) to require not just developers, but any entity—individuals, corporations, and other private entities—who wants a railroad crossing constructed or converted to a public crossing to pay all costs of the construction or conversion.

Repeals subdivision (c)(7) of 65-11-101. This subdivision provided that nothing in subsection (c) would be construed as allowing the Department of Transportation to permit the construction or conversion of railroad crossings on roads not designated as state highways.

*Effective date: March 25, 2002.*

## **Taxes–Business**

(See also Taxes–General)

**Chapter No. 555 (SB 2435/HB 2386). Collection of delinquent business taxes.** Amends T.C.A. § 67-4-719(b)(4) to allow municipalities without county approval to hire an attorney or agent to collect delinquent business taxes. The municipality must adopt the permissive state law allowing this by resolution passed by a 2/3 vote of the governing body.

*Effective date: April 3, 2002.*

## **Taxes–General**

**Chapter No. 492 (SB 2274/HB 2341). Rental car tax for NBA facility in Shelby County – collection and use of funds.** Amends T.C.A. § 67-4-1907 to establish additional procedures for collection, disbursal, and use of NBA arena funds in Shelby County. Requires local approval.

*Effective date: For purpose of local approval, February 20, 2002; for purposes of taking effect, upon local approval, which must take place before January 1, 2003.*

**Chapter No. 856 (SB 3110/HB 3046). Tax Reform Act of 2002 enacted.**

Amends T.C.A. § 57-3-302 to increase the tax on each gallon of wine from \$1.10 to \$1.21 and on each gallon of spirits from \$4.00 to \$4.40. Big 4 cities will share in this increased revenue.

Amends § 57-5-201 to increase the tax on barrels of beer from \$3.90 per barrel to \$4.29. Municipalities receive 10.05% of this revenue for general purposes.

Amends §§ 67-6-103, 203, 204, and 205 to increase the state sales and use tax rate from 6% to 7% on non-food items. Also enacts a 2.75% state tax on single articles subject to the local sales tax on the portion of the purchase price from \$1,600 through \$3,200. Revenues from these sales tax increases accrue only to the state. This Act also provides that for unit price contracts entered into before July 15, 2002 (September 1, 2002, for subcontracts subject to the 6% rate), the 6% rate

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continues to apply for purchases after July 15 on items used to perform the contract.

Repeals § 67-4-506, which provided for a gross receipts tax on vending machines of 1.5% (2.5% for tobacco products) and applies the state and local sales taxes to vending machine sales beginning July 15. Revenues from this tax increase will be shared with municipalities.

Amends § 67-4-709(b) to increase business tax rates by 50%. Revenues from this tax increase accrue to the state and must be paid by local collectors to the Department of Revenue. This increase takes effect September 1, 2002.

Repeals § 67-4-410, which allowed local governments to reduce business tax rates.

Amends § 67-4-713(a) to provide that personal property tax credits do not apply to increases in the Business Tax rates enacted by this Act.

This Act also does the following:

- Raises taxes on cigarettes from about 13 cents to about 20 cents a pack.
- Repeals the present tax on coin-operated amusement devices and enacts a new and larger tax.
- Raises the state Excise Tax rate from 6% to 6.5%.
- Increases the professional privilege tax from \$200 per year to \$400.
- Increases all vehicle registration fees.
- Allows the Commissioner of Revenue to waive tax liability and interest and penalties for noncompliance with these tax increases caused unavoidably by the close proximity of the enactment and effective date of the Act. This provision is repealed 60 days after July 4, 2002.
- Creates an independent study committee to study the state's tax structure and state shared taxes. Municipalities will have one representative on the 15 member committee. The committee must report its findings by July 1, 2004.

*Effective dates: Alcohol and tobacco taxes, July 15, 2002; sales taxes, July 15, 2002; business tax, September 1, 2002; excise tax, July 15, 2002; professional privilege tax, July 15, 2002; vehicle registration fees, October 1, 2002; coin operated amusement device tax, September 1, 2002; vending machine sales tax, July 15, 2002.*

## **Taxes–Hall Income**

**Chapter No. 664 (SB 2419/ HB 2451). Delay for property and income taxes for military personnel in Operation Enduring Freedom.** Amends T.C.A. Title 67, Chapter 5, Part 20, § 67-4-113, and § 67-2-112(b) to provide that property tax and income tax due dates are delayed until 90 days after the conclusion of hostilities or the person is transferred to another theater of operations for persons in the armed services or called to active duty from a reserve or national guard

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unit and serving in Operation Enduring Freedom. The person claiming the delay of property taxes must make application to the Department of Revenue, which notifies city and county collecting officials of approved applications.

*Effective date: July 1, 2002.*

## **Taxes–Hotel-Motel**

**Chapter No. 718 (SB 2514/HB 2506). Restrictions on levying of hotel-motel occupancy tax lifted for certain cities.** Amends T.C.A. §§ 67-4-503 and 1425 to provide that those sections prohibiting municipalities from levying a hotel-motel tax if the county has levied one do not apply to cities that have constructed a project under the Convention Center and Tourism Development Financing Act of 1998, codified as T.C.A. § 7-88-101 and the following sections.

*Effective date: May 1, 2002.*

## **Taxes–In lieu of**

**Chapter No. 605 (SB 3132/HB 2867). Filing of property schedules by Industrial Development Corporations and Health, Educational, and Housing Facility Corporations – late penalty.** Amends T.C.A. §§ 7-53-305(e) and 48-101-312(d)(2) to change the penalty for late filing of property schedules with the state Board of Equalization by Industrial Development Corporations and Health, Educational, and Housing Facility Corporations from \$100 per day to \$50 per day to a maximum of \$500. The penalty accrues interest at 1.5% per month, plus any cost of collection.

*Effective date: April 16, 2002.*

**Chapter No. 712 (SB 2367/HB 2920). Restrictions on IDC in lieu of tax payments in Shelby County.** Amends T.C.A. § 7-53-305 to restrict industrial development corporations in Shelby County from negotiating in lieu of tax payments for county taxes unless the corporation is a joint city-county corporation, the corporation has made an interlocal agreement with the county about in lieu of tax payments, or the corporation has received written approval from the county legislative body.

*Effective date: May 1, 2002.*

**Chapter No. 815 (SB 2282/HB 2672). Low income housing – in lieu of tax payments; tax abatement study by TACIR.** Amends T.C.A. § 13-20-104 to allow municipalities and counties with a housing authority to delegate to the authority by a majority vote the ability to negotiate and accept payments in lieu of taxes from lessees operating property restricted under the Low-Income Housing Tax Credit program. The housing authority must submit the agreement to the local legislative bodies of affected jurisdictions for approval.

Before October 1 of each year, the housing authority must submit a list of property owned by it that is subject to in lieu of tax payments. The list must include the property value as estimated by the

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lessee, the term of the lease, amount of in lieu of tax payments, the date the property is scheduled to return to the tax rolls, and a calculation of the taxes that would have been paid if the property were subject to taxation. Each lessee must timely complete and file a report. These provisions do not apply in Davidson County.

This Act also requires the Tennessee Advisory Commission on Intergovernmental Relations to study the effects upon local public education when property taxes earmarked for education are abated or reduced.

*Effective date: June 11, 2002.*

## **Taxes–Property**

### **Chapter No. 632 (SB 3095/HB 3147). Greenbelt law – rollback taxes.**

Amends T.C.A. § 67-5-1004 to require noncontiguous tracts to be in the same county to qualify as agricultural land for greenbelt purposes. This does not apply to land already classified as greenbelt until it changes to nonqualifying status.

Amends 67-5-1008(d)(2) to require the assessor to notify only the tax collecting official, and not the person responsible for payment, when land is no longer eligible for greenbelt status. The tax collecting official must then prepare and send a tax notice to the responsible person for rollback taxes.

Further amends 67-5-1008(d)(2) to provide that there may be no refund of rollback taxes that have been collected at the request of a buyer or seller at the time of a sale.

Amends 67-5-1008(e)(3) to provide that there may be no rollback taxes assessed against greenbelt property temporarily transferred to a trustee in bankruptcy.

This Act provides the property disqualified as greenbelt property because it is noncontiguous and not in the same county is subject to rollback assessment for 3 years after it has been assessed at market value.

*Effective date: January 1, 2003.*

**Chapter No. 664 (SB 2419/ HB 2451). Delay for property and income taxes for military personnel in Operation Enduring Freedom.** Amends T.C.A. Title 67, Chapter 5, Part 20, § 67-4-113, and § 67-2-112(b) to provide that property tax and income tax due dates are delayed until 90 days after the conclusion of hostilities or the person is transferred to another theater of operations for persons in the armed services or called to active duty from a reserve or national guard unit and serving in Operation Enduring Freedom. The person claiming the delay of property taxes must make application to the Department of Revenue, which notifies city and county collecting officials of approved applications.

*Effective date: July 1, 2002.*

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**Chapter No. 680 (SB 3130/HB 3146). Property taxes wrongfully collected – venue.** Amends T.C.A. § 67-1-904 to provide that suits to recover ad valorem taxes wrongfully collected by a city or county must be tried in the county where the taxes were collected.

*Effective date: April 24, 2002.*

**Chapter No. 684 (SB 2423/HB 3105). Penalty added on delinquent taxes for which suit filed in Knox County.** Amends T.C.A. § 67-5-2410(a)(1)(B) to allow municipal and county legislative bodies in Knox County to add a 20% penalty to property taxes for which suit has been filed. This must be done by a resolution passed by a 2/3 vote of the legislative body.

*Effective date: April 30, 2002.*

**Chapter No. 687 (SB 1601/HB 1724). Exemptions – effective date; public tv in Nashville.** Amends T.C.A. § 67-5-212(b)(3) to allow property tax exemptions to take effect up to 24 months before the date of application when the application was submitted because of the relocation of the applicant or the denial of the application was under appeal. This provision applies upon becoming a law (May 1, 2002) and applies to pending appeals but expires July 1, 2002.

Further amends 67-5-212 to exempt the public television station in Nashville from property taxes.

*Effective date: May 1, 2002;  
Applies to pending appeals.*

**Chapter No. 699 (SB 2893/HB 3131). Property tax relief for disabled veterans.** Amends T.C.A. § 67-5-704 to allow property tax relief for “legally” blind rather than “totally” blind veterans. Provides that the determination of the Veterans’ Administration on disability is conclusive for purposes of this section.

*Effective date: May 1, 2002.*

**Chapter No. 704 (SB 3038/HB 3010). Property tax exemption for low income housing.** Amends T.C.A. § 67-5-207 to exempt “permanent” housing financed under the McKinney-Vento Homeless Assistance Act from property taxes. Exempts property of non-profit organizations funded under the HOME Investment Partnerships Program or as a special needs project under the HOUSE Program and used as permanent housing for low income persons with permanent conditions. Provides that this section of law will not preclude property tax exemption for temporary housing that otherwise qualifies as a charitable use.

*Effective date: May 1, 2002;  
Applies retroactively to pending appeals.*

**Chapter No. 751 (SB 2577/HB 2227). Tax relief for disabled veterans.** Amends T.C.A. § 67-5-704(b)(2) to provide that a veteran’s disability for tax relief purposes must result from being a prisoner of war for at least 30 days rather than the previous 5 months.

*Effective date: July 1, 2002.*

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**Chapter No. 752 (SB 2857/HB 2869). Back assessments and reassessments.**

Amends T.C.A. § 67-1-1005 to change procedures relative to back assessments and reassessments. A back assessment or reassessment may be initiated only by the assessor. He/she must certify to the collecting officials the property, the basis for the change, and amounts for which the owner or taxpayer is responsible. The collecting official then sends a notice of taxes due. Any person aggrieved may appeal directly to the state Board of Equalization within 60 days. Delinquency penalties and interest do not accrue during the appeal, but simple interest accrues. Repeals § 67-1-1005(d), which established a different procedure in Shelby County.

*Effective date: January 1, 2003.*

**Chapter No. 815 (SB 2282/HB 2672). Low income housing – in lieu of tax payments; tax abatement study by TACIR.** Amends T.C.A. § 13-20-104 to allow municipalities and counties with a housing authority to delegate to the authority by a majority vote the ability to negotiate and accept payments in lieu of taxes from lessees operating property restricted under the Low-Income Housing Tax Credit program. The housing authority must submit the agreement to the local legislative bodies of affected jurisdictions for approval.

Before October 1 of each year, the housing authority must submit a list of property owned by it that is subject to in lieu of tax payments. The list must include the property value as estimated by the lessee, the term of the lease, amount of in lieu of tax payments, the date the property is scheduled to return to the tax rolls, and a calculation of the taxes that would have been paid if the property were subject to taxation. Each lessee must timely complete and file a report. These provisions do not apply in Davidson County.

This Act also requires the Tennessee Advisory Commission on Intergovernmental Relations to study the effects upon local public education when property taxes earmarked for education are abated or reduced.

*Effective date: June 11, 2002.*

**Chapter No. 877 (SB 2457/HB 2200). Exemption for certain museum property.**

Amends T.C.A. Title 67, Chapter 5, Part 2, to exempt from property taxation the real and personal property of a museum if the organization owns the real property for which the exemption is sought, the organization is exempt from federal income taxes under 26 U.S.C. § 501(c)(3), the property is inside a municipality, the organization actually operates the museum, the museum displays local and state items of historical interest, and board members receive no compensation. The property owner must apply for the exemption with the State Board of Equalization.

*Effective date: July 1, 2002.*

**Taxes–Sales**

(See also Taxes–General)

**Chapter No. 708 (SB 2183/HB 2283). Exemption for equipment producing broadcast signals eliminated.** Amends T.C.A. § 67-6-102(29) to remove signals broadcast over the airwaves from the



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definition of “tangible personal property” and therefore extends the sales tax to equipment used to produce them.

*Effective date: May 1, 2002.*

**Chapter No. 719 (SB 2812/HB 3013). Sales taxation of mobile telecommunications services.** Amends T.C.A. § 67-6-102 to revise sales taxation of mobile telecommunications services. Provides that services subject to taxation will be deemed to have originated or been received in Tennessee if the customer’s place of primary use is in Tennessee. No charges will be subject to tax if the customer’s place of primary use is not in Tennessee.

Amends T.C.A. § 67-6-702 to provide for a uniform statewide local sales tax rate of 2.5% on intrastate telecommunications services. Half the revenues from this tax will be distributed in accordance with 67-6-710(e) and half will be distributed based upon population. Revenues will be used for the same purposes as other local sales tax revenues.

*Effective date: May 1, 2002.*

**Chapter No. 836 (SB 1708/HB 1430). Failure to notify utility of taxability of residential electricity.** Amends T.C.A. § 67-6-334(b) to make the owner rather than the electric utility liable when the owner of a residential unit (hotel or motel) fails to notify the electric utility that the residential unit is being used for a purpose that would make the sale of electricity taxable.

*Effective date: July 1, 2002.*

## **Tort Liability**

**Chapter No. 839 (SB 2518/HB 2431). Restatement of immunity for court personnel.** Amends T.C.A. Title 29, Chapter 20, Part 1, to purport to grant personal immunity to local government employees for negligent acts in quelling courtroom violence.

*Effective date: July 3, 2002.*

## **Utilities**

**Chapter No. 602 (SB 2950/HB 2903). Notice of water system noncompliance; contamination of intakes and sources of public supplies.** Amends T.C.A. § 68-221-708(a) to require public water systems that are not in compliance with current primary drinking water regulations to notify the Division of Water Supply within 24 hours, rather than the previous 48 hours.

Amends § 68-221-711(5) and (8) to prohibit contamination by sewage or waste or heavy withdrawal of sources of public water supply as well as intakes and the supply itself.

*Effective date: April 9, 2002.*

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**Chapter No. 603 (SB 3093/HB 3140). Water and wastewater loans to intergovernmental entities.** Amends T.C.A. § 68-221-1003(7)(A)(I) to include instrumentalities of government created by one or more cooperating governments in the eligible entities for wastewater loans from the revolving loan fund.

Amends 68-221-1005 to allow local governments to assign their rights and obligations to another local government under a loan received from the revolving loan fund. The assigning local government is released, but may agree to retain its obligation to make payments if the receiving local government fails to make payments.

Amends 68-221-1006(a)(6) to require audits of loan recipients to be done in accordance with generally accepted governmental auditing standards and minimum standards of the Comptroller. The audit must be filed with the Comptroller. If the government fails to have the audit done, the Comptroller may cause it to be done.

Amends 68-221-1006(a) to require municipalities and other governments with taxing power to agree to be subject to the jurisdiction of the Water and Wastewater Financing Board to obtain a loan.

Amends T.C.A. § 68-221-1203(6) to include instrumentalities of government created by one or more cooperating governments in the entities eligible for water loans from the revolving loan fund.

Amends 68-221-1205(k) to allow water systems to assign rights under loans the same as wastewater systems.

Amends 68-221-1206(7) and 1206(a) to enact the same requirements for audits and the receiving of loans for water systems that apply to wastewater systems as noted above.

*Effective date: April 11, 2002.*

**Chapter No. 675 (SB 2965/HB 2917). Utility relocation – monthly progress reports to Department of Transportation and other utilities.** Amends T.C.A. § 54-5-854(h)(3) to require utilities that are relocating because of a state highway project to make monthly progress reports to the Department of Transportation and to other utility owners. Reports made at pre-construction meetings between the contractor and the Department will be sufficient to meet this requirement even if the meetings are not held on a monthly basis.

*Effective date: April 24, 2002.*

**Chapter No. 800 (SB 3076/HB 3148). Water Resources Information Act enacted.** Amends T.C.A. Title 69, Chapter 8 to enact the Tennessee Water Resources Information Act. Requires persons including local governments that withdraw or propose the withdrawal daily of 10,000 gallons or more water from a surface or groundwater source to register the withdrawal annually with the Commissioner of Environment and Conservation. This does not apply to emergency withdrawals nor to withdrawals for agricultural purposes.

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The Commissioner may enforce these requirements by administrative orders by the levy of a civil penalty of \$50.00 – 7,500.00 per day, and by seeking court orders.

This Act also requires the Commissioner and the Water Quality Control Board to encourage and support regional water planning. The Board may require regional planning if there is an appropriation of funds for this purpose. This Act also requires the Commissioner to appoint a technical advisory committee to advise on the status of the state’s water resources and future planning efforts.

This Act also amends Title 68, Chapter 11, relative to wells and well drilling. Allows home rule municipalities to enact regulations of well drilling that are at least as stringent as the state statutes. If the home rule municipality does this, it is exempted from the state’s statutes except for licensing and license fee provisions. The municipality must apply for the certificate of exemption. The Commissioner decides whether to grant the certificate, but the power to enforce the local regulations is reserved to the state if the Commissioner determines that the municipality is not enforcing them. The Department must frequently determine whether the municipality meets the terms of exemption. The exemption may be suspended when the Commissioner determines it does not. Certificates of exemption must be for a fixed term not exceeding 5 years.

*Effective date: May 29, 2002.*

**Chapter No. 819 (SB 1304/HB 1210). Certain utility records made confidential.** Amends T.C.A. § 10-7-504(a) to make credit card numbers, social security numbers, tax identification numbers, financial institution account numbers, burglar alarm codes, security codes, and access codes of utilities confidential and not subject to public disclosure. Confidential information must be redacted when possible and the rest of the record made available. It is presumed that redaction is possible. The entity requesting the record must pay the reasonable costs of redaction. This Act may not be construed to limit access by law enforcement agencies, courts, or other governmental entities. The consumer may authorize the release of information made confidential by this Act.

*Effective date: June 27, 2002.*

**Chapter No. 836 (SB 1708/HB 1430). Failure to notify utility of taxability of residential electricity.** Amends T.C.A. § 67-6-334(b) to make the owner rather than the electric utility liable when the owner of a residential unit (hotel or motel) fails to notify the electric utility that the residential unit is being used for a purpose that would make the sale of electricity taxable.

*Effective date: July 1, 2002.*

**Chapters No. 838 (SB 2364/HB 3003) and 848 (SB 3112/HB 2996). Study of utility district boards.** Both of these Acts require the Tennessee Advisory Commission on Intergovernmental Relations to study the size, composition, and selection of boards of commissioners of utility districts. TACIR must report to the General Assembly no later than February 28, 2003.

*Effective date: July 3, 2002.*

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**Chapter No. 849 (SB 3192/HB 3232). “Terrorism Prevention and Response Act of 2002” enacted; certain utility related records made confidential; law enforcement subpoenas, etc.**

Section 12 of this Act amends T.C.A. § 10-7-504(a), to make records confidential that would allow a person to identify areas of vulnerability of a utility service provider, including municipal utilities, or that would permit unlawful disruption of utility service. This section also makes contingency plans of governmental entities confidential that are prepared to respond to terrorist acts.

This section specifically provides that documents relative to costs of utility property and costs associated with protecting utility property and related documents are not confidential but that information that is confidential must be deleted from the record when it is made available to the public.

Section 11 of this Act amends T.C.A. Title 40, Chapter 17, Part 1, to establish extensive procedures for police officers to use in subpoenaing documents and other information to gather evidence for prosecuting criminal offenses.

This Act also amends various sections of T.C.A. Title 39 and Title 55 to create new crimes relative to terrorism and to enhance punishment for existing crimes when terrorism is involved.

*Effective date: July 4, 2002.*

## **Weapons**

**Chapter No. 601 (SB 2157/HB 2483). Handgun carry permits – requirement for social security number eliminated.** Amends T.C.A. § 39-17-1351(o)(1) to eliminate the requirement that handgun carry permits include the holder’s social security number. Existing permits remain valid.

*Effective date: July 1, 2002.*

## **Workers’ Compensation**

**Chapter No. 523 (SB 2898/HB 2822). Medical records and impairment ratings.**

Amends T.C.A. §§ 68-11-304(a)(2)(A), 63-2-102, and 50-6-246 to require requests and responses to requests for medical records to include a medical or anatomical impairment rating if this is available. Prohibits additional charges for providing impairment ratings.

*Effective date: July 1, 2002.*

**Chapter No. 693 (SB 2255/HB 2511). Construction bids – statement of drug and alcohol testing programs.** Amends T.C.A. Title 50, Chapter 9, Part 1, to require all local governments to include within any bid or procurement specifications for construction services the following:

- A statement of whether the governmental entity has a drug and alcohol testing program for testing employees for workplace use of drugs or alcohol.

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- A statement that describes the program if the governmental entity has one.
  - A statement that any bidder or proposer must have a testing program for its employees at least as stringent as the government's program.

Employers have seven days to file suit to contest the award of a contract to another employer in violation of this section. Employers who fail to file within seven days waive their right to challenge the contract. Contracts must be contested in the county where the contract was made. Trial is given priority over all but workers' compensation cases.

*Effective date: May 1, 2002.*

**Chapter No. 833 (SB 277/HB 786). Reconsideration of permanent total disability awards.**

Amends T.C.A. § 50-6-207(3)(A)(ii) by deleting (*ff*), which included loss of both eyes, loss of both arms, complete paralysis, and total loss of mental faculties within the list of scheduled members under workers' compensation that were eligible for compensation by payment of average weekly wages for 400 weeks.

Amends § 50-6-207(4) to provide procedures for reconsideration of permanent total disability awards. The employer and the state, when the Second Injury Fund is involved, may have the employee examined, at the expense of the requester, once in each 24 months to determine whether the employee is still disabled. This Act contains extensive procedures to follow in doing these periodic re-examinations.

Amends § 50-6-207(4)(A)(ii) to prohibit permanent total disability benefits from being commuted to a lump sum except to pay attorney fees, litigation expenses, and pre-injury obligations in arrears. After the lump sum payment is determined, remaining payments must be distributed for the entire period until payments would normally terminate.

Amends § 50-6-102 to codify definition of mental injury used by courts. Under these definitions, mental injury to be compensable must be caused by a compensable physical injury or a work-related event resulting in sudden mental stimulus. Mental injury does not include psychological response because of loss of employment or employment opportunities.

Amends § 50-6-102(12) to include mental injuries within definition of "injuries" and "personal injuries" that are subject to compensation.

*Effective date: July 1, 2002.*

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