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Tennessee Public Acts 2006: Summaries of Interest to Municipal Officials

Dennis Huffer

Municipal Technical Advisory Service

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TENNESSEE PUBLIC ACTS 2006

Summaries of Interest to Municipal Officials

Dennis Huffer, Legal Consultant



MTAS

**Municipal Technical
Advisory Service**

*In cooperation with the
Tennessee Municipal League*

WARNING

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



TENNESSEE PUBLIC ACTS 2006

Summaries of Interest to Municipal Officials

Dennis Huffer, Legal Consultant

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

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

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works,

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

MTAS provides one copy of our publications free of charge to each Tennessee municipality, county and department of state and federal government. There is a \$10 charge for additional copies of "Tennessee Public Acts 2006."

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TENNESSEE PUBLIC ACTS 2006

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Alcoholic Beverages

Chapter No. 607 (SB 2857/HB 2956). Liquor-by-the-drink referendum by city in Blount County.

Amends T.C.A. § 57-4-103(a)(4) to allow a liquor-by-the-drink referendum by a city in Blount County at the November 2006 election if the municipal governing body calls for the referendum by July 15, 2006. Costs must be paid by the city.

Effective date: May 4, 2006.

Chapter No. 864 (SB 3316/HB 3210). Beer for off-premises consumption—Tennessee Responsible Vendor Act of 2006 enacted.

Amends T.C.A. Title 57, Chapter 5, by adding a new part.

This part:

- Establishes a responsible vendor program for retailers who sell beer for off-premises consumption;
- Places this program under the state Alcoholic Beverage Commission;
- Provides that vendors in the program must require each clerk selling beer to successfully complete a responsible vendor training program within 61 days of beginning employment. After completing the program the clerk will be issued a certificate of completion;
- Requires the vendor to provide the ABC with the names of and other identifying information about certified clerks within 21 days of the date of training;
- Requires the responsible vendor employer to issue name badges to each clerk. The badges must be worn at all times while the clerk is on duty;
- Requires the employer to provide to each clerk ABC-approved training on laws regarding the sale of beer for off-premises consumption, methods of recognizing and dealing with minors who attempt to buy beer, and procedures for refusing to sell beer to minors;
- Provides that if the beer board determines that a certified clerk made a sale to a minor, the clerk's certification becomes invalid. The clerk may not reapply for one year. The beer board must report the names of these clerks to the ABC within 15 days of the finding. The ABC then notifies the employer within 15 days of the notification by the beer board;
- Requires the ABC to keep a master list of certified clerks and of clerks not eligible for certification;
- Requires the responsible vendor employer to pay a \$35 fee to participate in the program and an annual fee based upon the number of certified clerks. Annual fees range from \$25 to \$250;
- Prohibits the beer board from suspending or revoking the permit of a responsible vendor based upon a clerk's illegal sale to a minor if the clerk is certified or within 61 days of initial hiring;
- Requires the ABC to revoke the certification of the vendor if the vendor knew about, should have known about, or participated in the illegal sale;
- Requires the ABC to revoke the vendor's certification if the vendor has two violations in



a 12-month period. Revocation is for three years;

- Allows the beer board to impose a civil penalty of up to \$1,000 on a responsible vendor whose clerk makes an illegal sale to a minor;
- Allows the beer board to offer the alternative to suspension or revocation for a sale to a minor of a civil penalty of up to \$2,500, or a civil penalty of up to \$1,000 for other offenses, for vendors not in the responsible vendor program;
- Provides that revocation, suspension, and penalties apply only to the permit holder at that location; and
- Provides that the permit holder has seven days to pay a civil penalty before revocation or suspension when the civil penalty is offered in lieu of these sanctions.

Amends T.C.A. § 57-5-301(a)(1) to require the consumer to show photographic identification satisfactory to the permit holder, with birth date, before purchasing beer for off-premises consumption. Prohibits sale unless identification is provided. This section is repealed on July 1, 2008.

Amends T.C.A. § 39-15-413 to prohibit prosecution for sale to a minor if the prosecution is based upon the use of a person under 21 years of age unless the person or supervising police officer obtains the name of the permit holder and the clerk making the sale. Requires the law enforcement officer within 10 days of a sting to notify the permit holder by mail or hand delivery of the following:

- That a sting recently occurred;
- The date and location of the sting;
- The name of the permit holder and employee from whom beer was purchased or a purchase attempt was made; and
- Whether the purchase was successful.

Effective date: July 1, 2007.

Chapter No. 892 (SB 2657/HB 2614). Tennessee River Resort District expanded. Amends T.C.A. § 67-6-103(a)(3)(F) to include a county with a population of less than 10,000 according to the 2000 federal or subsequent census that borders the Tennessee River and another county that is a resort district.

Effective date: June 20, 2006.

Chapter No. 900 (SB 2953/HB 3061). Community service work for buying for or selling to a minor. Amends T.C.A. §§ 39-15-404, 57-5-301, 57-4-203, and 57-3-412 to provide for community service work for buying alcoholic beverages for or selling them to a minor.

Effective date: July 1, 2006.

Chapter No. 986 (SB 3501/HB 3060). Punishment for underage purchase of alcoholic beverages enhanced. Amends T.C.A. §§ 57-3-412(c) and 57-5-301(d)(3) to provide that for second and subsequent offenses of underage buying of alcoholic beverages by persons between 18 and 21 years of age, the court shall prepare and send to the Department of Safety within five days of conviction an order of denial of driving privileges for up to one year. The judge must issue a restricted license. The same procedures and costs apply that apply to persons under 18 but over 13 years of age. This act also requires offenders who are less than 18 years of age to do 20 hours of community service work in addition to a fine rather than as an alternative.

Amends T.C.A. § 57-5-301 to require beer retailers to post signs on the seller's premises containing this language:

IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER,
YOU COULD LOSE YOUR DRIVER'S LICENSE.

Effective date: July 1, 2006.



Animals

Chapter No. 736 (SB 2714/HB 3122). Reports of animal abuse by child and adult protective service employees. Amends T.C.A. Title 38, Chapter 1, to require municipal employees of child and adult protective services agencies to report known or suspected cases of animal abuse the employee becomes aware of through the job. The name of the employee will be confidential. The act provides procedures for making the required reports.

Effective date: July 1, 2006.

Boards, Commissions, and Authorities

Chapter No. 609 (SB 2880/HB 3047). Greater Nashville Regional Council—minorities. Amends T.C.A. §§ 67-4-103 and 104 to provide for minority members on the board and executive committee of the Greater Nashville Regional Council.

Effective date: May 4, 2006.

Building, Utility, and Housing Codes

Chapter No. 758 (SB 3294/HB 3039). Administrative inspection warrants. Amends T.C.A. § 68-120-117(a) to allow judges of municipal courts that have jurisdiction over the applying agency and that are licensed to practice law to issue administrative inspection warrants.

Effective date: May 23, 2006.

Chapter No. 800 (SB 3307/HB 3316). Registration of landlords in Nashville. Amends T.C.A. Title 66, Chapter 28, Part 1, to require landlords of one or more dwelling units in Nashville to register with the codes department.

Effective date: July 1, 2007.

Chapter No. 851 (SB 3297/HB 3317). Inspections of residential rental property. Amends T.C.A. Title 6, Chapter 54, Part 5, to allow

inspections of residential rental property by a municipal code department regardless of whether the landlord or a tenant is in possession of the property only if the property has three code violations on separate dates within a six-month period. Then the municipal agency may enter the dwelling only with consent of the tenant, with a valid search warrant, or if there is an immediate threat to the health and welfare of the tenant. The entry must cause the least possible inconvenience to the tenant.

This act specifically applies to Davidson and Shelby counties but does not provide that it does not apply in other counties. There is also an apparent attempt to make the act applicable in Oak Ridge and Goodlettsville, but there is no federal census to which the population figures are tied.

Effective date: June 2, 2006.

Chapter No. 868 (SB 3928/HB 4045). Responsibility for costs of remediating dangerous buildings placed on municipalities. Amends T.C.A. § 68-102-122–125 to remove the requirement that the municipal officer who repairs or removes a dangerous building be reimbursed by the state fire prevention fund when the owner does not pay. Rather, the local officer may place a lien on the property for the expenses and enforce the lien. Under previous law, the state paid the local government for the expenses when the owner failed to pay, and the state had the lien and the responsibility to enforce it.

This act does not apply to any case pending on its effective date.

Effective date: June 5, 2006.



Chapter No. 877 (SB 3927/HB 4028).

Deputy electrical inspectors. Amends T.C.A. § 68-102-143 to revise provisions relative to use of local electrical inspectors by the commissioner of commerce and insurance. Provides for contracts with local inspectors and sets qualifications for local inspectors. These are (1) the inspector must be a high school graduate or equivalent, (2) the inspector must have at least five years experience in electrical installation or inspection, and (3) the inspector must have proof of having passed a national examination. These qualifications apply to inspectors employed after June 30, 2006. The commissioner may contract with an inspector meeting only two of the three qualifications if unable to employ a fully qualified person, but the person employed must become fully qualified within one year.

This act also allows deputy inspectors appointed by a municipality to make an inspection at the request of an electrical contractor in addition to those persons and entities already allowed to request an inspection.

Effective date: October 1, 2006.

Chapter No. 949 (SB 3174/HB 3202). Residential rental inspection program for Nashville and Oak Ridge.

Amends T.C.A. Title 13, Chapter 21, to establish an inspection program for residential rental properties in Nashville and in Oak Ridge. The purpose is to enforce compliance with building, housing, and safety codes.

Effective date: July 1, 2006.

Business Regulation

Chapter No. 570 (SB 3179/ HB 3076).

Qualifications for limited license plumbers.

Amends T.C.A. Title 62, Chapter 6, Part 4, to revise requirements for limited license plumbers. Changes

the experience requirement for applying for a license from 2,000 hours to one year. Provides that one year of experience in a municipality that licenses plumbers counts toward this requirement.

Effective date: May 1, 2006.

Chapter No. 681 (SB 3207/HB 3635). Intrastate broadband services.

Amends T.C.A. Title 65, Chapter 5, to prohibit intrastate broadband services from being reclassified, bundled, detariffed, declared obsolete, or otherwise recharacterized to avoid inspection fees by the Tennessee Regulatory Authority. Otherwise, the TRA may not exercise jurisdiction of any type over or relating to broadband services.

Effective date: May 15, 2006.

Chapter No. 735 (SB 2700/HB 2581). Insurance for blasters.

Amends T.C.A. §§ 68-105-112 and 115 to increase the liability insurance required of blasters from \$500,000 to \$1 million.

Effective date: July 1, 2006.

Chapter No. 800 (SB 3307/HB 3316). Registration of landlords in Nashville.

Amends T.C.A. Title 66, Chapter 28, Part 1, to require landlords of one or more dwelling units in Nashville to register with the codes department.

Effective date: July 1, 2007.

Chapter No. 839 (SB 2627/HB 2919). Licensing of display fireworks exhibitors and certification of display fireworks operators; insurance requirement; local regulation.

Adds a new part to T.C.A. Title 68, Chapter 104, establishing a state program for licensing display fireworks exhibitors and a certification program for display fireworks operators. Requires exhibitors to carry a minimum of \$1 million in general liability insurance for the benefit of any person injured by a fireworks display.



The fire marshal is required to maintain a list of current licensed exhibitors on the department's Web site.

Operators, the individuals who actually shoot the fireworks, must be trained and certified. It is unlawful for anyone other than a certified operator to perform a display using display fireworks. It is unlawful for exhibitors and operators to perform displays in violation of National Fire Protection Association provisions applying to these displays.

Municipalities may enforce local regulations relative to displays of display fireworks. Municipalities may also adopt the criminal provisions of the law, regardless of any other law, as an ordinance violation. Local ordinances may also regulate the storage of these fireworks.

The act creates a fireworks advisory council to be appointed by the fire marshal. The Tennessee Fire Chiefs Association is to submit a list of nominees from whom one will be appointed. One member must also be a local fire marshal.

This act does not regulate Class C or common fireworks in any way.

Effective date: June 2, 2006, for the purpose of promulgating regulations, conducting necessary examinations, issuing licenses and certificates, and making appointments to the advisory council.

Provisions requiring exhibitors to be licensed and operators to be certified take effect on May 1, 2007.

Chapter No. 885 (SB 2024/HB 1731). Locksmiths. Adds a new chapter to T.C.A. Title 62 regulating locksmiths. Prohibits government employees from holding themselves out as locksmiths unless they are licensed under this act. Makes an exception for emergency service vehicles for the sole purpose

of towing or allowing a locked-out owner entry, but places several requirements such as liability insurance and annual criminal background checks. Has a more specific exclusion for local law enforcement, fire, and rescue personnel performing openings. Prohibits local governments from offering locksmithing services or from regulating locksmiths.

Effective date: July 1, 2006.

Chapter No. 930 (SB 452/HB 1810). Transfer of assets of public hospitals. Amends T.C.A. Title 48, Chapter 68, to establish restrictions on and procedures for transferring public hospitals. Essentially gives the state attorney general veto power over these transfers.

Effective date: July 1, 2006.

Chapter No. 943 (SB 3451/HB 3043). Adult-oriented establishments. Amends several sections of T.C.A. Title 7, Chapter 51, Part 11, to make what appear to be housekeeping changes.

Effective date: June 20, 2006.

City Courts

Chapter No. 758 (SB 3294/HB 3039).

Administrative inspection warrants. Amends T.C.A. § 68-120-117(a) to allow judges of municipal courts that have jurisdiction over the applying agency and that are licensed to practice law to issue administrative inspection warrants.

Effective date: May 23, 2006.

Chapter No. 1004 (SB 3844/HB 3918). Adoption of Class C misdemeanors; training for judges; sitting by interchange. Amends T.C.A. § 16-18-302 to allow municipalities to adopt state Class C misdemeanors by reference or substantial duplication.



Repeals T.C.A. § 55-10-307, which allowed municipalities to adopt the rules of the road and other traffic statutes by reference, plus other traffic regulations.

Amends T.C.A. § 16-18-309 to require training for judges to consist of material specifically for municipal judges. Allows municipal judges to carry over excess hours for one calendar year.

Adds a new section to T.C.A. Title 16, Chapter 8, Part 3, that allows municipal judges and general sessions judges to sit by interchange for other municipal judges.

Effective date: June 27, 2006.

City Manager—Commission Charter Chapter No. 540 (SB 2547/HB 2523). Increase in number of commissioners for cities over 20,000. Amends T.C.A. § 6-20-101 to allow any city incorporated under the general law city manager-commission charter with a population of more than 20,000 to increase the number of commissioners to seven by ordinance. The ordinance is subject to referendum approval.

Effective date: April 24, 2006.

Crimes and Criminal Procedure Chapter No. 529 (SB 3201/HB 2887). Boating under the influence. Amends T.C.A. § 69-9-217(j) to conform the alcohol concentration level for boating under the influence to that for driving under the influence.

Effective date: July 1, 2006.

Chapter No. 543 (SB 2660/HB 2627). Disturbing funerals. Amends T.C.A. Title 39, Chapter 17, Part 3, to make it a Class C misdemeanor to make any utterance, gesture, or display that is offensive to the sensibilities of an ordinary person within

500 feet of a funeral, funeral procession, burial, or viewing of a dead person.

Effective date: May 1, 2006.

Chapter No. 566 (SB 2575/HB 3105). Identity theft through electronic means. Amends T.C.A. Title 47, Chapter 18, to enact the Anti-Phishing Act of 2006. Makes it unlawful for any person (defined to include governmental entities) to represent oneself as another person, without authorization, through the Internet or other electronic means and to solicit a resident of the state to provide identifying information. Makes it unlawful with the intent to defraud to use or sell this information to another to gain access to financial resources, goods or services, or to obtain identification documents. Makes it unlawful with the intent to defraud to mimic a Web site, redirect e-mail, use any logo on a Web page, or create a false link to a Web page that is directed to another person other than the person apparently represented. Allows those who provide Internet access service and suffer loss to bring civil actions for damages. Provides for increased damages, costs, and attorney fees in appropriate cases.

Effective date: July 1, 2006.

Chapter No. 617 (SB 3547/HB 3582). Breastfeeding in public. Adds T.C.A. § 68-58-101 providing that breastfeeding of a child 12 months of age or younger may be done anywhere the mother and child are otherwise allowed to be. Provides that breastfeeding does not violate public indecency and nudity statutes. Prohibits municipalities from prohibiting breastfeeding in public by ordinance.

Effective date: May 4, 2006.



Chapter No. 2ES (SB 3/HB 4 of the Extraordinary Session). Bribery of public official. Amends T.C.A. § 39-16-102 to make bribing a public official, as well as accepting a bribe by a public official, a Class B felony.

Effective date: February 15, 2006.

Chapter No. 638 (SB 2971/HB 3451). Use of polygraph on sexual offense victims prohibited.

Adds T.C.A. § 38-3-123 to prohibit law enforcement officers from requiring any victim of a sexual offense to undergo a polygraph or other deception-detecting test as a condition of proceeding with the investigation. A violating officer is subject to disciplinary action.

Effective date: July 1, 2006.

Chapter No. 668 (SB 2800/HB 2531). Aggravated trespass on railroad property.

Amends T.C.A. § 39-14-406 to create the crime of aggravated trespass on railroad property and make it a Class A misdemeanor.

Effective date: July 1, 2006.

Chapter No. 700 (SB 3247/HB 2909).

Salvia divinorum A. Amends T.C.A. Title 39, Chapter 17, Part 4, to make the possession, manufacture, etc., of the active chemical ingredient of the hallucinogenic plant *Salvia divinorum* a Class A misdemeanor. This does not apply to cultivation of the plant for landscaping purposes or to dosages of the ingredient obtainable from a retail establishment.

Effective date: July 1, 2006.

Chapter No. 730 (SB 3756/HB 3643). Offer to pay speeding fine for purchasers of radar detectors.

Adds T.C.A. § 39-17-113 making it a Class B misdemeanor for sellers or lessors to offer to pay the traffic fine of any person who purchases or leases devices that detect or diminish the

measurement capabilities of radar and other devices employed by law enforcement officers to detect speed.

Effective date: July 1, 2006.

Chapter No. 897 (SB 2813/HB 2838). Sexual battery by an authority figure.

Amends T.C.A. § 39-13-527 to revise the law on sexual battery by an authority figure.

Effective date: July 1, 2006.

Chapter No. 960 (SB 3245/HB 3776). Forfeiture of property used in committing sex offenses against minors.

Amends various provisions of T.C.A. Titles 39 and 40 to allow forfeiture under Title 40, Chapter 33, Part 2, of any conveyance or property used in a sexual offense against a minor. Proceeds accrue to the state general fund and will be allocated to the Child Abuse Fund.

Effective date: July 1, 2006.

Chapter No. 971 (SB 2441/HB 2671).

Penalties for drag racing increased. Amends T.C.A. §§ 39-13-213 and 55-10-502 to increase penalties for drag racing and make vehicles used to drag race or to flee after drag racing subject to forfeiture under Title 40, Chapter 33, Part 1, following conviction.

Effective date: July 1, 2006.

Chapter No. 973 (SB 2582/HB 2663).

Statutory rape by an authority figure. Adds T.C.A. § 39-13-530 to create the offense of statutory rape by an authority figure.

Effective date: July 1, 2006.

Chapter No. 983 (SB 3212/HB 3235). Drug and alcohol assessment and treatment for DUI probation.

Amends T.C.A. § 55-10-403 to require the judge to condition DUI probation on drug and alcohol assessment and treatment when the court



thinks this appropriate and the service is available. Costs would be paid from the alcohol and drug addiction fund.

Effective date: July 1, 2006.

Chapter No. 986 (SB 3501/HB 3060). Punishment for underage purchase of alcoholic beverages

enhanced. Amends T.C.A. §§ 57-3-412(c) and 57-5-301(d)(3) to provide that for second and subsequent offenses of underage buying of alcoholic beverages by persons between 18 and 21 years of age, the court shall prepare and send to the Department of Safety within five days of conviction an order of denial of driving privileges for up to one year. The judge must issue a restricted license. The same procedures and costs that apply to persons under 18 but over 13 years of age. This act also requires offenders who are less than 18 years of age to do 20 hours of community service work in addition to a fine rather than as an alternative.

Amends § 57-5-301 to require beer retailers to post signs on the seller's premises containing this language:

IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER,
YOU COULD LOSE YOUR DRIVER'S LICENSE.

Effective date: July 1, 2006.

Economic Development

Chapter No. 608 (SB 2994/HB 3022). Donations by joint economic and community development board

board. Amends T.C.A. § 6-58-114(g)(3) to allow the joint economic and community development board to donate funds from participating governments to other public or nonprofit entities in the county for economic and community development purposes.

Effective date: May 4, 2006.

Education and Schools

Chapter No. 542 (SB 2658/HB 3870). Diabetes sharps. Amends T.C.A. § 49-5-415(d)(7) to allow students with diabetes to have sharps on their persons for treatment of the disease.

Effective date: April 24, 2006.

Chapter No. 552 (SB 3379/HB 3523). Excused absences for children of members of the armed forces. Adds T.C.A. § 49-6-3052 to require principals to give students whose parent or custodian is a member of the armed forces and is called to active duty one day of excused absence when the member is deployed and one day when the member returns from deployment.

Effective date: July 1, 2006.

Chapter No. 567 (SB 2656/HB 3198). Competitive bidding by LEAs.

Amends T.C.A. § 49-2-203 to allow LEAs to follow the competitive bidding procedures for purchases of goods and construction of buildings and additions of the local governing body. If the LEA does not follow the governing body's procedures, the procedures in T.C.A. § 49-2-203 apply.

Effective date: May 1, 2006.

Chapter No. 574 (SB 2781/HB 2674). Teacher tenure.

Amends T.C.A. § 49-5-504 to provide that a tenured teacher who resigns and is then re-employed must serve a one-year probationary period unless this is waived by the board of education on the recommendation of the director of schools. The returning teacher would then be eligible for tenure. Clarifies that a teacher cannot be retained if tenure is not granted.

Effective date: May 4, 2006.



Chapter No. 579 (SB 2898/HB 2823). Maximum class sizes. Amends T.C.A. § 49-1-104 to allow a waiver by the commissioner of education for maximum class size when a natural disaster results in enrollment of displaced students.

Effective date: May 4, 2006.

Chapter No. 606 (SB 3216/HB 2863). Mandatory retirement age for teachers repealed. Repeals T.C.A. § 49-5-507, which provided that a teacher's tenure terminated on July 1 after the teacher turned 65 years of age.

Effective date: May 4, 2006.

Chapter No. 634 (SB 2685/HB 2794). Reports of DUI traffic deaths of young persons. Amends T.C.A. § 49-1-219 to require the commissioner of education, in consultation with the commissioner of safety, to develop advisory guidelines for LEAs to use in making monthly reports to high school students of traffic deaths of people 18 years old or younger caused by DUI. The Department of Education may distribute guidelines to LEAs for making these reports.

Effective date: May 12, 2006.

Chapter No. 664 (SB 3768/HB 3736). Competitive bidding limits for boards of education increased. Amends T.C.A. § 49-2-203(a)(3) to increase from \$5,000 to \$10,000 the amount of a purchase by a local board of education before public advertisement and competitive bidding are required.

Effective date: May 12, 2006.

Chapter No. 680 (SB 2996/HB 3025). Educational assistants. Amends T.C.A. Title 49, Chapter 5, to require educational assistants hired after July 1, 2006, to have a minimum of a high school diploma or GED and to show reading and

writing proficiency. Limits educational assistants in assuming control of a classroom to three consecutive days.

Effective date: July 1, 2006.

Chapter No. 685 (SB 3113/HB 3249). Pilot after-school educational programs. Amends T.C.A. Title 49 to establish a pilot grant program using excess lottery monies for after-school educational programs. There will be two programs in each grand division, one in a rural area and one in an urban area. The purpose of the programs is to increase ACT and SAT scores for at-risk students.

Effective date: May 18, 2006.

Chapter No. 725 (SB 3134/HB 3099). Cost disparities for health insurance. Amends T.C.A. Title 49, Chapter 1, Part 2, to require the commissioner of education to prepare a plan to present to the General Assembly to address cost disparities among LEAs for health insurance.

Effective date: May 19, 2006.

Chapter No. 727 (SB 3125/HB 3172). Waiving of rules. Amends T.C.A. § 49-1-201 to allow the commissioner of education to waive state rules, on the request of an LEA, that hinder innovation by the LEA. Exempts several civil rights and health and safety rules.

Effective date: May 19, 2006.

Chapter No. 751 (SB 3610/HB 3927). Restrictions removed for private use of school buildings in Blount, Sumner, and Knox counties. Amends T.C.A. §§ 49-2-203(b)(4)(B) and (b)(10) and 49-6-2007(e) to remove restrictions on the private use of school buildings not needed for education purposes in Blount, Sumner, and Knox counties.

Effective date: May 23, 2006.



Chapter No. 755 (SB 3917/HB 4038). Blind students. Amends T.C.A. § 49-6-3015 to require compulsory school attendance of blind students through age 17 instead of the previous 16. Allows a judge with juvenile jurisdiction, upon receiving certification by a director of schools that a blind student is incapable of learning in a school for sighted students, to order the attendance of the student at the Tennessee School for the Blind until the student attains 18 years of age.

Effective date: May 23, 2006.

Chapter No. 756 (SB 3918/HB 4039). Homeless children. Amends T.C.A. §§ 49-6-3102(b) and 5001 to require local school boards to comply with the McKinney-Vento Homeless Assistance Act. Prohibits school boards from denying admission to homeless children who have not yet been immunized or who are unable to produce immunization records because of their homelessness.

Effective date: May 23, 2006.

Chapter No. 797 (SB 3085/HB 2935). Resource officers; directors' association; recycling. Amends T.C.A. Title 49, Chapter 6, Part 42, to require the commissioner of education, working with the commissioner of safety, to recommend employment standards for school resource officers.

Amends T.C.A. § 49-2-2101(c) to allow local governments to use local revenues to contract with the Directors of Schools Association.

Amends Title 49, Chapter 6, Part 10, to encourage schools to establish recycling programs.

Effective date: May 26, 2006.

Chapter No. 824 (SB 595/HB 374). Sexual violence awareness curriculum. Amends T.C.A. Title 49, Chapter 1, Part 2, to urge the Department of Education to develop and implement

a sexual violence awareness curriculum for junior high and high schools by July 1, 2007.

Effective date: June 2, 2006.

Chapter No. 825 (SB 963/HB 828). Following distance sticker on the back of buses. Amends T.C.A. § 55-8-151 to allow LEAs to display a sticker on the back of school buses directing drivers to stay back 100 feet when the bus is in motion except when passing. The Department of Safety will develop a uniform sticker.

Effective date: July 1, 2006.

Chapter No. 848 (SB 3124/HB 3197). Competitive bidding for certain construction projects; hiring construction managers. Amends T.C.A. § 49-2-203(a)(3)(E) to provide that subdivision (a)(3)(C) of that section, which applied only to county boards of education, also applies to municipal boards of education. This provision requires competitive bidding for the construction of school buildings and additions if the cost is more than \$10,000. This subdivision also provides that construction management services are professional services and are to be procured by requests for proposals rather than competitive bidding. The board may include up to three sites in request for proposal for a construction manager.

Effective date: June 2, 2006.

Chapter No. 850 (SB 3246/HB 3123). State employees' participation in education. Amends T.C.A. § 49-6-7001(b) to allow state employees to take off one day each month to participate in public school education and teaching. Upon the state employee's request, the school must verify the employee's participation.

Effective date: July 1, 2006.



Chapter No. 854 (SB 3741/HB 3753). Personal finance. Amends T.C.A. § 49-6-1205 to allow a one-half unit course in personal finance to satisfy the credit granted for free enterprise study under that section.

Effective date: June 2, 2006.

Chapter No. 933 (SB 2883/HB 2442). Food allergies. Amends T.C.A. § 49-5-415 to require the Department of Education to develop guidelines for LEAs for managing life-threatening food allergies.

Effective date: June 20, 2006.

Chapter No. 946 (SB 3040/HB 3093). Certified athletic trainers. Provides that there may be established a pilot program to provide certified athletic trainers in high schools.

Effective date: June 20, 2006.

Chapter No. 1001 (SB 3991/HB 3750). Physical activity and health. Amends T.C.A. Title 49, Chapter 6, to require each LEA to provide a minimum weekly total of 90 minutes of physical activity spread across at least three sessions per week for elementary and secondary students.

This act also authorizes each LEA to implement a school health program.

Effective date: June 27, 2006.

Elections

Chapter No. 642 (SB 3322/HB 3416). Early voting in municipalities with a satellite voting location.

Amends T.C.A. § 2-6-112 to allow the county election commission not to have early voting at the election commission office for a municipal election when a municipality with a satellite voting location requests this.

Effective date: July 1, 2006.

Chapter No. 965 (SB 407/HB 1114). Local official who is a candidate for the General Assembly.

Amends T.C.A. § 2-13-204 to provide that when a candidate for the General Assembly is elected to a local office where the charter prohibits the official from holding state office simultaneously, the candidate may have his or her name removed from the ballot by filing a written request with the county election commission 50 days before the election.

Effective date: June 27, 2006.

Emergency Services

Chapter No. 647 (SB 3860/HB 3966).

Deployment of emerging technologies. Amends T.C.A. § 7-86-306(a) to allow the state Emergency Communications Board to administer the deployment of emerging technologies such as IP-enabled service for 911 purposes.

Effective date: May 12, 2006.

Chapter No. 731 (SB 3783/HB 3799). Color of ambulances in Shelby and Davidson counties.

Amends T.C.A. §§ 55-8-101(2)(C)(i) and Title 68, Chapter 140, Part 5, to allow municipalities in Shelby and Davidson counties that provide ambulance service to select the color of ambulances as long as the color is the same as that used by the fire department.

Effective date: May 19, 2006.

Chapter No. 752 (SB 3764/HB 3800). Fire department paramedic training centers.

Amends T.C.A. § 68-140-504 to make it a duty of the state Emergency Medical Services Board to certify paramedic training centers operated by fire departments that operate their own fire training academies that provide training to career paramedics employed by the department.



Adds a new section to Title 68, Chapter 140, Part 5, that requires the paramedic training center to follow the United States Department of Transportation Emergency Medical Technician-Paramedic National Standard Curriculum. Only paid career paramedics employed by the fire department may participate in and graduate from the training program.

Effective date: May 23, 2006.

Chapter No. 905 (SB 3068/HB 2192). Seismic Commission created. Amends T.C.A. Title 58 to create the West Tennessee Seismic Safety Commission to be attached to the University of Memphis. The commission must study earthquake safety and submit its findings to the General Assembly by January 15, 2007.

Effective date: June 20, 2006.

Chapter No. 925 (SB 3861/HB 3967). Application of emergency service charge to wireless.

Amends T.C.A. § 7-86-108 to apply the emergency communications telephone service charge to nonwireline service to the extent this is lawful.

Effective date: July 1, 2006.

Eminent Domain

Chapter No. 863 (SB 3296/HB 3450). Economic development uses of eminent domain limited; “blighted area” redefined; notice period increased; appraisal and deposit required; eminent domain power removed for certain entities. Amends T.C.A. Title 29, Chapter 17, by adding a Part 1 that

- States the intent of the General Assembly that the power of eminent domain be narrowly construed and used sparingly;
- Defines “eminent domain” as having to comply with the U. S. and state constitutions;
- Defines “public use” for which the power can be used as excluding private use or private benefit or indirect public benefits resulting from

private economic development and commercial enterprise, including increased tax revenues and employment opportunities. It creates these exceptions from these restrictions for which the use is still allowed even if there are private benefits:

- o The acquisition of any interest in land for a road, bridge, or other public transportation project;
- o The acquisition of any interest in land necessary to the function of a utility;
- o The acquisition of property by a housing authority or community development agency for urban renewal or redevelopment under T.C.A. Title 13, Chapters 20 and 21;
- o Private use that is incidental to a public use if no land is condemned primarily to convey the incidental private use; and
- o The acquisition of property by a county or municipality for an industrial park under T.C.A. Title 13, Chapter 16, Part 2; and
- Provides that in case of a conflict between these provisions and other statutes, these provisions control.

Amends T.C.A. § 13-20-201 relative to redevelopment to provide that under no circumstance may land used predominantly in the production of agriculture be considered blighted.

Amends T.C.A. § 13-16-207 relative to industrial parks to allow a county to exercise the power of eminent domain anywhere in the county and within urban growth boundaries and planned growth areas and a municipality anywhere within its jurisdictional boundaries and in an urban growth boundary. A municipality or county, or both, operating a joint park may exercise the power anywhere within the jurisdictional boundaries and within an urban growth boundary or planned growth area.



Also amends T.C.A. § 13-16-207 to require a certificate of public purpose and necessity for the exercise of eminent domain for an industrial park even if no funds will be borrowed. Provides that bonded debt limit of subdivision (a)(1)(A)(iv) does not apply to a certificate of public purpose and necessity obtained only for the exercise of eminent domain. The issuance of the certificate must be based upon a finding that the municipality has been unable through good faith negotiations to obtain the property or other property that would be of comparable suitability. Good faith negotiation is established if the municipality made an offer to purchase the property for an amount equal to or in excess of at least two appraisals by independent qualified appraisers.

Amends T.C.A. Title 29, Chapter 17, Part 12, to provide that land acquired by eminent domain that the acquiring party seeks to dispose of may be sold, leased, or otherwise transferred to another public or quasi-public entity or a private person or entity if the transferring entity receives fair market value for the land.

Amends various sections in T.C.A. Titles 11, 43, 54, 64, 65, and 69 to remove eminent domain authority for certain entities such as river basin development authorities, planning agencies, port authorities, ferries, watershed districts, public mills, etc.

Amends T.C.A. § 13-20-201 relative to redevelopment to change the definition of “blighted areas” to eliminate “faulty arrangement or design,” “excessive land coverage,” and “obsolete layout” as conditions that cause property to be blighted. Provides that a loss of property values to surrounding properties or the need to increase tax revenues would not cause a property to be considered blighted.

Adds an undesignated section that requires notice of the filing of the petition to institute condemnation proceedings to be given to each respondent at least 30 days before taking additional steps. Provides for notice by publication for unknown or nonresident respondents.

After the 30 days have passed, and if the right to take is not challenged, the condemnor may take possession. If the right to take is challenged, the court must determine promptly as a matter of law whether the condemnor has the right. If the court determines there is a right to take, the condemnor has the right to take possession, for which a writ may be issued if necessary.

Amends T.C.A. § 29-17-401 relative to takings by housing authorities to require a 30-day interval between filing a petition and filing a declaration of taking with the clerk.

Amends T.C.A. § 29-17-803, known as the quick take or bulldozer provision, to require a 30-day notice rather than a five-day notice.

Adds an undesignated section requiring a respondent who is not satisfied with the amount deposited in court or who otherwise objects to the taking to file an answer within 30 days after the date of notice of filing the petition.

Amends T.C.A. § 29-16-114(a) to provide that when an entire tax parcel is condemned, the total damages cannot be less than the latest valuation of the tax assessor minus any decrease in value since then. The assessor’s valuation is admissible in evidence. This applies to all condemnation proceedings.



Amends T.C.A. Title 29, Chapter 7, Part 12, to require an appraisal of property sought for condemnation. The appraisal must be based upon the highest and best use, its use at the time of the taking, and any other use to which the property is legally adaptable at the time of the taking. The appraiser must possess the designation Member of the Appraisal Institute (MAI) or be an otherwise licensed and qualified appraiser under T.C.A. Title 62, Chapter 39.

Amends T.C.A. §§ 29-17-701 and 29-17-803 to require, rather than allow, the condemning authority to deposit with the court the amount determined as the value by the required appraisal. The deposited amount does not fix the amount to be awarded, and any amount awarded in excess of the deposited amount bears interest from the date of the taking or possession.

Adds an undesignated section providing for the allocation of costs and fees, but the new section appears to repeat without change except rearrangement the provisions of T.C.A. § 29-17-812.

*Effective date: July 1, 2006;
applies only to condemnation proceedings
initiated on or after that date.*

Environment

Chapter No. 513 (SB 498/HB 659). Study of and recommendations on water pollution. Amends T.C.A. § 69-3-107 to require the commissioner of environment and conservation to study and prepare recommendations on protection of watersheds and the control of sources of pollution to assure the future quality of potable drinking water. The commissioner may use information from state, federal, and local governments. Initial findings must be presented to the governor and General Assembly by February 1, 2007, and further findings annually afterwards.

Effective date: July 1, 2006

Chapter No. 899 (SB 2939/HB 2906). Water Quality Control Act study committee. Creates a joint legislative study committee to study amending the definition of “waters” used in the Water Quality Control Act. The committee must report by February 1, 2007, and is then dissolved.

Effective date: June 20, 2006.

Ethics

Chapter No. 1 ES. (SB 1/HB 1 of the extraordinary session). Ethics provisions for local officials revised; municipalities required to adopt code of ethics. Amends various provisions of T.C.A. as follows:

Changes in Campaign Finance Reporting, T.C.A. § 2-10-105

The act did not amend the statutes that determine which officials must file campaign finance reports. There is still in the law an exemption from reporting for candidates for part-time offices paying less than \$500 per month; however, this exemption does not apply to a candidate for a chief administrative office or to a candidate whose campaign expenditures exceed \$1,000. T.C.A. § 2-10-101. For example, a municipal board member who receives less than \$500 per month in compensation is still exempt from these reporting requirements unless that board member spends more than \$1,000 on his or her campaign.

- The new provisions of the act require candidates for both state and local offices to file more frequent campaign finance reports. Under the new law, candidates for local office who are required to file reports will file quarterly statements (within 10 days of March 31, June 30, September 30 and January 15) in addition to pre-primary and pre-general election statements (which cover the period from the last quarterly statement until 10 days before the primary/general election).



- For candidates for municipal offices, these reports will still be filed with the county election commission.
- If the campaign begins filing statements before January 1 of the year of the election, the candidate files those reports semiannually (January 31 and July 15) instead of annually as required under prior law.
- The new provisions in the Ethics Act require campaign records to be kept for two years instead of only one as under prior law.
- In the closing days before an election, candidates are required to report each person who has donated in excess of \$2,500. Under prior law reporting was required within 72 hours. The new act requires these reports to be filed by the end of the next business day following the day the contribution is received.

Changes in Reporting of Unexpended Campaign Funds, T.C.A. § 2-10-106

After a campaign is over, candidates must file reports until all funds in the campaign account are expended. Prior law required annual reports of the status of the account. The new act requires semiannual reports of unexpended campaign funds until the campaign account is closed.

Content of Campaign Finance Reports, T.C.A. § 2-10-107

- Campaign finance reporting requirements allow the candidate to report individual contributions of \$100 or less in an aggregate total. The law requires a report to itemize all contributions in excess of \$100. These reports of persons contributing more than \$100 to a campaign now must include information about the occupation and employer of each contributor. Similar provisions apply to in-kind contributions. These provisions require the treasurer or candidate to use “best efforts” to gather this information.

“Best efforts” include mailing a notice to the contributor that the information is needed and taking other actions required by rule of the Registry of Election Finance.

- Amendments to this section also require more detail on reports of expenditures. The law now provides that “reimbursement,” “credit card purchase,” “other,” and “campaign expense” are not acceptable descriptions of the purpose of a campaign expenditure. The law also requires more detailed reporting on credit card expenditures.

Penalties and Enforcement; Election Commission, T.C.A. §§ 2-10-110 and 2-10-111

In the past, the local administrator of elections was authorized to impose a civil penalty for violation of reporting requirements. Under the new act the county election commission is required to file a report with the Registry of Election Finance that all campaign finance reports in an election were filed on time or else list all candidates who failed to report on time. Enforcement will now be administered by the registry instead of the local election commission.

Unexpended Campaign Balances and Prohibited Expenditures, T.C.A. § 2-10-114

- For money left in a campaign account after the election is over, the law lists several allowable options for how a candidate may distribute that money and close out the campaign account. The Ethics Act added a new provision that allows giving the leftover funds to an institution of public or private education for the purpose of supplementing the funds of an existing scholarship trust or program.
- There are other changes in the Ethics Act to restrict how a candidate can spend campaign funds. Under prior law, the candidate was prohibited from using campaign funds for



“personal” or “nonpolitical purposes.” Now, the law limits uses of campaign funds to “contributions” and “expenditures” as defined under the campaign finance laws.

- The act lists several specifically prohibited expenditures of campaign funds, including residential or household expenses, mortgages, rent or utility payments, funeral or burial expenses, clothing, tuition, club dues, salary to family members, admission to events (with certain allowable exceptions), personal grooming expenses, and fines for campaign or ethics violations.

Limits on Cash Contributions

The Ethics Act provides that no person may make aggregate cash contributions exceeding \$50 to any candidate or PAC with respect to any election. The act also prohibits PACs from making any cash contributions. These provisions apply to both state and local candidates. Therefore, in a primary or general election, a candidate for municipal office should not accept more than \$50 total in cash from an individual during the primary or general election campaign.

Modification of Consulting Services Prohibition, T.C.A. § 2-10-122

Last year, when the General Assembly first began looking at ethics reform, it enacted laws that prohibit taking consulting fees (which are broadly defined to include receiving anything of value) for advising or assisting a person or entity to influence municipal legislative or administrative action. This includes services to assist a person or entity to maintain, apply for, solicit, or enter into a contract with the municipality.

- The new Ethics Act amends the consulting fee prohibition passed last year to clarify that the consulting prohibition applies only to the

government represented by the official. For example, a municipal official could take a consulting fee for assisting a company in getting a contract with a county without violating the law. **However, that municipal official is still clearly prohibited from taking anything of value from a vendor in exchange for voting in favor of a contract with a vendor or for merely working to assist that vendor in getting a contract with the municipality. This, of course, prohibits monetary payments but also “wining and dining” by vendors, including gifts, meals, trips, entertainment, etc.**

- Last year’s law allowed an exception for an attorney who is a local government official and who represents his or her clients before a board or commission of the municipality. Under a provision of the new Ethics Act, the language exempting representation by a licensed attorney is eliminated. Therefore, attorneys who are also municipal officials may not receive a fee for representing a client in a contested case action, administrative proceeding, or rulemaking procedure of the municipality.

Filing of Conflict of Interest Disclosure Statements (effective October 1)

Municipal officials were required under prior law to file conflict of interest disclosure statements. In the past, these statements were filed with the county election commissions. Effective October 1, 2006, municipal officials must instead file these statements with the newly formed State Ethics Commission.

Forfeiture of Retirement Benefits

The Ethics Act provides that when an official runs for election to an office in this state, that official is deemed to consent to the forfeiture of retirement benefits if the official is convicted of a felony



related to malfeasance in office. The section applies to both state and local elected officials. Therefore, if a municipal official who is elected this year is subsequently convicted of a felony related to malfeasance in office, the official forfeits his or her retirement benefits.

Mandate of Adoption of Local Government Ethical Standards

- One section of the new act mandates that governing bodies of counties and municipalities adopt their own local ethical standards by June 30, 2007.
- These standards should deal with disclosure and limits on gifts and disclosure of personal interests that might affect discretion.
- The law expressly states that these standards do not include personnel, employment or operational regulations of local government offices.
- The standards adopted by a municipal governing body will apply broadly to all boards, commissions, authorities, corporations, and other instrumentalities of the municipality.
- Under the law, CTAS and MTAS are directed to draft and distribute model policies to local governments to provide guidance and direction. MTAS has model policies drafted and has distributed them to municipalities. This will give municipal legislative bodies a full year to consider the models and decide to adopt a model or draft standards of their own.
- Individual policies adopted by a local government are filed with the State Ethics Commission, or, in the alternative, the local government files a statement that it has adopted an MTAS or CTAS model policy.
- Enforcement of the new standards remains as provided under current law and presumably will be up to the municipality. A failure or refusal

to adopt standards by a local governing body by the deadline subjects its members to ouster.

Effective date: Each municipality must adopt a code of ethics by July 1, 2007; other provisions generally take effect upon becoming law or on October 1, 2006.

Chapter No. 545 (SB 2755/HB 2694). Acceptance of honoraria prohibited. Amends T.C.A. § 2-10-116 to clarify that local elected officials acting in their official capacity may not accept honoraria.

Effective date: April 24, 2006.

Chapter No. 2 ES (SB 3/HB 4 of the Extraordinary Session). Bribery of public official. Amends T.C.A. § 39-16-102 to make bribing a public official, as well as accepting a bribe by a public official, a Class B felony.

Effective date: February 15, 2006.

Finance

Chapter No. 557 (SB 3685/HB 3551).

Improvement assessments in premier tourist resort cities. Amends T.C.A. § 7-33-310(a) to exempt church-owned property in premier tourist resort cities from special assessment to help pay for improvement bonds.

Effective date: April 24, 2006.

Chapter No. 595 (SB 3876/HB 3995). Recreation initiative grants. Amends T.C.A. § 11-9-202 to provide that when there is no application for a recreation grant in a grand division, more than one grant can be made in another grand division. Also eliminates the requirement that grant and match funds be used to hire two part-time summer leaders and allows the employment of any needed staff. Requires the city to match \$50,000 from the state.

Effective date: May 4, 2006.



Chapter No. 608 (SB 2994/HB 3022). Donations by joint economic and community development board. Amends T.C.A. § 6-58-114(g)(3) to allow the joint economic and community development board to donate funds from participating governments to other public or nonprofit entities in the county for economic and community development purposes.

Effective date: May 4, 2006.

Chapter No. 670 (SB 3621/HB 3553). Loans or contributions to industrial development corporations. Amends T.C.A. § 6-54-118 to allow municipalities to use borrowed funds to make a loan or contribution to an industrial development corporation in the county. Allows municipalities that are parties to interlocal agreements relative to jointly operated industrial parks to contribute to the corporation identified in the agreement the amount of property taxes the municipality receives from the park. Allows IDCs identified in an interlocal agreement to contribute revenues to the municipalities that are in excess of those needed to pay the expenses of developing and operating the park.

Effective date: May 15, 2006.

Chapter No. 673 (SB 3874/HB 3993). Administrative fees deducted from local parks land acquisition fund. Amends T.C.A. § 67-4-409(i) to allow the Department of Environment and Conservation to deduct up to 3.5 percent of amounts in the local parks land acquisition fund to cover its expenses in administering the fund. Provides that funds deposited in the fund do not revert to the general fund at the end of a fiscal year but remain in the fund accruing interest.

Effective date: May 15, 2006.

Chapter No. 690 (SB 3781/HB 3738). Grants from state bond proceeds. Amends various state bond acts going back to 1993 to allow proceeds to be used for grants to any county, municipality, metropolitan government, or any of their agencies if the grant project is approved by the State Building Commission.

Effective date: May 18, 2006.

Chapter No. 693 (SB 3777/HB 3742). Investment of idle funds. Amends T.C.A. § 6-56-106(a)(2) to qualify nonconvertible debt securities that municipalities may invest in as being those of federal government-sponsored enterprises chartered by the U. S. Congress. Removes the authority to invest in these securities of the student loan marketing association and replaces it with a provision allowing investments in these securities of the federal home loan mortgage association.

Repeals subdivision (a)(6) of T.C.A. § 6-56-106, which authorized investments in money market funds.

Adds a new subdivision to T.C.A. § 6-56-106(a) that requires investments in nonconvertible debt securities of federal issuers, repurchase agreements, and prime bankers' acceptances and commercial paper to be authorized by ordinance. The governing body must also adopt a written investment policy to govern these investments. The policy must be at least as strict as that of the state funding board governing state investments in these instruments. These investments are not allowed until an ordinance has been passed authorizing them or the governing body has adopted a written policy.

Effective date: May 18, 2006.



Chapter No. 739 (SB 2930/HB 3476). Tax relief for elderly low-income, the disabled, and disabled veterans. Repeals T.C.A. § 67-5-701(j)(3), which limited a tax relief provision to Davidson County. As amended, this statute now allows all counties and municipalities to appropriate funds for tax relief for elderly low-income, disabled, and disabled veteran homeowners who are eligible for tax relief under state law. The tax relief provided cannot exceed the total taxes actually paid.

Effective date: May 23, 2006.

Chapter No. 740 (SB 3066/HB 2768). Exemption for leased religious, charitable, educational, scientific, or nonprofit educational property. Amends T.C.A. § 67-5-212(a)(1) to exempt property leased by one religious, charitable, scientific, or nonprofit educational institution to another under certain circumstances.

Effective date: May 23, 2006.

Chapter No. 770 (SB 3282/HB 3179). Industrial and business parks—exemption from certificate of public purpose and necessity for municipalities with a population of 300,000 or more; extension of duration of certificate for industrial parks. Amends T.C.A. § 9-21-105(21) relative to business parks and §§ 9-21-402 and 13-16-207 relative to industrial parks to eliminate the requirement for a certificate of public purpose and necessity for municipalities with a population of 300,000 or more that borrow money for the development of the park. The municipality's pledge of full faith and credit cannot exceed 10 percent of the total valuation of the property in the municipality. The municipality must state in its resolution that the project is well conceived, has a reasonable chance of success, will provide proper employment, and will not likely become a burden on the taxpayers.

Amends T.C.A. § 13-16-207(a)(2) to extend the duration of a certificate of public purpose and necessity for an industrial park from 12 to 36 months.

Effective date: May 26, 2006.

Chapter No. 771 (SB 3530/HB 3449). Trusts for nonpension post-employment benefits. Amends T.C.A. Title 8, Chapter 50, to enact the Other Post Employment Benefit Investment Trust Act of 2006. This act authorizes political subdivisions by resolution to establish an investment trust to prefund post-employment benefits such as medical, prescription drug, dental, vision, hearing, Medicare Part B or Part D, life insurance, long-term care, and long-term disability premiums.

The assets of the trust are irrevocable and may not be used for any other purpose. The assets, income, and distributions of the trust are protected against claims of creditors of the political subdivision, plan administrators, and plan participants, and are not subject to execution, attachment, garnishment, the operation of bankruptcy, or insolvency laws; and assignments are not enforceable.

The annual report, financial statements, and all books and financial records of a trust are subject to audit by the comptroller. With the comptroller's permission, the political subdivision may contract with an independent public accountant to do the audit. The contract with the auditor must be on a form prescribed by the comptroller. The political subdivision must pay the costs of the audit.

To establish a trust, the political subdivision must

- By action of the governing body establish a written plan of post-employment benefits;
- By action of the investment committee adopt in writing an investment policy;



- Ensure that the trust conforms to all applicable laws and rules of the Internal Revenue Service, if any; and
- Submit the trust documents, the written benefits plan, the investment policy, and other required information to the state funding board for approval.

After creating the trust, the governing body may invest funds as provided in the investment policy, contract for the necessary management, actuarial and financial services, and prepare and file financial reports and statements.

Effective date: May 26, 2006.

Chapter No. 781 (SB 3035/HB 3033). Financing mechanism for convention center and hotel in Nashville. Amends T.C.A. § 67-6-103(d)(1) to provide for a special sales tax allocation to retire debt for a new convention center and attendant hotel(s) in Nashville.

Amends T.C.A. § 7-88-106(b) to eliminate the limitation of only one tourism development zone for Nashville.

Effective date: May 25, 2006.

Chapter No. 847 (SB 3114/HB 3336). Definition of “certain unfunded pension obligations” changed. Amends T.C.A. § 9-21-105(3) to include in the definition of “certain unfunded pension obligations” pension benefits for the past service of employees of a local government whose pension benefits arise from a defined benefit pension plan that is closed to new participants and funded solely by contributions of the local government.

Effective date: June 2, 2006.

Chapter No. 874 (SB 3779/HB 3740). Model finance transaction policies; disclosure of information about financial transactions.

Amends T.C.A. § 9-21-151 in its entirety. As amended, the section

- Authorizes the State Funding Board to develop model financial transaction policies for municipalities and other public entities;
- Authorizes the board to exempt financial transactions from the filing requirements of this section that are *de minimus*, when the municipality is required by statute to participate in a financing program, that are a conduit for a nongovernmental entity, or where disclosure of costs is not consistent with the public disclosure intent of this section;
- Requires a public entity to disclose to the governing body and the director of local finance within 45 days after issuance or execution of a financial transaction the following: a brief description of the transaction, the costs of the transaction, any continuing disclosure requirements, a copy of the offering document, if any, and other information required by the board;
- Allows late filing when there is an initial failure to comply; and
- Requires the director of local finance to keep a list of transactions as well as public entities that fail to comply.

Repeals T.C.A. § 12-4-107, which required filing of fiscal agent and financial advisor contracts and prospectuses with the comptroller.

Effective date: July 1, 2006.



Chapter No. 923 (SB 3789/HB 3912). Filing of intergovernmental agreements; audits of intergovernmental entities; suits to recover misapplied funds. Amends T.C.A. Title 12, Chapter 9, Part 1, to require local governments that make an interlocal agreement that creates an intergovernmental entity to file the agreement with the comptroller within 90 days of execution. Requires existing such agreements to be filed within 120 days.

Amends T.C.A. § 29-20-401 to require insurance pools to be audited annually under standards set by the comptroller.

Amends T.C.A. § 12-4-101 to make the conflict of interest law apply to board members and officers of organizations that must have open meetings under T.C.A. § 8-44-102(b)(1)(E).

Amends T.C.A. § 8-6-109(a) to authorize the attorney general to file suit against board members and officers of organizations financed by public funds to recover funds that have been misapplied or misappropriated.

Effective date: June 20, 2006.

Chapter No. 963 (SB 3914/HB 4025). Appropriations act. Makes appropriations to defray the costs of state government.

Effective date: July 1, 2006.

Chapter No. 989 (SB 3970/HB 4056). State shared revenues restored. Amends various sections of T.C.A. Titles 57 and 67 to restore to local governments state shared sales tax, Hall income tax, bank tax, and alcoholic beverage tax revenues that had been diverted to the state.

Effective date: August 1, 2006.

Firefighting

Chapter No. 599 (SB 125/HB 597). Criminal background checks on firefighters. Adds T.C.A. § 68-102-308 to allow public and private employers of paid and volunteer firefighters to require a criminal background check on applicants or current employees or volunteers. An employer must have a policy on when background checks can be made on existing employees or volunteers. A background check of an applicant may be made only after an offer of employment has been made. The report must be maintained for the duration of employment plus one year. Access is limited to the chief, human resource officer, and supervisor. The report cannot become part of the employee's personnel file.

Fire personnel must provide past work history, agree to release investigative records and other information necessary to make a criminal background check, and supply a fingerprint. Costs of the background check must be paid by the employer, but the employer may require an employee or applicant to reimburse the costs.

Effective date: May 4, 2006.

Chapter No. 839 (SB 2627/HB 2919). Licensing of display fireworks exhibitors and certification of display fireworks operators; insurance requirement; local regulation. Adds a new part to T.C.A. Title 68, Chapter 104, establishing a state program of licensing of display fireworks exhibitors and a certification program for display fireworks operators. Requires exhibitors to carry a minimum of \$1 million in general liability insurance for the benefit of any person injured by a fireworks display. The fire marshal is required to maintain a list of current licensed exhibitors on the department's Web site.



Operators, the individuals who actually shoot the fireworks, must be trained and certified. It is unlawful for anyone other than a certified operator to perform a display using display fireworks. It is unlawful for exhibitors and operators to perform displays in violation of National Fire Protection Association provisions applying to these displays.

Municipalities may enforce local regulations relative to displays of display fireworks. Municipalities may also adopt the criminal provisions of the law, regardless of any other law, as an ordinance violation. Local ordinances may also regulate the storage of these fireworks.

The act creates a fireworks advisory council to be appointed by the fire marshal. The Tennessee Fire Chiefs Association is to submit a list of nominees from whom one will be appointed. One member must also be a local fire marshal.

This act does not regulate Class C or common fireworks in any way.

Effective date: June 2, 2006, for the purpose of promulgating regulations, conducting necessary examinations, issuing licenses and certificates, and making appointments to the advisory council. Provisions requiring exhibitors to be licensed and operators to be certified take effect on May 1, 2007.

Chapter No. 912 (SB 3315/HB 3566). In-line-of-duty death benefits for firefighters and police officers. Amends T.C.A. § 7-51-206 to allow a \$25,000 payment from the state general fund to the estate of a regular or full-time or unpaid volunteer firefighter or law enforcement officer killed in the line of duty.

Effective date: July 1, 2006.

Chapter No. 922 (SB 3718/HB 3792). Training for new assistants to the state fire marshal.

Amends T.C.A. § 68-102-108 to require persons appointed as assistants to the state fire marshal after June 20, 2006, to complete 16 hours of training at the fire service and codes academy within one year of being certified as an assistant. Training will include basic management skills as well as legal requirements for fire chiefs, fire cause determination, and fire service requirements.

Effective date: June 20, 2006.

Industrial and Economic Development

Chapter No. 670 (SB 3621/HB 3553). Loans or contributions to industrial development

corporations. Amends T.C.A. § 6-54-118 to allow municipalities to use borrowed funds to make a loan or contribution to an industrial development corporation in the county. Allows municipalities that are parties to interlocal agreements relative to jointly operated industrial parks to contribute to the corporation identified in the agreement the amount of property taxes the municipality receives from the park. Allows IDCs identified in an interlocal agreement to contribute revenues to the municipalities that are in excess of those needed to pay the expenses of developing and operating the park.

Effective date: May 15, 2006.

Chapter No. 770 (SB 3282/HB 3179). Industrial and business parks—exemption from certificate of public purpose and necessity for municipalities with a population of 300,000 or more; extension of duration of certificate for industrial parks. Amends T.C.A. § 9-21-105(21) relative to business parks and T.C.A. §§ 9-21-402 and 13-16-207 relative to industrial parks to eliminate the requirement for a certificate of public purpose and necessity for municipalities with



a population of 300,000 or more that borrow money for the development of the park. The municipality's pledge of full faith and credit cannot exceed 10 percent of the total valuation of the property in the municipality. The municipality must state in its resolution that the project is well conceived, has a reasonable chance of success, will provide proper employment, and will not likely become a burden on the taxpayers.

Amends T.C.A. § 13-16-207(a)(2) to extend the duration of a certificate of public purpose and necessity for an industrial park from 12 to 36 months.

Effective date: May 26, 2006.

Chapter No. 781 (SB 3035/HB 3033). Financing mechanism for convention center and hotel in Nashville. Amends T.C.A. § 67-6-103(d)(1) to provide for a special sales tax allocation to retire debt for a new convention center and attendant hotel(s) in Nashville.

Amends T.C.A. § 7-88-106(b) to eliminate the limitation of only one tourism development zone for Nashville.

Effective date: May 25, 2006.

Interlocal Cooperation

Chapter No. 923 (SB 3789/HB 3912). Filing of intergovernmental agreements; audits of intergovernmental entities; suits to recover misapplied funds. Amends T.C.A. Title 12, Chapter 9, Part 1, to require local governments that make an interlocal agreement that creates an intergovernmental entity to file the agreement with the comptroller within 90 days of execution. Requires existing such agreements to be filed within 120 days.

Amends T.C.A. § 29-20-401 to require insurance pools to be audited annually under standards set by the comptroller.

Amends T.C.A. § 12-4-101 to make the conflict of interest law apply to board members and officers of organizations that must have open meetings under T.C.A. § 8-44-102(b)(1)(E).

Amends T.C.A. § 8-6-109(a) to authorize the attorney general to file suit against board members and officers of organizations financed by public funds to recover funds that have been misapplied or misappropriated.

Effective date: June 20, 2006.

Law Enforcement

Chapter No. 520 (SB 596/HB 430). Use of blue flashing lights by reserve officers in Knox County.

Amends T.C.A. § 55-9-414 to allow reserve and auxiliary police officers of municipalities in Knox County who are operating a motor vehicle of a municipal police department and are in uniform and carrying appropriate identification issued by the police chief to use blue flashing lights or blue flashing lights in conjunction with red flashing lights.

Effective date: July 1, 2006.

Chapter No. 523 (SB 2653/HB 2650). Window tinting for law enforcement vehicles. Amends T.C.A. § 55-9-107 to exempt vehicles with commercial license plates or government service plates that are used for law enforcement purposes from restrictions on tinted windows for windows rear of the front doors.

Effective date: April 17, 2006.



Chapter No. 736 (SB 2714/HB 3122). Reports of animal abuse by child and adult protective service employees. Amends T.C.A. Title 38, Chapter 1, to require municipal employees of child and adult protective services agencies to report known or suspected cases of animal abuse the employee becomes aware of through the job. The name of the employee will be confidential. The act provides procedures for making the required reports.
Effective date: July 1, 2006.

Chapter No. 798 (SB 2691/HB 2957). Manufacture and sale of automatic knives; exchange of firearms. Amends T.C.A. § 39-17-1302(b) to make it a defense to a charge of possessing, transporting, or manufacturing a weapon that the person was involved in the manufacture and sale of an automatic knife if the sale was limited to law enforcement officers, military personnel, EMTs, or retail establishments that sell only to these people.

Amends T.C.A. § 13-17-1317(l) to allow exchanges of firearms by the Alcoholic Beverage Commission.
Effective date: July 1, 2006.

Chapter No. 833 (SB 2482/HB 2691). Automated victim notification system. Adds T.C.A. § 40-38-118, which requires the district attorneys general conference to establish an automated victim notification system. Requires law enforcement officers to cooperate.
Effective date: June 2, 2006.

Chapter No. 849 (SB 3189/HB 3188). Qualifications for jailers. Amends T.C.A. Title 41, Chapter 4, Part 1, to establish minimum qualifications for persons hired as county jailers but provides that they also apply to municipalities. Qualifications are similar to those for police officers. Appointing

unqualified applicants is a Class A misdemeanor punishable by a fine of up to \$1,000.

Effective date: July 1, 2006.

Chapter No. 912 (SB 3315/HB 3566). In-line-of-duty death benefits for firefighters and police officers. Amends T.C.A. § 7-51-206 to allow a \$25,000 payment from the state general fund to the estate of a regular or full-time or unpaid volunteer firefighter or law enforcement officer killed in the line of duty.

Effective date: July 1, 2006.

Chapter No. 917 (SB 3609/HB 3956). Criminal justice steering committee. Amends T.C.A. Title 16, Chapter 3, Part 8, to create the Integrated Criminal Justice Steering Committee attached to the Administrative Office of the Courts.

Effective date: July 1, 2006.

Mayor-Aldermanic Charter

Chapter No. 796 (SB 2836/HB 2878). Design review commission authorized. Amends T.C.A. § 6-2-201, part of the general law mayor—aldermanic charter, to authorize municipalities under that charter to create design review commissions. These commissions would develop general guidelines for the exterior appearance of all nonresidential property, multiple-family residential property, and entrances to nonresidential developments. The authority granted does not exceed that delegated to the planning commission. A property owner affected may appeal the design review commission's decision to the planning commission, or, if there is not one, to the governing body.

Effective date: May 26, 2006.



Motor Vehicles and Traffic

Chapter No. 562 (SB 2622/HB 2670).

Van-accessible parking spaces.

Amends T.C.A. § 55-21-105 to require persons and businesses required to provide parking spaces for the disabled to provide van-accessible parking spaces for parking spaces created after April 24, 2006. Parking spaces must comply with Americans with Disabilities Act accessibility guidelines.

Effective date: April 24, 2006

Chapter No. 580 (SB 3054/HB 3108). **Purchase of used vehicle in cities requiring emission testing.**

Amends T.C.A. § 55-17-114 to allow purchasers of used vehicles under a title retention agreement or conditional sales contract in cities requiring emission testing to require the vehicle to be tested prior to sale if the vehicle has not been tested within 90 days before the sale. Allows waiver of this requirement.

Effective date: May 4, 2006.

Chapter No. 581 (SB 3102/HB 3048). **Police escorts for funeral processions.**

Amends T.C.A. § 55-8-183 to clarify that funeral processions escorted by police vehicles have the right of way if the police vehicle has visual signals and is equipped with or displays an amber light accompanied by a blue light visible from in front of the vehicle.

Effective date: May 4, 2006.

Chapter No. 584 (SB 3243/HB 3711). **Flashing brake lights.** Amends T.C.A. § 55-9-402(b)(1) to allow flashing brake lights on vehicles other than motorcycles. Also allows the backup light to pulse or flash red when the driver is doing a panic stop.

Effective date: July 1, 2006.

Chapter No. 653 (SB 3433/HB 2537). **Penalty for failure to yield to emergency vehicle**

increased; local ordinances invalidated. Amends T.C.A. § 55-8-132 to increase the penalty for failure to yield to an emergency vehicle and for violating the move over law from a Class C misdemeanor to a Class B misdemeanor with a fine of from \$100 to \$500 and imprisonment for up to 30 days, or both. This invalidates all municipal ordinances requiring drivers to yield to authorized emergency vehicles.

Effective date: July 1, 2006.

Chapter No. 679 (SB 3559/HB 2814). **Motor vehicles with more than one driver.**

Adds T.C.A. § 55-10-118 providing that for a vehicle with more than one driver that is involved in an accident, only the driver contributing to the accident may be charged with a violation of the rules of the road.

Effective date: July 1, 2006.

Chapter No. 726 (SB 3314/HB 3154). **Attending driver school.**

Amends T.C.A. Title 55, Chapter 8, Part 1, to allow a person convicted of violating traffic laws and sentenced to driver school instead of or in addition to other penalties to attend the school in his or her county of residence rather than in the county where the citation was issued, at the discretion of the court.

Effective date: July 1, 2006.

Chapter No. 853 (SB 3702/HB 3678). **Radar jamming devices.**

Amends T.C.A. Title 39, Chapter 16, Part 6, to make it a misdemeanor to knowingly possess or sell a radar jamming device, to operate a vehicle with a radar jamming device, or to use a radar jamming device to elude traffic law enforcement. Radar jamming devices used in violation of this act are subject to seizure and destruction under court order.

Effective date: July 1, 2006.



Chapter No. 880 (SB 2603/HB 2595).

Litter pick-up by DUI offenders. Amends T.C.A. § 55-10-403 to provide that litter pick-up is a condition of probation rather than separate punishment. Allows a person with a limited purpose driver permit to go to and from litter pick-up appointments.

Effective date: June 15, 2006.

Open Meetings

Chapter No. 887 (SB 2471/HB 2495). Study committee on open meetings law.

Creates a special joint committee of 18 members to study the open meetings or Sunshine Law. The committee is made up of state legislators and representatives of local governments and media organizations. The committee will issue initial findings and recommendations by December 1, 2006, and make a final report by February 1, 2007, after which the committee is dissolved.

Effective date: June 20, 2006.

Personnel—General

Chapter No. 590 (SB 3606/HB 3603). Payroll deduction for health insurance premiums.

Adds T.C.A. § 50-1-308 to allow employers, including local governments, to provide payroll deduction of the employee's portion of health insurance premiums.

Effective date: July 1, 2006.

Chapter No. 599 (SB 125/HB 597). Criminal background checks on firefighters.

Adds T.C.A. § 68-102-308 to allow public and private employers of paid and volunteer firefighters to require a criminal background check on applicants or current employees or volunteers. An employer must have a policy on when background checks can be made on existing employees or volunteers. A background check of an applicant may be made only after an offer of employment has been made. The report must be maintained for the duration

of employment plus one year. Access is limited to the chief, human resource officer, and supervisor. The report cannot become part of the employee's personnel file.

Fire personnel must provide past work history, agree to release investigative records and other information necessary to make a criminal background check, and supply a fingerprint. Costs of the background check must be paid by the employer, but the employer may require an employee or applicant to reimburse the costs.

Effective date: May 4, 2006.

Chapter No. 764 (SB 1091/HB 1013). Notice of termination of medical insurance to separated or divorced spouse.

Adds T.C.A. § 56-7-2365 requiring policy holders of group policies of accident and sickness insurance that provide coverage for hospital or medical expenses and that also provide coverage to the spouse of the insured to provide at least 30 days notice before termination of coverage to the covered spouse when there is a divorce or legal separation or court papers have been filed. The notice must be in writing and sent by certified mail to the spouse's last known address. The notice must state that coverage under the group policy will be terminated and that to continue coverage the spouse has the option of COBRA coverage. Employers must include a notice of these provisions in plan summaries of group policies.

Effective date: January 1, 2007.

Chapter No. 771 (SB 3530/HB 3449). Trusts for non-pension post-employment benefits.

Amends T.C.A. Title 8, Chapter 50, to enact the Other Post Employment Benefit Investment Trust Act of 2006. This act authorizes political subdivisions to establish, by resolution, an investment trust to pre-fund post-employment benefits such as medical, prescription drug, dental, vision, hearing, Medicare



Part B or Part D, life insurance, long-term care, and long-term disability premiums.

The assets of the trust are irrevocable and may not be used for any other purpose. The assets, income, and distributions of the trust are protected against claims of creditors of the political subdivision, plan administrators, and plan participants, and are not subject to execution, attachment, garnishment, the operation of bankruptcy, or insolvency laws, and assignments are not enforceable.

The annual report, financial statements, and all books and financial records of a trust are subject to audit by the comptroller. With the comptroller's permission, the political subdivision may contract with an independent public accountant to conduct the audit. The contract with the auditor must be on a form prescribed by the comptroller. The political subdivision must pay the costs of the audit.

To establish a trust, the political subdivision must

- By action of the governing body establish a written plan of post employment benefits;
- By action of the investment committee adopt in writing an investment policy;
- Ensure that the trust conforms to all applicable laws and rules of the Internal Revenue Service, if any; and
- Submit the trust documents, the written benefits plan, the investment policy, and other required information to the state funding board for approval.

After creating the trust, the governing body may invest funds as provided in the investment policy, contract for the provision of necessary management, actuarial and financial services, and prepare and file financial reports and statements.

Effective date: May 26, 2006.

Chapter No. 849 (SB 3189/HB 3188).

Qualifications for jailers. Amends T.C.A.

Title 41, Chapter 4, Part 1, to establish minimum qualifications for persons hired as county jailers but provides that they also apply to municipalities. Qualifications are similar to those for police officers. Appointing unqualified applicants is a Class A misdemeanor punishable by a fine of up to \$1,000.

Effective date: July 1, 2006.

Personnel—Retirement

Chapter No. 847 (SB 3114/HB 3336). Definition of “certain unfunded pension obligations”

changed. Amends T.C.A. § 9-21-105(3) to include in the definition of “certain unfunded pension obligations” pension benefits for the past service of employees of a local government whose pension benefits arise from a defined benefit pension plan that is closed to new participants and funded solely by contributions of the local government.

Effective date: June 2, 2006.

Chapter No. 870 (SB 2968/HB 3287). Roth 401(k) authorized; other retirement provisions amended.

Adds T.C.A. § 8-25-305 to authorize political subdivisions that make available to employees a profit-sharing or salary-reduction plan under 401(k) of the Internal Revenue Code to adopt by resolution or ordinance the Roth 401(k) contribution feature.

Amends T.C.A. § 3-9-203 to require reports to the state Council on Pensions and Insurance on the status of local government retirement plans only upon request.

Amends T.C.A. § 8-35-111(b)(3)(B) similarly to eliminate state reporting for local retirement plans allowing participation in tax deferred programs.



Amends T.C.A. § 8-35-203(a)(2) to allow employees six months from the employer's participation date in TCRS to elect to establish previous service under another plan as creditable service under TCRS and one year to transfer sums to TCRS from the previous plan. An employee failing to make the election becomes ineligible. An employee establishing previous service may then establish additional periods of previous service. This provision applies only to employers joining TCRS after June 5, 2006.

Amends T.C.A. § 8-35-218 to make the withdrawal date for subdivisions that withdraw from TCRS July 1 rather than June 30.

Amends T.C.A. § 8-36-109(a) to provide that when a member's spouse is the beneficiary and the spouse dies leaving children who are 19 years old or younger, the annuity being received by the surviving spouse would accrue to the children until the child attains the age of 19, marries, or dies, whichever occurs first. The annuity would be paid to a full-time student until the student turns 22.

Amends T.C.A. § 8-36-501(c)(3) to remove an option of political subdivisions relative to years of creditable service used to calculate disability retirement.

Amends T.C.A. § 8-37-504 to establish a minimum penalty for employers who fail to forward payroll data or pay contributions to TCRS of \$25 for failure of each 30 days, with a maximum of \$150.

Effective date: July 1, 2006.

Chapter No. 982 (SB 3178/HB 3266). Optional retirement allowance increases. Amends T.C.A. Title 8, Chapter 36, Part 7, to allow increases in benefits for general employees, teachers, police officers, and firefighters at the option of the local

government. Increases authorized range from 10 percent for employees retired before July 2, 1975, to 0.3 percent for those retired between 1987 and 1989. The governing body of the local government must pass a resolution accepting liability for the costs of the increased benefits. This act also provides for annual cost of living increases in minimum retirement allowances.

Effective date: July 1, 2006.

Planning and Zoning

Chapter No. 524 (SB 2860/HB 2958). Height restrictions on scenic highway in Alcoa. Amends T.C.A. § 54-17-114(a)(2)(Q) to provide that the height restriction for buildings along scenic highways does not apply to property along the Pellissippi Parkway within Alcoa that is in a planned commercial zone or similar zone under Alcoa's zoning ordinance.

Effective date: April 17, 2006.

Chapter No. 547 (SB 2878/HB 2800). Combining of substandard lots without a survey. Repeals subsection (b) of T.C.A. § 13-3-402, which allowed a regional planning commission to combine substandard lots without a survey when there was a conveyance between adjoining property owners creating the substandard lots and either party requested this.

Effective date: April 24, 2006.

Chapter No. 644 (SB 3535/HB 3135). Amendments to subdivision plats; designee allowed to enter approval. Amends T.C.A. §§ 13-3-402 and 13-4-302 to prohibit county registers from recording an amendment, modification, or correction to a subdivision plat without the approval of the planning commission.



Provides that an easement or survey attached to an easement granted to the state, a county, municipality, metropolitan government, or any of their entities is not an amendment, modification, or correction of the plat.

Allows another designee of the planning commission, in addition to the secretary, to enter approval of the plat in writing on the plat.

Effective date: May 12, 2006.

Chapter No. 743 (SB 3155/HB 3438). Zoning provisions applicable to advanced treatment systems. Amends T.C.A. § 68-221-416 to provide that zoning requirements established by the municipality for a parcel apply to an advanced treatment system.

Effective date: July 1, 2006.

Chapter No. 796 (SB 2836/HB 2878). Design review commission authorized. Amends T.C.A. § 6-2-201, part of the general law mayor-aldermanic charter, to authorize municipalities under that charter to create design review commissions. This commission would develop general guidelines for the exterior appearance of all nonresidential property, multiple-family residential property, and entrances to nonresidential developments. The authority granted does not exceed that delegated to the planning commission. A property owner affected may appeal the design review commission's decision to the planning commission, or, if there is not one, to the governing body.

Effective date: May 26, 2006.

Purchasing

Chapter No. 610 (SB 3230/HB 3079). Increased limit on purchases requiring no advertisement or competitive bids. Amends T.C.A. § 6-56-305, part of the Municipal Purchasing Law of 1983, to allow municipalities, by ordinance, to increase the \$1,000

limit for which no advertisement or competitive bidding is required up to 40 percent of the amount established for purchases requiring advertisement and competitive bidding.

Effective date: May 4, 2006.

Chapter No. 664 (SB 3768/HB 3736). Competitive bidding limits for boards of education increased.

Amends T.C.A. § 49-2-203(a)(3) to increase from \$5,000 to \$10,000 the amount of a purchase by a local board of education before public advertisement and competitive bidding are required.

Effective date: May 12, 2006.

Chapter No. 814 (SB 3778/HB 3741). Most municipalities brought under the Municipal Purchasing Law of 1983. Amends

T.C.A. § 6-56-302(1), part of the Municipal Purchasing Law of 1983, to provide that a municipality is exempt because of charter provisions dealing with purchasing only if the charter provision itself, at a minimum, establishes dollar limits for competitive bidding, any exemptions from competitive bidding, and general bid procedures including, but not limited to, procedures regarding public advertisement and securing and opening bids.

Effective date: July 1, 2006.

Recreation

Chapter No. 595 (SB 3876/HB 3995). Recreation initiative grants. Amends T.C.A. § 11-9-202 to

provide that when there is no application for a recreation grant in a grand division, more than one grant can be made in another grand division. Also eliminates the requirement that grant and match funds be used to hire two part-time summer leaders and allows the employment of any needed staff. Requires the city to match \$50,000 from the state.

Effective date: May 4, 2006.



Chapter No. 673 (SB 3874/HB 3993). **Administrative fees deducted from local parks land acquisition fund.** Amends T.C.A. § 67-4-409(i) to allow the Department of Environment and Conservation to deduct up to 3.5 percent of amounts in the local parks land acquisition fund to cover its expenses in administering the fund. Provides that funds deposited in the fund do not revert to the general fund at the end of a fiscal year but remain in the fund accruing interest.

Effective date: May 15, 2006.

Solid Waste

Chapter No. 819 (SB 413/HB 139). **Protection of groundwater at landfills.** Amends T.C.A. § 68-211-105(g) to require an environmental assessment that includes an evaluation of the quality of groundwater beneath the proposed facility for new landfills. The applicant must show that the proposed facility is capable of protecting the groundwater.

Amends T.C.A. § 68-211-107 to require all solid waste disposal facilities to have a groundwater monitoring program and to report sampling results to the department at least once a year. If groundwater protection standards are not met, the facility must begin an assessment program in accordance with regulations and carry out corrective measures specified by the commissioner.

Amends T.C.A. § 68-211-116 relative to performance bonds for landfills to allow an agreement by the parties that, rather than forfeiture, the bond can include a requirement for immediate payment to the department.

Effective date: July 1, 2006.

Chapter No. 924 (SB 3835/HB 3829). **Solid waste study.** Amends T.C.A. Title 68, Chapter 211, to direct Tennessee State University and Middle Tennessee State University to conduct a solid waste study. They must report findings to the General Assembly by February 15, 2007.

Effective date: June 20, 2006.

Taxes—Adequate Facilities

Chapter No. 953 (SB 3839/HB 3469). **High-growth counties authorized to levy tax; act is exclusive authority for local governments.** Adds T.C.A. Title 67, Chapter 4, Part 29, to authorize high-growth counties and metropolitan governments to levy adequate facilities taxes for schools. Municipal officials issuing a building permit must forward a copy of the tax form to the county tax collector, or the county and municipality may agree that the municipality collect the tax for a commission.

New section 67-4-2913 provides that this act is the exclusive authority for local governments to adopt new or additional adequate facilities taxes. It does not affect the authority of municipalities or counties under existing private acts.

Effective date: June 20, 2006.

Taxes—Business

Chapter No. 583 (SB 3209/HB 3090). **Farmers providing services to farmers.** Amends T.C.A. § 67-4-708(3)(C) to exempt farmers providing services to other farmers from the business tax.

Effective date: May 4, 2006.

Taxes—General

Chapter No. 989 (SB 3970/HB 4056). **State shared revenues restored.** Amends various sections of T.C.A. Titles 57 and 67 to restore to local



governments state shared sales tax, Hall income tax, bank tax, and alcoholic beverage tax revenues that had been diverted to the state.

Effective date: August 1, 2006.

Chapter No. 1019 (SB 3930/HB 4048). Omnibus tax act. Amends various sections of T.C.A. Titles 6 and 67 to do the following:

- Grant tax credits and incentives to businesses;
- Expand the sales tax exemption for sales of vehicles to members of the armed forces;
- Exempt from sales taxes the use or repair of computer software that is developed or rendered by an affiliated company;
- Make changes needed to continue compliance as an associate member of the Streamlined Sales and Use Tax Agreement;
- Revise provisions on reimbursement of local governments for losses caused by sales tax holidays, but appears to make no substantial change;
- Expand the courthouse square revitalization pilot project to include two projects from each grand division;
- Abate the effectiveness of a section adjusting state gasoline; taxes based upon increases or decreases in federal petroleum taxes until July 1, 2008.
- Repeal a section requiring refunds of sales taxes to motion picture production companies;
- Establish another sales tax holiday from 12:01 a.m. on April 27, 2007, to 11:59 p.m. on April 29, 2007;
- Increase the annual income allowed for elderly low income and disabled persons to receive property tax relief to \$20,000 or an amount set in the appropriations act;
- Increase the reimbursement for elderly low income homeowners and disabled homeowners to include the first \$25,000 of market value

of the residence or another amount set in the appropriations act; and

- Increase reimbursement for disabled veterans based upon the first \$175,000 market value of residence.

Effective date: different dates for different provisions, but provisions affecting municipalities generally take effect on June 27, 2006.

Taxes—Property

Chapter No. 521 (SB 2037/HB 1837).

Aboveground storage tanks. Amends T.C.A. § 67-5-501(9)(B)(iii) to include as real property aboveground storage tanks that can be moved without disassembly and that are not affixed to the land.

Effective date: April 17, 2006.

Chapter No. 621 (SB 3776/HB 3743). Transfer of ownership from taxable to nontaxable use.

Amends T.C.A. § 67-5-201 to place the burden of property taxes and reporting on use on the owner who sells property that was taxable but is tax exempt under the new owner.

Effective date: May 5, 2006.

Chapter No. 734 (SB 1580/HB 197). Board of equalization in Shelby County.

Amends T.C.A. § 67-1-401(a)(1) to eliminate provisions requiring pay for members of the board of equalization in Shelby County, requiring legislative bodies appointing members to be responsible for pro rata funding, and allowing municipalities with populations of less than 50,000 to choose not to appoint a representative.

Effective date: May 23, 2006.



Chapter No. 739 (SB 2930/HB 3476). Tax relief for elderly low-income, the disabled, and disabled veterans. Repeals T.C.A. § 67-5-701(j)(3), which limited a tax relief provision to Davidson County. As amended, this statute now allows all counties and municipalities to appropriate funds for tax relief for elderly low-income, disabled, and disabled veteran homeowners who are eligible for tax relief under state law. The tax relief provided cannot exceed the total taxes actually paid.

Effective date: May 23, 2006.

Chapter No. 740 (SB 3066/HB 2768). Exemption for leased religious, charitable, educational, scientific, or nonprofit educational property. Amends T.C.A. § 67-5-212(a)(1) to exempt property leased by one religious, charitable, scientific, or nonprofit educational institution to another under certain circumstances.

Effective date: May 23, 2006.

Chapter No. 817 (SB 3804/HB 3911). Redemption of property. Amends T.C.A. § 67-5-2702(a) and (b) to require redemption to be done within one year from the date the property was sold, as evidenced by the order of confirmation, rather than one year after the entry of the order of confirmation of the tax sale.

Effective date: July 1, 2006.

Chapter No. 821 (SB 2733/HB 3285). Operational computer software included as computer. Amends T.C.A. § 67-5-903 to include all operational computer software as “computers” in Group 2 of the schedule of personal property for taxation of businesses. All other software is considered intangible property and not subject to tax as property.

Effective date: June 2, 2006.

Chapter No. 861 (SB 2699/HB 3395). Treatment of property held by exempt organizations in excess of allowable acreage; greenbelt treatment of inherited property. Amends T.C.A. § 67-5-212(o) to provide that land owned by a charitable, religious, etc., organization that is not necessary to support exempt structures and that is in excess of the 100 acres per county that may be exempt must be classified as forest land or open space land upon application.

Amends T.C.A. § 67-5-1008 to provide that greenbelt land passing to a lineal descendant on the death of the owner that causes the total greenbelt land of the new owner to exceed the maximum acreage is not subject to rollback taxes solely for that reason.

*Effective date: June 5, 2006;
applies to pending cases.*

Chapter No. 881 (SB 2931/HB 2963). Sale of property tax receivables in Davidson and Knox counties. Amends T.C.A. Title 67, Chapter 5, to allow the governing bodies of Davidson and Knox counties and municipalities in them, by resolution, to sell property tax receivables to public or private parties. Sales may be by parcel or in bulk. The municipality may establish criteria for purchasers. The governmental entity may not discharge, reduce, delay, or otherwise compromise the payment of sold tax receivables unless it pays to the purchaser the amounts reduced, delayed, or compromised. The tax collector must continue to enforce the collection of tax receivables that have been sold as if they had not been sold.

Effective date: June 19, 2006.



Chapter No. 884 (SB 1555/HB 1350). Property tax relief for disabled veterans and spouses.

Amends T.C.A. § 67-5-704 to increase the value of a disabled veteran's residence for which property tax relief is allowed from \$150,000 to \$175,000. Also allows relief for the surviving spouse of a disabled veteran if she or he does not remarry, solely or jointly owns the property, and uses the property exclusively as a home.

Effective date: Spouse provision takes effect on June 20, 2006; other provisions take effect for 2007 tax year.

Chapter No. 978 (SB 2764/HB 2777). Tax relief for disabled veterans' spouses.

Amends T.C.A. § 67-5-704 to extend tax relief to the spouses of deceased disabled veterans if the spouse does not remarry and uses the property exclusively as a residence.

Effective date: July 1, 2006.

Taxes—Sales

Chapter No. 781 (SB 3035/HB 3033). Financing mechanism for convention center and hotel in Nashville.

Amends T.C.A. § 67-6-103(d)(1) to provide for a special sales tax allocation to retire debt for a new convention center and attendant hotel(s) in Nashville.

Amends T.C.A. § 7-88-106(b) to eliminate the limitation of only one tourism development zone for Nashville.

Effective date: May 25, 2006.

Chapter No. 892 (SB 2657/HB 2614). Tennessee River Resort District expanded.

Amends T.C.A. § 67-6-103(a)(3)(F) to include a county with a population of less than 10,000 according to the

2000 federal or subsequent census that borders the Tennessee River and another county that is a resort district.

Effective date: June 20, 2006.

Chapter No. 975 (SB 2688/HB 2598). Exemption for sales by volunteer fire departments.

Amends T.C.A. § 67-6-102(a)(3)(B) to exempt sales of tangible personal property by volunteer fire departments from sales taxes if the items are sold during temporary sales periods that occur no more than four times a calendar year.

Effective date: July 1, 2006.

Urban Development

Chapter No. 999 (SB 3620/HB 3700).

Redevelopment and urban renewal plans.

Amends T.C.A. § 13-20-104 to allow housing authorities to provide consulting services to other housing authorities and to create both nonprofit and for-profit corporations to carry out their purposes. Also changes public notice requirements for public housing projects.

Amends T.C.A. § 13-20-203(b)(1) to clarify that a county whose property tax is affected by a tax increment financing provision must approve the redevelopment plan.

Amends T.C.A. § 13-20-203(b)(3)(A) to change public notice and publication requirements for redevelopment projects.

Amends T.C.A. § 13-20-205 to allow urban renewal plans to contain tax increment financing.

Amends T.C.A. § 13-20-205(a)(1) to change the method for calculating the base property tax for properties acquired that are subject to tax increment financing.



Amends T.C.A. § 13-20-205(e) to make it the responsibility of the housing authority rather than the municipal clerk or recorder to notify appropriate tax assessors of the land in the redevelopment area.

Effective date: June 27, 2006.

Utilities

Chapter No. 669 (SB 3358/HB 3329).

Requirements for advanced treatment systems in Blount, Greene, and Sevier counties.

Adds T.C.A. § 68-221-419, which allows wastewater treatment authorities created by Blount, Greene, and Sevier counties to enact requirements for the installation and operation of advanced treatment systems in those counties.

Effective date: May 15, 2006.

Chapter No. 686 (SB 3248/HB 2849). Notices and activities under the Underground Utility Damage Prevention Act.

Amends T.C.A. § 65-31-102(4) to exempt digging postholes on private property in any area that is not located within a recorded easement of an operator from the definition of “excavation” and therefore from the requirements of the notice and other provisions of the underground utilities act.

Amends T.C.A. § 65-31-105(a) to exempt operators who participate in a one-call service from filing notice with the register of deeds that the utilities exist.

Amends T.C.A. §§ 65-31-105 and 106 to allow notices to be sent and received by e-mail.

Amends T.C.A. § 65-31-106(b) to require the excavation area to be marked in white paint unless the precise area can be determined by the operator or agent by other means or there has been a meeting among all operators with utility facilities

in the area to exchange information on the location of the excavation.

Amends T.C.A. § 65-31-107(a) to eliminate the requirement that a one-call service must file with the register of deeds contact information for the service and participating operators.

Amends T.C.A. § 65-31-108 to require each operator participating in a one-call service that has been notified of an excavation to notify the service that it has marked the utilities or that it has no utilities in the area. When each operator has notified the one-call service, the person responsible for the excavation may proceed immediately notwithstanding the three-working-day requirement in T.C.A. § 65-31-106(a).

Amends T.C.A. § 65-31-111 to require damages to underground utilities to be calculated using generally accepted accounting principles.

Effective date: July 1, 2006.

Chapter No. 743 (SB 3155/HB 3438). Zoning provisions applicable to advanced treatment systems.

Amends T.C.A. § 68-221-416 to provide that zoning requirements established by the municipality for a parcel apply to an advanced treatment system.

Effective date: July 1, 2006.

Weapons

Chapter No. 798 (SB 2691/HB 2957). Manufacture and sale of automatic knives; exchange of firearms.

Amends T.C.A. § 39-17-1302(b) to make it a defense to a charge of possessing, transporting, or manufacturing a weapon that the person was involved in the manufacture and sale of an automatic knife if the sale was limited to law enforcement officers, military personnel, EMTs, or retail establishments that sell only to these people.



Amends T.C.A. § 13-17-1317(l) to allow exchanges of firearms by the Alcoholic Beverage Commission.

Effective date: July 1, 2006.

Workers' Compensation

Chapter No. 703 (SB 3453/HB 3846). Venue.

Amends T.C.A. § 50-6-225(a)(2) to provide that when a municipality or county and an injured employee cannot agree at a benefit review conference, either party may file a civil action in the county in which the governmental entity is located or the county in which the accident happened.

Effective date: July 1, 2006; applies to claims arising on or after that date.

Chapter No. 772 (SB 3631/HB 3670).

Reconsideration of specialist's order. Amends T.C.A. § 50-6-238(d) to allow reconsideration of a workers' compensation specialist's order by the administrator of the Division of Workers' Compensation or the administrator's designee. The written request for reconsideration of the order must be submitted to the administrator within seven days after the day the party received the order.

Effective date: May 26, 2006.

Chapter No. 778 (SB 3632/HB 3671). Refund of benefits paid.

Amends T.C.A. § 50-6-238(b) to establish procedures for a refund of benefits paid when a court determines the injury was not compensable. The entity that paid the benefits is not entitled to a refund until the claim is fully concluded. The employer or the employer's insurer must send a certified copy of the final court order to the Workers' Compensation Division to receive the refund.

Effective date: May 24, 2006.

Chapter No. 1014 (SB 3900/HB 4032). Failure to comply with specialist's order; filing of wage statements in serious accidents.

Amends T.C.A. § 50-6-238 to allow, rather than require, the commissioner of labor and workforce development to levy a civil penalty of \$10,000 against an employer or insurer who fails to comply with a specialist's order within 15 days of receipt.

Amends T.C.A. § 50-6-201 to require the employer or insurer in accidents in which the worker does not return to work within seven days or has a permanent impairment to file a wage statement with the department within 30 days detailing the employee's wages for the previous 52 weeks. The employer may stipulate that the maximum weekly comp rate applies. If the employer or insurer fails to file within the 30 days, the maximum compensation will apply. There is a provision for late filing.

Amends T.C.A. § 50-6-234(d) to eliminate the ability of the parties to waive a benefit review conference and thus end temporary disability payments for that reason.

Effective date: June 27, 2006.





MTAS

**Municipal Technical
Advisory Service**

*In cooperation with the
Tennessee Municipal League*

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