

# TENNESSEE PUBLIC ACTS 2009

## *Summaries of Interest to Municipal Officials*

Josh Jones, Legal Consultant

THE UNIVERSITY of TENNESSEE   
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.

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### MTAS OFFICES

Knoxville (Headquarters).....(865) 974-0411  
Johnson City .....(423) 854-9882  
(423) 282-0416  
Nashville.....(615) 532-6827  
Jackson .....(731) 423-3710  
Martin .....(731) 881-7055

[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

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### ALCOHOLIC BEVERAGES

**Chapter No. 208 (SB1947/HB1580). Retailers may not sell to persons visibly intoxicated.** Amends T.C.A. §§ 57-3-406 and 57-5-301 by stating that a retailer may not sell alcoholic beverages to any person who is visibly intoxicated or accompanied by a person who is visibly intoxicated. This revises the previous prohibition of selling to a person who is drunk or accompanied by a person who is drunk.

Also prohibits a person with a permit to sell beer from selling beer to any person who is visibly intoxicated.

*Effective July 1, 2009.*

**Chapter No. 273 (SB0944/HB1549). Grape and Wine Law amended.** Amends T.C.A. Title 57, Chapter 3, Part 2, in an attempt to bring the state's wine laws into compliance with the U.S. Constitution's commerce clause. Allows out-of-state wineries to be issued a Tennessee winery license. License allows a winery to manufacture wine, exchange wine in bulk with other wineries without constituting a taxable sale, sell juices and wine-related items on premises and participate in wine festivals. Removes the limits on the amount of wine that a winery may sell at retail, except that it retains the limit of five cases or 60 liters of wine per customer per day for in-state wineries.

*Effective May 21, 2009.*

**Chapter No. 314 (SB0531/HB0347). Background checks on beer permit applicants.** Amends T.C.A. § 57-5-103 by authorizing a city or a county to seek criminal history background or fingerprint checks on beer permit applicants. A city or county may enter into an agreement with the Tennessee Bureau of Investigation to conduct searches, and the bureau may assess a fee for the service.

*Effective July 1, 2009.*

**Chapter No. 348 (SB0166/HB1155). Direct shipper license for in- and out-of-state wine sales.** Amends T.C.A. Title 57, Chapter 3, by creating a state-issued direct shipper license allowing in- or out-of-state holders to ship wine to Tennessee residents over 21 years of age. Creates a felony offense for shipping wine without license.

*Effective for purposes of rulemaking May 21, 2009;  
for all other purposes effective July 1, 2009.*

**Chapter No. 434 (SB1184/HB0434). Alcohol in dry counties.** Amends T.C.A. Title 39, Chapter 17, Part 7, and Title 57, Chapter 3, by allowing the transport of up to five gallons of alcoholic beverages or wine for personal use in counties and municipalities and counties that have not permitted the sale of alcoholic beverages or wine. Authorizes transport in excess of five gallons if purchased from a licensed retailer, wholesaler or winery.

*Effective June 12, 2009.*



## ANIMALS

**Chapter No. 508 (SB0605/HB1603). Pet dogs allowed in certain outdoor dining areas.** Amends T.C.A. Title 6, Chapter 54, Part 1, by authorizing certain local governments to permit pet dogs in outdoor dining areas of restaurants. Local adoption permitted by ordinance in municipalities with a population of at least 100,000 and those in Blount, Sevier and Fentress counties.

Local ordinance must provide for compliance with state health laws and contain other health-related provisions.

*Effective July 1, 2009.*

## ANNEXATION

**Chapter No. 374 (SB0169/HB0309). Process for amending comprehensive growth plan revised.** Amends T.C.A. § 6-58-104(d) by allowing a growth plan to be amended after an initial three-year period following adoption. To propose an amendment, a city or county mayor must file notice with the county mayor and the mayor of each municipality in the county. Upon this notice, the county mayor must reconvene or re-establish the coordinating committee within 60 days. The committee must forward its recommendation either for or against to the county legislative body and the legislative body of each municipality in the county within six months of the date of the first meeting of the committee on the proposed amendment. The amendment becomes part of the growth plan upon approval by the governing bodies of the county and each municipality in the county and by the local government planning advisory committee.

*Effective June 9, 2009.*

## BOARDS, COMMISSIONS AND AUTHORITIES

**Chapter No. 59 (SB0059/HB0114). Nashville Regional Council powers.** Amends T.C.A. § 64-7-110. Allows Greater Nashville Regional Council to own and lease property as necessary to fulfill its duties and responsibilities.

*Effective April 2, 2009.*

**Chapter No. 84 (SB0445/HB0957). Industrial development corporation amendments.** Amends T.C.A., Title 7, Chapter 53, by permitting a municipal officer, city manager or chief administrative officer to serve as the director of a corporation jointly owned by two or more municipalities. Additionally, this bill allows an industrial development corporation to secure the indebtedness of its lessees.

*Effective April 27, 2009.*

**Chapter No. 158 (SB0653/HB1115). Revisions to laws governing regional megasite authorities.** Amends T.C.A. Title 13, Chapter 16, Part 2, and Title 64, Chapter 6, by revising numerous provisions relative to regional megasite authorities. Among the notable changes is the allowance of proximate but noncontiguous property to be part of the authority after establishment of the minimum 1,000 contiguous acres. Additionally, the bill limits municipal participation in an authority to the largest municipality in the megasite county and any contiguous county. Allows a municipality to delegate the authority to create a megasite authority to other entities, including an industrial development corporation. This bill also creates an alternative method for creating an authority by the Department of Economic and Community Development.

*Effective May 7, 2009.*



**Chapter No. 362 (SB1471/HB1263). Regional transportation authorities.** Amends T.C.A. Title 64, Chapter 8, by creating a new method for creating and operating regional transportation authorities (RTAs). The new method is available only to metropolitan governments with a population of not less than 200,000 or any combination of local governments having a combined population of not less than 200,000. The Regional Transportation Authority of Middle Tennessee will continue to operate under current law, unless its governing board votes to avail itself of the new provisions and such vote is ratified by each participating local government.

Under these new provisions, the creation of an RTA requires a resolution by each participating local government. The RTA is governed by a board with county, city and state representation. The RTA must develop an extensive plan for operation and expansion of mass transit services in the region. The plan must be consistent with the region's planning body and be reflective of the transportation goals and objectives of regional local governments.

The RTA is granted additional powers, including contract; sue and be sued; purchase, own, lease and sell property; use easements and rights of way held by state or local governments; establish local assessments; impose fees for services; secure loans; issue bonds; and create special districts. The provision to establish local assessments could present constitutional problems.

*Effective June 5, 2009.*

**Chapter No. 446 (SB0857/HB1122). Dissolution of airport authorities.** Amends T.C.A. Title 42, Chapter 3, Part 1, by creating a new method for dissolving an airport authority. A county legislative body that has created a municipal airport authority may dissolve that authority by a two-thirds vote if it determines such action to be in the best interest of the county. The resolution must state whether the governing body of the municipality shall become the governing body to operate the airport. Also provides new provisions for removing and appointing airport authority commissioners.

*Effective June 23, 2009.*

**Chapter No. 491 (SB1919/HB1468). Housing authority powers.** Amends T.C.A. § 13-20-202(a) by expanding the powers of local housing authorities to include paying the design and commissioning costs associated with meeting the standards of Leadership in Energy and Environmental Design (LEED), Green Globes or similar programs. Authorities also may pay energy efficiency costs associated with carrying out a redevelopment plan. States that authorities can install, construct or improve parks regardless of use.

*Effective June 23, 2009.*



## **BUILDING, UTILITY AND HOUSING CODES**

### **Chapter No. 114 (SB2048/HB0310). Suspended or abandoned construction.**

Amends T.C.A. Title 13, Chapter 21, Part 1, by creating a pilot project for cities in Williamson and Montgomery counties lasting until July 1, 2012. This project allows those municipalities, via ordinance, to find a structure unfit for human occupation or use due to suspended or abandoned construction.

Abandoned construction is where no good faith effort has been made to complete the construction for 180 days, and suspended construction is where the same is true for 60 days.

Upon an officer's finding that a structure's construction is unfit for human occupation or use due to suspended or abandoned construction, the municipality can use the procedures outlined in T.C.A. § 13-21-103, which include adopting an ordinance authorizing the repair, closing or demolishing the structure. However, if the public officer determines that the suspended construction creates conditions that are dangerous to the health or safety of neighboring residents, the general public or nearby structures, then the public officer is limited to ordering that construction resume or that the structure be boarded up and debris removed and any hazards otherwise neutralized. If the owner does not take action within 10 days, the municipality may cause the structure to be boarded and debris and hazards removed at the owner's expense.

*Effective May 5, 2009.*

### **Chapter No. 237 (SB2113/HB2041). Changes to rental properties unfit for habitation made permanent.**

Amends T.C.A. § 68-111-109 by making permanent the 2008 changes to the provisions governing rental properties unfit for habitation. The 2008 provisions included:

- Extending the time period from 10 to 14 days within which a building inspector or representative of the public health department is required to inspect a building immediately following the filing of a complaint alleging that premises are unfit for habitation;
- Complaint must be forwarded to tenant's landlord or landlord's agent via certified mail;
- Defining third-party complainant as a health care provider or public employee who, in the regular course of his duties, has been inside a premises occupied by a tenant;
- Removing the condition that a tenant be current on rental payments to file a complaint; and
- Specifying that the provision requiring the premises be in violation of minimum health standards subsequent to the filing of a complaint does not apply to rental agreements where the rent is assessed and collected monthly or a term greater than monthly.

*Effective May 20, 2009.*



**Chapter No. 268 (SB0059/HB0867). Certain signs exempted from architect requirement.** Amends T.C.A. § 62-2-102 by exempting certain signs from the requirement of having a registered architect or engineer prepare the plans and specifications. To be exempt, a sign must not exceed either of the following limits:

1. Any portion of the sign is 20 feet or more above ground level; or
2. Any portion of the sign is 15 feet or more above ground level if the sign has more than 120 square feet in total sign face area.

The exemption does not apply if, in the opinion of the local government building official, failure of the support system for the sign is likely to cause harm to people or property.

*Effective May 21, 2009.*

## **BUSINESS REGULATION**

**Chapter No. 149 (SB2107/SB2110). State pre-emption of the regulation of veterinary medicine.** Amends T.C.A. Title 63, Chapter 12, by stating the intent of the General Assembly to pre-empt the entire field of veterinary medicine. Local governments' regulations of the time and place of business operations generally still apply to veterinary businesses.

*Effective May 5, 2009.*

**Chapter No. 179 (SB1160/HB1108). Recyclers exempted from scrap metal regulation.** Amends T.C.A. § 38-1-201 by exempting any person, firm or corporation dealing solely in coins or recyclable aluminum cans from the regulations governing scrap jewelry and metal dealers.

*Effective May 7, 2009.*

**Chapter No. 269 (SB0582/HB0618). Social Security numbers on badges prohibited.** Amends T.C.A. § 47-18-2110 by prohibiting any person or entity engaged in business from requiring a consumer's Social Security number be printed on any card, badge or identification in order to receive a benefit, good or service. Where this is already required, entity will issue a new card, badge or identification at no charge.

*Effective May 21, 2009.*

**Chapter No. 282 (SB0913/HB0218). Further regulation of scrap jewelry and metal dealers.** Amends T.C.A. Title 38, Chapter 1, Part 2, by imposing new regulations on buyers and dealers of scrap metal and jewelry. Prohibits buying from any person under 18 years of age, any person who appears intoxicated, or any person known to be a thief or to have been convicted of larceny, burglary or robbery, without first notifying a police officer. Requires dealers to keep a log in duplicate recording the details of each item purchased, information on the buyer as verified by a government-issued identification, and the amount paid for each item. Transactions as reported in the log must be transmitted daily to the sheriff and the chief of police of each county or municipality in which the business is conducted. Person selling items must sign statement verifying that he or she is the lawful owner.

If party reports stolen item within 30 days of incident and has proof of ownership, law enforcement will take possession of item from dealer and return item to party showing proof, unless dealer has proof of ownership offered by seller. If party has proof of ownership and dealer has proof of ownership provided by seller, law enforcement will not take possession of item and will inform party of right to commence civil action.

*Effective July 1, 2009.*



**Chapter No. 465 (SB0651/HB0792). Regulation of private protective services.** Amends T.C.A. Title 62, Chapter 35, by requiring private protective service licensees to submit a form to local law enforcement where licensee is providing services. Form must include name, license number and armed status of each security guard and name of each client in the jurisdiction. Local law enforcement must report violations of licensees to the commissioner of commerce and insurance.

*Effective June 23, 2009,*

*for purpose of promulgating rules.*

*Effective January 1, 2010, for all other purposes.*

**Chapter No. 591 (SB0258/HB0386). Commercial Breeder Act.** Amends T.C.A. Title 47, Chapter 18, Part 1; Title 39, Chapter 14, Part 2; and Title 44, Chapter 17, by enacting the Commercial Breeder Act. Establishes state regulation and licensing of commercial breeders of dogs and cats. Defines commercial breeder as possessing or having under his or her control 20 dogs or cats for the purpose of selling as companion animals.

*Effective for purposes of rulemaking July 8, 2009.*

*Effective for all other purposes January 1, 2010.*

*Provisions of this act terminate on June 30, 2014.*

*Upon that date the comptroller is urged to study the success of the bill.*

## **CITY COURTS**

**Chapter No. 128 (SB0805/HB1554). Creation of city courts in home rule municipalities.** Amends T.C.A. Title 16, Chapter 17, Part 1, by stating that in each home rule city without a city court established by the General Assembly, a city court is established. Calls for an initial mayoral appointment of a judge who will serve until the next general election, when a judge will be elected. Clarifies that home rule municipalities with city courts whose divisions have been increased by the governing body and the new divisions have the same power as the previously existing divisions. Furthermore, new districts are under the same direction and control as provided in state law and local charter.

*Effective May 5, 2009.*

**Chapter No. 144 (SB2020/HB2015). Creation of city courts.** Amends T.C.A. § 16-18-302(a) by creating a city court in any city that does not have such a court that was established and ordained by the General Assembly.

*Effective May 5, 2009.*

**Chapter No. 146 (SB1810/HB1405). Creation of city court in cities with modified city manager-council charter.** Amends T.C.A. § 6-33-103 by legislatively creating a city court in every city with a modified city manager-council charter. Previously, such city courts were created by ordinance.

*Effective May 5, 2009.*

**Chapter No. 505 (SB0386/HB0730). Certain recorder judges allowed.** Amends T.C.A. Title 16, Chapter 18, Part 3, by allowing a person to hold concurrently the offices of city recorder and city judge if the city charter has a provision allowing such.

Also allows municipal judges who are authorized to practice law in Tennessee to substitute three hours of continuing legal education (CLE) for the three hours of required municipal judge training.

*Effective June 25, 2009.*



## CODE ENFORCEMENT

**Chapter No. 424 (SB1830/HB1847). Certificates of public nuisance.** Amends T.C.A. Title 13, Chapter 6, by allowing a court to award reasonable attorney fees to a prevailing party bringing a suit against the owner of an unoccupied residence who fails to maintain the exterior of the property and the lot to community standards.

Allows for a hearing if a code enforcement entity denies the issuance of a certificate of public nuisance. Action will be dismissed if the court opts not to issue a certificate of public nuisance. If the court finds that the issuance of a certificate of public nuisance is warranted, the court may issue an order or injunction barring transfer of the property at issue without a prior abatement of the nuisance and award reasonable attorney's fees and costs.

*Effective July 1, 2009.*

### **Public Chapter No. 529 (SB2300/HB2318).**

**Statewide energy codes.** Amends T.C.A. Titles 4, 12, 67, 68, and 71, by enacting the Tennessee Clean Energy Future Act of 2009.

Expands the rulemaking authority of the state fire marshal to include standards for energy efficiency.

Explicitly excludes state-mandated sprinklers for one- and two-family dwellings; however, allows local governments to adopt more stringent standards.

Establishes that the state standards apply to municipal, county, state and private buildings, including one- and two-family dwellings, unless otherwise provided by statute.

Local governments may pass a resolution by a two-thirds vote of the governing body, exempting one- and two-family dwellings in their jurisdiction from the application of the statewide standards.

A county's resolution cannot exempt a municipality within its borders.

The initial resolution may be adopted after July 1, 2009, to take effect on or later than July 1, 2010. Any such resolution expires 180 days following the date of the election next occurring after the adoption of the resolution. Earlier expiration date may be stated in the resolution. Hence, each new governing body must pass a resolution to continue the exemption.

Resolutions must be forwarded to the state fire marshal.

If a local government chooses to adopt and enforce codes for only one- and two-family dwellings or for all buildings other than one- and two-family dwellings or for no buildings at all, then the state fire marshal must enforce the statewide codes where the local government has not adopted and is not enforcing codes.

State standards do not apply to any buildings, other than state buildings, educational occupancies or any other occupancy requiring inspection for initial licensure, if the local government has chosen to adopt and enforce building codes of all buildings other than one- and two-family dwellings or for one- and two-family dwellings and,

1. For one- and two-family dwellings it has adopted the International Residential Code;
2. For construction other than one- and two-family dwellings it has adopted a building code consisting of the International Building Code and either the International Fire Code or the Uniform Fire Code; and

It is adequately enforcing its code and performing reviews of any construction plans and specifications and inspections required by the state fire marshal.



Statewide building standards apply if the local government's building code publications are not current within seven years unless otherwise approved by the state fire marshal. However, no publication can require a local government to adopt more stringent standards than required by the state or to adopt sprinkler requirements for one- and two-family dwellings.

Statewide standards do not apply to renovations of existing one- and two-family dwellings.

State fire marshal may appoint a local government employee or other qualified person as a commissioned deputy building inspector. These inspectors have the authority to enter any one- or two-family dwellings to make inspections and report the inspections in writing to the commissioner. When municipal employees are appointed, contracts between the commissioner and the city are required.

Deputy building inspectors must be state certified as:

1. Licensed building inspector;
2. Licensed plumbing inspector; or
3. Licensed mechanical inspector.

State must provide a program to ensure that one- and two-family dwelling inspection services are available statewide. State inspections must be performed within three days of the request. Footers must be inspected within one day of request.

Inspectors may inspect a one- and two-family dwelling construction upon a request from the owner, a licensed contractor, or the local government body. Inspectors may charge a fee for each inspection. State fire marshal to develop a schedule of fees.

*Effective July 1, 2010.*

## **CONTRACTS**

### **Chapter No. 518 (SB1577/HB1705).**

**Construction management contracts.** Amends T.C.A. § 12-4-106 by considering construction management as a professional service that can be procured without competitive bidding. Construction management includes preconstruction and construction administrative and management services. Anyone licensed as a general contractor, architect or engineer can serve as a construction management professional; although, a construction manager cannot provide actual construction work on a project where he or she serves as construction manager unless bids have been solicited twice and no bids have been submitted.

*Effective June 25, 2009.*

## **CRIMES AND CRIMINAL PROCEDURE**

### **Chapter No. 83 (SB0437/SB0748). Retail**

**merchandise theft.** Amends T.C.A., Title 39, Chapter 14, Part 7, by creating the new misdemeanor offense of possessing any tool, device, machine or implement with the intent to unlawfully circumvent, deactivate, interfere with or remove a retail merchandise security device.

*Effective July 1, 2009.*

### **Chapter No. 155 (SB0294/HB0302). Offense of using false identification for employment.**

Amends T.C.A. Title 39, Chapters 14, 17 and 50, by creating a new misdemeanor offense of knowingly manufacturing, providing, transferring or submitting false identification for the purpose of obtaining or maintaining employment. For purposes of this offense, false identification is defined as a document that was issued by a governmental entity and was subsequently altered or appears to have been issued by a governmental entity but, in fact, was not.

*Effective July 1, 2009.*



**Chapter No. 194 (SB0474/HB0070). Use of deadly force.** Amends T.C.A., Title 39, Chapter 11, Part 6, relative to defenses to criminal responsibility. Prior to the effective date of this bill, a person is not justified in using deadly force to prevent another's trespass on real estate or unlawful interference on property. This bill states that this provision does not apply if a person is justified in using deadly force for defense of oneself or another person. This bill also justifies the use of deadly force against a person who is prohibited by court order from entering a business.

*Effective July 1, 2009.*

**Chapter No. 195 (SB0383/HB0411). Coach Willard Ross Act.** Amends T.C.A. Title 39, Chapter 17, Part 13, by enacting the Coach Willard Ross Act of 2009. Creates a misdemeanor offense of purchasing or attempting to purchase a firearm when the purchaser knows that he or she is prohibited by state or federal law from owning, possessing or purchasing a firearm. Also creates a misdemeanor offense of selling or attempting to sell a firearm to a person when the seller knows such person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

*Effective July 1, 2009.*

**Chapter No. 241 (SB0388/HB0522). Offense of escape broadened.** Amends T.C.A. § 39-16-605 by expanding the definition of the offense of escape to include escaping the lawful custody of a law enforcement officer.

*Effective July 1, 2009.*

**Chapter No. 267 (SB1587/HB1519). Gambling devices legal for out-of-state use.** Amends T.C.A. Title 39, Chapter 17, Part 5, by making it legal to own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device so long as it is intended for use solely out of this state and meets federal standards. Requires registration with U.S. Attorney General. Removes provision from definition of gambling device that excludes computer software that cannot be used for gambling until the software is incorporated into a gambling device, at which time possession is illegal.

*Effective May 20, 2009.*

**Chapter No. 274 (SB1168/HB1228). Offense of falsely wearing military decoration.** Amends T.C.A. Title 58, Chapter 1, Part 1, by creating the offense of wearing or displaying any U.S. military or Tennessee Military Department badge, decoration or medal with the intent to deceive or misrepresent that the person is authorized under law or regulation to wear or display the badge, decoration or medal. Also an offense to falsely represent, orally or in writing, that such person has been awarded any decoration or medal by the U.S. Congress or the Tennessee Military Department.

*Effective May 21, 2009.*

**Chapter No. 276 (SB1517/HB1527). Offense of disseminating any autopsy material.** Amends T.C.A. § 38-7-119 by making it a misdemeanor offense to distribute, publish or otherwise disseminate any autopsy photographs, videotape or other visual image or any autopsy audio recording without the written consent of the next of kin or personal representative of the deceased. Offense is punishable with incarceration if government employee releases this information for pecuniary gain.

*Effective July 1, 2009.*



**Chapter No. 307 (SB1665/HB1429). Serious bodily injury defined.** Amends T.C.A. § 39-11-106(a) (34) by expanding the definition of “serious bodily injury” under Title 39 to include a broken bone of a child who is 8 years of age or less.

*Effective July 1, 2009.*

**Chapter No. 324 (SB0534/HB0355). Post-accident blood alcohol level tests required.** Amends T.C.A. § 55-10-406 by requiring a law enforcement officer to see that a driver of a vehicle involved in an accident resulting in the injury or death of another person is tested to determine the alcohol or drug content of the driver’s blood if the officer has probable cause to believe the driver committed:

1. Driving under the influence;
2. Vehicular assault;
3. Vehicular homicide; or
4. Aggravated vehicular homicide.

Testing does not require driver consent, and results are admissible by either party in any court or administrative hearing relating to the accident or offense.

*Effective July 1, 2009.*

**Chapter No. 325 (SB0066/HB0516). Public housing fraud.** Amends T.C.A. Title 39, Chapter 11, Part 1, and Title 39, Chapter 14, Part 1, by expanding the definition of “services” in the offense of theft of services to include any “other activity or product considered in the ordinary course of business to be a service.”

Also creates new offense of using a false statement, representation or impersonation, or knowingly concealing any material fact to obtain accommodations or a reduction in rent in public housing.

*Effective July 1, 2009.*

**Chapter No. 347 (SB0113/HB0484). Offense of harassment expanded.** Amends T.C.A. § 39-17-308 by making it an offense to communicate with another person without legitimate purpose:

1. With the malicious intent to frighten, intimidate or cause emotional distress; or
2. In a manner the defendant knows, or reasonably should know, would frighten, intimidate or cause emotional distress to a similarly situated person of reasonable sensibilities; and the person is frightened, intimidated or emotionally distressed.

*Effective July 1, 2009.*

**Chapter No. 387 (SB1243/HB0815). Laser pointer offenses.** Amends T.C.A. § 39-16-515 by expanding the offense of pointing a laser pointer at a law enforcement officer, making it illegal to point a laser pointer at a firefighter, emergency medical technician or other emergency service personnel while that individual is actively engaged in the performance of his or her duties. Pointing must be with the intent to place the individual in fear of serious bodily injury or death.

*Effective July 1, 2009.*

**Chapter No. 390 (SB1419/HB1210). Warrants issued upon LEA employees.** Amends T.C.A. Title 40, Chapter 6, Part ,2 by requiring the written approval of the district attorney prior to the issuance of arrest warrant for an LEA employee where the affiant is the parent of a child who is the alleged victim and the LEA employee had supervisory or disciplinary power over the child.

*Effective July 1, 2009.*



**Chapter No. 394 (SB1831/HB1541). Offense of aggravated assault against a public employee or employee of a transportation system.** Amends T. C.A. § 29-13-102 by creating a classification of aggravated assault specific to an assault against a public employee or an employee of a public or private transportation system authorized by state law, when the employee is performing a duty within the scope of his or her employment.

*Effective June 9, 2009.*

**Chapter No. 412 (SB0539/HB0351). Assault against law enforcement officers.** Amends T.C.A. Title 39, Chapter 13, Part 1, by creating enhanced penalties for the offenses of assault and aggravated assault against a law enforcement officer.

*Effective July 1, 2009.*

**Chapter No. 414 (SB0869/HB0620). Indecent exposure redefined.** Amends T.C.A. § 39-15-511(b)(1)(B) by stating that a person over 18 years of age commits indecent exposure if in his or her own residence by knowingly masturbating or exposing the person's genitals, buttocks or female breasts in the presence of a child under 13 years of age.

No prosecution for the aforementioned offense will be commenced based solely on the uncorroborated testimony of a witness who has a relationship with the accused as defined by the domestic abuse provisions of T.C.A. § 36-3-301.

*Effective July 1, 2009.*

**Chapter No. 418 (SB1666/HB1201). Child endangerment by neglect.** Amends T.C.A. Title 39, Chapter 15, Part 4, by creating the offense of child endangerment, defined as when a parent of a child eight 8 years of age or less exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury to the child. Also amends provisions dealing with aggravated child neglect and aggravated child endangerment.

*Effective July 1, 2009.*

**Chapter No. 455 (SB0314/HB1225). Domestic violence offenders to turn over firearms.** Amends T.C.A. Title 36, Chapter 3, Part 1, and Title 39, Chapter 17, Part 13, by requiring the respondent to an order of protection that complies with the provisions of U.S.C. § 922(g)(6) to transfer, within forty 48 hours, possession of all firearms in respondent's possession to a third party who is not prohibited from possessing firearms. Respondent is prohibited from possessing any firearm while the order of protection is in effect. Violation is a Class A misdemeanor.

*Effective July 1, 2009.*

**Chapter No. 510 (SB0510/HB0714). Criminal trespassing statute amended.** Amends T.C.A. § 39-14-405 by redefining criminal trespass as entering or remaining on property without the consent of the owner. Consent may be inferred where property is used for commercial activity available to the general public or where the owner has communicated his or her intent that the property be open to the public.

Exception created for entering or remaining on railroad or utility right-of-way property for agricultural activity by an adjoining landowner. Exception does not apply for recreational and educational activities or where adjoining landowner has been notified to cease activity.

*Effective July 1, 2009.*



**Chapter No. 564 (SB0038/HB0564). Offense of allowing an underage adult to consume alcohol.**

Amends T.C.A. § 39-15-404(a) by creating the offense of knowingly allowing a person who is at least 18 but less than 21 to consume alcohol on property one owns, occupies or has exclusive use of.

*Effective July 1, 2009.*

**Chapter No. 597 (SB0511/HB112). Amendments to restrictions on where sexual offenders may reside, work or visit.**

Amends T.C.A. Title 40, Chapter 39, Part 2, by making various changes to the restrictions on where sexual offenders may reside, work or visit. Among other changes, this bill extends the current prohibitions on school grounds to the premises of any building or grounds of any public school, private or parochial school, licensed daycare center, or other childcare facility, public park, playground, recreation center, or public athletic field available for use by the general public.

*Effective July 1, 2009.*

**ECONOMIC DEVELOPMENT**

**Chapter No. 180 (SB1667/HB1211). Central business improvement district project.**

Amends T.C.A. § 7-53-101(13)(B)(i) by expanding the definition of “project” in a central business improvement district to include also any hotel, motel or apartment building located within the “center city area” as designated by resolution or ordinance. In any municipality the term “project” is expanded to include also any hotel, including related conference/convention center facilities or motel within an area that could provide substantial sources of tax revenues or economic activity to the municipality. This will allow industrial development corporations to issue bonds for the construction of these facilities.

*Effective May 7, 2009.*

**Chapter No. 608 (SB0517/HB1749). Economic and Community Development to allocate funds.**

Authorizes the Department of Economic and Community Development to allocate on behalf of the state the portions of the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation that are allocated to counties and large municipalities pursuant to federal law.

For purposes of when a local government can issue general revenue bonds, expands the definition of “public works project” to include:

1. Facilities or capital expenditures paid or incurred with respect to property located in a recovery zone, as defined in the Internal Revenue Code, that are made for a qualified economic development purpose; and
2. Facilities or expenditures paid or incurred for qualified conservation purposes in connection with the issuance of qualified energy conservation bonds.

Other various economic development provisions.

*Effective July 9, 2009.*

**EDUCATION**

**Chapter No. 38 (SB0073/HB0921). Commercial advertising on school buses.**

Amends T.C.A. § 49-6-2109(e). Removes certain restrictions on commercial advertising on school buses. Such advertising may now be up to 16 inches high and up to 60 inches long and must be composed solely of lettering on a background color. May not advertise alcohol, tobacco or items offered for sale in K-8 vending machines.

*Effective July 1, 2009.*



**Chapter No. 127 (SB0850/HB1552). Restrictions on mental health testing imposed.** Amends T.C.A. Title 9, Chapter 4, and Title 4, Chapter 2, Part 1, by requiring written parental consent to universal mental health or socioemotional screening of a child under the age of 16. Creates exceptions for emergency situations. States that an LEA may not use a parent's refusal to consent as grounds for prohibiting the child from attending class or participating in a school-related event. Requires LEA to adopt policies and notify each parent or guardian of rights under state and federal law.

*Effective July 1, 2009.*

**Chapter No. 153 (SB0283/HB0451). LEA harassment/bullying policies.** Amends T.C.A. § 49-6-1016 by requiring LEAs to include certain criteria in their mandatory policies regarding harassment, intimidation or bullying. Current law merely encourages these criteria.

*Effective July 1, 2009.*

**Chapter No. 192 (SB2326/HB2258). Graduation from alternative school.** Amends T.C.A. § 49-6-3402 by removing the prohibition on graduation based solely on attendance in alternative schools.

*Effective May 7, 2009.*

**Chapter No. 193 (SB2327/HB2257). Transporting students via 15-passenger van prohibited.** Amends T.C.A. § 49-6-2116 by removing authorization for LEAs to transport students to and from interscholastic activities via passenger van. Apparently enacted to ensure compliance with federal standards.

*Effective May 7, 2009.*

**Chapter No. 226 (SB2328/HB2293). LEA contracts with non-school entities for prekindergarten services.** Amends T.C.A. § 49-6-101(f)(3) by revising the provisions allowing an LEA to contract with a non-school entity for prekindergarten or early childhood education programs. Now, an LEA may not contract with one of these entities unless the entity has attained the highest designation under the DHS licensing system.

*Effective May 18, 2009.*

**Chapter No. 254 (SB1514/HB1683). Teacher retirement provisions extended.** Amends T.C.A. § 8-36-821 by extending until June 30, 2010, the provisions allowing retired teachers to accept employment as a teacher without loss or suspension of retirement benefits.

*Effective May 20, 2009.*

**Chapter No. 262 (SB2312/HB2321). Various education provisions amended.** Amends T.C.A. Title 49 by removing requirement that students pass Tennessee comprehensive assessment program tests as a prerequisite to graduation. Provides instead for end-of-course assessments.

*Effective July 1, 2009.*

**Chapter No. 272 (SB0899/HB0896). School year length requirements waived for natural disaster.** Amends T.C.A. § 49-6-3004(a) by allowing the commissioner of education to waive the requirement of 180 days classroom instruction per school year in cases of natural disaster or serious outbreak of illness. Request is made by director of schools.

*Effective May 21, 2009.*



**Chapter No. 283 (SB0417/HB0324). LEA reporting requirements for abuse.** Amends T.C.A. Title 49, Chapter 6, and Title 37, Chapter 1, by stating that when a teacher, school official or other personnel with knowledge or reasonable cause to suspect that a student may be a victim of child abuse or sexual abuse and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, the principal or designee must verbally notify the parent or legal guardian of the child that a report has been made and provide other information relevant to the child's future well being. Verbal notice must be made in coordination with the Department of Children's Services and within 24 hours of the report. No report is made if parent is the alleged perpetrator.

Upon request, the school must provide parent with all information and records relevant to the report; however, the person making the report must remain confidential.

*Effective July 1, 2009.*

**Chapter No. 291 (SB0251/HB0375). Archival Protection Act of 2009.** Amends T.C.A. Title 49, Chapter 2, Part 1, by enacting the Archival Protection Act of 2009, which requires an LEA, upon the decision to close a school, to hire a professional archivist to review all property for historical significance. The LEA is then encouraged to preserve such property.

*Effective May 27, 2009.*

**Chapter No. 315 (SB1742/HB0374). Written referral procedure.** Amends T.C.A. Title 49, Chapter 6, Part 41, by requiring a written referral made by a school faculty or staff member regarding student behavior to be returned to that staff or faculty member with a notation of the action taken. Referral is not part of the student's permanent record.

*Effective July 1, 2009.*

**Chapter No. 329 (SB0433/HB0431). Home school diplomas recognized.** Amends T.C.A. Title 1, Chapter 3, Part 1, by requiring all state and local government entities to consider a home school diploma awarded pursuant to state law as having the same rights and privileges as a public school diploma.

*Effective June 1, 2009.*

**Chapter No. 331 (SB0217/HB0230). Student transfers in Shelby County.** Amends T.C.A. Title 49, Chapter 6, Parts 31 and 32, by allowing any board of education in Shelby County to delegate the authority to make decisions regarding student transfers to a three-member committee, subject to final decision of the board.

*Effective June 1, 2009.*

**Chapter No. 353 (SB0718/HB1643). Dismissal hearings of tenured teachers in Memphis.** Amends T.C.A. § 49-5-512(c)(1) by allowing a tenured teacher in Memphis who receives notification of dismissal charges to demand, within 30 days, a hearing on the charges.

*Effective July 1, 2009.*

**Chapter No. 360 (SB1446/HB1560). Dismissal and suspension hearings of tenured teachers in Metropolitan Nashville.** Amends T.C.A. § 49-5-512(c)(1) by allowing a tenured teacher in Metropolitan Nashville who receives notification of dismissal or suspension charges to demand, within 30 days, a hearing on the charges.

*Effective July 1, 2009.*

**Chapter No. 371 (SB2192/HB2194). Special school districts post consolidation.** Amends T.C.A. Title 7, Chapters 2 and 3, by amending the metropolitan charter requirements to provide that if one or more special school districts are operating in the county then the charter need not require school consolidation.

*Effective June 5, 2009.*



**Chapter No. 436 (SB0023/HB0092). School buses used for 15 years.** Amends T.C.A. § 49-6-2109 by allowing the state Board of Education to permit Class D school buses to be used for a period of 15 years and additional years under certain conditions. Must comply with certain inspection requirements.

*Effective July 1, 2009.*

**Chapter No. 490 (SB1771/HB1104). Student absences due to court proceedings.** Amends T.C.A. § 49-6-3002 by requiring student absences pursuant to a court summons to be excused absences. Not applicable where student is delinquent and charged in a criminal court.

*Effective June 23, 2009.*

**Chapter No. 514 (SB1320/HB1868). School cooperation with community organizations.** Amends T.C.A. § 49-2-203(b) by authorizing local boards of education to cooperate with community organizations in offering extended learning opportunities.

*Effective June 25, 2009.*

**Chapter No. 555 (SB2133/HB2146). Charter school expansion.** Amends T.C.A. Title 49, Chapter 13, by expanding charter school eligibility to include students who are eligible for free or reduced-price lunch and who are enrolled in an LEA that has an average daily membership of 14,000 students or more and three or more schools that have missed the same benchmark for adequate yearly progress for two consecutive years. Any LEA may choose by two-thirds vote of the local board of education to allow students eligible for free or reduced-price lunch to be eligible for charter schools.

Makes other various changes to the provisions governing charter schools.

*Effective June 29, 2009.*

## **EMERGENCY SERVICES**

**Chapter No. 257 (SB1714/HB1679). Fire departments, law enforcement facilities and emergency services facilities to accept abandoned infants.** Amends T.C.A. § 68-11-255(a) (1) by expanding the definition of facility, for the purposes of the provisions allowing a mother to voluntarily drop off certain infants, to include fire departments, law enforcement facilities and emergency services facilities that are staffed 24 hours a day. Person dropping off infant must purport to be the child's mother and express no intention of returning for the child. Infant must be or appear to be no more than 72 hours old. Facility and employees are provided immunity from criminal and civil liability arising from any action taken in complying with the law. Mother is provided immunity from criminal prosecution for abandonment if these provisions are complied with fully.

*Effective May 20, 2009.*

**Chapter No. 332 (SB0523/HB1832). Privileged communications between critical incident stress teams and crisis victims.** Amends T.C.A. Title 24, Chapter 1, Part 2, by creating a testimonial privilege for communications between persons providing or participating in a crisis intervention. Privilege does not apply where a danger, abuse or a tort exists or where the privilege is waived.

*Effective July 1, 2009.*

**Chapter No. 453 (SB0207/HB0106). Ambulance standards imposed.** Amends T.C.A. § 68-140-507(a) by requiring the Emergency Medical Services Board to promulgate standards for ambulances and invalid vehicles and for equipment requirements. Vehicle rules must include restrictions on mileage and mandatory inspections.

*Effective June 23, 2009.*



## ENVIRONMENT

**Chapter No. 73 (SB2066/HB1912). Landfill Methane Development Act revisions.** Amends Title 65, Chapter 28, Part 2, by requiring natural gas containing refined landfill methane to be considered natural gas for purposes of any state permit.

*Effective July 1, 2009.*

**Chapter No. 199 (SB0185/HB0341). Private landfills exempted from local approval.** Amends T.C.A. § 68-211-706(a) by amending exemption for certain private landfills from local approval requirements. To be exempt the private landfill must accept solid waste generated solely by its owner, such waste must be generated solely within the county, and the landfill must not accept county or municipal waste or ordinary household garbage.

*Effective May 19, 2009.*

**Chapter No. 271 (SB0881/HB1245). Alternatives required for certain permit applicants.** Amends T.C.A. Title 69, Chapter 3, Part 1, by requiring applicants for permits that would authorize a new or expanded wastewater discharge into surface waters to include in their application consideration of alternatives including, but not limited to, land application and beneficial reuse of the water. Authorizes the Water Quality Control Board to adopt rules creating a system of incentives for alternatives, such as land application and beneficial reuse of the wastewater.

*Effective May 21, 2009.*

**Chapter No. 330 (SB1312/HB1619). CAFO permits.** Amends T.C.A. § 69-3-108(b)(7) by specifying that only operations that are required under the federal Clean Water Act to have a permit for the construction, installation or operation of a concentrated animal feeding operation (CAFO) may be issued a National Pollutant Discharge Elimination System (NPDES) permit.

*Effective June 1, 2009.*

**Chapter No. 382 (SB2184/HB0435). Litter control programs.** Amends T.C.A. § 39-14-510 by designating the county mayor as the administrative officer for litter control provisions. County mayor is authorized to disburse funds appropriated for litter control to carry out enforcement, prevention and education programs. Also authorizes agreements between a county and cities therein to assist in carrying out litter provisions.

*Effective July 1, 2009.*

**Chapter No. 402 (SB2305/HB2294). Revolving loan funds.** Amends T.C.A. Title 68, Chapter 221, Parts 10 and 12, by requiring the Department of Environment and Conservation to deposit into the drinking water revolving loan fund any funds from the federal American Recovery and Reinvestment Act of 2009.

Allows the department and the local development authority to make loans and subsidize loans made to local governments for wastewater facilities or the program for loans to water systems with these funds.

*Effective June 9, 2009.*

**Chapter No. 464 (SB0632/HB1615). Wet weather conveyances.** Amends T.C.A. Title 69, Chapter 3, Part 1, by allowing the alteration of a wet weather conveyance without notice or approval if:

1. The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife;
2. Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area;
3. Sediment shall be prevented from entering other waters of the state; and
4. Appropriate steps are taken to ensure that petroleum products and other chemical pollutants are prevented from entering any waters of the state.

*Effective June 23, 2009.*



## ETHICS

**Chapter No. 162 (SB0162/HB0506). Bureau of Ethics and Campaign Finance created.** Amends T.C.A. Title 4 by merging the Tennessee Registry of Election Finance and the Tennessee Ethics Commission into a new entity called the Bureau of Ethics and Campaign Finance. The bureau has its own board and a single executive director. Powers and duties of dissolved entity are transferred to the bureau. All local government filings required with the Ethics Commission will now be filed with the bureau.

*Effective June 30, 2009.*

## FINANCE

**Chapter No. 173 (SB0414/HB0273). Internet auctions allowed.** Amends T.C.A. Titles, 5, 6 and 7, by stating that when any municipality or county is required by law to sell surplus property by auction, Internet auction is allowed.

*Effective May 7, 2009.*

**Chapter No. 223 (SB2044/HB1977). Authority to sell bonds at a private sale.** Amends T.C.A. § 9-21-152 by authorizing Hamilton, Knox, Davidson and Shelby counties, as well as the municipalities designated as the county seat of those counties, to sell bonds at a private sale subject to local approval.

Terms and conditions of the sale may be determined by the individual local government. This authority exists until June 30, 2010.

*Effective May 18, 2009.*

**Chapter No. 525 (SB2120/HB2186). Tennessee Transportation State Infrastructure Fund Act.** Amends T.C.A. Title 4, Chapter 31, by creating the Tennessee transportation state infrastructure fund under the Department of Finance and Administration in the Treasury. Serves as a central repository for federal, state and other monies to be used for loans to qualifying entities, including municipalities, for eligible transportation projects. Eligible projects include streets, highways, bridges, tunnels, railways, ports, mass transit, parking facilities, etc. Department of Transportation reviews proposed projects to determine eligibility.

*Effective July 1, 2009.*

## FIREFIGHTERS

**Chapter No. 512 (SB0878/HB1246). Minimum training requirements for firefighters.** Amends T.C.A. Title 4, Chapter 24, Part 1, by requiring any full-time, part-time or volunteer firefighter hired or accepted as a firefighter on or after July 1, 2009, to meet the following requirements:

1. Completion of at least 16 hours of training in firefighting procedures and techniques developed by the Tennessee Fire Service and Codes Enforcement Academy or equivalent training approved by the Tennessee Commission on Firefighting Personnel Standards and Education; and
2. Within 36 months after hire or acceptance as a firefighter, completion of "Basic and Live Firefighting" course offered by the Tennessee Fire Service and Codes Enforcement Academy or an equivalent course.

Exemptions for:

1. A firefighter in the fire service on July 1, 2009, who entered before June 30, 2004;
2. A firefighter certified by a medical doctor as physically unable to complete the training, so long as this person does not engage in active firefighting;



3. A firefighter who does not operate in an environment deemed immediately dangerous to life and health (exempt from “Basic and Live” course); and
4. A firefighter in the fire service on July 1, 2009, who was hired or accepted as a firefighter between July 1, 2004, and June 30, 2009, has until July 1, 2012, to show proof of completion.

Individual government units have the discretion to determine whether they or the firefighter are responsible for the financial costs of the training.

Does not apply in the following counties or cities therein unless the government entity elects to impose the requirements by resolution: Cocke, Greene, Hamblen, Unicoi, McMinn, Meigs, Polk, Dickson, Giles, Hickman, Humphreys, Loudon, Sequatchie, Washington, Bradley, Franklin, Lewis, Johnson, unincorporated Rhea, Campbell, Union, Loudon, Roane, Fentress, Morgan, Overton, Clay, Jackson, Pickett, Scott, McMinn\*, Perry, Houston, Stewart\*\*, Cumberland\*\*, Trousdale, Cannon.

Does not apply in the following counties: Benton, Decatur, Hancock, Hardin, Henderson, Henry, Jefferson, Lake, Obion, Perry, Stewart and Weakley.

Does not apply in Spring City.

\*Listed twice, the first time allowing the county and cities therein to elect to impose the requirements by resolution. Listed again, this time exempting the county but allowing the county to elect to impose the requirements by a two-thirds vote.

\*\*Requires a two-thirds vote.

*Effective July 1, 2009.*

## GENERAL GOVERNMENT

### **Chapter No. 400 (SB2156/HB2139). Ordinance required for certain actions.**

Amends T.C.A. Title 6, Chapter 54, Part 5, by requiring the following actions of a municipal governing body to be done by ordinance unless allowed by state law to be done by resolution:

1. Any action required by general law or the charter of a municipality to be done by ordinance; or
2. Any action that:
  - i. Levies a tax;
  - ii. Makes a special assessment;
  - iii. Is permanent in nature; or
  - iv. Has a regulatory or penal effect.

*Effective September 1, 2009, and applies only to actions taken after that date.*

### **Chapter No. 489 (SB1706/HB0489). Acquisition of public facilities.**

Amends T.C.A. Title 7, Chapters 32 and 33, by allowing a municipality to enter into an agreement with a private entity under which the private entity agrees to pay all or a portion of the costs of a public facility being constructed by a municipality if the municipality reasonably anticipates the private investment of not less than \$25 million on the property benefited by the public facility.

Written agreement must provide that any municipal payments may be contingent upon the availability of bond funds, and the obligation of the private entity may be reduced to the extent bond proceeds are available.

Allows municipality to pay the appraised value of real property acquired and used in connection with public facilities to be constructed or improved by the municipality. Municipality also may agree to reimburse the transferring entity for expenditures made in constructing or improving the facility.



Allows, rather than requires, the municipality to apportion all costs among property owners whom the municipality determines may benefit from the public facility. This apportionment will be collected in the form of a special assessment. Special assessments that are past due may be collected in the same manner as property taxes.

Allows a municipality to refund or refinance bonds and obligations issued for these purposes. Refunding of bonds may be secured by levy of special assessments.

*Applies to agreements and assessments entered into or imposed on or after July 1, 2007.  
Effective June 23, 2009.*

**Chapter No. 500 (SB0006/HB1444).**  
**Requirements that parks be named after living persons prohibited.** Amends T.C.A. Title 11, Chapter 3, Part 1, by prohibiting any municipality, recreation board or commission or other authority from requiring that any park, facility or recreational property under their control be in dedication only to individuals who are deceased at the time of naming.  
*Effective June 26, 2009.*

**Chapter No. 573 (SB1283/HB1598). Governmental entities may not substantially burden free exercise of religion.**

Amends an unnamed section of the T.C.A. by prohibiting a governmental entity, including a local government, from substantially burdening a person's free exercise of religion unless it demonstrates that application of the burden is:

1. Essential to further a compelling governmental interest; and
2. The least restrictive means of furthering that compelling governmental interest.

Creates a cause of action for any person burdened by the government in violation of this act. A prevailing party may receive declaratory and monetary damages and attorney fees and costs. The right also can be availed as a defense in a suit brought by the governmental entity. Any person found to have brought a frivolous claim may be assessed court costs and may be enjoined from filing further claims under this act without leave of court.  
*Effective July 1, 2009.*

**IMMIGRATION**

**Chapter No. 447 (SB1310/HB1354). Local government sanctuary policies prohibited.**

Amends T.C.A. Title 7, Chapter 68, Part 1, by prohibiting a local government from adopting any ordinance or policy that expressly prohibits an entity, an official or employee from complying with applicable federal immigration law. Also prohibits a local government official from materially interfering with the ability of a local government, official or employee from complying with federal immigration laws.

Gives standing for residents within the local government to bring suit to compel compliance.

*Effective June 23, 2009, for purposes of repealing existing ordinances or policies.  
Effective September 1, 2009, for all other purposes.*



## INFORMATION TECHNOLOGY

**Chapter No. 96 (SB2050/HB1978). Local Government Electronic Technology Act.** Amends an unnamed section of the T.C.A. by enacting the Local Government Electronic Technology Act of 2009. Requires a local government, as a prerequisite to implementing any new electronic technology associated with disbursing public funds, purchasing, the sale of local government assets, collecting local government assets, or collecting fines, fees or payments, to file a plan with the comptroller. The plan must be filed at least 30 days prior to implementation and must include:

1. A description of the business process and the technology to be used;
2. A description of the policies and procedures related to implementing the technology;
3. Documentation of internal controls; and
4. An estimation of the cost and a statement as to whether the plan can be implemented with existing resources of the office or if additional resources are needed and prior approval has been given by the local governing body.

*Effective April 27, 2009.*

## Interlocal Cooperation

**Chapter No. 107 (SB0322/HB0383). Contracts for stabilizing the price of fuel.** Amends T.C.A. § 7-51-911 by extending the term within which a municipality may enter into a contract with another municipality or financial institution for the purchase of fuel. States that these contracts must have a termination date no later than June 30, 2011.

*Effective April 9, 2009.*

## LAND USE

**Chapter No. 571 (SB1468/HB1432). Criminal gangs considered nuisances.** Amends T.C.A. § 29-3-101(a)(2) by expanding the definition of nuisance to include criminal gangs as defined in T.C.A. § 40-35-121(a)(1) that regularly engage in gang-related conduct. Gang-related conduct includes intimidating, stalking, harassing or assaulting any person; possessing illegal weapons; damaging or defacing property; selling, possessing, manufacturing or using controlled substances; using, consuming, possessing, or purchasing alcoholic beverages unlawfully; recruiting gang members; threatening; etc.

Upon finding a criminal gang nuisance, the court shall enter an order of abatement directing the removal from the building or place where such nuisance exists of all appliances, fixtures, appurtenances, materials, supplies and instrumentalities used for the purpose of conducting, maintaining or carrying on the nuisance. The court also must direct the sale of whatever may be lawfully sold with proceeds applied toward costs or paid to the owner. Court also must enjoin the defendant from further gang-related nuisance on the property.

*Effective July 1, 2009.*

## LAW ENFORCEMENT

**Chapter No. 76 (SB0110/HB0483). Missing child reporting.** Amends T.C.A. § 37-10-203 by requiring a law enforcement agency reporting a missing child to enter, or cause to be entered, the report of the missing child into the National Crime Information Center (NCIC) within two hours of the initial missing child report.

*Effective April 9, 2009.*



**Chapter No. 116 (SB0201/HB0587). Judicial task force may petition for confiscated weapons.**

Amends T.C.A. Title 39, Chapter 17, Part 13, by adding judicial district drug task forces to the list of entities that may petition a court for permission to dispose of, sell or keep and legitimately use those weapons. If a weapon confiscated by a judicial drug task force is sold, the proceeds will go to the task force, not the local government where the weapon was confiscated.

*Effective May 5, 2009.*

**Chapter No. 239 (SB0310/HB1534). Requirement that bondsmen be listed by seniority removed.**

Amends T.C.A. § 40-11-126(b) by removing the requirement that listings of bondsmen in jails and workhouses be in order of seniority.

*Effective May 20, 2009.*

**Chapter No. 242 (SB0695/HB0080). Jail cell certification standards changed.**

Amends T.C.A. § 41-4-140 by declaring that dimensional standards for new and existing jail cells are the American Correctional Association's Performance-Based Standards for Adult Local Detention Facilities, as amended by the 2008 supplement.

*Effective May 20, 2009.*

**Chapter No. 370 (SB2150/HB2037). Law enforcement to request proof of insurance upon charging any motor vehicle violation.**

Amends T.C.A. § 55-12-139(b) by requiring law enforcement officers to request proof of compliance with financial responsibility law upon charging any motor vehicle violation as opposed to just moving violations.

*Effective July 1, 2009.*

**Chapter No. 372 (SB2224/HB2166). Railroad police to be POST certified.** Amends T.C.A. Title 38, Chapter 8, and Title 65, Chapter 6, by requiring railroad police officers to obtain POST certification prior to commission.

*Effective July 1, 2009, and applies to any railroad police officer commissioned on or after that date.*

**Chapter No. 430 (SB0275/HB0234). Procedures for permitting retired law enforcement officers to carry concealed weapons.**

Amends T.C.A. § 38-8-116 by allowing a retired law enforcement officer to meet the annual requirements to carry a firearm to the same extent as authorized for an active law enforcement officer by one of the following methods:

1. Obtaining a photo identification issued by the local agency from which the officer retired that indicates the individual has, not less than one year previously, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers;
2. Meeting POST standards by qualifying and obtaining an annual certification from the POST Commission; or
3. Using a private range and certified firearms instructor to verify that the retired officer has met the POST standards.

POST Commission must maintain a list of approved instructors who may certify retired officers. POST Commission is authorized to establish a fee for issuing certifications.

*Effective June 12, 2009.*

**Chapter No. 480 (SB1221/HB1209). Distress warrants executed by municipal law enforcement.**

Amends T.C.A. § 67-4-215 by allowing a distress warrant issued by a municipal tax collector to be executed within the boundaries of the municipality by the chief of police or a police officer of that municipality.

*Effective June 23, 2009.*



**Chapter No. 590 (SB0532/HB0346). Missing senior citizen alert system.**

Amends T.C.A. Titles 4 and 38 by creating a program for local law enforcement reporting of missing senior citizens. Requires the missing person's family or guardian to provide information to law enforcement. Requires law enforcement to report missing senior citizen to certain nonprofit groups and National Crime Information Center (NCIC). Allows for alerts to designated media outlets.

*Effective July 1, 2009.*

**Chapter No. 605 (SB1273/HB0898). Authority of off-duty law enforcement officers to carry firearms.**

Amends T.C.A. Title 39, Chapter 17, Part 13, by amending the provisions governing when off-duty law enforcement officers can carry firearms to the same extent as on-duty officers. Requires officers not actively engaged in the actual discharge of duties to notify the principal of a school before bringing a firearm on school grounds during regular school hours.

Removes the prohibition on off-duty officer carrying a firearm who is not engaged in the actual discharge of official duties as a law enforcement officer while within the confines of an establishment where beer or alcoholic beverages are sold for consumption on the premises.

Prohibits any governmental entity, including local governments, from refusing to issue or renew a permit to sell beer, wine or alcoholic beverages or to suspend or revoke any such privilege or discriminate against anyone prohibiting firearms pursuant to T.C.A. § 39-17-1305 in establishments they own or operate.

*Effective July 9, 2009.*

**METROPOLITAN GOVERNMENT**

**Chapter No. 474 (SB1082/HB1347). Convention center authorities.**

Amends T.C.A. Titles 7 and 67 by authorizing municipalities and counties to create convention center authorities. Allows for the creation of joint authorities among multiple entities. Authorities are created by resolution of the governing body. Authorities operate under charter provided for in statute. Charter may be amended locally with approval of the secretary of state. Board of the authority must be composed of residents of the city or county creating the authority and may not include officials or employees of the city or county. Board members are appointed by chief executive of the county or city.

Authority is granted powers, including to contract; to sue and be sued; to acquire, operate, furnish, maintain, buy, lease and sell projects; and to issue bonds to finance projects. City or county can agree to divert property taxes paid by the owner of the convention center facility into a special fund. These funds may be used to make payments due to the authority.

Creating cities and counties may make donations of property or cash to authorities.

Authority can purchase up to \$10,000 of goods, supplies and services without competitive bidding. Authorizes Metropolitan Nashville to impose an additional 1 percent increase to the hotel occupancy tax, a third of which can be used for the direct promotion of tourism, including convention center financing.

*Effective June 23, 2009.*



## **MOTOR VEHICLES AND TRAFFIC**

**Chapter No. 201 (SB0393/HB0107). Text messaging prohibited when operating a motor vehicle.** Amends T.C.A., Title 55, Chapter 8, Part 1, by creating the misdemeanor offense of using a mobile telephone or hand-held personal digital assistant to read or transmit a written message while operating a motor vehicle that is in motion. Selecting or entering a telephone number for the purposes of making a telephone call does not constitute a violation.

Violation is a Class C misdemeanor, subject only to a fine not to exceed \$50 and court costs not to exceed \$10, including, but not limited to, any statutory fees of officers. No state or local litigation taxes may be imposed in a case prosecuting this offense. Citation issued for this offense is considered a nonmoving violation.

The following persons are exempted: 1) state and local law enforcement officers when in the actual discharge of duties; 2) campus police and public safety officers when in the discharge of official duties; 3) emergency medical technicians, emergency medical technician-paramedics, and volunteer and career firefighters when in the actual discharge of official duties; 4) state and local emergency management agency officers when in the actual discharge of official duties.

*Effective July 1, 2009.*

**Chapter No. 252 (SB1339/HB1631). Minimum age of abandoned vehicle eligible for destruction increased.** Amends T.C.A. § 55-16-108(e) by increasing from five years to 10 the minimum age of an abandoned vehicle that may be demolished without notification procedures. Vehicle must have no engine or otherwise be totally inoperable.

*Effective May 20, 2009.*

**Chapter No. 286 (SB1088/HB1187). Window tinting regulation revised.** Amends T.C.A. § 55-9-107 by applying Tennessee's window tinting regulations to all vehicles in the state, as opposed to all vehicles registered in Tennessee. Vehicles registered out of state that comply with their state's regulation are exempted.

*Effective July 1, 2009.*

**Chapter No. 321 (SB2288/HB2330). Amendments to motor carrier provisions.** Amends T.C.A. Titles 55 and 65 by removing the discretion of a court to require a driver education course in lieu of any portion of other penalty imposed for persons charged with any motor vehicle or traffic violation while operating a commercial motor vehicle. Also requires the Department of Safety to keep a record of convictions, disqualifications and other actions for violations (excluding parking) of persons holding or required to hold a commercial driver license. Makes various other changes to motor carrier provisions.

*Effective November 1, 2009.*

**Chapter No. 342 (SB0289/HB0253). Certain offenses made misdemeanors.** Amends T.C.A. § 55-8-197(a) by stating that anyone guilty of the following offenses also is guilty of a misdemeanor if the violation results in serious bodily injury or death: failing to drive on the right side of the roadway, unlawfully overtaking a vehicle on the left, or overtaking a vehicle on the right.

*Effective July 1, 2009.*



**Chapter No. 389 (SB1502/HB1202). Surveillance cameras to monitor traffic laws.** Amends

T.C.A. § 55-8-198 by prohibiting any surveillance cameras on federal interstate highways except Smart Way cameras or other intelligent transportation system cameras. However, the state may operate cameras to enforce or monitor traffic violations in work zones when Department of Transportation employees or construction workers are present.

State agencies and local governments that install, own, operate or maintain a traffic-control signal light at an intersection with a surveillance camera to enforce traffic laws or monitor traffic violations must ensure that:

1. No citation based solely upon surveillance camera evidence is issued for failure of a vehicle to stop appropriately at a red light when the vehicle legally entered the intersection during the green or yellow light intervals or any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of such violation; and
2. Appropriate signage is located not less than 500 feet but not more than 1,000 feet in advance of the intersection informing drivers as to the presence of surveillance cameras at the approaching intersection.

If a local government or state entity violates these provisions, any traffic citation based solely on the surveillance camera evidence will be deemed invalid.

*Effective June 9, 2009.*

**Chapter No. 397 (SB1515/HB1605). Requirements for bicycles operated at night.** Amends

T.C.A. § 55-8-177 by requiring a bicycle, when in use at night, to be equipped with a lamp on the front that emits a white light visible from at least 500 feet and either a red reflector or lamp emitting a red light visible from at least 500 feet to the rear when the bicycle is in front of a motor vehicle with lawfully compliant upper head lamps.

*Effective July 1, 2009.*

**Chapter No. 441 (SB0597/HB0669). No dismissal of financial responsibility violations.** Amends

T.C.A. Title 55, Chapter 12, by prohibiting courts from dismissing violations of financial responsibility laws where the violator obtains compliance before date of hearing.

*Effective July 1, 2009.*

**Chapter No. 577 (SB1600/HB2057). Collection of unpaid parking tickets.** Amends T.C.A. Titles 6,

40 and 62 by declaring that a municipality has no authority to forward parking tickets to a collection agency without first notifying the owner of record of the vehicle for which the parking ticket was issued. Notification, sent via postal mail, must indicate that the city will send the unpaid ticket to collection unless the owner pays the unpaid ticket within 30 days from the date of mailing. Notification also must include a statement that forwarding the ticket to a collection agency may result in credit bureau notification and an impact on the owner's credit score.

*Effective July 1, 2009.*



## OPEN MEETINGS

### **Chapter No. 175 (SB0832/HB0533). Open meetings conducted via Internet relay chat.**

Amends T.C.A. Title 8, Chapter 44, Part 1, by expanding the pilot project allowing certain local governments to participate in open meetings via Internet relay chat, making this option available to every city in the state. Also removes sunset provisions. States that communications posted to the forum “shall not substitute for decision making by the governing body in a meeting.” Seemingly, this statement suggests that while deliberation is allowed in these Internet forums, an actual vote is not.

A governing body may allow electronic communication between members via an Internet forum if the governing body:

1. Ensures that the forum is available to the public at all times, except time necessary for technical maintenance;
2. Provides adequate public notice of use of the forum;
3. Controls who can communicate in the forum;
4. Properly archives the forums and ensures that they are available to the public for at least one year after the date of communication; and
5. Provides reasonable access to view the forum at a public building.

Prior to implementing an Internet forum a local government must file a plan with the Office of Open Records Counsel. Plan must state how the governing body will ensure compliance with this legislation. Office of Open Records Counsel must report whether or not the plan is in compliance. If not, the office must provide the local government with written comments. No local government, except those that established a forum under the previous pilot project, may establish or use an Internet forum without a report of compliance from the Office of Open Records.

*Effective May 7, 2009.*

**Chapter No. 368 (SB2042/HB1985). Openness of audit committee meetings.** Amends T.C.A. Title 4, Chapter 3, Title 9, Chapter 3, and Title 10, Chapter 7, by subjecting meetings of audit committees to the open meeting and notice provisions adhered to by local governments. Audit committees may vote to enter nonpublic executive sessions to discuss items not subject to public inspection; current or pending litigation; information protected by federal law; or confidential reports of waste, fraud, etc.

Also creates a process for employee or citizen reporting of illegal, improper, wasteful or fraudulent activity. Whistleblower protections apply for local government employees who report such information. Makes working papers of internal audit staff and local governments creating audits confidential and not open for public inspection.

*Effective June 5, 2009.*

## OPEN RECORDS

### **Chapter No. 176 (SB0894/HB0604).**

#### **Confidentiality of victim notification**

**information.** Amends T.C.A. Title 4, Chapter 3; Title 10, Chapter 7, Part 5; Title 40, Chapter 38; and Title 41, Chapter 21, by making confidential the identifying information maintained by the Department of Correction of a person who requests to be notified regarding the status of criminal proceedings or of a convicted felon housed in a correctional facility, county jail or workhouse.

*Effective July 1, 2009.*



**Chapter No. 310 (SB1973/HB2189).  
Confidentiality of public employees expanded.**

Amends T.C.A. § 10-7-504(f)(1) by making the individual health savings account, retirement account, and pension account information of state, county and municipal employees confidential. Does not limit public access to financial records showing amounts and sources of governmental employer contributions to these accounts.

Extends the confidential protections of current employee records to former employee records.

*Effective May 27, 2009.*

**Chapter No. 328 (SB0880/HB1247).  
Confidentiality of certain victim information.**

Amends T.C.A. § 10-7-504 by making confidential the following information of persons who apply for compensation under the Criminal Injuries Compensation Act: residence information, home and personal cell telephone numbers, Social Security numbers, and the criminal offense for which the victim is requesting compensation.

*Effective May 29, 2009.*

**Chapter No. 358 (SB0809/HB0325). Certain DCS records confidential.** Amends T.C.A. §§ 10-7-504 and 37-1-403 by making confidential and not open for public inspection information that directly or indirectly identifies a child or a family receiving services from the Department of Children’s Services or that identifies a person who made a report of harm pursuant to law. Specifically refers to any such information in possession of local agencies, including law enforcement.

*Effective July 1, 2009.*

**Chapter No. 567 (SB202/HB0703). Records related to the security of government buildings confidential.** Amends T.C.A. § 10-7-504 by making information and records that are directly related to the security of any government building confidential. This includes, but is not limited to alarm codes, security codes, passwords, wiring diagrams, plans, security procedures, contingency plans, emergency response plans, records identifying structural or operational vulnerability, and surveillance recordings.

Surveillance recordings may be made public when they include an act or incident involving public safety or possible criminal activity.

Security-related information must be redacted where possible.

*Effective July 1, 2009.*

**PERSONNEL**

**Chapter No. 293 (SB0540/HB1510).**

**Negotiations not open to the public.** Amends T.C.A. § 8-44-201(b) by clarifying that during negotiations between representatives of public employee unions and representatives of state or local governmental entities, the planning or strategy sessions of either group when meeting with the entity they represent are not open to the public.

*Effective May 27, 2009.*

**PERSONNEL – RETIREMENT**

**Chapter No. 438 (SB0529/HB0352). TCRS retirees may accept re-employment.**

Amends T.C.A. Title 8, Chapter 36, Part 8, by allowing TCRS retirees with at least one year of employment to accept covered employment with another employer without suspension of retirement benefits. Requires annual reporting by new employer. Members’ retirement benefits are reduced to 70 percent during new employment. No new retirement benefits may accrue during new employment.

*Effective July 1, 2009.*



**Chapter No. 569 (SB1357/HB1369). Resolutions to allow local government TCRS contributions.**

Amends T.C.A. Title 8, Chapter 35, Part 2, by authorizing the governing body of a TCRS participant employer to pass a resolution by a two-thirds vote allowing for employee contributions of hires after the effective date to be treated as employer contributions in determining federal income tax liability. Effective date of resolution must be on the first day of any quarter following a minimum of three months notice to the retirement system. Resolution is irrevocable.

*Effective July 1, 2009.*

**PLANNING AND ZONING**

**Chapter No. 47 (SB0550/HB0305). Training requirements for planners advising planning commissions and boards of zoning appeals.**

Amends T.C.A. Title 13 by removing the requirement that each full-time or contract professional planner or other administrative official whose duties include advising a planning commission obtain a current certificate in the AICO Continuing Professional Development Program to be exempt from training requirements.

Requires each full-time or contract building commissioner or professional planner or other administrative official whose duties include advising a board of zoning appeals to attend a minimum of eight hours of training and continuing education in land use issues. A professional planner who is a member of the American Institute of Certified Planners is exempt.

*Effective March 30, 2009.*

**Chapter No. 77 (SB0124/HB0304).**

**Platting submission requirements.** Amends T.C.A. § 13-3-408 by limiting the exemption for compliance with platting regulations. This bill removes a division or plat partitioned by deed from the exemption while retaining the exemption for a division or plat partitioned by a court. However, a plat subdividing land within the jurisdiction of, and approved by, a regional planning commission still must contain the most recent recorded deed book number and page number for each deed of the property being platted, even where the plat was partitioned by a court.

*Effective April 13, 2009.*

**Chapter No. 227 (SB0309/HB1736). Certain shooting range exempt from land use provisions.**

Amends T.C.A. § 39-17-316 by stating that a certain shooting range that is open to the public and in continuous operation for at least 30 years immediately preceding December 16, 2008, may not have its right to operate in the same location amended, restricted or terminated due to any land use planning or zoning regulation. To qualify the shooting range must have shooting positions that meet certain distance requirements from the range's boundaries, and the vegetation between the distance requirement and the boundary must be undisturbed. Apparently this legislation was passed to save the Montlake Shooting Range in Hamilton County.

*Effective May 19, 2009, and applies to any existing or future enforcement actions, including any pending actions for which the time for final appeals has not expired and for which a final order has not been entered.*



**Chapter No. 338 (SB2116/HB2177). Zoning ordinance and map presumed current and accurate.** Amends T.C.A. Title 13, Chapter 7, Part 2, by requiring cities that have exercised zoning powers to compile and keep current their zoning ordinance and map as amended. When these documents are produced via a public records request, they are presumed to be a true and accurate statement of the zoning ordinance and map. A party challenging this in court must prove inaccuracy by a standard of clear and convincing evidence.

*Effective June 1, 2009.*

**Chapter No. 600 (SB2091/HB1946). Membership of municipal planning commissions serving as regional planning commission.** Amends T.C.A. § 13-3-102 by changing the membership of certain municipal planning commissions serving as regional planning commission. Where the regional area outside of the municipal boundary is less than 50 percent of the entire regional area then only one member of the municipal planning commission shall be appointed from the regional area outside the municipal boundaries regardless of the number of members on the municipal planning commission, or, in the alternative, the municipal planning commission may be increased in size by the number of members who are appointed from outside the regional area outside the municipal boundaries.

*Effective July 8, 2009.*

## **PROPERTY**

**Chapter No. 156 (SB0429/HB0598). Redemption of property.** Amends T.C.A. § 67-5-2702 by authorizing persons authorized to redeem property after a tax sale to do so within one year from the date of the order of confirmation of sale. Previously, such persons could redeem land within one year of the date the property sold.

In a county with a charter form of government and a population of less than 400,000, according to the 1990 federal census or any subsequent census, person entitled to redeem property may do so within 90 days after the date of the recording of the tax deed if all owners of the property have signed a waiver.

*Effective July 1, 2009.*



## PURCHASING

**Chapter No. 399 (SB2079/HB1905). Reverse auctions allowed.** Amends T.C.A. Title 12, Chapter 3, Part 10, by authorizing local governmental entities to purchase goods or services through a competitive reverse auction process that allows suppliers to bid on specified goods or services electronically and adjust bid pricing during a specified time period. Reverse auctions are not allowed for construction services, architectural or engineering services, and new or used motor vehicles unless manufactured for a specific purpose.

Prior to implementing a reverse auction process, local governments must file a plan with the comptroller. The plan must indicate the technology to be used, whether a third-party source will be used, a description of policies and procedures related to implementing the process, and whether existing resources are sufficient to implement the process. No requirement for comptroller approval. Local government must solicit bids by public notice in a newspaper of general circulation five days prior to the first day bid submissions are allowed. Public bulletin board in county courthouse allowed where no newspaper of general circulation exists. Small business and minority participation mechanism must be provided.

All bid responses must be made available to the public at a time specified in the invitation to bid. The award must be made to the bid determined to be the lowest responsible and responsive.

*Effective June 9, 2009.*

## RECORDS MANAGEMENT

**Chapter No. 520 (SB1655/HB1587). Records management fee.** Amends T.C.A. Title 10, Chapter 7, Part 4, and Title 6, Chapter 54, Part 1, by authorizing cities to establish and collect an archives and record management fee not to exceed \$5 per document filed. Funds must be designated exclusively for duplicating, storing and maintaining records required by law to be kept.

*Effective June 12, 2009.*

## STATE GOVERNMENT

**Chapter No. 437 (SB0463/HB0129). Human Rights Commission.** Amends T.C.A. Title 4, Chapter 3, by requiring the Human Rights Commission to verify that all state government agencies comply with the requirements of Title VI of the Civil Rights Act of 1964. Each governmental entity subject to the requirements of Title VI must submit an annual compliance report. The commission also must provide diversity training to entities, including local governments.

*Effective June 23, 2009.*



## TAXES – BUSINESS

**Chapter No. 530 (SB2318/HB2275). State collection of business taxes.** Amends T.C.A. Titles 7, 54, 55, and 67 by authorizing the commissioner of revenue to collect and administer the tax levied by any county or municipality. Provides the department with the statutory tax collection powers in T.C.A. § 67-1-102, which currently are used to collect other state taxes. Provisions are contained in the technical corrections bill.

Provides the commissioner of revenue “broad discretion” from July 1, 2009, to October 1, 2010, to transition from local to state administration. Municipalities retain privilege to levy business tax in accordance with rates set out in statute. Businesses still must register with and obtain license (including transient vendor) from local governments prior to operating within their jurisdictional limits. However, businesses also must register with the state. There also are various changes to tax classifications and tax rates.

For payment of taxes, businesses must remit to the state forms showing gross receipts along with tax due.

State may contract with local governments to collect delinquent taxes. Such contract may delegate state powers to the person collecting.  
*Effective July 1, 2009.*

## TAXES – COLLECTION

**Chapter No. 346 (SB1277/HB1601). County trustee property tax reporting.** Amends T.C.A. § 67-5-1902 by removing the requirement that the county trustee submit a statement of taxes collected to the municipality by September 1 of each year.

*Effective June 3, 2009.*

## TAXES – DELINQUENT

**Chapter No. 380 (SB2090/HB1933). Property purchased at tax sale in Shelby County.** Amends T.C.A. § 67-5-2509(d) relative to property acquired at a tax sale. Shelby County or any municipality in Shelby County may convey property with road frontage no greater than 24 feet, purchased at a tax sale, to adjoining property owners. The adjoining property owners must make in-kind payments equal to fair market value of property.

*Effective July 1, 2009.*

## TAXES – HOTEL

**Chapter No. 609 (SB2112/HB2038). City-owned hotels over 150 years old.** Amends T.C.A. § 67-6-013 by allowing an amount of the hotel tax from a hotel or inn that is more than 150 years old and owned by a municipality and determined to be tax exempt under Internal Revenue Code § 501(c)(3) to be apportioned to the entity responsible for the debt incurred in renovating the hotel.

*Effective July 1, 2009.*

## TAXES – PROPERTY

**Chapter No. 111 (SB0804/HB0643). Property tax exemption for nonprofit housing.** Amends T.C.A. § 67-5-207 by allowing nonprofit, group housing for the elderly and disabled currently receiving financial assistance from certain federal grants to retain their property tax exemptions if the property is refinanced under a comparable federal program.

*Effective April 30, 2009.*



**Chapter No. 478 (SB1166/HB1387). Sale of property purchased at a delinquent tax sale.**

Amends T.C.A. § 67-5-2508 by stating that upon the purchase of property by a municipality at a delinquent tax sale for municipal taxes only, and after the period of redemption has lapsed, the municipality may, upon majority vote of the governing body determining it impracticable to sell the property for the full amount of the taxes, penalty, costs and interest, sell the property for less than this amount.

*Effective July 1, 2009.*

**TORT LIABILITY**

**Chapter No. 206 (SB1327/HB1409). Certain community action agencies and nonprofit corporations included in tort liability act.**

Amends T.C.A., Title 29, Chapter 20, Part 1, by including community action agencies and nonprofit corporations that administer Head Start or community service block grants as “governmental entities” that are covered under the Governmental Tort Liability Act.

*Effective May 13, 2009, and applies to all causes of action accruing on or after this date.*

**UTILITIES**

**Chapter No. 72 (SB2049/HB1979). Financially distressed utilities.** Amends Title 7, Chapter 82, and Title 68, Chapter 221. Lowers, from three to two, the number of consecutive years that a municipality must have a negative change of assets in order to be considered financially distressed.

*Effective April 6, 2009.*

**Chapter No. 74 (SB0811/HB0956). Public works improvements.** Amends T.C.A. §§ 7-34-105 and 9-21-107. Allows a local government to make improvements to an existing public works system outside its jurisdiction without the consent of the governing body where the system is located.

*Effective April 6, 2009.*

**Chapter No. 224 (SB2047/HB1981). Local development authority fees.**

Amends T.C.A. §§ 68-221-1004 and 68-221-1204 by allowing the Tennessee Local Development Authority to collect administrative fees from local governments participating in the wastewater facility revolving loan fund and the drinking water revolving loan fund. These fees may include, but are not limited to, reimbursement of all costs of financing by the authority.

*Effective May 18, 2009.*

**Chapter No. 316 (SB1539/HB0875). Supplemental petition filing.**

Amends T.C.A. § 7-82-302(e) by requiring that supplemental petitions filed with county mayor(s) be filed simultaneously with the Utility Management Review Board; however, the provision requiring board’s review and comment is removed.

Also allows county mayor to exclude territory from the order granting a supplemental petition if that territory already is receiving the services referenced in the order.

*Effective May 27, 2009.*

**Chapter No. 388 (SB1685/HB0980). Mutual aid assistance agreements.**

Amends T.C.A. Title 58, Chapter 8, by authorizing reimbursement of response costs for utility systems and nongovernmental agencies entering into mutual assistance agreements for the purpose of providing aid or assistance to one another.

*Effective June 9, 2009.*



**Chapter No. 409 (SB2038/HB1976). Tennessee Local Development Agency loans.**

Amends T.C.A. Title 4, Chapter 31, and Title 68, Chapter 221, by clarifying that for purposes of the Tennessee Local Development Act, a local government unit eligible to apply for loans includes any water or wastewater authority or energy authority created by an act of the General Assembly.

For purposes of the Wastewater Facilities Act, a local government eligible to apply for loans includes any water or wastewater authority or energy authority created by the General Assembly that has the authority to administer a wastewater facility or whose residents are served or are eligible to be served in whole or in part by a wastewater facility operated by another local government.

For purposes of the Drinking Water Revolving Loan Fund Act, a water system eligible to apply for loans includes the community public water systems of any water or wastewater authority or energy authority.

*Effective June 11, 2009.*

**Chapter No. 423 (SB0660/HB1779). Utility Management Review Board review.**

Amends T.C.A. Title 7, Chapter 82, by authorizing the Utility Management Review Board to review and conduct a hearing on any decision of a utility district. Review must be preceded by the written request of a utility district customer or an affected developer. The request must be filed within 30 days after the utility board has taken action upon a written complaint to the board of commissioners of the utility district.

Changes the composition of the Utility Management Review Board by replacing one of the four seats that currently are held by experienced utility district managers with a consumer who is a Tennessee resident and who may have experience in residential development but is not engaged in utility district management or operation. The consumer member will be appointed to a four-year term at the expiration of the term of office of a utility district manager that first occurs after the date that this bill becomes a law.

States that the Utility Management Review Board may conduct a contested case hearing based on the reports of a comptroller investigation or audit of a utility district. Utility Management Review Board will issue an order removing a member found to have failed to fulfill his or her fiduciary responsibility.

*Effective July 11, 2009.*

**Chapter No. 472 (SB0973/HB1673). Utility districts may own and operate natural gas vehicle fueling stations.**

Amends T.C.A. Title 7, Chapter 82, Part 3, by authorizing utility districts to own and operate natural gas vehicle fueling stations. This authority may not be franchised to another entity.

*Effective June 23, 2009.*



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**Chapter No. 475 (SB1089/HB1518). Electric generation and transmission cooperatives.**

Amends T.C.A. Title 48 by authorizing the creation of nonprofit generation and transmission (G&T) cooperatives to supply or furnish wholesale electric power services; to own, lease, construct, acquire, operate and control plants, equipment, facilities, lines, etc.; to supply, furnish or exchange wholesale electric power with other entities; and to provide management services to any distribution cooperative, energy acquisition corporation or governmental electric system.

Cooperative cannot provide power, telephone, cable, video, Internet or telecommunications to customers in the TVA area.

No more than one person per associated municipality or municipal utility may serve on a cooperative's board at any one time.

*Effective June 23, 2009.*

**WEAPONS**

**Chapter No. 288 (SB1992/HB1778). Confiscation of firearms during emergencies prohibited.**

Amends T.C.A. Title 58, Chapter 1, Parts 1 and 2, by clarifying that the governor's authority to regulate and control the possession, storage, display, sale, transport and use of firearms, other dangerous weapons and ammunition during a state of martial rule does not authorize confiscation of lawfully possessed firearms and ammunition.

*Effective May 21, 2009.*

**Chapter No. 339 (SB1127/HB0962). Guns in restaurants that serve alcohol.**

Amends T.C.A. § 39-17-1305 by allowing any person with a carry permit who is not consuming alcohol to carry a firearm into a restaurant that serves alcohol. Defines restaurant as "any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted." Definition apparently includes bars.

T.C.A. § 39-17-1359 allows individuals, corporations, business entities and governmental agencies to prohibit the possession of weapons by persons with carry permits by posting notices. This provision allows restaurant owners to prohibit firearms in establishments they own.

*Effective June 1, 2009.*



**Chapter No. 428 (SB0976/HB0716). Guns in parks.** Amends T.C.A. Title 39, Chapter 17, Part 13, by authorizing handgun carry permit holders to carry and possess handguns in federal parks, as allowed by federal law, and state and local parks, natural areas, historic parks, nature trails, campgrounds, forests, greenways, waterways or other similar places. Cities may opt out of these provisions by passing a resolution and erecting appropriate signage. When a local governing body elects to prohibit handguns in a city-owned or operated park, the prohibition applies to the entire park.

Prominent signage must be posted in accordance with T.C.A. § 39-17-1311(c)(1).

*Effective June 12, 2009, for purposes of passing local resolutions. Effective September 1, 2009, for purposes of permit holders being allowed to carry in local parks.*

**Chapter No. 431 (SB0578/HB0390). Unlawful carrying or possession of a weapon.** Amends T.C.A. § 39-17-1307 by creating an exception to the offense of unlawful carrying or possessing a weapon for handgun carry permit holders transporting a rifle or shotgun with no ammunition in the chamber in the passenger area of a privately owned motor vehicle. Ammunition may be loaded in chamber if for the purposes of self defense.

*Effective June 12, 2009.*

## **WORKERS' COMPENSATION**

**Chapter No. 364 (SB1567/HB1471). Workers' compensation.** Amends T.C.A. § 50-6-241 by providing that any employee who retains the right to reconsideration of an award of permanent partial disability benefits for a workers' compensation injury that occurs on or after July 1, 2009, and whose pre-injury employer is sold or acquired after such award is made, may seek reconsideration from the successor employer if either the employee's employment with the successor employer is involuntarily terminated through no fault of the employee or the employee's rate of pay is reduced to a level below the rate of pay the employee had at the time of the injury.

*Effective July 1, 2009.*

**Chapter No. 373 (SB2299/HB2268). Rules for self-insured employers.** Amends T.C.A. § 50-6-405(b) by authorizing the commissioner of commerce and insurance to promulgate rules establishing requirements for securities posted by self-insured employers. Also requires self-insured employer losses and adequacy of reserves be certified annually.

*Effective July 1, 2009.*



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**Chapter No. 407 (SB1909/HB1500). Workers' compensation awards for certain activities.**

Amends T.C.A. § 50-6-110 by prohibiting a workers' compensation award when the injury or death is due to an employee's voluntary participation in recreational, social, athletic, or exercise activities whether or not the employer pays some or all of the costs of the event or activity unless:

1. Participation was expressly or impliedly required by the employer;
2. Participation produced a direct benefit to the employer beyond improvement in employee health and morale;
3. Participation was during employee's work hours and was part of the employee's work-related duties; or
4. The injury occurred due to an unsafe condition during voluntary participation using facilities designated by, furnished by or maintained by the employer on or off the employer's premises and the employer had actual knowledge of the unsafe condition and failed to curtail the activity or program or cure the unsafe condition.

*Effective July 11, 2009.*

**Chapter No. 599 (SB2000/HB1777). Maximum total benefit increased.** Amends T.C.A. Titles 50 and 56 by increasing the maximum total benefit to 400 times 100 percent of the state's average weekly wage. Also excludes temporary total benefits from the calculation of the maximum total benefit for injuries that occur on or after July 1, 2009.

*Effective July 8, 2009.*

**Chapter No. 486 (SB1574/HB1472). Process for obtaining employee medical records.**

Amends T.C.A. § 50-6-204(a) by changing the process for an employer to request employee medical records during workers' compensation claims. Now, employees must provide the employer or the division with a signed medical authorization form addressed to specific providers authorized by the employer. Employee is entitled to all medical records regardless of who pays for treatment. Employers are prohibited from communicating with medical providers, other than requests, unless the employee's attorney is copied within seven days. Employee or employee's attorney must be given seven days notice of any oral communications between employer and medical provider.

*Effective July 1, 2009.*



# THE UNIVERSITY of TENNESSEE

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## MUNICIPAL TECHNICAL ADVISORY SERVICE

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to the university.

The university does not discriminate on the basis of race, sex or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA or the Age Discrimination in Employment Act (ADEA) or any of the other above referenced policies should be directed to the Office of Equity and Diversity (OED), 1840 Melrose Avenue, Knoxville, TN 37996-3560, telephone (865) 974-2498 (V/TTY available) or 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the UTK Office of Human Resources, 600 Henley Street, Knoxville, TN 37996-4125.

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