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Private Acts of the General Assembly

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of the General Assembly

Reference Number: CTAS-448

Counties have relied upon private acts of the General Assembly to provide authority where none was granted by the general law, and to provide for offices not established by the general law. The 1978 amendment to Article VII, Section 1, was an attempt to provide greater uniformity in county governmental structure; the implementing legislation passed by the General Assembly provided that all conflicting general laws or private acts were repealed by it. This means that counties with varying structures under private acts adopted prior to 1978 were required to conform to the uniform pattern provided by the General Assembly. Counties having structures of county government varying from the general law pattern under private acts adopted prior to 1978 have since taken action to elect county mayors and legislative bodies and otherwise conform to the required pattern. Private acts continue to provide authority for actions that are not specifically authorized in the general law and for officials or bodies not provided by general law, such as county highway commissions in many counties. Private acts are the authority for some taxing powers in many counties, such as hotel/motel taxes and development taxes (e.g., adequate facilities taxes). The general law provides the county legislative body the authority to adopt a wheel tax subject to a referendum or by a two-thirds vote at two consecutive regular meetings subject to a referendum only if an adequate petition is filed (10 percent of the votes cast in the last gubernatorial election), but this general law also recognizes that a private act may serve as authority for a county wheel tax. T.C.A. § 5-8-102. Also, private acts are needed in counties without county charters or consolidated government charters to determine the method of selecting the chief administrative officer of the county highway department. Therefore, private acts remain useful additions to the general law authority that counties may exercise.

When a county legislative body deems a private act is in the best interest of the county, it usually adopts a resolution requesting a member of the General Assembly representing the people of the county to introduce such a bill. Such a resolution is not required by law but is a commonly accepted practice. After a private act bill passes the General Assembly and becomes law either upon the signature of the governor or after being on the governor's desk without veto for the constitutionally required 10 calendar days, Sundays excepted, the private act must still obtain local approval before the act is effective. Tenn. Const., art. III, § 18 and art. XI, § 9. The method of local approval is provided for in the act itself and is either by two-thirds majority of the county legislative body or by a majority of the voters in a referendum. Also, for the private act to become effective, local approval must take place within any time limit set in the act, or if no time limit is set in the act, then by December 1 of the year of enactment. Local approval must be certified to the secretary of state by the presiding officer (chair) of the county legislative body or the chair of the county election commission, as appropriate. T.C.A. § 8-3-202.

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