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# Chapter 1 - Administration

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Dear Reader:

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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.

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# Chapter 1 - Administration

## Auditing Committee

### Private Acts of 1935 Chapter 340

**SECTION 1.** That the Quarterly County Court of counties of this State having a population of not less than 159,000 nor more than 200,000 according to the Federal Census of 1930, or any subsequent census, are hereby authorized and empowered from time to time, as special audits may be deemed necessary, to appoint special committees composed of not less than five nor more than seven citizens of the County, not being members of the County Court, whose duty shall be to employ auditors to examine and audit the books, papers and offices of all the county officers of said county, and to make such complete audit of the same as may be required by said committee.

**SECTION 2.** That the said Auditing Committee shall have power and authority to make contract with auditors to be employed as aforesaid, to designate the time to be covered by such audit as to each office and the scope thereof, *provided* that the contract so made shall be ratified and approved by the Quarterly County Court of said County.

**SECTION 3.** That the said Auditing Committee shall have power and authority to examine all books and papers relating to each of the offices to be audited and it shall be the duty of all the officers of said County to afford full access to the books and papers in his office and to assist in the investigation of his office to as full extent as may be required by the auditors appointed as hereinbefore provided.

**SECTION 4.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: April 9, 1935.

## Chattanooga-Hamilton County Bridge Commission

### Private Acts of 1929 Chapter 508

**SECTION 1.** That there is hereby created a corporation by the name of the Chattanooga-Hamilton County Bridge Commission, with the powers, duties and limitations as hereinafter set out. Said corporation shall be regarded as a public corporation and a State agency, and limited in its powers and duties strictly to those herein granted. The general powers of said corporation shall be:

1. To sue and be sued by the corporate name.
2. To have and use a common seal, which it may alter at pleasure.
3. To establish by-laws and make all rules and regulations, not inconsistent with the laws and the constitution, deemed expedient for the management of corporate affairs.
4. To appoint such subordinate officers and agents in addition to the President and Secretary or Treasurer, as the business may require, and to fix the compensation of officers and employees.
5. A failure to elect officers at the proper time will not dissolve the corporation, but those in office hold until the election or appointment and qualification of their successors.
6. The term of all officers may be fixed by the by-laws of the corporation, not to exceed two years.
7. By no implication or construction shall the corporation be deemed to possess any powers, except those hereby expressly given or necessarily implied from the provisions of this charter.
8. The right is reserved to repeal, annul, or modify this charter.

**SECTION 2.** That said corporation shall be organized and shall function in the manner following, to wit:

The governing board shall consist of five directors, citizens of Hamilton County, Tennessee, three of whom shall be appointed by the Mayor of the City of Chattanooga, and two of whom shall be appointed by the County Judge of Hamilton County. It shall be the duty of the Mayor of the City of Chattanooga to appoint one director for a period of one year, one director for a period of two years, and one director for a period of three years. At the expiration of each of such terms the Mayor of the City of Chattanooga shall appoint a director for a term of two years, and thereafter at each expiration shall appoint a director for such term. It shall be the duty of the County Judge of Hamilton County to appoint one director for a period of one year, and one director for a period of two years, and thereafter at the expiration of each term he shall appoint a director for a term of two years. All vacancies in the Directorate shall be filled respectively by

the Mayor of the City of Chattanooga and the County Judge of Hamilton County, in accord with the vacancy being in a County or City Directorate. It shall be the duty of the Mayor of the City of Chattanooga and the County Judge of Hamilton County to make the appointment of such directors within thirty days after the passage of this Act. After the appointment of the directors, it shall be the duty of the Mayor of the City of Chattanooga to issue a call in writing for the organization meeting of directors. The said directors shall meet at the time and place stated in such notice, and shall organize the corporation by accepting the charter and adopting by-laws and regulations for the government of the corporation. Officers, consisting of the President, Vice-President, Secretary and Treasurer, shall be elected from the Directorate, but the office of Secretary and Treasurer may be held by one person. The officers shall serve for two years, and until their successors are appointed and qualified.

**SECTION 3.** That said corporation is vested with the power and duty to contract for the construction of a highway bridge across the Tennessee River at Chattanooga, in Hamilton County. Said bridge may be so constructed as to provide for railroad and street car tracks, as well as for vehicular traffic. The corporation shall have the right to receive from the United States Government a franchise or permission to construct said bridge, and shall also be authorized to accept and perform any such franchise granted to the City of Chattanooga and Hamilton County, and by such authorities assigned or transferred to the corporation. Said corporation shall have and possess all the powers necessary and incident to the construction of said bridge, including the power to employ engineers, make surveys and preliminary tests, locate the bridge, purchase or condemn necessary property for the bridge and approaches, accept plans and specifications, and provide the type and character of bridge to be built, make contracts for the construction, fixing terms and conditions thereof, fix the amount of bond required from contractors and approve the same, and accept the completed work, and release the contractors and sureties. All contracts, to be binding upon said corporation, shall be in writing, approved by the Board of Directors and executed by the President or Vice-President under the seal of the corporation. The corporation, by action of its Board of Directors, shall be authorized to make contracts for the construction of said bridge, and covering matters within its granted powers without advertising and without public bidding, but it shall be the duty of the Board of Directors to receive and consider all propositions for the financing and building of said bridge. For the purposes of acquiring necessary lands, locations and rights of way for such bridge and approaches, the said corporation is hereby invested with the power of eminent domain, and may condemn all lands, rights, easements, or franchises necessary for the completed construction and operation of said bridge. Such condemnation proceedings shall be held in accord with the general laws on the subject of condemning private property for public uses.

**SECTION 4.** That for the purposes of financing the building of said bridge, the corporation is authorized to issue its corporate bonds in a sum sufficient to cover the entire cost of the construction of the bridge, not to exceed Three Million Dollars (\$3,000,000.00). The cost of the bridge shall be ascertained by careful estimate before the bonds are issued or offered for sale, and the amount of the issue shall be fixed by the Board of Directors. The amount of bonds issued shall cover every item and character of cost or expense incident to the completion of the bridge, including all preliminary expenses of financing, surveys, engineers, plans, tests, rights of ways, location damages, direct and incidental, interest charges while work is in progress, overhead expenses of the corporation, and salaries of engineers, supervisors and inspectors employed by the corporation.

**SECTION 5.** That the corporation, through its Board of Directors, shall determine the form and denomination in which said bonds are to be issued, and shall determine the rate of interest, not to exceed six (6%) per cent, and the time within which such bonds shall mature, not to exceed thirty years. Said bonds shall be signed by the President, and Secretary, but interest coupons may be attached with the facsimile signature of such officers printed thereon. Said bonds shall not be sold at less than par, but the Board of Directors is authorized to incur a reasonable selling expense, within its discretion, and may sell said bonds at either a public or private sale, as it may deem advisable. Said bonds shall be free of any taxes levied by the State of Tennessee, any municipality in said State, or any county in said State, and for this purpose said bonds are hereby declared to be public bonds issued by a State agency. However, nothing herein shall be construed as making either the State of Tennessee, the City of Chattanooga, or Hamilton County responsible or liable for the payment of principal or interest on any of said bonds.

**SECTION 6.** That the payment of all outstanding bonds shall be guaranteed by the physical property owned by said corporation, including the bridge and every part thereof, and all property appurtenant thereto, and shall be further secured by a first claim upon all the income of said corporation derived from tolls, rentals, and service contracts from the operation of said bridge as hereinafter shown, and in accordance with the authority of any Act of Congress authorizing the construction and operation of such bridge.

**SECTION 7.** That the corporation is authorized to fix and charge tolls for the use of said bridge by pedestrians, automobiles, and other vehicular traffic, by street car companies and by railroad companies,

and by other common carriers, in accordance, however, with any limitation or regulation contained in the Act of Congress authorizing the construction and operation of such bridge. Such tolls and rentals charged shall be so fixed and adjusted as to provide a fund sufficient to pay the interest and principal of bonds issued under the authority of this Act, and to provide an additional fund to pay the cost of maintaining, repairing and operating such bridge. Such tolls and charges, except such part thereof as may be necessary to pay the cost of maintenance and operation, shall be placed in a special fund at interest which is hereby pledged to and charged with the payment of such bonds and interest thereon.

**SECTION 8.** That whenever said corporation has accumulated a fund from the collection of tolls and charges sufficient to pay all outstanding bonds and interest charges, the tolls and charges shall cease in so far as they apply to pedestrians, automobiles and vehicular traffic, and the bridge shall thereafter be a free public bridge with reference to such traffic, but said corporation shall continue to operate said bridge and shall continue to charge and collect tolls and service charges from any street car company, railroad company, passenger or freight bus, truck, or automobile, or other common carrier, and out of such receipts shall, first, pay the operating and maintenance expense of such bridge, and the balance shall be retained and disposed of as hereinafter directed. The corporation, through its Board of Directors, shall base such charges and tolls on the value of the service rendered and shall keep such service open for the use of public carriers desiring such service, without discrimination between individuals or corporations of the same class.

**SECTION 9.** That after the retirement of all bonds, the revenues and profits realized from the operation of said bridge shall be paid semiannually, one-half to the City of Chattanooga and one-half to Hamilton County, and such funds shall become the property of said governments and subject to full control and disposition. In making such payments, the corporation is authorized to retain a sufficient amount for contingent expenses and a sufficient fund for anticipated renewals or repairs.

**SECTION 10.** That, the Board of Directors of said corporation shall report to the Mayor and Board of Commissioners of the City of Chattanooga, and the County Judge and Quarterly Court of Hamilton County, on the 1st of July each year, showing the condition of the corporation, with itemized statement of the monies received and expended by it since its last annual report, together with such statistics, information and facts as it deems proper to so report, or as may be required by said City or County authorities, which report shall be verified by affidavit of the proper officer of said Board.

**SECTION 11.** That said Board of Directors shall require the officials of said corporation to execute bond in such amount as it may deem proper and sufficient, in some surety company doing business in Tennessee, payable to the corporation and condition upon the faithful performance of the duties devolved upon it, and a true and accurate accounting for all monies coming into its hands. The Board of Directors shall designate one or more of the banks of the City of Chattanooga as depository for said funds, in an account to be designated "Sinking Fund of Chattanooga-Hamilton County Bridge Commission's Bonds," and funds deposited therein shall not be paid out except to liquidate the interest and principal of said bonds.

The corporation, by action of the Board of Directors, may redeem any part of its outstanding bonds at market value whenever sufficient funds are in hand and the holders of such bonds are willing to surrender them for redemption.

**SECTION 12.** That this corporation shall continue to exist and function in accordance with the terms of this charter until such time as the Legislature of the State of Tennessee shall repeal this charter and make other provisions for the operation of any bridge built under the terms hereof, but the State of Tennessee, by this charter, pledges itself that it will not substantially interfere with the provisions of the charter nor the control of the operation of such bridge contrary to the terms hereof until the full payment and satisfaction and retirement of all outstanding bonds issued by the corporation for the construction of said bridge.

**SECTION 13.** That the Legislature of Tennessee hereby expresses its intention to grant unto said corporation power and authority to issue its bonds and to contract for the erection of such bridge, and to grant to such corporation rights and powers which can lawfully be granted, and that any grant of power herein contained, which might be held unconstitutional, shall not void the entire Act, and shall not interfere with the enforcement of the other provisions hereof.

**SECTION 14.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: April 2, 1929.

## Codes

# Private Acts of 1969 Chapter 79

**SECTION 1.** That Hamilton County is authorized to incorporate by reference the provisions of building, electrical, plumbing and gas codes prepared by technical trade associations and model code organizations, to provide for their administration and penalties for their violation and to define the areas where such county codes will be applicable.

**SECTION 2.** Definitions. That as used in this Act, the following terms shall have the meanings indicated:

(a) Governing body: The Hamilton County Council.

(b) Code: Any published compilation of rules which have been prepared by technical trade associations or model code organizations regulating building construction, electrical wiring, plumbing and gas installation.

**SECTION 3.** Adoption and Amendment of Code Reference. That the governing body may adopt or repeal a resolution which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of such code in full. At least three copies of such code, portion, or amendment which is incorporated by reference shall be filed in the office of the County Court Clerk and there kept for public use, inspection and examination. The filing requirements herein prescribed shall not be deemed to be complied with unless the required copies of such code, portion, or amendment are filed with the Clerk for a period of ninety days before the adoption of the resolution which incorporates such code, portion, or amendment by reference. No resolution incorporated a code, portion or amendment by reference shall be effective until published in a newspaper having a general circulation in the county.

(a) The governing body may from time to time set and establish an inspection fee commensurate with the cost of inspection to determine whether or not the codes are being followed, such fee to be paid by the owner of the property to Hamilton County, Tennessee.

As amended by: Private Acts of 1971, Chapter 134

**SECTION 4.** Administration. That the governing body may also incorporate by reference the administrative provisions of any code, or may include in the adopting resolution any suggested administrative provisions found in a code. Should a code not contain administrative provisions, the administrative provisions of another code may be adopted by reference, or may be adopted and included in the adopting resolution. The powers and duties of enforcing the provisions of any code incorporated by reference may be conferred upon such officials within the existing framework of the county government as the governing body may determine.

**SECTION 5.** Enforcement. That the county attorney or any official vested with the powers of enforcing the provisions of any code incorporated by reference may, in addition to any other remedies provided by law, institute injunction to prevent the violation of any provision of such code.

**SECTION 6.** Penalties. That the authority of this Act shall not extend to the incorporation by reference of any penalty clause contained in a code. Any person, firm or corporation or agent who shall violate a provision of any code incorporated by reference or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plans submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person, firm or corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of a code is committed or continued, and upon conviction for any such violation shall be punished by a fine of not more than Fifty Dollars.

**SECTION 7.** Applicability. That the provisions of this act shall apply only to the unincorporated area of Hamilton County.

**SECTION 8.** Validity. That if any section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

**SECTION 9.** That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of the County Council of Hamilton County, Tennessee. The County Judge of Hamilton County shall certify its approval or non-approval to the Secretary of State.

**SECTION 10.** That this Act shall be effective from and after its passage, the public welfare requiring it, but the provisions thereof shall not become operative until validated as provided in Section 9 herein.

Passed: April 15, 1969.

## Code Inspections

## Beer Inspector

### Private Acts of 1949 Chapter 755

**SECTION 1.** That the Beer Committee created and appointed by the County Council of Hamilton County is hereby authorized to employ a person to be called Beer Inspector, to investigate all places in the County selling, storing or manufacturing beer, and applicants for original or renewal licenses and permits.

**SECTION 2.** That said inspector shall be under the control and direction of the Beer Committee and it shall be his duty to make all investigations and inspections required by said Committee and to make reports of same to said Committee as it directs.

**SECTION 3.** That before an application for an original or renewal beer permit or license be considered by the Beer Committee, the applicant shall be required to pay to the County Court Clerk the sum of \$25.00 as an inspection fee to cover cost of necessary investigation and inspection relative to such application, to be paid by him into the County Treasury.

**SECTION 4.** That no original or renewal beer license shall be issued by the County Court Clerk to any applicant until he has received an approval from said Beer Committee of his application.

**SECTION 5.** That the salary and necessary expense allowance of said inspector be determined and fixed by the Council and paid out of the general funds of the County.

**SECTION 6.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 12, 1949.

## Building Inspector

### Private Acts of 1945 Chapter 232

**SECTION 1.** That the office of Building Inspector be and is hereby created for Hamilton County, Tennessee, whose jurisdiction shall extend to all territory in said County outside the corporate limits of Chattanooga. Said Inspector shall be employed by the County Council of Hamilton County, Tennessee and his compensation shall be fixed by said Council and he shall serve at the pleasure of the Council.

**SECTION 2.** That the County Council of Hamilton County, Tennessee is hereby authorized by resolution to adopt rules and regulations governing said office, defining its powers, duties and any other matters essential to the operation of said office.

**SECTION 3.** That from and after the establishment of such position and the filling of same by the Council, it shall be unlawful to erect, reconstruct or alter any building or other structure without obtaining a building permit from such County Building Inspector and such Building Inspector shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration fully conforms to the rules and regulations adopted by the Council, governing said office.

**SECTION 4.** That the amount of fees charged for permits shall be fixed by the Council and said Fee shall be paid directly to the Building Inspector and he shall turn over same to the County Trustee; and that all fees shall be certified monthly to the County Judge by said Inspector; and, he shall use a book of vouchers or certificates furnished by the County Council and regularly numbered and the certificates shall correspond by number with the number of certificates furnished to the County Judge.

**SECTION 5.** That the Building Inspector shall execute a solvent indemnity bond conditioned for the faithful performance of his duties and proper accounting of all fees coming into his hands as such Building Inspector in the amount of One Thousand and No/100 (\$1,000) Dollars to be paid for by the County.

**SECTION 6.** That the said Building Inspector is hereby empowered to inspect all buildings and structures in pursuance of the duties of his office.

**SECTION 7.** That any person or persons who shall violate any provisions of this Act or who shall fail to comply with its provisions or requirements, shall be guilty of a misdemeanor [sic] and on conviction thereof shall be subject to a fine of not less than Five Dollars or more than Fifty Dollars for each offense. Each and every day's continuance of any violation of a provision of this Act shall be deemed as a separate offense.

**SECTION 8.** That all laws or parts of laws in conflict with this Act be and the same are hereby repealed.

**SECTION 9.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 13, 1945.



# Electrical Inspector

## Private Acts of 1927 Chapter 617

**SECTION 1.** That in counties having a population of not less than 115,000, nor more than 116,000, inhabitants, according to the Federal Census of 1920, or any subsequent Federal Census, the office of Electrical Inspector be and is hereby created, whose jurisdiction shall be co-extensive with the County, except in corporate towns or cities having a population in excess of 50,000 inhabitants according to the Federal Census of 1920, or any subsequent Federal Census. He shall be a practical electrician, and shall be appointed by the County Judge and ratified by the County Court of said counties, at their July Term, 1927, and every four years thereafter, and shall receive the fees of the office, provided they are not in excess of Three Thousand (\$3,000.00) Dollars per annum, to be realized out of fees collected for work, permits, inspections, and fees collected from and through his Department, and shall in no event receive any compensation from the County. If there are not sufficient fees collected to amount to Three Thousand (\$3,000.00) Dollars, then he shall receive only the fees of the office. If the fees amount to more than Three Thousand (\$3,000.00) Dollars per annum, the balance shall be reported to the County Judge and paid to the County Trustee, to the credit of the school fund of the County. Said Electrical Inspector may be removed from office by the County Judge for misfeasance, malfeasance, or non-feasance, subject however, to the approval of the next ensuing term of the Quarterly County Court.

**SECTION 2.** That all fees shall be credited monthly to the County Judge by the Electrical Inspector; the said Electrical Inspector shall keep a copy of such certificate in a book, and the certificate shall correspond by number with the number of the certificate furnished to the County Judge. The fees shall be paid direct to the Electrical Inspector.

**SECTION 3.** That the Electrical Inspector shall proceed to make the proper inspection when notified by the contractor doing the work and he shall issue a certificate with his approval when the work is found by him to be in accordance with the rules and requirements hereinafter specified. No permit shall be granted for any electrical sign, picture machine, theatre booth, or similar structure, either interior or exterior, until the Electrical Inspector shall have examined, passed on, and approved the applications, plans and specifications, and shall also be prepared [sic] to give their certificates or approval, all of which shall be based on the conditions contained in this Act. If such applications, plans and specification do not appear to conform to the requirements hereinafter, adopted, no permit shall be issued until such applications, plans and specifications are made to comply with the provisions of this Act.

**SECTION 4.** That the Electrical Inspector shall use a book of vouchers or certificates in triplicate and regularly numbered, and shall assess and receive the fees for the inspection of all other works (such as the inspection of wiring, apparatus, machinery or structure previously erected or passed on but in need of other inspection) and issue his receipt therefor in triplicate. He shall report the said fees to the County Judge monthly, with the original certificate therefor, and present a copy to the owner or party whose premises or property has been served, and shall retain a copy for his own records; and the owners of all electric signs and similar structures, shall be entitled to a certificate from the Inspector, stating that such signs or structures comply with the provisions of this Act before final settlement with the contractor.

**SECTION 5.** That the Electrical Inspector shall execute a solvent indemnity bond to cover the security and all other liability that may accrue by reason of his office to the County, in the sum of Five Thousand (\$5,000.00) Dollars, and it shall be executed by a Surety Company.

**SECTION 6.** That the Electrical Inspector is hereby empowered and directed to enter all buildings or structures in pursuance of the duties of his office, and to inspect all electrical wiring used for the transmission of current for light, heat and power purposes that is hereafter installed at the time of installation, or any such wiring now installed where repairs, changes or alterations are to be made. No person, firm or corporation shall attempt to do any electrical work, either new work or additions to old work, who has not first obtained a license to do electrical work, except that any person, firm or corporation regularly employing ten or more men, who have a regular electrician on their payroll, may do minor repairs and construction without obtaining said license. The National Electrical Code rules are hereby adopted as a standard by which all wires for light, heat and power purposes shall be installed. Said inspector shall make a semi-annual inspection of all electric signs and structure of similar character.

**SECTION 7.** That it shall be unlawful for any person, firm or corporation to place any furnace pipe, water, gas, or sewer pipe, or any dangerous material in contact with any electrical apparatus or wires, or cause such apparatus or wires to be cut, disconnected, or disarranged in any manner without first notifying the Electrical Inspector in writing. It shall be unlawful for any person, firm or corporation to furnish or connect electric current to the wiring on any building or structure, until said wires are first duly inspected and a written permit issued allowing current to be supplied.



**SECTION 2.** That any violation of the provisions of this Act is hereby declared a misdemeanor and any persons found guilty thereof shall be subject to a fine of not less than \$5.00 nor more than \$25.00, for each offense.

**SECTION 3.** That in event of a vacancy by resignation or otherwise, in the office of said Electrical Inspector, such office shall be filled at the next succeeding meeting of the Quarterly County Court; and at the expiration of the term of the present Electrical Inspector and each succeeding term thereafter the said office of Electrical Inspector shall be filled by said Quarterly County Court.

**SECTION 4.** That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed; and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 14, 1929.

## Plumbing Inspector

### Private Acts of 1945 Chapter 231

**SECTION 1.** That the office of Plumbing Inspector be, and is hereby created for Hamilton County, Tennessee whose jurisdiction shall extend to all territories in said County outside the corporate limits of Chattanooga. Said Inspector may be employed by the County Council of Hamilton County, Tennessee and his compensation shall be fixed by said Council and he shall serve at the pleasure of the Council.

**SECTION 2.** That the County Council of Hamilton County, Tennessee is hereby authorized by resolution to adopt rules and regulations governing said office, defining its powers, duties, specifications and any other matters essential to the operation of said office.

**SECTION 3.** That from and after the establishment of such position and the filling of same by the Council, the Plumbing Inspector shall proceed to make the proper inspections when notified by the contractor, owner or other person doing the work, and he shall issue a certificate with his approval when the work is found by him to be in accordance with the rules and regulations hereinafter specified. No permit shall be granted for any plumbing in any resident or business house until the Plumbing Inspector shall have examined, passed on and approved the applications, plans and specifications of plumbing in said building, all of which shall be based on the conditions and specifications adopted and authorized by the County Council. If such application, plans and specifications do not appear to conform to the requirements adopted by the Council, no permit shall be issued under such applications, until plans and specifications are made to comply with the rules, regulations and specifications adopted by the Council.

**SECTION 4.** That the amount of fees charged for permits shall be fixed by the Council and said fee shall be paid directly to the Plumbing Inspector and he shall turn over same to the County Trustee; and that all fees shall be certified monthly to the County Judge by said Inspector; and, he shall use a book of vouchers or certificates furnished by the County Council and regularly numbered and the certificates shall correspond by number with the number of certificates furnished to the County Judge.

**SECTION 5.** That the Plumbing Inspector shall execute a solvent indemnity bond conditioned for the faithful performance of his duties and proper accounting of all fees coming into his hands as such Plumbing Inspector in the amount of One Thousand and No/100 (\$1,000) Dollars to be paid for by the County.

**SECTION 6.** That the Plumbing Inspector is hereby empowered and directed to enter all buildings or structures in pursuance of the duties of his office, and to inspect all plumbing being installed or repaired. No person, firm or corporation shall attempt to install any plumbing in any new building or make major repairs on plumbing in old buildings who has not first obtained a permit to do such work from said Plumbing Inspector; provided, however, that they shall not apply to minor repairs or cases of emergency where plumbing becomes defective from use and requires immediate attention.

**SECTION 7.** That all plumbing hereinafter installed within the territory covered by this Act shall be installed according to the standards and specifications as shall be adopted by the County Council and fees shall be paid for such inspection as shall be provided by said Council.

**SECTION 8.** That any person or persons who should violate any provisions of this Act, or who shall fail to comply with any of its provisions or requirements shall be guilty of a misdemeanor, and on conviction therefor shall be subject to a fine of not less than Five (\$5.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense. Each and every day's continuance of any violation of a provision of this Act shall be deemed a separate offense.

**SECTION 9.** That all laws or parts of laws in conflict with this Act be, and the same are hereby repealed.

**SECTION 10.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 13, 1945.

## County Government

### County Council - Private Acts of 1941, Chapter 156

#### Private Acts of 1941 Chapter 156

**COMPILER'S NOTE:** The county council form of government, established by the Private Acts of 1941, Chapter 156, was abolished when Article VII of the Tennessee Constitution was amended in 1978. Pursuant to Tenn. Code Ann. § 5-5-101(b), effective September 1, 1978, the county council form of county government was abolished and all legislative powers that remained with such council were vested in the county legislative body. Tenn. Code Ann. § 5-5-203(a) further provides that any private act in conflict with any provision of Chapter 5 and Chapters 1 and 6 of Title 5 is repealed. See also AG OP 82-464 (October 8, 1982) and AG OP 15-60 (July 14, 2015).

**SECTION 1.** That there is hereby created a County Council in Hamilton County, authorized and empowered to direct and control the administrative affairs of said County in accordance with the provisions of this Act; and that said County Council shall consist of the County Judge and four (4) members to be elected as hereinafter provided. All administrative duties in connection with the County Government are hereby vested in said Council, except such as pertain to the offices of officials elected by the people in accordance with the constitutional and legislative regulations, except as herein otherwise provided.

Nothing herein shall be construed so as to change the power of the Quarterly County Court to elect, appoint, or fill vacancies, as the case may be, in the following statutory offices: School Board Members; Superintendent of Schools; Notaries Public; Public Administrator; Members, County Board of Equalization other than filling vacancies therein by the County Judge as otherwise provided by law; Members, Agricultural Extension Committee; Chairman pro tempore, Quarterly Court; Office of County Judge; Constables; and Office of County Court Clerk.

As amended by: Private Acts of 1974, Chapter 245

**SECTION 2.** That the County Judge shall be Chairman of said County Council, have a vote in its deliberations and exercise a general supervision over all expenditures, and sign all payable warrants, except as hereinafter provided.

**SECTION 3.** That the Council shall meet in regular session not less than twice every calendar month, at a time and place designated by resolution, and is authorized to hold special sessions upon a call of the County Judge or any three (3) members upon two (2) days' notice. All meetings of the Council shall be public. The Council is authorized to adopt its own rules of procedure, and shall keep a minute record of all its proceedings. Three (3) members of the Council shall constitute a quorum authorized to transact business, but all actions shall require at least three (3) affirmative votes to become effective. Any vacancy in the Council, except County Judge, shall be filled by the remaining members of the Council until the next County general election. One of the members of the Council shall be elected as Vice-Chairman, who shall serve in place of and perform the duties of the Chairman when he is absent. The County Court Clerk shall act as secretary of the Council and shall keep the minutes and records thereof and issue all necessary notices.

As amended by: Private Acts of 1943, Chapter 44

**SECTION 4.** That the Council shall have direct authority over all county activities falling within its jurisdiction and specifically including the activities enumerated as follows: Contracts, purchases, health and sanitation, public buildings and grounds, county hospitals and poor houses, highways and county roads, auditing and accounting, workhouses, budgeting, engineering, and parks and recreation, and all matters pertaining to public welfare. The specification of the foregoing activities shall not be construed as excluding other activities within the purview of this Act.

**SECTION 5.** That all administrative, legislative and appointive powers now vested in the Quarterly County Court, except such powers and duties as are invested in such Courts and the members thereof by the Constitution of the State of Tennessee, are hereby divested out of said Court and the members thereof, and vested in said Council, except as herein provided. The Council shall have and exercise all the duties and powers now vested in and imposed upon the Highway Commission, the Commissioners of the Poor, the Buildings and Grounds Commission, the County Board of Health, and all other boards, commissions and agencies of said County, except as herein provided. In addition to its other powers and

duties, and not limiting nor derogating from the general powers herein provided for, the Council shall have and exercise the following specific powers, duties and jurisdiction:

1. It shall adopt a budget of all County expenses, and shall make appropriations of County funds for all lawful purposes.
2. It shall be authorized to borrow money in anticipation of collections of current revenue for the purpose of paying existing indebtedness and defraying current operating expenses in accordance with the terms of the statutes now authorizing such borrowing by resolution of the County Court.
3. It is authorized to employ such assistants and fix the duties thereof, deemed necessary in the efficient administration of County affairs, and all employees under the control of the County shall be selected and their salaries fixed by the Council, and all such employees shall serve at the pleasure of the Council.
4. It is authorized to adopt rules and regulations governing the selection of employees, and may set up and put in force a civil service system for all employees under its jurisdiction.
5. It is authorized to adopt a system of Social Security in keeping with the Acts of Congress and the State Legislature with respect to old age benefits covering County employees.
6. It shall determine what employees shall be required to give bond, and shall fix the amount and form thereof, and shall approve the sureties thereon.
7. It shall have authority to employ and fix the salaries of necessary agents and departmental heads who shall serve at the pleasure of the Council, as follows: Attorneys and Solicitors, County Engineer and assistants, County Physician and assistants, Superintendent of the County Hospital and assistants, Superintendent of other institutions under the control of the Council, County Health officer and assistants, and all other assistants and employees of said Council and departments under its control. It shall have authority to fix the salary and allow office expenses of the Farm Demonstrators, insofar as the County contributes to the expense of such service.
8. It shall have power and authority to contract with attorneys for special services in unusual situations or controversies, or in cases involving the public revenue or the defalcation of public officers.
9. It shall be the duty of the Council to consolidate and coordinate various departments of the County government, and to this end said Council is authorized and empowered to reorganize each department of County government hereby placed under its control, and fix the duties of each employee and require additional duties, or dispense with the services of any employee or subordinate not required for efficient public service.
10. It is vested with full power to investigate the official conduct of any officer, employee subordinate official, department or agency of the County falling under the jurisdiction of the Council.
11. It is authorized to settle, compromise, and pay just claims against the County upon approval by the County Attorney and the Auditing Department.
12. It is authorized to exercise all powers of eminent domain and the institution, defense, and conduct of litigation in behalf of the County vested in the Quarterly County Court.
13. The Council may appoint an advisory committee of citizens to assist the head of any department or office in the performance of his duties. The members of such committee shall receive no compensation for such services. The service of such committee shall be for a definite term fixed at the time of its appointment.

As amended by: Private Acts of 1967-68, Chapter 465

14. The County Council is authorized in each and every year to make such allowance as it in its discretion shall think sufficient to compensate the Sheriff of Hamilton County for ex officio service, whether such allowance is or is not included in the county budget.

As amended by: Private Acts of 1949, Chapter 5

15. Any Board, Institution, Agency or Organization receiving County funds in any year of Ten Thousand (\$10,000.00) Dollars or more shall submit to the County Council quarterly statements containing full information as to its assets and liabilities, income and expense, receipts and disbursements in such detail as the County Council may require. The Council shall have access at all times through representatives designated by the Council, to records and files of the recipient of such County funds for the purpose of verifying and clarifying said reports.

The Council may lease any County owned or jointly owned facility or facilities to any responsible person, firm, association, trustee, corporations organized for public welfare or profit, or otherwise; under such terms, conditions and stipulations as, in its discretion, it may require.

As amended by: Private Acts of 1949, Chapter 5  
Private Acts of 1953, Chapter 10

Private Acts of 1957, Chapter 175  
Private Acts of 1967-68, Chapter 465

**SECTION 6.** That the Council must employ a General Manager of County Affairs at its first meeting, or as soon as practicable thereafter, who shall serve at the pleasure of the Council and shall be paid a salary to be fixed from time to time by the Council.

That the Council may require of the Manager the performance of the duties following:

1. To exercise general supervision over all departments of the County created by this Act.
2. To serve as head of any of the departments created by this Act except the Auditing Department.
3. To recommend to the Council suitable employees and their compensation.
4. To make recommendations to the Council for the consolidation of such activities as he deems advisable.
5. To assist in the formation of the budget and make estimates and recommendations with reference to the anticipated expenses of the succeeding fiscal year.
6. To make reports from time to time on such matters of County interest as the Council may require, and to perform such other duties as may be required of him by the Council.

**SECTION 7.** That there is hereby created an Auditing Department, the employees of which shall be appointed by and be solely responsible to the Council. This department shall make an annual audit of each office and officer of the County handling County funds, and shall report same to the Council, and shall perform such other auditing functions as may be required by the Council.

There shall be a Chief Auditor, who shall be employed by the Council and serve at its will. The Chief Auditor shall be a duly licensed accountant under the laws of the State of Tennessee.

The books of the Council shall be audited at least once a year by a certified public accountant who is not in the regular employ of the Council, and such audit shall be made public by publication in some newspaper published in the county.

All warrants drawn upon the County treasury shall be signed by the County Judge or Vice-Chairman of the Council, and no funds shall be drawn from the treasury of the County, nor shall any obligation for the expenditures of money be incurred, except pursuant to an appropriation by the Council. It shall be the duty of the Council to make semi annual reports showing receipts and disbursements and condition of all funds, and such reports shall be certified to by the Auditing Department, and each report shall be made available promptly upon completion to any newspaper published in the County.

**SECTION 8.** That there is hereby created a department of accounting and purchasing which shall perform the administrative details of the accounting and purchasing duties vested in the Council. The accounting and purchasing department shall maintain a complete system of accounts of the financial transactions and of all moneys paid to and disbursed by the County. Such system shall be designed so as to avoid the keeping of duplicate records of financial transactions insofar as is consistent with proper accounting control, and a centralized control is to be attained as nearly as possible, provided, however, that nothing herein shall be construed so as to relieve the Trustee or any County officer of their duty to keep proper record of their financial transactions.

Promptly at the close of each month this department shall prepare and submit to the Council a statement of revenues and expenditures for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the County and of each department and division thereof; and at the close of each fiscal year it shall submit to the Council a complete report of the County finances, nor shall anything herein be construed as relieving any County officer of the duties imposed on him of keeping any records required by general statute.

The administrative details of all County purchases shall be performed by this department. All County purchases of food, supplies, materials and equipment of all County agencies and uses, made from County funds, shall be made in bulk and at wholesale if possible, and all such purchases shall be made by this department upon proper requisition. The Council is authorized to provide warehousing facilities, which shall be under the charge of this department, for the reception and storage of supplies, etc., purchased in wholesale quantities, to be distributed to the various departments and agencies, and it shall be the duty of the County agencies and officials to make requisition for any and all supplies upon this department; provided, the Council may make rules and regulations with respect to the character and extent of supplies to be kept in storage. This department may be authorized by the Council to make transfers of supplies, materials and equipment between departments and offices, and to sell surplus materials, equipment and supplies. This department shall have power, with the approval of the Council, to establish suitable specifications or standards for all supplies, materials and equipment to be purchased for the County. It

shall inspect and check all deliveries to determine their compliance with such other specifications and standards.

All food, clothing and other supplies needed in the operation of the county jails, county workhouses, county hospitals, Bonny Oaks Industrial School, Baroness Erlanger Hospital, and T. C. Thompson Children's Hospital shall be so requisitioned and furnished by such department within budget allowances. In the case of temporary emergency the Council may by special permission permit purchases in a different manner than as provided in this section.

This department shall not furnish any supplies, materials or contractual services to any department or office except upon receipt of proper approved requisition, and unless there be an unencumbered appropriation balance sufficient to pay for same.

**SECTION 9.** Pursuant to Tennessee Code Annotated, Section 12-3-607, none of these provisions shall require or be deemed to permit any purchases to comply with any energy efficiencies standards and life cycles costing as employed by the state of Tennessee in its procurement policies.

As amended by: Private Acts of 2009, Chapter 16

**SECTION 10.** That there is hereby created a Department of Highways and Public Works, of which the County Engineer may be the head. Such department shall have charge of the construction, improvement and maintenance of roads, highways, bridges, buildings, and all other engineering, construction, repair and maintenance projects now or hereafter under the jurisdiction of the County. It shall have charge of the preparation of all plans and specifications for and supervise the construction and repair of all County buildings and projects. Such department shall have charge of the operation, maintenance and supervision of the court house and all other County buildings and property, and specifically including the management and control of the County work house. All duties of the Highway Commission, Workhouse Commission, and Buildings and Grounds Commission vested in the Council by this Act shall be performed by this department.

**SECTION 11.** That there is hereby created a Department of Health and Welfare, which shall have charge of all health functions, vital statistics, clinics, county hospitals and insane asylum, and other similar institutions now or hereafter under the exclusive jurisdiction of the County, and shall perform such other duties of this nature as may be allocated to it by the Council.

The duties of the County Board of Health and the Commissioners of the Poor, which are by this Act imposed upon the Council, shall be performed through the agency of this department. The County Physician may be designated to serve as the head of this department.

**SECTION 12.** That the Council shall have no authority in connection with the school system in the operation of the schools, nor shall the Council have authority to divert any general revenue from school purposes. The School revenue and the County revenue shall at all times be kept distinct and shall not be co-mingled in general accounts, nor be used, either temporarily or permanently, other than for specific purposes provided by law. Nothing herein shall be construed as modifying the General Education Act or changing the method of school management under the provisions relating to school revenue, except as herein provided, and except insofar as the law now provides for the duties of the Buildings and Grounds Commission with reference to the construction and maintenance of school buildings.

It shall be the duty of the Board of Education to submit a detailed estimate of the expenses of the operation of the schools for the succeeding year not later than April 1st of each year to the Council. Such estimate shall cover all contemplated expenses, including recommendations for new buildings and necessary repairs. Such estimates shall be given consideration by the Council and a budget made and adopted by the Council which shall be included in the general County budget as a part thereof, and a school tax fixed and levied sufficient to cover such adopted budget.

The Board of Education and the Council are authorized to contract with each other for the performance by the Council of any matter of business administration now vested by law in the Board of Education; but this provision shall not in any way apply to the actual operations of the schools from an instructional standpoint.

**SECTION 13.** That the power and duty of the County Court with respect to issuing County bonds as now provided by law, or as hereafter vested in the County Court by general acts of the State Legislature, is hereby vested in the County Council, and such Council shall have and exercise all the powers with respect to approving and issuing County bonds, or calling elections for such purposes.

**SECTION 14.** That the Council shall have the power to contract with municipalities, taxing units, other counties, states, inter-governmental bodies and federal agencies for the establishment and operation of hospitals, industrial schools, public libraries, public health clinics and services, jails, workhouses and reformatories, garbage, trash and waste collection, treatment plants, sewers and/or sewer systems, and incinerators, and to make and accept contributions for the same.

As amended by: Private Acts of 1967-68, Chapter 287

**SECTION 15.** That the Council may employ an attorney for the collection of delinquent poll taxes and require the County Trustee to deliver delinquent poll tax lists to such attorney. It shall be the duty of such attorney to collect all delinquent poll taxes possible by active effort, and to that end he is authorized to take such action as the law allows to enforce such collections. Such attorney shall be compensated as fixed by the Council, and shall serve at the pleasure of the Council.

**SECTION 16.** That no member of the Council, or the Manager, or any other subordinate or regularly employed employee of said Council, shall be connected with or interested in, directly or indirectly, any contract with or purchase by the County or by the Council, and if any such councilman, manager or other employee shall become interested in any such contract or purchase, he shall be guilty of a felony, and upon conviction shall be sentenced to the State Penitentiary for a term of not less than one nor more than five years, and his office shall be forfeited.

**SECTION 17.** That the Council shall have the authority to authorize the employment and fix the salaries of such court officers as may be required in the efficient operation of the courts of the County; provided, that the judges of the several courts shall have the right to name the officers so authorized for their respective courts. The Council may authorize the employment and fix the salaries of such juvenile officers and assistants as may be found necessary to the efficient operation of the juvenile court of the County. The Council may also provide for necessary expenses for transportation, detention and care of the juvenile offenders in carrying out the orders of the juvenile court; provided, that such juvenile officers and necessary employees shall be named by the judge of the Juvenile Court. The Council shall have the authority to require the services of the court officers and juvenile officers in other County activities when such officers are not actively engaged in their regular employment and services.

**SECTION 18.** That not later than June 1st of each year, the manager shall submit to the Council a budget consisting of detailed estimates of the expenditures and revenues for the forthcoming fiscal year. Said budget shall be upon forms prescribed by the Council showing a classification according to funds, organization units, character, objects and functions. Said budget shall include all expenditures of all departments, offices, agencies and institutions payable from County funds and all capital outlays for public improvements to be paid for the whole or in part by the County, the State or the Federal Government. Said budget shall also show all anticipated revenues classified according to source. Said budget shall be available for inspection by the public. Thereafter and before the end of the fiscal year the council shall adopt a budget for the forthcoming fiscal year and levy a tax, or taxes, sufficient in amount to produce the amounts called for in said budget.

The Council shall be limited in its expenditures to the amounts authorized as shown by such budget, and no part of the general revenue shall be expended beyond such amounts, and no contract or commitment shall be made in excess of such amounts. Provided, however, that the Council may amend such budget and appropriations from time to time as previously unbudgeted revenues and/or funds, without regard to source, become available for appropriation and/or expenditure; and provided further that the Council, upon the recommendation of the County Judge, may, in regular meeting, reallocate previously budgeted and appropriated funds, without regard to source, as may be deemed necessary for the proper operation of County government if notice of such proposed budget amendment or reallocation has been given in the previous Council meeting and if the proposed reallocation of funds involves transfers of funds between any unit or division within a department but does not involve transfers of funds between departments.

Provided, that nothing herein shall hinder the County Council in making allowances to the Sheriff of Hamilton County to compensate him for ex officio service.

In all departments where the expenses are fixed and can reasonably be divided into periodical or monthly allowances, the budget for such department shall be divided and allocated to such periodical expenses, and no more than the monthly or periodical allowance shall be expended in any such period; provided, that in cases of emergency four members of the Council may authorize a variance from this limitation.

No warrant shall be drawn by the County Judge or Vice-Chairman in excess of such limitations, or in excess of budget allowances, and no contract shall be approved by the Council or expenditure authorized in violation of these provisions.

Provided, that nothing herein shall hinder the County Judge or the Vice-Chairman in drawing, signing, issuing and delivering warrants for allowances made by the County Council to the Sheriff of Hamilton County to compensate him for ex officio service, and the County Judge and Vice-Chairman are authorized and directed to draw, sign, issue and deliver warrants for such allowances made by the County Council.

That no contract, purchase order, order on stores, agreement or other obligation involving the expenditure of tax, bond or any other money received by the County shall be issued or entered into, nor shall any such be valid unless the department of accounting and purchasing shall first certify thereon that there is in the



county treasury to the credit of the appropriation or loan authorization from which it is to be paid an otherwise unencumbered balance; that is, a balance in excess of all unpaid obligations, which is properly available and sufficient to meet such contract, purchase, order, order on stores, agreement or obligation. Before so certifying, the department of accounting and purchasing shall encumber the proper appropriation or loan authorization with the amount of the contract, purchase order, order on stores, agreement or obligation until the County is discharged therefrom. At the close of the fiscal year any unencumbered balance of a general fund appropriation shall revert to the general fund.

Deferred liability contracts may be entered into during the last two months of the fiscal year for coal and school equipment for delivery prior to the beginning of the new fiscal year; provided, that such contracts shall first receive the unanimous approval of the Council, and the amounts thereof shall be charged against the proper appropriations the first day of the new fiscal year.

That all encumbered moneys actually in the treasury to the credit of a fund from which they may be drawn, all moneys anticipated to be received in the annual budget, all money to be derived from bonds, notes and certificates of indebtedness, either then or previously authorized to be sold, and either sold for the purpose of the department of accounting and purchasing certification, shall be deemed in the treasury to the credit of the appropriate fund and subject to certification.

That all contracts, purchase orders, orders on stores, agreements and obligations issued or entered into, contrary to the provisions of this Act, shall be void and no person shall have any claim or demand whatever against the County thereunder, nor shall any official or employee of the County waive, or qualify, the limitations fixed by this Act or fasten upon the County any liability whatever in excess of such limits.

That should any emergency affecting public welfare, such as epidemics, floods, fires or other catastrophes, arise, the Council shall have the power, after publicly declaring by resolution, passed by unanimous vote, the existence of such emergency, to appropriate necessary funds to meet such emergency. Such funds shall be drawn from otherwise unappropriated revenues, if any, or raised by temporary loans. Such temporary loans, when made, shall be approved by the Council by unanimous vote, shall be repaid at an annual rate equivalent to not less than two mills upon the assessed valuation of real property in said County.

Any official violating the provisions of this section, including the members of the Council, shall be deemed guilty of a misdemeanor in office, and shall be removed from office in accordance with the provisions of the general law, and in addition shall be personally liable to the County for such illegal expenditures, which liability shall extend to the sureties on their official bonds.

The County Council of Hamilton County, Tennessee, is hereby authorized and empowered to appropriate out of the funds of the County not already appropriated, a sum not exceeding twenty-five cents per day for keeping and feeding each prisoner in the County Jail in addition to the amount already authorized by law, the same to be paid to the Sheriff's Office and the necessity for appropriating said sum is discretionary with the Council.

As amended by: Private Acts of 1945, Chapter 134  
Private Acts of 1949, Chapter 5  
Private Acts of 1953, Chapter 10  
Private Acts of 1975, Chapter 145

**SEC. 19.** (a) This section shall be known and may be cited as the "Hamilton County Procurement Law of 1993".

(b) Procurement by and for Hamilton County, or any of its agencies, departments, offices or officials, shall be awarded by sealed competitive bid or by sealed competitive proposal, except as follows:

- (1) All purchases and purchase-leases for said county must be preceded by competitive bid or competitive proposal only if that purchase or lease-purchase amount exceeds that authorized by Tennessee Code Annotated, § 12-3-1007(b), as such section shall be amended from time to time.
- (2) Repair of heavy machinery for which limited repair facilities are available;
- (3) Professional, technical or consultant services;
- (4) All lease purchase arrangements requiring payments of less than two thousand five hundred dollars (\$2,500.00) during any fiscal year;
- (5) Perishable commodities and motor fuel may be purchased in the open market pursuant to the County Purchasing Rules and Regulations; and
- (6) All emergency purchases and single source items.

(c) Nothing in this section shall be construed to prevent Hamilton County from procuring equipment or

real property and contracting for services to the extent otherwise authorized by law, including, but not limited to, entering into federal and state purchasing contracts.

(d) The county legislative body is authorized to develop rules, regulations and procedures to implement this section, including rules, regulations and procedures to govern purchases requiring expenditures of less than the ten thousand dollar (\$10,000.00) amount authorized by Tennessee Code Annotated, § 12-3-1007(b), as such section shall be amended from time to time, for emergency purchases, single source items, leases, lease purchases and professional, technical or consultant services.

As amended by: Private Acts of 1959, Chapter 140  
 Private Acts of 1972, Chapter 409  
 Private Acts of 1993, Chapter 73  
 Private Acts of 2007, Chapter 55

**SECTION 20.** That the members of the Council shall be residents of Hamilton County of not less than five (5) years duration, and shall not be less than twenty-five (25) years of age. Each member of the council shall be paid a salary of Thirty-six Hundred Dollars (\$3600.00) per annum, payable in monthly installments; provided, that the County Judge shall not receive any additional compensation for his services as a member of the Council. No member of the Council shall demand or receive in any manner or form any greater compensation than that provided herein. Each member of the Council shall be required to execute bond for the faithful performance of his duties in the penalty of Five Thousand (\$5,000.00) Dollars, with corporate surety to be approved by the Chairman of the Council. Cost of said bond to be paid by the County.

The Vice-Chairman of the Council shall be paid an additional salary not to exceed Thirty-Six Hundred (\$3,600.00) Dollars per month, on account of the extra duties he performs. The amount of said additional salary is to be fixed by Resolution of the County Council.

That in addition to the salary of Thirty-Six Hundred (\$3,600.00) Dollars per annum paid to each member of the County Council in Hamilton County, Tennessee, said Council is hereby authorized to pay its Vice-Chairman an additional salary for extra services performed in such amount as the County Council in its discretion deems reasonable and proper, to be fixed by a resolution of the said Council.

As amended by: Private Acts of 1943, Chapter 44  
 Private Acts of 1947, Chapter 251  
 Private Acts of 1957, Chapter 168  
 Private Acts of 1961, Chapter 371  
 Private Acts of 1973, Chapter 141

**SECTION 21.** That nothing herein contained shall be construed as depriving the present Board of Trustees of the Bonny Oaks Industrial School, or the Board of Trustees of the Erlanger Hospital and the Children's Hospital of any of their authority in the management and direction of such institutions; provided, that such Trustees shall procure insofar as practicable such supplies as needed by requisition upon the Purchasing Department, within the rules promulgated by the Council.

**SECTION 22.** That the first Council shall consist of the County Judge and the following named residents of Hamilton County, qualified as herein provided, to-wit: (1) James Pitts, (2) R. E. Holbert, (3) Victor Hallmark, (4) Wiley O. Couch. The members of the Council hereby named shall serve until September 1st, 1942, and until their successors are elected and qualified. At the general election in August, 1942, there shall be elected four members of the Council who shall serve for a term of four (4) years. Thereafter, at the general election in August every four years, the four members of the Council other than the County Judge shall be elected. The County Judge will continue to be elected in the manner now provided by law.

**SECTION 23.** That the following Acts of the General Assembly of Tennessee, applicable to Hamilton County be, and the same are hereby, repealed:

Private Acts of 1927, Chapter 298, authorizing the County Judge of Hamilton County to appoint clerks and purchasing agents and fix their compensation; Private Acts of 1927, Chapter 299, creating a Board of Buildings and Grounds Commissioners for Hamilton County; Acts of 1913, Chapter 23, as amended by Private Acts of 1929, Chapter 511, fixing the salary of the County Physician or Jail Physician; Private Acts of 1915, Chapter 15, as amended by Private Acts of 1929, Chapter 913, providing for the appointment of a County Engineer and fixing his compensation; Private Acts of 1929, Chapter 914, except the first section thereof; Special Act providing for a salary of a clerk for the Highway Commission and for the appointment and salary of a Clerk for the Highway Commission; Acts of 1899, Chapter 352, as amended by Private Acts of 1922 [sic], Chapter 55, providing for the election of a county attorney and fixing his salary; Private Acts of 1917, Chapter 424, to regulate county expenditures by requiring the making of a County budget, and prohibiting the expenditure of any amount beyond that placed and fixed in such budget.

**SECTION 22.1** That (a) there is hereby created a County Home Rule Board to consist of nine (9)

members, five (5) members to be such ex officio or by virtue of their being members of said Council, and four (4) members to be such ex officio or by virtue of their election to the General Assembly, that is to say, the Senator and the three (3) Representatives; (b) the members of said Board who are ex officio members as members of said Council shall hold office while members of said Council, and the members of said Board who are ex officio members by virtue of their being members of the General Assembly of the State of Tennessee shall take office when elected and hold office until their terms as members of the General Assembly expire; (c) said Board shall be called into meeting by the County Judge ten (10) days after the election by the members of the General Assembly in November, and it shall be the duty of said Board to pass upon the advisability of and give adequate publicity to proposed legislation with respect to the organization or administration of Hamilton County, and if any member thinks it best, arrange for a public hearing on the matter; (d) at any time there is contemplated a change in the compensation of any State or County officer who is elected by vote of the people whose compensation is paid in full by Hamilton County, said Board shall be called into meeting, or if any member of said Board deems it expedient to have a discussion with respect to the compensation of any of said officials, including the five members of said Council, said Board shall be called into meeting for a discussion; and following the discussion, if said Board is of the opinion that action should be taken, notice shall be given to the public by advertisement in at least two newspapers published in Hamilton County of a public hearing to be had with respect to the matter, and at that public hearing said County Home Rule Board of nine, by a majority of at least seven (7), shall have the power to fix by resolution the compensation of any of said officials, either increasing or decreasing the compensation; (e) no member of said Board shall receive any compensation for services thereon, and said Board may provide that any compensation of officials which it may determine upon, either increase or decrease, shall be effective at a later date to be fixed by resolution; (f) provided, however, the compensation of any employees of the State, the County, or any State or County official functioning in the County shall be fixed by said Council, notwithstanding any Private Acts which may now be in force (e.g., Private Acts of 1947, Chapter 542, p. 2316, or acts of which it is amendatory).  
As amended by: Private Acts of 1949, Chapter 772

**SECTION 24.** That the Private Acts of 1933, Chapter 746, providing for the establishment of hospitals for the insane in Hamilton County, Tennessee, be and the same is hereby amended so as to comply with the terms of this Act, and all the powers vested by said Act in the Commissioners of the Poor shall be vested in the Council herein created.

**SECTION 25.** That if any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional, it shall not impair the validity or constitutionality of the remaining portions of this Act, it being hereby expressly declared by the General Assembly that this Act, and each section, subsection, sentence, clause or phrase thereof would have been adopted irrespective of any other portions thereof being declared invalid or unconstitutional. Each separate power created by any section, subsection, clause or phrase of this Act is declared separable, and its validity or unconstitutionality shall not affect any other part of the Act.

**SECTION 26.** That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

**SECTION 27.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 5, 1941.

**COMPILER'S NOTE:** The constitutionality of Private Acts of 1941, Chapter 156, was upheld in Ragon v. Thrasher, 253 S.W.2d 31 (Tenn. 1952).

## Private Acts of 1953 Chapter 10

**SECTION 1.** That Chapter No. 156 of the Private Acts of Tennessee of 1941, which is an Act to reorganize the government and administration of Hamilton County, be amended as follows: That the County Council of Hamilton County, Tennessee be and the same is hereby authorized to appropriate funds to provide full or partial scholarships to the graduates of public high schools operating within said county, for the purpose of assisting qualified and deserving students to attend nonprofit and nonsectarian institutions of higher learning which are accredited by the State of Tennessee and the Southern Association of Colleges and Secondary Schools; and which scholarship program shall be carried out in cooperation with the Board of Education of said county.

**SECTION 2.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: January 13, 1953.

## Private Acts of 1957 Chapter 175

**SECTION 1.** That Chapter No. 156 of the Private Acts of Tennessee of 1941, which is an Act to reorganize the government and administration of Hamilton County, be amended as follows:

“That the County Council of Hamilton County, Tennessee be and the same is hereby authorized to appropriate funds for the purpose of assisting the Chamber of Commerce of Chattanooga and/or the Chattanooga Convention and Visitors Bureau, corporations organized under the laws of Tennessee, to promote the development of Hamilton County.”

**SECTION 2.** That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the County Council of any county to which it may apply on or before the next regular meeting of such County Council occurring more than thirty days after its approval by the Chief Executive of this State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

**SECTION 3.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 1, 1957.

## Allied Arts Fund

### Private Acts of 1973 Chapter 155

**SECTION 1.** The County Council of Hamilton County is authorized to appropriate funds to the Allied Arts Fund of Greater Chattanooga, Inc., a charitable organization whose principal purpose is to raise and distribute funds for the support of its member cultural organizations in the greater Chattanooga area.

**SECTION 2.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Council of Hamilton County. Its approval or non-approval shall be proclaimed by the presiding officer of the county council of Hamilton County and certified by him to the Secretary of State.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this Act, as provided in Section 2, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: May 4, 1973.

## Community Services Contract

### Private Acts of 1967-68 Chapter 256

**SECTION 1.** That the County Council of Hamilton County, Tennessee, be, and the same hereby is, authorized to contract with the Metropolitan Council for Community Services for such services as said governing body may deem advisable and to the best interest and development of Hamilton County, and to appropriate funds for payment of such contractual service.

**SECTION 2.** That this Act shall have no effect unless the same shall have been approved by two-thirds (2/3) of the County Council of Hamilton County, Tennessee, on or before the next regular meeting of said County Council occurring more than thirty (30) days after its approval by the Chief Executive of this State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having the jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

**SECTION 3.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 25, 1967.

## Garbage Collection

### Private Acts of 1961 Chapter 395

**SECTION 1.** That Hamilton County, Tennessee, through its County Council, is hereby authorized and empowered to regulate the operation of garbage trucks and vehicles in the unincorporated territory of said County and the flow of traffic of garbage trucks on the streets and highways to the designated dumps, by requiring that any one in the garbage business within the unincorporated territories of Hamilton County, Tennessee, whether an individual or corporation, operating for profit, must use enclosed and/or covered garbage trucks or vehicles to prevent refuse from being blown, dropped or spilled and that any person or corporation guilty of violating this requirement shall be guilty of a misdemeanor and fined \$25.00 and

costs. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

As amended by: Private Acts of 1967-68, Chapter 259

**SECTION 2.** That all employers, either individuals or corporations, engaged in such operation of garbage trucks or vehicles within the unincorporated territory of Hamilton County, Tennessee, shall register with the county clerk evidence of surety bond of not less than two thousand five hundred dollars (\$2,500) for each employer payable to Hamilton County.

As amended by: Private Acts of 1986, Chapter 171

**SECTION 3.** That this Act shall have no effect unless the same be approved by a two-thirds (2/3) vote of the legislative body of Hamilton County, Tennessee to which this Act applies within thirty (30) days after its passage. The presiding officer of such body shall proclaim its approval or non-approval and certify the same to the Secretary of State.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 17, 1961.

## Private Acts of 1967-68 Chapter 259

**COMPILER'S NOTE:** Section 1 of this act specifically amended Private Acts of 1961, Chapter 395, Section 1 (see previous page), and is therefore not printed here in full. The remainder of this act provides non-specific amendments to Private Acts of 1961, Chapter 395, and must be read in conjunction with that act.

**SECTION 2.** That the Hamilton County Council delegate the authority to the Department of Public Health of Hamilton County to supervise all dumping of garbage, refuse, rubbish and ashes accumulated in the unincorporated area of Hamilton County and to approve where each and every operator of such truck shall dump his collected refuse. Dumping of refuse in other than areas approved by the Department of Public Health shall be a misdemeanor and any person or corporation guilty of violating this requirement shall be guilty of a misdemeanor and fined \$25.00 and costs. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

**SECTION 3.** That the Hamilton County Commission shall have the power and authority to make all such other reasonable rules and regulations concerning individual collecting, disposal and transporting of refuse over county roads by any "garbage collectors", as it shall find necessary. The county commission may set fines for violations of any rules and regulations established by it. The county commission has the power and authority to charge a reasonable fee not to exceed one hundred dollars (\$100) for licenses and/or permits for any "garbage collectors" operating in Hamilton County. The Hamilton County commission may award franchises to garbage collectors to serve certain unincorporated areas of the county. However, the county commission shall not have the power or authority to grant a monopoly to any individual or corporation engaged in such business.

As amended by: Private Acts of 1967-68, Chapter 498

Private Acts of 1986, Chapter 171

**SECTION 4.** That if any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional or void, it shall not effect the remaining parts of this Act, it being hereby declared to be the legislative intent to have passed the remainder of this Act, notwithstanding the part held to be invalid, if any.

**SECTION 5.** That this Act shall have no effect unless the same be approved by two-thirds (2/3) vote of the legislative body of Hamilton County, Tennessee, to which this Act applies within thirty (30) days after its passage. The presiding officer of such body shall proclaim its approval or non-approval and certify the same to the Secretary of State.

**SECTION 6.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 25, 1967.

## Law Enforcement Aid

### Private Acts of 1959 Chapter 220

**SECTION 1.** That the County Council of Hamilton County shall be and hereby is authorized and empowered to enter into a contract or contracts with an institution or institutions, public or private, or with an individual or individuals requiring said Institution or Institutions, or said individual or individuals, within said County to render scientific and medical assistance in connection with law enforcement

problems of said county. The contracts may provide for, but shall not be limited to the performances of autopsies, chemical and biological laboratory examinations, toxicological examinations, and such other scientific and medical examinations, investigations and experimentations as may be deemed necessary by the County Council of Hamilton County.

**SECTION 2.** That the County Council of Hamilton County shall be and hereby is empowered and authorized to appropriate and expend from the general funds of said County, not more than \$10,000 per annum, for the purposes of effectuating the contract, or contracts, authorized by Section 1 of this Act.

**SECTION 3.** That this Act shall be construed as supplementary to the existing contract powers and authority of said County and is not intended, to repeal any existing Act or Acts, affecting such County.

**SECTION 4.** That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the County Council of Hamilton County, Tennessee, on or before the next regular meeting of said County Council of Hamilton County, Tennessee, occurring more than sixty days after its approval by the Chief Executive of this State. Its approval or nonapproval shall be proclaimed by the Chairman of the County Council of Hamilton County, Tennessee, and shall be certified by him to the Secretary of State.

Passed: March 18, 1959.

## Legislative Delegation Aid

### Private Acts of 1963 Chapter 4

**SECTION 1.** That Hamilton County is hereby authorized to appropriate public funds to be expended for the purpose of facilitating the operations of the Hamilton County delegations in the General Assemblies of the State of Tennessee, through the acquisition of space for headquarters, professional and clerical assistance, and other necessary expenses.

**SECTION 2.** That this Act shall not take effect unless the same shall have been approved by a two-thirds vote of the County Council of Hamilton County, Tennessee. The County Judge of Hamilton County shall certify its approval or nonapproval to the Secretary of State.

**SECTION 3.** That this Act shall be effective from and after its passage, the public welfare requiring it, but the provisions thereof shall not become operative until validated as provided in Section 2 herein.

Passed: January 17, 1963.

## Removal of Appointees

### Private Acts of 1984 Chapter 171

**SECTION 1.** In Hamilton County, either the County Executive and/or the Board of Commissioners, as appointing authorities for the several boards, agencies or commissions not mandated under the laws of the state of Tennessee, are hereby empowered to remove any of these appointees, where removal provisions are not provided for under the laws of the state of Tennessee, the removal procedure shall be accomplished as follows:

(1) the [sic] county executive may remove from office any member of any board, agency or commission appointed by him, for cause, but only after the appointee is given a copy of the charges against him at least ten (10) days prior to a hearing thereon. The date of the hearing shall be set forth in the notice of charges given to the appointee. The notice shall be mailed by certified mail to the appointee at his last known address at least ten (10) days prior to a hearing thereon. The appointee shall have the opportunity to be heard in person or by council at the hearing.

(2) The Board of Commissioners may remove from office any member of any board, agency, or commission appointed or elected by the board of commissioners, for cause, upon a vote of a majority of the members of the board, but only after preferment of formal charges against him. Upon motion of the board, properly approved, written charges shall be furnished to the appointee at least ten (10) days prior to a hearing thereon. The date of the hearing shall be set forth in a written notice of charges to be given to the appointee. The notice shall be mailed by certified mail to the appointee at his last known address, at least ten (10) days prior to the hearing thereon. The appointee shall have an opportunity to be heard in person or by counsel at the hearing. After the hearing, the appointee may be removed upon the affirmative vote of a majority of the members of the Board of Commissioners.

**SECTION 2.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Hamilton County. Its approval or nonapproval shall be proclaimed by the presiding

officer of the Hamilton County legislative body and certified by him to the Secretary of State.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: March 22, 1984.

## Senior Neighbors, Inc.

### Private Acts of 1972 Chapter 397

**SECTION 1.** The Governing Board of Hamilton County, Tennessee, is authorized to appropriate funds to Senior Neighbors, Inc. for general services to elderly people; including, but not limited to, the providing of food services to the homebound, transportation, and educational and recreational activities.

**SECTION 2.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Council of Hamilton County. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

**SECTION 3.** For the purpose of approving or rejecting the provisions of this Act, as provided in Section 2, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 2.

Passed: April 13, 1972.

## Sinking Fund Commission

### Private Acts of 1917 Chapter 45

**SECTION 1.** That the County Court of Hamilton County, Tennessee, at any regular or special quarterly session following the passage of this Act, be and it is, hereby authorized, empowered and directed to elect a Sinking Fund Commission, which shall consist of three (3) members, citizens of the county, whose term of office shall be ten (10) years, and until their successors are elected and qualified, or until such time as they may resign, die or be removed, as hereinafter provided for. Said Commissioners, when elected, shall take an oath faithfully to perform their duties, as such, and shall, before entering upon their duties give bond, with good security, in such sum as the County Court may designate.

**SECTION 2.** That it shall be the duty of the County Court of said county to prescribe by resolution the manner and method of handling and investing said sinking fund, and said County Court shall also have the power to remove from office all or either of said Commissioners at any time it may deem the county's interest requires such removal, and in the event of the resignation, death or removal of either of said Commissioners, the County Court shall elect his or their successor to fill out the unexpired term, and the County Court shall at all times have control of said Commissioners.

**SECTION 3.** That it shall be the duty of said Sinking Fund Commission to receive and take in charge all funds set apart and provided by the County Court as a sinking fund for the payment of any bonds heretofore issued, or that may be issued, by said county when so directed by the County Court.

**SECTION 4.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: January 26, 1917.

## Symphony Orchestra

### Private Acts of 1951 Chapter 508

**SECTION 1.** That the governing board of Hamilton County, Tennessee, be, and the same hereby is, authorized to appropriate money to aid and support a civic symphony orchestra, located within said county, for the purpose of presenting Youth Concerts to the school children of said county and for the general purpose of advancing the study and appreciation of music, said program to be promoted in cooperation with the music teachers of said county and its Board of Education.

**SECTION 2.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 12, 1951.

# County Register

## Private Acts of 1923 Chapter 405

**SECTION 1.** That in all cities having a population of not less than 50,000 nor more than 70,000 by the Federal Census of 1920, or any subsequent Federal Census, all plans, plots or replots of land lying within the limits of such city, or for a distance of three miles outside thereof, laid out in building lots, and streets, alleys, squares, parks, or portions of same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting upon any such square, park, street, alley, or boulevard, or adjacent thereto, or lying or being within the boundary of the said tract or parcel of land, and located within the limits of any such city, or for a distance of three miles outside thereof, shall be submitted to the Board of Commissioners, or other legislative body having general charge and the supervision of the design, construction and maintenance of city streets; and all such plans, plots, or re-plots shall be approved by such Board of Commissioners or other legislative body, before they shall be tendered for record to the County Register. Said plans, plots, or re-plots shall be examined by such Board with a view of ascertaining whether such plans, plots, or re-plots conform to the general laws and ordinances relating to plans, plots, or re-plots within the city, and that streets, alleys, boulevards, parks and public ways or places shall conform to the general plan of the city, and not conflict or interfere with rights-of-way of streets, or alleys already established. If such plans, plots, or re-plots shall conform to the laws of the State and ordinances of such city, and if they fall within the general plan for the extension of such city, as adopted by ordinance, then it shall be the duty of said Board, or other legislative body, to endorse its approval upon the plan, plot, or re-plot submitted to it.

The disapproval of any such plans by said Board, or other legislative body, shall be deemed a refusal of the proposed dedication shown thereon, but its approval shall be deemed an acceptance of the proposed dedication for public, or private use, as the case may be; but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedication parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement; and owners and purchasers shall be deemed to have notice of the public plans, maps and reports of such Board, or body having charge of the design, construction and maintenance of the city streets, affecting such property within the jurisdiction of the cities of the class hereinbefore set out.

Where such city has a City Planning Commission, said plans, plots, or re-plots submitted to its Board of Commissioners, or other legislative body, for approval shall be first submitted to the Board, or other legislative body, to said City Planning Commission for its recommendation, before said Board, or other legislative body, shall note its approval or disapproval thereon.

**SECTION 2.** That if any such plan, plot, or re-plot of land is tendered for registration in the office of a County Register of any county in which any city of the above class may be situated, it shall be the duty of such County Register to examine such plan, plot, or re-plot to ascertain whether the endorsement of the Commissioners, or legislative body provided for in the next preceding section, shall appear thereon. If it shall, and the plan, plot, or re-plot otherwise conforms to the provisions of law, he shall accept same for registration. If such endorsement does not appear thereon, the Register shall refuse and decline to accept same for registration. Any failure to observe the provisions of this section, on the part of any County Register, shall constitute a misdemeanor in office.

**SECTION 3.** That all Acts or parts of Acts in conflict with this Act be, and the same are hereby repealed.

**SECTION 4.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 31, 1923.

## Private Acts of 1974 Chapter 324

**SECTION 1.** Where Hamilton County has prepared or has had prepared a property map or maps which identify all parcels of real estate within the area of said government, and which assign a number or other identifying symbol to each parcel and where such map or maps by appropriate and specific reference thereto have been adopted by the governing body of said county as the official property identification map or maps for said local government; every instrument regarding the conveyance or transfer of real property; before being accepted for recordation by the Hamilton County registrar shall bear on the face of said instrument the parcel number or other identifying symbol which the specific parcel being recorded has been assigned on the official property identification map or maps.

**SECTION 2.** Before this Act becomes effective the same must be approved by two-thirds (2/3) majority vote of the governing body of Hamilton County, the same being the County Council of said County, and, that said vote shall be taken within thirty (30) days from the enactment of this Act. Its approval or



nonapproval shall be proclaimed by the presiding officer of the governing body of Hamilton County, and shall be certified by him to the Secretary of State.

**SECTION 3.** All laws or parts of laws in conflict with this Act are hereby repealed.

**SECTION 4.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: March 20, 1974.

## County Trustee

### Private Acts of 1915 Chapter 312

**SECTION 1.** That the County Trustees in all counties having a population of over 89,000 and under 90,000 according to the Federal census of 1910 or any subsequent Federal census, shall give one bond to the State of Tennessee for its own use and another to the State of Tennessee for the use and benefit of such county, in the sum of 20% of the taxes collected for the State and county respectively during the year prior to which such bonds shall be executed, as the same may be shown by the report of the Trustee of such county made to the State Comptroller and to the County Court of such county in September next preceding the execution of such bonds.

**SECTION 2.** That any and all bonds now in effect shall within thirty days after this Act shall take effect be readjusted upon the above basis.

**SECTION 3.** That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 2, 1915.

## Flood Control and Drainage Improvements

### Chattanooga Protection District

#### Private Acts of 1929 Chapter 768

**COMPILER'S NOTE:** Private Acts of 1939, Chapter 768, should be read in conjunction with Private Acts of 1943, Chapter 386, which follows this Act.

**SECTION 1.** That all that part of Hamilton County within the corporate limits of the City of Chattanooga be, and the same is, hereby organized into a Flood Protection District, to be known and designated as the 'Chattanooga Protection District', in which name it may sue and be sued. It is the purpose of this Act to protect all the property in the District from loss or damage by overflow, and to protect the lives and residents of the District from sickness and suffering consequent of the overflow of the waters of the Tennessee River, Chattanooga Creek, North Chickamauga Creek, South Chickamauga Creek and Citico Creek or other water courses by erecting and maintaining sufficient and efficient flood protection works, as hereinafter provided, by and through the agency of the Commissioners herein incorporated; and to carry out and render effective this intent in full the Courts shall construe this Act as an exercise by the General Assembly of the State of Tennessee of all of the powers appertaining to it necessary for the protection, not only of the property of said District, but also the lives and health of the citizens State resident in said District.

Only such property within the District shall be assessed for benefits as the Commissioners for said 'Chattanooga Protection District', hereinafter created, may determine shall be specially benefited by the work which said District is organized to do.

As amended by:  
Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136  
Private Acts of 1949, Chapter 719

**SECTION 2.** That a governing Board for said District to be known and designated as the "Board of Commissioners" of the said "Chattanooga Protection District" is hereby created. Said Board of Commissioners shall consist of six (6) members, the first Commission shall be the Mayor and Commissioners of the City of Chattanooga and the Judge of Hamilton County, Tennessee, who shall serve until December 31, 1930, but at the August election 1930 and each four years thereafter, a Commission

shall be elected by the qualified voters of said District who shall serve for a term of four years beginning January first following their election and until their successors are elected and qualified; at such elections all persons otherwise qualified to vote who are then owners of property in said District shall be entitled to vote. Any vacancy in said Board of Commissioners shall be filled for the unexpired term, by the remaining members of the said Board.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 3.** That said Commissioners shall organize by electing a President of said Commission whose duty it shall be to preside at all meetings thereof and sign the minutes of the proceedings. He shall exercise a general supervision over all work undertaken by the Commissioners, or hereinafter provided for, and shall do all acts and things that said Commissioners shall empower or authorize him to do or perform, and in his absence from any of the meetings, said Commissioners may select one of their number to preside. The President of said Commissioners shall annually, and as soon after January first of each year as practicable, make to said Commissioners a full detailed report of all the business transacted by said Commissioners, showing in detail, the receipts and disbursements of said Commissioners, which said report shall be spread upon the minutes of the Board of Commissioners. The expenses of the Commissioners or any of them while traveling out of Hamilton County, in the discharge of their official duties, may be paid by the Commissioners.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 4.** That said Commissioners shall elect a Secretary, who shall hold his office for such time as the Commissioners may fix, but the Commissioners may at any time remove said Secretary and elect a successor, or fill any vacancy in said office. Said Secretary, before he undertakes to discharge the duties of his office, shall execute a Surety Bond in some Bonding Company, and in such amount as said Commissioners may require, payable to said Commissioners and conditioned for the faithful and honest performance of the duties of his office. Said Secretary shall do all things required of him by said Commissioners, or by the provisions of this Act.

Said Commissioners shall also elect a Treasurer whose tenure of office shall be such as said Commissioners may determine. He shall be required to give bond in such amount as may from time to time be required by said Commissioners, payable to said Commissioners and conditioned for the prompt and efficient discharge of the duties required of him under the provisions of this Act, and for the safe keeping, accounting for and paying over of all moneys, property or effects that may come into his custody and possession under this Act or by direction of said Commisisoners [sic], in such manner as said Commissioners may require or direct. He shall pay out said moneys only on a warrant, or other order, authorizing such payment, signed by the President and countersigned by the Secretary. Warrants shall be numbered and issued consecutively and no warrant shall be issued unless there will remain after its payment, sufficient funds in the Treasurer's hands, or to the credit of said Commissioners for that purpose, to pay all outstanding warrants previously issued. A faithful record of all such warrants shall be kept by the Treasurer and also by the Secretary. The Commissioners may also require bonds with surety to be given by any other person or official appointed, elected or empowered to act for or assist the Secretary or Treasurer and said bonds, or any of them, may, upon default, be put in suit and prosecuted from time to time in the name of and for use of said Commissioners.

Whenever a new Treasurer shall have been elected and qualified, it shall become the duty of the Treasurer forthwith to surrender and deliver to his said successor all moneys, property, records, books and papers of any and every description belonging to said Commissioners, then in his possession by virtue of his office or appertaining thereto in any manner whatsoever, and in like manner he shall fully surrender and deliver to his successor the entire effects, affairs, business, management and conduct of his office as Treasurer and make a full settlement of same, and he shall take the receipt of his successor therefor, and for any default herein he shall be liable on his official bond.

The bonds of all officials and of said Commissioners when so executed, delivered and approved, shall be filed with the Commissioners. The Commissioners may cause the bonds of their officers and employees to be increased or diminished when they deem it necessary to protect the interest of the said "Chattanooga Protection District." The Commissioners may contract with bonding companies for the bonds of their officers and employees, and may pay the premiums on said bonds.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 5.** That the salaries of all agents and employees of said Commission shall be fixed by said Commissioners, and such salaries and all other expenses incurred by said Commissioners in carrying into effect the provisions of this Act, shall be paid out of any funds raised under this Act.

As amended by: Private Acts of 1935, Chapter 446

## Private Acts of 1945, Chapter 136

**SECTION 6.** That the Commissioners of said "Chattanooga Protection District" shall hold their regular meetings at such times and places within the district, as the Commissioners may designate and determine upon, and special meetings may be held as often as the said Commissioners may be called together by the President, or by any three members thereof upon written notice, mailed each member of the Commission by the Secretary or any three members thereof. At each of the said meetings, a majority of the Commissioners shall constitute a quorum for the transaction of business, but a vote of three Commissioners in accord shall be necessary to carry any measure or make any appropriation.

**SECTION 7.** That said Commissioners of Chattanooga Protection District shall have power and it is hereby made their duty to build, rebuild, strengthen, enlarge, operate and maintain all such structures and works, including levees, reservoirs, ditches, canals, bulkheads, floodgates, power stations, pumps, sewers and all other structures and works which they shall deem essential to carry out the purposes of this Act in the manner and according to the plan or plans which they shall decide upon. They may make all contracts for the work and all needful regulations and do all acts necessary to protect the said district or any part thereof from overflow by the waters of the Tennessee River and Chattanooga Creek or other water courses and to dispose of storm water and other drainage and sewage. They are hereby empowered to prescribe the terms and conditions of all contracts for construction and other work, and for materials and equipment.

As amended by:

Private Acts of 1935, Chapter 446

Private Acts of 1945, Chapter 136

**SECTION 8.** That for the purpose of building, rebuilding, repairing, constructing, maintaining and operating said flood protection works, and to enable them to carry out the purposes and provisions of this Act, the said Commissioners of Chattanooga Protection District shall have power to issue the bonds of said District for an amount not exceeding Five Million Dollars, such bonds to be in such sums and denominations, not less than Five Hundred Dollars each, nor more than Five Thousand Dollars each, as the Commissioners may prescribe, which bonds shall each be signed by the president and countersigned by the secretary of said Commissioners, and be made payable to bearer. None of said bonds to mature in less than ten years nor more than fifty years from date of issuance and to be serial bonds, the amount maturing each year to be determined by said Commissioners. All of said bonds then outstanding shall be callable after thirty years from date of issuance. They may be made payable at any place within or without the limits of this State, and shall bear a rate of interest not exceeding five percent per annum, for which interest coupons may be attached, payable at such times as the Commissioners may determine. Said Commissioners shall fix a place or places for the payment of the principal and interest on said bonds. No such bond so issued as aforesaid shall be valid or binding on said Commissioners or District until the same be endorsed by the Treasurer, in writing. Upon such endorsement by the Treasurer, said bonds shall then, and not until then, be held fully executed and shall thereupon pass by delivery. The Treasurer of said Commissioners shall keep a faithful and correct register, showing the date, letter, number amount and place of payment of all the bonds issued, sold or used, and shall keep the same kind of an account of all the bonds paid, received or taken up by said Commissioners, showing when payment was made, when each such bond was received or taken up, and on what account, and no bond or coupon so paid, received or taken up by said Commissioners shall again be used or reissued, but every such bond or coupon shall promptly be canceled by said Treasurer, and punched with an instrument suitable for that purpose. The Treasurer shall at the same time note on the original register hereinbefore required to be kept by him, the fact of the payment, surrender or cancellation of each bond or coupon he may take up, and the bonds and coupons taken up by said Treasurer after cancellation shall carefully be preserved by him as vouchers in his settlement with said Commissioners; and after due allowance of the same in settlement of said Commissioners, the President thereof is required to receive the same from said Treasurer, and thereupon he shall burn the coupons so received to ashes in the presence of said Commissioners, and shall deposit and file the canceled bonds in the vaults of said Commissioners, to be preserved as a part of their records. The minutes of said Commissioners are furthermore required fully to show the date, letter, number, amount and place of payment of each bond so deposited and filed, and coupon so destroyed, as a check on the Register required to be kept by the Treasurer. The Treasurer when he shall take up or receive any bond or coupon, shall on the same day notify the Secretary, giving description of same. The Commissioners of the Chattanooga Protection District may issue any of the bonds hereby authorized, at any time or times, and as they may determine, until they shall have issued the aggregate amount hereby authorized. All moneys borrowed or arising from the negotiation or sale of any of said bonds shall promptly be paid into the Treasury of said Commissioners and shall constitute a fund to be used and applied to carry into effect the object and purposes of this Act. The said bonds shall be exempt in this State from all taxes, including State, County and Municipal.

That no expenses shall be incurred by the Commissioners of the Chattanooga Protection District until the bond election as hereinafter provided has been held and the bonds authorized by the voters voting in such

election.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136  
Private Acts of 1949, Chapter 719.

**SECTION 9.** That the Secretary of said Commissioners shall, upon order of said Commissioners, cause said bonds to be lithographed, with such devices for identification and to prevent imitation, as said Secretary shall think proper; and he shall register said bonds in a book to be kept for that purpose, as the same are issued, stating therein the date, letter, number, amount and place of payment and on what account issued, of each bond issued, and he shall take the receipt in said book of the party to whom each of said bonds is delivered.

**SECTION 10.** That it shall not be lawful for the said Commissioners of Chattanooga Protection District, or any officer, member or agent thereof, to pledge or deposit any bond or coupon issued under this Act, as security for payment of any borrowed money, or of any debt or obligation of said Commissioners or of anyone else; and any member, officer or agent of said Commissioners who shall violate this Section, by selling, transferring or negotiating any bond or bonds for an amount less than authorized by the terms of said 8th Section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one year, nor more than five years. And it shall also be unlawful for the Commissioners, or any officer, member or agent thereof, to receive, take or hold for any bond or coupon issued under this Act, any sum or amount of money less than the face value of said bond or coupon, and any violation of this clause shall be deemed a felony, and the party or parties so violating, upon conviction, shall be punished by imprisonment in the penitentiary for a term of not less than one year, nor more than five years. The cost of printing said bonds and a reasonable expense for selling the same may be paid, by Commissioners from the proceeds of the bond sale or from any funds in their Treasury.

**SECTION 11.** That the bonds of said Chattanooga Protection District shall be a lien on all lands in said District, and said Commissioners may irrevocably pledge the full faith, credit and resources of said District and all assessments of benefits of said District to secure the payment of the said bonds and the interest thereon.

**SECTION 12.** That after said bonds have been authorized by vote as hereinbefore provided, the Commissioners of Chattanooga Protection District, for the purpose of paying interest on bonds, or of applying to any other obligation or of prosecuting any of the activities of said Commissioners, may in any year borrow money in anticipation of the current year's revenues. Said Commissioners may issue debentures therefor, bearing interest at a rate not exceeding five per cent per annum, which shall not be sold for less than par and accrued interest; and the provisions in this Act with reference to the receiving and canceling of bonds and to misapplication of funds, shall apply likewise to said debentures. No revenues derived from the sale of debentures or from the collection of any levy, shall be used for any purpose except the payment of such bonds and debentures and such interest on bonds and debentures which fall due during the current year (or before the next date for annual settlement of the tax collector) unless provision shall first have been made to set aside a sufficient part of the current year's revenues to pay such bonds, debentures and interest; and after setting aside the necessary sum (from funds either in the Treasury or to be collected for the current year, or both), then any balance on hand or from the sale of debentures may be expended for any of the obligations or activities of said Commissioners.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 13.** That no bonds herein authorized shall be issued and sold by said Commissioners until after an election shall be held in the Chattanooga Protection District and a number of votes equal to fifty (50) per cent of the total vote cast for all candidates for Mayor in the last municipal election vote in favor of the issuance of said bonds. It shall be the duty of the Election Commissioners of Hamilton County upon request of the Commissioners of said Chattanooga Protection District to call and hold an election within sixty (60) days after receipt of said request, said election to be held at the usual voting precincts within said District. Said election shall be called and held in the manner prescribed by law. At said election all persons qualified to vote for Mayor and Commissioners of the City of Chattanooga who are otherwise qualified may vote at such election. The Election Commissioners shall prepare ballots for each precinct in said Chattanooga Protection District, on which shall be printed these words:

'FOR THE ISSUANCE OF BONDS'

'AGAINST THE ISSUANCE OF BONDS'

and voters shall indicate their desire by putting a cross (x) mark opposite their choice. If, at said election, voters equal to fifty (50) percent of the total vote cast for all candidates for Mayor in the last municipal election vote in favor of the issuance of bonds the Commissioners of the Chattanooga Protection District

shall proceed with the issuance and sale of bonds and the exercise of all the power and authority and in the performance of all things authorized by this Act. If the bonds are not authorized by the voters at said election said Commissioners shall not have the power to issue bonds. Said Commissioners of the Chattanooga Protection District may, in their discretion, request the Election Commissioners of Hamilton County to call and hold another election after the expiration of one (1) year from the date of the first election and resubmit the question of the issuance of said bonds to the voters, as hereinbefore provided.

The result of said election shall be certified by the officers thereof to the Election Commissioners of Hamilton County, Tennessee, within five (5) days after such election is held, and the Election Commissioners shall then canvass and declare and certify the result of such election to the Commissioners of the Chattanooga Protection District.

As amended by: Private Acts of 1935, Chapter 446  
 Private Acts of 1945, Chapter 136  
 Private Acts of 1945, Chapter 500  
 Private Acts of 1949, Chapter 719.

**SECTION 14.** That no expense shall be incurred or liability created under the provisions thereof, until and after said bonds shall have been authorized by vote in said district as hereinbefore provided and until after said bonds shall have been sold, and that no liability shall be created, expense or indebtedness incurred or work done under any contract for construction of said flood protection works until after said Commission shall have definitely ascertained and determined that the total amount of the cost of work of construction of said flood protection works, and any expense incident thereto or resulting therefrom, and all cost and expense of rights-of-way, property damage, and every other expense of whatever kind, whether resulting directly or indirectly from acquisition of rights-of-way or construction of said flood protection works shall not exceed in the aggregate the sum of Three Million Dollars (\$3,000,000), and until after all contracts for said work of constructing said flood protection works or incident or necessary thereto shall have been let, and bonds of not less than 30 per cent of the contract price shall have been deposited with said Commissioners for the faithful performance of said contracts.

As amended by: Private Acts of 1935, Chapter 446  
 Private Acts of 1945, Chapter 136  
 Private Acts of 1949, Chapter 719.

**SECTION 15.** That the Commissioners [sic] Chattanooga Protection District, shall assess or cause to be assessed the benefits to accrue to each tract of land within said district from the flood protection works proposed by them to be built, giving as brief a description of each tract or parcel of land owned by each owner as will enable the same to be identified, the owner's name (as it appears on the tax collector's records) and giving the total amount of the benefits thereto. Reference to a recorded deed describing the land (by Book and Page) shall be a valid description. Unless convinced that it is in error and convinced who is the true owner, the Commissioners shall accept the last tax receipt issued for State and County Taxes on any property as prima facie evidence that the person to whom issued is the owner of said property; and no error in the name of the owner or owners of any property, railroad or the name of any corporation shall invalidate this assessment nor any part thereof. The words "land" and "tract of land" as used in this Act, and the words "property" and "real property" shall include the land together with all buildings, railroads and all structures and improvements thereon recognized as real property by the laws and customs of this State. No benefits shall be assessed against any property in the said District which is left outside "on the unprotected side" of the flood protection works, and is therefore not afforded protection thereby. The exclusion of any part or parts of the said District from direct protection may be ordered by the Commissioners [sic] Chattanooga Protection District after they shall have decided upon a general plan for flood protection which will not protect such part, and as often as they shall decide upon a modification of said plan they may order the exclusion of any other part or parts of the District from direct protection, and may again include for protection parts of the said District theretofore excluded. They shall adopt a definite plan for the protection works as early as practicable in their judgment, after collecting such data and making such investigations as they deem essential, but shall not by this be required to complete any plan in detail before adopting same. All plans for said District shall be made by the chief engineer appointed by Commissioners, subject to the approval of said Commissioners; and all construction work, operation and maintenance shall be done under the supervision of the chief engineer. The said Commissioners may change or modify the plan or any part thereof as often as they shall deem it desirable and proper to do so. Whenever after the original assessment is made, changes and modifications are adopted, said Commissioners shall make or cause to be made a new assessment of benefits, including thereon only the property on which they find that the assessment should be raised or lowered by such changes; but at no time when there are outstanding bonds, shall a change be made which will result in the total assessment of benefits in the District being less than eighty-five per cent (85%) of the total benefits shown at the time of sale of said bonds, or the highest total shown at the time of the sale of any of them, if there have been several bond sales. No part of the said Chattanooga Protection District shall

be entitled to recover damages because of having been left out of the protection portion of the District either by the original plan or any modification thereof made either before or after flood protection works are built or during their construction; but should a levy or levies be collected on the benefits of any property and the benefits on said property be reduced by a subsequent assessment, then the difference shall be refunded by aforesaid Commissioners to the owners of said property, Commissioners retaining only the amount of the money theretofore collected, which would result from the rate theretofore imposed, applied to the last benefits assessed. In case the benefits are increased on any property, the levy on the new assessment shall be collected for the year during which said benefits are reassessed, and for each year thereafter. In making such assessments of apportional benefits, the lands receiving the greatest benefit shall be marked on a scale of 100%, and those benefited in a less degree shall be marked with such percentage of 100% as the benefit received bears in proportion to that classified to receiving 100% benefit. This classification when finally established shall remain as a basis for all future assessments connected with the objects of said district.

In making such classification said Commissioners are authorized to divide the land of one owner lying in a body into more than one tract, and classify each subdivision thereof, if, in their opinion, portions of such entire tract will be more benefited than other portions, and especially when such entire tract is a large one, and it will be more equitable and just to classify it in sub-divisions.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 16.** That the Commissioners [sic] Chattanooga Protection District may proceed with the floating of bonds, the procuring of rights-of-way, and with construction work, or any of these acts, and the doing of all other things authorized by this Act, immediately after the close of the first hearing on the original assessment, irrespective of any appeals taken from same; and that no appeal from either the assessment of benefits or from any award of damages shall delay the improvements.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 17.** That for each revision of assessment of benefits, the filing, publication, hearing by the Commissions and all things shall be done as provided for the original assessment and all of the provisions of Section 15 of this Act shall apply to each revised assessment.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 18.** That upon the election resulting "For the issuance of bonds" and after the close of the first hearing, on original assessments, the Commissioners of the Chattanooga Protection District may proceed with the floating of bonds, the procuring of rights-of-way and with construction work of any of these acts, and the doing of all other things authorized by this Act, irrespective of any appeals taken from such assessments, and that no appeal from either the assessments of benefits or from any award of damages shall delay the improvements.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 19.** That after the close of the first hearing on the original assessment and the hearing on each modification of or amendment thereto, Commissioners shall enter, for each tract of land or owner, in a book to be provided by them (in duplicate, one copy for the Commissioners and one for the County Trustee) the description, Owner's name, Total betterment (as approved by the Commissioners at the hearing), Rate of Levy (for the first year), and amount of levy (for the first year). Five columns shall be provided for the entries last mentioned, and following said five columns, there shall be provided columns for four succeeding years, to wit: for each year, a column for Total benefits, Rate of levy and Amount of levy. When so prepared one of said books to be delivered to the County Trustee on or before the first day of October of the same year; and the entries therein shall be the authority of the County Trustee to collect the amounts shown therein for the first year's levy, which he is hereby required to collect and pay over to the Treasurer of said Commissioners as hereinafter provided for the payment of all collections of levies made by him.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 20.** That the aforesaid first levy and any annual levy shall be made and collected on the assessed benefits in the following manner; to the estimated cost of the proposed improvements, which said Commissioners shall cause to be made together with the administration and supervision of same, there shall be added not less than fifteen (15) per cent for contingencies. The amount thus arrived at shall be prorated for a certain number of annual installments to be determined by the Commissioners. Said installments need not be the same each year, but no such installments shall be more than ten per cent of the pro rata to each owner, when said cost is prorated to the several owners in the proportion of their assessment of benefits to the total benefits for the District. After the said cost with the percentage

added for contingencies shall have been so prorated, any owner may pay his pro rata in cash to the Treasurer of the Commissioners, if paid before any bonds are issued; but such payment in cash shall not exempt said owner from paying the annual levy for operation and maintenance as described hereinafter. The Commissioners shall, each year, on or before the 10th day of July make and publish such levy as it shall determine upon and it shall thereupon be the duty of the Secretary to extend the amount of the said levy on the original or a copy of the assessment roll of said District on file in his office, and to certify a copy of the levy, on or before October first, of the said year, to the County Trustee, and said Trustee shall thereupon extend the amount of the levy on the copy of said assessment in his office. Whenever a modification or amendment of said assessment shall be made as provided herein, the same course shall be followed by each official as provided herein for the original assessment. The levy ordered by the Commissioners each year shall include:

- (1) Pro rata of cost plus not less than 15 percent contingencies:
- (2) Pro rata of interest on indebtedness: Total, of (1) and (2).
- (3) Pro rata of estimated annual operation and maintenance cost; Total of (1), (2), and (3) but on property for which the payment of benefits was made in cash, each annual levy shall be only for the pro rata of estimated annual operation and maintenance cost.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 21.** That the County Trustee of Hamilton County shall collect, each year, at the same time that state and county taxes are collected, the levy for such year in said Chattanooga Protection District which has been certified to him by the Secretary of the Commission. Said Trustee shall make monthly reports to the Commissioners [sic] Chattanooga Protection District of the amount of said levy collected during the current month and shall pay over the same monthly to the Treasurer of said Commissioners, and shall make his final settlement for each year not later than May first of the subsequent year. The Commissioners shall require the said Trustee to make a special bond for the proper collecting and paying over of the said levy. For the collection of said levy the said Trustee shall be allowed a commission as now allowed by law for collection of State and County taxes, which shall be deducted by him from the moneys so collected before paying the same over. For any failure to pay over (at the time provided in this Act) any money collected for said District, he shall be liable for damages at the rate of ten per cent (10%) and interest at the rate of six per cent (6%) per annum on the principal.

**SECTION 22.** That if any person shall enjoin the collection of any levy provided for in this Act of any subsequent Act supplementary or amendatory hereto, and shall fail to perpetuate, by decree of court, said injunction, the Court, in dissolving the injunction shall, in addition to the cost, adjudge against them all damages suffered as the result of such injunction and shall award an execution for the same in favor of said Commissioners [sic] Chattanooga Protection District for the use of said District.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 23.** That the law now governing the amount of penalties, and prescribing when taxes become due and delinquent, the advertising, sale and redemption of property which is delinquent for taxes, shall apply to the collection of penalties, the advertising, sale and redemption of property which may be delinquent for the payment of the levy of the Chattanooga Protection District the same as if repeated in this Act in full.

**SECTION 24.** That the Commissioners [sic] Chattanooga Protection District shall set aside from their revenues a sufficient sum each year to meet the interest on all outstanding bonds and also the principal on all bonds as they mature.

**SECTION 25.** That either the Commissioners [sic] Chattanooga Protection District or any owner of real property within said District or any holder of any past due bond or coupon which has been presented for payment and not paid, may, by mandamus, compel the fixing of a rate of levy sufficient to meet the obligations of said District and may compel the performance by the Commissioners and their officers, and the County Trustee of the duties imposed upon them by this Act.

**SECTION 26.** That the said Commissioners [sic] Chattanooga Protection District be and they are hereby authorized and empowered to enter upon, take and hold any land or premises or any material whatever, whether by purchase, grant or donation, devise or otherwise, that may be necessary and proper for the location, construction, repair, operation, or maintaining of the structures and works provided for in this Act, and said commissioners are also empowered to cut and remove trees, timber and other material that might be falling or otherwise encumber or endanger said structures and works or any part thereof, and the said Commissioners shall have power to acquire by compromise or by agreement with the owner or owners all property and rights-of-way required by them, and they may settle all claims for compensation or damages on account of rights-of-way, or materials for the construction, maintenance or repair of said

structure and works, and the said conveyance shall vest said Commissioners with the title in fee simple to the right-of-way or property thus acquired. And to this end, the said Commissioners shall have and exercise the power of eminent domain as provided by the laws of Tennessee for the taking of private property for works of internal improvement; the said right and power to be exercised in the manner now provided by law.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 27.** That said Commissioners may, at any time before proceeding with the work of construction or before using any material or other property, at their discretion, refuse to accept the award which may have been made therefor, under the proceeding of eminent domain, and locate its structures and works anew, or decline to use said material, land or other property, and in such event they shall not be liable for the amount of such award. Upon payment or tender of any award made, it shall rest absolutely in said Commissioners the title to the land, material or other property taken or to be taken and appropriated, but this shall not be construed as in any way to impair the right of said Commissioners to enter upon, take, use and appropriate land, material or other property for the use aforesaid.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 28.** That if the plan adopted or contemplated by said Commissioners shall modify, divert, or affect in any way the channel of Tennessee River or of any streams or watercourses, said Commissioners are hereby authorized and empowered to do such work as may so affect said river and any such streams or watercourses, *provided*, that said Commissioners shall first obtain the necessary authority from the proper federal official, officials or agency, before doing any work which shall encroach upon the authority or rights of the Federal Government with reference to any channel under its control.

SECTION 29. That Commissioners of Chattanooga Protection District are hereby authorized to purchase and own property (real and personal) in the state of Georgia if said Commissioners should decide that such is essential to their plan of flood protection, and to build structures and works and maintain and operate the same in said state.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 30.** That Commissioners [sic] Chattanooga Protection District may with any or all of their structures or works, cross, move, relocate, rebuild, or elevate, or may do any or all of these acts, with any street, highway, bridge, trestle, sewer, storm sewer, culvert, railroad track, telephone, telegraph, electric light or transmission lines, water or gas pipes, or street railway track, or all of them, *provided*, that such streets, highways, bridges, trestles, sewers, storm sewers, culverts, railroad tracks, telephone, telegraph, electric light or transmission lines, water or gas pipes shall be rebuilt by said Commissioners in as good condition as when found, Commissioners may negotiate and contract with municipal and county boards and officials and with railroad and street railway owners, any officials, as to the method and costs of making any changes contemplated by the Commissioners, of the structures under the charge or ownership of said boards, officials and owners may contract with the latter to themselves do the necessary work on their said structures. If Commissioners should themselves undertake any such work, the said Chattanooga Protection District shall be liable for any damage or loss proven to be due to such undertaking or work.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 31.** That said Commissioners and their agents and employees shall have the right to pass over any lands where they deem it essential to do so in order to expedite the operations of said district, but shall be liable for any damage caused thereby.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 32.** That Commissioners [sic] Chattanooga Protection District are hereby authorized to build their structures and works across both natural and artificial drains where they deem it essential to do so, and no injunction shall lie which attempts to prevent their so doing; but the said Commissioners shall be liable for any damage done thereby.

**SECTION 33.** That the making of profit, directly or indirectly, by the Treasurer of said Commissioners of Chattanooga Protection District, or by any Commissioner thereof, or by any officer or employee whatsoever, out of any funds belonging to said District, with the custody of which the Treasurer is charged, by loaning or otherwise using it, or depositing same in any manner contrary to this Act, or the removal by the Treasurer, or with his consent, of such moneys or a part thereof, and placing same elsewhere than as provided by this Act, shall constitute a felony, and upon conviction thereof shall subject the Treasurer, or other officer or Commissioner to imprisonment in the State Penitentiary for a term not exceeding two years, or a fine not exceeding Five Thousand Dollars, or by both such fine and



imprisonment, and the Treasurer or other officer offending shall be liable on his official bond for all profits realized from such unlawful use of such funds.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 34.** That should any officer, treasurer or Commissioner, or custodian of the funds of said District, wilfully fail or refuse at any time to do and perform any act required of him under this Act, he or it shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than One Thousand Dollars nor more than Five Thousand Dollars, or by imprisonment in the county jail not less than ten days nor more than thirty days, or both.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 35.** That it shall be unlawful for any Commissioner or officer of the Chattanooga Protection District to have any interest, directly or indirectly, in any contract with said district; or to receive directly or indirectly for his own use and benefit, any portion or share of the money or other thing paid for construction or materials used in said District; or for any Commissioner or officer of said Commissioners or any tax collector to speculate in any way, directly or indirectly, in any bonds issued under this Act, or in any other liability or obligation of the Commissioners of Chattanooga Protection District, and any Commissioner, officer or tax collector violating any of the provisions of this section, shall be deemed guilty of a misdemeanor and on conviction, shall be punished by removal from office and a fine of not less than One Thousand Dollars nor more than Five Thousand Dollars, or by imprisonment in the county jail not less than six months nor more than twelve months.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 36.** That no Commissioner of said District shall be liable for any damages sustained by any one in the prosecution of the work under his charge, unless it should be made to appear that such Commissioner has acted with a corrupt and malicious intent.

**SECTION 37.** That the said Chattanooga Protection District shall not cease to exist upon the completion of its structures and works, but said District and Commissioners [sic] Chattanooga Protection District shall continue in perpetuity for the purpose of operating, maintaining, repairing, rebuilding, extending and enlarging said structures and works, and in doing such other acts and things as they shall deem essential to the carrying out of the object of this Act, and as may be found advantageous to the said District. In each annual levy on the assessed benefits, an amount shall be levied for operation and maintenance not to exceed one (1) per cent of the assessed benefits.

**SECTION 38.** That for the purpose of maintaining the levees, dams, and other structures [sic] Chattanooga Protection District in the highest state of efficiency, and for repairing and protecting same and the right-of-way thereof, from damage, injury and trespass, the Commissioners [sic] Chattanooga Protection District are authorized and empowered to exercise complete control, over said structures and right-of-ways, for the purpose of protecting and safeguarding said district from the flood waters of Tennessee River and Chattanooga Creek; or any other water course, and may cause same to be policed by its agents and employees, and if they so determine, by municipal and county officers, and may forbid any person or persons or corporations from occupying or using for private purposes any portion or portions of said structures, and right-of-way, and may order and establish rules and regulations for the proper maintenance and preservation of said right-of-way.

**SECTION 39.** That the said Commissioners may in their discretion grant the use of part of the levee for the purpose of a highway for public travel, under the rules and regulations of said Commissioners as regards the character of such, to wit: The top of the levee may be so used when especially widened and paved by authority of the Commissioners.

**SECTION 40.** That the said Commissioners are hereby authorized, as a part of any plan that they may adopt for the care and maintenance of the levee system in said district, in pursuance of the necessary work of preventing the growth of weeds and bushes on the levees and right-of-way and making more effective the growth of sod on same, to cause the growing and cutting of grass on the levees and the right-of-way to be converted into hay; and may cause other crops and livestock to be grown on the right-of-way; and are authorized to use said hay and crops and stock for the purposes of the District, or to sell same or any portion of same in the open market, and to apply the proceeds of such sale to defraying in whole or in part the cost of the maintenance of the district, or to other district purposes.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 41.** That it shall be unlawful for any person or persons, or corporation, to use the lands or the rights-of-way, or any part thereof, for private purposes or profit, or to erect any fence or structure on same, or to make same a place of deposit or storage for any wagons or other vehicles or implements, or

woodpiles or refuse, garbage or dead animals, or any cotton, lumber, brick, or other bulky commodities, or to set up any tents or camps on same; but said Commissioners may in their discretion allow the pasturing of private livestock, other than hogs, on the levees and right-of-ways. Any person or persons, or corporations who shall erect on said levee or right-of-way such structures or fences, or place thereon any such material or objects as are forbidden in this section, and who shall refuse or fail to remove same within three days after notice given by the agents or employees of said Commissioners, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than Ten Dollars nor more than One Hundred Dollars for each offense and may be confined in the county jail not exceeding sixty days; or both fine and imprisonment may be imposed, in the discretion of the Court. If the owner of any such forbidden objects above described shall fail or refuse to remove same after due notice given, from the said levee or right-of-way, said Commissioners may have same removed at the expense of said owner or owners, and shall have right of action in the courts to recover the cost of such removal.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 42.** That it shall be unlawful for any steamboat, flatboat, barge, houseboat or other heavy craft, to land in time of high water against the levees of the Chattanooga Protection District, or against the revetments placed for the protection of said levee from currents and wave action, unless special provision has first been made for the protection of same against the impact of steamboats and other crafts by the erection of suitable structures for that purpose, to be approved by the chief engineer of said district. If the owner, master or agent of any steamboat or other craft above described shall violate the provisions of this section, said owner or owners, master or agent, or either of said parties, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than Twenty-five Dollars, nor more than Five Hundred Dollars for each offense.

**SECTION 43.** That if any person shall wilfully leave open, cut, break down, remove or destroy any gate, fence, barricade, or post, or part thereof, erected by Commissioners [sic] Chattanooga Protection District or their agents or employees for the enclosing of the right-of-way or the protection against traffic or otherwise of any levee or other structure of said District, or shall maliciously break down any mile post, water gauge, bench mark or other monument established by Commissioners or their agents or employees, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than Twenty-five Dollars nor more than Five Hundred Dollars for each offense.

As amended by: Private Acts of 1935, Chapter 446  
Private Acts of 1945, Chapter 136

**SECTION 44.** That if any person shall wilfully or maliciously cut, break, injure, or destroy or shall attempt by means of an explosive or other means to injure or destroy any dam, levee, canal, bulkhead, floodgate, power station, pumping equipment or any structure built or being built by Commissioners [sic] Chattanooga Protection District, he shall, on conviction, be imprisoned in the penitentiary not less than one nor more than ten years.

**SECTION 45.** That if any person shall wilfully cut into, mutilate or disfigure any dam, levee, canal or other embankment or excavation built or being built by Commissioners [sic] Chattanooga Protection District, or excavate earth or sand therefrom or make excavations in the earth near said levee which Commissioners deem a probable source of weakness to same, without being authorized to so do by said Commissioners, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than Twenty-five Dollars nor more than Five Hundred Dollars for each offense, or shall be confined in the county jail for not exceeding thirty days, or by both such fine and imprisonment.

**SECTION 46.** That it shall be unlawful for any person to use any levee or dam (except such portion as may be paved for the purpose) by or with the consent of Commissioners Chattanooga Protection District as a roadway, by riding any animal or by driving any vehicle, draft animal or sled thereon, either along same or across said levees and dams (except at crossings built for the purpose). Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than Ten Dollars for each offense. But the Commissioners of the District, their officers and agents shall have authority to ride or drive on and across said levee and dams, when in discharge of their duties as such rendering it proper that it should be done.

**SECTION 47.** That any person who shall cover up in or under any levee or dam of said District, in the construction, enlargement or repair thereof, any log, stump, crib, box or other material which under the specifications of the contract under which the work is being done should be removed or should not be used in its construction, or who shall procure any such act or thing to be done, shall be guilty of a misdemeanor, and on conviction shall be fined not less than One Hundred Dollars nor more than One Thousand Dollars, or imprisoned in the county jail not less than one month nor more than six months, or by both such fine and imprisonment.

**SECTION 48.** That it shall be unlawful for hogs to run at large on any dam or levee of said District or

within one-fourth mile therefrom; and all agents and employees of said Commissioners, and all City, town and county officers of the law shall have the authority, and they are hereby required to kill all hogs which may be found at large within said prescribed limits.

**SECTION 49.** That all fines which may be collected under this Act for the violation of any of the provisions of this Act shall inure to the said Chattanooga Protection District and be paid into the Treasury of said District by the officer collecting the same.

**SECTION 50.** That this Act shall take effect and be in force from and after its passage, the public welfare requiring it.

Passed: April 4, 1929.

**COMPILER'S NOTE:** In *Angel v. Hamilton County*, 185 Tenn. 609, 207 S.W.2d 332 (1948), the court ordered Hamilton County to pay the expenses of the election of the commissioners provided for in this act.

## Private Acts of 1943 Chapter 386

**COMPILER'S NOTE:** Private Acts of 1943, Chapter 386, should be read in conjunction with Private Acts of 1929, Chapter 768, which precedes this act.

**SECTION 1.** That Chapter No. 768 of the Private Acts of Tennessee for the year 1929, as amended by Chapter No. 446 of the Private Acts of Tennessee for the year 1935, the title of which is set out in the caption hereof, be, and the same is hereby amended by providing:

(1) That the Board of Commissioners of the Chattanooga Flood Protection District are hereby prohibited from making any benefit assessments against property in said district for a period of two years from the date of the passage of this Act.

(2) That the assessment of benefits heretofore made by the Commissioners of the Chattanooga Flood Protection District against property in said District be, and the same are hereby abated and declared null and void, and do not constitute a lien against the property so assessed for benefits.

(3) "That the Board of Commissioners of the Chattanooga Flood Protection District is hereby prohibited from issuing and/or selling any bonds which heretofore may have been authorized, or from otherwise obligating said District for a period of two years from the date of the passage of this Act."

**SECTION 2.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 5, 1943.

## South Chattanooga Protection District

### Private Acts of 1923 Chapter 321

**SECTION 1.** That all that part of Hamilton County within the boundaries hereinafter described be, and the same is, hereby organized into a Flood Protection District, to be known and designated as the "South Chattanooga Protection District," in which name it may sue and be sued. It is the purpose of this Act to protect all the property in this District from loss or damage by overflow, and to protect the lives and residents of this District from sickness and suffering consequent to the overflow of the waters of the Tennessee River and Chattanooga Creek, by erecting and maintaining sufficient and efficient flood protection works as hereinafter provided by and through the agency of the Commissioners herein incorporated; and to carry out and render effective this intent in full, the Court shall construe this Act as an exercise by the General Assembly of the State of Tennessee of all the powers appertaining to it necessary for the protection, not only of the property of said District, but also the lives and the health of the citizens of the State resident in such District. The boundaries of the said "South Chattanooga Protection District" are hereby described and established as follows, to-wit:

The east boundary line shall be the foot of Missionary Ridge on the west side thereof, taking the foot of said Ridge, being defined to be the location of a contour line at an elevation of forty-six (46) feet above the Zero of the United States Weather Bureau gauge in the Tennessee River at Chattanooga. (Wherever elevations are named in this Act they shall all be understood to refer to the Zero of said gauge.) The north and west boundary line of said District shall be a line beginning at the foot of Missionary Ridge, at a point on the south line of Main Street, where said forty-six foot contour strikes same; thence westwardly with said contour line to a point on the east line of the right-of-way of the Nashville, Chattanooga & St. Louis Railway; thence southwardly along the east line of the right-of-way of said railway to Chattanooga

Creek, and at or near where said creek emptied into the Tennessee River, at the foot of Lookout Mountain, the said foot of said Lookout Mountain being defined as the location of a contour line at an elevation of forty-six (46) feet above said Zero point; thence with the said forty-six (46) foot contour line in a southeasterly direction and southerly direction to the State line; thence east with the State line to the foot of Missionary Ridge at or near Rossville; thence northwardly following said 46-foot contour line to the place of beginning. Only such property within the area so bounded shall be assessed for benefits as the Commissioners for said "South Chattanooga Protection District" hereinafter created shall decide shall be benefited by the work which said District proposes to do.

**SECTION 2.** That a governing board for said District, to be known and designated as a "Board of Commissioners" of the said "South Chattanooga Protection District" is hereby created. Said Board of Commissioners shall consist of three members, the first Commission shall be O.B. Andrews, Mercer Reynolds and Paul J. Kreusi, who shall serve until December 31, 1928, but at the August election, 1928, and each four years thereafter, a Commission shall be elected by the qualified voters of said District who shall serve for a term of four years, and until their successors are elected and qualified; and in case of a vacancy in said Commission for any cause, the Commissioners shall fill such vacancy for the unexpired term; at such elections all persons who are residents or owners of property in said District shall be entitled to vote at said elections.

**SECTION 3.** That said Commissioners shall organize by electing a President of said Commission, whose duty it shall be to preside at all meetings thereof and sign the minutes of the proceedings. He shall exercise a general supervision over all work undertaken by the Commissioners, as hereinafter provided for, and shall do all acts and things that said Commissioners shall empower or authorize him to do or perform, and in his absence from any of the meetings, said Commissioners may select one of their number to preside. The President of said Commissioners shall annually, and as soon after January 1st of each year as practicable, make to said Commissioners a full detailed [sic] report of all the business transacted by said Commissioners, showing in detail the receipts and disbursements of said Commissioners, which said report shall be spread upon the minutes of the Board of Commissioners.

The President may be allowed a salary to be fixed by the Commissioners and entered on the minutes of said Board, which salary shall be in lieu of all per diem for attendance of the President upon the regular and called meetings of said Commissioners, but if no salary shall be fixed, or allowed, the President then shall receive only the same per diem as the other members of said Commission are entitled to, and he shall receive no other or further compensation whatever; provided, however, that nothing herein shall operate to prevent said Commissioners from paying the actual expenses incurred by them, or either of them, in traveling out of Hamilton County, in the discharge of their official duties.

**SECTION 4.** That said Commissioners shall elect a Secretary, who shall hold his office for such time as the Commissioners may fix, but the Commissioners may at any time remove said Secretary and elect a successor, or fill any vacancy in said office. Said Secretary, before he undertakes to discharge the duties of his office, shall execute a surety bond in some bonding company, and in such amount as said Commissioners may require, payable to said Commissioners and conditioned for the faithful and honest performance of the duties of his office. Said Secretary shall do all things required of him by the said Commissioners or by the provisions of this Act.

Said Commissioners shall also elect a Treasurer, which may be a trust company, whose tenure of office shall be such as said Commissioners may determine. He shall be required to give bond in such amount as may from time to time be required by said Commissioners, payable to said Commissioners and conditioned for the prompt and efficient discharge of the duties required by him under the provisions of this Act, and for the safe keeping, accounting for and paying over of all moneys, property or effects that may come into his custody and possession under this Act or by direction of said Commissioners, in such manner as said Commissioners may require or direct. He shall pay out said moneys only on a warrant, or other order, authorizing such payment, signed by the President and countersigned by the Secretary. Warrants shall be numbered and issued consecutively and no warrant shall be issued unless there will remain after its payment, sufficient funds in the Treasurer's hands, or to the credit of said Commissioners for that purpose, to pay all outstanding warrants previously issued. A faithful record of all such warrants shall be kept by the Treasurer. The Commissioners may also require bonds with surety to be given by any other person or official appointed, elected or empowered to act for or assist the Secretary or Treasurer, and said bonds, or any of them, may, upon default, be put in suit and prosecuted from time to time in the name of and for use of said Commissioners.

In the discretion of the Commissioners, one person may be both Secretary and Treasurer.

Whenever a new Treasurer shall have been elected and qualified, it shall become the duty of the Treasurer forthwith to surrender and deliver to his said successor all money, property, records, books and papers of any and every description belonging to said Commissioners, then in his possession by virtue of his office

or appertaining thereto in any manner whatsoever, and in like manner he shall fully surrender and deliver to his successor the entire effects, affairs, business, management and conduct of his office as Treasurer and make a full settlement of same, and he shall take the receipt of his successor therefor, and for any default herein he shall be liable on his official bond.

The bonds of all officials and of said Commissioners when so executed, delivered and approved, shall be filed with the Commissioners. The Commissioners may cause the bonds of their officers and employes to be increased or diminished when they deem it necessary to protect the interest of said "South Chattanooga Protection District."

The Commissioners may contract with bonding companies for the bonds of their officers and employes, and may pay the premiums on said bonds.

**SECTION 5.** That the salaries of all officers, agents and employes of said Commission shall be fixed by said Commissioners, and such salaries and all other expenses incurred by said Commissioners in carrying into effect the provisions of this Act, shall be paid out of any funds raised under this Act.

**SECTION 6.** That the Commissioners of said "South Chattanooga Protection District" shall hold their regular meetings at such time and place within Hamilton County as the Commissioners may designate and determine upon, and special meetings may be held as often as the said Commissioners may see [sic] called together by the President, or any three members thereof upon written notice, mailed to each member of the Commission by the Secretary or any three members thereof. Each Commissioner shall be entitled to Five (\$5.00) Dollars per day for each day or part thereof he is in attendance at meetings, or otherwise engaged in the service of the Commissioners by their order, the same to be paid out of the funds of said District on the order of the President, countersigned by the Secretary. At each of the said meetings, a majority of the Commissioners shall constitute a quorum for the transaction of business, but a vote of three Commissioners in accord shall be necessary to carry any measure or make any appropriation.

**SECTION 7.** That said Commissioners of said "South Chattanooga Protection District" shall have power and it is hereby made their duty to build, rebuild, strengthen, enlarge, operate and maintain all such structures and works, including levees, reservoirs, ditches, canals, bulkheads, floodgates, power stations, pumps, sewers and all other structures and works which they shall deem essential to carry out the purposes of this Act in the manner and according to the plan or plans which they shall decide upon. They may make all contracts for the work and all needful regulations and do all acts necessary to protect their said district from overflow by the waters of the Tennessee River and Chattanooga Creek, up to an elevation of forty-six (46) feet, and to dispose of storm water and other drainage and sewage. They are hereby empowered to prescribe the terms and conditions of all contracts for construction and other work, and for materials and equipment.

**SECTION 8.** That for the purpose of building, rebuilding, repairing, constructing, maintaining and operating said flood protection works, and to enable them to carry out the purposes and provisions of this Act, the said Commissioners of said South Chattanooga Protection District shall have power to issue the bonds of said District for an amount not exceeding Three Hundred Thousand (\$300,000.00) Dollars, such bonds to be in such sums and denominations, not less than One Hundred Dollars each, nor more than Five Thousand Dollars each, as the Commissioners may prescribe, which bonds shall each be signed by the President and countersigned by the Secretary of said Commissioners, and be made payable to bearer, none of said bonds to mature in less than five years, nor more than twenty-five (25) years from date of issuance and to be serial bonds, the amount maturing each year to be determined by said Commissioners. All of said bonds then outstanding shall be callable after ten years from date of issuance. They shall be made payable at any place within or without the limits of this State, and shall bear a rate of interest not exceeding six per cent per annum, for which interest coupons may be attached, payable at such times as the Commissioners may determine. Said Commissioners shall fix a place or places for the payment of the principal and interest on said bonds. No such bond so issued as aforesaid shall be valid or binding on said Commissioners or District until the same be endorsed by the Treasurer, in writing. Upon such endorsement by the Treasurer, said bonds shall then, and not until ten [sic], be held fully executed and shall thereupon pass by delivery. The Treasurer of said Commissioners shall keep a faithful and correct register, showing the date, letter, number, amount and place of payment of all the bonds issued, sold or used, and shall keep the same kind of an account of all the bonds paid, received or taken up by said Commissioners, showing when payment was made, when each such bond was received or taken up, and on what account, and no bond or coupon so paid, received or taken up by said Commissioners shall again be used or reissued, but every such bond or coupon shall promptly be canceled by said Treasurer.

The Treasurer shall at the same time note on the original register hereinbefore required to be kept by him, the fact of the payment, surrender or cancellation of each bond or coupon he may take up, and the bonds and coupons taken up by said Treasurer after cancellation shall carefully be preserved by him as vouchers

in his settlement with said Commissioner; and after due allowance of the same in settlement of said Commissioners, the President thereof is required to receive the same from said Treasurer, and thereupon he shall burn the coupons so received to ashes in the present [sic] of said Commissioners, and shall deposit and file the canceled bonds in the vaults of said Commissioners, to be preserved as a part of their records. The minutes of said Commissioners are furthermore required fully to show the date, letter, number, amount and place of payment of each bond so deposited and filed, and coupon so destroyed, as a check on the register required to be kept by the Treasurer. The Treasurer when he shall take up or receive any bond or coupon, shall on the same day notify the Secretary, giving description of same. The Commissioners of the South Chattanooga Protection District may issue any of the bonds hereby authorized, at any time or times, and as they may determine, until they shall have issued the aggregate amount hereby authorized. All moneys borrowed or arising from the negotiation or sale of any of said bonds shall promptly be paid into the Treasury of said Commissioners and shall constitute a fund to be used and applied to carry into effect the object and purposes of this Act. The said bonds shall be exempt from all taxes, including, State, county and municipal.

**SECTION 9.** That the Secretary of said Commissioners shall, upon order of said Commissioners, cause said bonds to be lithographed, with such devices for identification and to prevent imitation as said Secretary shall think proper; and he shall register said bonds in a book to be kept for that purpose, as the same are issued, stating therein the date, letter, number, amount and place of payment and on what account used, of each bond issued, and he shall take the receipt in said book of the party to whom each of said bonds is delivered.

**SECTION 10.** That it shall not be lawful for the said Commissioners of said South Chattanooga Protection District, or any officer, member or agent thereof, to pledge or deposit any bond or coupon issued under this Act, as security for payment of any borrowed money, or of any debt or obligation of said Commissioners or of any one else; and any member, officer or agent of said Commissioners who shall violate this section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one year, nor more than five years. And it shall also be unlawful for the Commissioners, or any officer, member or agent thereof, to receive, take or hold, for any bond or coupon issued under this Act, any sum or amount of money less than the face value of said bond or coupon, and any violation of this clause shall be deemed a felony, and the party or parties so violating, upon conviction, shall be punished by imprisonment in the penitentiary for a term of not less than one year, nor more than five years. The cost of printing said bonds and a reasonable expense for selling the same may be paid by Commissioners from the proceeds of the bond sale or from any funds in their Treasury.

**SECTION 11.** That the bonds of said South Chattanooga Protection District shall be a lien on all lands in said District, and said Commissioners may irrevocably pledge the full faith, credit and resources of said District and all assessments of benefits of said District to secure the payment of the said bonds and the interest thereon.

**SECTION 12.** That the Commissioners of said South Chattanooga Protection District, for the purpose of paying interest on bonds, or of applying to any other obligation or of prosecuting any of the activities of said Commissioners, may in any year borrow money in anticipation of the current year's revenues. Said Commissioners may issue debentures therefor, bearing interest at a rate not exceeding six per cent per annum, which shall not be sold for less than par and accrued interest; and the provisions in this Act with reference to the receiving and canceling of bonds and to misapplication of funds, shall apply likewise to said debentures. No revenues derived from the sale of debentures or from the collection of any levy, shall be used for any purpose except the payment of such bonds and debentures and such interest on bonds and debentures which fall due during the current year (or before the next date for annual settlement of the tax collector) unless provision shall first have been made to set aside a sufficient part of the current year's revenues to pay such bonds, debentures and interest; and after setting aside the necessary sum (from funds either in the Treasury or to be collected for the current year, or both), then any balance on hand or from the sale of debentures may be expended for any of the obligations or activities of said Commissioners.

**SECTION 13.** That no bonds herein authorized shall be issued by said Commissioners until after an election shall be held and a majority of the votes cast at said election be cast in favor thereof, and it shall be the duty of the Election Commissioners of Hamilton County, through the regular machinery of said county for holding said elections, upon and at the request of the Commissioners of the said South Chattanooga Protection District, and within sixty (60) days after said request, to call an election to be held at the voting precincts within said District, which said call [sic] elections shall be in the manner prescribed by law. At said election only those persons shall vote who reside within or own property within said South Chattanooga Protection District, and a regular realty tax receipt for taxes on property within the District for the year next preceding said election, issued in the name of the person presenting same, or the

original deed, if made after the time for paying taxes for said preceding year has expired, shall be prima facie evidence of ownership of property within said District. The Election Commissioners of Hamilton County shall, within ten days after said election, certify to the said Commissioners of said South Chattanooga Protection District the result of said election, giving the date of the election and the number of votes cast thereat, and how many votes cast "For the Issuance of Bonds" and how many "Against the Issuance of Bonds." Said report shall be spread upon the minutes of said Commissioners of said District. No action at law or in equity, or injunction shall lie unless filed within forty days after said election which restrains or attempts to restrain the Commissioners of the South Chattanooga Protection District from issuing any bonds or levying or collecting any assessments or taxes, or doing anything authorized by this Act, not which vitiates the bonds of said South Chattanooga Protection District, if said action or injunction is based in whole, or in part, on a contention that the report of the said election is incorrect.

The ballots to be used at said election shall be printed with the words:

"For the Issuance of Bonds," and

"Against the Issuance of Bonds,"

and each voter shall mark an "X" opposite the words for which he votes.

If at said election a majority of votes cast vote "For the Issuance of Bonds," the Commissioners of the South Chattanooga Protection District shall proceed with the issuance and sale of bonds, and the exercise of all the power and authority, and in the performance of all things authorized by this Act.

If a majority of those voting at said election vote "Against the Issuance of Bonds," said Commissioners of the South Chattanooga Protection District shall not have the power to issue bonds, but shall continue to hold their Commissions, and said South Chattanooga Protection District shall continue to exist and maintain its organization and may do all things authorized in this Act which do not depend upon the issuance of bonds.

**SECTION 14.** That if said election shall result "Against the Issuance of Bonds" the Commissioners of the said South Chattanooga Protection District, or any one hundred qualified electors, who are owners of real property within said District may, by petition, request the Election Commissioners of Hamilton County to hold another election "For" or "Against the issuance of bonds;" and as often as so requested, said Commissioners of Election of Hamilton County shall hold such an election until an election shall result "For the issuance of bonds" as provided in this Act, but no such election shall be held oftener [sic] than once in each twelve months.

**SECTION 15.** That the Commissioners of said South Chattanooga Protection District shall assess or cause to be assessed the benefits to accrue to each tract of land within said District from the flood protection works proposed by them to be built, giving as a [sic] brief a description of each tract or parcel of land owned by each owner as will enable the same to be identified, the owner's name (as it appears on the tax collector's records) and giving the total amount of the benefits thereto. Reference to a recorded deed describing the land (by book and page) shall be a valid description. Unless convinced that it is in error and convinced who is the true owner, the Commissioners shall accept the last tax receipt issued for State and county taxes on any property as prima facie evidence that the person to whom issued is the owner of said property; and no error in the name of the owner or owners of any property, railroad or the name of any corporation shall invalidate this assessment nor any part thereof. The words "land" and "tract of land" as used in this Act, and the words "property" and "real property" shall include the land together with all buildings, railroads and all structures and improvements thereon as recognized as real property by the laws and customs of this State. No benefits shall be assessed against any property in the said District which is left outside (on the unprotected side) of the flood protection works, and is therefore not afforded protection thereby. The exclusion of any part or parts of the said District from direct protection may be ordered by the Commissioners of said South Chattanooga Protection District after they shall have decided upon a general plan for flood protection which will not protect such part, and as often as they shall decide upon a modification of said plan they may order the exclusion of any of the part or parts of the District from direct protection, and may again include for protection parts of the said District theretofore excluded. They shall adopt a definite plan for the protection works as early as practicable in their judgement, after collecting such data and making such investigations as they deem essential, but shall not by this be required to complete any plan in detail before adopting same. All plans for said District shall be made by the Chief Engineer appointed by the Commissioners, subject to the approval of said Commissioners; and all construction work, operation and maintenance shall be done under the supervision of the Chief Engineer. The said Commissioners may change or modify the plan or any part thereof as often as they shall deem it desirable and proper to do so. Whenever after the original assessment is made, changes and modifications are adopted, said Commissioners shall make or cause to be made a new assessment of benefits, including thereon only the property on which they find that the assessment should be raised or lowered by such changes; but at no time when there are outstanding

bonds shall a change be made which will result in the total assessment of benefits in the District less than eighty-five (85%) per cent of the total benefits shown at the time of sale of said bonds, or the highest total shown at the time of the sale of any of them, if there have been several bond sales. No part of the said South Chattanooga Protection District shall be entitled to recover damages because of having been left out of the protected portion of the District either by the original plan or any modification thereof made either before or after flood protection works are built or during their construction; but should a levy or levies be collected on the benefits of any property and the benefits on said property be reduced by a subsequent assessment, then the difference shall be refunded by the aforesaid Commissioners, retaining only the amount of the money theretofore collected, which would result from the rate theretofore imposed, applied to the last benefits assessed. In case the benefits are increased on any property, the levy on the new assessment shall be collected for the year during which said benefits are reassessed, and for each year thereafter.

**SECTION 16.** That the Commissioners of the South Chattanooga Protection District may proceed with the floating of bonds, the procuring of rights-of-way, and with construction work, or any of these acts, and the doing of all other things authorized by this Act, immediately after the close of the first hearing on the original assessment, irrespective of any appeals taken from same; and that no appeal from either the assessment of benefits or from any award of damages shall delay the improvements.

**SECTION 17.** That for each revision of assessment of benefits, the filing, publication, hearing by the Commissioners and all things shall be done as provided for the original assessment and all of the provisions of Section 15 of this Act shall apply to each revised assessment.

**SECTION 18.** That upon the election resulting "For the issuance of bonds" and after the close of the first hearing on original assessments, the Commissioners of the South Chattanooga Protection District may proceed with the floating of bonds, the procuring of rights-of-way and with construction work or any of these acts, and the doing of all other things authorized by this Act, irrespective of any appeals taken from such assessments, and that no appeal from either the assessments of benefits or from any award of damages shall delay the improvements.

**SECTION 19.** That after the close of the first hearing on the original assessment and the hearing on each modification of or amendment thereto, Commissioners shall enter, for each tract of land or owner, in a book to be provided by them (in duplicate, one copy for the Commissioners and one for the County Trustee) the description, owner's, total betterment (as approved by the Commissioners at the hearing), rate of levy (for the first year), and amount of levy (for the first year). Five columns shall be provided for the entries last mentioned, and following said five columns there shall be provided columns for four succeeding years, to-wit: For each year, a column each for total benefits, rate of levy and amount of levy. When so prepared one of said books to be delivered to the County Trustee on or before \_\_\_\_\_ of the same year; and the entries therein shall be the authority of the county Trustee to collect the amounts shown therein for the first year's levy, which he is hereby required to collect and to pay over to the Treasurer of said Commissioners as hereinafter provided for the payment of all collections of levies made by him.

**SECTION 20.** That the aforesaid first levy and an annual levy shall be made and collected on the assessed benefits in the following manner: To the estimated cost of the proposed improvements, which said Commissioners shall cause to be made together with the administration and supervision of same, there shall be added not less than fifteen (15) per cent for contingencies. The amount thus arrived at shall be pro rated for a certain number of annual installments to be determined by the Commissioners. Said installments need not be the same each year, but no such installments shall be more than ten per cent of the pro rata to each owner, when said cost is pro rated to the several owners in the proportion of their assessment of benefits to the total benefits for the District. After the said cost with the percentage added for contingencies shall have been so pro rated, any owner may pay his pro rata in cash to the Treasurer of the Commissioners, if paid before any bonds are issued; but such payment in cash shall not exempt said owner from paying the annual levy for operation and maintenance as described hereinafter. The Commissioners shall, each year, on or before July 1st, make an order of such levy, and it shall thereupon be the duty of the Secretary to extend the amount of the said levy on the original or a copy of the assessment roll of said District on file in his office, and to certify a copy of the levy, on or before October 1st, of the said year, to the County Trustee, and said Trustee shall thereupon extend the amount of the levy on the copy of said assessment in his office. Whenever a modification or amendment of said assessment shall be made as provided herein, the same course shall be followed by each official as provided herein for the original assessment. The levy ordered by the Commissioners each year shall include:

- (1) Pro rata of cost plus not less than 15 per cent contingencies;
- (2) Pro rata of interest on indebtedness;



(Total of (1) and (2)

(3) Pro rata of estimated annual operation and maintenance cost;

(Total of (1), (2) and (3).

but on property for which the payment of benefits was made in cash, each annual levy shall be only for the pro rata of estimated annual operation and maintenance cost.

**SECTION 21.** That the County Trustee of Hamilton County shall collect, each year, at the same time that State and county taxes are collected, the levy for such year in said South Chattanooga Protection District which has been certified to him by the Commissioners. Said Trustee shall make monthly reports to the Commissioners of said South Chattanooga Protection District of the amount of said levy collected during the current month and shall pay over the same monthly to the Treasurer of said Commissioners, and shall make his final settlement for each year not later than May 1st of the said year. The Commissioners shall require the said Trustee to make a special bond for the proper collecting and paying over of the said levy. For collection of said levy the said Trustee shall be allowed a Commission as now allowed by law for State and county taxes, which shall be deducted by him from the moneys so collected before paying the same over. For any failure to pay over (at the time provided in this Act) any money collected for said District, he shall be liable for damages at the rate of ten (10) per cent and interest at the rate of six (6) per cent per annum on the principal and damages.

**SECTION 22.** That if any person shall enjoin the collection of any levy provided for in this Act or any subsequent Act supplementary or amendatory hereto, and shall fail to perpetuate by decree of court, said injunction, the Court, in dissolving the injunction shall, in addition to the cost to them adjudge as damages that the party so enjoining shall pay double the amount of taxes enjoined; and the Court shall award an execution for the same in favor of the President of said Commissioners of the South Chattanooga Protection District for the use of said District.

**SECTION 23.** That the law now governing the amount of damages, when taxes become delinquent, the advertising, sale and redemption of property which is delinquent for taxes, shall apply to the collection of damages, the advertising, sale and redemption of property which may be delinquent for the payment of the levy of the South Chattanooga Protection District the same as if repeated in this Act in full.

**SECTION 24.** That the Commissioners of the South Chattanooga Protection District shall set aside from their revenues a sufficient sum each year to meet the interest on all outstanding bonds and also the principal on all bonds as they mature.

**SECTION 25.** That either the Commissioners of the South Chattanooga Protection District or any owner of real property within said District or any holder of any past due bond or coupon which has been presented for payment and not paid, may, by mandamus, compel the fixing of a rate of levy sufficient to meet the obligations of said District and may compel the performance by the Commissioners and their officers, the Chancery Clerk and the County Trustee to perform the duties imposed upon them by this Act.

**SECTION 26.** That the said Commissioners of the South Chattanooga Protection District be and they are hereby authorized and empowered to enter upon, take and hold any land or premises or any material whatever, whether by purchase, grant or donation, devise or otherwise, that may be necessary and proper for the location, construction, repair, operation, or maintaining of the structures and works provided for in this Act, and said Commissioners are also empowered to cut and remove trees, timber and other material that might by falling or otherwise encumber or endanger said structures and works or any part thereof, and the said Commissioners shall have power to acquire by compromise or by agreement with the owner or owners all property and rights-of-way required by them, and they may settle all claims for compensation or damages on account of rights-of-way, or materials for the construction, maintenance or repair of said structures and works, and the said conveyance shall vest said Commissioners with the title in fee simple to the rights-of-way or property thus acquired. And to this end, the said Commissioners shall have the power of eminent domain as provided by the laws of Tennessee for the taking of private property for works of internal improvements. The said right and power to be exercised in the manner now provided by law.

**SECTION 27.** That said Commissioners may, at any time before proceeding with the work of construction or before using any material or other property, at their discretion, refuse to accept the award which may have been made therefor, under the proceeding of eminent domain, and locate its structures and works anew, or decline to use said material, land or other property, and in such event they shall not be liable for the amount of such award. Upon payment of tender of any award made, it shall vest absolutely in said Commissioners the title to the land, material or other property taken or to be taken and appropriated, but this shall not be construed as in any way to impair the right of said Commissioners to enter upon, take, use and appropriate land, material or other property for the use aforesaid.

**SECTION 28.** That if the plan adopted or contemplated by said Commissioners shall modify, divert or

affect in any way the channel of the Tennessee River or of any streams or watercourses, said Commissioners are hereby authorized and empowered to do such work as may so affect said river and any such streams or watercourses, provided that said Commissioners shall first obtain the necessary authority from the proper Federal official, officials or agency, before doing any work which shall encroach upon the authority or rights of the Federal Government with reference to any channel under its control.

**SECTION 29.** That the Commissioners of the South Chattanooga Protection District are hereby authorized to purchase and own property (real and personal) in the State of Georgia if said Commissioners should decide that such is essential to their plan of flood protection, and to build structures and works and maintain and operate the same in said State.

**SECTION 30.** That the Commissioners of the South Chattanooga Protection District may with any or all of their structures or works, cross, move, relocate, rebuild or elevate, or may do any or all of these acts, with sewer, storm sewer, culvert, track, or all of them; provided, that such sewers, storm sewers, culverts, shall be rebuilt by said Commissioners in as good condition as when found. The Commissioners may negotiate and contract with Municipal and County Boards and officials, as to the methods and costs of making any changes contemplated by the Commissioners, of the structures under the charge or ownership of said Board, and may contract with them to do the necessary work on the same. If the Commissioners should themselves undertake any such work, the said South Chattanooga Protection District shall be liable for any damage or loss proven to be due to such undertaking or work.

**SECTION 31.** That the Commissioners and their agents and employes shall have the right to pass over any lands where they deem it essential to do so in order to expedite the operations of said District, but shall be liable for any damage caused thereby.

**SECTION 32.** That the Commissioners of the South Chattanooga Protection District are hereby authorized to build their structures and works across both natural and artificial drains where they deem it essential to do so, and no injunction shall lie which attempts to prevent their so doing; but the said Commissioners shall be liable for any damage done thereby.

**SECTION 33.** That the making of profit, directly or indirectly, by the Treasurer of said Commissioners of the South Chattanooga Protection District, or by any Commissioner thereof, or by any officer or employe whatsoever, out of any funds belonging to said District, with the custody of which the Treasurer is charged, by loaning or otherwise using it, or depositing same in any manner contrary to this Act, or the removal by the Treasurer or with his consent, of such moneys or a part thereof, and placing same elsewhere than as provided by this Act, shall constitute a felony; and upon conviction thereof shall subject the Treasurer, or other officer or Commissioner to imprisonment in the State penitentiary for a term not exceeding two years or a fine not exceeding Five Thousand Dollars, or by both such fine and imprisonment, and the Treasurer or other officer offending shall be liable on his official bond for all profits realized from such unlawful use of such funds.

**SECTION 34.** That should any officer, Treasurer or Commissioner, or custodian of the funds of said District, wilfully fail or refuse at any time to do and perform any act required of him under this Act, he or it shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine or not less than Five Hundred Dollars nor more than Five Thousand Dollars, or by imprisonment in the county jail not less than ten days nor more than thirty days, or both.

**SECTION 35.** That it shall be unlawful for any Commissioner or officer of the South Chattanooga Protection District to have any interest, directly or indirectly, in any contract with said District; or to receive directly or indirectly for his own use and benefit, any portion or share of the money or other thing paid for construction or materials used in said District; or for any Commissioner or officer of said Commissioners or any tax collector to speculate in any way, directly or indirectly, in any bonds issued under this Act, or in any other liability of the Commissioners of the South Chattanooga Protection District, and any Commissioner, officer or tax collector violating any of the provisions of this Section, shall be deemed guilty of a misdemeanor and on conviction, shall be punished by removal from office and a fine of not less than One Thousand Dollars nor more than Five Thousand Dollars, or by imprisonment in the county jail not less than six months nor more than twelve months.

**SECTION 36.** That no Commissioner of said District shall be liable for any damages sustained by any one in the prosecution of the work under his charge, unless it should be made to appear that such Commissioner has acted with a corrupt and malicious intent.

**SECTION 37.** That the said South Chattanooga Protection District shall not cease to exist upon the completion of its structures and works, but said District and Commissioners of the South Chattanooga Protection District shall continue in perpetuity for the purpose of operating, maintaining, repairing, rebuilding, extending, and enlarging said structures and works, and in doing such other acts and things as they shall deem essential to the carrying out of the object of this Act, and as may be found advantageous

to the said District. In each annual levy on the assessed benefits, an amount shall be levied for operation and maintenance to be recommended by the Commissioners, not to exceed one (1) per cent of the assessed benefits.

**SECTION 38.** That for the purpose of maintaining the levees, dams, gates, and other structures of the South Chattanooga Protection District in the highest state of efficiency, and for repairing and protecting same and the rights-of-way thereof, from damages, injury and trespass, the Commissioners of the South Chattanooga Protection District are authorized and empowered to exercise complete control over said structures and right-of-way, for the purpose of protecting and safeguarding said district from the flood waters of Tennessee River and Chattanooga Creek; and may cause same to be policed by its agents and employes, and if they so determine, by municipal and county officers, and may forbid any person or persons or corporations from occupying [sic] or using for private purposes any portion or portions of said structures and rights-of-way, and may order and establish rules and regulations for the proper maintenance and preservation of said right-of-way.

**SECTION 39.** That the said Commissioners may in their discretion grant the use of part of the levee for the purpose of a highway for public travel, under the rules and regulations of said Commissioners as regards the character of such, to-wit: The top of the levee may be so used when specially widened and paved by authority of the Commissioners.

**SECTION 40.** That it shall be unlawful for any steamboat, flatboat, barge, house boat or other heavy craft, to land in time of high water against the protection works of the South Chattanooga Protection District, or against the revetments placed for the protection of said works from currents and wave action.

**SECTION 41.** That if any person shall wilfully leave open, cut, break down, remove or destroy any gate, fence, barricade, or post, or part thereof, erected by the Commissioners of the South Chattanooga Protection District or their agents or employes for the enclosing of the right-of-way or the protecting against traffic or otherwise of any levee or other structure of said District, or shall maliciously break down any mile post, water gauge, bench mark, or other monument established by the Commissioners or their agents or employes, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than Twenty-five Dollars nor more than Five Hundred Dollars for each offense.

**SECTION 42.** That if any person shall wilfully or maliciously cut, break, injure or destroy or shall attempt by means of an explosive or other means to injure or destroy any dam, levee, canal, bulkhead, flood-gate, power station, pumping equipment or any structure built or being built by the Commissioners of the South Chattanooga Protection District, he shall, on conviction, be imprisoned in the penitentiary not more than ten years.

**SECTION 43.** That if any person shall wilfully cut into, mutilate or disfigure any dam, levee, canal or other embankment or excavation built or being built by the Commissioners of the South Chattanooga Protection District, or excavate earth or sand therefrom, or make excavations in the earth near said levee which Commissioners deem a probable source of weakness to same, without being authorized to do so by said Commissioners, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than Twenty-five Dollars nor more than Five Hundred Dollars for each offense, or shall be confined in the county jail for not exceeding thirty days, or by both such fine and imprisonment.

**SECTION 44.** That all fines which may be collected under this Act for the violation of any of the provisions of this Act shall inure to the said South Chattanooga Protection District and be paid into the Treasury of said District by the officer collecting the same.

**SECTION 45.** That this Act shall take effect and be in force from and after its passage, the public welfare requiring it.

Passed: March 23, 1923.

## Historical Commission

### Private Acts of 1953 Chapter 522

**SECTION 1.** That there is hereby created and established the Chattanooga-Hamilton County Historical Commission which is hereby vested with power and authority to acquire by lease, purchase, gift or otherwise, real estate and any and all other forms of property to carry out the purposes of this Act. The Commission is hereby vested with the authority and power to own and operate a historical museum, to collect, exhibit, and otherwise preserve, publish and disseminate the historical lore of Chattanooga and Hamilton County, Tennessee; to prepare records, exhibits, and to distribute all appropriate historical data; to conduct research programs and educational programs, and use all recognized methods in collecting and preserving the history of the people who founded Hamilton County and Chattanooga, who have lived in

the area since it was founded, furnished it leadership and performed noteworthy human deeds in business, commerce, education, military adventure, and in all other fields of human endeavor; to collect data concerning the institutions said people have established and to set up a central place or headquarters from which said programs will be operated and said exhibits will be placed on public display.

**SECTION 2.** That the Chattanooga-Hamilton County Historical Commission shall be composed of a board of seven members who shall have terms of seven years. The terms of the members of the first Commission shall be staggered so that the term of one member shall expire on April 15, of each year. Each succeeding Commissioner shall have a term of seven years, starting on April 15 of the year of his or her election. The Governor of Tennessee, the Comptroller of the State Treasury, the County Judge of Hamilton County, and the Mayor of the City of Chattanooga, will serve as ex officio members of the Commission, each having one vote on all matters brought before the Commission for consideration. The Governor, Comptroller, Mayor and County Judge shall hold a seat on the Commission by virtue of their office and their terms will coincide with their terms as Governor, Comptroller, Mayor and County Judge. It is the intent of this Act to create seven Commissioners in addition to the Governor, Comptroller, Mayor and County Judge.

**SECTION 3.** That the members of the first Commission, in addition to the Governor, Comptroller, Mayor and County Judge, shall be Miss Zella Armstrong, Hugh P. Wasson, Fred Hixson, Paul Mathes, Roy McDonald, Scott Brown, and Col. Van Dyke Ochs. The term of Miss Armstrong shall be from April 15, 1953 until April 15, 1960; the term of Hugh P. Wasson shall be from April 15, 1953 until April 15, 1959; the term of Fred Hixson shall be from April 15, 1953 until April 15, 1958; the term of Paul Mathes shall be from April 15, 1953 until April 15, 1957; the term of Roy McDonald shall be from April 15, 1953 until April 15, 1956; the term of Scott Brown shall be from April 15, 1953 until April 15, 1955; the term of Col. Van Dyke Ochs shall be from April 15, 1953 until April 15, 1954. All vacancies on the Commission shall be filled by a majority vote of the members of the Commission.

**SECTION 4.** That the Commission shall elect from its membership a chairman, vice-chairman, secretary and treasurer. It shall be the duty of the chairman to preside over all meetings of the Commission and during his absence the vice-chairman shall act as chairman and exercise all the authority and power vested in the chairman. The secretary shall keep or cause to be kept a well bound record of all proceedings, transactions, accounts, et cetera, and shall have general supervision over all records, research and educational programs of the Commission. The Treasurer shall be the custodian of all funds of the Commission which shall be disbursed only upon warrants signed by the Treasurer and chairman. He shall be required to give bond for the faithful performance of his duties of not less than \$5,000 and such additional amount or amounts as the Commission may from time to time determine is advisable.

**SECTION 5.** That the Commission shall have authority, from time to time, to hire such personnel as shall be deemed necessary to carry out the purposes of this Act. The Commission shall have the authority to fix the wages and salaries of such personnel and determine the terms of employment and the duties of said personnel.

**SECTION 6.** That all property acquired by the Commission under this Act shall be held in the name of the Chattanooga and Hamilton County Historical Commission, which shall have and is hereby vested with power and authority to exercise the power of eminent domain to acquire any land or lands deemed essential by the Commission to carry out the purposes of this Act.

**SECTION 7.** That all laws or parts of laws in conflict with this Act are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 9, 1953.

## Ordinances

### Alcohol Ad Tax

### Private Acts of 1949 Chapter 234

**SECTION 1.** That the County Court of Hamilton County, under the provisions of Section Nine of Article Eleven of the Constitution, is vested with powers to pass ordinances with regard to private and local affairs hereinafter expressly set forth, by the affirmative vote of a majority of not less than two-thirds of the total number of members thereof; a meeting for the purpose of using these powers may be called on notice given by the County Judge or three members of the County Court.

**SECTION 2.** That an ordinance under the powers which it is deemed expedient to vest in said County Court shall only be valid after three readings at intervals of not less than ten days of the ordinance; after

the first reading and within the ensuing ten days publication of the action entered upon the minutes shall be made two times in a newspaper or newspapers of general circulation in said county; the second reading shall be at a regular or at an adjourned meeting, the date of which shall be fixed at the first reading, and the third reading shall be after a similar publication and at a regular or an adjourned meeting, the date of which was so fixed; each publication notice shall be sufficient to inform the public as to the content of the ordinance and upon passage the ordinance shall be enrolled for public inspection in an indexed book in the office of the County Court Clerk, and all expense of publication and enrollment shall be paid by the County.

**SECTION 3.** That acting as herein set forth, said County Court may by ordinance: (1) provide for the taxation of advertisements of beer, ale, whiskey, gin, rum, or any beverage that contains alcohol, such tax to be based by classification on the size, visibility, number of hours used, position on any highway, tendency to obscure the vision of users of the highway, blinding effect, or effect on traffic safety of signs and signals to promote safety, location and character of the advertising, whether indoors or outdoors if visible from a public place, whether painted or lighted, moving or still, as set forth in said ordinance, provided this shall not apply to advertisements in newspapers or periodicals; (2) provide for reports, methods, regulations for the collection of such taxes; (3) provide that a failure to comply shall be a misdemeanor and also that when any tax is not paid in accordance with such ordinance, the tax shall be triple that otherwise provided if the liability for payment has to be established by county authorities; (4) provide for the creation of a Liquor Advertising Board of five and designate an agent of said Board for enforcement, all expense and compensation to be provided by ordinance, and (5) provide as a condition to enforcement that the net returns of advertisements within any municipal corporation shall be proportionately divided between the County and said municipal corporation, with an allowance of not more than twenty percent (20%) of the gross returns to said county for administration.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 22, 1949.

## County Police Patrol

### Private Acts of 1949 Chapter 90

**SECTION 1.** That the County Court of Hamilton County, under the provisions of Section Nine of Article Eleven of the Constitution, is vested with powers to pass ordinances with regard to private and local affairs hereinafter expressly set forth, by the affirmative vote of a majority of not less than four-fifths of the total number of members thereof; a meeting for the purpose of using these powers may be called on notice given by the County Judge or three members of the County Court.

**SECTION 2.** That an ordinance under the powers which it is deemed expedient to vest in said County Court shall only be valid after three readings at intervals of not less than ten days of the ordinance; after the first reading and within the ensuing ten days publication of the action entered upon the minutes shall be made two times in a newspaper or newspapers of general circulation in said county; the second reading shall be at a regular or at an adjourned meeting, the date of which shall be fixed at the first reading, and the third reading shall be after a similar publication and at a regular or an adjourned meeting, the date of which was so fixed; each publication notice shall be sufficient to inform the public as to the content of the ordinance and upon passage the ordinance shall be enrolled for public inspection in an indexed book in the office of the County Court Clerk, and all expense of publication and enrollment shall be paid by the county.

**SECTION 3.** That acting as herein set forth, said County Court, if the Hamilton County Council fails to make adequate provision for a Hamilton County Patrol, may by ordinance at any time after July 1, 1949: (1) Establish a Hamilton County Police Patrol of not more than ten members who shall be selected in the manner provided by said ordinance and serve under the direction of the Sheriff upon being commissioned as Deputy Sheriffs by him and until the revocation of any commission issued; (2) Fix the compensation of the members of said Patrol at not more than \$300 per month, such compensation to be earned only during such time as the members are duly commissioned as deputies of the Sheriff; and (3) Provide that the compensation of those who serve as members of the Patrol shall be an obligation of said county and payable in the same manner as the compensation of other employees of said county.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 31, 1949.

## Sight-Seeing Guides

## Private Acts of 1949 Chapter 121

**SECTION 1.** That the County Court of Hamilton County, under the provisions of Section Nine of Article Eleven of the Constitution, is vested with powers to pass ordinances with regard to private and local affairs hereinafter expressly set forth, by the affirmative vote of a majority of not less than four-fifths of the total number of members thereof; a meeting for the purpose of using these powers may be called on notice given by the County Judge or three members of the County Court.

**SECTION 2.** That an ordinance under the powers which it is deemed expedient to vest in said County Court shall only be valid after three readings at intervals of not less than ten days of the ordinance; after the first reading and within the ensuing ten days publication of the action entered upon the minutes shall be made two times in a newspaper or newspapers of general circulation in said county; the second reading shall be at a regular or at an adjourned meeting, the date of which shall be fixed at the first reading, and the third reading shall be after a similar publication and at a regular or an adjourned meeting, the date of which was so fixed; each publication notice shall be sufficient, to inform the public as to the content of the ordinance and upon passage the ordinance shall be enrolled for public inspection in an indexed book in the office of the County Court Clerk, and all expense of publication and enrollment shall be paid by the county.

**SECTION 3.** That acting as herein set forth said County Court may by ordinance: (1) Regulate guides (sight-seeing) who escort or direct the public, including tourists, by providing for such investigation and examination of those who operate under the Acts of 1943, Chapter 106, passed February 11, 1943, as may be deemed best and also to provide such guarantees by bonds of their faithful performance of duties as may be expedient; and (2) Provide that any guide operating in Hamilton County who may not comply with such ordinance will be guilty of a misdemeanor, and also provide for a committee to administer any ordinance.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 7, 1949.

## Sale of Beer

## Private Acts of 1949 Chapter 232

**SECTION 1.** That the County Court of Hamilton County, under the provisions of Section 9 of Article 11 of the Constitution, is vested with powers to pass ordinances with regard to private and local affairs hereinafter expressly set forth, by the affirmative vote of a majority of not less than two-thirds of the total number of members thereof; a meeting for the purpose of using these powers may be called on notice given by the County Judge or three members of the County Court.

**SECTION 2.** That an ordinance under the powers which it is deemed expedient to vest in said County Court shall only be valid after three readings at intervals of not less than ten days of the ordinance; after the first reading and within the ensuing ten days publication of the action entered upon the minutes shall be made two times in a newspaper or newspapers of general circulation in said county; the second reading shall be at a regular or at an adjourned meeting, the date of which shall be fixed at the first reading, and the third reading shall be after a similar publication and at a regular or an adjourned meeting, the date of which was so fixed; each publication notice shall be sufficient to inform the public as to the content of the ordinance and upon passage the ordinance shall be enrolled for public inspection in an indexed book in the office of the County Court Clerk, and all expense of publication and enrollment shall be paid by the County.

**SECTION 3.** That acting as herein set forth, said County Court may by ordinance (1) regulate the sale of beer and ale, the places in which it may be consumed, the location and the hours and circumstances under which it may be sold and/or consumed, the disposition of containers and its transportation by retailers, and (2) provide that any violation of such ordinance is a misdemeanor.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 22, 1949.

## Planning and Zoning

# Private Acts of 1939 Chapter 460

**SECTION 1. GRANT OF POWER.** That the Quarterly County Courts coming under the provisions of this Act are hereby empowered, in accordance with the conditions and the procedure specified in the subsequent sections of this Act, to regulate, in the portions of counties which lie outside of municipal corporations, the location, height and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes.

**SECTION 2. REGIONAL ZONING TO BE PRECEDED BY AND BASED ON PLANS SUBMITTED BY REGIONAL PLANNING COMMISSION.** That from and after the time when the Regional Planning Commission of the planning region defined and created by the State Planning Commission makes and certifies to the Quarterly County Court of any county located in whole or part in such region a zoning plan, including both the text of a zoning resolution and the zoning maps, representing the recommendations of such planning commission for the regulation by districts or zones of the location, height and size of buildings and other structures, the percentage of lots that may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings and structures for trade, industry, residence, recreation or other purposes and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes, then such County Court may, by resolution, exercise the powers granted in Section 1 of this Act and, for the purpose of such exercise, may divide the territory of the county which lies within said region but outside of municipal corporations into districts of such number, shape or area as it may determine and within such districts may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land. All such regulations shall be uniform for each class or kind of buildings throughout any such district, but the regulations in one district may differ from those in other districts. The Regional Planning Commission may make and certify a single plan for all the territory of the county which lies within said region but outside of municipal corporations, or may make and certify separate and successive plans for parts of such territory which it deems to be suitable for urban or nonurban development or which for other reasons it deems to be an appropriate territorial unit for a zone plan; and correspondingly any ordinance enacted by the County Court may cover and include the said whole territory of the county which lies within said region but outside of municipal corporation covered and included in any such single plan or in any such separate and successive plans. No resolution covering more or less than the entire area covered by any such certified plan shall be enacted or put into effect until or unless it be first submitted to the Regional Planning Commission and be approved by said commission or, if disapproved, receive the favorable vote of not less than two-thirds of the entire membership of said County Court.

**SECTION 3. PURPOSE OF ZONING REGULATIONS.** That such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the State of Tennessee in the counties covered by the provisions of this Act, including, among other things, lessening congestion in the roads or reducing the wastes of excessive amount of roads; securing safety from fire and other dangers; promoting adequate light and air; preventing on the one hand excessive concentrations of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunity, recreation, soil fertility, food supply and the protection of both urban and non-urban development.

**SECTION 4. METHOD OF PROCEDURE.** That after the certification of a zone plan from the Regional Planning Commission and before the enactment of any such zoning resolution the County Court shall hold a public hearing thereon of the time and place of which at least thirty (30) days notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the Planning Commission may be examined. No change in or departure from the text or maps as certified by the Regional Planning Commission shall be made, unless such change or departure be first submitted to the certifying Planning Commission for its approval, disapproval or suggestions, and, if disapproved, shall receive the favorable vote of a majority of the entire membership of the County Court; and the Planning Commission shall have thirty days from and after such submission within which to send its report to the County Court. Any such ordinance shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county, and shall not be in force until it is so published.

**SECTION 5. Amendments.** That the County Court may from time to time amend the number, shape, boundary, area or any regulation or within any district or districts or any other provision of any zoning resolution; but any such amendment shall not be made or become effective unless the same be first submitted for approval, disapproval or suggestions to the Regional Planning Commission of the region in which the territory covered by the resolution is located, and, if such Regional Planning Commission disapproves within thirty (30) days after such submission, such amendment shall require the favorable vote of a majority of the entire membership of the County Court. Before finally adopting any such amendment, the County Court shall hold a public hearing thereon, at least thirty (30) days notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county; and any such amendment shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county.

**SECTION 6. BOARD OF APPEALS.** That the County Court of any county which enacts zoning regulations under the authority of this Act shall create a County Board of Zoning Appeals of three or five members. The County Court shall be the appointing power of the members of such Board of Appeals and may fix their compensation and their terms, which terms shall be of such length and so arranged that the term of one member will expire each year. The County Court may remove any member for cause upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. The County Court may appoint associate members of said Board, and, in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the Board, or other cause, his place may be taken during such temporary disability by an associate member designated for the purpose by the County Court. The County Court of two or more counties may, by resolution enacted by both or all of them, arrange and provide for a joint or common Board of Zoning Appeals.

The County Court may provide and specify in its zoning or other resolution, general rules to govern the organization, procedure and jurisdiction of said Board of Appeals, which rules shall not be inconsistent with the provisions of this Act; and the said Board may adopt supplemental rules of procedure, not inconsistent with this Act or such general rules.

The zoning resolution may provide that the Board of Appeals may, in appropriate cases and subjects to appropriate principles, standard, rules, conditions and safeguards set forth in the resolution, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The County Court may also authorize the Board of Appeals to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the zoning regulations.

Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department or board of the county affected, by any grant or withholding of a building permit or by any other decision of a building commissioner or other administrative official based in whole or part upon the provision of any resolution under this Act.

The Board of Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the County Building Commissioner or any other administrative official in the carrying out or enforcement of any resolution enacted pursuant to this Act.
2. To hear and decide, in accordance with the provisions of any such resolution; requests for special exceptions or for interpretation of the map or for decisions upon their special questions upon which such board is authorized by any such resolution to pass.
3. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property to authorize upon an appeal relating to said property, a variance from such district application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning resolution.

**SECTION 7. BUILDING COMMISSIONER.** That the County Court may provide for the enforcement of its zoning regulations by means of the withholding of building permits and, for such purpose, may establish and fill a position of County Building Commissioner and may fix the compensation attached to said position. From and after the establishment of such position and the filling of same, it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure without obtaining a building permit from such County Building Commissioner, and such building Commissioner shall not issue any



permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations then in effect.

**SECTION 8. OTHER ENFORCEMENT AND REMEDIES.** That it shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in or of any provision of any resolution or any amendment thereof enacted or adopted by any County Court under the authority of this Act. Any person, firm or corporation violating any such regulation or provision or any other provision of this Act shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of this Act or of any regulation or provision enacted or adopted by any County Court under the authority granted by this act, such County Court, the Attorney General, the District Attorney for the judicial circuit in which such violation occurs or is threatened, the County Building Commissioner or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent or enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

**SECTION 9. CONFLICT WITH OTHER LAWS.** That wherever the regulations made under authority of this Act require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute, the provisions of the regulations made under authority of this Act shall govern. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the standards that are required by the regulations made under authority of this Act, the provisions of such statute shall govern.

**SECTION 10.** That, for the purposes of this Act, "Regional Planning Commission" means the Regional Planning Commission established by the State Planning Commission as authorized by law; provided further, that where the word county or County Court appears in this Act either or both shall be construed to include only counties within a planning region as officially designated by the State Planning Commission, having a population of at least one hundred fifty-nine thousand (159,000) and not more than two hundred thousand (200,000); provided, further, that the population of a county or of counties shall be determined by reference to the Federal Census of 1930 or any subsequent Federal Census.

**SECTION 11.** That this act shall not be construed as repealing or modifying any provision of any Private Act heretofore enacted relating to the powers of any county therein designated or of any municipality therein designated to enact zoning regulations in such county or in territory lying outside such municipality.

**SECTION 12.** That should any section or provision of this Act be held unconstitutional, the same shall not affect the validity of this Act as a whole or any part thereof other than the part so held to be unconstitutional.

**SECTION 13.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 10, 1939.

## Planning Commission Fees

### Private Acts of 1970 Chapter 325

**SECTION 1.** That Hamilton County is hereby authorized from time to time to set and establish a filing fee commensurate with the cost of processing applications to the Planning Commission. Said fee is to be paid by applicant to the Commission.

**SECTION 2.** That this Act shall have no effect unless same shall have been approved by two-thirds of the County Council of Hamilton County, Tennessee, on or before the next regular meeting of said County Council occurring more than thirty days after its approval by the Chief Executive of this State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

**SECTION 3.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 18, 1970.

# Purchasing

## Private Acts of 1983 Chapter 90

**SECTION 1.** There is hereby established the "Hamilton County Purchasing Law", which shall be set forth below:

**SECTION 2.** Except as provided in SECTION 4., all purchases by and for the county or any of its agencies or departments shall be by public advertisement and competitive bid, except as follows:

(1) Purchases costing less than two thousand five hundred dollars (\$2,500); provided, however, that this exemption shall not apply to purchases of like items which individually cost less than two thousand five hundred dollars (\$2,500), but which are customarily purchased in lots of two (2) or more, if the total purchase price of each item would exceed two thousand five hundred dollars (\$2,500) during any fiscal year;

(2) Repair of heavy machinery for which limited repair facilities are available;

(3) Purchases or leases of any supplies, materials, or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work; provided, however, that such emergencies shall not include conditions arising from neglect or indifference in anticipating normal needs. A record of any such emergency purchase shall be made by the person or body authorizing such emergency purchase, and shall specify the amount paid, the items purchased, from whom the purchase was made, and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the governing body and the county executive of the county, and shall include all items of information as required in the record.

**SECTION 3.** (1) Except as provided in this section, all lease-purchase arrangements requiring payments of two thousand five hundred dollars (\$2,500) or more, shall be entered into only after public advertisement and competitive bidding.

(2) Hamilton County may enter into lease arrangements to the extent otherwise authorized and permitted by law for the agencies and departments of State government.

**SECTION 4.** (1) All purchases of less than two thousand five hundred dollars (\$2,500) in amount may be made in the open market without newspaper notice, but shall wherever possible be based upon at least three (3) competitive bids.

(2) Perishable commodities, fuel and fuel products may be likewise purchased in the open market, regardless of amount, subject to such restrictions as the county legislative body may apply.

**SECTION 5.** The county legislative body is specifically authorized to adopt policies and procedures for the disposition of all county-owned property.

As amended by: Private Acts of 1985, Chapter 92

**SECTION 6.** The county legislative body is specifically authorized to develop such rules, regulations, and procedures as they deem necessary to fully implement this Act.

**SECTION 7.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body in Hamilton County before July 1, 1983. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

**SECTION 8.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in SECTION 6.

Passed: April 14, 1983.

# Regional Disposal Authority

## Private Acts of 1972 Chapter 420

**SECTION 1.** Short title-This may be cited as the "Hamilton County Regional Disposal Authority Act."

**SECTION 2.** HAMILTON COUNTY REGIONAL DISPOSAL AUTHORITY: Hamilton County may create an authority to be known as the Hamilton County Regional Disposal Authority. The authority shall consist of five board members, two to be appointed by the County Judge and approved by the County Council, said

appointees shall be appointed for five and three year terms. Two to be appointed by the Mayor of Chattanooga and approved by the City Commission, said appointees to be four and two year terms. The four appointed board members shall appoint one other member for a term of one year. Said board members at the expiration of their term shall be appointed, or their successor, for a five year term. Immediately after such appointments, the members of the authority shall enter upon their duties. In addition to the Chairman, the authority shall elect one of its members as Vice-Chairman and it may also elect a Secretary and Treasurer who need not necessarily be a member of the authority. Three members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all the rights and perform all the duties of the authority. The members of the authority shall be entitled to compensation for their services at the rate of \$600.00 per year, except the Chairman, who shall receive \$750.00 per year, and all members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties. The authority shall make rules and regulations for its own government.

**SECTION 3. POWERS:** The authority so created pursuant to this Act shall have the power;

(a) To do all things deemed necessary or convenient for an operation pertaining to the collection and disposal of solid waste.

(b) To acquire by purchase, gift, devise, lease or exercise of the power of eminent domain as now granted to counties or other mode of acquisition, hold and dispose of real and personal property of every kind within or without the county and state, whether or not subject to mortgage or any other liens.

(c) To make and enter into contracts, conveyances, mortgages, deeds of trust, bonds or leases with individuals, states, counties, private concerns and municipal corporations whether foreign or domestic.

(d) To incur debts, to borrow money, to issue negotiable bonds and to provide for the rights of holders thereof.

(e) To fix, maintain, collect and revise rates and charges for any service.

(f) To pledge all or any part of its revenues.

(g) To use any right-of-way, easement or other similar property rights held by the state or any political subdivision thereof which may be necessary or convenient in connection with the acquisition, improvement, operation or maintenance of the authority, provided that the governing body of such political subdivision shall consent to such use.

(h) To appoint, select and employ, officers, agents and employees, including, but not limited to engineering, architectural, and construction expenses, fiscal agents and attorneys, and fix their respective compensations.

(i) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate and manage projects, as hereinabove defined, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority or from such proceeds and any grant from the United States of America, State of Tennessee, or any agencies or instrumentalities thereof.

(j) To accept loans and/or grants of money or materials or property of any kind from the United States of America, State of Tennessee, or any agencies or instrumentalities thereof upon such terms and conditions as the United States of America, State of Tennessee, or such agencies or instrumentalities may impose.

(k) Any appeals from the administrative decisions of this board of commissioners shall be by common law writ of certiorari to a court of competent jurisdiction.

**SECTION 4.** If any commissioner or board member resigns or becomes incapacitated, he shall be replaced by the authority who appointed him for the remainder of that term only.

**SECTION 5. RULES AND REGULATIONS FOR OPERATION OF PROJECTS.** It shall be the duty of the authority to prescribe rules and regulations for the operation of the project or projects constructed under the provisions of this Act, including, but not limited to, the basis on which collection and disposal of solid waste shall be furnished.

**SECTION 6. LIBERAL CONSTRUCTION OF ACT.** - This Act being for the welfare of various political subdivisions of this area and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 7. EFFECT OF PARTIAL INVALIDITY OF ACT.** - The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

**SECTION 8.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Council of Hamilton County. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Council and certified by him to the Secretary of State.

**SECTION 9.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 8.

Passed: April 14, 1972.

## Retirement System

### Private Acts of 1939 Chapter 557

**COMPILER'S NOTE:** Private Acts of 1943, Chapter 121, and Private Acts of 1961, Chapter 362, which follow this act, made broad amendments to Private Acts of 1939, Chapter 557, and should be read in conjunction with this act.

**SECTION 1.** That there is hereby created a system of retirement, insurance, compensation and benefits for employees of Hamilton County who have been employed by and have served Hamilton County for a minimum number of years as provided, and have reached retirement age as provided; and there is hereby created an Employees Insurance Fund to be sustained by contributions from the County and the county employees as provided.

Any present member of the Hamilton County Employees Retirement System is hereby allowed to become a member of the Tennessee Consolidated Retirement System as prescribed by the County Board of Commission, and as provided by Title 8, Chapter 35, Part 2, if such membership is established by January 1, 1991.

As amended by: Private Acts of 1990, Chapter 199

**SECTION 2.** That the provisions of this Act shall apply to all employees of the county falling under the following classifications, to wit: Persons regularly employed directly by the county or any department of county government and paid salaries and compensation; persons regularly employed by the elected or appointed officials of the county and paid salaries and compensation; persons appointed by the State courts in the county to positions authorized by law and paid regular salaries and compensation; person elected or appointed to official positions and paid salaries or compensation directly by the county, or from income derived from the operation of the respective offices; persons elected or appointed by the county court to positions authorized by law and paid salaries and compensation; Field Deputy Sheriffs appointed by the Sheriff pursuant to the provisions of Section 10734 of the 1932 Code of Tennessee whose salaries arise from legal fees earned by them, as provided by statute, for misdemeanor and criminal work and civil work before the courts of this county.

The word "Employee" as used in this Act shall embrace and include all persons within the classifications above described. "Salaries and compensation", as used in this Act, shall mean the amount any employee may be entitled to receive for personal services as provided by law at a fixed amount per annum, per month or per diem, and shall be limited to the basic salary and compensation without additions for allowances for extra services, expenses or perquisites, such as food, lodging, transportation or other contributions. But the benefits and obligations of said Field Deputies shall be based on the actual compensation that they receive rather than on fixed salaries as in the case of other employees and officials.

Officials presently or hereafter holding elective office shall be entitled to credit for their entire tenure of service prior to the passage of this Act provided they pay into the Pension Fund within one year from March 1, 1951, an amount equal to the contributions they would have been required to make if eligible, however, upon application the Pension Board may extend the time for back payment an additional year.

Persons presently or hereafter holding Field Deputy Sheriff positions shall be entitled to credit for their entire tenure of service prior to the passage of this Act provided they pay unto the Pension Fund, within one year from the effective date of this Act, an amount equal to the contributions that they would have been required to make, if eligible, on the basis of a salary of One Hundred Fifty (\$150.00) Dollars per month.

The provisions of this Act shall also include all full time employees of the Department of Education and the Department of Health, who are paid by County check and who are not eligible to participate in any other retirement program, but such eligible employees will not be entitled to credit for service prior to the effective date hereof. The Department for such participating employees will pay the County's proportionate contribution into the fund from its respective annual appropriation or operating budget. Employees eligible hereunder who are fifty (50) years of age or over may decline to participate in this plan, provided they notify the County Pension Board in writing of such action within ninety (90) days from and after the effective date hereof.

That the provisions of this Act shall apply also to employees of the county falling under the following classifications: Persons regularly employed by the elected and appointed officials of Hamilton County who receive, or have received as compensation therefor a stated commission as provided by law for services rendered; persons elected to office in Hamilton County whose salary or compensation is paid in whole or in part by Hamilton County and who thereafter become employees of said County; persons appointed by the state courts and the district attorney general in the County to positions authorized by law and paid regular salaries and compensation by the state and/or county; and the word "employee," as used in said Act, shall embrace and include all persons within the classifications described herein and the commission and compensation for such as used in this Act mean the amount said employee may be entitled to receive for personal services rendered as provided by law as a commission. Persons presently, heretofore or hereafter holding said positions shall be entitled to credit for the entire tenure of service prior to the passage of this Act provided they pay into the Pension Fund within one year from March 1, 1953, an amount equal to the contributions that they would have been required to make, if eligible under the provisions of this amended Act, on the basis of a commission or compensation of \$250.00 per month. However, upon application, the Pension Board may extend the time for back payment an additional year.

As amended by: Private Acts of 1949, Chapter 134  
 Private Acts of 1951, Chapter 481  
 Private Acts of 1953, Chapter 65  
 Private Acts of 1969, Chapter 80

**SECTION 3.** (a) Contribution to Fund. For the purpose of creating a fund known as the "Employees Insurance Fund" (the "Fund"), the County and the employees of the County are required to contribute the percentage of salaries and compensation as herein provided.

(b) Trustee. The County Pension Board shall be the Trustee of the Fund.

(c) Investment Authority. The Trustee shall have full power to invest and reinvest the assets of the Fund in securities which, as of the time of the investment, are permissible investments under Tennessee Code Annotated, Section 56-3-303 (relating to authorized investments of reserves by domestic life insurance companies). Notwithstanding the foregoing: (1) the total sum invested in common and preferred stocks (including investments in "Collective Funds", as defined below, which invest in common or preferred stocks), shall not exceed fifty percent (50%) of the total value of the Fund; and (2) for purposes of this Section, the one percent (1%) limitation of Tennessee Code Annotated, Section 56-3-303(a)(4)(C) (relating to investments in common stocks) shall not apply to investments by the Fund in securities or units of any Collective Fund, but in no event shall investment by the Fund in any one Collective Fund exceed twenty percent (20%) of the value of the Fund at the time of the original investment, whether such Collective Fund invests its assets in common or preferred stocks, bonds or other investments permissible hereunder. For the purposes of this section, "Collective Funds" shall mean (A) any open-end or closed-end management investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Section 80a1-64, and (B) any common trust fund, within the meaning of Section 584 of the Internal Revenue Code of 1986, as amended. Subject to the limitations set forth herein, the Trustee shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities or investments held by the Fund, as well as the proceeds, of such investments and any monies belonging to the Fund.

(d) Charges. It shall be the duty of the Trustee to estimate the amount of charges against the Fund for any annual period and retain a sufficient amount with the current collections to provide for the payment of such charges.

There shall be included in the annual county budget a sum sufficient to pay the contribution of the County to such fund, and if necessary a special tax may be levied for such purposes.

As amended by: Private Acts of 1969, Chapter 80  
 Private Acts of 1974, Chapter 356  
 Private Acts of 1995, Chapter 75

**SECTION 4.** For the fiscal year 1981-82 and thereafter so long as is considered necessary by the Pension Commission to keep the fund actuarially sound, or until said amount is changed by a subsequent actuarial report to be made within five (5) years from July 1, 1981, there shall be made annually a contribution of \$152,511.00. Contributions thereafter shall be made as determined by said actuarial report until adjusted by subsequent actuarial reports from time to time required by law.

All covered employees as of the effective date hereof, shall contribute to such fund six and four tenths (6 4/10%) percent of the salaries and compensations received hereafter during their employment, payable monthly, subject to other provisions hereof.

The basis of contributions by the employees shall be the percentage specified, but the maximum amount such percent shall apply to in all events shall be eight hundred dollars (\$800.00) per month. This base

salary shall also be used to compute any future retiree benefits.

The county shall contribute as its share of contributions to the fund the difference in the amount determined by the actuarial report to keep the fund actuarially sound and the amount raised by employee contributions or, other participant contributions.

As amended by:

- Private Acts of 1941, Chapter 491
- Private Acts of 1949, Chapter 134
- Private Acts of 1953, Chapter 65
- Private Acts of 1965, Chapter 197
- Private Acts of 1969, Chapter 80
- Private Acts of 1974, Chapter 356
- Private Acts of 1978, Chapter 268
- Private Acts of 1981, Chapter 156

**SECTION 5.** That it shall be the duty of the County Judge to prepare a roll of employees before July 1st, 1939, and such roll shall show the name and age and the service of each employee as of September 1st, 1939, and the salary and compensation of each employee upon which the contribution to such fund shall be based, and the percentage of such salary and compensation to be contributed by each employee.

The payments and contributions to such fund shall begin on July 1st, 1939, but no payments or allowances shall be made out of such fund until September 1st, 1939, thereafter, and eligibility of all employees shall be based upon such period.

When an employee becomes eligible for payments from such fund, the County Judge shall certify such fact to the Trustee, showing the amount to be paid and the basis of such payment.

It shall be the duty of the officials charged with the duties of paying salaries and compensation to employees hereby affected, to deduct from the monthly pay of each employee the percentage herein provided and established by the County Judge, and to pay such amounts to the Trustee to be credited to such fund.

**SECTION 6.** [Deleted by Private Acts of 1941, Chapter 491].

**SECTION 7.** Any employee who has served ten (10) years and less than fifteen (15) years, who becomes totally disabled for useful and efficient service, shall be retired and shall receive compensation from the Employees' Insurance Fund based upon thirty (30) percent of his salary and compensation as fixed for the purposes of paying contributions to such fund.

Any employee who has served fifteen (15) years and less than twenty (20) years, and has become likewise disabled shall be retired, and shall receive compensation from the Employees' Insurance Fund based upon forty (40) percent of his salary and compensation as fixed for the purpose of paying contributions to such fund.

Any employee who has served twenty (20) years or more who has not reached the retirement age who has become likewise disabled, shall be retired and shall receive compensation based upon fifty (50) percent of his salary and compensation as fixed for the purpose of paying contributions to such fund.

Before an employee is retired for disability under the provisions of this Section, such disability shall first be determined by the Federal Social Security Administration Office, and its findings shall be and become binding upon the employee and the County Pension Board.

Every employee retired under the above provisions shall submit to a physical examination as and when required by the Pension Board, and shall be subject to recall to some County employment if it shall be determined by the Social Security Office and the County Pension Board that such retired employee has become able to serve in his original or other suitable position. If such employee is offered suitable employment and declines to accept such, he shall forfeit all rights to compensation under this Act.

**SECTION 8.** All employees coming under this plan on and after the effective date hereof shall not be eligible for retirement benefits as otherwise provided for by the plan, except disability benefits, unless and until they have attained the age of sixty five (65) years, and have completed twenty (20) years of qualified service at which time those who so qualify will be entitled to monthly retirement compensation based upon forty (40%) per cent of his or her highest average salary for any four (4) year period of service, subject to the maximum amount specified in Section IV.

All employees coming under this plan on and after the effective date hereof who have served for at least twenty-four (24) years and have reached age sixty-five (65) or more, may retire and shall receive monthly retirement compensation based upon fifty (50%) per cent of his or her highest average salary for any four (4) year period of service, subject to the maximum amount specified in Section IV.

Any employee coming under this plan on and after the effective date hereof who has served for a period of

less than twenty (20) years, and for any reason becomes separated from the County employment shall be reimbursed from such fund the full amount contributed by him or her thereto; provided, that should such person again be employed by the County, they will not be given service credit for the time previously employed unless, within ninety (90) days from the date of re-employment, the person repays to the retirement fund the amount withdrawn plus six (6%) per cent interest on such amount from the date of withdrawal.

Be it remembered that this Section applies only to employees coming under this plan on and after the effective date hereof and does not apply to employees covered prior hereto since the retirement requirements for employees so covered are otherwise provided for under said Act, as amended.

As amended by: Private Acts of 1941, Chapter 491  
Private Acts of 1949, Chapter 134  
Private Acts of 1951, Chapter 481  
Private Acts of 1957, Chapter 317  
Private Acts of 1965, Chapter 197  
Private Acts of 1969, Chapter 80

**SECTION 9.** That employees and officials who have served twenty (20) years or more, and have not reached the retirement age of fifty-five (55) years, who become involuntarily separated from the service of the county, and not by removal for cause on charges of misconduct or delinquency, shall have the right to elect: (a) to be reimbursed the full amount of the contributions made to such fund by such employee or official; or (b) if fifty (50) years of age at the time, to continue to pay the same contribution to the Pension Fund as that being paid at time of separation, until the retirement age is reached, at which time the retirement with full compensation rights may be had; or (c) if fifty (50) years of age at the time of involuntary separation he may accept retirement compensation based upon forty (40%) per cent of his highest average salary for any four (4) year period of service; or (d) to defer action pending reinstatement or reemployment by the county and restoration to full compensation rights. If (d) is adopted the time lost between separation and reemployment shall not be considered.

Employees who have served fifteen (15) years and less than twenty (20) years, and who have become involuntarily separated from the employment of the county, and not by removal for cause on charges of misconduct or delinquency shall have the right to elect; (a) to be reimbursed the full amount of the contributions made to the fund by such employee or official; or (b) if fifty (50) years of age at the time, to continue to pay the same contribution to the fund as at the time of separation, until retirement age of fifty-five (55) is reached, at which time the employee shall be entitled to compensation based upon thirty-five (35%) per cent of the highest average salary for any four (4) year period of service; or (c) to defer action pending reinstatement or reemployment by the county and restoration to full compensation rights. If (c) is adopted, the time lost between separation and reemployment shall not be considered.

Payments or retirement compensation shall be made monthly and shall continue during the life of the retired employee or official, or so long as he remains eligible for same.

No retired employee or official shall be paid compensation hereunder who, after retirement accepts any lucrative position with Hamilton County, Tennessee or any agency thereof.

Any employee or official who becomes separated from the county employment having served less than five (5) years shall be reimbursed from such fund ninety (90%) per cent of the full amount contributed by him after the effective date of this Act and the full amount contributed by him prior to such date while those having served five (5) years or more shall be reimbursed the full amount contributed by them; provided that should such person again be employed by the county he shall not be given service credit for such time as he was previously employed unless he repays to such fund the amount he had withdrawn with six (6%) per cent interest.

Upon the death of any county employee or official, the nearest relative of said employee or official will be paid the full amount of contributions that he had paid in to the Pension Fund at the time of death.

That should an employee or official die after retirement and before the full amount of contributions that he had paid into the pension fund at the time of his death has been exhausted, then in that event the nearest relative of the employee or official will be paid the balance of said contributions remaining.

As amended by: Private Acts of 1949, Chapter 134  
Private Acts of 1969, Chapter 80

**SECTION 10.** Any employee who becomes entitled under the provisions of this Act to compensation by reason of retirement or involuntary separation from his employment, who has not contributed to the Employees Insurance Fund for a period totaling ten (10) years shall have deducted monthly from his pension or compensation the proper sum based on the amount of contribution being made at the time of retirement or separation, until he has contributed to said fund for a period totaling (10) years, but no employee entitled to retirement by reasons of total disability shall make further contributions to the fund.

All employees of the county coming within the purview of this Act, who left the employment of the county to enter the Armed Forces during World War II, and served with the Armed Forces during the period from December 7, 1941 and January 1, 1947, shall be given credit for such service in computing tenure of service toward retirement, under this Act.

As amended by: Private Acts of 1941, Chapter 491  
Private Acts of 1943, Chapter 121  
Private Acts of 1949, Chapter 134  
Private Acts of 1951, Chapter 481  
Private Acts of 1953, Chapter 65  
Private Acts of 1961, Chapter 370

**SECTION 11.** That every employee shall be obliged to make contributions to such fund as herein provided, and the County through its authorized agents shall enforce the collections; and, notwithstanding such obligations of the employees, if any employee should be in default of the payment of such obligation for the period of thirty (30) days he shall be treated as suspended from all benefits of such Insurance Fund for the period of default and six (6) months thereafter, and shall lose all benefits of disability or separation occurring during such suspended period.

The Act shall apply to employees and officials of institutions solely owned by Hamilton County and operated through trustees, or other agencies appointed under the provisions of existing law, without regard to the fact that any municipality in said County contributes to the improvement and operating expense of such institution. The Act shall not apply to work or service in positions of a temporary nature, meaning those not in the regular, usual and continuous functions of the County Government.

As amended by: Private Acts of 1941, Chapter 491  
Private Acts of 1943, Chapter 121  
Private Acts of 1957, Chapter 363  
Private Acts of 1941, Chapter 491

**SECTION 12.** That should any part of this Act be declared invalid, as applying to certain employees of the County, the remaining part of the Act legally applying to other employees shall be treated as separable and valid.

**SECTION 13.** That this Act take effect from and after its passage, the public welfare requiring it.

**SECTION 14.** Wherein this Act, or any amendments thereto, refer to the word "Trustee", the same shall mean the Hamilton County Pension Board.

**SECTION 15.** The Pension Board is hereby required to have an actuarial study made of this program at least once every five (5) years, and if not actuarially sound to revise the same and to request indicated legislation therefore. The cost of the study shall be paid from the Pension Fund.

**SECTION 16.** By filing an application with the Pension Commission, an Employee may elect to receive a Pension payable in accordance with one of the following options:

(1) Employees eligible for retirement may elect full benefits as provided in the Plan which shall exclude continued payment to spouse following death.

(2) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 100% of such reduced Pension shall, after the Employee's death, be continued to the spouse during the latter's lifetime.

(3) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 75% of such reduced Pension shall, after the Employee's death, be continued to the spouse during the latter's lifetime.

(4) The Employee shall receive a reduced Pension payable for life, and payments in the amount of 50% of such reduced Pension shall, after the Employee's death be continued to the spouse during the latter's lifetime.

The aggregate of the Pension payments expected to be paid to an employee and/or his spouse under options 2, 3 and 4 shall be the Actuarial Equivalent of the Pension which the Employee is otherwise entitled to receive upon Retirement based on mortality and interest rate assumptions approved from time to time by the Pension Commission, copies of which are on file with the Pension Commission and available to the Employees at time of retirement to enable them to select desired option.

An Employee may elect or revoke an option prior to Retirement by filing such election or revocation in writing with the Commission prior to Retirement. Under no circumstances may an option be changed or revoked after the Employee's Retirement.

An election made pursuant at this Section shall become inoperative in the event the Employee's death occurs prior to actual Retirement; or, the death of the spouse occurs before the Employee's actual



## Retirement.

The above options shall also apply to those retiring under disability benefits as otherwise provided in the Plan.

Nothing herein shall be construed as to mean that any Employee shall receive less than the minimum benefit as otherwise provided in the Plan upon selection of Option 1. Employees selecting Option 2, 3 or 4 will be subject to receiving less than the minimum benefits as otherwise provided.

As amended by: Private Acts of 1974, Chapter 356

**SECTION 17.** In determining the amount of pension due an employee, the Pension Commission shall base their computations upon the four highest Employee contribution years and the pension amount shall be limited accordingly; subject only to the minimum amount as otherwise provided in the Plan.

As amended by: Private Acts of 1974, Chapter 356

**SECTION 18.** That the County Council of Hamilton County may allow the then current employees of Hamilton County who are presently members of the Hamilton County Employee Pension System the option of becoming members in the Tennessee Consolidated Retirement System, as hereinafter provided at such time as the county council shall determine such action is desirable. In the event such an option is made available to the said employees of Hamilton County, the election of said option by such an employee shall become binding on said employee at the time such election is filed with the secretary of the Board of Pension Commissioners of the Hamilton County, after membership is initially allowed by the County Council in the Tennessee Consolidated Retirement System, shall become a member of the Tennessee Consolidated Retirement System as a condition of employment, and membership in the Hamilton County Employee's Pension System shall thereafter be closed except Hamilton County Nursing Home may elect to remain under the Hamilton County Employees' Pension System.

As amended by: Private Acts of 1977, Chapter 122

**SECTION 19.** In the event membership in the Tennessee Consolidated Retirement System is allowed by the county council, an actuarial study of the Hamilton County Employees Pension System shall be conducted and all funds in excess of those needed to keep the system actuarially sound may, at the option of the county council, be paid into the Tennessee Consolidated Retirement System to reduce any prior service liability caused by the membership of Hamilton County Employees in the Tennessee Consolidated Retirement System.

**SECTION 20.** In the event provisions are made for employees of Hamilton County to become members of the Tennessee Consolidated Retirement System and receive prior service credit under one of the following options, the Hamilton County employee electing to terminate his or her membership in the Hamilton County Employees Pension System shall receive such refunds of their actual contributions to the Hamilton County Employees' Pension Fund according to such options.

(a) In the event the county council elects, by majority vote of said governing body, to provide all funding for all prior service of all eligible employees of Hamilton County, all contributions made by every such employee to the Hamilton County Employees' Pension System shall become the property of the Hamilton County Employees' Pension Fund. If this employee transfers into the Tennessee Consolidated Retirement System and subsequently ceases to be an employee of Hamilton County and withdraws from membership in the Tennessee Consolidated Retirement System prior to his retirement, such employee shall be refunded his actual contributions to the Hamilton County Employees' Pension Fund; or

(b) In the event the county council elects, by majority vote of said governing body, to provide funding by Hamilton County for ten (10) years of employment for all eligible employees of Hamilton County, all actual contributions made by every such employee to the Hamilton County Employees' Pension System during the last ten (10) years of such county employment shall become the property of the Hamilton County Employees Pension Fund. Provided further that any employee may purchase all years of county employment greater than ten (10) years by making employee contributions, plus interest, on such service. Any such service greater than ten (10) years which is not purchased by the employee shall be refunded upon Hamilton County making its initial payment to the Tennessee Consolidated Retirement System. If this employee transfers into the Tennessee Consolidated Retirement System and subsequently ceases to be an employee of Hamilton County and withdraws from membership in the Tennessee Consolidated Retirement System prior to his retirement such employee shall be refunded his actual contributions to the Hamilton County Employees' Pension Fund; or

(c) In the event the county council elects, by majority vote of said governing body, not to provide funding for any years of prior service for any employee of Hamilton County, all actual contributions made by every such employee to the Hamilton County Employees' Pension Fund shall be refunded to such employee after Hamilton County makes its initial payment to the Tennessee Consolidated Retirement System. Provided however, that this employee has the option to purchase all years of prior service with Hamilton County, upon payment of the employee's contributions, plus interest.

(d) That in the event an election is made by the county council to participate in the Tennessee Consolidated Retirement System, the county council may also determine: (a) whether all county employees who have no vested rights under the Hamilton County Employees' Pension System shall be required to transfer membership to the Tennessee Consolidated Retirement System; or (b) whether all county employees may elect either to remain a member of the present Hamilton County Employees' Pension System or to become a member in the Tennessee Consolidated Retirement System; or (c) whether all county employees may elect to (1) remain a member of the present Hamilton County Employees' Pension System, or (2) to become a member of the Tennessee Consolidated Retirement System, or (3) to be a member of neither; but in no event may an employee receive credit for the same years of service in both systems.

(e) In the event an election is made by the county council to participate in the Tennessee Consolidated Retirement System, credit for prior service as a Hamilton County employee for those employees of Hamilton County who are presently employed by Hamilton County and who are members of the Hamilton County Employees' Pension System shall be certified to the Tennessee Consolidated Retirement System for only that period (or periods) of employment by Hamilton County for which contributions have been made by the employee to the Hamilton County Employees' Pension System, or for which the employee agrees to pay all unpaid contributions thereto in cash (including interest as may be required) based upon a promissory note therefor, within not more than twelve (12) months of said certification of prior service. As amended by:

Private Acts of 1943, Chapter 44  
Private Acts of 1949, Chapter 134  
Private Acts of 1957, Chapter 168  
Private Acts of 1961, Chapter 371  
Private Acts of 1977, Chapter 122

**SECTION 21.** Any member in service shall be eligible to receive credit for up to four (4) years of military service during a period of armed conflict, as determined by the pension commission, upon payment of five percent (5%) of the base salary as if they had been in the system, with the base salary assumed to be three thousand six hundred dollars (\$3,600) annually. Provided, however, no person may receive credit for military service which is credited in any other retirement system.

As amended by: Private Acts of 1981, Chapter 156

**SECTION 22.** (a) Any person who is a county commissioner or who becomes a county commissioner may participate in this retirement system upon the terms and conditions established in this section. This section shall apply only to county commissioners, unless otherwise stated herein.

(b) The terms and conditions for participation of county commissioners who have purchased their prior service shall be as follows:

- (1) All prior Hamilton County commissioners shall be entitled to a refund of contributions made, subject to taxation in accordance with the Internal Revenue Code. Furthermore, all prior county commissioners shall have the option to prospectively receive the benefits provided by this act as of the date of passage.
- (2) All service to Hamilton County as a county commissioner shall be allowed as credited service. Any member may also receive credit for up to four (4) years of military service during a period of armed conflict, as determined by the pension commission. However, service which is credited in any other retirement system may not be credited in this system.
- (3) The funds derived from this section shall be held in trust and invested as otherwise provided for in this act.
- (4) The normal retirement date of a county commissioner is the first day of the month following the later of the participant's fifty-fifth (55th) birthday and the fifth (5th) anniversary of the date the participant first served as a county commissioner. Provided, however, a member in service may not receive a retirement benefit.
- (5) Upon retirement, a participant shall receive an annual, normal retirement benefit of two and one-half percent (2.5%) of the average compensation (excluding any additional compensation received by a commissioner for serving as either chairman or chairman pro tempore) for the participant's five (5) years of service which produce the highest average, (years of service being based on twelve (12) month periods commencing September 1 and ending the following August 31) times total years of service.
- (6) If a participant postpones his retirement beyond his normal retirement date, he will be entitled to monthly benefits commencing on the first day of any month following his actual retirement. The deferred retirement benefit is calculated in the same way as the normal retirement benefit, based on the participant's credited service as of his date of retirement.

(7) If a participant ceases to be a county commissioner after he has completed five (5) or more years of service, but prior to his normal retirement date, he is entitled to a deferred vested benefit, which would commence at his normal retirement date and be figured as in subdivision (b)(5) above based on the participant's credited service at his date of separation. If a participant otherwise ceases to be a commissioner before retirement, no benefits shall be provided under the plan.

(8) A participant may select an optional method of benefit payment described in Section 16 in lieu of the prescribed life income, which is actuarially equivalent thereto. The purpose of the optional method is to permit the guarantee of retirement income payments for some minimum period of time or to provide a continued life income to a surviving beneficiary after the death of a participant.

As amended by: Private Acts of 1981, Chapter 156  
Private Acts of 2004, Chapter 76

**SECTION 23.** It is the intention of the county that the Hamilton County Employee's Retirement Plan complies with all of the requirements of Internal Revenue Code (hereinafter "Code") Section 401(a) that apply to plans that are sponsored by state or local governments or political subdivisions. The county intends that this plan be considered a tax-qualified plan under Code Section 401(a) and that the retirees and beneficiaries that receive benefits from this plan enjoy the tax-deferred benefits of the plan's qualified status.

In order to assure the tax-qualified status of this plan, this private act is now being amended by the General Assembly to incorporate the following terms as part of the plan document.

This private act, along with other provisions of the law that have been established by acts of the General Assembly of the State of Tennessee and of the Hamilton County Commission that relate to providing retirement benefits for employees of the county, comprises the written documentation requirement of Code Section 401(a)(1).

**SECTION 24.** Assets Held in Trust – Assets maintained to fund the plan shall be held in trust for the purpose of providing benefits to the employees, former employees of the county, or their beneficiaries. The assets held in trust may not revert back to the county unless all benefits payable under the terms of the plan have been satisfied.

**SECTION 25.** Limitation on Benefits – Unless otherwise noted, this section shall be effective for plan years beginning after January 1, 1987.

(a) This subsection, except for subsection (a)(2), applies regardless of whether any member is or has ever been a member in another qualified plan maintained by the employer. If any member is or has ever been a member in another qualified plan or a welfare benefit fund (as defined in Section 419(e) of the Code) maintained by the employer, or an individual medical account (as defined in Section 415(1)(2) of the Code) that provides an annual addition, subsection (b) is also applicable to that member's benefits.

(1) The annual benefit otherwise payable to a member at any time shall not exceed the maximum permissible amount. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible amount, then the rate of accrual will be reduced so that the annual benefit shall equal the maximum permissible amount.

(2) The limitation in subdivision (a)(1) is deemed satisfied if the annual benefit payable to a member is not more than one thousand dollars (\$1,000) multiplied by the member's number of years of service or parts thereof (not to exceed ten (10)) with the employer, and the employer has not at any time maintained a qualified defined contribution plan, a welfare benefit plan as defined in Section 419(e) of the Code, or an individual medical account as defined in Section 415(1)(2) of the Code, in which such member participated.

(b) This subsection applies if any member is covered, or has ever been covered, by another plan maintained by the employer, including a qualified plan, a welfare benefit fund as defined in Section 419(e) of the Code, or an individual medical account as defined in Section 415(1)(2) of the Code, or a simplified employee pension which provides an annual addition maintained by the employer.

(1) If a member is, or has ever been, covered under more than one (1) qualified defined benefit plan maintained by the employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible amount.

(2) The provisions of this subdivision (b)(2) shall not apply to limitation years beginning after December 31, 1999. If the employer maintains, or at any time maintained, one (1) or more qualified defined contribution plans covering any member in this plan, a welfare benefit fund as defined in Section 419(e) of the Code, an individual medical account as defined in Section 415(1)(2) of the Code, or a simplified employee pension, the following rules apply. The sum of the member's defined contribution fraction and defined benefit fraction shall not exceed one (1) in any

limitation year, and the annual benefit otherwise payable to the member under this plan or the annual additions otherwise credited to the member under the defined contribution plan shall be limited to the level necessary to prevent the limitations of this section from being exceeded with respect to such member (but not to a figure less than the accrued benefit of such member at the beginning of such limitation year). If the projected annual benefit is reduced to the level of the accrued benefit at the beginning of the limitation year, and the sum of both fractions remains in excess of one (1), the remaining reduction to a sum of one (1) shall be accomplished by reducing the numerator of the defined contribution fraction.

(3) The annual addition to any member's accounts for any plan year shall not exceed the lesser of thirty thousand dollars (\$30,000) (or such amount for any plan year as results from the annual adjustment factor determined by the Commissioner of the Internal Revenue Service and effective on January 1 of the plan year), or twenty-five percent (25%) of such member's compensation for the plan year.

If as a result of (i) the allocation of forfeitures, (ii) a reasonable error in estimating the compensation of a member, (iii) a reasonable error in determining the amount of elective deferral contributions (within the meaning of Code Section 402(g)(3)) that may be made with respect to any individual under the limits of Code Section 415, or (iv) other facts and circumstances allowed by regulation, the annual additions limitation is exceeded in any plan year, the excess annual addition shall be charged against the member's accounts in the following order of priority by the amount required to ensure compliance with this section:

(A) The annual additions to any other qualified defined contribution plan;

(B) Employee contributions to this plan – The portion of such excess that consists of employee contributions shall be returned to the member. The employee contributions returned or distributed shall include income on such amounts determined in the same manner that income is determined in this plan. (However, if such method of determining income is not permitted by regulations, then income shall be determined in a manner consistent with any applicable regulations.)

(c) In the case of an individual who was a member in one (1) or more qualified defined benefit plans of the employer as of the first day of the first limitation year beginning after December 31, 1986, the application of the limitations of this section shall not cause the maximum permissible amount for such individual under all such qualified defined benefit plans to be less than the individual's Tax Reform Act of 1986 (TRA '86) accrued benefit. The preceding sentence applies only if all such qualified defined benefit plans met the requirements of Section 415 of the Code for all limitation years beginning before January 1, 1987.

(d) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) "Annual Additions" means the sum of the following amounts credited to a member's accounts under a qualified defined contribution plan for the limitation year:

(A) Employer contributions;

(B) Employee contributions; and

(C) Forfeitures

Amounts allocated after March 31, 1984, to an individual medical account, as defined in Section 415(1)(2) of the Code, which is part of a pension or annuity plan maintained by the employer, shall be treated as an annual addition to a qualified defined contribution plan.

(2) "Annual Benefit" means a retirement benefit under the plan which is payable annually in the form of a straight life annuity. Except as provided below, benefit payable in a form other than a straight life annuity shall be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this section. The annual benefit shall not include any benefits attributable to employee contributions (other than contributions picked up by the employer in accordance with Code Section 414(h)) or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the employer. No actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity (as defined in Code Section 417(b)), (ii) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, preretirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement cost-of-living increases, if any, made in accordance with Section 415(d) of the Code and Section 1.4153(c)(2)(iii) of the Treasury Regulations.

(3) "Compensation" means, solely for purposes of this section, wages, salaries, and fees or professional services and other amounts received (without regard to whether or not an amount is

paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, reimbursements, and expense allowances) and excluding the following:

(A) Employer contributions to a plan of deferred compensation (including a Code Section 457 plan) which are not includible in the employee's gross income for the taxable year in which contributed, or any distributions from a plan of deferred compensation; and

(B) Other amounts which received special tax benefits, including pickup contributions, and contributions made by the employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Code Section 403(b) (whether or not the amounts are actually excludable from the gross income of the eligible employee).

Notwithstanding the above, effective January 1, 1998, compensation shall include salary deferrals under Sections 401(k), 403(b), 457, and 125 of the Code; however, contributions picked up by the employer shall continue to be excluded.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations of this section, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the eligible employee by reason of Code Section 132(f)(4).

(4) "Defined Benefit Dollar Limitation" means ninety thousand dollars (\$90,000). Effective on January 1, 1988, and each January thereafter, the ninety thousand dollar (\$90,000) limitation above will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(5) "Defined Benefit Fraction" means a fraction, the numerator of which is the sum of the member's projected annual benefits under all qualified defined benefit plans (whether or not terminated) maintained by the employer, and the denominator of which is the lesser of (i) one hundred twenty-five percent (125%) of the dollar limitation determined for the limitation year under Sections 415(b)(1)(A) and (d) of the Code and (ii) one hundred forty percent (140%) of the highest average compensation, including any adjustments under Section 415(b)(5) of the Code, both in accordance with Section 25(d)(10) below.

Notwithstanding the above, if the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one (1) or more qualified defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent (125%) of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the qualified defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 for all limitation years beginning before January 1, 1987.

(6) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the annual additions to the member's account under all qualified defined contribution plans (whether or not terminated) maintained by the employer for the current and all prior limitation years, (including the annual additions attributable to the member's nondeductible employee contributions to this and all other qualified defined benefit plans (whether or not terminated) maintained by the employer and the annual additions attributable to all welfare benefit funds, as defined in Section 419(e) of the Code or individual medical account as defined in Section 415(1)(2) of the Code, maintained by the employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior limitation years of service with the employer (regardless of whether a qualified defined contribution plan was maintained by the employer). For purposes hereof, the maximum aggregate amount in any limitation year is the lesser of (i) one hundred twenty-five percent (125%) of the dollar limitation determined under Section 415(c)(1)(A) of the Code after adjustment under Section 415(d) of the Code and (ii) thirty-five percent (35%) of a member's compensation for such year.

If the eligible employee was a member as of the first day of the first limitation year beginning after December 31, 1986, in one (1) or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, then the numerator of this fraction shall be adjusted if the

sum of this fraction and the defined benefit fraction would otherwise exceed one (1) under the terms of this plan. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over one (1) times (ii) the denominator of this fraction, shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the Code Section 415 limitation applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions.

(7) "Employer" means, for purposes of this section, the government of Hamilton County, Tennessee, and any agency that adopts this plan.

(8) "Highest Average Compensation" means the average compensation for the three (3) consecutive years of service with the employer that produces the highest average.

(9) "Limitation Year" means the plan year.

(10) "Maximum Permissible Amount" means the defined benefit dollar limitation as modified below.

(A) If the member has less than ten (10) years of participation with the employer, the maximum permissible amount is reduced by one-tenth (1/10) for each year of participation (or part thereof) less than ten (10). To the extent provided in regulations or in other guidance issued by the Internal Revenue Service, the preceding sentence shall be applied separately with respect to each change in the benefit structure of the plan. The adjustments of this paragraph shall be applied in the denominator of the defined benefit fraction based upon years of service. In no event shall the reduction in the maximum permissible amount reduce the limitation to an amount less than one-tenth (1/10) of that limitation (determined without regard to this subdivision (10)(A)).

(B) Adjustment or early payment. If the annual benefit of the member commences before age sixty-two (62), the defined benefit dollar limitation shall be determined as follows:

(i) If the annual benefit of a member commences prior to age sixty-two (62), the defined benefit dollar limitation shall be the actuarial equivalent of an annual benefit beginning at age sixty-two (62), as determined above, reduced for each month by which benefits commence before the month in which the member attains age sixty-two (62). However, in no event shall the adjustment in this subdivision (10) (B) (i) result in the defined benefit dollar limitation being reduced to an amount less than the minimum specified below. If the annual benefit of a member commences on or after age fifty-five (55), the minimum amount shall be seventy-five thousand dollars (\$75,000) (with no adjustments for increases in the cost of living). If the annual benefit to a member commences before age fifty-five (55), the minimum amounts shall be the actuarial equivalent of an annual benefit of seventy-five thousand dollars (\$75,000) commencing at age fifty-five (55) (with no adjustments for increases in the cost of living).

(ii) The adjustment in subdivisions (10) (B) (i) above shall not apply in the case of a qualified member. A member is considered qualified for purposes of this paragraph if the service used in computing his benefit includes at least fifteen (15) years of full-time employment: in any police department or fire department of the employer, to provide police protection, firefighting services or emergency medical services within the jurisdiction of the employer; or as a participant of the Armed Forces of the United States; or in any combination thereof adding up to at least fifteen (15) years of full-time employment.

(iii) The adjustment in subdivision (10) (B) (i) above shall not apply to any benefit payable as a result of the member becoming disabled or to a benefit payable to the beneficiaries, survivors, or estate of member as a result of the death of the member.

(C) Adjustment for delayed payment. If the annual benefit of a member commences after age sixty-five (65), the defined benefit dollar limitation shall be adjusted so that it is the actuarial equivalent of an annual benefit of such dollar limitation beginning at age sixty-five (65).

(11) "Projected Annual Benefit" means the annual benefit to which the member would be entitled under the terms of the plan assuming:

(A) The member continues employment until normal retirement age under the plan (or current age, if later), and

(B) The member's compensation for the current limitation year and all other relevant factors used to determine benefits under the plan shall remain constant for all future limitation years.

(12) "Year of Participation" means each accrual computation period (computed to fractional parts of a year) for which the following conditions are met: (i) the member is credited with at least the period of service for benefit accrual purposes, required under the terms of the plan in order to accrue credited employee service or credited police and fire service, and (ii) the member is included as a member under the eligibility provisions of the plan for at least one (1) day of the period of credited employee service or credited police and fire service. If these two (2) conditions are met, the portion of a year of participation credited to the member shall equal the amount of credited employee service or credited police and fire service credited to the member for such accrual computation period. A member who is permanently and totally disable within the meaning of Section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event will more than one (1) year of participation be credited for any twelve-month period.

(e) Actuarial equivalence. All actuarial equivalence determinations in this section shall be made in accordance with this subsection. Actuarial equivalence determinations include: adjustment for early payment; adjustment for delayed payment; adjustment for payment in a form other than a life annuity; computation of the benefit attributable to employee contributions; and all other determinations of a similar nature, as required by context. The actuarial equivalent straight life annuity is equal to the greater of the annuity benefit computed using the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form, and the annuity benefit computed using a five percent (5%) interest rate assumption and the GATT mortality table. In determining the actuarially equivalent straight life annuity for a benefit form other than a non-decreasing annuity payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below fifty percent (50%) of the annual benefit payable fore the death of the survivor annuitant), or (b) the cessation or reduction of social security supplements of qualified disability payments (as defined in Code Section 401(a)(11)), the applicable interest rate, as described in Code Section 417(e)(3), will be substituted for "a five percent (5%) interest rate assumption: in the preceding sentence. To determine actuarial equivalence for a delayed payment, the interest rate assumption used is the lesser of the rate specified in Section 33 of the plan and five percent (5%). The GATT mortality table is the table specified in Revenue Ruling 95-6, implementing Section 417(e)(3) of the Code as amended by the Uruguay Round Agreements Acts of 1994. However, the GATT mortality table shall automatically be the table specified in any future Revenue Rulings or Federal Regulations that amend or supersede Revenue Ruling 95-6 by specifying a new mortality table for purposes of Section 41(e)(3) of the Code, as amended. Solely for purposes of determining the benefit attributable to employee contributions, to compute the limitations in this section, interest shall be credited to such contributions at the following rates. For period before July 1, 1988, interest shall be credited to employee contributions at the rate of five percent (5%) per year. For plan years commencing on or after July 1, 1988, interest shall be credited on accumulated employee contributions at the rate specified in Section 411(c)(2)(C)(iii) of the Code, up to the determination date. The interest rate used for periods of time commencing on the determination date shall be the rate specified in Section 417(e)(3) of the Code as of the last day of the prior plan year (as if such Code Section applied to this plan).

(f) Provided, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury, in order to maintain the qualified status of the plan.

**SECTION 26.** Limitation on Earnings.

(a) For purposes of computing any benefit under the plan or any contribution made to a plan, there shall be a limit on the amount of compensation that may be considered in any plan year for any member. The limit shall be the amount specified in this section as described below.

(b) For plan years beginning after December 31, 1995, the annual compensation limit of Code Section 401(a)(17) is incorporated by reference in this plan with respect to non-eligible members; provided, however, in the case of an eligible member, the annual compensation limit of Code Section 401(a)(17) shall not apply to the extent that the application of the limitation would reduce the amount of

compensation that was allowed to be taken into account under the plan as in effect on July 1, 1993. For these purposes, an eligible member is an individual who first became a member in the plan prior to the first day of the first plan year beginning after the earlier of (i) the last day of the plan year by which a plan amendment to reflect the amendments made by Section 13212 of the Omnibus Budget Reconciliation Act of 1993 is both adopted and effective, or (ii) December 31, 1995.

**SECTION 27.** Minimum Distributions - Effective July 1, 1989, notwithstanding any provisions of the plan to the contrary, the following provisions shall apply.

(a) A member shall begin to receive that member's plan benefits no later than April 1 of the calendar year following the later of (i) the year in which he attains age seventy and one-half (70½) or (ii) the year in which he retires. However, in no case shall the member's benefit commence later than the date required by Section 401(a)(9) of the Code, and in no case shall the distribution violate the minimum distribution incidental death benefit requirements of the regulations under Section 401(a)(9) of the Code.

(b) Upon the death of a member after distribution of his benefit has commenced, the remaining portion of his interest in the plan will be distributed at least as rapidly as under the method of distribution in effect prior to the member's death.

Upon the death of a member before distribution of his benefit has commenced, the member's entire interest will be distributed no later than five (5) years after the member's death, except for situations described in (1) or (2) below.

(1) If any portion of the member's interest is payable to a designated beneficiary, the distributions may be made in substantially equal installments over a period of time that is equal to or less than the life or life expectancy of the designated beneficiary commencing no later than one (1) year after the member's death.

(2) If the designated beneficiary is the member's surviving spouse, the date distributions are required to commence in accordance with subdivision (b)(1) above shall not be earlier than the date on which the member would have attained age seventy and one-half (70½), and if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the member.

**SECTION 28.** Right to Direct Rollover.

(a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the benefits board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(2) "Distributee" means a member or former member, or the spouse of the member or former member, provided such person is entitled to receive a benefit under the plan.

(3) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(4) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (A) any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (B) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (C) the portion of any distribution that is not includible in gross income.

**SECTION 29.** Qualified Military Service - The following sentence shall apply to those members who are re-employed on or after December 12, 1994. Notwithstanding any provision of this plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).



**SECTION 30.** Family Medical Leave Act - Notwithstanding any other provisions of the plan, in the case of an eligible employee who takes family or medical leave as an eligible employee of a covered employer under the provisions of the Family and Medical Leave Act of 1993 (FMLA), any period of FMLA leave shall be treated as continued service for purposes of eligibility to participate and vesting service to the extent required by applicable law.

**SECTION 31.** Vesting Upon Plan Termination - In the event that this plan is terminated for any reason, the accrued benefits of all members shall fully vest and become nonforfeitable.

**SECTION 32.** Plan Forfeitures - Plan forfeitures occurring as a result of a member terminating employment with the county prior to completing five (5) years of service shall not be used to increase benefits of remaining plan members.

**SECTION 33.** Actuarial Equivalent - Effective July 1, 2002, actuarial equivalent shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7/5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP-2000 Mortality Table for Employees (Female) for Beneficiaries.

**SECTION 34.** Definitions Applicable to this Act:

(1) "Code" means the U.S. Internal Revenue Code as amended. All references to code sections shall include any applicable rulings and regulations, and as of any future date shall automatically incorporate any amendments to such Sections, and shall be deemed to refer to any comparable provisions of any future laws.

(2) "Plan" means the Hamilton County Employees' Retirement Plan.

(3) "Plan Year" means each twelve-month period commencing July 1 and ending on the next June 30.

(4) "Spouse" means the person who is legally married to a member.

**SECTION 35.** Alienation of Assignment of Benefits: Qualified Domestic Relations Orders (QDROs).

(a) This Act, as created by Chapter 557 of the Private Acts of 1939, and any other acts amendatory thereto, is deemed to be the Hamilton County Employees' Retirement Act, hereinafter referred to under this Section 35 as "the Plan."

(b) Except as otherwise provided under Tennessee Code Annotated, Section 26-2-105, no benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge shall be void. No such benefit shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements, or torts of the person entitled to such benefit, except for an order of assignment of support issued under Tennessee Code Annotated, section 36-5-501 or a QDRO under Tennessee Code Annotated, Section 26-2-105, subject to this paragraph (b).

(c) If a QDRO pertains to a plan member who is already receiving benefits under the Plan, the alternate payee, as identified in the QDRO, shall share in the payments being made to the plan member and shall not be allowed to change the payment method or the timing of the payments. If a QDRO pertains to a plan member who has not commenced receiving benefit payments under the Plan, the alternate payee shall not be permitted to receive benefit payments from the plan until the member commences receiving payments, and then the alternate payee shall share in the payments to be made to the member in the manner and timing of payments as elected by the member. The Plan shall not accept a QDRO that provides the alternate payee with a separate interest in a member's benefit.

(d) The responsibility for the review and processing of a QDRO is hereby delegated to the Pension commission, which may, in its discretion, further delegate some or all of such responsibility to a county employee or third party; provided, that the ultimate authority for the determination of the qualified status of a domestic relations order remains with the Pension Commission. The Pension Commission shall establish reasonable procedures to determine the qualified status of a domestic relations order.

As amended by: Private Acts of 208, Chapter 50.

**SECTION 36.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Hamilton County legislative body. Its approval or rejection shall be proclaimed by the presiding officer of such county legislative body and certified by him to the Secretary of State.

As amended by: Private Acts of 208, Chapter 50.

**SECTION 37.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 35.

As amended by: Private Acts of 2004, Chapter 76  
Private Acts of 2018, Chapter 50.

Passed: March 9, 1939.

## Private Acts of 1943 Chapter 121

**COMPILERS' NOTE:** This act contains broad amendments to Private Acts of 1939, Chapter 557, and should be read in conjunction with that act.

**SECTION 1.** That Chapter No. 557 of the Private Acts of Tennessee for the year 1939, entitled as set out in the caption hereof, and any and all amendatory acts thereof, be, and the same are, hereby amended so as to repeal and strike from said legislation all provisions providing for a pension, or other benefits, for officers of Hamilton County elected by the people or appointed to fill any vacancy in any county office where the people of the county had elected the one who had vacated the same. It is further provided that all such elected county officers who had contributed to the pension fund provided for in said legislation shall, upon application to the Pension Commission hereinafter provided for, be refunded, and fully reimbursed for all the payments each has paid into said pension fund; and *provided further*, if additional claim for interest on such payments is made, the said Pension Commission is hereby given the discretion to pay or refuse to pay the same, after taking into consideration the services rendered by the applicant to the County.

**SECTION. 2.** [The amendments from this section, which changed the age limit figures from 65 to 60, have been added to the acts outlined in Section 1 of this act and is therefore not printed here in full].

**SECTION. 3.** [The amendments from this section, which affected Section 9 of Chapter 557 of the Private Acts of 1939, has been added to that act and is therefore not printed here in full].

**SECTION. 4.** That there is hereby created a Pension Commission to administer and enforce this legislation, to consist of six (6) members, one of whom shall be the County Judge, who shall be chairman of the Pension Commission, and one of whom shall be the Director of Accounts and Budgets, who shall serve as Secretary of the Pension Commission, and one of whom shall be the County Auditor, and the other three (3) members to be elected by ballot of the county employee participating in said Pension Fund, each employee being entitled to vote for three (3) members of the Pension Fund, and those members so elected are to county employees participating in said Pension Fund, to serve terms as hereinafter provided; and the County Judge in order to ascertain the choice of members by the employees, shall give due notice to the employees, by letter; or notices duly posted on county bulletin boards thirty days prior to elections, advising time and place of such election.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 5.** That the first election held to elect (3) members of the Pension Commission shall be held between the hours of nine o'clock A.M. and seven o'clock P.M. at a date within sixty (60) days after acceptance of this bill by the Hamilton County Council, and at locations to be announced in the notice of election, and said election to be held under the supervision of a committee of employees appointed by the existing Pension Commission.

For such election ballot boxes shall be provided, and at the close of the balloting the committee selected to hold the election shall openly, and in the presence of all employees who desire to attend, count the ballots and announce the results, and the three (3) employees receiving the highest number of votes shall be elected members of the Pension Commission and shall before entering upon their duties, make and file an oath that they will faithfully perform their duties as Commissioners and aid in fairly administering the duties of the Pension Commission.

In case of a tie, the County Judge shall determine which of those tying shall be declared elected.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 6.** That the employees elected as herein provided shall serve for a term of four (4) years.

Future elections will be held at four year intervals, the date and time of election to be determined by the then existing Pension Commission. If a vacancy shall occur in said Commission for any reason, such vacancy shall be filled by the remaining members of said Commission for the unexpired term, but such member so appointed shall be an employee of the County, and participating in said Pension Fund.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 7.** That immediately after the election is held and the three members have been elected, the Commission shall meet and organize, and shall have authority to adopt its own rules and regulations, and require the Secretary to keep a minute record of all its proceeding, and any necessary expenses for the operation of the said Commission shall be paid out of the Pension Fund. Four members of said Pension Commission shall constitute a quorum to transact business, but all action shall require at least [sic] three affirmative votes to become effective. Attendance by more than four members shall require a majority

vote for the transaction of business.

As amended by: Private Acts of 1974, Chapter 356

**SECTION. 8.** That any County employee who participates in said Pension Fund, desiring to be retired under the provisions of this Act shall file a verified petition with the Pension Commission, setting forth in detail his employment record, with a prayer to be retired, accompanied by certification of the County Auditor or produce other satisfactory evidence as to the correctness of his or her employment record.

The Pension Commission shall then determine whether such person is entitled to draw compensation and the amount thereof, which petition, auditor's certificate or other proof heard by the Commission shall be noted upon the minutes of the County Council of Hamilton County, and the decision of said Commission shall be final and conclusive, except anyone who may feel aggrieved by the action of the Commission may have such action reviewed in the manner provided by Sections 9008 to 9018 of the Code of Tennessee, 1932.

**SECTION. 9.** That upon the death of an employee participating in said Pension Fund, who has been killed in line of duty, there shall be paid to his beneficiary or beneficiaries from the Pension Fund the sum of Two Hundred Fifty (\$250.00) Dollars for burial expenses.

**SECTION. 10.** That all laws and parts of laws in conflict with this legislation shall be and are hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: January 27, 1943.

## Private Acts of 1961 Chapter 362

**SECTION 1.** That Chapter 557 of the Private Acts of 1939, the caption of which is quoted in the caption hereof, and all amendatory Acts thereto, be and the same is hereby amended so as to provide that all employees and officials of Hamilton County who are eligible to receive a pension under this Act and the amendments thereof, shall receive a pension of not less than One Hundred (\$100.00) Dollars per month. This applies to all employees or officials who are now on pension and to those who become eligible to retire after the passage of this Act.

**SECTION 2.** That a tax may be levied by the County Council sufficient to provide for this increase.

**SECTION 3.** That before this Act becomes effective the same must be approved by a two-thirds majority of the governing body of Hamilton County, the same being the County Council, and that said vote shall be taken within sixty (60) days from the enactment of this Act.

**SECTION 4.** That all laws, or parts of law, in conflict with this Act are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 16, 1961.

## Private Acts of 2014 Chapter 68

AN ACT to amend Chapter 557 of the Private Acts of 1939; as amended by Chapter 76 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, such acts comprising the Hamilton County Employees' Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, are hereby amended as provided in the subsequent sections of this act, generally effective as of July 1, 2010, with specific effective dates for certain sections as may be indicated in such sections.

SECTION 2. This act amends the Plan to comply with changes in the Internal Revenue Code of 1986, herein referred to as the "Code", caused by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA); the Job Creation and Worker Assistance Act of 2002 (JCWAA); the Pension Funding Equity Act of 2004 (PFEA); the American Jobs Creation Act of 2004 (AJCA); the Pension Protection Act of 2006 (PPA); the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART); the Worker, Retiree and Employer Recovery Act (WRERA); and various regulations and related guidance issued by the Internal Revenue Service.

SECTION 3. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended in Section 16 by adding the following language at the end of the section:

The Plan does not permit involuntary distributions of benefits that are immediately distributable,

as defined by the Code.

SECTION 4. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 25 in its entirety and substituting instead the following:

Section 25. Limitations on Benefits.

(a) The limitations of this Section 25 shall apply in Limitation Years beginning on or after July 1, 2002, except as otherwise provided herein.

(b) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

(c) If the Participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the County, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Participant's county-provided benefits under all such defined benefit plans, determined as of the same age, would exceed the Maximum Permissible Benefit applicable at that age, the County will reduce the rate of accrual in this Plan to the extent necessary so that the total Annual Benefit payable at any time under such plans will not exceed the Maximum Permissible Benefit.

(d) The application of the provisions of this Section 25 shall not cause the Maximum Permissible Benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the County as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, as described in Regulation 1.415(a)-1(g)(4).

(e) Definitions (In Addition to Those Capitalized Terms Defined in Section 34). For purposes of this Section 25, the following terms shall be defined as follows:

(1) "Annual Benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 25. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 25 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Regulation 1.401(a) 20, Q&A 10(d), and with regard to Regulation 1.415(b)-1(b)(ii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code section 417(e)(3) and would otherwise satisfy the limitations of this Section 25, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 25 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code section 415( d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account social security supplements described in Code section 411 (a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulation 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions

or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with subsections (A) or (B) below.

(A) Benefit Forms Not Subject to Code section 417(e)(3). The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (A) if the form of the Participant's benefit is either (1) a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the Participant or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving Spouse, or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or (b) the cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code section 401(a)(11).

(i) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table, or other tabular factor specified in Section 33 of the Plan for adjusting benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(ii) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the greater of (I) the annual amount of the straight life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (II) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code section 417(e)(3). As a governmental plan there are no benefits subject to Code section 417(e)(3).

(2) "Compensation" shall mean all of a Participant's wages within the meaning of Code section 3401 (a) and all other payments of compensation to an employee by the County for which the County is required to furnish the employee a written statement under Code sections 6041 (d), 6051 (a)(3), and 6052. Compensation shall be determined without regard to any rules under Code section 3401 (a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in Code section 3401 (a)(2). However, compensation shall exclude amounts paid or reimbursed by the County for moving expenses incurred by an employee, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are deductible by the employee under Code section 217.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this section, Compensation for a Limitation Year is the Compensation actually made available during such Limitation Year.

For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, Compensation for a Limitation Year shall also include Compensation paid by the later of two and one-half (2Y2) months after an employee's severance from employment with the County, or the end of an elected or appointed term as commissioner, or the end of the calendar year that includes the date of the employee's severance from employment, or the end of an elected or appointed term as commissioner

with the County, if:

- (i) The payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment (or service as commissioner) with the County; or,
- (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
- (iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from employment, or end of term as commissioner, even if they are paid by the later of two and one-half (2Y2) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except, (i) payments to an individual who does not currently perform services for the County by reason of qualified military service, within the meaning of Code section 414(u)(1), to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the County rather than entering qualified military service; or (ii) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of Regulation 1.415(c)-2(g)(8) shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Section 25, compensation paid or made available during such Limitation Year shall include any elective deferral, as defined in Code section 402(g)(3), and any amount which is contributed or deferred by the County at the election of the employee and which is not includible in the gross income of the employee by reason of Code section 125 or Code section 457.

For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 25, Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code section 132(f)(4).

(3) "County" shall, for purposes of this Section 25, mean the County of Hamilton, Tennessee.

(4) "Defined Benefit Compensation Limitation" As a governmental plan, this Plan is not subject to the 100% compensation limit of Code section 415(b).

(5) "Defined Benefit Dollar Limitation" shall mean, as of the general effective date of this act, one hundred ninety-five thousand dollars (\$195,000), the limit for the 2010 fiscal year, as may be automatically adjusted, effective January 1 of each year, by the Secretary of the Treasury under Code section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight-life annuity. A limitation as adjusted under Code section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment provided under Code section 415(d) shall apply to Participants who have had a separation from employment.

(6) "Highest Average Compensation" shall mean the average Compensation for the three (3) consecutive Years of Service with the County that produces the highest average. If the Participant has less than three (3) consecutive Years of Service, the highest average will be based on the Participant's longest consecutive period of Service, including fractions of

years, but not less than one (1) year.

In the case of a Participant who is rehired by the County after a severance from employment, or a commissioner re-elected or appointed to a nonconsecutive term, the Participant's Highest Average Compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no Compensation from the County (the "break period") and by treating the years immediately preceding and following the break period as consecutive. A Participant's Compensation for a Year of Service shall not include Compensation in excess of the limitation under Code section 401 (a)(17) that is in effect for the calendar year in which such Year of Service begins.

(7) "Limitation Year" shall mean the Plan Year. All qualified plans maintained by the County shall use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, then the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(8) "Maximum Permissible Amount" shall mean the Defined Benefit Dollar Limitation adjusted where required and to the extent applicable pursuant to subsections (A) and (B) below.

(A) Adjustment for Less Than Ten (10) Years of Participation or Service. If the Participant has less than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction (i) the numerator of which is the number of Years, or part thereof, but not less than one (1) year, of Participation in the Plan, and (ii) the denominator of which is ten (10). This subsection (A) shall not apply to a distribution made on account of the Participant becoming disabled by reason of personal injuries or sickness or as a result of the Participant's death.

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62) or after Age Sixty-Five (65). Effective for benefits commencing in Limitation Years ending after December 31, 2001, the Defined Benefit Dollar Limitation shall be adjusted if the Annuity Starting Date of the Participant's benefit is before age sixty-two (62) or after age sixty-five (65). If the Annuity Starting Date is before age sixty-two (62), the Defined Benefit Dollar Limitation shall be adjusted under subparagraph (B)(i) below, as modified by subparagraph (B)(iii). If the Annuity Starting Date is after age sixty-five (65), the Defined Benefit Dollar Limitation shall be adjusted under subparagraph (B)(ii) below, as modified by subparagraph (B)(iii).

(i) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62).

I. Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate specified and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table as defined in Section 33 of the Plan.

II. Limitation Years Beginning on or After July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Two (62) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after

July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty Two (62) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age sixty-two (62) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(i)(II)A above and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) for years of participation less than ten (10), if required, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this Section 25.

(ii) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement After Age Sixty-Five (65).

I. Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan.

II. Limitation Years Beginning Before July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting



Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age SixtyFive (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(i)(II)A and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 25. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this subsection (8)(B), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Participant's death between the Annuity Starting Date and age sixty-two (62), or between age sixty-five (65) and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the

Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c) upon the Participant's death.

(C) Minimum benefit permitted. Notwithstanding anything else in this definition to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(i) The retirement benefits payable for a Limitation Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans, without regard to whether a plan has been terminated, ever maintained by the County do not exceed ten thousand dollars (\$10,000) multiplied by a fraction (I) the numerator of which is the Participant's number of years, or part thereof, but not less than one (1) year of service, not to exceed ten (10) with the County, and (II) the denominator of which is ten (10); and

(ii) The County has not at any time maintained a defined contribution plan in which the Participant participated. For this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under § 401 (h), and accounts for postretirement medical benefits established under § 419A(d)(1) are not considered a separate defined contribution plan.

(9) "Year of Participation" shall mean each accrual computation period, computed to fractional parts of a year, for which the following conditions are met: (i) the Participant is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the Plan in order to accrue benefit service, and (ii) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one (1) day of the period of benefit service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of benefit service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Participant to receive a Year of Participation, or part thereof, for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one (1) Year of Participation be credited for any twelve (12) month period.

(f) Notwithstanding any provision of this Section 25, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 5. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 26 in its entirety and substituting instead the following:

Section 26. Limitation on Earnings.

(a) For purposes of computing any benefit under the Plan or any contribution made to the Plan, there shall be a limit on the amount of compensation that may be considered in any Plan Year for any Participant. The limit shall be the amount specified in this section as described below.

(b) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year shall not exceed two hundred thousand dollars (\$200,000), as may be adjusted as set forth below. Annual compensation means compensation during the Plan Year or such other consecutive twelve-month period over which compensation is otherwise determined under the Plan, known as the determination period. Should the Plan use annual compensation for periods prior to January 1, 2002, to determine benefit accruals for Plan Years beginning after December 31, 2001, the annual compensation limit used for such periods shall be two hundred thousand dollars (\$200,000). The two hundred thousand dollar (\$200,000) limit on annual compensation in this subsection (b) shall be adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B), the cost-of-living adjustment effective January 1, 2010, is two hundred forty-five thousand dollars (\$245,000). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 6. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 27 in its entirety and substituting instead the following:

Section 27. Minimum Distribution.

(a) Final Regulations Incorporated By Reference. Notwithstanding any provision of the Plan to the contrary, with respect to distributions under the Plan made for calendar years beginning on or after January 1, 2006, the Plan will apply the minimum distribution requirements of Code section 401(a)(9) in accordance with the Regulations under Code section 401 (a)(9) that were finalized on June 15, 2004, and amended September 8, 2009, which are hereby incorporated by reference.

Furthermore, the Plan shall comply with any and all provisions interpreting Code section 401(a)(9) that are prescribed by the Commissioner of the Internal Revenue Service.

(b) Subject to the joint and survivor annuity requirement of the Plan, the requirements of this Section 27 will take precedence over any inconsistent provisions of the Plan.

(c) All distributions required under this Section 27 will be determined and made in accordance with Code section 401(a)(9) and the Regulations thereunder, including the incidental death benefit requirement in Code section 401 (a)(9)(G).

(d) Notwithstanding any other provision of this Section 27, other than subsection (c), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

(e) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. "Required beginning date" means the April 1 of the calendar year following the later of:

(1) The calendar year in which the Participant attains age seventy and one-half (70 1/2), or

(2) The calendar year in which the Participant retires.

(f) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving Spouse is the Participant's sole designated beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70 1/2), if later.

(2) If the Participant's surviving Spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving Spouse is the Participant's sole designated beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 27(f), other than subsection (1), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 27(f) and subsections (n),(o) and (p), distributions are considered to begin on the Participant's required beginning date, or, if Section 27(f)(4) applies, the date distributions are required to begin to the surviving Spouse under Section 27(f)(1). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date, or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 27(f)(4), the date distributions are considered to begin is the date distributions actually commence.

(g) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, distributions will be made in accordance with the subsequent provisions of this Section 27. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code

section 401 (a)(9) and Regulations thereunder. Any part of the Participant's interest which is in the form of an individual account described in Code section 414(k) will be distributed in a manner satisfying the requirements of Code section 401 (a)(9) and the Regulations thereunder that apply to individual accounts.

(h) General Annuity Requirements. A Participant who is required to begin payments as a result of attaining his or her required beginning date, whose interest has not been distributed in the form of an annuity purchased from an insurance company or in a single sum before such date, may receive such payments in the form of annuity payments under the Plan. Payments under such annuity must satisfy the following requirements:

- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
- (2) The distribution period will be over a life, or lives, or over a period certain not longer than the period provided for under the terms of this Section 27;
- (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) Payments will either be nonincreasing, or increase only as follows:
  - (A) By an annual percentage increase that does not exceed the annual percentage increase in an eligible cost-of-living index for a twelve-month period ending in the year during which the increase occurs or the prior year;
  - (B) By a percentage increase that occurs at specified times, for example, at specified ages, and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index since the Annuity Starting Date, or if later, the date of the most recent percentage increase; except that in cases providing such a cumulative increase, an actuarial increase may not be provided to reflect the fact that increases were not provided in the interim years;
  - (C) To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 27(k) dies or is no longer the Participant's beneficiary pursuant to a court order recognized by the Plan;
  - (D) To allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Participant's death;
  - (E) To pay increased benefits that result from a plan amendment;
  - (F) By a constant percentage, applied not less frequently than annually, at a rate that is less than five percent (5%) per year;
  - (G) To provide a final payment upon the death of the Participant that does not exceed the excess of the actuarial present value of the Participant's accrued benefit, within the meaning of Code section 411 (a)(7), calculated as of the Annuity Starting Date using the applicable interest rate and the applicable mortality table under Code section 417(e), or, if greater, the total amount of employee contributions, over the total of payments before the death of the Participant; or
  - (H) As a result of dividend or other payments that result from actuarial gains, provided:
    - (i) Actuarial gain is measured not less frequently than annually;
    - (ii) The resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity, beginning no later than the year following the year for which the actuarial experience is measured;
    - (iii) The actuarial gain taken into account is limited to actuarial gain from investment experience;
    - (iv) The assumed interest rate used to calculate such actuarial gains is not less than three percent (3%); and
    - (v) The annuity payments are not also being increased by a constant

percentage as described in this Section 27.

(i) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date, or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 27(f)(1) or (2), is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, such as bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

(j) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. Notwithstanding the preceding, the Plan will not fail to satisfy the requirements of this Section 27 and Code section 401 (a)(9) merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment must commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year must be no less than the total amount that was required to be paid during that year under this Section 27.

(k) Joint Life Annuities Where the Beneficiary Is the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and the Participant's Spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless, under the distribution option, the periodic annuity payment payable to the survivor does not at any time on and after the Participant's required beginning date exceed the annuity payable to the Participant. In the case of an annuity that provides for increasing payments, the requirement of this subsection (k) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and the Participant's Spouse and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(l) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless under the distribution option, the annuity payments to be made on and after the Participant's required beginning date will satisfy the conditions of this subsection (l). The periodic annuity payment payable to the survivor must not, at any time on and after the Participant's required beginning date, exceed the applicable percentage of the annuity payment payable to the Participant using the table set forth in Q&A-2(c)(2) of Regulation 1.401 (a)(9)-6. The applicable percentage is based on the adjusted participant/beneficiary age difference. The adjusted participant/beneficiary age difference is determined by first calculating the excess of the age of the Participant over the age of the beneficiary based on their ages on their birthdays in a calendar year. If the Participant is younger than age seventy (70), the age difference determined in the previous sentence is reduced by the number of years that the Participant is younger than age seventy (70) on the Participant's birthday in the calendar year that contains the Annuity Starting Date. In the case of an annuity that provides for increasing payments, the requirement of this subsection (l) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(m) Period Certain Annuities. Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Regulation 1.401 (a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age seventy (70), the applicable distribution period for the Participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Regulation 1.401 (a)(9)-9 plus the excess of seventy (70) over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole

designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this subsection (m), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Regulation 1.401 (a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

(n) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 27(f)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:

(1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(2) If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(o) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(p) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole designated beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 27(p) will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 27(f).

(q) Definitions.

(1) Actuarial Gain. The term "actuarial gain" as used in this Section 27 means the difference between an amount determined using the actuarial assumptions, that is, investment return, mortality, expense, and other similar assumptions, used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the actuarial gain is determined.

(2) Designated Beneficiary. The term "designated beneficiary" as used in this Section 27 means the individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Code section 401 (a)(9) and Regulation 1.401 (a)(9)-1, Q&A-4.

(3) Distribution calendar year. The term "distribution calendar year" as used in this Section 27 means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 27(f) hereof.

(4) Eligible Cost-of-Living Index. The term "eligible cost-of-living index" as used in this Section 27 means an index described below:

(a) Consumer price index that is based on prices of all items, or all items excluding food and energy, and issued by the Bureau of Labor Statistics, including an index for a specific population, such as urban consumers or urban wage earners and clerical workers, and an index for a geographic area or areas, such as a given metropolitan area or state; or

(b) A percentage adjustment based on a cost-of-living index described in subparagraph (a) above, or a fixed percentage, if less; provided however, in any year when the cost-of-living index is lower than the fixed percentage, the fixed percentage may be treated as an increase in an eligible cost-of-living index,

provided it does not exceed the sum of:

- (i) The cost-of-living index for that year;
- (ii) The accumulated excess of the annual cost-of-living index from each prior year over the fixed annual percentage used in that year, reduced by any amount previously utilized under this subparagraph (b); and
- (iii) If provided by this Plan, as a governmental plan, a percentage adjustment based on the increase in compensation for the position held by the Participant at the time of retirement.

(5) Life expectancy. The term "life expectancy" as used in this Section 27, means the life expectancy as computed by use of the Single Life Table in Regulation 1.401 (a)(9)-9.

SECTION 8. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 28 in its entirety and substituting instead the following:

Section 28. Right to Direct Rollover. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Pension Commission, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) Eligible rollover distribution: An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy of the distributee or the joint lives, or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code section 401 (a)(9); and the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(b) Eligible retirement plan: An "eligible retirement plan" is any of the following arrangements that accept the distributee's eligible rollover distribution:

- (1) An individual retirement account described in Code section 408(a);
- (2) An individual retirement annuity described in Code section 408(b);
- (3) An annuity plan described in Code section 403(a);
- (4) A qualified trust described in Code section 401 (a);
- (5) An annuity contract described in Code section 403(b);
- (6) An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; or
- (7) For distributions made after December 31, 2007, a Roth IRA described in Code section 408A(b).

The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission.

(c) Distributee: A "distributee" includes an employee or former employee eligible for benefits under the Plan. In addition, the employee's or former employee's surviving Spouse and the employee's or former employee's Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission, are distributees with regard to the interest of the Spouse or former Spouse. Effective for distributions made after December 31, 2010, a "distributee" also includes a Participant's nonspouse beneficiary. However, in the case of a nonspouse beneficiary, the rollover must be a direct rollover and only can be made to an individual retirement account or annuity described in Code section 408(a) or 408(b) ("IRA") that is established on behalf of the beneficiary and will be treated as an inherited IRA pursuant to Code section 402(c)(ii). Also, in the case of a nonspouse beneficiary, the determination of any required minimum distribution under Code section 401 (a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18. If such distribution is made prior to January 1, 2010, it is not subject to the direct rollover requirements of Code section 401 (a)(31) ,

the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c). If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a sixty-day (nondirect) rollover.

If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary with the meaning of Code section 401 (a)(9)(E).

(d) Direct rollover: A direct rollover is a payment by the Plan to an eligible retirement plan specified by the distributee and as allowed by law.

SECTION 9. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended in Section 29 by adding the following language at the end of the section:

Death benefits. In the case of a death or disability occurring on or after January 1, 2007, if a Participant dies while performing qualified military service, as defined in Code section 414(u), the survivors of the Participant are entitled to any additional benefits provided under the Plan, other than benefit accruals relating to the period of qualified military service, as if the Participant had resumed and then terminated employment on account of death.

Differential wage payments. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code section 3401 (h)(2), shall be treated as an employee of the County making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

SECTION 10. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 33 in its entirety and substituting instead the following:

#### Section 33. Actuarial Equivalent

(a) Effective July 1, 2002, "actuarial equivalent" shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7.5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP-2000 Mortality Table for Employees (Female) for Beneficiaries. Notwithstanding the foregoing, effective for distributions with Annuity Starting Dates on or after December 31, 2002, the applicable mortality table and applicable interest rate used for purposes of adjusting any benefit or limitation under Code section 415(b)(2)(8), (C), or (D) as set forth in Section 25 of the Plan shall be the table(s) and interest rates set forth in subsections (b) and (c) below, if such actuarial equivalent amount produces a greater benefit than that determined by the factors set forth in this subsection (a).

(b) For purposes of this subsection (b), the "applicable mortality table" means, for distributions having an Annuity Starting Date of January 1, 2008, or later, the applicable annual mortality table prescribed by Code section 417(e)(3)(B), as initially described in Revenue Ruling 2007-67. For distributions having an Annuity Starting Date prior to January 1, 2008, and after January 1, 2002, the applicable mortality table is the table prescribed in Revenue Ruling 2001-62.

(c) For purposes of subsection (c), the "applicable interest rate" means, for distributions having an Annuity Starting Date prior to January 1, 2008, and after January 1, 2002, the annual rate of interest on 30-year Treasury securities of the United States for the second calendar month preceding the first day of the Plan Year during which the Annuity Starting Date occurs. For distributions having an Annuity Starting Date of January 1, 2008, or later, the "applicable interest rate" means the adjusted first, second, and third segment rates applied under rules similar to the rules of Code section 430(h)(2)(C) for the calendar month (lookback month) before the first day of the Plan Year in which the Annuity Starting Date occurs (stability period). For this purpose, the first, second, and third segment rates are the first, second, and third segment rates which would be determined under Code section 430(h)(2)(C) if:

(1) Code section 430(h)(2)(D) were applied by substituting the average yields for the month described in the preceding paragraph for the average yields for the 24-month period described in such section, and

(2) Code section 430(h)(2)(G)(i)(II) were applied by substituting "Section 417(e)(3)(A)(ii)(II)" for "Section 412(b)(5)(B)(ii)(II)," and

(3) The applicable percentage under Code section 430(h)(2)(G) is treated as being twenty percent (20%) in 2008, forty percent (40%) in 2009, sixty percent (60%) in 2010, and eighty percent (80%) in 2011.



Notwithstanding the foregoing, except as provided in the Regulations, if a Plan amendment, including amendments made by this act, changes the time for determining the "applicable interest rate", including an indirect change as a result of a change in the Plan Year, any distribution for which the Annuity Starting Date occurs in the 1-year period commencing at the time the Plan amendment is effective, if the amendment is effective on or after the adoption date, must use the interest rate as provided under the terms of the Plan after the effective date of the amendment, determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the Plan amendment is adopted retroactively, that is, the amendment is effective prior to the adoption date, the Plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one (1) year after the adoption date.

SECTION 11. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 34 in its entirety and substituting instead the following:

Section 34. Definitions Applicable to the Plan:

- (1) "Annuity Starting Date" shall mean the first day of the first period for which an amount is paid as an annuity or any other form;
- (2) "Code" means the United States Internal Revenue Code of 1986, as may be amended from time to time. All references to "Code sections" shall include any applicable rulings and Regulations, and as of any future date shall automatically incorporate any amendments to such sections, and shall be deemed to refer to any comparable provisions of any future laws;
- (3) "Participant" means an employee or commissioner of Hamilton County participating in the Plan in accordance with the provisions of the Plan;
- (4) "Plan" means the Hamilton County Employees' Retirement Plan, as established and maintained by legislation enacted by the General Assembly of the State of Tennessee and approved by the Hamilton County legislative body;
- (5) "Plan Year" means each twelve-month period commencing July 1 and ending on the next June 30;
- (6) "Regulations" mean the Income Tax Regulations promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time, including temporary regulations; and
- (7) "Spouse" means the person who is legally married to a Participant as determined under the laws of the State of Tennessee.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or rejection shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Passed: May 13, 2014

## Private Acts of 2014 Chapter 70

AN ACT to amend Chapter 557 of the Private Acts of 1939; as amended by Chapter 76 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, such acts comprising the Hamilton County Employees' Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, are hereby amended as provided in the subsequent sections of this act, generally effective as of July 1, 2013, with specific effective dates for certain sections as may be indicated in such sections.

SECTION 2. This act amends the Plan to comply with changes in the Internal Revenue Code of 1986, herein referred to as the "Code", and various regulations and other guidance, as set forth in the 2012 Cumulative List issued by the Internal Revenue Service in Notice 2012-76 for Cycle C plans, including, but not limited to, changes under the Pension Protection Act of 2006 (PPA '06); the U.S. Troop Readiness,

Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007; the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act); the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA); the Small Business Jobs Act of 2010 (SBJA); the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 201 0); and the Moving Ahead for Progress in the 21st Century Act (MAP-21).

SECTION 3. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 25 in its entirety and substituting instead the following:

Section 25. Limitations on Benefits.

(a) The limitations of this Section 25 shall apply in Limitation Years beginning on or after July 1, 2007, except as otherwise provided herein.

(b) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

(c) If the Participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the County, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Participant's county-provided benefits under all such defined benefit plans, determined as of the same age, would exceed the Maximum Permissible Benefit applicable at that age, the County will reduce the rate of accrual in this Plan to the extent necessary so that the total Annual Benefit payable at any time under such plans will not exceed the Maximum Permissible Benefit.

(d) The application of the provisions of this Section 25 shall not cause the Maximum Permissible Benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the County as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, as described in Regulation 1.415(a)-1 (g)(4).

(e) Definitions (In Addition to Those Capitalized Terms Defined in Section 34). For purposes of this Section 25, the following terms shall be defined as follows:

(1) "Annual Benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 25. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 25 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Regulation 1.401 (a)-20, Q&A 10(d), and with regard to Regulation 1.415(b)-(1)(b)(ii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code section 417(e)(3) and would otherwise satisfy the limitations of this Section 25, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 25 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code section 415( d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account Social Security supplements described in Code section 411 (a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulation 1.411 (d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

The determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with subsections (A) or (B) below.

(A) Benefit Forms Not Subject to Code section 417(e)(3). The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (A) if the form of the Participant's benefit is either (1) a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the Participant, or, in the case of a qualified preretirement survivor annuity, the life of the surviving Spouse, or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or (b) the cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code section 401 (a)(11).

(i) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table, or other tabular factor specified in Section 33 of the Plan for adjusting benefits in the same form; and (II) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(ii) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the greater of (I) the annual amount of the straight life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (II) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code section 417(e)(3). As a governmental plan there are no benefits subject to Code section 417(e)(3).

(2) "Compensation" shall mean all of a Participant's wages within the meaning of Code section 3401 (a) and all other payments of compensation to an employee by the County for which the County is required to furnish the employee a written statement under Code sections 6041 (d), 6051 (a)(3), and 6052. Compensation shall be determined without regard to any rules under Code section 3401 (a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in Code section 3401 (a)(2). However, compensation shall exclude amounts paid or reimbursed by the County for moving expenses incurred by an employee, but only to the extent that at the time of the payment it is reasonable to believe that these amounts are deductible by the employee under Code section 217.

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of this section, Compensation for a Limitation Year is the Compensation actually made available during such Limitation Year.

For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, Compensation for a Limitation Year shall also include Compensation paid by the later of two and one-half (2½) months after an employee's

severance from employment with the County, or the end of an elected or appointed term as commissioner, or the end of the calendar year that includes the date of the employee's severance from employment, or the end of an elected or appointed term as commissioner with the County, if:

(i) The payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside the employee's regular working hours, such as overtime or shift differential, commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment, or service as commissioner with the County;

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from employment, or end of term as commissioner, even if they are paid by the later of two and one-half (2½) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except, (i) payments to an individual who does not currently perform services for the County by reason of qualified military service within the meaning of Code section 414(u)(1), to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the County rather than entering qualified military service; or (ii) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of Regulation 1.415(c)-2(g)(8) shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Section 25, compensation paid or made available during such Limitation Year shall include any elective deferral, as defined in Code section 402(g)(3), and any amount which is contributed or deferred by the County at the election of the employee and which is not includible in the gross income of the employee by reason of Code section 125 or Code section 457.

For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 25, Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code section 132(f)(4).

(3) "County" shall, for purposes of this Section 25, mean the County of Hamilton, Tennessee.

(4) "Defined Benefit Compensation Limitation" As a governmental plan, this Plan is not subject to the one hundred percent (100%) compensation limit of Code section 415(b).

(5) "Defined Benefit Dollar Limitation" shall mean, as of the general effective date of this act, two hundred five thousand dollars (\$205,000), the limit for the 2013 fiscal year, as may be automatically adjusted, effective January 1 of each year, by the Secretary of the Treasury under Code section 415(d) in such manner as the Secretary shall prescribe, and

payable in the form of a straight-life annuity. A limitation as adjusted under Code section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment provided under Code section 415(d) shall apply to Participants who have had a separation from employment.

(6) "Limitation Year" shall mean the Plan Year. All qualified plans maintained by the County shall use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, then the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(7) "Maximum Permissible Amount" shall mean the Defined Benefit Dollar Limitation adjusted where required and to the extent applicable pursuant to subsections (A) and (B) below.

(A) Adjustment for Less Than Ten (10) Years of Participation or Service. If the Participant has less than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction (i) the numerator of which is the number of Years, or part thereof, but not less than one (1) year, of Participation in the Plan, and (ii) the denominator of which is ten (10). This subsection (A) shall not apply to a distribution made on account of the Participant becoming disabled by reason of personal injuries or sickness or as a result of the Participant's death.

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62) or after Age Sixty-Five (65). The Defined Benefit Dollar Limitation shall be adjusted if the Annuity Starting Date of the Participant's benefit is after age sixty-five (65) as follows:

(i) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan.

(ii) Limitation Years Beginning On or After July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for Years of Participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity

Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(ii)A, and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 25. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this subsection (7)(B), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Participant's death between age sixty-five (65) and the Annuity Starting Date, as applicable, since benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c) upon the Participant's death.

(C) Minimum benefit permitted. Notwithstanding anything else in this definition to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(i) The retirement benefits payable for a Limitation Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans, without regard to whether a plan has been terminated, ever maintained by the County do not exceed ten thousand dollars (\$10,000) multiplied by a fraction (I) the numerator of which is the Participant's number of years, or part thereof, but not less than one (1) year of service, not to exceed ten (10), with the County, and (II) the denominator of which is ten (10); and

(ii) The County has not at any time maintained a defined contribution plan in which the Participant participated. For this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under § 401 (h), and accounts for postretirement medical benefits established under § 419A(d)(1) are not considered a separate defined contribution plan.

(8) "Year of Participation" shall mean each accrual computation period, computed to fractional parts of a year, for which the following conditions are met: (i) the Participant is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the Plan in order to accrue benefit service, and (ii) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one (1) day

of the period of benefit service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of benefit service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Participant to receive a Year of Participation, or part thereof, for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any twelve-month period.

(f) Notwithstanding any provision of this Section 25, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 4. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 26 in its entirety and substituting instead the following:

Section 26. Limitation on Earnings.

(a) For purposes of computing any benefit under the Plan or any contribution made to the Plan, there shall be a limit on the amount of compensation that may be considered in any Plan Year for any Participant. The limit shall be the amount specified in this section as described below.

(b) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year shall not exceed two hundred thousand dollars (\$200,000), as may be adjusted as set forth below. Annual compensation means compensation during the Plan Year or such other consecutive twelve-month period over which compensation is otherwise determined under the Plan, known as the determination period. The two hundred thousand dollar (\$200,000) limit on annual compensation in this subsection (b) shall be adjusted for cost-of-living increases in accordance with Code section 401 (a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 5. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 28 in its entirety and substituting instead the following:

Section 28. Right to Direct Rollover. This section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Pension Commission, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) Eligible rollover distribution: An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the distributee or the joint lives, or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code section 401 (a)(9); and the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(b) Eligible retirement plan: An "eligible retirement plan" is any of the following arrangements that accept the distributee's eligible rollover distribution:

- (1) An individual retirement account described in Code section 408(a);
- (2) An individual retirement annuity described in Code section 408(b);
- (3) An annuity plan described in Code section 403(a);
- (4) A qualified trust described in Code section 401 (a);
- (5) An annuity contract described in Code section 403(b);
- (6) An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; or
- (7) For distributions made after December 31, 2007, a Roth IRA described in Code section

408A(b).

A portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after tax Participant contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401 (a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission.

(c) Distributee: A "distributee" includes an employee or former employee eligible for benefits under the Plan. In addition, the employee's or former employee's surviving Spouse and the employee's or former employee's Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission, are distributees with regard to the interest of the Spouse or former Spouse.

Effective for distributions made after December 31, 2010, a "distributee" also includes a Participant's nonspouse beneficiary. However, in the case of a nonspouse beneficiary, the rollover must be a direct rollover and only can be made to an individual retirement account or annuity described in Code section 408(a) or 408(b) ("IRA") that is established on behalf of the beneficiary and will be treated as an inherited IRA pursuant to Code section 402(c)(ii). Also, in the case of a nonspouse beneficiary, the determination of any required minimum distribution under Code section 401 (a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18. If such distribution is made prior to January 1, 2010, it is not subject to the direct rollover requirements of Code section 401 (a)(31), the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c). If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a 60-day (nondirect) rollover.

If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary with the meaning of Code section 401 (a)(9)(E).

(d) Direct rollover: A direct rollover is a payment by the Plan to an eligible retirement plan specified by the distributee and as allowed by law.

SECTION 6. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 33 in its entirety and substituting instead the following:

Section 33. Actuarial Equivalent

(a) Effective July 1, 2002, "actuarial equivalent" shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7.5%) interest rate, the RP-2000 Mortality Table for Employees (Male) for Members, and the RP- 2000 Mortality Table for Employees (Female) for Beneficiaries.

(b) Notwithstanding the foregoing, the mortality table and the interest rate for the purposes of determining the actuarial equivalent of the limitation on benefits per Section 25 shall be the "applicable mortality table" and the "applicable interest rate" described below:

(1) For Plan Years beginning before January 1, 2008, the "applicable interest rate" is the rate of interest on 30 year Treasury securities determined as of the "lookback month" for the "stability period," as explained in Subsection (3) below. For Plan Years beginning on or after January 1, 2008, the applicable interest rate is the adjusted first, second and third segment rates described in Code section 417(e)(3), as specified by the Commissioner of the Internal Revenue Service, for the lookback month preceding the stability period. For this purpose, the segment rates are the spot segment rates that would be determined for the applicable month under Code section 430(h)(2)(C) without the twenty-four-month averaging under Code section 430(h)(2)(D), and determined without regard to the adjustment for the 25-year average segment rates provided in Code section 430(h)(2)(C)(iv).

(2) For Plan Years beginning before January 1, 2009, the "applicable mortality table" is the table set forth in Rev. Rul. 2001-62. For Plan Years beginning on or after January 1, 2009,



the applicable mortality tables are set forth in Regulation 1.430(h)(3)-1 and Internal Revenue Service Notice 2008-25.

(3) For purposes of this Section 33, the "stability period" is the plan year in which the Participant's Annuity Starting Date occurs, and the "lookback month" is the second full calendar month prior to the first day of the stability period.

(c) Notwithstanding the foregoing, except as provided in the Regulations, if a Plan amendment, including amendments made by this act, changes the time for determining the "applicable interest rate", including an indirect change as a result of a change in the Plan Year, any distribution for which the Annuity Starting Date occurs in the 1-year period commencing at the time the Plan amendment is effective, if the amendment is effective on or after the adoption date, must use the interest rate as provided under the terms of the Plan after the effective date of the amendment, determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the Plan amendment is adopted retroactively, that is, the amendment is effective prior to the adoption date, the Plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one (1) year after the adoption date.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or rejection shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.

Passed: May 13, 2014

## Administration - Historical Notes

### **Budget System**

The following acts once created a budgeting system for Hamilton County, but they have been specifically repealed or superseded by current law. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1903, Chapter 583, required the county courts to estimate the anticipated expenses of the county government for the ensuing fiscal year no later than the first meeting in July and made it mandatory that a tax rate be passed which would raise that amount of money in the estimate. This act was superseded by Private Acts of 1917, Chapter 38, and Private Acts of 1941, Chapter 156, repealed it.
2. Private Acts of 1911, Chapter 234, created the post of county auditor to be appointed by the county judge for a four year term, salary \$1,800 per year, prescribes the duties, and, if need arise, authorizes an assistant but his salary would come from the auditor's. The county auditor was subject to removal for misconduct.
3. Private Acts of 1911, Chapter 551, empowered Hamilton County to create and provide "An Advertising Fund" to publicize the resources and attractions of the county, same to be determined by a two-thirds vote on a resolution by the county court and the appropriation was not to exceed \$5,000 per year.
4. Private Acts of 1913, Chapter 325, authorized a budget appropriation of \$1,000, or less, per year to employ a demonstrator of agriculture for the benefit of the agricultural interests in the county to be expended under the supervision of a county court committee. This act was amended by Private Acts of 1915, Chapter 549, which increased the budget appropriation from \$1,000 to \$1,500.
5. Private Acts of 1917, Chapter 38, permitted the quarterly county court of Hamilton County to divert any surplus public funds arising from taxation in any year or being the remnant of any bond issue from any department of the county government to any other department of the county government whenever in their opinion the public welfare required it.
6. Private Acts of 1917, Chapter 423, ratified and confirmed a contract made by Hamilton County with C. S. Peterson. Peterson, an accountant, was hired by Hamilton County to audit the books of the officials of Hamilton County for the purpose of determining what amounts, if any, were due to the state and county as revenue. Furthermore, the act authorized the county judge to pay Peterson, from the county funds, any balance due on the contract.
7. Private Acts of 1917, Chapter 424, regulated county expenditures by requiring the making of a

budget and prohibiting the expenditure of any amount beyond that fixed in the said budget. Expenditures of the past year must be submitted along with budget requests from each governmental department and agency. Prohibits any official from spending funds unauthorized by the budget and from entering into contracts over \$100 in amount unless written approval by the county judge was obtained. This act was expressly repealed by Private Acts of 1941, Chapter 156.

8. Private Acts of 1919, Chapter 129, repealed Private Acts of 1911, Chapter 234 above.
9. Private Acts of 1929, Chapter 509, permitted the appropriation out of the general funds of the county the sum of \$2,400 annually to be used in investigating claims against the county and in preparing defenses to any lawsuits filed against the county.
10. Private Acts of 1935, Chapter 795, authorized an annual appropriation of \$600 for the colored community center in Chattanooga by the county court to be paid \$50 per month to the managing officials.
11. Private Acts of 1937, Chapter 794, authorized Hamilton County to appropriate \$20,000 to augment the budget appropriation for the board of health, the circuit court and the miscellaneous account for the fiscal year 1936-37.
12. Private Acts of 1937, Chapter 880, allowed the appropriation in the annual budget of Hamilton County for the purpose of making investigations and surveys of flood conditions in the Tennessee River and its tributaries and to acquire by purchase, if desired, data and existing information pertaining thereto.
13. Private Acts of 1939, Chapter 72, amended Acts of 1917, Chapter 424, which set up a budget process, by permitting appropriations to be made by the county court for hospitals, charitable institutions, relief of poor and needy persons and for emergencies. The proposed appropriations required an affirmative vote by two-thirds of the qualified members of the county court. This act was repealed by Private Acts of 1941, Chapter 156.

### **County Attorney**

The following acts once affected the appointment, election, or office of the county attorney in Hamilton County. These acts are included for historical reference only. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1899, Chapter 352, created the position of county attorney who would be elected by the county court for a period of one year. The salary to be paid was fixed at \$1,000 per annum, not to be increased or diminished during his term of office. He would transact all the legal business of the county in court or otherwise and advise all county officials on legal matters affecting their offices.
2. Acts of 1903, Chapter 576, amended Public Acts of 1899, Chapter 352, above, by making the county attorney's term of office two years instead of one year. The act also changed the time of the election for county attorney to the January term of the quarterly court of Hamilton County.
3. Acts of 1909, Chapter 74, further amended Public Acts of 1899, Chapter 352, by deleting from Section 1, the phrase prohibiting the increase or diminution of the salary of the county attorney during his term of office.
4. Acts of 1909, Chapter 132, raised the salary of this official from \$1,000 per year to \$1,500 per year by amending Public Acts of 1899, Chapter 352, above, and specifically made the act applicable to the present holder.
5. Private Acts of 1911, Chapter 605, amended Public Acts of 1899, Chapter 352, above, by fixing the salary of the county attorney at \$2,000 per annum instead of \$1,000.
6. Private Acts of 1929, Chapter 55, amended Public Acts of 1899, Chapter 352, by raising the salary to \$3,000 per year and making the increase applicable to the current holder of the office. The act was repealed and superseded by Private Acts of 1941, Chapter 156, which reorganized the county government of Hamilton County.
7. Private Acts of 1941, Chapter 156, repealed Public Acts of 1899, Chapter 352.

### **County Clerk**

The following acts once affected the office of county clerk in Hamilton County. It is included herein for historical purposes.

1. Private Acts of 1831, Chapter 81, authorized the county court clerk of Hamilton County to issue to Sterling S. Condray, George W. Williams and Elijah Thurman, each, a license to retail goods, wares and merchandise, under the provisions of the act entitled, " An Act to equalize the tax on

wholesale and retail merchants, jewelers, grocers and auctioneers," passed on December 14, 1831.

2. Private Acts of 1911, Chapter 623, provided that unmarried women over the age of twenty-one years may be eligible and serve as deputy county court clerks in counties having a population of not less than 70,000 nor more than 90,000 based on the Federal Census of 1910.

### **County Legislative Body**

The following acts once applied to the quarterly court or the county legislative body of Hamilton County and are included herein for historical purposes.

1. Private Acts of 1819, Chapter 160, fixed the time of holding the county courts of Hamilton County on the fourth Monday of February, May, August and November.
2. Public Acts of 1827, Chapter 34, changed the time of holding the county courts of Hamilton County to the second Mondays of March, June, September and December.
3. Acts of 1843-44, Chapter 180, allowed the people of the fifth district in Hamilton County to elect an additional justice of the peace for the City of Chattanooga.
4. Public Acts of 1866-67, Chapter 3, fixed the salary per diem of justices of the peace and jurors in Hamilton County at \$2.00 a day.
5. Public Acts of 1901, Chapter 162, in counties between 60,000 and 70,000 population according to the Federal Census of 1900, or later, it was unlawful for a justice of the peace to hold any office or position of profit by election or appointment, under the work house or the poor house commissioners, violation of this act resulted in the forfeiture of compensation.
6. Acts of 1903, Chapter 114, made Hamilton County not liable for fees incurred under the small offense law in trials before a justice of the peace except for those acts committed in the district from which the justice was elected unless he was sitting in another district by interchange or other authorized method; the act was made to be a misdemeanor in office for which the justice could be fined and summarily removed from office.
7. Private Acts of 1911, Chapter 281, allowed Hamilton County to pay the members of the finance and claims committee not to exceed \$200 a year; the poorhouse and workhouse committees not to exceed \$200 per year; and the road commission, those elected to supervise a \$500,000 bond issue just in effect, no more than \$1,200 a year as compensation for their services.
8. Private Acts of 1915, Chapter 452, authorized the county court of Hamilton County to appropriate funds for, solicit bids, award contracts, for the printing of the trial dockets of the circuit and chancery courts but no more than three trial dockets would be printed in one year.
9. Private Acts of 1929, Chapter 366, provided that officers serving civil warrants out of a justice's court, or making arrests in criminal cases, will set the trial date at a certain hour and the trial will be held at that hour and not an hour later as had become the custom. It was the responsibility of the officer to certify that everyone knew the day and hour of the trial.
10. Private Acts of 1953, Chapter 24, authorized in the county council to pay Joseph C. Wagner the sum of \$600 and Campbell Carden the sum of \$600 for their services in investigating jury and grand jury irregularities in Hamilton County, the same being legislatively declared to be a county purpose.
11. Private Acts of 1959, Chapter 228, properly ratified, set the salary of justices of the peace in Hamilton County at \$15 per day for each day of attendance at the quarterly county court of said county.
12. Private Acts of 1967-68, Chapter 161, authorized the county council to pay \$7,000 to Boyce T. Dillard, his wife, Christine Dillard and Boyce T. Dillard, Jr., and to accept a release from them in full satisfaction of all claims incident to the facts alleged in the case of Dillard v. Thrasher, in circuit court of Hamilton County.
13. Public Acts of 1969, Chapter 272, reapportioned the quarterly county courts of counties having populations in excess of 200,000 according to the Federal Census of 1960. The act also provided for justice of the peace districts or civil districts or both. Furthermore, the act provided that 15 justices of the peace were to be elected from 8 justice of the peace districts in Hamilton County.
14. Private Acts of 1970, Chapter 305, would have amended Private Acts of 1941, Chapter 156 by reducing the minimum age of members of the county council from 30 to 25 years of age but was disapproved by local authorities and did not become law.
15. Private Acts of 1977, Chapter 100, repealed Private Acts of 1911, Chapter 201 which was the enabling legislation for counties with a population of no less than 90,000 and no more than

120,000, according to the Federal Census of 1970, to subsidize charities, or any charitable institution which had been in existence for at least five (5) years, with an annual sum of \$1,000 but the total amount which could be expended under this act was \$5,000 in any one year. Knox County and Sullivan County approved this act but was not acted upon by Hamilton County officials and therefore did not become effective.

### **County Mayor**

The references below are of acts which once applied to the office of county judge, or county executive in Hamilton County. They are included herein for historical purposes only. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1867-68, Chapter 47, as amended by Private Acts of 1897, Chapter 198, Public Acts of 1901, Chapter 112, and Private Acts of 1929, Chapter 144, established the office of county judge.
2. Private Acts of 1911, Chapter 443, empowered the county judge to employ a clerk for his office and to appropriate and pay him out of county funds a monthly salary up to \$125, except that if the said clerk acted as purchasing agent, he could be paid \$25 a month additional. This law was amended by Private Acts of 1917, Chapter 363.
3. Private Acts of 1913, Chapter 145, authorized the election commissioners of Hamilton County to hold a referendum on "An Act to create a Board of County Commissioners consisting of the County Judge and four other Commissioners."
4. Private Acts of 1915, Chapter 48, authorized the employment by the county judge of an additional clerk in his office at a salary not to exceed \$1,200 annually who would serve at the pleasure of and be subject to the orders and demands of the said judge.
5. Private Acts of 1915, Chapter 49, permitted the county judge to appoint some member of the county court to act as county judge or chairman pro tem during such time as the judge was absent or incapacitated to perform his duty.
6. Private Acts of 1917, Chapter 363, amended Acts of 1911, Chapter 443, by requiring the clerk appointed under that act to serve as purchasing agent for all the needs of county offices, the workhouse, the poorhouse, or other public county institutions for which services he would be paid an additional \$50 per month.
7. Private Acts of 1917, Chapter 710, raised the salary of the county judge of all counties between 89,000 and 90,000 population according to the Federal Census of 1910 or after, to \$5,000 a year.
8. Private Acts of 1927, Chapter 298, probably repealed by implication the 1911 and 1915 Act which permitted the hiring of clerks of the office of the county judge, as they in turn were amended, and provided for the utilization of a staff of three clerks, a chief clerk, who would be purchasing agent, a warrant clerk, and one who would be a custodian of supplies; also, set up some purchasing procedures. The latter clerk was eliminated by Private Acts of 1933, Chapter 694 and the entire act was repealed by Private Acts of 1941, Chapter 156, which reorganized the county government.
9. Private Acts of 1929, Chapter 144, as amended by Private Acts of 1935, Chapter 471, authorized the county judge to sit by interchange with circuit and criminal court judges and chancellors, in the circuit, chancery and criminal courts of Tennessee
10. Private Acts of 1929, Chapter 215, amended Private Acts of 1927, Chapter 298, by requiring the court to appropriate the funds to pay these clerks.
11. Private Acts of 1931, Chapter 474, permitted those who were acting as county judge pro tempore in Hamilton and Knox counties to conduct inquisitions of lunacy for which they could charge a \$5.00 fee.
12. Private Acts of 1933, Chapter 694, amended Private Acts of 1927, Chapter 298, by eliminating the custodian of county supplies, one of the three clerk positions created by the act.
13. Private Acts of 1939, Chapter 204, vested the authority in the county judge to employ a suitable person as a secretary who would keep the office open and do clerical duties as the judge might direct who would be paid a salary of \$150 per month.
14. Private Acts of 1949, Chapter 476, set the salary of the county judge at \$10,000 per annum, in all counties of the state having a population of not less than 180,400 and not more than 180,500, according to the 1940 Federal Census.
15. Private Acts of 1977, Chapter 142, would have repealed Private Acts of 1931, Chapter 474, which act allowed any member of the county court who was appointed and acting as county judge to

hear inquisitions of lunacy. The old act was applicable to counties having a population of not less than 150,000 and no more than 160,000 according to the 1930 Federal Census. Knox County approved this repealing act but it was not acted upon by Hamilton County officials and therefore did not become effective.

### **County Register**

The following acts once affected the office of county register in Hamilton County, but are no longer operative.

1. Public Acts of 1897, Chapter 124, fixed the salaries of the register and several other county officials according to population groupings within the act. The act deprived these officials of the fees, commissions, emoluments and perquisites of their offices and substituted the salary specified as sole compensation. Public Acts of 1897, Chapter 124, was declared to be unconstitutional in Weaver v. Davidson County, 104 Tenn. 315, 59 S.W. 1105 (1900).
2. Public Acts of 1901, Chapter 120, enabled the county courts of the counties within 60,000 and 70,000 population census of 1900, to provide general indices in the register's office where in their judgment such indices were necessary.
3. Private Acts of 1937, Chapter 832, authorized the custodian of the courthouse in Hamilton County to designate and set aside additional space in the courthouse for the register's office.

### **General Reference**

The following private or local acts constitute part of the administrative and political history of Hamilton County but are today no longer operative because they have either been superseded, repealed, or failed to receive local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1829-30, Chapter 175, established the seat of justice in Hamilton County.
2. Acts of 1839-40, Chapter 50, established the seat of justice in Hamilton County. The act called for the election of the town which would hold the seat of justice and the selling of lots the proceeds of which would go towards the erection of public buildings. If the money from the sale of the lots was not sufficient to pay for the public buildings, then the county court was authorized to levy a county tax towards the construction of such public facilities.
3. Acts of 1839-40, Chapter 112, authorized the county court to permit the placing of dams or abutments upon either bank of any navigable river for the purpose of erecting any grist or grain mill thereon but the stream was not to be obstructed.
4. Private Acts of 1857-58, Chapter 115, directed the state comptroller to pay Hamilton County \$600 for guarding some prisoners kept at Harrison from November 1856 to March 1857, the voucher to be issued to Calvin J. Esing, chairman of the county court.
5. Public Acts of 1870 (Ex. Sess.), Chapter 35, authorized the sheriff of Hamilton County to hold an election for the qualified voters on whether or not to move the county site from Harrison to Chattanooga.
6. Public Acts of 1871, Chapter 20, provided an additional notary public for the 14th Civil District of Hamilton County.
7. Public Acts of 1899, Chapter 411, provided that duplicate copies or tracings of the official maps of the right of way of the Western and Atlantic Railroad in Hamilton County, surveyed by direction of, and officially adopted by the Georgia General Assembly, and filed in the county seat of every county traversed by the railroad from its initial point in Atlanta, would have the quality of constructive notice and be admitted as evidence in any of the courts of Tennessee.
8. Public Acts of 1901, Chapter 82, authorized counties with a population between 60,000 and 70,000 based on the Federal Census of 1900 to appropriate money to pay the members of the finance and claims committees of the county courts extra compensation not to exceed \$100.00 in a year.
9. Private Acts of 1903, Chapter 422, amended Public Acts of 1895, Chapter 95, Section 4, of the by keeping the term of the county physician for Hamilton County to two years instead of four as the Public Health Act provided.
10. Acts of 1909, Chapter 90, authorized counties with a population between 60,000 and 70,000 based on the Federal Census of 1900, to grant by resolution to electric-light and power companies the right to erect and maintain along and over the public roads of the county, their poles, wires, and cables for the purpose of transmitting electricity.
11. Acts of 1909, Chapter 489, permitted counties with a population between 60,000 and 72,000 based on the Federal Census of 1900, to order the construction of sewers in those areas where

- their judgment deemed them necessary, to be paid for out of the county treasury and, where desired, to have them built with workhouse forces under the supervision of the boards in authority.
12. Private Acts of 1913, Chapter 23, created the office of license inspector for the county whose duty it was to check privilege licenses throughout the county area, report violators to the county court clerk under whom he would operate; serve for a term of two years at a salary of \$1200 per year after taking oath, and may be removed for misconduct in office. This act as amended, was specifically repealed by Private Acts of 1941, Chapter 156, which created the county council.
  13. Private Acts of 1915, Chapter 15, created the office of county engineer for Hamilton County. He must be a qualified civil engineer, appointed by the county judge initially and then elected by the county court thereafter for two year terms. He was to have an office at the courthouse, devote his entire time to his duties, have charge and supervision of all civil engineering, work in connection with county projects, make cost estimates and draw specifications for roads and be paid a salary of \$2,400 a year.
  14. Private Acts of 1917, Chapter 474, authorized the county judge of Hamilton County to pay a final judgment rendered against J.A. Hargrave, W.S. Beck, J.A. Patten, and T.J. Ziegler, who composed the county board of education in 1912. New heating units were contracted for Mission Ridge and East Lake schools, which James Supply Company furnished to the prime contractor. The contractor became bankrupt and the supply company sued the board for the cost of the units for which judgment was given.
  15. Private Acts of 1921, Chapter 945, amended Private Acts of 1913, Chapter 23, by placing the license inspector under the exclusive supervision of the county court clerk, made his term coextensive with the clerks and raised his salary to \$1,500 per year.
  16. Private Acts of 1927, Chapter 11, created the position of plumbing inspector in county areas not incorporated, fixed qualifications, to be appointed by the county judge and confirmed by the board of health; fixed his powers and responsibilities, and provided penalties for violating the requirements. This act was for all practical purposes repealed by Private Acts of 1945, Chapter 230.
  17. Private Acts of 1927, Chapter 299, created a board of building and grounds commission composed of the county judge and two citizens who would serve terms of three years after being appointed and confirmed by the quarterly court. They would select the sites, let the contracts for all new school buildings and for the repairing, remodeling, and new construction of other buildings. The county court clerk would be the clerk for the board. This act was specifically repealed by Private Acts of 1941, Chapter 156, which reorganized the county government.
  18. Private Acts of 1927, Chapter 416, amended Private Acts of 1913, Chapter 23, by raising the salary of the license inspector to \$1,800 per year and \$50 per month for the expenses of the office.
  19. Private Acts of 1929, Chapter 511, fixed the salary of the county physician or the jail physician at \$2,400 annually, payable monthly. This act was repealed by Private Acts of 1941, Chapter 156.
  20. Private Acts of 1929, Chapter 800, authorized the payment of \$350.00 in damages to W.A. Eaker, whose 1927 Essex automobile was damaged to that extent by a county highway vehicle being negligently operated by an employee and for which the county would not be liable because of the doctrine of governmental immunity.
  21. Private Acts of 1929, Chapter 913, amended Private Acts of 1915, Chapter 15, by increasing the salary of the county engineer to \$3600 a year with authority given to the county highway commissioners to pay him another \$1200 annually if, in their judgement, he was doing the extra work to deserve it.
  22. Private Acts of 1931, Chapter 101, allowed the quarterly county courts of counties between 159,000 and 160,000 population, Federal Census of 1930 or any subsequent one, to appropriate and pay out of the general fund up to \$25,000 to take care of any deficit of any county fair association maintaining and operating county fairs in those counties being entitled to and receiving aid from the State of Tennessee.
  23. Private Acts of 1931, Chapter 188, cited in the preamble that some \$100,000 remained unspent from a bond issue of \$500,000 to build a tunnel through Missionary Ridge, and in the construction process the contractor, under the orders of the county engineer, began the construction of an approach road from Center Street to Shallowford Road which will cost \$4,648 to complete, therefore, this act permits the expenditure of that sum out of the bonds funds.
  24. Private Acts of 1933, Chapter 426, removed the Minority of Katie Mae and Carrie Nell McCollum of

- Chattanooga, and Chapter 427 of the same year, for Ernest L. McCord.
25. Private Acts of 1933, Chapter 543, amended Public Acts of 1921, Chapter 101, which fixed the salaries of certain county officials in the state according to classification by population groupings by exempting Hamilton County from some of its provisions with reference to appointment of assistant officials, and then established a procedure for that county which required a petition to the chancellor, the circuit judge, and the judges of the two criminal courts, asking for such assistants which the judges would duly consider collectively.
  26. Private Acts of 1933, Chapter 693, abolished the office of official painter for Hamilton County, although the act creating the position, if there was one, could not be located.
  27. Private Acts of 1933, Chapter 695, made it unlawful for any member of the county court, or any one related to him within the third degree to enter into any contract for the sale of property, the rendering of any service, furnishing of any supplies, or doing other things for a consideration to be paid out of the public funds. The fine, upon conviction, ranged from \$50 to \$500 plus confinement in the workhouse up to three months and, if a public officer, removal from office on the second offense. This act was declared unconstitutional in State v. Cummings, 166 Tenn. 461, 63 S.W.2d 515 (1933).
  28. Private Acts of 1933, Chapter 797, removed the disabilities of infancy from William Oliver, and Chapter 798 of the same year, also removed the minority of Byrlon Lamar Robertson, both of Hamilton County.
  29. Private Acts of 1935, Chapter 137, lifted all the disabilities of minority from Creed Warf of Hamilton County.
  30. Private Acts of 1935, Chapter 446, rewrote Private Acts of 1929, Chapter 768, which created the Chattanooga Protection District for all practical purposes by amending nearly every paragraph and section of the bill. After having the amendments in operation for almost ten years, the state legislature repealed all of Private Acts of 1935, Chapter 446, and its multitude of amendments with Private Acts of 1945, Chapter 136, thus restoring Private Acts of 1929, Chapter 768 to its original form.
  31. Private Acts of 1935, Chapter 624, stated that in counties with a population between 100,000 to 225,000 based on the Federal Census of 1930, or thereafter, all privilege licenses, the amount paid in tax and the character of the business would be kept in a well bound book, but must be countersigned by the circuit court clerk, who could charge a fee of fifty cents, before being legitimately recorded. A failure to observe these requirements resulted in a misdemeanor.
  32. Private Acts of 1937, Chapter 85, removed the minority of Mildred Dedmon Douglas, of Hamilton County.
  33. Private Acts of 1941, Chapter 156, repealed both Private Acts of 1915, Chapter 15, and Private Acts of 1929, Chapter 913.
  34. Private Acts of 1943, Chapter 322, authorized the county judge to draw a county warrant on the Trustee for \$250 out of the county employees' pension fund to be paid to the beneficiaries of John Gillespie, deceased, who was killed in line of duty.
  35. Private Acts of 1961, Chapter 353, created the office of public defender for Hamilton County, however, the act was rejected at the local level and was never in effect in accordance with its provisions.
  36. Private Acts of 1969, Chapter 72, provided for the creation of a metropolitan government charter commission relative to Hamilton County, pursuant to T.C.A. § 6-3704(b).
  37. Private Acts of 1970, Chapter 317, would have created a regional disposal authority consisting of five members, two members were to be appointed by the county judge and confirmed by the county council; two members were appointed by the mayor of Chattanooga and confirmed by the commission; and one member was selected for one year by these four. The chairman would receive \$750 yearly and the members \$600. This authority would explore and supervise all things for the disposal of solid waste matter, but this act was not approved by the quarterly county court and therefore did not become a law.
  38. Private Acts of 1972, Chapter 408, would have authorized the county council to provide Hamilton County's legislative delegation with suitable office space, furniture and equipment, supplies and other office expenses, and the funds to secure research and secretarial assistance. However, the act was not acted by local authorities and therefore did not become effective.
  39. Private Acts of 1978, Chapter 229, would have allowed the Hamilton County school system to employ a purchasing agent to obtain food, materials and other supplies, but the act was not acted

on by local authorities and therefore did not become effective.

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