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Chattanooga Protection District

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.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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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 apportioned 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.

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