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Private Acts of 1923 Chapter 321

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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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.

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