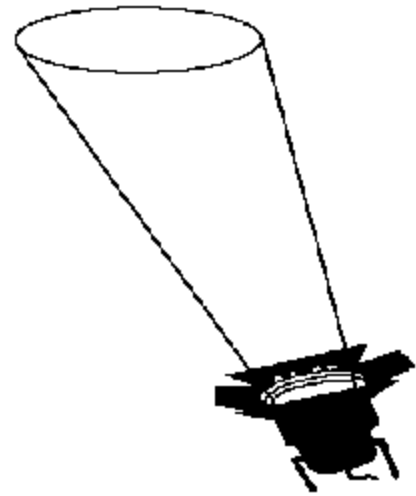




**The University of Tennessee
County Technical Assistance Service**



SPOTLIGHT on CURRENT ISSUES

**Executive Director's Memo
August 2001**

Additional Public Chapters Passed Late in the Legislative Session that Affect Counties

Due to the unusual circumstances surrounding the state's budgetary problems, this year's session of the General Assembly pressed on well into the summer. As it continued past July 1, when most of the new laws went into effect, we at CTAS made the decision to send the Index of Acts to printers in July in order to get the information in that publication to you in a more timely fashion. Since we published the annual Index of Acts prior to the final adjournment of the session of the General Assembly we are now sending you the following additional summaries of legislation that passed late in the session after the publication of the Index of Acts.

APPROPRIATIONS

Public Chapter 464

House Bill 2038 Senate Bill 2000

This act is the final appropriations bill for state government for fiscal year 2001-2002. It is included in this index of summaries of legislation affecting county governments because certain provisions of this year's appropriations bill have a significant fiscal impact on local governments. For future years, the distribution of state shared taxes to local governments will be frozen at levels established for this fiscal year, with the state general fund capturing the growth in these revenue sources. This amount is estimated at \$18,856,500 for the first year. Additionally, although funding is provided for this fiscal year, the status of appropriations for numerous grant programs and other supplements in the state budget has been changed from recurring to non-recurring. This means for all future budget years, unless the legislature adds revenue for these programs back into the state budget as an improvement, state funding for these programs will cease. These programs include, but are not limited to: pay supplements for firefighters, pay supplements for police officers, pay supplements for certified public administrators, juvenile court supplements, child advocacy centers, public library grants, arts commission grants and subsidies, development district grants, K-12 school safety grants, K-12 performance incentive grants, property reappraisal grants, property appraiser certifications; tourist development regional grants, soil conservation district grants; and TIIPS grants.

Effective August 7, 2001, following the successful override of the governor's veto by the state legislature. Originally passed July 12 and vetoed July 26.

COURTS

Public Chapter 447

Senate Bill 1668 House Bill 1391

Makes numerous changes to child support laws including, but not limited to, the following: Amends the provisions of 36-5-501(a)(3) regarding the administration of health insurance coverage for a child in cases where the child is enrolled in the noncustodial parent's employer-based health care plan. Re-writes 36-5-103(f) to establish new procedures for review and adjustment of child support orders by the department of human services. Amends 36-5-101(a)(4) and 36-6-406 to provide that the order or decree of the court may provide that the payments for the child support shall be paid either to the clerk of the court or directly to the spouse or other person awarded custody with the following exceptions: all child or spousal support based upon an income assignment issued by the clerk must be paid to the clerk of the court except for child and spousal support cases subject to central collection and disbursement pursuant to 36-5-116. In all Title IV-D child or spousal support cases in which payment of support is to be made by income assignment or otherwise, and in all cases where payments by income assignment must be made to the central collection and disbursement unit, the court shall only order that the support payments be made to the central collection and disbursement unit pursuant to 36-5-116. No agreement of the parties or order of the court providing otherwise may establish a payment procedure contrary to 36-5-116, except as allowed by 36-5-501(a)(2)(B). Adds language to 36-5-901 to provide that in Title IV-D cases in which overdue support is owed by an obligor and a lien arises against property of the obligor, the lien includes all existing property at the time of the lien's perfection, or acquired thereafter, even if a prior order for overdue support or arrears only specifies a certain amount of overdue support owed at the time of the order. Amends the definition of overdue support under 36-5-901 to include all amounts of support in arrears and that remain unpaid at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien. Amends 36-5-101 to add language providing that, notwithstanding any provisions to the contrary, if the net income of the obligor exceeds \$10,000 per month, then the custodial parent must prove by a preponderance of the evidence that child support in excess of the amount provided by the guidelines is reasonably necessary to provide for the needs of the child(ren).

Effective July 18, 2001, except for the provisions of Sections 2, 6, 7 & 11, which are effective July 1, 2002.

Public Chapter 451

House Bill 649 Senate Bill 1493

Amends 16-21-101 regarding the membership of the judicial council to add one clerk of a civil court and one clerk of a criminal court to be appointed by the president of the state court clerks conference. Enacts a new Title 16, Chapter 3, Part 10 to fund a special revolving loan fund to be known as the "automated court system hardware replacement loan fund" for the purpose of providing interest-free funding for the replacement of computer hardware associated with automated court systems implemented by the courts of the state. Makes all counties in which any court has implemented TNCIS, or a functional equivalent, eligible to receive loans from the fund for the purchase of computer hardware in accordance with an approved hardware replacement schedule. Establishes that all such loans shall be for four years. All hardware acquired by the county shall be from current state contracts. If the county fails to make payments, the

commissioner of finance and administration is directed to retain a sum equivalent to the payment out of any state funds distributed to the county. The state maintains a lien on the hardware until all terms of the agreement are satisfied. All of the first year's funding of the act are from non-state sources.

Effective July 18, 2001.

ENVIRONMENT

Public Chapter 449

Senate Bill 1889 House Bill 1916

Provides for a voluntary cleanup of brownfield sites (sites with real or perceived adverse environmental conditions causing under-utilization of the property) under a program to be administered by the Tennessee department of environment and conservation (TDEC). The commissioner of TDEC is authorized to enter into voluntary cleanup agreements or consent orders for the investigation and/or remediation of brownfield sites. For inactive hazardous substance sites, the commissioner is authorized to enter into voluntary agreements for the apportionment of liability.

Such a voluntary agreement or consent order may limit the participant's liability and exempt the participant from further liability regarding any contamination identified and addressed in the agreement or consent order. The commissioner may extend this liability protection to successors in interest or title.

If the commissioner determines that land use restrictions are appropriate to a brownfield site, a Notice of Land Use Restriction will be filed in the office of the register of deeds in the appropriate county. The register will record the notice and index it in the grantor index under the names of the owners of the land. A copy of this notice will be mailed to all local governments having jurisdiction over any part of the subject property. After public notice and an opportunity for public input, a Notice of Land Use Restrictions may be made less stringent or canceled by the commissioner if the risk to human health and the environment has been eliminated or reduced. Notice of these changes will be mailed to adjoining property owners and affected local governments. If the commissioner determines that restrictions may be removed, then the commissioner will send to the register of deeds a statement that the hazards have changed or been eliminated. The register will record the statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice of Land Use Restrictions and on the grantee index in the name of the commissioner of the department of environment and conservation. A land use restriction under this act may be enforced by any unit of local government having jurisdiction over any part of the subject property through a civil action.

From any federal funds available to TDEC and any state matching funds, the commissioner may provide grants and/or loans to municipalities and counties to conduct screening, investigation, remediation, containment, cleanup and/or closure of inactive hazardous substance sites, solid waste disposal sites or brownfield projects. A local government having jurisdiction over a brownfield project is authorized to use tax increment financing for such project.

Effective July 18, 2001.

FINANCE

Public Chapter 457 House Bill 376 Senate Bill 589
Amends the Public Building Authorities Act of 1971 at 12-10-115 to treat the proceeds received from a lease, loan agreement, sales contract or operating contract with a public building authority for school capital outlay purposes by a county or metropolitan government within which operates a municipal or special school district as school bond proceeds are treated under Title 49. Therefore, proceeds must be shared with such municipality or special school district or the payments must be made from a property tax levied only on the property outside of the municipality (with a school system) or special school district. Also, in addition the property tax, the proceeds from the county or metropolitan government's share of the local option sales tax and/or a portion of the non-classroom component of the basic education program funding generated for capital outlay purposes may be pledged to repay the loan when the proceeds are not shared. Shelby County and any municipality within the county served by a municipal or special school district is excluded from this act by population class exception.

Effective July 24, 2001.

REGISTERS OF DEEDS

Public Chapter 449 Senate Bill 1889 House Bill 1916
See summary under ENVIRONMENT for brownfields legislation that impacts the office of the register of deeds.

RETIREMENT

Public Chapter 446 Senate Bill 1324 House Bill 749
Amends 8-36-108 to provide that death benefits to beneficiaries of law enforcement officers who die in the line of duty and are members of the Tennessee Consolidated Retirement System will have a value of not less than \$50,000 if the governing body of the employer passes a resolution authorizing and accepting the associated liability and cost to provide such benefits. Provides rules for who qualifies as a surviving beneficiary.

Effective July 18, 2001.

TAXATION

Public Chapter 454 Senate Bill 1475 House Bill 1283
Amends 67-4-602 regarding litigation taxes. Provides that the litigation taxes in criminal cases apply to "all criminal charges, upon conviction or by order" rather than merely applying to all criminal cases. Provides that privilege taxes established by 67-4-602(a) for city court are in addition to the privilege tax provided for general sessions court if the city court is exercising concurrent jurisdiction with the general sessions court.

Effective July 24, 2001.

Public Chapter 456 Senate Bill 1496 House Bill 1582
Adds a new part to Title 67, Chapter 4 to enact a tax on all bail bonds. The tax levied is for state purposes only. The department of revenue is given authority to prescribe forms for the collection and remittance of the tax. Levies a tax in the amount of \$12 per bail bond on all bail bonds in this state as provided in Title 40, Chapter 11. Provides that bail bonds sought pending appeal of a conviction are subject to an additional tax, even if the bond is a continuation of the previous bond. Payment of this tax is a condition precedent to validity of any bond. No bond can issue unless the tax has been paid. Directs bail bondsmen to collect and remit the tax to the department of revenue in the manner determined by the department. Four percent of the revenue is distributed to underwrite costs associated with continuing education courses for professional bail bonding agents. The remainder is allocated for the provision of legal representation to low-income Tennesseans in civil matters.

Effective July 24, 2001.

TAXATION - PROPERTY

Public Chapter 448 Senate Bill 1808 House Bill 1873
Amends 67-5-901 to provide that if real property is classified as residential and is used for overnight rentals, then the tangible personal property located within such residential real estate will be classified as other tangible personal property and not as commercial property so long as the owner owns less than three overnight rental properties. Act defines individual owners. This provision is applicable to assessments for tax year 2001 and 2002 and the assessor is required to correct 2001 assessments upon request of the taxpayer. This provision is void after December 31, 2002.

Effective July 12, 2001.

Public Chapter 454 Senate Bill 1475 House Bill 1283
Amends 7-64-103 and 7-64-212 regarding the deadline for application for real property tax deferral to provide that the deadline is March 1 unless the county legislative body establishes a later date by resolution. Amends 7-64-106 and 7-64-208 to change the deadline for complaint to the state board of equalization from August 1 to 45 days of the date written notice is sent of the action that is the subject of the appeal.

Effective July 24, 2001.

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Act (ADEA) or any of the other above referenced policies should be directed to the Office of Diversity Resources (DRES), 2110 Terrace Avenue, Knoxville, Tennessee 37996-3560, telephone (865) 974-2498 (V/TTY available) or (865) 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the Office of Human Resources, 600 Henley Street, Knoxville, Tennessee 37996-4125.

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