

**IN THE TENNESSEE SUPREME COURT**

**CASE NO. M2020-00683-SC-R11-CV**

**THE METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY *et al.*,**  
Plaintiffs / Appellees,

v.

**TENNESSEE DEPARTMENT OF EDUCATION *et al.*,**  
Defendants / Appellants,

and

**NATU BAH *et al.*,**  
Intervenor-Defendants / Appellants.

On Application for Permission to Appeal  
Court of Appeals Case No. M2020-00683-COA-R9-CV,  
Pursuant to Tenn. R. App. Proc. 11

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**SUPPLEMENTAL APPENDIX TO  
INTERVENOR-DEFENDANTS / APPELLANTS  
GREATER PRAISE CHRISTIAN ACADEMY; SENSATIONAL  
ENLIGHTENMENT ACADEMY INDEPENDENT SCHOOL;  
CIERA CALHOUN; ALEXANDRIA MEDLIN; AND  
DAVID WILSON, SR.'S  
BRIEF OF THE APPELLANTS**

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**TABLE OF CONTENTS**

Public Acts of the State of Tennessee, 1965,  
Chapter 122 ..... Supp. App'x 003

Public Acts of the State of Tennessee, 1978,  
Chapter 934 ..... Supp. App'x 009

Certificate of Service ..... Supp. App'x 042

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SENATE

PUBLIC ACTS  
of the  
STATE OF TENNESSEE

Passed by the  
Eighty-Fourth General  
Assembly

1965

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PUBLISHED BY AUTHORITY

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PRINTED BY  
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NASHVILLE

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## CHAPTER NO. 122

## SENATE BILL No. 445

(By Flippin)

AN ACT to amend Chapter 11 of Title 16 of the Tennessee Code Annotated, the same being the state law establishing Courts of General Sessions in certain counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That Section 16-1104 of the Tennessee Code Annotated is amended by adding at the end of said Section, the following:*

Provided, that in all counties of this State having a population of not less than 44,000 nor more than 50,000 according to the Federal Census of 1960 or any subsequent Federal Census, the Judge of said Court shall have the same power and authority as the Circuit Judge in fixing fines and sentences of any person arrested, indicted or presented by the grand jury either in the Circuit Court, or Law Court, on a charge of misdemeanor or a felony, if the maximum punishment by statute of the same is five years in the penitentiary, if the accused desires to plead guilty and be brought before said Judge and receive his fine and sentence. The costs in such cases shall be taxed as in the Circuit Court or Law Court and be the same. In such cases, where the defendant or accused shall desire to so plead guilty, the fact shall be made known to the General Sessions Judge, who shall order the papers in the case transferred to the General Sessions Court, where the same shall be disposed of at the next regular hearing of criminal cases within the jurisdiction where the crime is committed, and the costs shall be distributed as costs in the Circuit Court or Law Court, of any county com-

ing under the provision of this act, as the case may be. In addition, whenever a person is arrested, charged with a misdemeanor or felony, punishable by a maximum sentence of five years in the penitentiary, and is bound over to await the action of the grand jury either at the Circuit Court or Law Court of any county coming under this act, he shall be immediately carried before the Circuit Court Clerk, and, if the person so charged and bound over, shall enter a plea of guilty in writing in which he shall expressly waive indictment or presentment by grand jury, said plea to be sworn to before the clerk by the accused, the clerk shall set the case for hearing, if within the jurisdiction of the Circuit Court, which shall be heard at the following weekly setting of the General Sessions Court and, if within the jurisdiction of a Law Court, he shall forward said plea to the clerk of the Law Court, who shall set the same for hearing at the next weekly setting of said General Sessions Court in that jurisdiction; and the clerks of the respective courts, who are hereinafter made the Clerks of the Criminal and Divorce division of the General Sessions Court, shall summon all witnesses for the State and such witnesses as may be requested by the defendant, and thereupon the General Sessions Judge shall hear the proof in connection with the commission of the offense charged and shall impose such punishment within the limits prescribed by law for the commission of the particular offense, as he thinks mete and proper under the circumstances, which judgment in such cases shall have the force and effect of a judgment rendered by the Circuit Court or Law Court, having criminal jurisdiction after indictment or presentment upon a plea of guilty; and the judge shall have power to select and empanel juries and all powers expressed or implied by

law, necessary to the conduct, trial and punishment of such cases. In addition, the Judge of said Court shall have concurrent jurisdiction with the Circuit and Chancery Courts to hear and determine divorce and workmen's compensation cases."

SECTION 2. *Be it further enacted*, That Section 16-1105 of the Tennessee Code Annotated is hereby amended by adding at the end of said Section, the following:

"Provided, that in any county of this State having a population of not less than 44,000 nor more than 50,000 according to the Federal Census of 1960 or any subsequent Federal Census the General Sessions Judge shall possess the same qualifications prescribed for certain Judges of Courts of record by Section 17-119 of the Tennessee Code Annotated, and he is hereby authorized to sit by interchange with the Judges of the Circuit Court and Law Court when requested to do so by said Judges."

SECTION 3. *Be it further enacted*, That Section 16-1109 of the Tennessee Code Annotated is hereby amended by adding at the end of item B. of said Section, the following:

"Provided that in counties of this State having a population of not less than 44,000 nor more than 50,000 according to the Federal Census of 1960 or any subsequent Federal Census, on and after the effective date provided for in this item, the judges shall receive, in addition to the amount prescribed above, the sum of Three Thousand Dollars (\$3,000.00) per year for performing the additional duties prescribed in this chapter for judges of this category, such addi-

tional amount to be paid out of the State Treasury as compensation is now paid to Circuit Court Judges and Chancellors.”

SECTION 4. *Be it further enacted*, That Section 16-1116 of the Tennessee Code Annotated is amended by adding at the end of said section, the following:

“Provided, that in all counties of this State having a population of not less than 44,000 nor more than 50,000 according to the Federal Census of 1960 or any subsequent Federal Census the Clerk of the Circuit Court, shall be the Clerk of the General Sessions Court in all criminal and divorce actions and workmen’s compensation cases within the jurisdiction of the same, and that the Clerk of the Law Court shall be the Clerk of the General Sessions Court in all criminal and divorce actions and workmen’s compensation cases coming within that jurisdiction; and that the said Clerks shall keep a record of the proceedings had in said jurisdictions as is kept in the Circuit Courts, for which the same fees shall be taxed.”

SECTION 5. *Be it further enacted*, That the provisions of this Act are hereby declared to be severable, and if any of its sections, provisions, clauses, or parts be held unconstitutional or void, then the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

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

Passed: March 9, 1965.

JARED MADDUX,  
*Speaker of the Senate.*

WILLIAM L. BARRY,  
*Speaker of the House of Representatives.*

Approved: March 15, 1965.

FRANK G. CLEMENT,  
*Governor.*

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## CHAPTER NO. 123

SENATE BILL No. 461

(By O'Brien)

AN ACT to amend Section 57-209 of the Tennessee Code Annotated relative to revocation of beer license.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee, That Section 57-209 of the Tennessee Code Annotated is hereby amended by inserting at the end of the second sentence of paragraph one of said section, the following:*

“However, no permit or license shall be revoked on the grounds the operator or any person working for him sells beer to a minor over the age of 18 years if such minor exhibits an identification, false or otherwise indicating his age to be twenty-one or over, if his appearance as to maturity is such that he might reasonably be presumed to be of such age and is unknown to such person making the sale. Provided further, that said license or permit may be suspended for a



# **PUBLIC ACTS**

**of the**

# **STATE OF TENNESSEE**

**Passed by the**

**NINETIETH GENERAL ASSEMBLY**

**VOL. II**

**1978**

**PUBLISHED BY AUTHORITY**

**CHAPTER NO. 934****SENATE BILL NO. 2529****By Blank, Ashe**

Substituted for: House Bill No. 2578

**By Johnson**

AN ACT To amend Tennessee Code Annotated to implement certain amendments to the Tennessee Constitution ratified by referendum on March 7, 1978, relative to county officials and county government; and to amend or repeal certain provisions of Tennessee Code Annotated in conflict with such amendments and to amend, repeal or revise certain provisions of Tennessee Code Annotated relative to former Constitutional county officers abolished by such amendments.

WHEREAS, On March 7, 1978, the voters of Tennessee ratified twelve amendments to the Constitution of Tennessee as proposed by the Limited Constitutional Convention of 1977; and

WHEREAS, The amendments to Article VI, Section 15, and Article VII, Sections 1 and 2, change certain aspects of county government; and

WHEREAS, It is necessary that certain provisions of Tennessee Code Annotated be amended, revised, or repealed to implement such constitutional amendments; now, therefore,

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

**SECTION 1.** Tennessee Code Annotated, Section 5-103, is amended by deleting the section in its entirety and substituting instead the following:

Every county is a corporation and the members of the legislative body of each county assembled are the representatives of the county and authorized to act for it.

SECTION 2. Tennessee Code Annotated, Section 5-104, is amended by deleting the words "county court" and substituting instead the words "county legislative body".

SECTION 3. Tennessee Code Annotated, Section 5-110, is amended by deleting the words "quarterly county court" wherever they appear in the section, except in the third sentence, and substituting instead the words "county legislative body".

Tennessee Code Annotated, Section 5-110, is further amended by deleting the words "county court clerk" and substituting instead the words "county clerk".

Tennessee Code Annotated, Section 5-110, is further amended by deleting the word "court" from the last sentence of the section and substituting instead the words "county legislative body".

SECTION 4. Tennessee Code Annotated, Section 5-111, is amended by deleting the section in its entirety and substituting instead the following new section:

Prior to May 20, 1978, the legislative bodies of the different counties, except the counties organized under the consolidated government provision of Article XI, Section 9 of the Tennessee Constitution, and except for counties provided for in Section 35 of this act shall meet and, a majority of the members being present and concurring, shall change the boundaries of districts, reduce the number of districts, or redistrict a county entirely if necessary to apportion the members of the county legislative body in conformity with Article VII, Section 1 of the Tennessee Constitution. Provided, however, that this provision shall not apply to 1978 elections in any county in which reapportionment in essential conformity with Article VII, Section 1 of the

Tennessee Constitution has been carried out since March 7, 1978, and approved by a court of competent authority prior to the effective date of this act. Members of the county legislative body shall represent substantially equal populations. At the regular August election in 1978, members of the county legislative body shall be elected from the districts so provided. To determine the population within a district for the 1978 elections, the most recent federal census shall be used but if the federal census does not accurately reflect the population or is not available the county legislative body may presume that the number of registered voters in a district is in direct proportion to the population within a district; provided, however, that such voter registration indicates that the most recent federal census is not valid; that such registration most accurately reflects the population of such district; and that the county election commission has complied with the provisions of Tennessee Code Annotated, Sections 2-206 and 2-232.

Prior to January 1, 1982, and at least every ten (10) years thereafter, county legislative bodies of the different counties shall meet and, a majority of the members being present and concurring, shall change the boundaries of districts or redistrict a county entirely if necessary to apportion the county legislative body so that the members represent substantially equal populations. The county legislative body may increase or decrease the number of districts when the reapportionments are made. A county legislative body may reapportion at any time after January 1, 1982 if the county legislative body deems such action necessary to maintain substantially equal representation based on population. The county legislative body must use

the latest federal census data whenever a reapportionment is made after January 1, 1981.

Districts shall be reasonably compact and contiguous and shall not overlap. In the establishment of boundaries for districts, no precinct shall be split.

Upon application of any citizen of the county affected, the chancery court of such county shall have original jurisdiction to review the county legislative body's apportionment, and shall have jurisdiction to make such orders and decrees amending the apportionment to comply with this section, or if the county legislative body fails to make apportionment, shall make a decree ordering an apportionment.

SECTION 5. Tennessee Code Annotated, Section 5-112, is amended by adding to the end of the first sentence the words and figures "and on March 7, 1978".

SECTION 6. Tennessee Code Annotated, Sections 5-113 and 5-114, are amended by deleting the words "quarterly county courts" wherever they appear and substituting instead the words "county legislative body".

Tennessee Code Annotated, Section 5-114, is further amended by deleting the words "quarterly county courts" wherever they appear and substituting instead the words "county legislative bodies".

SECTION 7. Tennessee Code Annotated, Section 5-501, is amended by deleting the section in its entirety and substituting instead the following new section:

Effective September 1, 1978, the legislative power of the county, except as provided in Section 35 of this act and except in those counties organized under the consolidated government

provision of Article XI, Section 9 of the Tennessee Constitution, is vested in a county legislative body. The county legislative body is vested with all legislative powers of the county as provided by law for a quarterly county court, county council or other legislative body of the respective county and is further vested with all legislative powers and duties vested in the justices of the peace prior to the effective date of this act.

References to the quarterly county court, county council or other county legislative body appearing elsewhere in this code shall be deemed references to the county legislative body.

References to the justices of the peace, members or membership of such court, council, or body appearing elsewhere in this code shall be deemed references to the members of the county legislative body.

Members of the county legislative body shall not have the powers and authority given to justices of the peace by Tennessee Code Annotated, Section 19-312; however, such members shall have the powers and authority given to justices of the peace by Tennessee Code Annotated, Section 36-415.

**SECTION 8.** Tennessee Code Annotated, Title 5, Chapter 5, is amended by adding the following new section:

The county legislative body shall be composed of not less than nine (9) nor more than twenty-five (25) members. There shall be at least nine (9) districts in the county legislative body in class 2 counties as established by Tennessee Code Annotated, Section 8-2402. Members shall reside within and be qualified voters of the districts which they represent. Notwithstanding any provision of the law to the contrary, any county

employee, otherwise qualified to serve as a member of the county legislative body, shall not be disqualified from such legislative office by reason of being a county employee. No more than three (3) members shall be elected from any one (1) district. Members shall serve terms of four (4) years or until their successors are elected and qualified. Members of the county legislative body shall be elected in the regular August election in 1978 and every four (4) years thereafter. The members of the county legislative body shall be known individually as county commissioners and collectively as the Board of County Commissioners. The county legislative body shall have discretionary authority to determine whether each office in multi-member districts will be separately designated on the ballot with candidates required to run and to be elected on the basis of such separately designated offices within the district. No candidate shall qualify for more than one (1) such separately designated office within a multi-member district. Provided, however, that in any county having a population of not less than 7,600 nor more than 7,700 according to the 1970 federal census or any subsequent federal census, each office in multi-member districts shall be separately designated on the ballot, and candidates shall run and be elected on the basis of such separately designated offices within the district. Provided, however, that in any county having a population of not less than 12,350 nor more than 12,400 according to the 1970 federal census or any subsequent federal census, each office in multi-member districts shall be separately designated on the ballot, and candidates shall run and be elected on the basis of such separately designated offices within the district.

SECTION 9. Tennessee Code Annotated, Section 5-528, is amended by adding the following new paragraph:

Effective September 1, 1978, except as provided in Section 35 of this act and except in any county organized under the consolidated government provisions of Article XI, Section 9, the quarterly county court, county council, and any other forms of county legislative bodies are abolished and all legislative powers that remained with such court, council, and other forms of legislative bodies are hereby vested in the county legislative body. Provided, however, that in any county in which a court has ruled that the terms of the justices of the peace expire in 1982, the quarterly county court shall continue to have the same duties and responsibilities as provided in Section 35 (b) of this act.

SECTION 10. Tennessee Code Annotated, Title 5, Chapter 5, is amended by adding the following new section:

Whenever a vacancy occurs in the office of a member of the county legislative body, the remaining members of the county legislative body shall fill the vacancy by the election of a qualified person to serve until the office is filled at the next general election, primary election or referendum in the county or general election, primary, or referendum in a municipality in the county if such municipality includes all or part of the district seat to be filled by election in the county occurring seventy-five (75) or more days after the vacancy occurs. If the vacancy occurs within seventy-five (75) days before a general election in the county, the person elected by the county legislative body shall serve until the vacancy is filled at the next succeeding general election. A person elected to fill the vacancy at a general election shall serve



for the remainder of the unexpired term. Provided, however, that in no event shall a person appointed to a vacancy under the provisions of this act serve for a period of time exceeding two (2) years.

**SECTION 11.** Tennessee Code Annotated, Title 5, Chapter 5, is amended by adding the following new section:

In counties electing a county executive as provided in Tennessee Code Annotated, Section 5-601 (b) (1) and (3), as amended by this act, there shall be a chairman and chairman pro tempore.

(a) The legislative body, at its first session on or after September 1, 1978 and annually thereafter, shall elect from its membership a chairman and chairman pro tempore; provided, however, that until September 1, 1982, the county legislative body may elect the county executive to be its chairman. In counties having a population of not less than 8,400 nor more than 8,500 according to the 1970 or any subsequent federal census, having a county administrator who was empowered by private act prior to the effective date of this act to preside over the county legislative body, such county administrator shall continue to preside as chairman notwithstanding the provisions of this act, nor shall said county administrator have the power of veto over legislation passed by said county legislative body, the provisions of this act notwithstanding.

(b) The chairman of the legislative body shall preside over the sessions of the legislative body.

(c) When the regular chairman is unable or fails to attend the meetings of the legislative body, he shall notify the chairman pro tempore; and the chairman pro tempore shall attend, discharge the duties of the office, and be vested with all the

powers of the regular chairman while engaged therein.

(d) The compensation of the chairman and chairman pro tempore shall be fixed by the legislative body but such compensation, if fixed on a per diem basis, shall not be less than the amount fixed for the members of the legislative body; provided further, that the compensation of the chairman pro tempore shall not exceed the compensation allowed the chairman for like services.

(e) In the absence of the chairman and the regular chairman pro tempore, the county legislative body may appoint, temporarily, a chairman pro tempore to preside over the meeting who is vested with all the powers, for this purpose and for the time being, of the regular chairman, or regular chairman pro tempore.

(f) In the event that the county executive is absent, incapacitated or unable to perform the duties of his office, the chairman pro tempore shall discharge the duties of the county executive and shall be vested with all the powers of such county executive while discharging such duties.

The provisions of this section shall not be applicable in any county having an incumbent county judge serving as county executive until a county executive is elected as provided in Tennessee Code Annotated, Section 5-601.

SECTION 12. Tennessee Code Annotated, Section 5-502, is amended by deleting the section in its entirety and substituting in lieu thereof the following new section:

Regular meetings of each county legislative body shall be held at the time, day and place as set by resolution of each legislative body. There shall be at least four (4) regular quarterly meet-

ings of the county legislative body each year. Special meetings of the county legislative body may be called by the county executive or by petition of a majority of the members of the county legislative body in accordance with Tennessee Code Annotated, Sections 5-503, 5-504 and 5-505, as amended. No business shall be transacted, or any appointment made, or nominations confirmed, except in public session.

The provisions of this section shall not apply to any class 1 county established by Tennessee Code Annotated, Section 8-2402, which has by private act adopted regular meetings of its legislative body and procedures for calling special meetings of such body.

SECTION 13. Tennessee Code Annotated, Section 5-503, is amended by deleting the section in its entirety and substituting in lieu thereof the following new section:

The county executive shall have power to convene the legislative body in special session when, in his opinion, the public necessities require it, or upon application to the chairman of the legislative body in writing by a majority of the members of such body, then in that instance, it shall be mandatory for the chairman to call a special session of such body. The convening date of such body shall not be more than fifteen (15) days nor less than forty-eight (48) hours from the time of the filing of such application with the chairman.

The provisions of this section shall not apply to counties of class 1.

SECTION 14. Tennessee Code Annotated, Sections 5-511 and 5-513, are repealed.

SECTION 15. (a) Tennessee Code Annotated, Sections 5-504 through 5-527, are amended by deleting the words "magistrates", "justices of the peace", "justices", and "justices of the county" wherever they

appear and substituting instead the word or words "member of the county legislative body", "member", or "members of the county legislative body" whichever is appropriate as the Tennessee Code Commission determines is the reference to conform to the name of the official or officials created by this act.

(b) Tennessee Code Annotated, Sections 5-504 through 5-527, are amended by deleting the words "court", "county court", "quarterly county court", "quarterly court", "county courts", "quarterly courts" and "quarterly county courts" wherever they appear and substituting instead the word or words "legislative body", "county legislative body", "body", "legislative bodies", "county legislative bodies", or "bodies" whichever is appropriate as the Tennessee Code Commission determines is the reference to conform to the name of the body created by this act.

(c) Tennessee Code Annotated, Section 5-507, is amended by adding the following new paragraph at the end of the section:

Notwithstanding other provisions of this section, the total compensation of each member in counties of the second class according to Tennessee Code Annotated, Section 8-2402, shall be fixed at three hundred dollars (\$300.00) per month; provided, however, that such compensation shall be effective only for members elected to the office of county delegate created by this act.

SECTION 16. Tennessee Code Annotated, Section 5-601, is amended by deleting the section in its entirety and substituting instead the following new section:

(a) Except in counties organized under the consolidated government provisions of Article XI, Section 9 of the Tennessee Constitution, and except as provided in Section 35 of this act, the chief executive officer of each county shall be a county

executive elected in accordance with subsection (b) by the qualified voters of the county for a term of four (4) years or until a successor is elected and qualified. References to the chairman of the county court and county judge appearing elsewhere in this code shall be deemed references to the county executive. The county executive may be otherwise appropriately entitled by private act or by action of the county legislative body.

(b) Election of the county executive shall be in accordance with the following provisions:

(1) In counties of class 1 and counties of class 2 having a county council form of county government as established by Tennessee Code Annotated, Section 8-2402, in counties having a population of not less than 12,350 nor more than 12,375, or not less than 38,800 nor more than 38,900, by the federal census of 1970 or any subsequent federal census, and in counties having a chairman of the county court on the effective date of this act, the county executive shall be elected in the regular August election in 1978 and every four (4) years thereafter.

(2) Except as provided in item (1) of this subsection in counties having an incumbent county judge elected in 1974 for a term of eight (8) years, the incumbent county judge shall serve as county executive until the regular August election in 1982, at which time, and every four (4) years thereafter, a county executive shall be elected.

(3) In all other counties, the county executive shall be elected in the regular August election in 1978 and every four (4) years thereafter.

(c) If a vacancy shall occur in the office of county judge in any county having an incumbent county judge within the provisions of subsection (b) (2) of this section, the office of county judge shall be filled as follows:

(1) If a vacancy occurs prior to the qualifying date for the election of a county executive, the county legislative body shall appoint a county executive to serve until a county executive is elected in the regular August election.

(2) If a vacancy occurs after the qualifying date for the election of a county executive, the county legislative body shall appoint a county executive to serve until a county executive is elected in the next succeeding general election or other county-wide election in such county.

SECTION 17. Tennessee Code Annotated, Title 5, Chapter 6, is amended by adding the following new sections:

Section\_\_\_\_\_. (a) The county executive shall be:

(1) a qualified voter of the county;

(2) at least twenty-five (25) years of age; and

(3) a resident of the county for one (1) full year prior to the date of filing a nominating petition for election to such office; and

(b) The county executive shall continue to reside in the county during his term of office, and shall not, during his term of office, hold any other public office for profit.

Section\_\_\_\_\_. The county executive shall be the chief executive officer of the county and shall have all the powers and duties, formerly exercised by the county judge, county chairman, or elected official exercising general supervision of the county government as provided by Tennessee Code Annotated, Title 5, Chapter 6, other general law, special, local or private acts. Except in counties of classes 1 and 2 as established by Tennessee Code Annotated, Section 8-2402, and except in counties

having a population of not less than 12,350 nor more than 12,375, or not less than 38,800 nor more than 38,900, by the federal census of 1970 or any subsequent federal census, the judicial authority formerly exercised by the county judge, county chairman, or other such elected official of county government shall be vested in the county executive.

The county executive shall serve as a non-voting ex officio member of the county legislative body. The county executive or his designated representative shall serve as a non-voting ex officio member of each committee of the county legislative body and of each board, commission, or authority of the county government, except as provided by law or by action of the county legislative body.

Except as otherwise provided by general law or special or private act, the county executive shall appoint members of county boards and commissions and county department heads subject to approval by the county legislative body; provided, however, that such appointment and approval is not applicable to employees appointed by other elected county officials.

Section\_\_\_\_. Except in counties of class 1 as established by Tennessee Code Annotated, Section 8-2402, the County Executive shall receive for his services such compensation as the county legislative body may determine, provided that the compensation shall be at least fifteen percent (15%) higher than the maximum salary payable to the county trustee of the respective counties under the provisions of Tennessee Code Annotated, Section 8-2403. Provided, however, that such minimum salary shall apply to a county executive who devotes full time to his office. The salary of a county executive who devotes less than

full time to such office shall be determined by resolution of the county legislative body.

SECTION 18. Tennessee Code Annotated, Title 5, Chapter 6, is amended by adding the following new section:

Section\_\_\_\_\_. The county executive shall have the power of veto with respect to resolutions of the county legislative body. Such veto shall apply only to legislative resolutions and shall not apply to resolutions in which the legislative body is exercising administrative or appellate authority. Every resolution shall be submitted to the county executive. If the county executive signs it, the resolution shall become effective immediately or at a later date if the resolution so provides. If the county executive vetoes the resolution, he shall return it to the county legislative body for action on his veto, in which case it shall become effective only upon subsequent passage by a majority of all the members comprising the county legislative body. Such passage must take place within thirty (30) days of receiving the county executive's message of veto or at the next regular meeting of the county legislative body whichever is later. If the county executive fails either to sign or to veto a resolution and to report his action to the county legislative body within ten (10) days after the resolution is submitted to him, the resolution shall become effective without his signature upon the expiration of the ten (10) day period or at a later date if the resolution so provides.

The veto may not be exercised with respect to specific items or parts of items in the annual county budget, and may only be exercised with respect to the whole.



The provisions of this section shall not be applicable in counties having a county judge as provided in Tennessee Code Annotated, Section 5-601 (b) (2), as amended by this act or to counties of class 1 as established by Tennessee Code Annotated, Section 8-2402, which have comparable provisions in special or private acts establishing a veto power in the county executive.

The provisions of this act shall not be applicable in any county in which the county executive is elected as chairman of the county legislative body as provided in Section 11 of this act. This section shall be applicable in counties having a population of not less than 12,350 nor more than 12,375 by the federal census of 1970 or any subsequent federal census. This section shall be applicable in counties having a population of not less than 38,800 nor more than 38,900 by the federal census of 1970 or any subsequent federal census.

**SECTION 19.** Tennessee Code Annotated, Section 5-602, is amended by deleting the first paragraph in its entirety and substituting instead the following new paragraph:

In counties having an incumbent county judge elected in 1974 for a term of eight (8) years, except counties within the provisions of Tennessee Code Annotated, Section 5-601 (b) (1), as amended by this act, the incumbent county judge shall continue to perform all the duties of such office, including presiding over the county legislative body, as provided in Tennessee Code Annotated, Title 5, Chapter 6, as amended by this act, for county executives, and in the general law, special, local or private acts for the office of county judge.

Tennessee Code Annotated, Section 5-602, is further amended by adding the following sentences:

The provisions of this section shall cease to be applicable upon the expiration of the term of any incumbent county judge after the effective date of this act, or upon a vacancy occurring as provided in Tennessee Code Annotated, Section 5-601 (c), as amended by this act. Upon the expiration of such term, or a vacancy in such office, the county shall elect a county executive as provided in Tennessee Code Annotated, Section 5-601.

SECTION 20. (a) Tennessee Code Annotated, Sections 5-603, 5-604, 5-605, 5-606 and 5-607, are each amended by adding the following sentence:

The provisions of this section shall be applicable only in counties having an incumbent county judge serving as county executive as provided in Tennessee Code Annotated, Sections 5-601 (b) (2) and 5-602, as amended by this act.

(b) Tennessee Code Annotated, Sections 5-603, 5-604, 5-605, 5-606 and 5-607, are repealed in their entirety effective September 1, 1982.

SECTION 21. (a) Tennessee Code Annotated, Sections 5-608 through 5-619, are amended by changing all words and references to "county judge" and "chairman of the county court" in whatever manner stated to "county executive". The Tennessee Code Commission is directed to make any grammatical changes necessary to effect such word changes.

(b) Tennessee Code Annotated, Sections 5-603 through 5-607, are amended by deleting the words "county court", "court", and "quarterly county court" wherever they appear and substituting instead the word or words "county legislative body", "legislative body" or "body" whichever is appropriate. The Tennessee Code Commission is directed to make any grammatical changes necessary to effect such word changes.

SECTION 22. Tennessee Code Annotated, Section 18-601, is amended by adding the following paragraphs:

Commencing September 1, 1978, county court clerks shall assume the title "county clerk". The county clerk shall assume all the duties of the county court clerk and all statutes referring to county court clerks shall apply with equal force and effect to the county clerk. The county clerk shall be the clerk of the county legislative body.

The county clerk shall remain an office in this state regardless of the abolition of any county quarterly court.

SECTION 23. (a) Tennessee Code Annotated, Section 8-1001, is amended by adding the following new paragraph:

Effective September 1, 1978 constables in counties other than counties having populations of not less than 127,000 nor more than 128,000 according to the 1970 or any subsequent federal census, and other than those of class 1 as established by Tennessee Code Annotated, Section 8-2402, shall be elected from constable districts established by the county legislative body. Prior to May 20, 1978, the county legislative bodies shall meet and, a majority of the members being present and concurring shall establish constable districts subject to the following limitations: (1) that the number of constables to be elected shall not exceed one-half ( $1/2$ ) the number of county delegates; (2) that constables shall represent substantially equal populations; and (3) that constable districts shall be reasonably compact and contiguous and shall not overlap. In establishing constable districts, population may be determined in the manner used to establish county delegate districts. After 1980, constable

districts shall be reapportioned at least as often as county delegate districts, to insure compliance with the limitations prescribed in this paragraph. Provided however, in counties having a population of not less than 11,500 nor more than 11,600 by the 1970 federal census, or any subsequent federal census, there shall be no more than one constable elected per commissioner district and in addition one additional constable shall be elected for each city or town. In counties having a population of not less than 43,200 nor more than 43,300 by the 1970 federal census, or any subsequent federal census, there shall be no more than two constables elected per commissioner district. Provided, however, in counties having a population of not less than 23,475 nor more than 23,500 by the 1970 federal census, or any subsequent federal census, there shall be one constable elected per county legislative district and in addition one additional constable shall be elected for the county town. In counties having a population of not less than 35,400 nor more than 35,470 by the 1970 federal census, or any subsequent federal census, there shall be one constable elected per county legislative district.

(b) Tennessee Code Annotated, Title 8, Chapter 10, is amended by adding the following new section:

Effective September 1, 1978, the office of constable is abolished in class 2 counties as established by Tennessee Code Annotated, Section 8-2402.

(c) Tennessee Code Annotated, Title 8, Chapter 10, is amended by adding the following new section:

Effective September 1, 1980, the office of constable is abolished in counties of class 1, according to Section 8-2402.

SECTION 24. (a) Tennessee Code Annotated, Title 8, Chapter 14, is repealed.

(b) Tennessee Code Annotated, Sections 5-104 and 5-512, are amended by deleting all references therein to the office of ranger.

SECTION 25. Tennessee Code Annotated, Section 67-301, is amended by deleting the section in its entirety and substituting instead the following new section:

An assessor of property shall be elected by the qualified voters of each county and shall hold office for a term of four (4) years and until his successor is elected and qualified.

SECTION 26. Tennessee Code Annotated, Section 67-303, is amended by deleting the following words and punctuation:

“; provided, that if the vacancy occur between the October and April terms of the county court, the county judge or chairman shall appoint an assessor”.

SECTION 27. Tennessee Code Annotated, Title 19, Chapter 1, is repealed in its entirety.

SECTION 28. Tennessee Code Annotated, Section 2-308, is amended by deleting the following item:

(g) Justice of the peace;

and substituting instead the following item:

(g) Members of the county legislative body;.

SECTION 29. Tennessee Code Annotated, Section 2-514, is amended in subsection (b) by deleting the following item:

(22) County Court Clerk

and substituting instead the following item:

(22) County Clerk

Tennessee Code Annotated, Section 2-514, is further amended in subsection (b) by deleting item (25) in its entirety and renumbering subsequent items accordingly.

SECTION 30. Tennessee Code Annotated, Section 8-3901, is amended in item (9) by inserting after the words "official shall mean" and before the words "a clerk of circuit" the words "a county clerk".

SECTION 31. Tennessee Code Annotated, Section 8-3901, is amended in item (9) by adding the following new sentence:

The term "county official" shall also include any person filling the position of county executive.

SECTION 32. Tennessee Code Annotated, Section 8-3903, is amended in subsection (4) by adding the following new paragraph:

The classification and membership rights of any county judge or county official who is currently a member or a prior class member of the retirement system shall continue in force without interruption and remain applicable when such member remains in the county office for which such classification eligibility originated notwithstanding any change in the title of such office as a result of the provisions of any act to implement the amendments of Article VII, Section 1, of the Tennessee Constitution ratified on March 7, 1978.

SECTION 33. Tennessee Code Annotated, Section 49-217, is repealed effective September 1, 1978.

SECTION 34. It is the intent of the General Assembly to preserve the rights and privileges of holders of outstanding county bonds and other indebtedness. The respective counties shall continue to be liable upon all outstanding bonds and other indebtedness for which they were liable prior to the effective date of this act, and nothing in this act shall

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be construed to abolish, limit, or abrogate any rights or privileges heretofore existing in any holders of such outstanding bonds or indebtedness.

With respect to county bonds and other indebtedness, the county executive established by this act shall succeed to all rights and duties heretofore existing as to any officers whose functions are assumed in whole or part by the county executive pursuant to this act. Likewise with respect to county bonds and other indebtedness, the county legislative body established by this act shall succeed to all rights and duties heretofore existing as to any entities whose functions are assumed in whole or part by the county legislative body pursuant to this act.

**SECTION 35.** (a) With respect to any county having a county manager form of government established by private act, in which members of the county council serve staggered terms and appoint the county manager, the General Assembly shall establish an alternate form of county government which shall by referendum be submitted for approval or rejection by the qualified voters of the county; provided, however, that the form of government of such county, except for the term of office of the members of the legislative body, shall remain in form, effect, and operation until such new alternate form of government is established or 1982, whichever is sooner. If an alternate form of government is not established prior to January 1, 1982, the county government shall be determined in accordance with Sections 1 through 27 of this act. Effective September 1, 1978, the county council of such county is the county legislative body and is vested with all legislative powers and duties of the quarterly county court of such county and the quarterly county court is abolished effective September 1, 1978.

(b) It is the legislative intent of this subsection to provide a reasonable transition period for counties

having a county board of commissioners form of government on January 1, 1978, to establish a new form of county government. Since it has been judicially decreed that the present term of members of the quarterly county court in such counties shall extend until 1982 and since a measure to organize the government of such counties as a metropolitan form of government under Article XI, Section 9, is now pending and is scheduled to be voted on by the people in the 1978 regular November election, it is declared to be the intention of the General Assembly to alter the form of government in such counties on September 1, 1980.

With respect to any county having a county board of commissioners form of government established by private act, the form of government of such county existing on January 1, 1978, except for the term of office of certain members of the commission shall remain in form, effect and operation until September 1, 1980. Notwithstanding the provisions of any private act to the contrary, the term of county commissioners elected at the 1978 regular August election shall be two (2) years and shall expire on August 31, 1980, and such county offices shall be abolished on September 1, 1980.

If an alternate form of government is not established prior to January 1, 1980, the form of county government shall be determined in accordance with Sections 1 through 27 of this act and in the regular August election of 1980, a county executive and a county legislative body shall be elected as provided by the laws governing the election of county officials in such county.

Notwithstanding any provision of the law to the contrary, if a vacancy occurs in the office of county judge in such counties after August 31, 1980, such vacancy shall not be filled and the powers, duties and functions of a judicial nature of such office shall be



transferred to the chancery court of such counties. Effective September 1, 1982, the office of county judge in such counties is abolished.

Notwithstanding any provision of the law to the contrary, effective September 1, 1980, the sole powers and duties of the quarterly county court in such counties until the expiration of their term of office shall be as provided pursuant to Article XI, Section 17, of the Tennessee Constitution, relative to filling vacancies in county offices and electing notary publics.

In the event the provisions of this subsection are held to be invalid by a court of last resort, the form of government in counties affected thereby shall be determined in accordance with Sections 1 through 27 of this act, and the election commission in such counties shall immediately conduct a special election as provided in Tennessee Code Annotated, Title 2, Chapter 14, for the purpose of electing a county executive and county legislative body who shall serve until September 1, 1982.

(c) With respect to any county having a county council form of government, which has been adopted and ratified by the qualified voters in a referendum within the three (3) years prior to the effective date of this act; which has apportioned such county into at least two (2) districts; and which has members of its legislative body serving four (4) year terms that expire in 1978, the form of the county legislative body on the effective date of this act in such county shall remain in form, effect and operation until 1982. If an alternate form of government is not established prior to January 1, 1982, the county government shall be determined in accordance with Sections 1 through 27 of this act. Effective September 1, 1978, the county council of such county is the county legislative body and is vested with all legislative powers and duties of the quarterly county court of such county and the

quarterly county court is abolished effective September 1, 1978.

**SECTION 36.** The Tennessee Code Commission is directed to change references to the existing names of officials, offices and bodies wherever they appear in Title 5 of Tennessee Code Annotated, to conform to the name of officials, offices, and bodies created by the provisions of this act. The Tennessee Code Commission is directed to change references to the existing names of officials, offices and bodies wherever they appear in Tennessee Code Annotated when such references are needed to implement changes in the county executive, administrative or legislative functions established by the provisions of this act. The Tennessee Code Commission is authorized to make grammatical changes in the provisions of Title 5 of Tennessee Code Annotated to effectuate such changes.

**SECTION 37.** Nothing in this act shall be construed as having the effect of diminishing any office holder's current term.

**SECTION 38.** (a) Notwithstanding any provision of Tennessee Code Annotated, Title 2, to the contrary, in 1978 only, candidates for the offices of county executive, member of the county legislative body, constable, or other county elected office created or modified by this act shall be qualified for election as follows:

- (1) In any county in which the boundaries of the magisterial districts and the number of members established for the county legislative body on the effective date of this act are in conformity with the provisions of Article VII of the Tennessee Constitution and the provisions of this act; in which no reapportionment of districts or increase or decrease of members in the legislative body is required; and in which a primary election for

justice of the peace is held on May 2, 1978, any person nominated for magistrate or justice of the peace shall be the qualified political party nominee for members of the county legislative body. The deadline for filing nominating petitions for candidates for member of the county legislative body in the 1978 regular August election is not extended.

(2) In any county in which the boundaries of the magisterial districts and the number of members established for the county legislative body on the effective date of this act are in conformity with the provisions of Article VII, Section 1 of the Tennessee Constitution and the provisions of this act and in which no reapportionment of districts or increase or decrease of members in the legislative body is required; any person who has filed a nominating petition as a candidate for the county legislative body of such county shall be qualified as a candidate for members of the county legislative body created by this act. The deadline for filing nominating petitions for candidates for members of the county legislative body in the 1978 regular August election is not extended.

(3) In any county where the boundaries of the districts from which members of the county legislative body are to be elected must be adjusted or the number of members established for such body must be increased or decreased to conform with the provisions of Article VII of the Tennessee Constitution and the provisions of this act, candidates for the office of member of the county legislative body shall qualify by filing all nominating petitions no later than twelve (12) o'clock noon, prevailing time, on the seventh Thursday before the regular August election. In multi-member districts in which the county legislative body has determined that each office in

the district will be separately designated on the ballot with candidates required to run and to be elected on the basis of such separately designated offices within the district, such petition shall designate the office for which election is sought.

(4) Except in class 1 counties as established by Tennessee Code Annotated, Section 8-2402, candidates for the office of constable shall qualify by filing all nominating petitions no later than twelve (12) o'clock noon, prevailing time, on the seventh Thursday before the regular August election.

(5) In all counties, candidates for the office of county executive or any other county elected office created or modified except a modification consisting solely of a change in the name of any title or office of county government by this act shall qualify by filing all nominating petitions no later than twelve (12) o'clock noon, prevailing time, on the seventh Thursday before the regular August election.

The provisions of this subsection shall not apply to counties of class 1.

(b) Notwithstanding any provision of Tennessee Code Annotated, Title 2, to the contrary, for the purpose of complying with the provisions of this act the county election commission of any county may establish, consolidate, or change the boundaries of precincts within fifty-five (55) days of the regular August election.

(c) Notwithstanding the provisions of this act to the contrary, in counties within the provisions of item (2) of subsection (a) of this section, in 1978 candidates for the county legislative body receiving the highest number of votes cast for such office in each district shall be elected.

The provisions of this subsection shall not apply to counties of class 1.

(d) Notwithstanding any political party rule to the contrary, in 1978 only, political parties may nominate their candidates for such county offices by convention or any other method of nominating candidates provided that such person so nominated shall be certified to the coordinator of elections as provided by law. Any other provisions of the law applicable to such time period are hereby adjusted accordingly for such county offices. The sole purpose of this section is to authorize the qualification of candidates for election in the 1978 regular August election to elective county offices created by this act.

(e) Notwithstanding any provisions of the law to the contrary and for 1978 only, if the county executive committee of any political party chooses to nominate its candidates for the office of county executive or its delegates to the county legislative body by a primary election, it may do so by directing the county election commission to hold a limited county primary scheduled not later than June 20, 1978. The request to the county election commission shall be received not later than 12:00 noon prevailing time on May 20, 1978. In the event that a county executive committee of either party decides to hold a primary, then the primary candidates shall file their nominating petitions no later than 12:00 noon prevailing time on May 25, 1978. Candidates shall be permitted to withdraw their nominating petitions under the terms of Tennessee Code Annotated, Section 2-509, except that the date of the candidates' withdrawal shall be not later than 12:00 noon prevailing time on June 1, 1978. Notice of election shall be given on May 21, 1978.

Notwithstanding any provisions of the law to the contrary and for 1978 only, if a party chooses to nominate its candidates for the office of county executive

or its delegates to the county legislative body by primary election, applications for absentee ballots by mail may be received between May 25, 1978 and June 13, 1978, and the absentee ballots shall be mailed out as soon as possible after June 1, 1978. Absentee voting by personal appearance shall begin on June 3, 1978 and shall end on June 17, 1978.

The provisions of this subsection shall apply only in class 2 counties.

(f) In any county required by the provisions of Section 8 of this act to designate specific offices for candidates of multi-member districts for the county legislative body, such office shall be designated on the qualifying petition.

**SECTION 39.** In counties of class 2 according to Tennessee Code Annotated, Section 8-2402, having a county council form of government on the effective date of this act, the county judge shall, effective September 1, 1978 and in addition to judicial authority otherwise conferred by law, have jurisdiction concurrent with that of other judicial authorities in the county relative to judicial determinations of mental retardation or illness pursuant to Tennessee Code Annotated, Sections 33-509 and 33-604, and relative to authority in all matters involving domestic relations pursuant to Tennessee Code Annotated, Title 36.

The court of such judge in the exercise of the jurisdiction conferred by this section shall be deemed to be a court of record for all purposes, and each clerk of any court sharing jurisdiction with the county judge pursuant to this section shall likewise serve as clerk to the county judge for purposes of such shared jurisdiction.

**SECTION 40.** Any provision of law, private act or general act of local application in conflict with any provision of this act is hereby repealed.

Chapter 183 of the Private Acts of 1937 and all acts amendatory thereto are repealed effective August 31, 1980.

**SECTION 41.** Any provision of law, private act or general law of local application not in conflict with the provisions of this act shall remain in full force and effect; provided, however, that any conflict shall be construed in favor of implementing the provisions of this act and repealing the conflicting provisions of law.

Nothing in this act shall be construed as affecting the operation of existence of boards, commissions, committees, or other agencies of local government except as necessary to avoid conflict with express provisions hereof.

**SECTION 42.** The General Assembly finds and declares that the complexity of the general, special, and private acts on county government and the time limitations on the Ninetieth General Assembly mandate that the initial legislation to implement the amendments to Article VII, Section 1, of the Tennessee Constitution provide a transition which will assure orderly election of county officers, minimum disruption in the upcoming regular August elections, and continuity of county government. The constitutional prohibition on diminution of the terms of incumbent office holders and the myriad problems posed by the provisions of general law and private acts establishing the duties and responsibilities of such office holders, dictate a transition in county government in which the smaller counties continue the incumbent county judge for the remainder of his term as the chief executive officer of such counties to exercise the authority and duties for which they were elected. The General Assembly further finds and declares that in certain counties where there exist alternative forms of county government, the failure to provide a reasonable period of transition to alter the

form of county government created by this act will be disruptive of the orderly process of government in such counties and will create unique problems which can be better resolved by the General Assembly during the period of transition and by the voters of such counties if they desire to adopt an alternate form of county government pursuant to Article VII or Article XI of the Tennessee Constitution. It is the intention of the General Assembly by this act to create a uniform system of county government by the establishment of the county legislative body and the office of county executive as the basic units of government, while providing a reasonable period of transition for certain counties to avoid the disruptive effects of rapid change in their government.

In the event that any provisions of this act providing for temporary perpetuation of existing county offices or forms of government are held to be invalid by a court of last resort, it is the legislative intent that the form of government in counties affected thereby be determined in accordance with Sections 1 through 27 of this act, and that special elections be immediately conducted in such counties as provided in Tennessee Code Annotated, Title 2, Chapter 14, for the purpose of electing a county executive and county legislative body.

**SECTION 43.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

In the event that any provisions of this act providing for temporary perpetuation of existing county offices or forms of government are held to be invalid by a court of last resort, the form of government in



counties affected thereby shall be determined in accordance with Sections 1 through 27 of this act, and the election commission in such counties shall immediately conduct a special election as provided in Tennessee Code Annotated, Title 2, Chapter 14, for the purpose of electing a county executive and county legislative body who shall serve until September 1, 1982.

**SECTION 44.** Sections 4, 7, 8, 9, 16, 17, 19, 22 through 26, 28, 29, 31, 32 and 34 through 43 shall take effect on becoming a law, the public welfare requiring it. All other sections shall take effect September 1, 1978.

**PASSED: April 27, 1978**

**John S. Wilder,  
SPEAKER OF THE SENATE**

**Ned R. McWherter,  
SPEAKER OF THE HOUSE OF REPRESENTATIVES**

**APPROVED: May 11, 1978**

**Ray Blanton,  
GOVERNOR**

**CERTIFICATE OF SERVICE**

I certify that a true and exact copy of the foregoing document was served via Tenn. S. Ct. R. 46A through the e-filing system and was forwarded to the attorneys listed below via the e-mail addresses below on this 8th day of March, 2021.

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