PART I. CHARTER AND RELATED LAWS

ARTICLE 1. IN GENERAL

Sec. 1. Taxing District of Shelby County created.

The several communities embraced in the territorial limits of the municipal corporations in this state as have been, or may have their charters abolished, or as may surrender the same under the provisions of this Act, are hereby created taxing districts, in order to provide the means of local government for the peace, safety and general welfare of such districts. (Acts 1879, ch. 11, § 1)

Sec. 2. Name of city restored.

Styles and names of all communities and places in the territorial limits of such municipal corporations whose inhabitants was over 35,000 by the Federal Census of 1870, or may be by any subsequent Federal Census, and whose charters were repealed, and which said territory and inhabitants were organized under the name and style of the taxing district under the Acts of Tennessee passed January 29, 1879, and approved January 31, 1879, Acts 1879, chapters 10 and 11, pages 13 and 15, and amendatory Acts thereto, are hereby changed to the names such cities had prior to the repeal of their respective charters.

Wherever in said Acts of January 29, 1879, and Acts amendatory thereof, as above stated, the words "Taxing District" appear, said words, when referring to the names of the municipality, shall be eliminated and omitted, and the names that existed prior to the repeal of such charters be substituted therefor, and the said Acts are hereby amended accordingly. (Acts 1891, ch. 229, §§ 1, 2)

Editor's note—Since the taxing district had a population of more than 35,000 under the Federal Census of 1870, this section restored the name of "City of Memphis," which was the name of the municipal corporation whose Charter was repealed by Acts 1879, Chapter 10.

A proclamation of W. L. Clapp, President of the City of Memphis, dated April 13, 1891, declares that under the Act approved March 30, 1891, the Legislative Council of the Taxing District of Shelby County did, by resolution dated April 9, 1891, resolve to change the name and style of the municipality from the "Taxing District" to the "City of Memphis," and he, by said proclamation, gave notice accordingly of the change of name.

In accord with this section, the term "taxing district" has been changed to "city" throughout this compilation

Secs. 3—5. Reserved.

Editor's note—Sections 3—5, which described the corporate limits and extensions thereof, were repealed by Private Acts 1949, Chapter 675. See now §§ 5.1 and 5.2.

Sec. 5.1. Corporate limits defined.

All the people and territory within the following boundaries shall be and become a part of the City of Memphis, to wit:

Beginning at a point of intersection of the midstream of the Mississippi River with a projection westwardly of the north line of Waterworks Avenue, running thence eastwardly with said projection and with said north line of Waterworks Avenue to the midstream of Wolf River;

Thence northwardly and eastwardly with the midstream of Wolf River to a point of intersection with a projection westwardly of the center line of that portion of the Wolf River Flood Control Wall, as surveyed and monumented by the United States Engineers, which runs on a straight line westwardly 705 feet from the west right-of-way line, of the Illinois Central Railroad;

Thence eastwardly along said projection and along the center line of said Wolf River Flood Control Wall, as surveyed and monumented by the United States Engineers to the east line of Thomas Street;

Thence eastwardly and southeastwardly along the center line of the Wolf River Flood Control Levee, as surveyed and monumented by the United States Engineers, to a point of intersection with a projection of the center line of Missouri Avenue as projected westwardly from North Watkins Street (formerly called Payne Street);

Thence eastwardly with the center line of Missouri Avenue to an intersection with the center line of St. Louis Street;

Thence eastwardly to a point in the center line of the Wolf River Flood Control Levee, as surveyed and monumented by the United States Engineers, at its intersection with the center line of May Street as projected northwardly;

Thence continuing eastwardly with the center line of the Wolf River Flood Control Levee, as surveyed and monumented by the United States Engineers, to an intersection with the center line of Heard Avenue as projected westwardly;

Thence eastwardly along said projection of the center line of Heard Avenue and with the center line of Heard Avenue and with an eastward projection of the center line of Heard Avenue to a point of intersection with a northerly projection of the center line of Fairfax Street;

Thence southwardly along the projection of Fairfax Street to a point of intersection with the center line of the Wolf River Flood Control Levee, as surveyed and monumented by the United States Engineers, said point being 340 feet more or less south of the projection of the center line of Heard Avenue;

Thence southeastwardly with the center line of the said Wolf River Flood Control Levee to the center line of Peres Avenue;

Thence eastwardly with the center line of Peres Avenue to the west right-of-way line of the Illinois Central Railroad (formerly the Memphis and State Line Railroad) north of Peres Avenue;

Thence northwardly with the west right-of-way line of the Illinois Central Railroad (formerly the Memphis and State Line Railroad) to the north line of lot 20 of the A. B. Warford Subdivision;

Thence eastwardly with the north line of lot 20 and lot 1 of the A. B. Warford Subdivision to the west line of Warford Street, being 746.3 feet more or less north of the north line of Peres Avenue;

Thence eastwardly with the extension of the north line of lot 1 of the A. B. Warford Subdivision and the north line of block 3 of the W. O. Crump's Warford Avenue Subdivision and the north line of the Douglass Place Subdivision and said north line extended to the center line of Highland Road;

Thence northwardly along the center line of Highland Road to the projection of the north line of lot 22 block B. of the National Park Land Company's Union Villa Subdivision;

Thence eastwardly along the north line of said Union Villa Subdivision and being the south line of the 106.98 acre tract of Gilbert Delugach, trustee, to the center line of the right-of-way of the old Raleigh Springs Railroad Company;

Thence northeastwardly along the center line of the old Raleigh Springs Railroad Company to the west line of the McMath and Johnston Subdivision of the Kallaher 22 1/3 acres;

Thence northwardly with the west line of the McMath and Johnston Subdivision and said line projected to a projection of the center line of Burrow Road;

Thence eastwardly with the projection of the center line of Burrow Road to a point 200 feet west of the west line of Raleigh Road;

Thence northeastwardly parallel to and 200 feet distance from the west line of Raleigh Road to a projection of the center line of Wendt Road;

Thence eastwardly along the projection of and the center line of Wendt Road to the center line of Tant Road;

Thence southwardly with the center line of Tant Road to the center line of Wells Station Road;

Thence eastwardly with the center line of Wells Station Road to an angle point in Wells Station Road;

Thence southwardly along the center line of Wells Station Road to an angle point in Wells Station Road;

Thence eastwardly with the center line of Wells Station Road to an angle in Wells Station Road;

Thence continuing southeastwardly and southwardly along the center line of Wells Station Road to the center line of Macon Road;

Thence eastwardly with the center line of Macon Road to the center line of Stratford Road;

Thence southwardly along the center line of Stratford Road to the center line of U. S. Highway No. 70;

Thence eastwardly along the center line of U. S. Highway No. 70 to the center line of Mendenhall Road;

Thence southwardly following the meanderings of the center line of Mendenhall Road to the center line of Cole Road;

Thence eastwardly along the center line of Cole Road to the center line of White Station Road;

Thence southwardly along the center line of White Station Road and said center line extended to the south right-of-way line of the Southern Railway;

Thence westwardly the south right-of-way line of the Southern Railway to a projection of the east line of lot 33 of the Heard Subdivision, said point being 199.4 feet more or less east of the east line of Perkins Road;

Thence southwardly along the projection of the east line of said lot 33 and with the east line of lots 33, 34, 35, 36, 37, 38, 39 and 40 of the Heard Subdivision;

Thence westwardly to the center line of Perkins Road;

Thence southwardly with the center line of Perkins Road to the center line of Park Road;

Thence westwardly with the center line of Park Road to the center line of Cherry Road;

Thence southwardly with the center line of Cherry Road to the center line of Willow Road;

Thence westwardly with the center line of Willow Road to a line 643.5 feet east of the east line of Goodlett Road;

Thence southwardly parallel with the east line of Goodlett Road and 643.5 feet east of the east line of Goodlett Road to a point 1150 feet south of the projection of the south line of Mallory Road;

Thence westwardly with a line parallel to and 1150 feet south of the south line of Mallory Road to a point 605 feet west of the west line of Highland Road;

Thence northwardly with a line parallel to and 605 feet west of the west line of Highland Road to the center line of Mallory Road;

Thence westwardly with the projection of the center line of Mallory Road to the center line of Prescott Road;

Thence southwestwardly with the center line of Prescott Road and its projection to a point of intersection of the projection of Prescott Road and the center line of Ketchum Road as projected eastwardly;

Thence westwardly along the projection of the center line and the center line of Ketchum Road to the center line of Airways Road;

Thence southwardly with the center line of Airways Road to the center line of Alcy Road;

Thence westwardly with the center line of Alcy Road and the west projection of Alcy Road to the center line of Hernando Road;

Thence southwardly with the center line of Hernando Road to the projection of the south line of lot 119 of the South Memphis Land Company's Prospect Park Subdivision, being 218.8 feet south of the south line of Alcy Road;

Thence westwardly following the south line of said Prospect Park Subdivision and the First Addition to Prospect Park Subdivision to the west line of lot 184 of the First Addition to Prospect Park Subdivision, being 359.4 feet south of the south line of Alcy Road;

Thence northwestwardly to the center line of the Nonconnah Creek Flood Control Levee at the first angle of said Flood Control Levee south of the right-of-way of the Illinois Central Railroad (formerly called the Memphis and State Line Railroad);

Thence westwardly with the center line of said Nonconnah Creek Flood Control Levee, as surveyed and monumented by the United States Engineers, to a point of intersection with the western right-of-way line of the Yazoo and Mississippi Valley Railroad, said point being 100 feet west of the center line of the Yazoo and Mississippi Valley Railroad;

Thence southwardly along the western right-of-way line of the Yazoo and Mississippi Valley Railroad and continuing westwardly and southwardly along the northern and western right-of-way line of the Yazoo and Mississippi Valley Railroad's low line or southbound main line to the north line of Holmes Road projected westwardly;

Thence westwardly with the projection of the north line of Holmes Road to the center line or midstream of the Mississippi River, being the boundary between the States of Tennessee and Arkansas;

Thence northwardly along the midstream of the main channel of the Mississippi River to the point of beginning. (Priv. Acts 1949, ch. 675)

Sec. 5.2. Corporate limits extended.

The corporate limits of the city, as defined in the preceding section, are further extended, as follows:

Beginning at a point on the present city limits in the center line of Wells Station Road 830 feet more or less south of the south right-of-way line of the L. & N. Railroad; and running eastwardly to the north line of Lot 127 of the Thrifthaven Subdivision; thence running eastwardly and southwardly along the north and east lines of the Thrifthaven Subdivision to the north line of the Jiedel 10-acre tract; thence southwardly to the northeast corner of Lot 247 of the Second Addition to Lynwood Park and continuing southwardly along the east line of the Second Addition to Lynwood Park and continuing southwardly along the east line of the Second Addition to Lynwood Park Subdivision and the east line of the First Addition to Lynwood Park Subdivision and the east line of the Lynwood Park Subdivision to the north

line of the First Addition to the Rondale Subdivision; thence eastwardly along the north line of the First Addition to the Rondale Subdivision to the east line of the First Addition to the Rondale Subdivision; thence southwardly along the east line of the First Addition to the Rondale Subdivision to the north line of Gailwood Road; thence eastwardly along the north line of Gailwood Road, if extended eastwardly, to an intersection with the east line of Stratford Road extended northwardly; thence southwardly with the extension of the east line of Stratford Road to the north line of Macon Road; thence eastwardly along the north lines of the John Gaia 10-acre tract, the Police Spinola 10-acre tract, the Alex Canopari 20-acre tract and the extension of said north line to an intersection with the east line of Mendenhall Road if extended northwardly; thence southwardly with the extension of Mendenhall Road to the north line of Macon Road; thence eastwardly with the north line of Macon Road to the east line of Bartlett Road; thence southeastwardly to the intersection of the south line of U.S. Highway 70 with the east line of White Station Road; thence southwardly with the east line of White Station Road to the north line of Pleasant Acres Subdivision; thence eastwardly with the north line of Pleasant Acres Subdivision; and the First Addition to Pleasant Acres Subdivision to the east line of the First Addition to Pleasant Acres Subdivision; thence southwardly with the east line of the First Addition to Pleasant Acres and the east line of the Suggsland Subdivision to the north line of Lot 16 of the Suggsland Subdivision; thence eastwardly with the north line of said Lot 16 to the east line of the Suggsland Subdivision; thence southwardly with the east line of the Suggsland Subdivision to the south line of Poplar Pike; thence westwardly with the south line of Poplar Pike to the center line of White Station Road; thence southwardly with an extension of the center line of White Station Road to the south right-of-way line of the Southern Railway Company; thence westwardly along the south right-of-way line of the Southern Railway Company to the east line of Hyatt Street; thence southwardly with the east line of Hyatt Street to the south line of G. N. Truss Subdivision; thence westwardly with the south line of the Truss Subdivision to the east line of Mt. Moriah Road; thence southwardly with the east line of Mt. Moriah Road to the south line of Willow Road; thence westwardly with the south line of Willow Road to a point 643.5 feet east of the east line of Goodlett Road; said point being in the present city limits. (Priv. Acts 1953, ch. 287, § 1)

Editor's note—Ordinances annexing territory subsequent to the above Act are not included herein, but are on file in the comptroller's office.

Sec. 5.3. Areas Assigned on Annexation.

The terms and provisions of an annexation ordinance shall describe the area to be annexed and shall assign such area to a council district or districts. In order to assure that districts shall at all times be as equal in population as practicable, revisions, changes or eliminations shall be made and new districts created; however, there shall be no more than seven (7) districts as heretofore set forth.

Whenever the Council of the City of Memphis finds that territory or territories have been annexed to the City more than one year prior to the next regular city election and that the total number of registered voters in said annexed territory or territories exceeds the total number of registered voters in the council district with the smallest number of registered voters, then and only in that event the registered voters in the newly annexed territory or territories shall elect a person to become a temporary City Councilman from said territory or territories until the installation of the next duly elected thirteen member City Council with the rights and compensation as members of the City Council. The qualifications for such candidates for such temporary Council seat shall be the same as those for regular council seats from Council districts except that the candidates for temporary Councilman shall have resided during the five years next preceding his or her election in said territory or territories recently annexed. The first election for said temporary Council seat shall be at the next general election after the ratification of the Charter amendment and thereafter at the next general election after the Council finds that an annexation calling for the election of a temporary Councilman has occurred.

In the event it is necessary to have a run-off as provided in the Amendment to the Home Rule Charter of the City of Memphis, Tennessee, being Ordinance 1794, as adopted at an election held November 5, 1968*, the provisions of said amendment to the Charter shall be applicable.

The person finally elected shall become a temporary City Councilman immediately after the final results of said election shall have been certified by the Shelby County Election Commission to the Comptroller of the City of Memphis and said results have been made a part of the minutes of the Council of the City of Memphis. (Ord. No. 1852, 11-8-66, Ord. No. 662, 4-28-70)

Sec. 5.4. Re-Districtricting After Decennial Census. Notwithstanding the provisions of the preceding Section of this Ordinance, a review and adjustment of the boundaries of said districts as originally established, or as thereafter changed, shall be completed not less than ninety (90) days prior to the next Municipal Election following the publication of the official decennial federal census and shall be as equal in population as practicable. (Ord. No. 1852, 11-8-66)

ARTICLE 2. CITY ELECTIONS*

***Cross references—**Special election to fill vacancy on council, § 29; determination of contested election for mayor, § 39; election of city court judges, § 252 et seq.; election of judge of juvenile court, § 297; bond elections under public works act, § 874 et seq.; election of school commissioners, § 937 et seq.

Code reference—Elections, Ch. 1-16.

State law reference—Elections, T.C.A., Title 2

Sec. 6. Qualifications of voters.

In all municipal elections hereafter to be held in said city, the voters thereat must have all the qualifications necessary to entitle them respectively to vote for members of the General Assembly of the State of Tennessee, and, in addition thereto, must have resided for six (6) months next preceding the date of such election in said city. (Acts 1897, ch. 195, § 1)

Sec. 6.1. Date of elections.

(1) The date of municipal elections shall be the first Thursday following the first Tuesday in October. Said elections to conform in all respects to the provisions of law and the Charter of the City of Memphis pertaining to municipal elections, except as to time.

(2) In all municipal elections a candidate must receive a majority of the votes cast in said municipal election. If no candidate receives such a majority of votes, then a municipal run-off election shall be held four (4) weeks thereafter wherein two (2) Candidates receiving the highest number of votes in the municipal election shall be the only candidates, and the candidate receiving a majority of the votes cast in said run-off election shall be elected.

(3) In any special municipal election held as required by law at any regular August election in which no candidate receives a majority vote and requiring under the Charter of the City of Memphis a run-off election of the candidates receiving the two largest number of votes, said run-off election shall be held at any regularly scheduled November election occurring within one hundred (100) days thereafter and the winner of this run-off shall be elected. If a special municipal election becomes necessary in any year in which there is no general election, then the run-off election shall be held four (4) weeks thereafter as now required by law.

(4) The term of said officers elected at said election shall begin at the time specified in Chapter 447 of the Acts of 1917 and amendments thereof, and they shall hold office for the terms therein set forth and until their successors are elected and qualified.

(5) Nothing in this Act shall be held to amend, alter or repeal any provisions of the Charter of the City of Memphis with respect to the holding of such general municipal elections, or the terms or tenure of any officer to be elected at such election. (Priv. Acts 1959, ch. 204, §§ 1, 2; Ord. No. 1794, 5-31-66, Ord. No. 1852, 11-8-66, Ord. No. 2062, 5-28-74)

Editor's note—Ord. No. 1865, enacted September 6, 1966, approved at referendum election held November 3, 1966, amended the charter by changing the date of municipal election to the first Thursday following the first Tuesday in October, beginning October, 1967. For amendment see Ord. No. 1865 set out in full under "Home Rule Amendment" of this volume.

Sec. 7. Reserved.

Editor's note—Section 7, relating to the qualifications for women voters, was derived from Public Acts 1919, Chapter 139, and was not a special act relating to the city. It has been omitted from this compilation.

Sec. 7.1. Nominating petitions.

A nominating petition or other qualifying procedure on behalf of a candidate for the office of Councilman for a district shall designate the number of the particular district of the Legislative Council for which he or she is a candidate.

Each nominating petition shall be accompanied by a deposit of one hundred ($100.00) dollars to be made with the Secretary of the Shelby County Election Commission. In the event a candidate shall be elected or receive as much as ten per cent (10%) of the total votes polled in the particular race in which he or she is a candidate, said amount shall be refunded to such candidate; otherwise, said amount shall be paid by the Secretary of the Election Commission to the Comptroller of the City of Memphis and by him applied to the general fund of the City. No person may be qualified as a candidate for more than one office in any one election.

Each nominating petition for an elective office shall be accompanied by a deposit to be made and refunded in the same manner as hereinabove prescribed for Councilmen. (Ord. No. 1852, 11-8-66)

Sec. 8. Opening and closing of polls.

In all cities in the state having a population of 250,000 or over by the Federal Census of 1930, or any future Federal Census, the polls shall be opened at 8:30 A.M. and closed at 7:30 P.M. (Acts 1859-60, ch. 75; Acts 1907, ch. 156; Priv. Acts 1917, ch. 623; Priv. Acts 1935, ch. 158)

Sec. 9. Printing ballots, etc., to be paid by city.

The printing and distribution of ballots and cards of instructions to voters shall, in all municipal elections, be paid by the city. (Acts 1890 [2nd Sess.], ch. 24, § 1)

Sec. 10. Policemen and firemen interfering in elections.

In no case shall any regular or special policeman or fireman directing the holding of an election in the city, be allowed in any way to interfere with or to influence or intimidate any voter, or attempt to do the same. Any violation of this provision shall be sufficient ground for dismissing said offending officer from office, and any policeman or fireman who shall be guilty of violent or disorderly conduct at or near any polling place during the time of the holding of any election, shall be guilty of a misdemeanor, and upon conviction thereof shall be forever disqualified from holding any office or employment under the government. (Acts 1879, ch. 11, § 5; Acts 1881, ch. 96, § 7)

Editor's note—The 1881 Act recites that it amends § 6 of Acts 1879, Ch. 11. However, § 6 relates to a different subject and the amendment was treated as applying to § 5, which relates to firemen and policemen.

Cross references—Similar provisions, § 66; policemen and firemen generally, §§ 63—83; 84—94.

Sec. 11. Election paraphernalia—Authority to purchase, own and use.

All cities, taxing districts or other municipal corporations in this state having a population of more than 160,000 according to the Federal Census of 1920, or any subsequent Federal Census are hereby authorized and empowered to purchase, own and use any and all paraphernalia, including portable structures, necessary or proper for the holding of elections, either independently or jointly with the several counties in which such cities, taxing districts or municipal corporations are located. (Priv. Acts 1921, ch. 355, § 1)

Sec. 12. Same—Care and storage.

The cities, taxing districts or municipal corporations included within the provisions of this Act are hereby authorized and empowered to make all necessary arrangements for the proper and adequate storage and preservation of any and all election paraphernalia, including structures purchased or owned under the provisions of section 1 of this Act [section 11 above], including the right to make all necessary contracts for the proper care, storage, preservation and use of such election paraphernalia. (Priv. Acts 1921, ch. 355, § 2)

Sec. 13. Same—Joint ownership and use with county.

Any and all cities, taxing districts or other municipal corporations included within the provisions of this Act are hereby expressly authorized and empowered to enter into any contract with any county in which such city, taxing district or municipal corporation is located, for the joint use, purchase, ownership, management, storage, preservation and control of any election paraphernalia and structures necessary for holding elections in such cities, taxing districts or

municipal corporations, and the several cities, taxing districts or municipal corporations included within the provisions of this Act are hereby expressly authorized and empowered, acting through their legislative bodies, to make and enter into any and all contracts with any county in which such cities, taxing districts, or other municipal corporations are located for the joint purchase, ownership, use, management, storage, preservation and control of any election paraphernalia and structures and upon such terms as may be agreed to by any such city, taxing district, or municipal corporation. (Priv. Acts 1921, ch. 355, § 3)

Cross reference—Joint operation of city-county governmental functions generally, §§ 847—850.

ARTICLE 3. SUITS AGAINST CITY FOR DAMAGES

Sec. 14. Reserved.

Editor's note—Since § 14 was from the general law (T.C.A. § 6-1003, relating to notice of tort actions against municipalities) it has been omitted.

Sec. 14.1. Governmental immunity; council may not impair or diminish.

The Council shall have no power to impair or diminish by ordinance or otherwise any governmental immunity heretofore granted to municipalities. (Ord. No. 1852, 11-8-66)

ARTICLE 4. EXEMPTION OF PROPERTY AND TAXES FROM LEGAL PROCESS

Sec. 15. Generally.

No property, real or personal, held by said [city] council, for public use, shall ever be subject to execution or attachment, or seizure under any legal process, for any debt created by said council, and all taxes due or moneys in the hands of the county trustee, or on deposit, shall be exempt from seizure under attachment, execution, garnishment, or other legal process; nor shall said council or the county trustee be liable to garnishment; and no writ of mandamus or other process shall lie to compel them to levy any taxes; nor shall the said council or said trustee, nor the local government created by this Act pay or be liable for any debt created by said extinct corporation, nor shall any of the taxes collected under this Act ever be used for the payment of any of said debts. (Acts 1879, ch. 11, § 12)

General law reference—Garnishment of compensation due municipal officers and employees, T.C.A. § 26-518.

Annotations—In Meriwether vs. Garrett, 102 U. S. 472 (1880), it was held that public property held by the city for governmental purposes cannot be subjected to the payment of its debts, but a creditor of the city may proceed by mandamus against the municipal authorities to compel them to levy the necessary tax for the payment of a debt.

In Gas Light Co. vs. Memphis, 9 Pickle 612, it was held that where a specific tax is levied and collected for the purpose of furnishing gas to the city, under an agreement of the Gas Co. to receive the proceeds of said tax in payment therefor the city is liable as an express trustee.

ARTICLE 5. CITY COUNCIL GENERALLY*

Sec. 16. Establishment of council; powers. There is hereby established a "Council of the City of Memphis." The legislative power of the City shall be vested in the Council which shall have all legislative powers including but not limited to, the right to fix the tax rate and to approve and adopt all budgets. The Council shall be vested with all other powers of the City not specifically vested in some other officer or officers of the City. The Council shall not, however, exercise executive or administrative powers nor interfere in the operation of the administrative divisions. (Acts 1909, ch. 298, § 2; Ord. No. 1852, 11-8-66)

Code reference—Mayor generally, Ch. 2-6.

Sec. 17. Eligibility of previous office holders.

No person shall be ineligible to said office because of having heretofore held said office. (Acts 1909, ch. 298, § 2; Ord. No. 1852, 11-8-66)

Editor's note—Following were the qualifications of members of the legislative council: No person shall be eligible to a seat in either Board of the Legislative Council who is not a citizen of the United States, or who holds any office or agency under the City of Memphis, County of Shelby, or State of Tennessee (Acts 1905, Ch. 54, Sec. 16); or who has not resided five years next preceding his election in the City of Memphis (Ibid., Acts

1879, Ch. 11, Secs. 5, 7; Acts 1899, Ch. 200, Sec. 1); or who is not a freeholder (Acts 1905, Ch. 54, Sec. 16); or who is in arrears for taxes (Acts 1905, Ch. 54, Sec. 16; Acts 1879, Ch. 11, Sec. 7.)

No person shall be eligible for the office of mayor who is not at least thirty years of age, of good moral character, and who has not been a bona fide resident of the City of Memphis for five years next preceding his election, and not in arrears for taxes, or who at the time of his election and qualification holds any other office, or who is directly or indirectly interested in any contract with the city. (Acts 1905, Ch. 54, § 6.)

Sec. 18. Council members who are stockholders in corporation not to vote on certain questions.

Should any member of the council be a stockholder in any corporation, he shall not vote on any question directly or indirectly affecting any contract with the corporation in which he is a stockholder. (Acts 1905, ch. 54, § 17)

Cross reference—Couincil members as stockholder in bank contracting with city, § 49.

Sec. 19. Eligibility of collector or keeper of city money to serve on council.

No collector or keeper of any money for the city shall be eligible as a member of the council, until he has settled with the city and obtained a discharge in full. (Acts 1905, ch. 54, § 17)

Sec. 20. Council members not to be interested in city contracts.

(a) No council member shall be connected with or interested in, directly or indirectly, any contract with the city.

(b) No person can become a member of the council who is interested, directly or indirectly, nearly, or remotely, in any contract with the City of Memphis, or who holds an office of trust or salary in any corporation which holds any contract with the city, the terms, rates, or prices whereof are subject to modification or enforcement by said council. Nor shall any member take any interest whatever in any form, manner, or shape, whether directly or indirectly, in any contract with the City of Memphis, or be the beneficiary of any contract, either in labor or work, or for goods or supplies of any kind. (Acts 1905, ch. 54, § 17; Acts 1909, ch. 298, § 20)

Sec. 21. Council to judge qualifications of members.

The council shall be the judge of the qualifications, election and returns of its members, and shall prescribe rules for the determination of contested elections. (Acts 1905, ch. 54, § 18)

Sec. 22. Council members and elective officers exempt from jury and military duty.

Council members and elective officers shall be exempt from jury and military duty. (Acts 1909, ch. 298, § 50)

Secs. 23, 24 and 25. Reserved.

Editor's note—Former §§ 24 and 25 have been omitted. Section 24 was the general repealer provision from Acts 1909, ch. 298 and § 25 prescribed the effective date for said ch. 298 as January 1, 1910.

Sec. 26. Term of office. The Council shall be composed of nine (9) districts, with districts 1 through 7, both inclusive, being represented by one (1) council member each and with multi-member districts 8 and 9 each being composed of approximately one-half the city's total population and each being represented by three (3) council members elected by position. There is no run-off election required for candidates seeking election in multi-member districts 8 or 9. Each member shall be a resident, as defined by state election laws, of the City and of the district from which he or she is elected.

Members of the Council shall serve for term of four (4) years, and shall hold office until their successors are elected and qualified. They shall be elected at times and in the manner provided in Sec. 6.1 . They shall meet at times established under Sec. 43.

The Council shall elect from among its membership its own presiding officer, who shall be designated Chairman, for a term of one (1) year; the Chairman shall be eligible to succeed himself. Special sessions may be called by the Chairman of the Council or by a majority of its membership. Said Councilmen shall not be required to devote full time to their duties but may engage actively in other businesses or professions not directly connected therewith.

(Priv. Acts 1917, ch. 447; Ord. No. 1852, 11-8-66, Ord. No. 4274, 9-6-94, Ord. No. 4346, 12-19-95, Ord. No. 4382, 12-19-95)

Editor's note—The date of the election has been changed to the third Thursday in August by the Act codified herein as § 6.1.

Sec. 26.1. Districts.

The districts shall be bounded as follows:

DISTRICT ONE shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Cordova 1	1
Cordova 11	1
Cordova 2	1
Cordova 5	1
Cordova 6	1
Cordova 7	1
Eads	1
Memphis 53-3	1
Memphis 70-1	1
Memphis 70-3	1
Memphis 71-3	1
Memphis 72-1	1
Memphis 72-3	1
Memphis 72-5	1
Memphis 72-6	1
Memphis 72-7	1
Memphis 84-2	1
Memphis 85	1
Memphis 86	1
Memphis 87-1	1
Memphis 87-2	1
Memphis 87-3	1
Memphis 88-1	1
Memphis 88-2	1
Memphis 88-3	1
Memphis 88-4	1
Memphis 88-5	1
Memphis 89-1	1
Memphis 90-1	1
Memphis 90-2	1
Memphis 90-3	1
Morning Sun	1

DISTRICT TWO shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Cordova 10	2
Cordova 3	2
Cordova 4	2
Cordova 8	2
Cordova 9	2
Germantown 06	2
Memphis 66-2	2

Precinct Name	*Assigned District*
Memphis 67-2	2
Memphis 67-3	2
Memphis 68-1	2
Memphis 74-6	2
Memphis 80-2	2
Memphis 81-1	2
Memphis 81-2	2
Memphis 81-3	2
Memphis 81-4	2
Memphis 81-5	2
Memphis 81-6	2
Memphis 81-7	2
Memphis 81-8	2
Memphis 89-2	2
Memphis 89-3	2
Memphis 91-1	2
Memphis 91-2	2
Memphis 91-3	2
Memphis 93-1	2
Memphis 93-2	2
Memphis 93-3	2
Memphis 94-1	2
Memphis 94-3	2
Memphis 94-5	2
Ross Store 05	2
Ross Store 10	2
Ross Store 12	2
Ross Store 13	2
Ross Store 14	2

DISTRICT THREE shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Capleville 1	3
Capleville 5	3
Memphis 60-5	3
Memphis 60-7	3
Memphis 73-4	3
Memphis 74-1	3
Memphis 74-2	3
Memphis 74-4	3
Memphis 74-8	3
Memphis 74-9	3
Memphis 78-1	3
Memphis 78-3	3
Memphis 79-1	3
Memphis 79-2	3
Memphis 79-3	3
Memphis 79-7	3
Memphis 79-8	3

Precinct Name	*Assigned District*
Memphis 79-9	3
Memphis 92-1	3
Memphis 92-2	3
Memphis 92-3	3
Memphis 94-2	3
Memphis 94-4	3
Memphis 94-6	3
Memphis 94-7	3
Ross Store 01	3

DISTRICT FOUR shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Memphis 26-1	4
Memphis 29-1	4
Memphis 29-2	4
Memphis 31-1	4
Memphis 31-2	4
Memphis 31-3	4
Memphis 31-4	4
Memphis 60-3	4
Memphis 45-2	4
Memphis 47-1	4
Memphis 47-2	4
Memphis 47-3	4
Memphis 48	4
Memphis 58-1	4
Memphis 58-2	4
Memphis 58-3	4
Memphis 58-4	4
Memphis 59-2	4
Memphis 59-3	4
Memphis 59-4	4
Memphis 59-5	4
Memphis 59-6	4
Memphis 60-10	4
Memphis 60-2	4
Memphis 60-4	4
Memphis 60-6	4
Memphis 60-8	4
Memphis 60-9	4
Memphis 61	4
Memphis 65-1	4
Memphis 66-1	4
Memphis 73-1	4
Memphis 73-2	4
Memphis 73-3	4
Memphis 74-5	4

DISTRICT FIVE shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Memphis 16-1	5
Memphis 17	5
Memphis 20-1	5
Memphis 28-1	5
Memphis 28-2	5
Memphis 30	5
Memphis 33	5
Memphis 36-1	5
Memphis 37	5
Memphis 38-1	5
Memphis 38-2	5
Memphis 44-1	5
Memphis 44-2	5
Memphis 44-3	5
Memphis 44-4	5
Memphis 44-5	5
Memphis 45-1	5
Memphis 45-4	5
Memphis 46-1	5
Memphis 46-2	5
Memphis 52-2	5
Memphis 52-3	5
Memphis 53-1	5
Memphis 54	5
Memphis 55-1	5
Memphis 55-2	5
Memphis 56-1	5
Memphis 56-2	5
Memphis 56-3	5
Memphis 57	5
Memphis 63-2	5
Memphis 64	5
Memphis 65-2	5
Memphis 67-1	5
Memphis 68-2	5
Memphis 68-3	5

DISTRICT SIX shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Memphis 11	6
Memphis 12	6
Memphis 13-1	6
Memphis 13-2	6
Memphis 25-1	6
Memphis 25-2	6
Memphis 26-2	6
Memphis 26-3	6
Memphis 34-2	6

Precinct Name	*Assigned District*
Memphis 35-1	6
Memphis 35-2	6
Memphis 35-3	6
Memphis 49-1	6
Memphis 49-2	6
Memphis 50-1	6
Memphis 50-2	6
Memphis 60-1	6
Memphis 34-1	6
Memphis 75-1	6
Memphis 75-11	6
Memphis 75-2	6
Memphis 75-4	6
Memphis 75-5	6
Memphis 75-6	6
Memphis 75-7	6
Memphis 76-1	6
Memphis 76-4	6
Memphis 76-5	6
Memphis 76-6	6
Memphis 77-1	6
Memphis 77-2	6
Memphis 77-3	6
Memphis 82-1	6
Memphis 82-2	6
Memphis 82-3	6

DISTRICT SEVEN shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Memphis 01	7
Memphis 02	7
Memphis 07	7
Memphis 15	7
Memphis 16-3	7
Memphis 20-3	7
Memphis 21-1	7
Memphis 21-2	7
Memphis 21-3	7
Memphis 22	7
Memphis 27-1	7
Memphis 27-2	7
Memphis 32	7
Memphis 36-2	7
Memphis 36-3	7
Memphis 40-1	7
Memphis 40-2	7
Memphis 41-1	7
Memphis 41-2	7
Memphis 41-3	7

Precinct Name	*Assigned District*
Memphis 42-1	7
Memphis 42-2	7
Memphis 43-1	7
Memphis 43-2	7
Memphis 51	7
Memphis 52-1	7
Memphis 53-2	7
Memphis 62-1	7
Memphis 62-2	7
Memphis 69-1	7
Memphis 69-2	7
Memphis 70-2	7
Memphis 71-1	7
Memphis 71-2	7
Memphis 71-4	7
Memphis 71-5	7
Memphis 72-4	7
Memphis 83	7
Memphis 84-1	7

DISTRICT EIGHT shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*
Capleville 1	8
Capleville 5	8
Memphis 01	8
Memphis 02	8
Memphis 07	8
Memphis 11	8
Memphis 12	8
Memphis 13-1	8
Memphis 13-2	8
Memphis 15	8
Memphis 16-3	8
Memphis 20-3	8
Memphis 21-1	8
Memphis 21-2	8
Memphis 21-3	8
Memphis 22	8
Memphis 25-1	8
Memphis 25-2	8
Memphis 26-1	8
Memphis 26-2	8
Memphis 26-3	8
Memphis 27-1	8
Memphis 27-2	8
Memphis 29-1	8
Memphis 29-2	8
Memphis 31-1	8
Memphis 31-2	8

Precinct Name	*Assigned District*
Memphis 31-3	8
Memphis 31-4	8
Memphis 32	8
Memphis 34-1	8
Memphis 34-2	8
Memphis 35-1	8
Memphis 35-2	8
Memphis 35-3	8
Memphis 36-2	8
Memphis 40-1	8
Memphis 40-2	8
Memphis 41-1	8
Memphis 41-2	8
Memphis 41-3	8
Memphis 42-1	8
Memphis 42-2	8
Memphis 43-2	8
Memphis 45-2	8
Memphis 47-1	8
Memphis 47-2	8
Memphis 47-3	8
Memphis 48	8
Memphis 49-1	8
Memphis 49-2	8
Memphis 50-1	8
Memphis 50-2	8
Memphis 51	8
Memphis 52-1	8
Memphis 36-3	8
Memphis 58-3	8
Memphis 59-2	8
Memphis 59-3	8
Memphis 59-4	8
Memphis 59-5	8
Memphis 59-6	8
Memphis 60-1	8
Memphis 60-10	8
Memphis 60-2	8
Memphis 60-3	8
Memphis 60-4	8
Memphis 60-5	8
Memphis 60-6	8
Memphis 60-7	8
Memphis 60-8	8
Memphis 60-9	8
Memphis 61	8
Memphis 69-1	8
Memphis 69-2	8
Memphis 70-2	8
Memphis 71-1	8

Precinct Name	*Assigned District*
Memphis 71-2	8
Memphis 71-4	8
Memphis 71-5	8
Memphis 72-4	8
Memphis 72-7	8
Memphis 73-1	8
Memphis 74-1	8
Memphis 74-5	8
Memphis 74-8	8
Memphis 75-1	8
Memphis 75-11	8
Memphis 75-2	8
Memphis 75-4	8
Memphis 75-5	8
Memphis 75-6	8
Memphis 75-7	8
Memphis 76-1	8
Memphis 76-4	8
Memphis 76-5	8
Memphis 76-6	8
Memphis 77-1	8
Memphis 77-2	8
Memphis 77-3	8
Memphis 78-1	8
Memphis 78-3	8
Memphis 79-1	8
Memphis 79-2	8
Memphis 79-3	8
Memphis 79-7	8
Memphis 79-8	8
Memphis 79-9	8
Memphis 82-1	8
Memphis 82-2	8
Memphis 82-3	8
Memphis 92-1	8
Memphis 92-2	8
Memphis 92-3	8
Memphis 93-3	8
Memphis 94-1	8
Memphis 94-2	8
Memphis 94-4	8
Memphis 94-6	8
Memphis 94-7	8
Ross Store 01	8
Ross Store 13	8
Ross Store 14	8

DISTRICT NINE shall consist of the areas encompassed by the following Wards and Precincts:

Precinct Name	*Assigned District*

Precinct Name	*Assigned District*
Cordova 1	9
Cordova 10	9
Cordova 11	9
Cordova 2	9
Cordova 3	9
Cordova 4	9
Cordova 5	9
Cordova 6	9
Cordova 7	9
Cordova 8	9
Cordova 9	9
Eads	9
Germantown 06	9
Memphis 16-1	9
Memphis 17	9
Memphis 20-1	9
Memphis 28-1	9
Memphis 28-2	9
Memphis 30	9
Memphis 33	9
Memphis 36-1	9
Memphis 58-1	9
Memphis 37	9
Memphis 38-1	9
Memphis 38-2	9
Memphis 43-1	9
Memphis 44-1	9
Memphis 44-2	9
Memphis 44-3	9
Memphis 44-4	9
Memphis 44-5	9
Memphis 45-1	9
Memphis 45-4	9
Memphis 46-1	9
Memphis 46-2	9
Memphis 52-2	9
Memphis 52-3	9
Memphis 53-1	9
Memphis 53-2	9
Memphis 53-3	9
Memphis 54	9
Memphis 55-1	9
Memphis 55-2	9
Memphis 56-1	9
Memphis 56-2	9
Memphis 56-3	9
Memphis 57	9
Memphis 58-2	9
Memphis 58-4	9
Memphis 62-1	9

Precinct Name	*Assigned District*
Memphis 62-2	9
Memphis 63-2	9
Memphis 64	9
Memphis 65-1	9
Memphis 65-2	9
Memphis 66-1	9
Memphis 66-2	9
Memphis 67-1	9
Memphis 67-2	9
Memphis 67-3	9
Memphis 68-1	9
Memphis 68-2	9
Memphis 68-3	9
Memphis 70-1	9
Memphis 70-3	9
Memphis 71-3	9
Memphis 72-1	9
Memphis 72-3	9
Memphis 72-5	9
Memphis 72-6	9
Memphis 73-2	9
Memphis 73-3	9
Memphis 73-4	9
Memphis 74-2	9
Memphis 74-4	9
Memphis 74-6	9
Memphis 74-9	9
Memphis 80-2	9
Memphis 81-1	9
Memphis 81-2	9
Memphis 81-3	9
Memphis 81-4	9
Memphis 81-5	9
Memphis 81-6	9
Memphis 81-7	9
Memphis 81-8	9
Memphis 83	9
Memphis 84-1	9
Memphis 84-2	9
Memphis 85	9
Memphis 86	9
Memphis 87-1	9
Memphis 87-2	9
Memphis 87-3	9
Memphis 88-1	9
Memphis 88-2	9
Memphis 88-3	9
Memphis 88-4	9
Memphis 88-5	9
Memphis 89-1	9

Precinct Name	*Assigned District*
Memphis 89-2	9
Memphis 89-3	9
Memphis 90-1	9
Memphis 90-2	9
Memphis 90-3	9
Memphis 91-1	9
Memphis 91-2	9
Memphis 91-3	9
Memphis 93-1	9
Memphis 93-2	9
Memphis 94-3	9
Memphis 94-5	9
Morning Sun	9
Ross Store 05	9
Ross Store 10	9
Ross Store 12	9

Reference is made to the Memphis Municipal Code, as amended, and to the Official Ward and Precinct Map of the City of Memphis in the Office of the City Comptroller for a description of the wards and precincts hereinabove allocated to the respective districts One (1) through Nine (9), both inclusive. Annexed areas shall be assigned as future wards are described. Reference is also made to the minutes of the Board of Commissioners of Shelby County, Tennessee, for ordinances and resolutions establishing precinct lines. A map describing said Districts, as amended, is filed with the Comptroller of the City of Memphis. Should there be discrepancies between the census districts and the voting districts assigned by the Shelby County Election Commission such discrepancies shall be resolved by the Election Commission by reference to the map filed with the Comptroller of the City. (Ord. No. 5001, 7-6-03)

Sec. 27. Vacancy in office generally.

(Acts 1909, ch. 298, § 18; Priv. Acts 1937, ch. 122, § 4; Priv. Acts 1939, ch. 173, § 4)

Removal of residence by a council member from the City of Memphis shall constitute a vacancy on the Council, but removal from one council district to another shall not constitute such vacancy. Upon any vacancy occurring in the Council, including a vacancy in the office of Chairman, by reason of death, resignation, removal or otherwise, the remaining members of the Council shall have the power by a majority vote to elect a person to fill such vacancy and to serve until his successor is elected and qualified. Said vacancy shall be filled as soon as possible and within a period not to exceed thirty (30) days thereafter. Such elected member shall possess the requisite qualifications for membership for that particular position on the Council, including the requirement that he or she be a resident of said district from which he or she is elected and shall take office immediately upon election and hold said office until his or her successor is elected and qualified. A successor shall be elected to fill out the remainder of the term of the Councilman whose seat was vacated in the same manner as provided in Sec. 29, except that such special municipal election shall be held on the date of the next regular August or November election. In the event a person elected as council member shall be absent from duty without proper and reasonable explanation therefor being made for a period of ninety (90) days, his or her said office shall be declared vacated and said vacancy shall be filled as herein provided. (Acts 1905, ch. 54, § 6; Ord. No. 1852, 11-8-66)

Sec. 28. Special election to fill vacancy.

Upon any vacancy hereafter occurring in the city council of said City of Memphis, by death, resignation, removal, or otherwise, such vacancy shall be filled as now provided by law, but the person so chosen to fill said vacancy shall hold said office only until his successor shall be elected and qualified; and the proper authorities shall hold a special municipal election on the date of the next regular August or November election, at which special municipal election, to be participated in by the qualified voters of said city, there shall be elected a successor to the council memberchosen to

fill said vacancy; provided, that the person so chosen may be a candidate for said office at said special municipal election. The person elected as council member in said special municipal election, upon his qualification shall hold office for the remainder of the unexpired term of the council member whose office was originally vacated, that is to say, until the qualification of his successor to be elected at the next regular municipal election of mayor and commissioners of said city. (Priv. Acts 1917, ch. 190; Ord. No. 1852, 11-8-66)

Editor's note—Identically the same act was passed March 14, 1917, being Priv. Acts 1917, Ch. 182, the only exception being that the word "resignation" as a cause of vacancy occurring, is omitted in said Act. Chapter 190 was House Bill 377, was passed March 8, 1917, and approved March 21, 1917. Chapter 182 was Senate Bill 217, was passed March 14, 1917, and approved March 20, 1917. Since Chapter 190 is the broader of the two acts, it is set forth in the text.

Cross reference—Elections generally, §§ 6—13.

Sec. 29. Salaries.

(Priv. Acts 1955, ch. 10, § 1)

Editor's note—Prior acts prescribing salaries for the mayor and commissioners have been omitted as superseded by this section.

As originally enacted, the above section also prescribed the salary of the city tax assessor and of the city court judges. These provisions have been omitted as superseded by subsequent acts compiled herein as sections 203 and 254.

Ord. No. 1509, adopted June 8, 1965, approved at referendum election held August 4, 1966, amended the charter by authorizing the mayor and board of commissioners to fix by ordinance the salaries of the mayor and commissioners and all other elected and/or appointed city officials. See Ord. No. 1509 set out in full in "Home Rule Amendment" of this volume.

Ordinances enacted pursuant to Ord. No. 1509 are as follows: Ord. No. 2079, adopted June 25, 1974 (Mayor).

City Council. The salary of the City Council shall be equal to the salary and expenses as set for the Shelby County Commission.Other officials. The salary of all other elected and/or appointed city officials shall be as set by the Mayor and City Council. (Ord. No. 1509, 6-8-65, Ord. No. 12-19-95, Ord. No. 4382, 12-19-95)

Sec. 30. Council members not to receive greater compensation.

No member of said council shall, directly or indirectly, receive any other or greater compensation than that just provided. (Acts 1909, ch. 298, § 7)

Sec. 31. Authority of mayor and council to request information.

The mayor and council of the City of Memphis or other governing body in said city are granted the power and authority to request information, reports or data concerning any and all expenditures, salaries, disbursements or costs, from any and all boards, commissions or agencies appointed by the mayor or council, or from any board, commission, agency, department or officer thereof expending any tax funds of the City of Memphis. (Priv. Acts 1933, ch. 402, § 2)

Sec. 32. Boards, etc., to furnish information.

Any and all boards, commissions, or agencies, as defined in the foregoing section, shall promptly furnish to the mayor and council upon request from the mayor and/or council, full, detailed and complete information as provided in the foregoing section. (Priv. Acts 1933, ch. 402, § 3)

Sec. 33. Authority of council to reduce expenditures, etc.

Whenever it appears to said council that the expenditures, cost or salaries of any such board, department, commission or agency are excessive, or that the expenditures, salaries and/or operation of said board, commission or agency, or any department thereof, should be reduced, modified or curtailed, said council shall have the authority to authorize and direct said reduction, modification or curtailment, and said board, department, commission or agency, shall effect said reduction, modification, or curtailment, to the extent and at the time directed. (Priv. Acts 1933, ch. 402, § 4)

Sec. 34. Further powers of council as to expenditures.

The council of the City of Memphis shall have authority and power to authorize and direct reductions in expenditures, cost, and/or salaries of any board, commission, agency, or department of the city government appointed by said council or any board, and/or commission, agency or department expending any city revenue, whenever in the

opinion of said council an emergency exists requiring such action for the public welfare or that the expenditures of any such board, commission, agency or department are excessive or may cause expenditures in excess of the budget of said board, commission, agency or department. (Priv. Acts 1933, ch. 402, § 5)

ARTICLE 6. MAYOR*

*__Code reference—__Mayor generally, Ch. 2-6.

Cross reference—Ordinances generally, § 353 et seq.

Sec. 35. Chief executive officer; appointment and supervision of all divisions, boards, employees and city officers; to devote entire time to office.

The Chief Executive Officer of the City of Memphis shall be the mayor, who shall be vested with and exercise the executive and administrative power of the City, shall be authorized to administer, supervise and control all divisions, boards, agencies, offices and employees of the City and shall see that the ordinances and provisions of the Charter are observed, except as otherwise specifically provided. Such administration shall be conducted by and through divisional directors under the supervision and control of the mayor, as provided herein. He shall devote his entire time and attention to the duties of his office.

Subject to provisions of the Charter including civil service regulations thereof, and ordinances, the Mayor shall appoint and when he deems it necessary for the good of the people, may suspend or remove any employees of the City of Memphis, including any appointive officers or department heads provided for by or under the Charter. The Mayor may delegate to any appointive administrative officer the power to appoint, suspend or remove subordinates in that officer's division, department, office or agency subject to such conditions and limitations as he may prescribe.

The Mayor shall appoint the members of all boards and commissions, said appointments to be made with the approval of a majority of the Council; the removal of all members of boards and commissions shall be effected in the same manner and subject to the same procedures provided for directors. Members of Boards and Commissions shall continue in office until their successors have been appointed and approved. (Acts 1879, ch. 11, § 5; Acts 1905, ch. 54, §§ 6, 7; Ord. No. 1852, 11-8-66)

Sec. 36. Election of mayor.

The Mayor shall be elected by a vote of the qualified electors of the City for a term of four (4) years, beginning January 1, 1968, and shall hold office until his successor is elected and qualified. He shall be compensated as provided in Sec. 39. There shall be likewise included in the budget an expense allowance for use by the Mayor as he may determine for public purposes, in the amount of five thousand ($5,000.00) dollars per annum. The Council may from time to time increase or decrease such salary and expense allowance, but such change may not take effect in the term during which the change was made, and may not be decreased below the amounts above stated. The qualifications of the Mayor shall be the same as those required herein for members of the Council, and no candidate for Mayor shall qualify for any other elective office. (Ord. No. 1509, 6-8-65, Ord. No. 1852, 11-8-66)

Sec. 37. Oath.

The mayor shall, before he enters upon the discharge of his duties, take an oath or affirmation that he will support the Constitution of the United States, and of the State of Tennessee, and the Charter and ordinances of the City of Memphis, and faithfully carry out and enforce the same, and faithfully demean himself in office. (Acts 1905, ch. 54, § 11; Ord. No. 1852, 11-8-66)

Code reference—Official oath, § 2-4-3.

Sec. 38. Mayor's salary. The salary of the Mayor shall be as set by the Mayor and City Council. (Ord. No. 1509, 6-8-65)

Sec. 38.1. Acts vacating mayor's office.

In the event the mayor, after his election, shall become interested in any contract with the city, or accept any office or agency of the United States, or of the State of Tennessee, or of the County of Shelby, or of quasi-public corporation, his office shall be thereby vacated.

Sec. 38.2. Vacancy in office.

In the case of the death, resignation, inability for any reason to serve, or recall of the Mayor or his removal from the City, his office shall be occupied by the Chairman of the Council for a period not exceeding twenty (20) calendar days, during which period the Council shall elect a successor to the Mayor from among qualified persons not members of the Council at the time of such elections. Such elected person shall take office as Mayor immediately on election and shall hold office until his successor is elected or qualified, which office shall thereupon be filled in the same manner as heretofore provided for vacancies on the Council. In the event the Council shall fail to act within the twenty (20) day period, the Director of Administration shall fill said office until such time as the members of the Council shall have elected a successor or until the next general or municipal election. (Ord. No. 1852, 11-8-66)

Sec. 39. Contested election.

In case of the contested election of mayor, the city council shall determine the same, and when it is ascertained that two or more persons have the same number of votes for mayor, they shall elect one of such persons for mayor. (Acts 1905, ch. 54, § 14)

Sec. 40. Approval or veto of ordinances.

Every law or ordinance passed by the commissioners shall be approved by the mayor before it shall take effect.

The Mayor shall have the power to veto ordinances passed by the Council, and he shall report his reasons for such disapproval of such ordinance not later than the second (2) regular session of the Council following receipt of the certification of such ordinances and delivering of same to the office of the Mayor. The Council may override such veto by a majority vote of its membership at either of the two regular sessions of the council following receipt of the Mayor's written disapproval of such ordinance. (Acts 1905, ch. 54, § 8; Ord. No. 1852, 11-8-66)

Sec. 40.1. Prepares and submits budgets; disbursements by comptroller.

The operations and capital fund budgets of the City, together with all budgets required to be submitted as now provided by law, shall be prepared and submitted by the Mayor with the assistance of the Directors, and presented to the Council, which shall approve or amend any and all of said budgets prior to the adoption of a tax rate as now provided, and said budgets as approved or as amended shall be the duly established budgets.

The Comptroller shall under no circumstances make disbursements not specifically provided for in any of the aforesaid budgets as finally approved by the Council. (Ord. No. 1852, 11-8-66)

ARTICLE 7. LEGISLATIVE COUNCIL

Sec. 41. Oath.

Each council member, before entering upon his duty, shall take an oath that he is not under any direct or indirect obligation to appoint any person to the office of policeman or fireman, or other employee, [and] that he will faithfully discharge the duties of the office; and shall severally take an oath before the clerk of the county court that he will faithfully and impartially discharge the duties of his office, and that he will not become interested, directly or indirectly, nearly or remotely, for himself or for others, in any contract for work, materials, or supplies, or service, or purchase made by the council. (Acts 1879, ch. 11, §§ 5, 7)

Code reference—Official oath, § 2-4-3.

Sec. 42. Bond.

Each member of said council shall give bond in the sum of twenty thousand dollars. (Acts 1879, ch. 11, § 5)

Cross reference—Bonds of officers and employees generally, § 178.

Sec. 43. Meetings.

The City Council is authorized to establish by ordinance the Tuesdays of every month on which the Council shall meet, provided that the Council shall meet not less often than twice each month. The Council is authorized to establish the time and place of such meetings by resolution. The meetings shall be held at 4:30 o'clock in the afternoon, at the place provided for such meeting, or at such other time on Tuesday and at such other place as the Council so designates by resolution; provided, however, that no meeting shall be held at other than 4:30 o'clock p.m. except upon fourteen (14) days public notice.

All such regular meetings or special called meetings, as hereinabove described, of the city council shall be public, and shall be held at the place provided for such meetings, and said place cannot be changed, except by ordinance. (Acts 1909, ch. 298, § 19; Ord. No. 2490, § 1, 9-7-76, Ord. No. 4274, 9-6-94)

Cross references—Mayor to preside at council meetings, § 58; presiding officer in absence of mayor, § 59.

Code references—Place for council meetings, § 2-2-1.

Sec. 43.1. Postponement of meetings falling on legal holidays.

When any regular meeting day of the council shall fall on Christmas Day, New Year's Day, Armistice Day, Fourth of July or any other holiday so declared by resolution of the council, then said meeting shall automatically be postponed until the following business day. The validity of any ordinance in the course of passage shall not be affected by reason of such extension of time, by reason of such holiday. (Priv. Acts 1953, ch. 288, § 1)

Sec. 44. Quorum; punishment for nonattendance, etc.

The council shall require a majority of its members to form a quorum for the transaction of business, but a smaller number may adjourn from day to day, and can adopt such measures as are necessary to compel the attendance of absent members. The council may determine the rules for its procedure and may prescribe the punishment for its members for nonattendance, or disorderly conduct, and shall have power to enforce the same. (Acts 1905, ch. 54, § 18)

The council shall have full power and authority to adopt rules and regulations pertaining to the conduct of the council, including the power to issue subpoenas and administer oaths. (Ord. No. 1852, 11-8-66)

Sec. 45. Powers and duties generally.

Said council shall have and exercise all of the powers and discharge all duties now vested and imposed upon the present board of fire and police commissioners, the present board of public works, and the present legislative council, together with such other powers and duties as are hereinafter prescribed. (Acts 1909, ch. 298, § 3)

Sec. 46. Board of public works abolished; powers and duties transferred.

The board of public works is hereby abolished, and the powers and duties now vested in and imposed upon said board and the several members thereof by law are hereby vested in and imposed upon the said council and the several members thereof as herein provided. (Acts 1909, ch. 298, § 4)

Sec. 47. Power to administer oaths, issue subpoenas, etc.; failure to appear, refusal to testify, etc.

Every member of the Council of the City of Memphis shall have the power to administer oaths and affirmations, and said Council of the City of Memphis shall have the power to issue subpoenas, to compel by subpoena the production of books and papers, accounts, and the attendance of witnesses, and to take and hear testimony concerning any matter or thing pending before such Council of the City of Memphis subpoenas.

If any person so subpoenaed neglects or refuses to appear, or to produce any book, paper, or document, as required by such subpoena, or shall refuse to testify before said Council of the City of Memphis, to answer any competent question, he shall be deemed in contempt, and said Council of the City of Memphis shall have the power to take proceedings in that behalf as provided by the general laws of the state. The chief of police must on request of the said Council of the City of Memphis, detail a police officer or police officers to serve such subpoena or subpoenas. (Acts 1909, ch. 298, § 30; Priv. Acts 1945, ch. 56, § 9; Ord. No. 1852, 11-8-66)

Sec. 48. Amendments to Juvenile Court System.

The legislative council may by ordinance amend those sections of the city charter which establish the juvenile court, or if and when a county-wide juvenile court system is established for Shelby County, abolish the city juvenile court system entirely. (Ord. No. 1851, 8-9-66)

Editor's note—Former § 48, which was derived from Acts 1909, ch. 298, § 20, is included herein as paragraph (a) of § 20.

Sec. 49. Banking contracts.

The Council of the City of Memphis is authorized by ordinance or resolution to enter into contract or contracts with any solvent bank or banks for the purpose of providing banking facilities and financial arrangements for said city; provided, however, that no such contract shall be entered into for a period of more than one year at a time. The said council shall require that the contract or contracts with said bank or banks shall provide for interest on deposits of the said City of Memphis and shall have authority to provide for advancement of funds to be made by said contracting bank or banks for payment of the drafts of said city pending the collection of city revenue for the current year, and for the payment by said city of interest upon such advancements, at a rate not to exceed six per cent per annum. Said council may enter into such banking contracts after advertising and receipt of bids, or they may make such contracts without advertisement and competitive bidding, as the council may deem best and determine by ordinance or resolution. The fact that any member of the council may be a director or stockholder in any bank shall not prevent the council from making such banking contract or contracts with such bank or invalidate such contract when made, provided, no member of said council shall vote upon the making of such contract with any bank in which he is interested. (Priv. Acts 1917, ch. 338, § 2; Priv. Acts 1935, ch. 149, § 2)

Cross references—Designation of depositories, § 823; depositories for school board, § 1054.

Sec. 50. Bond to be required of depository.

The council shall have power and authority, and it shall be their duty, to take from any bank receiving deposits of the funds of the city under such contract or contracts, a bond sufficient in the opinion of the council to protect the interest of the city; provided, however, that the council may permit the contracting bank or banks in lieu of the bond, to place bonds of any state or any civil division subordinate thereto, or any other evidence of a subsisting obligation thereof, which may be purchased or accepted as collateral by any Federal reserve bank, or any other gilt-edge securities which may be approved by the council and the comptroller, in escrow so conditioned as to make the collateral so deposited primarily subject to the claims of the City of Memphis for the loss of any sum or sums deposited by it, with said contracting bank or banks. (Priv. Acts 1917, ch. 338, § 3; Priv. Acts 1937, ch. 123, § 18)

Sec. 51. Contractual limitations; notices; emergencies.

(1) No contract involving an expenditure exceeding ten thousand dollars ($10,000.00), shall be awarded or let to the lowest and best bidder until after the advertisement by at least three publications in a newspaper published and circulated in the City of Memphis within the calendar week before the date fixed in the advertisement upon which bids are to be received. The provisions of this paragraph shall not apply to the procedure and procurement of items described herein in subsections 3 and 4.

(2) In addition to the required publications set forth above, the Mayor is hereby authorized at any time, not exceeding sixty (60) days prior to the date fixed for the receipt of bids, to make such additional and similar publications of said notice to bidders in newspapers, engineering, public works or financial journals, or other similar periodicals, in this and other cities which the said Mayor may deem advisable in the exercise of his discretion to reach prospective bidders.

(3) In the event of any emergency, as determined by the administration, where there is imminent threat to life, health or property, and there is insufficient time for advertising in the newspapers as required in subsection (1) above, any items to be purchased or service or work required to be performed, may be authorized without notice and further,

provided, that administrative and legal approval shall be obtained and publicly announced at the first subsequent administrative meeting involving the announcement of contract awards.

(4) It being impracticable to take bids for the purchase, sale or exchange of animals for the Zoo, or artifacts and other Museum pieces, or single source items such as copyrighted publications and films or novelty items such as, including, but not limited to, candy, T-shirts, souvenirs, or other items purchased for resale in recreational areas, such activities are specifically exempted from the requirement of the competitive bidding system.

Purchases of the foregoing items shall be made by the Purchasing Agent after recommendation from the appropriate division director, board, commission or their authorized representative. If the items sought are less than ten thousand dollars ($10,000.00) the purchase may be consummated by purchase order; if the items sought are in excess of ten thousand dollars ($10,000.00), then the purchase must be consummated by written contract signed by the Mayor.

(5) The City Council by ordinance may adjust the limits for purchases and newspaper advertisement for competitive bidding and the purchase orders therefor. (Priv. Acts 1947, Ch. 519, § 12; Priv. Acts 1957, Ch. 116, § 1; Ord. No. 3231, § 4, 8-17-82, Ord. No. 4434, 8-30-96)

Sec. 51.1. Contracts, bonds, etc., maturing on legal holiday.

Any contract, bond or other obligation due the city or any obligation due by the city or any franchise granted by the city which shall mature upon a legal holiday shall automatically be extended until the next business day. (Priv. Acts 1953, ch. 288, § 1)

Sec. 52. Reserved.

Editor's note—Former § 52 was derived from Private Acts 1929, ch. 406, § 5, and constituted the separability clause of that act and also related to the effect of the act on contracts and franchises existing at that time. The section has been omitted at the discretion of the editor.

Sec. 53. Retirement or pension systems—General authority to establish.

The council may establish, by ordinance, a retirement or pension system or systems for the officers and employees of the fire department and the police department and may, likewise, so provide for disability retirement or pension system or systems to cover permanent, partial or temporary disabilities incurred by officers and employees of the fire and police departments. When established, the council shall determine who may be included as members of said system or systems and whether membership therein shall be compulsory upon the officers and employees of such departments, or optional; and the said council shall provide the method of making contributions to said pension system funds and whether the same shall be supported and maintained entirely by contributions from the salaries of the members thereof or by contributions made jointly by the members thereof and by the city. The council shall determine how the said contributions shall be calculated and accumulated, and shall determine the method of payment, and shall determine who shall be beneficiaries of said pension system or systems. The council is authorized to make all administrative provisions necessary for the operation of said pension system or systems and to determine how the administrative costs thereof shall be borne. Upon the establishment of a retirement or pension system for the police department, the now existing pension plan for officers and employees of that department may be abolished and upon the establishment of a retirement or pension system for the fire department, the now existing pension plan for officers and employees of that department may be abolished, or the council may, in its discretion, continue the operation of the now existing police department pension plan and the now existing fire department pension plan as to any officer or employee of the said departments, respectively, within designated age limits, or upon any other classification basis, but this provision shall not prevent the council from continuing payments under the now existing pension plan of the police department or the now existing pension plan of the fire department to those persons receiving the benefits thereof at the time of the adoption of any new pension or retirement plan nor system or systems for said departments.* Prior to the establishment of such system or systems, the council may secure from a competent actuary a report of the cost of establishing the same and of the method to be followed in the administration of same if and when established.

The council is also authorized to establish by ordinance a retirement, or pension system or systems for all other officers and employees of the City of Memphis.

A. As related to City Government employees:

Compensation for the purpose of pensions and retirement benefits shall mean the base salary of the employee as set out in the line-item budget ordinance, including shift premium pay, hazardous premium pay, holiday pay, longevity pay, and incentive pay, and designated by the records of the personnel division, but shall not include overtime pay.

B. As related to Memphis Light, Gas and Water Division, City of Memphis, employees:

Compensation for the purpose of pensions and retirement benefits shall mean the base salary of the employee as set out in the pay grade schedules as now established or hereafter adjusted by the Memphis Light, Gas and Water Division but shall exclude overtime pay or any special bonuses such as, but not limited to, suggestion awards.

The Council shall have no power to reduce or in any way diminish the pension benefits and other fringe benefits provided for all City employees.

Further, the Council shall have no power to pass any ordinance or in any manner grant authority to borrow from or encumber the pension fund of the City of Memphis in any manner whatsoever. (Priv. Acts 1941, ch. 44, § 1, subsec. 1; Priv. Acts 1943, ch. 157, § 1; Ord. No. 1435, 9-6-72, Ord. No. 1852, 11-8-66)

***Cross reference—**Existing systems, §§ 73—80, 87—94.

Cross references—Retirement of juvenile court judge, § 315 et seq.; retirement of school personnel, § 1056 et seq.

Code reference—Pensions and retirement, T. 4.

Sec. 53.1. Same—Authority to establish for elected officials and other officers and employees.

The council of said City of Memphis shall have power by ordinance to establish a retirement or pension system or systems for all elected officials, including the mayor and the council of the City of Memphis and all other officers and employees of said City of Memphis. (Priv. Acts 1951, ch. 377, § 1)

Sec. 53.2. Same—Inclusion of widows and minor children of officers and employees.

The council of said City of Memphis shall have power by ordinance to amend the existing or establish a new retirement and pension system or systems for all widows and surviving minor children under the age of eighteen years of all elected officials, including the mayor and Council of the City of Memphis, and of all other officers and employees of said City of Memphis. (Priv. Acts 1953, ch. 293, § 1)

Sec. 53.3. Same—Provisions constitute vested interests.

The provisions of the Retirement and Pension System shall constitute vested interests between the members including retired beneficiaries and the City of Memphis, so that all of the assets of the retirement fund maintained for purposes of the retirement system of the City of Memphis shall, at all times, be used for the exclusive benefit of members (including retired members) of the retirement system of the City of Memphis, and their beneficiaries, as may be defined therein, and, in no event, shall the assets of the said retirement fund, or any part thereof, ever revert to the City of Memphis. (Priv. Acts 1955, ch. 12, § 1; Priv. Acts 1957, ch. 92, § 1)

Sec. 53.4. Authority to authorize cancellation of summons without appearance in court.

The Council of the City of Memphis may, by ordinance, authorize the municipal courts of the City of Memphis to cancel summons issued by the police department of the City of Memphis without the necessity of the defendants being present in open court. (Priv. Acts 1961, ch. 248, § 1)

ARTICLE 8. DEPARTMENTS OF GOVERNMENT GENERALLY

Sec. 54. Administrative divisions. The principal administrative divisions of the City shall be: The Division of Fire and Police; the Division of Public Works; the Division of Public Service; the Division of Finance and Institutions; the Division of Administration and Welfare; and the component subdivisions of such divisions shall be the departments and agencies as heretofore distributed among the several commissioners; provided, however, that the Council, upon proposal by the Mayor, may by ordinance reorganize and may (1) transfer departments and agencies from one division to another; (2) add or abolish departments and agencies within divisions, or (3) add divisions; provided further that

nothing herein shall alter or transfer the organization and powers of existing boards and commissions in cases wherein the powers, duties and responsibilities of said boards and commissions are fixed by direct act of the Legislature of the State of Tennessee, except when specifically authorized herein or authorized in said acts.

The several principal administrative divisions shall be headed by directors who shall be appointed by the Mayor with the approval of a majority of the Council; a Director shall be subject to removal by the Mayor with a concurrence of a majority of the Council. The term of office of each Director shall be the same as that of the appointing Mayor, and said Directors shall continue in office until their successors have been appointed and approved. A Director likewise may be removed from office for cause as now provided by law.

The Council upon approval by the Mayor, notwithstanding any other Charter provisions made by ordinance may reorganize the principal administrative divisions, and shall have the power to divide the Division of Fire and Police into a separate Division of Fire and a Division of Police, as well as to divide other named principal administrative divisions, and as now authorized by the Charter, to transfer departments and agencies from one division to another, and to add or abolish departments and agencies within divisions, and further shall have the authority to abolish divisions and transfer departments and agencies to existing or new divisions.

The salaries of directors of new divisions or of separated divisions shall be set by the Council but shall be no less than the minimum amounts as set forth for other directors in the Charter.

The Mayor may appoint subject to the approval of the Council a Chief Administrative Officer who shall be trained or experienced in municipal government and be subject to the immediate supervision of the Mayor; he shall coordinate under the supervision of the Mayor the activities of all administrative divisions, serve as special liaison between the Mayor and all divisions, departments, boards and commissions, and perform such administrative and executive duties as may from time to time be assigned to him by the Mayor, and he may be dismissed by the Mayor, without the approval of the Council. The Chief Administrative Officer likewise may be removed from office for cause as now provided by law. His salary shall be set by the Council upon the recommendation of an amount by the Mayor.

And said salaries shall be payable semi-monthly; provided further that the Council may from time to time increase or decrease such salaries but such change shall not take effect during the fiscal year covered by the budget in which said change was made, and may not be decreased below the amounts above stated.

In the event of the death, retirement or recall, or for other reasons causing a vacancy in the office of Mayor, the said directors' terms shall be concurrent with the appointing Mayor's tenure. That is, in the event a Mayor dies or is recalled, or for other reasons vacates the office of Mayor, then and in that event the said directors shall serve at the will and pleasure of the newly elected Mayor for a period not to exceed ninety (90) calendar days. (Ord. No. 1852, 11-8-66, Ord. No. 1300, 5-30-72)

Sec. 54.1. "Department of public safety" changed to "department of fire and police."

Wherever the words "the department of public safety" shall be found in the present Charter of the City of Memphis, the same are hereby stricken, and the words "the department of fire and police" shall be substituted in lieu thereof. Wherever the words "the commissioner of public safety" shall be found in the present Charter of the City of Memphis, the same are hereby stricken, and the words "the commissioner of fire and police" shall be substituted in lieu thereof. (Priv. Acts 1949, ch. 493, § 2)

Editor's note—The changes directed by this section have been made throughout this compilation.

Cross reference—Department of fire and police generally, §§ 63—67.

Sec. 54.2. "Civil Service.

The Chief of Police and the Assistant Chiefs of Police and the Chief of the Fire Department and the Deputy Chiefs of the Fire Department, including the Fire Marshal, in the Department of Fire and Police as presently established shall hereinafter be included in the coverage of civil service and provided further, that the Council may by ordinance add positions, including remaining department heads, to the present coverage of civil service; provided further that no director of the principal administrative divisions nor the Director of Administration [Chief Administrative Officer] shall be given civil service status.

There shall be no discrimination in the city employment of personnel because of religion, race, sex, creed or political affiliation, nor shall there be any discrimination in the promotion or demotion of city employees because of religion, race, sex, creed or political affiliation. (Ord. No. 1852, 11-8-66)

Sec. 55. Procedure where there is a difference of opinion as to what department embraces a particular work.

Whenever a difference of opinion shall arise as to what department embraces a particular work or matter, either because the same is not herein specially provided for or because of the difference of opinion as to the proper construction of the foregoing sections, the question shall be determined by the council in regular session, and their conclusion shall be final and binding. (Acts 1909, ch. 298, § 16)

Sec. 56. Reserved.

Editor's note—Former § 56 was repealed by Priv. Acts 1959, ch. 199, § 2. The section related to the assignment of commissioners to departments and was derived from Priv. Acts 1937, ch. 122, § 3.

Sec. 57. Assignment of boards, commissions, etc., to departments.

The Council of the City of Memphis shall have authority to assign and transfer, by ordinance or resolution, all boards, commissions, subordinate departments, or divisions of the city government heretofore created or that may hereafter be created, to that department of the city government set forth in section 2 of this Act [section 54 herein], which the Council of the City of Memphis may deem proper for the efficient operation of said government; provided, that the provisions of this section shall not be applicable to those boards, commissions, subordinate departments, or divisions of the city government that have been assigned to the various departments of the City of Memphis by specific act or acts of the General Assembly of Tennessee. (Priv. Acts 1937, ch. 122, § 10)

ARTICLE 9. DEPARTMENT OF ADMINISTRATION AND HEALTH

Sec. 58. Duties of mayor as head of department; assignment of offices, duties, etc., to department.

The mayor shall be at the head and have charge of the department of administration and health. He shall, by virtue of his office, be the chief executive officer of the city government, and each and every department thereof, and as such, shall have under his control and be charged with the duty of supervising and compelling the performance of duties by all other officers and employees. He shall be an ex officio member of all boards and commissions that have heretofore been appointed or that may hereafter be appointed, and in order to carry out the duties imposed upon him, he shall have access to all books and documents in the offices of the various officers, boards or commissions. Within the scope of this department, shall be the office of comptroller, and matters pertaining thereto; the office of city attorney, and matters pertaining thereto; the office of superintendent of the health department, and matters pertaining thereto; the office of city judge, and all matters pertaining thereto; the receiving and filing of all reports of heads of other departments and reports from the mayor as to his department; and to the general condition of the city with respect to all matters affecting the welfare of the municipality and its citizens. It shall be the duty of the mayor, as the head of this department, to keep the council from time to time advised as to all matters affecting the general welfare of the city. It shall also be the duty of the mayor to preside at all meetings of the council and to appoint such committees as may be provided for by ordinance or resolution of said council. (Priv. Acts 1937, ch. 491)

Sec. 59. Absence or inability of mayor to act.

In the event of the absence from the City of Memphis, or of the death, resignation, or removal of the mayor, or his inability to act, the commissioner of fire and police of the City of Memphis shall have and exercise all of the powers and duties of the mayor; and in the event of the absence of the mayor from any meeting of the council, said commissioner of fire and police shall preside in his place. And in event of the absence of the mayor and commissioner of fire and police from any meeting of the council, the remaining council members shall, by a majority vote, select one of their number to preside at such meeting or meetings. (Acts 1909, ch. 198, § 24; Priv. Acts 1937, ch. 7, § 4; Priv. Acts 1937, ch. 122, § 4; Priv. Acts 1939, ch. 173, § 3)

Sec. 60. Mayor to sign contracts, etc,

The mayor shall sign all bonds, notes and contracts of the City of Memphis or to which the City of Memphis is a party; provided, that if the mayor refuses to sign any such contract or instrument, the same shall become effective without his signature by the signature of any three of the other council members.

The power to contract (other than by franchise agreements) shall remain with the Mayor; however, all contracts requiring disbursements of funds shall be limited in an amount not in excess of that provided in the appropriate budget, either operations or capital fund. In the event an expenditure of extraordinary nature and not provided for shall appear to be reasonable and in the public interest, a request may be submitted by the Mayor and thereafter approved or rejected by the Council. (Priv. Acts 1937, ch. 123, § 17; Ord. No. 1852, 11-8-66)

Sec. 61. Health department established under supervision of department of administration and health.

The board of health as at present constituted is hereby abolished, and in lieu thereof is established a subordinate department to be known as the "health department," to be under the supervision and control of the department of administration and health, which said department shall perform the duties and functions heretofore performed by the board of health. (Acts 1909, ch. 298, § 5; Priv. Acts 1937, ch. 122, § 4)

Editor's note—Sections 61 and 62 should be read in light of the present contract under which the city and county operate a joint health department. See Code, Ch. 9-4.

Sec. 62. Organization and control of health department; election of superintendent.

The Council of the City of Memphis shall have full power and authority by ordinance to organize the health department by fixing the grade and number of officers, physicians, engineers, sanitary policemen, inspectors, and all their employees, to fix the qualifications and duties of all such officers, agents and employees, and the pay to be received by them; to establish rules and regulations for the conduct of such department, and the inspection of all food, or other products, the use, sale and distribution of which may affect the public health, and to have full power and authority to manage and control by ordinance such department, in any manner, or by any method [which is] not now, or which may [not] hereafter be, prohibited by law; provided, however, that it shall be the duty of the said council to elect, in accordance with the provisions of Chapter 298 of the Acts of 1909, a superintendent of the health department, whose term shall be for two years, and whose salary shall be fixed at not less than three thousand ($3,000) dollars, nor more than six thousand ($6,000) dollars per annum. (Priv. Acts 1921, ch. 452, § 1)

Note—See editor's note following § 61.

ARTICLE 10. DEPARTMENT OF FIRE AND POLICE GENERALLY*

***Code references—**Fire department, Ch. 2-24; police, Chs. 2-28— 2-36.

Cross reference—Name changed from department of public safety, § 54.1.

Sec. 63. Department embraces fire and police departments.

The department of fire and police shall embrace the fire department and the police department, and all matters pertaining to such departments. (Acts 1909, ch. 298, § 12; Priv. Acts 1937, ch. 122, § 4)

Sec. 64. Reserved.

Editor's note—Former § 64 consisted of a catchline only, with no text, and has been omitted.

Sec. 65. Gratuities to policemen and firemen.

No policeman, fireman, or officer in either of said departments shall, without the consent of said council, receive any money, or gratuity, or compensation, in addition to his salary, for any service he may render as an officer. (Acts 1905, ch. 54, § 54)

Sec. 66. Interference of members in elections.

Any unlawful interference or exhibition of partisanship upon the part of the members of these departments in any kind of election shall be positively forbidden on the penalty of dismissal, but they shall be permitted and encouraged personally to exercise the elective franchise as good citizens. (Acts 1905, ch. 54, § 46)

Cross reference—Similar provisions, § 10.

Sec. 67. Automatic promotion to captain after thirty years.

Any fireman or policeman, who shall have served the City of Memphis for a period of thirty (30) years, either continuously or intermittently, shall, at the expiration of said thirty years, automatically be promoted to the rank of captain of the fire division or captain of the police division, with all the salary, emoluments and other privileges of said rank; and, upon the retirement of such fireman or policeman, he shall receive a pension as captain.

Automatic promotion to the rank of captain in either the fire service division or the police division as set out in the above paragraph shall not apply to any person employed by the city after the date of January 31, 1979. (Priv. Acts 1927, ch. 521; Ord. No. 2725, § 1, 5-23-78)

ARTICLE 11. POLICE DEPARTMENT*

***Editor's note—**Members and employees of the police department are now under civil service and this article should be considered in light of §§ 240—250.15.

Cross reference—Police, Chs. 2.28—2.36.

Sec. 68. Duty of council to establish, fix duties, etc.

It shall be the duty of the Council of the City of Memphis to establish and maintain a police department, prescribe its duties and by ordinance establish and fix the grades, ranks and classifications of all officers and other employees of the police department of the City of Memphis. (Priv. Acts 1921, ch. 59, § 2; Priv. Acts 1925, ch. 513; Priv. Acts 1929, ch. 881, § 1; Priv. Acts 1945, ch. 56, § 14)

Sec. 69. Appointment and salaries of employees.

The council, in addition to all other powers delegated to it, is hereby authorized and fully empowered, by ordinance, to determine the number of officers and employees in each grade, rank and classification to be employed by the City of Memphis in the police department, and to fix the salaries of all of said officers and employees. (Priv. Acts 1921, ch. 59, § 4)

Sec. 70. Chief of police and chief of detectives; number of other officers and employees to be determined by council.

There shall be but one chief of police and one chief of detectives, but the council shall be empowered by ordinance to designate the number of captains, lieutenants, sergeants, detective sergeants, detectives, patrolmen and all other officers and employees as may be necessary to efficiently conduct the department. (Priv. Acts 1921, ch. 59, § 5)

Sec. 71. Powers of officers and patrolmen; collection and disposal of fees; commitment of defendants.

The officers and patrolmen of the police department shall have all the power now possessed by constables, except for the service of civil process. But all process served by such officers or patrolmen shall be returned by them before the judge of the city court, whether issued by said judge or by a justice of the peace, they shall have no powers to return the same to any justice of the peace. They shall receive no fees for such service, but in cases where the defendants are convicted the fees to which a constable would be entitled for like service shall be taxed and collected from such defendant by the clerk of the city court and turned into the city treasury; provided, that in no event shall such fees be collected from either city, state or county; and provided also that the defendants convicted may be committed to the city prison until the fines and costs are paid, secured or worked out. (Acts 1905, ch. 54, § 49)

Sec. 72. Special policemen.

The council may, in case of need, appoint special policemen to do special duty at any time and any place within the city and on such terms as the council may deem proper, but compensation for such service shall not exceed that for policemen of second class. However, in all cases the action of the council shall be reduced to writing and placed on the minutes, and shall show the necessity and occasion for such action. (Acts 1905, ch. 54, § 50)

Code reference—Appointment of special policemen, Ch. 2-30.

Sec. 73. Police pension board*—Created; composition; powers and duties generally.

The Council of said City of Memphis [is required] to create a board to be known as the police pension board, to be composed of the chief of police, the commissioner of fire and police, and three members to be appointed by the council of said city, upon nomination of the mayor; and it shall be the duty of said police pension board to pass upon all applications for pensions, or for compensation, under this Act, and said board shall have full power to execute and carry into effect all of the provisions of this Act. (Priv. Acts 1937, ch. 498, § 1)

***Cross reference—**Authority to establish retirement or pension system in lieu of §§ 73—80, see § 53.

Code reference—Pensions and retirement, T. 4.

Sec. 74. Same—Comptroller to perform clerical work; examination of applicants by city physician or superintendent of health.

The comptroller shall do and perform all the clerical work necessary in connection with the work of said board; and the city physician, or superintendent of the health department of said city, shall, upon request of said board, examine, without charge, all applicants for pension or compensation. (Priv. Acts 1921, ch. 60, § 2; Priv. Acts 1937, ch. 123, § 18)

Sec. 75. Same—Mayor designated chairman; majority vote required for appropriations, etc.

The mayor shall be chairman of said board, and no appropriation shall be made or action taken by said board, except by majority vote of all of the members of said board. (Priv. Acts 1921, ch. 60, § 3)

Sec. 76. Same—Power to pension in case of injury or death resulting from injury in performance of duty; to whom payable; suspension or cancellation of pension.

Whenever any member of the police department of said city sustains an injury directly caused by accident arising in the course of his employment and while such police officer is on duty as a member of said department, and such injury proximately causes such member to be permanently disabled for the proper performance of his duties as a member of said department, the said pension board is empowered, in its discretion, to grant a pension not exceeding fifty per cent of the salary being paid to police officers of the same grade or classification of the officer sustaining such permanent disability, and payable only for such period of time as such pension board shall determine.

Whenever any member of the police department in said city sustains an injury directly caused by accident arising in the course of his employment and while such police officer is on duty as a member of said department and death results proximately from such accident and injury, the said pension board is empowered, in its discretion, to grant a pension, not exceeding fifty per cent of the salary received by such police officer at the time of sustaining the injury which resulted in his death, payable only for such period of time as said pension board shall determine and payable only to that person or those persons then actually dependent by reason of affinity or consanguinity in the following degrees only, to-wit: The lawful widow of such member, provided she was living with her husband at the time of his injury and death and actually was dependent upon him for her maintenance and support; if no widow, to all minor children under age of eighteen years; if neither widow nor minor children under the age of eighteen years, to the father and/or mother who were supported by the deceased member of said department at the time of his death and for a substantial period of time immediately prior thereto. Should the lawful widow of such deceased employee remarry, the pension granted to her shall terminate, and the death of any person receiving any amount as a pension under this section shall terminate said pension as to such deceased dependent. Where such pension is payable to minor children as herein provided, the amount awarded to them shall be paid to their legal guardian to be used for their maintenance and support. Such police pension board is also empowered and authorized to decline any application for pension under this section, and to cancel, suspend, or discontinue any pension granted under the provisions of this Act at any time and for any causes

which said pension board, by a majority vote of its members, shall deem sufficient for such declination; cancellation, suspension or discontinuance. (Priv. Acts 1921, ch. 60, § 4; Priv. Acts 1931, ch. 433, § 1; Priv. Acts 1933, ch. 397)

Sec. 77. Same—Retirement for mental or physical disability after twenty years service.

When any member of the police department of said city shall have served twenty consecutive years and after such period of service shall become mentally or physically unable to perform the duties of such department, the pension board is empowered, in its discretion, to retire such member on a pension not exceeding fifty per cent of the salary being paid by said city to members of said department of the same grade or classification as that of the member being retired, and payable only for such period of time as said pension board shall determine. (Priv. Acts 1933, ch. 397, § 2)

Sec. 78. Same—City to provide funds; special tax levy.

It shall be the duty of the council of the said city to provide the necessary funds to carry out the provisions of this Act; and if such funds are not provided out of the general tax levy, the council is authorized and empowered to levy a special tax to meet the expenses and demands to carry out the provisions of this Act. In the event the Charter or laws governing said city shall provide a limit for taxation, then such special tax levy shall not be considered as part of the general tax levy, and such tax shall be collected in addition to any sum or sums which said city may now or hereafter by law be authorized and empowered to levy and collect. (Priv. Acts 1921, ch. 60, § 6)

Cross reference—Taxation generally, §§ 752—776.

Sec. 79. Same—Members not to receive compensation.

No member of said police pension board shall receive any compensation for his services as a member of such board. (Priv. Acts 1921, ch. 60, § 7)

Sec. 80. Same—Pensions considered gratuitous allowances and not contracted obligations; power of board to cancel, revoke, suspend or reduce pensions.

Any and all pensions granted under the provisions of this Act and amendments thereto shall be considered gratuitous allowances and not in any sense contractual obligations of the said pension board of said city, and the said pension board is fully empowered to cancel, revoke, suspend or reduce any pensions at any time granted by said board to any member of the police department of said city or to his widow, children or other dependents. (Priv. Acts 1933, ch. 397)

Secs. 81—83. Reserved.

Editor's note—Former §§ 81—83 were derived from Acts 1897, ch. 53, which is a general law codified as T.C.A. §§ 6-618, 6-619. These sections have been omitted from this compilation.

ARTICLE 12. PRIVATE DETECTIVES

Sec. 83.1. Definitions.

(1) "City" is the City of Memphis.

(2) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(3) "Private detective" is any person who accepts employment for hire, fee, or reward to furnish or supply information as to the personal character or actions or identity of any person, or as to the character or kind of business or occupation of any person. The term shall not include within its meaning a private investigator employed exclusively for one employer in connection with a business of a collection agency. Nor shall it include a detective or officer belonging to the law enforcement agencies of the United States or of any state, county or city. (Priv. Acts 1957, ch. 127, § 1)

Sec. 83.2. Permit required.

No person shall operate as a private detective in the city without first obtaining a permit as hereinafter provided from the chief of police. (Priv. Acts 1957, ch. 127, § 2)

Sec. 83.3. Application for permit.

Permits issued hereunder shall be made upon blank forms prepared and made available by the chief of police, and shall state:

(1) The full name, age, residence, present and previous occupations of the applicant;

(2) Whether the person signing the application is a citizen of the United States;

(3) A specific description of the location of the principal place of business of the applicant;

(4) The number of years experience the applicant has had as a private detective or in related fields;

(5) The length of time applicant has been a bona fide resident of the State of Tennessee immediately preceding the filing of the application;

(6) The application required hereunder shall be accompanied by a full set of fingerprints and a recent photograph;

(7) Such other information as the chief of police shall find reasonably necessary to effectuate the general purpose of this Act and to make a fair determination of whether the terms of this Act have been complied with. (Priv. Acts 1957, ch. 127, § 3)

Sec. 83.4. Investigation of applicant for permit.

Within ten (10) days after receipt of an application as provided for herein, the chief of police shall cause an investigation to be made of the applicant and his proposed operation. (Priv. Acts 1957, ch. 127, § 4)

Sec. 83.5. Action on application for permit; denial of permit.

The chief of police shall act upon the application for a private detective's permit within sixty (60) days after the filing thereof. If the chief of police disapproves the application, he shall mail to the applicant, within (60) days after the date upon which the application was filed, a notice of this action stating the reasons for his denials of the permit, which action is final. (Priv. Acts 1957, ch. 127, § 7)

Sec. 83.6. Standards for issuance of permit.

The chief of police shall issue a permit hereunder when he finds:

(1) That the applicant is of good moral character;

(2) That the applicant has never been convicted of any felony or any offense against the decency and morals of the community;

(3) That the applicant is a natural born or a fully naturalized citizen of the United States. (Priv. Acts 1957, ch. 127, § 5)

Sec. 83.7. Standards applicable to employees.

All employees of any person having or applying for a permit hereunder shall meet the standards set forth above, and violation of such standards shall be an additional ground for revocation of the permit of the employer. (Priv. Acts 1957, ch. 127, § 6)

Sec. 83.8. Conditions of permit.

The following conditions shall apply to all permits:

(1) *Transferability*. Permits issued hereunder shall not be transferable.

(2) *Revocation and suspension*. Permits issued hereunder shall be subject to revocation or suspension by the chief of police for violation of any of the provisions of this Act, or of the rules and regulations issued hereunder, or misconduct by the permittee or his employees, after reasonable notice and an opportunity to be heard has been given the permittee. The chief of police shall immediately notify any permittee in writing of such suspension or revocation. (Priv. Acts 1957, ch. 127, § 8)

Sec. 83.9. Permit certificates to be carried and posted; impersonation of peace officers.

The following duties shall be imposed upon all permittees:

(1) *Carry and post permit certificates*. The permittee hereunder shall cause a certificate of such permit to be displayed at all times in a conspicuous place in or on his place of business described in such permit. The permittee and

his employees shall carry on their persons at all times when performing services as a private detective a certificate of the permit issued hereunder.

(2) *Impersonation of state police officers*. No private detective regulated hereunder shall impersonate or hold himself out as a peace officer of this state; nor shall a private detective operate or permit to be operated a motor vehicle with a siren, blinker light, or with any insignia thereon bearing likeness to the insignia used by peace officers of this state. (Priv. Acts 1957, ch. 127, § 10)

Sec. 83.10. Rules and regulations of chief of police.

The chief of police may, subject to the approval of the citycouncil, have the authority to enact and enforce reasonable rules and regulations for the operation of private detectives in the interest of public safety, morals and welfare and to effectuate the general purpose of this Act. (Priv. Acts 1957, ch. 127, § 9)

Sec. 83.11. Violations of Act.

Any person who shall violate any provision of this Act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than fifty dollars ($50.00). Each day's continuance of a violation shall be considered a separate offense. (Priv. Acts 1957, ch. 127, § 12)

ARTICLE 13. FIRE DEPARTMENT*

***Editor's note—**Members and employees of the fire department are now under civil service and this article should be considered in light of §§ 240—250.15.

Cross reference—Authority to establish bureau of fire prevention, appoint fire marshals, etc., § 834.

Code reference—Fire department, Ch. 2-24.

Sec. 84. Authority of council to establish grades, ranks, etc.

The council, in addition to all other powers delegated to it, is hereby authorized and fully empowered, by ordinance, to establish and fix the grades, ranks and classifications of all officers and other employees of the fire department of the City of Memphis. (Priv. Acts 1945, ch. 56, § 14)

Sec. 85. Chief; number of other officers and employees to be determined by council; salaries.

There shall be but one chief of the fire department, but the council, in addition to all other powers delegated to it, is hereby authorized and fully empowered, by ordinance, to determine the number of officers and employees in each grade, rank and classification to be employed by the City of Memphis in the fire department; and to fix the salaries of all of said officers and employees. (Priv. Acts 1921, ch. 43, § 3; Priv. Acts 1945, ch. 56, § 14)

Sec. 86. Appointment of probationers.

Probationers shall be appointed in conformity with the civil service law, being sections 26 et seq., of Chapter 298 of the Acts of the General Assembly of the State of Tennessee for 1909, (see now Priv. Acts 1935, ch. 142, as amended by Priv. Acts 1937, ch. 122, Priv. Acts 1941, ch. 44, and Priv. Acts 1945, ch. 118), it being the intention to repeal no part of the civil service laws now applying to members of the fire department of the City of Memphis except those in conflict with the provisions of this Act. (Priv. Acts 1921, ch. 43, § 8)

Sec. 87. Firemen's pension board*—Created; composition; powers and duties generally.

The council of said City of Memphis [is required] to create a board to be known as the firemen's pension board, to be composed of the commissioner of fire and police, the chief of the fire department, and three members to be appointed by the council of the said city, upon nomination by the mayor; and it shall be the duty of said pension board to pass upon all applications for pensions or for compensation, and said board shall have full power to execute and carry into effect all of the provisions of this Act. (Priv. Acts 1937, ch. 492)

***Cross reference—**Authority to establish a retirement or pension system in lieu of §§ 87—94, see § 53.

Code reference—Pensions and retirement, T.4.

Sec. 88. Same—Comptroller to perform clerical work; examination of applicants by city physician or superintendent of health.

The comptroller shall do and perform all the clerical work necessary for said board; and the city physician or superintendent of the health department shall, without compensation, at the request of said board, examine all applicants for compensation or pension. (Priv. Acts 1921, ch. 42, § 2; Priv. Acts 1937, ch. 123, §§ 2 and 18)

Sec. 89. Same—Majority vote required for expenditure of funds, etc.

No funds shall be spent, nor other action taken, by said board except by majority vote of all the members of said board. (Priv. Acts 1921, ch. 42, § 3)

Sec. 90. Same—Power to pension in case of injury or death resulting from injury in performance of duty; to whom payable; suspension or cancellation of pension.

Whenever any member of the fire department of said city sustains an injury directly caused by accident arising in the course of his employment and while such fireman is on duty as a member of said department, and such injury proximately causes such fireman to be permanently disabled for the proper performance of his duty as a member of said department, the said firemen's pension board is empowered, in its discretion, to grant a pension, not exceeding fifty per cent of the salary being paid to firemen of the same grade or classification of the member sustaining such permanent disability, and payable only for such period of time as such pension board shall determine.

Whenever any member of the fire department in said city sustains an injury directly caused by accident arising in the course of his employment and while such fireman is on duty as a member of said department, and death results proximately from such accident and injury, the said pension board is empowered, in its discretion, to grant a pension, not exceeding fifty per cent of the salary received by such fireman at the time of sustaining the injury which resulted in his death, payable only for such period of time as said pension board shall determine and payable only to that person or those persons then actually dependent by reason of affinity or consanguinity in the following degrees only, to-wit: The lawful widow of such member, provided she was living with her husband at the time of his injury and death and actually was dependent upon him for her maintenance and support; if no widow, to all minor children under age of eighteen years; if neither widow nor minor children under the age of eighteen years, to the father and/or mother who were supported by the deceased member of said department at the time of his death and for a substantial period of time immediately prior thereto. Should the lawful widow of such deceased employee remarry, the pension granted to her shall terminate, and the death of any person receiving any amount as a pension under this section shall terminate said pension as to such deceased dependent. Where such pension is payable to minor children as herein provided, the amount awarded to them shall be paid to their legal guardian to be used for their maintenance and education. Such firemen's pension board is also empowered and authorized to decline any application for pension under this section, and to cancel, suspend, or discontinue any pensions granted under the provisions of this Act at any time for any causes which said pension board by a majority vote of its members, shall deem sufficient for such declination, cancellation, suspension or discontinuance. (Priv. Acts 1921, ch. 42, § 4; Priv. Acts 1931, ch. 476, § 1; Priv. Acts 1933, ch. 396)

Sec. 91. Same—Retirement for mental or physical disability after twenty years service.

When any member of the fire department of said city shall have served twenty consecutive years and after such period of service shall become mentally or physically unable to perform the duties of such department, the firemen's pension board is empowered, in its discretion, to retire such member on a pension not exceeding fifty per cent of the salary being paid by the said city to members of said department of the same grade or classification as that of the member being retired, and payable only for such period of time as said pension board shall determine. (Priv. Acts 1933, ch. 396, § 2)

Sec. 92. Same—City to provide funds; special tax levy.

It shall be the duty of the council to provide the necessary funds to carry out the provisions of this Act; and in the event that the necessary funds are not provided out of the general funds of said city, the council is hereby authorized and empowered to levy a special tax to meet the expenses and demands necessary to carry out the provisions of this Act. In the event the Charter or laws governing said city shall provide a limit for taxation, then this special tax shall not

be considered a part of the general taxes, and shall be levied and collected in addition to any sum or sums which said city is or may be authorized to levy and collect. (Priv. Acts 1921, ch. 42, § 6)

Cross reference—Taxation generally, §§ 752—776.

Sec. 93. Same—Members not to receive compensation.

No member of such board may collect or receive any compensation for his services on such board. (Priv. Acts 1921, ch. 42, § 7)

Sec. 94. Same—Pensions considered gratuitous allowances and not contractual obligations; power of board to cancel, revoke, suspend or reduce pensions.

Any and all pensions granted under the provisions of this Act and amendments thereto shall be considered gratuitous allowances and not in any sense contractual obligations of the said pension board or said city and the said pension board is fully empowered to cancel, revoke, suspend or reduce any pensions at any time granted by said board to any member of the fire department of said city or to his widow, children or other dependents. (Priv. Acts 1921, ch. 42; Priv. Acts 1933, ch. 396, § 3)

ARTICLE 14. DEPARTMENT OF PUBLIC WORKS

Sec. 95. What department embraces.

The department of public works shall embrace everything heretofore embraced in the engineer department, including bridges, streets, sewers, subways, sidewalks, viaducts, or new work connected therewith of every character, graveling, repair work of all kinds, city carpentering, also street sprinkling and cleaning, together with the stables, horses, mules, wagons and equipment connected with said work, and also matters heretofore under the supervision of the plumbing inspector and harnessmaker. (Acts 1909, ch. 298, § 13; Priv. Acts 1937, ch. 122, § 4)

Editor's note—The office of city harnessmaker was abolished by Priv. Acts 1921, ch. 367.

ARTICLE 15. CITY PLANNING COMMISSION

Sec. 96. Authority to create.

The legislative body of the City of Memphis is hereby authorized and empowered, by ordinance duly passed, to create a city planning commission for such municipality. (Priv. Acts 1921, ch. 162, § 1)

Sec. 97. Composition.

Such city planning commission shall consist of eight citizen members, to be appointed by the mayor, subject to the approval of the legislative body of the municipality, and four members ex officio.

The commissioner of the department of public works, the commissioner of the department of public service, the chairman of the park commission and the city engineer shall be ex officio members of the commission, and in addition there shall be a secretary, to be likewise appointed by the mayor. The secretary shall have custody of the books and records of the commission, but he shall have no vote. (Priv. Acts 1921, ch. 162, § 2; Priv. Acts 1937, ch. 122, § 4)

Sec. 98. Term of office; removal of members; compensation; allowances for expenses.

The term of the chairman shall be for one year, and he shall be elected by the city planning commission and shall hold office until his successor is elected. The citizen members of the commission first appointed shall serve, respectively, two for one year, three for two years, and three for three years. Thereafter members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term only. All members may be removed at any time, by a majority vote of the legislative body of the municipality, for cause. The secretary shall hold office at the will and pleasure of the mayor. Neither the members of the commission nor the secretary shall receive compensation for their services, but allowances for actual expenses in connection with duties performed may be made. (Priv. Acts 1921, ch. 162, § 2)

Sec. 99. Meetings; quorum; record of proceedings.

The members of the city planning commission shall meet at least once a month, at such times and places as they may fix by resolution. Special meetings may be called, from time to time, by the chairman. Five members of the commission shall constitute a quorum for the transaction of business. The commission shall cause proper record to be kept of its proceedings. (Priv. Acts 1921, ch. 162, § 3)

Sec. 100. Duties generally.

It shall be the duty of the city planning commission to collect data and to keep itself informed as to the best practices, and the advancement made generally, in the art of city planning (to the end that it may be qualified), to act on matters that affect the present and future movement of traffic, the convenience, the safety of persons and property, the health, the recreation and the general welfare and amenities and all other needs of the municipality, which are dependent upon the city plan. (Priv. Acts 1921, ch. 162, § 4)

Sec. 101. Duty of city departments to cooperate; interpretation of Act.

It shall be the duty of all city departments to render assistance to the planning commission in the way of information, advice and cooperation. However, it is not intended to supplant nor impair the power of any existing board, bureau or commission already in existence and operating under Charter provisions and ordinances, except that matters coming within the purview of the planning commission shall be referred to that body, to the end that there shall be a proper correlation of thought and the furtherance of comprehensive plans for all betterments carried out by the city. (Priv. Acts 1921, ch. 162, § 5)

Sec. 102. Plans and maps; preservation of historical land marks; location of works of art, etc.

It shall be within the further powers and dealings of the commission to make plans and maps of the whole or any portion of the municipality or any land outside the municipality, which in the opinion of the commission bears a relation to the planning of the municipality, and to make changes in such plans or maps when it deems same advisable. Such plans shall show the commission's recommendations for any streets, alleys, ways, viaducts, bridges, subways, railroads, terminals, transit lines, parkways, parks, playgrounds or any other public grounds or public improvements, and the removal, relocation, widening or extension of such public work then existing. The commission shall have authority to recommend provisions for the preservation and care of historical landmarks, control in the manner provided by ordinance the design and location of statuary and other works of art which are, or may become, the property of the municipality, and the removal, relocation and alteration of such works belonging to the municipality, and the design and location of harbors, bridges, viaducts, street fixtures, and other public structures and appurtenances. (Priv. Acts 1921, ch. 162, § 6)

Cross reference—Authority of council to acquire historical sites, § 867.5.

Sec. 103. Approval of commission required for construction of public improvements, etc.; procedure in case of disapproval; recommendations.

Whenever the legislative body of the municipality shall have adopted a city plan recommended by the city planning commission, no public buildings, streets, alleys, ways, viaducts, bridges, subways, railroads, terminals, transit lines, parkways, parks, playgrounds, or any other public grounds or public improvement, or part thereof, shall be constructed until and unless the location thereof shall be approved by the city planning commission; provided, however, that in case of its disapproval, the city planning commission shall communicate its reasons for disapproval to the legislative body of the municipality, and thereupon, by majority vote of such legislative body, it shall have the power of overruling such disapproval. The widening, narrowing, ornamentation, vacancies, or change in the use of streets and other public ways, public grounds or other public improvements, appearing on the adopted plan, shall be subject to similar approval by the planning commission and upon disapproval by the planning commission may be similarly overruled.

The planning commission may make recommendations to any public authorities or to any corporations or individuals in such municipality, or in the territory contiguous thereto, concerning relocation of any building, structures or works to be erected or constructed by them. (Priv. Acts 1921, ch. 162, § 7)

Sec. 104. Submission of plans, plots, etc., to commission for approval.

All plans, plots or replots of lands laid out in building lots, into streets, alleys or other portions of the same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjoining and located within the corporate limits of the municipality, shall be submitted to the city planning commission for approval; provided, however, that in case of its disapproval, the city planning commission shall communicate its reasons for disapproval to the legislative body of the municipality, and thereupon by majority vote of such legislative body it shall have the power of overruling such disapproval. (Priv. Acts 1921, ch. 162, § 8)

Sec. 105. Effect of approval.

The approval of the city planning commission or legislative body shall be deemed an acceptance of the proposed dedication, but this shall not impose any duty upon the municipality concerning the maintenance or improvement of such dedicated parts until the proper municipal authority shall have made an actual appropriation of same, by entry, use or improvement. (Priv. Acts 1921, ch. 162, § 8)

Sec. 106. Public money not to be expended on improvements until plans approved.

No sewer, water or gas main, or pipes or other improvements shall be voted or made, nor shall any public money be expended for the benefit of any such purchaser or owner; nor shall any permit for connection with, or other use of any such improvement existing, or for any other reason, be given to any such purchasers or owners until such plan is so approved by the city planning commission or legislative body. No sewer, water or gas main or pipe or other improvements shall be voted or made, nor shall any public money be expended within any lands laid out in building lots, streets and alleys, until the plan, plot or replot of such lands shall have been approved by the city planning commission or legislative body. (Priv. Acts 1921, ch. 162, § 8)

Sec. 107. Authority to employ architects, engineers and clerical help.

The city planning commission shall have power to control, appoint or employ such architects, engineers and other professional service, and to appoint such clerks, draftsmen, and other subordinates as it shall deem necessary for the performance of its functions, the expenditures for such service and employment to be within the amounts appropriated for the use of the city planning commission. (Priv. Acts 1921, ch. 162, § 9)

Sec. 108. Annual report.

The city planning commission shall make to the legislative body of the municipality an annual report, giving a resume of its work during the preceding year. In such report it shall also make recommendations as to future projects to be undertaken, and from time to time they shall also make like recommendations for public improvements, which, in its judgment, should be undertaken. (Priv. Acts 1921, ch. 162, § 10)

ARTICLE 16. JOINT CITY-COUNTY PLANNING COMMISSION AND BOARD OF ADJUSTMENT*

***Code reference—**City-county board of adjustment, Ch. 2-48.

Sec. 108.1. Authority to establish.

The Council of the City of Memphis is authorized, by agreement with the County of Shelby, to establish a joint City of Memphis and Shelby County planning commission and a joint City of Memphis and Shelby County board of adjustment, such agreement, if made, to be evidenced by an ordinance passed by the Council of the City of Memphis, the terms of which shall be embodied in and concurred in by a resolution of the quarterly county court of Shelby County. (Priv. Acts 1955, ch. 352, § 3)

Sec. 108.2. Contents of ordinance and resolution evidencing agreement to establish.

The said ordinance and resolution, if agreed upon, shall fix the number of members of both the said joint planning commission and the said joint board of adjustment, shall provide for the number of such members to be appointed by the Council of the City of Memphis and the number of such members to be appointed by the quarterly county court of Shelby County, and shall fix the identity of such officials of the City of Memphis and the County of Shelby who shall

be ex officio members of both the said planning commission and the said board of adjustment. The said ordinance and the said resolution shall also fix the terms of the members to be appointed by the said council and the said quarterly county court and shall provide the number of members of each body required to constitute a quorum for the transaction. of business and for the election of a chairman for each body. (Priv. Acts 1955, ch. 352, § 4)

Sec. 108.3. Powers and duties; rules and regulations; division of expenses between city and county; employment of staff members.

If agreement shall be reached by the City of Memphis and the County of Shelby for the creation of said joint planning commission and said joint board of adjustment, the said planning commission and the said board of adjustment shall, upon passage of the ordinance and resolution herein provided for, have all of the powers, duties, functions and jurisdiction and shall be subject to all of the law pertaining to the planning commissions and the boards of adjustment of the City of Memphis and Shelby County now provided by law, except as may be herein otherwise provided. The said planning commission and the said board of adjustment shall have the power to make and publish rules and regulations, which rules and regulations as promulgated shall be subject to the approval of the Council of the City of Memphis when applicable to property within the City of Memphis and the approval of the quarterly county court of Shelby County as to property within Shelby County outside the City of Memphis. Said ordinance and resolution may also provide for the division of expenses as between the City of Memphis and Shelby County and for the employment of staff members for the administration jointly of the zoning laws applicable to the City of Memphis and County of Shelby. (Priv. Acts 1955, ch. 352, § 5)

Sec. 108.4. Suspension of conflicting laws.

If agreement shall be reached by the City of Memphis and the County of Shelby for the creation of said joint planning commission and said joint board of adjustment, then the present provisions of law in conflict with the provisions hereof shall be inoperative and suspended during the tenure of such an agreement between the said city and the said county. (Priv. Acts 1955, ch. 352, § 6)

Sec. 108.5. Application of law and procedure to property within and without city.

When the jurisdiction of said joint planning commission and the jurisdiction of said joint board of adjustment are exercised as to property within the City of Memphis the law and procedure applicable to the City of Memphis shall govern, and when such jurisdiction is exercised as to property outside the City of Memphis the law and procedure applicable to Shelby County shall govern. (Priv. Acts 1955, ch. 352, § 7)

ARTICLE 17. PLANS, PLOTS OR REPLOTS OF LANDS WITHIN CITY*

***Code reference—**Subdivisions, T. 15.

Sec. 109. Approval by council prerequisite to recordation.

In all cities having a population of one hundred and sixty thousand (160,000) or over, according to the Federal Census of 1920 or any subsequent Federal Census, all plans, plots, or replots of lands lying within the limits of such city, laid out in building lots, and streets, alleys, squares, parks, or other portions of same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting upon any such square, park, street, alley, or boulevard, or adjacent thereto, or lying or being within the boundary of the said tract or parcel of land, and located within the limits of any such city, shall be submitted to the council, or other legislative body having general charge and supervision of the design, construction and maintenance of city streets; and all such plans, plots, or replots shall be approved by such council or other legislative body, before they shall be tendered for record to the county register. (Priv. Acts 1921, ch. 164, § 1)

Sec. 110. Examination by council; when approval required.

Said plans, plots, or replots shall be examined by such council with a view of ascertaining whether such plans, plots, or replots conform to the general laws relating to plots within the city, and that streets, alleys, boulevards, parks and public ways or places shall conform to the general plan of the city, and not conflict or interfere with rights of way of

streets, or alleys, already established. If such plans, plots, or replots shall conform to the laws of the state, and ordinances of such city, and if they shall fall within the general plan for the extension of such city, regard being had for public streets, sewer connections, water service, and service of other utilities, then it shall be the duty of said council, or other legislative body, to endorse its approval upon the plan, plot, or replot submitted to it. (Priv. Acts 1921, ch. 164, § 1)

Sec. 111. Effect of approval.

The approval of such council, or other legislative body, shall be deemed an acceptance of the proposed dedication for public, or private use, as the case may be; but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedicated parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement, and owners and purchasers shall be deemed to have notice of the public plans, maps and reports of such council, or body having charge of the design, construction and maintenance of the city streets affecting such property within the jurisdiction of the cities of the class hereinbefore set out. (Priv. Acts 1921, ch. 164, § 1)

Sec. 112. Duty of county register.

If any such plan, plot, or replot of land is tendered for registration in the office of a county register of any county in which any city of the above class may be situated, it shall be the duty of such county register to examine such plan, plot, or replot to ascertain whether the endorsement of the council, or legislative body provided for in the next preceding section, shall appear thereon. If it shall, and the plan, plot, or replot otherwise conforms to the provisions of law, he shall accept same for registration. If such endorsement does not appear thereon, the register shall refuse and decline to accept such plan, plot, or replot. Any failure to observe the provisions of this section, on the part of any county register, shall constitute a misdemeanor in office. (Priv. Acts 1921, ch. 164, § 2)

Sec. 113. To be tendered for registration within thirty days after final approval.

Every such plan, plot, or replot of land shall be tendered for registration within thirty (30) days of the final approval by thecouncil, and the failure to tender such plan, plot, or replot for registration within said thirty days shall operate to vacate and void the approval thereof by the council; and the county register shall not record such plan, plot, or replot of land unless same is tendered to him for registration within thirty days of its final approval by the council. (Priv. Acts 1927, ch. 452)

ARTICLE 18. PLATS FOR SUBDIVISIONS IN CITY-COUNTY FIVE-MILE ZONE*

***Code reference—**Subdivisions, T.15.

Sec. 114. Required; contents.

Every owner or proprietor of any tract of land situated outside of but within five (5) miles of the corporate limits of any city of the State of Tennessee containing one hundred sixty thousand (160,000) inhabitants, or more, according to the Federal Census of 1920 or any subsequent Federal Census, who may hereafter subdivide the same into two (2) or more parts for the purpose of laying out any subdivision of any town or city, or any addition thereto, or any part thereof, or suburban lots or building lots, shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made, which shall accurately describe all of the subdivision of such tracts or parcels of land, giving the dimensions thereof and the dimensions and courses of all the streets, alleys, squares, parks or other portions of same intended to be dedicated to public use. Descriptions of lots or parcels of land in such subdivisions, according to the number and designation thereof on said plat, contained in conveyances or tax rolls or other documents, and copies of such plats or extracts therefrom, properly attested by the register in whose office said plats are recorded, shall have the same force and effect as evidence that copies of deeds may have, and shall be deemed good and valid for all intents and purposes. (Priv. Acts 1925, ch. 409, § 1)

Sec. 115. Acknowledgment and recordation required.

Every such plat shall be duly acknowledged by the owners or proprietors of the land before some officer authorized to take acknowledgments of deeds, and when thus executed and acknowledged, said plat, subject to the provisions contained in sections 117 and 118, herein, shall be filed for record and be recorded in the office of the register of the county in which said land lies. (Priv. Acts 1925, ch. 409, § 2)

Sec. 116. Effect of recordation.

The recordation of such plan or plat shall operate to dedicate to public use all portions of land or interest therein as are set apart on such plat or plan for streets, alleys, parks, easements for poles, conduits or other instrumentalities used by public service corporations, or other public uses. (Priv. Acts 1925, ch. 409, § 3)

Sec. 117. Approval of city planning commission and board of county commissioners required before recordation; certificate of endorsement.

No such plan or plot shall be recorded by the register of any county in this state affected by this Act, until the same shall have been approved by the city planning commission of any city affected by this Act, and the board of county commissioners of the county in which the land lies. Any person desiring to have a subdivision plat or plan certified as herein provided shall apply therefor and file a copy thereof with the commission and board hereinbefore referred to, who shall act upon the application within thirty (30) days from the filing date. If the plan or plat is approved, each shall indicate such finding by a certificate endorsed thereon, signed by the chairman of the board or commission, and attested by the secretary, and if there be no chairman and secretary, then by a majority of the members of the board or commission. The board or commission acting upon any application shall keep a record thereof, and upon demand of the owner of any land affected shall certify its reasons for its action in the matter. (Priv. Acts 1925, ch. 409, § 4)

Sec. 118. Conditions prerequisite to approval.

If such plans, plots or replots shall conform to the laws of the state, county, and applicable ordinances of such city, and if they shall fall within the general plan for the extension of such city, and any applicable law or regulations that may be hereafter promulgated by the quarterly county courts of said counties, and the general plan for the extension of roads, streets and public ways within the city, the general plan of the county, the plan of roads and public ways within the county, regard being had for access to and extension of streets and roads, access to sewers, water mains and the instrumentalities of public service companies, then it shall be the duty of the commission and board to endorse approval upon the plat, plan, plot or replot submitted to it; provided, however, that before approving same, the board of county commissioners of the county in which the land lies shall have and is hereby specifically granted authority to require that the streets and highways of any such subdivision shall be paved according to plans, specifications and requirements made or approved by such board of county commissioners, and such board of county commissioners shall also have authority, before approving same, to require that the establishment of grades of streets and highways, the width and arrangement of same, and the drainage of the plots or replots and of the streets and highways embraced therein shall be in accordance with plans, specifications and requirements made or approved by such board of county commissioners and carried out under engineering supervision of such board of county commissioners or its engineers; provided further, that such boards of county commissioners shall have authority in their discretion, if their requirements as herein authorized be not completed at the time of endorsement of approval provided for in this Act, to provide for the completion of same by contract between the county and the owner or proprietor of the tract of land in question and to require such security for the completion and carrying out of such contract as said board of county commissioners may deem adequate and proper.

The board of county commissioners may refuse to issue such certificate unless the owner or proprietor of the land involved shall first enter into a contract with, and satisfactory to, the board of county commissioners relative to the improvement of the property by the said owner or proprietor, dedicating, and at his expense, constructing all necessary roads, drainage and grading required by the said board of county commissioners. Prior to the actual completion of the roads and payment therefor as may be required by the board of county commissioners, and prior to the acceptance of the final plan, the board of county commissioners may accept a cash deposit or surety bond to secure the county board of commissioners that the actual construction of said roadway, drainage and grading may be completed and paid within such time as may be specified by the board of county commissioners.

In all areas within three (3) miles of the present, or any future boundary of any city affected by this Act, the board of county commissioners shall refuse to issue such certificate unless the owner or proprietor of the land involved shall first enter into a contract with and satisfactory to the board of county commissioners relative to the improvement of the property by the said owner or proprietor, at his expense, to construct all necessary roads, curbs, gutters, sidewalks, drainage, grading, gravelling and storm and sanitary sewerage systems required by the said board of county commissioners. Any such contract, before becoming effective, shall likewise be approved by the mayor and city council of any city affected by this Act. The owner or proprietor of the land involved shall make a cash deposit or surety bond to secure the board of county commissioners and the city council of any city affected by this Act that the actual construction aforesaid shall be completed and paid for within such time as may be specified by the board of county commissioners. The amount of cash deposit, or the surety bond and the surety must meet with the approval of the mayor and city attorney of any city affected by this Act and the board of county commissioners and county attorney of the county. (Priv. Acts 1925, ch. 409, § 4; Priv. Acts 1927, ch. 509, § 1; Priv. Acts 1945, ch. 130, §§ 1, 2; Priv. Acts 1953, ch. 445, § 1)

Sec. 119. Vacation generally.

Any such plat may be vacated by the proprietors thereof, at any time before the sale of any lot therein, by written instrument declaring the same to be vacated, duly executed, acknowledged or proved, and recorded in the same office as the plat to be vacated, provided the approval of the city and county officers shall have been obtained as above provided, and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest such proprietors with the title to the streets, alleys, commons, and public grounds, laid out or described in such plat. In cases where lots have been sold, the plat, or any part thereof, may be vacated upon the application of all the owners of lots in said plat and with the approval of the city and county officers. (Priv. Acts 1925, ch. 409, § 5)

Sec. 120. Duty of county register upon vacation.

The register of the county in whose office the plats aforesaid are recorded shall write in plain legible letters across the plat so vacated the word “Vacated,” and also make a reference on the same to the volume and page in which said instrument of vacation is recorded. (Priv. Acts 1925, ch. 409, §5)

Sec. 121. City or county not required to grade, pave, etc.

Nothing in this Act contained shall be construed as an obligation upon any such city or county to pay for grading, or to pave, lay sidewalks, curb, gutter or improve streets or public grounds, except as may be provided by laws heretofore or hereafter enacted relative to annexation of territory by cities and towns. (Priv. Acts 1925, ch. 409, § 6)

Sec. 122. Duty of county register to enforce Act.

When any such map or plat of a subdivision of land is tendered for registration in the office of a county register of any county in which any city of the above class may be situated, it shall be the duty of such register to ascertain that the proposed subdivision is or is not subject to the provisions of this Act, and if it is subject to its provisions, then to examine such map or plat to ascertain whether the endorsements required by this Act appear thereon. If such endorsements appear thereon, he shall accept same for registration. If such endorsements do not appear thereon, he shall refuse to accept such map or plat for registration. When the map or plat does not disclose that the subdivision, or any part thereof, is or is not outside of and within five (5) miles of the corporate limits of a city of the class mentioned above, the county register may require one offering the map or plat for registration to file with him an affidavit setting forth such information. Any failure to observe any of the provisions of this Act on the part of any county register shall constitute a misdemeanor in office. (Priv. Acts 1925, ch. 409, § 7)

Sec. 123. To be tendered for registration within thirty days of final approval.

Such plan or map shall be tendered for registration within thirty (30) days of the final approval of such plan or map, and the failure to tender such plan or map for registration within thirty days of its final approval shall operate to vacate and void such approval; and the county register shall refuse to accept for registration, and shall not register any such

plan or map not tendered within thirty days of its final approval by the city planning commission and board of commissioners provided for in said act. (Priv. Acts 1927, ch. 448)

ARTICLE 19. CONVEYANCES OF LESS THAN TWO ACRES NOT ABUTTING ON PUBLIC STREET

Sec. 124. Prerequisite to recordation.

No conveyance of any parcel of ground of less than two acres in area within the corporate limits, or within five (5) miles of such limits, of any city having a population of one hundred sixty thousand (160,000) or more persons, according to the Federal Census of 1920 or any subsequent Federal Census, shall be entitled to registration unless such land abuts on a public road or a public street, or unless such land is sold or conveyed to the owner of immediately adjacent property, or unless the deed shall have written thereon a certificate to the effect that the public interest does not require that a public road or a public street be dedicated or provided for before such transfer. It shall be the duty of the city planning commission, if the land lies within the corporate limits of a city of the class mentioned above, or of the board of county commissioners, if it lies without such limits but within five (5) miles thereof, to give such certificate in all cases where the land conveyed, by means of private roads or private right of way, is assured access to a public highway, and such certificate shall be signed by the authority issuing it. It is hereby made the duty of such commissioners and boards to make such a certificate upon all deeds conveying land of less than two acres in the territory above indicated, which do not show on their face that such land abuts on or is assured access to a public highway as indicated above, where the public interest does not require the indication of or provision for a new public road or new public street to be used in connection with such land. The issuance of such certificate or the refusal to issue shall take place within ten (10) days from and after the date of the request for the certificate; otherwise such certificate shall be deemed to have been issued. Nothing herein shall be construed as applying to the sale or transfer of any lot or parcel of ground in the territory above indicated containing an area of less than two acres, for which a deed or a contract of sale has been executed or delivered before the taking effect of this Act. (Priv. Acts 1925, ch. 408, § 1)

Sec. 125. Duty of county register.

When any deed conveying a lot or parcel of land of less than two acres in area in any territory indicated in section 124 is tendered for registration to the county register of the county in which the land lies, it shall be the duty of such county register to ascertain if the endorsement required by section 124, if such endorsement is required (thereunder), appears upon said deed. If such endorsement appears thereon, he shall accept same for registration. If such endorsement does not appear thereon and it is required under this Act, he shall refuse to accept such deed for registration. When the deed does not disclose on its face whether it requires the endorsement provided for by this Act, the county register may require the one offering the deed for registration to file with him an affidavit setting forth sufficient facts to show whether such endorsement thereon is required hereunder. Any failure to observe any of the provisions of this Act on the part of any county register shall constitute a misdemeanor in office. (Priv. Acts 1925, ch. 408, § 2)

ARTICLE 20. BUILDING LINES UNDER EMINENT DOMAIN FOR STREET WIDENING*

***Cross references—**Condemnation of private property generally, § 457 et seq.; street improvements generally, §§ 503—565.

Code reference—Streets, Chs. 12-4—12-28.

Sec. 126. Definition of "street."

The word "street," as used in this Act, shall mean any public highway, esplanade, boulevard, parkway, square, or street, or any part, or side, or part of side of any of the same, within the limits of any incorporated municipality having a population in excess of one hundred sixty thousand (160,000) inhabitants by the Federal Census of 1920 or by any subsequent Federal Census. (Priv. Acts 1923, ch. 415, § 1)

Sec. 127. Authority to establish.

It shall be lawful for any incorporated municipality having a population in excess of one hundred sixty thousand (160,000) inhabitants by the Federal Census of 1920 or by any subsequent Federal Census to provide by ordinance for the establishment of a building line, or lines, on any street. After the establishment of any such line, or lines, no

building or other structures shall be erected and no existing buildings reconstructed or repaired to the extent of more than seventy-five per cent of its value, and no building or other structure shall be re-erected, within the line or lines so established, except subject to the rights of the municipality acquired under any such building line ordinance. (Priv. Acts 1923, ch. 415, § 2)

Sec. 128. May be established on one or both sides of street; contents of establishing ordinance.

Such line or lines may be established on one or both sides of any street, for the total length of any street or any part thereof. The ordinance establishing such line or lines shall set forth the name of the street, and the part or parts thereof to which said line or lines shall apply, and shall provide that the owners of property abutting on said street within the part affected by such line, or lines, shall take notice of and be bound by the provisions of such ordinance. (Priv. Acts 1923, ch. 415, § 2)

Sec. 129. Passage of ordinance constitutes easement; rights of property owners.

Upon the final passage of such ordinance the municipality passing the same shall be conclusively held to have taken an easement of way over all lands abutting the part or parts of the street to which such building line ordinance is applied, and the owners of such lands shall thereupon be entitled to all the benefits accruing to owners of lands or other property taken by the public for public use, under the laws of eminent domain of the State of Tennessee. (Priv. Acts 1923, ch. 415, § 3)

Sec. 130. Notice of taking of easement; duty of city to widen streets within twenty-five years; right of property owner pending widening.

No notice of the taking of such easement to the owner of any property affected thereby shall be required other than the passage of an ordinance in conformity with the Charter provisions of any municipality passing such ordinance. Such ordinance shall also provide that, at a future time to be therein specified, not later than twenty-five (25) years after the passage of such ordinance, the municipal corporation shall widen the street to the line or lines established in such ordinance; but between the time of the passage of such ordinance and the time fixed therein at which the street shall be widened to such a line, or lines, the owners of the lands over which the municipality has acquired the easement aforesaid shall have the right to make any use of such land not inconsistent with the right of such municipality under its easement, or inconsistent with the provisions of this Act, including the right to maintain upon such land any building, structure, or appurtenances existing thereon at the time of the passage of such ordinance. (Priv. Acts 1923, ch. 415, § 3)

Sec. 131. Assessment of damages; right of owner to institute court action; time within which action must be brought.

The municipality passing such ordinance may proceed to the assessment of damages to the owners of lands affected thereby under the law relating to eminent domain; and the owners of such land shall likewise have the right to institute in any court of competent jurisdiction their actions to have assessed the damages sustained by them; but no action shall be brought by any owner of property affected by such ordinance for damages by reason of the taking of such easement, unless the action shall have been brought within twelve months of the final passage of the ordinance establishing such line or lines; provided, however, that this shall not apply to any person under disability whose right to bring an action is regulated or governed by any other Act or law of the State of Tennessee. (Priv. Acts 1923, ch. 415, § 4)

Sec. 132. Measure of damages; interpretation of Act.

The measure of damage for the taking of such easement under any such ordinance shall be the difference between the value of the land at the time of the taking, without the easement, and the value of the land at the time of the taking, subject to the easement of the municipality acquiring it under the ordinance; provided, however, that should this provision of this Act relating to the rule of the damages be held invalid, that the owners of any property affected by the taking of such easement by the municipality shall be entitled to such damages as may be awarded them under the law of the land. Nothing herein contained shall be held to give any municipality passing an ordinance under the provisions hereof any right, title or interest in or to any building or improvement now or hereafter erected on any land over which the city acquires the easement hereinbefore provided for, or to the use or possession of any land within the line or lines so established, until the acquisition of the land as hereinafter provided for. (Priv. Acts 1923, ch. 415, § 4)

Sec. 133. Right of city to purchase or condemn land, etc., for widening and improving street; laws applicable.

At the end of the period designated in such ordinance the municipality passing it shall proceed to widen the street named therein, and to that end shall thereupon proceed to acquire by purchase, condemnation, or otherwise, the land necessary to be taken for such widening, and the owner thereof shall be entitled to such damages as he may then be entitled to under the law where private property is taken for public use. Such widening and improving shall be done under any law then existing relating to the widening and improving of any street in any such municipality, and the cost thereof shall be borne in the manner then provided by law. (Priv. Acts 1923, ch. 415, § 5)

Sec. 134. Damages to abutting owner; right of recovery.

If, between the time of the passage of any such ordinance and the widening of such street under the ordinance, the owners of land abutting such building line, or lines, are damaged by the passage of such ordinance in any manner otherwise than by the taking of such easement in the land, each shall have a right of action against the municipality passing such ordinance for any damages legally recoverable for such injury; provided, however, that any such action shall be brought within one year from the time it shall accrue, saving, however, to persons under any legal disability the right to bring such action within such time as may be provided by law. (Priv. Acts 1923, ch. 415, § 6)

Sec. 135. Damages may be paid out of any general or special fund.

Damages for the easement taken or damages to any owner hereinbefore provided for may be paid by the municipality out of any general or special fund which may be provided for that purpose under the general law of the State of Tennessee, or any Charter provision of any such municipality. (Priv. Acts 1923, ch. 415, § 7)

Sec. 136. Act does not limit power.

This Act shall not limit or abridge any power now or hereafter conferred by law on any municipality to establish building lines, whether under the police power, by eminent domain, or otherwise. (Priv. Acts 1923, ch. 415, § 8)

ARTICLE 21. GENERAL ZONING REGULATIONS*

***Code reference—**City zoning regulations, T. 16.

Annotation—Chapter 165, Private Acts of 1921, from which this article is derived, was held constitutional in Spencer-Sturla Co. vs. Memphis 155 Tenn. 70, 290 S.W. 608 (1927).

Sec. 137. Authority to restrict location of trades, industries and buildings and divide city into use districts.

The legislative body of all municipalities having a population in excess of one hundred and sixty thousand (160,000) inhabitants by the Federal Census of 1920, or by any subsequent Federal Census, may regulate and restrict, by ordinance, the location of trades and industries and the location of buildings, designed for specified uses, and for said purposes, divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section. (Priv. Acts 1921, ch. 165, § 1)

Sec. 138. Use district regulations.

For each of such districts, regulations may be imposed by ordinance, designating the uses for which buildings may or may not be erected or altered, and designating the trades and industries that shall be excluded or subjected to special regulations. Such regulations shall be in accordance with a place [plan] designed to lessen congestion on the public streets, to promote the public health, safety, convenience and general welfare, and shall be made with reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values, and the direction of building development. (Priv. Acts 1921, ch. 165, § 1)

Sec. 139. Height and area regulations and districts.

Such legislative body may regulate by ordinance and limit the height and bulk of buildings hereafter erected or altered, and regulate and determine the percentage of land area to be devoted to yards, courts and other open spaces, and for said purposes divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section. Such regulations shall be uniform for each class of buildings throughout each district, but the regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to lessen congestion on the public streets, to secure safety from fires and other dangers, to promote the public health and welfare, including provisions for adequate light, air and convenience of access, and shall be made with reasonable regard to the character of buildings erected in each district, the value of land and the use to which it may be put, to the end that such regulations will promote the public health, safety and welfare, the most desirable use for which the land of each district may be adapted, and tend to conserve the value of the building and to stabilize the value of land throughout such districts.

Any ordinance, map, or plan of the city adopted pursuant hereto may combine the designation of the districts authorized prescribing the height and bulk of buildings and the area devoted to yards, courts and other open spaces with the designation of the districts authorized prescribing the location of trades and industries and the location of buildings designed for specific purposes. (Priv. Acts 1921, ch. 165, § 2; Priv. Acts 1953, ch. 286, § 1)

Sec. 140. Limitation on number of occupants for dwelling and tenement houses.

The legislative body of such municipalities may, by ordinance, limit and restrict the maximum number of families which may be housed in dwellings or tenement houses hereafter erected or altered, and for said purposes divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section. The regulations adopted for one or more districts may differ from those adopted for other districts. Such regulations shall be designed to limit the overcrowding of land and to avoid undue congestion of population, to facilitate adequate provision of transit, water, sewage disposal, education, recreation and other public requirements, and to promote the public health, morals, safety, convenience and general welfare. (Priv. Acts 1921, ch. 165, § 3)

Sec. 141. Planning commission to recommend boundaries; reports; public hearings.

In a municipality having a city planning commission appointed pursuant to a statute or local charter or ordinance, the legislative body shall require such commission to recommend the boundaries or [of] districts and appropriate regulations to be enforced therein. Such commission shall make a tentative report and hold public hearings thereon, at such times and places and upon such notice as said legislative body shall require, before submitting its final report. The legislative body shall not determine the boundaries of any district, nor impose any regulations, until after the final report of such city planning commission. (Priv. Acts 1921, ch. 165, § 4)

Sec. 142. Amendment of boundaries or regulations.

After such final report is submitted to the legislative body, and final adoption of regulations by ordinance, the legislative body may, from time to time, amend, supplement or change by ordinance the boundaries or regulations so adopted. Notice of the adoption of such amendment, supplement or change in the ordinance shall be given by publishing such notice three (3) times in some daily newspaper of general circulation in such municipality. Such notice shall state the time and place, not earlier than ten days from the last date of publication, at which the legislative body of such municipality shall meet to hear remonstrances or protests against the making of such amendment, supplement or change. At the time and place thus appointed, the legislative body shall meet, and all persons whose property will be affected by such amendment, supplement or change may appear in person or by attorney or by petition, and protest against making of such amendment, supplement or change, and after hearing such protests, if any, said legislative body may confirm, modify or rescind such ordinance in whole or in part. If, however, a protest against such amendment, supplement or change be presented in writing to the comptroller within ten days from date of last publication, duly signed and acknowledged by the owners of 20 per cent or more of any frontage proposed to be altered, or by the owners of 20 per cent of the frontage immediately in the rear thereof, or by the owners of 20 per cent of the frontage directly opposite the frontage proposed to be altered, such amendment, supplement or change shall not be passed except by a two-thirds vote of the legislative body. (Priv. Acts 1921, ch. 165, § 4; Ord. No. 2034, § 1, 4-30-74)

Sec. 143. Board of adjustment—Appointment; authority to vary regulations and restrictions.

Such local legislative body may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said board of adjustment may determine and vary their application in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Where a city plan commission already exists, the board of adjustment may be appointed partially or entirely from its membership. (Priv. Acts 1921, ch. 165, § 5; Priv. Acts 1925, ch. 428, § 1)

Sec. 144. Same—Composition; terms of members; removal; vacancies; chairman.

The board of adjustment shall consist of seven members. The membership of the first board appointed shall serve, respectively, three for one year, two for two years, and two for three years. Thereafter all members shall be appointed for terms of three years each. All members shall be removable for cause by the appointing authority upon written charges and after hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman, who shall serve for one year. (Priv. Acts 1925, ch. 428, § 1)

Sec. 145. Same—Adoption of rules; meetings; authority of chairman to administer oaths and compel attendance of witnesses; minutes and records.

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine, and/or at such times as may be fixed in the ordinance providing for the appointment of such board. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. (Priv. Acts 1925, ch. 428, § 1)

Sec. 145.1. Same—Absence of member from meeting, etc.

In case of the absence of any member of the board of adjustment from any meeting, or the failure of any member to serve at any meeting or in any capacity in which he is required by law to serve whether on account of illness, incapacity, absence from the city or unwillingness to serve or other cause, the mayor may appoint some person possessing the qualifications required of regular members as a special member to act in the stead of such regular member. Such appointment shall be in writing and shall be copied on the minutes of the board of adjustment. The period for which such special appointment is made shall be stated in the written appointment but may be indefinite, pending the happening of some event. (Priv. Acts 1953, ch. 289, § 1)

Sec. 146. Same—Appeals to board generally.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within five days, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (Priv. Acts 1925, ch. 428, § 1)

Sec. 147. Same—Effect of appeal; hearing to be within reasonable time.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, and decide the same within a reasonable time. (Priv. Acts 1925, ch. 428, § 1)

Sec. 148. Same—Powers; quorum, etc.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision of any ordinance enacted pursuant to this Act.

(2) To hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass.

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

In exercising the above mentioned powers, such board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Four members of the board shall constitute a quorum and such quorum may consist wholly or in part of special members.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to affect any variation in such ordinances. (Priv. Acts 1925, ch. 428, § 1; Priv. Acts 1953, ch. 289, § 2; Priv. Acts 1955, ch. 142, § 1)

Sec. 149. Same—Certiorari to circuit court from decision of board—Generally.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any officer, department, board or bureau of the municipality, may present to the circuit court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. (Priv. Acts 1925, ch. 428, § 1)

Sec. 150. Same—Same—Powers of circuit court.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay the proceedings upon the decision appealed from, but the court may, on application, on notice of the board and on due cause shown, grant a restraining order, or supersedeas. (Priv. Acts 1925, ch. 428, § 1)

Sec. 151. Same—Same—Original papers need not be returned.

The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. (Priv. Acts 1925, ch. 428, § 1)

Sec. 152. Same—Same—Courts may hear additional evidence; authority of court as to decision.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the

determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (Priv. Acts 1925, ch. 428, § 1)

Sec. 153. Same—Same—Cases to have preference.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings. (Priv. Acts 1925, ch. 428, § 1)

Sec. 154. Authority of city to institute proceedings to prevent unlawful erection, construction, etc.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this Act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. (Priv. Acts 1925, ch. 428, § 2)

Sec. 155. Conflicting regulations.

Wherever the provisions of any ordinance or regulation adopted by the legislative body under the provisions of this Act impose requirements for lower height of buildings or a less percentage of a lot that may be occupied, or require wider or larger courts or deeper yards than imposed or required by existing provision of law or ordinance, the provision of this Act shall govern. Where, however, the provisions of the building code or other ordinance or regulation of any municipality impose requirements for lower height of buildings, or less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are required by any ordinance or regulation which may be adopted by the legislative body under the provisions of this Act, the provision of said building code or other ordinance or regulation shall govern. (Priv. Acts 1921, ch. 165, § 6)

Sec. 156. Nonconforming uses.

The lawful use of a building existing at the time of adoption of an ordinance under the provisions of this Act, although such use does not conform to the provisions of such ordinance, may be extended throughout the building, provided no structural alterations except those required by law and ordinance are made therein.

Where no structural alterations are made in a building of a nonconforming use, such use may be changed to a use of a similar or higher classification, according to the provisions of ordinances and regulations adopted under the authority of this Act.

The lawful use of a premises existing at the time of adoption of an ordinance under the provisions of this Act, although such use does not conform to the provisions of such ordinance, may be continued; but if such nonconforming use is discontinued, any future use of said premises shall be in conformity with provisions of ordinances and regulations adopted under the authority of this Act.

Where structural alterations are made in a building of nonconforming use, such building shall be changed in conformity with the provisions of ordinances and regulations adopted under the authority of this Act, for the district in which such building is located. When the boundary line of any use district divides a parcel of ground in common ownership, at the time of the adoption of the ordinance, under the provisions of this Act, nothing herein shall be construed to prevent the extension of the use existing on either portion of such parcel of ground, to the entire parcel, but for a distance of not greater than twenty-five (25) feet.

Nothing in this Act shall be taken to prevent:

(a) The erection of a building for which a permit shall have been issued previous to the passage of an ordinance under the provisions of this Act;

(b) The restoration of a building destroyed to the extent of not more than 75 per cent of its reasonable value, by fire, explosion, an act of God or the public enemy, and the occupancy or use of such building or part thereof, if such use existed at the time of such partial destruction;

(c) The restoration of a wall declared unsafe by the building inspector. (Priv. Acts 1921, ch. 165, § 7)

Editor's note—Former §§ 156—159 were derived from Priv. Acts, Ch. 165, § 7, and have been combined as § 156.

Sec. 157. Planned unit developments.

The council may by ordinance provide for approval of planned developments on parcels of land in which the heights, areas, densities, uses and such other items applicable and pertinent to said development, may be as set out on a recordable plat although they may not be uniform with those in the district in which located. Such a plan shall first be submitted to and a recommendation made by the planning commission. Such plats shall show the street and road patterns, dedications, if any, set backs, heights, density, uses, building separation, open areas, screenings, and such other items applicable and pertinent to said development, as proposed by the applicant and their conformity with standards set by the planning commission, as approved by the council so as to carry out the intention of the zoning ordinance and preserve the character of the neighborhood. Upon approval and enactment by the council, such conditions shall be binding upon the applicant/owner until relieved by amendment or repeal. Building permits may be issued in accordance with the approved plan even though more than one structure is to be located thereon. (Ord. No. 2061, § 1, 5-28-74)

Note—See the editor's note following § 156.

Secs. 158, 159. Reserved.

Note—See the editor's note following § 156.

ARTICLE 22. ZONING REGULATIONS FOR CITY-COUNTY FIVE-MILE ZONE*

***Editor's note—**Priv. Acts 1931, ch. 613, from which this article is derived, was not included in the 1949 compilation, but is included herein at the discretion of the editor.

Sec. 159.1. Authority to restrict location of trades, industries and buildings; use districts.

By joint action of the legislative bodies of all municipalities having a population in excess of 160,000 inhabitants by the Federal Census of 1930, or by any subsequent Federal Census, and the quarterly county courts of counties having a population in excess of 300,000 inhabitants, by the Federal Census of 1930, or by any subsequent Federal Census, in the manner hereinafter prescribed, they may regulate and restrict the location of trades and industries, and the location of buildings designed for specified uses, and for such purposes divide the territory surrounding adjacent and contiguous to, for a distance five miles beyond the corporate limits, as now established or hereafter to be established, of a city having a population in excess of 160,000 inhabitants, by the Federal Census of 1930, or by any subsequent Federal Census, and having adopted a zoning ordinance in accordance with the provisions of Chapter 163, of the Private Acts of 1921*, into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this Act.

For each of such districts, regulations may be imposed, designating the uses for which buildings may be or may not be erected or altered, and designating the trades and industries that shall be excluded or subjected to special regulations. Such regulations shall be in accordance with, as near as may be, any city plan adopted by cities of the population classification aforesaid for its orderly growth and development, and a general plan for such zones or districts, designed to lessen congestion on the public streets or highways, to promote the public health, safety, convenience and general welfare, and shall be made with reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values, and the direction of building development. (Priv. Acts 1931, ch. 613, § 2)

***Editor's note—**Priv. Acts 1921, ch. 163, relates to building lines and not zoning. It is felt that this reference should be to Priv. Acts 1921, ch. 165 (§ 137 et seq. herein).

Sec. 159.2. Height and area regulations and districts.

Such legislative bodies may regulate and limit, in the manner hereinafter described, the height and bulk of buildings hereafter erected or altered, and regulate and determine the percentage of land area to be devoted to yards, courts and other open spaces, and for said purposes, divide said five mile zone into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this Act. Such regulations shall be uniform for each class of

buildings throughout each district, but the regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to lessen congestion on the public streets to secure safety from fires and other dangers, to promote the public health and welfare, including provisions for adequate light, air and convenience of access, and shall be made with reasonable regard to the character of buildings erected in each district, the value of land and the use to which it may be put, to the end that such regulations will promote the public health, safety and welfare, the most desirable use for which the land of each district may be adapted, and tend to conserve the value of buildings and to stabilize the value of land throughout such districts. (Priv. Acts 1931, ch. 613, § 3)

Sec. 159.3. Limitation on number of occupants of dwellings and tenement houses.

Such legislative bodies may, as hereinafter provided, limit and restrict the maximum number of families which may be housed in dwellings or tenement houses hereafter erected or altered and for said purposes, divide said five mile zone into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this Act. The regulations adopted for one or more districts may differ from those adopted for other districts. Such regulations shall be designed to limit the overcrowding of land and to avoid undue congestion of population, to facilitate adequate provision of transit, water, sewerage disposal, education, recreation and other public requirements, and to promote the public health, morals, safety, convenience and general welfare. (Priv. Acts 1931, ch. 613, § 4)

Sec. 159.4. Conformity to city plan.

In making the regulations provided for in sections 2, 3 and 4 [159.1, 159.2, 159.3] hereof, said legislative bodies shall give due regard to, and conform as near as may be, to any plan adopted or recommended by the city planning commission thereof, of cities of 160,000 inhabitants or more, by the Federal Census of 1930, or by any subsequent Federal Census, for the extension of its streets, sewers, water mains, recreation or public parks, playgrounds, schools, and the instrumentalities of public service corporations, or others, furnishing water, gas, electricity, transit, transportation or other public services. (Priv. Acts 1931, ch. 613, § 5)

Sec. 159.5. Legislative procedure; employment of engineers, attorneys, etc.; division of expense.

Before any regulations made or enacted in pursuance of the powers granted by sections 2, 3 and 4 [159.1, 159.2 and 159.3] hereof are effective, they shall be approved, after public hearings as hereinafter provided, by joint action of the quarterly county court and legislative bodies of municipal corporations, subject to the provisions of this Act. The quarterly county court of the counties having a population of 300,000 or more by the Federal Census of 1930, or by any subsequent Federal Census, and legislative bodies, councils or bodies of cities having a population of 160,000 or more by the Federal Census of 1930, or by any subsequent Federal Census, are hereby directly and explicitly authorized to adopt regulations designed to carry out the provisions of sections 2, 3 and 4 [159.1, 159.2 and 159.3] of this Act. The quarterly county courts of counties of the aforesaid population are authorized to act and adopt such regulations by majority vote of the quarterly county court at any regular or special session. Legislative bodies of municipal corporations, within the population classification aforesaid, shall adopt such regulations by ordinance, pursuant to the Charter provisions applicable to such municipal corporations, now or hereafter to be enacted by the General Assembly. The legislative bodies as above designated, of either county or city, may initiate proceedings to carry out the purposes of this Act, and on certification to the other of such proceedings, it shall be the duty of the other to consider the recommendations of the legislative body first acting, and shall cooperate with the other to carry out the purposes of this Act. And to the end that the purposes of this Act may be carried out, said legislative bodies of city and county are authorized to provide and pay for the employment of engineers, city plan experts, attorneys, draftsmen and other clerical and necessary help as may be necessary to make the necessary preliminary surveys, studies, recommendations and administration of regulations adopted as may be needful to carry out the provisions of this Act, and may also contract as to the division of such expense, and may thereafter contract for the division of the expense of carrying out of the provisions of this Act, and the regulations made pursuant thereto. (Priv. Acts 1931, ch. 613, § 6)

Sec. 159.6. County planning commission; amendment of district boundaries or regulations.

(a) In order to carry out the purposes of this Act, a county planning commission is hereby created to be composed of the members of the planning commission of any municipality within the population classification herein provided for, and the board of county commissioners and chairman of the quarterly county court of counties within the

population classification herein provided for, and before any plan for such five mile zone shall be adopted, such county planning commission shall recommend boundaries or districts and appropriate regulations to be enforced therein. Such commission shall make a tentative report and hold public hearings thereon, at such times and places and upon such notice as it may fix, before submitting its final report. Said legislative bodies shall not determine the boundaries of any district, nor impose any regulations until after the final report of such county planning commission.

(b) After such final report is submitted to both legislative bodies as aforesaid, and final adoption of regulations by each, said legislative bodies may, from time to time, amend, supplement or change the boundaries or regulations so adopted, but not without consent of each. Notice of the adoption of such amendment, supplement or change in the regulations, shall be given by publishing such notice one time in some daily newspaper of general circulation in the city of the population classification hereinbefore set forth within such county. Such notice shall state the time and place, not earlier than ten days from date of publication, at which the legislative bodies shall meet in joint session to hear remonstrances or protests against the making of such amendment, supplement or change. At the time and place thus appointed, said legislative bodies shall meet in joint session, and all persons whose property will be affected by such amendment, supplement, or change, may appear in person or by attorney or by petition, and protest against making of such amendment, supplement, or change, and after hearing such protests, if any, such legislative bodies, in the manner hereinbefore provided, may confirm, modify or rescind such regulations in whole or in part. If, however, a protest against such amendment, supplement or change be presented in writing to either legislative body, within ten days from date of publication, duly signed and acknowledged by the owners of 20% or more of any frontage proposed to be altered, or by the owners of 20% of the frontage immediately in the rear thereof, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, such amendment, supplement or change shall not be passed except by a four-fifths vote of each such legislative body. (Priv. Acts 1931, ch. 613, § 7)

Sec. 159.7. Building commissioner; certificates of compliance; use and occupancy permits.

(a) The county assessor of any county within the population classification herein specified is hereby made the building commissioner for that part of the county outside of about [but] within the five mile zone of any municipality within the population classification herein provided for. He shall be building commissioner ex officio, and shall perform the duties provided for in this Act, and by any regulations adopted pursuant to the provisions thereof, without any extra compensation, unless same be provided by the quarterly county court, and/or joint action of said quarterly county court and legislative body of such municipality; provided, however, that by joint agreement of the county and city legislative bodies, to be evidenced by resolutions spread upon their minutes, the building commissioner or inspector of the city may be designated as the building commissioner for the five mile zone in order to carry out the administrative provisions of this Act and of the regulations to be adopted pursuant thereto; and, provided, further, that by joint resolution of the county and city legislative bodies aforesaid a reasonable fee may be fixed and collected for certificates of compliance with the provisions of the regulations adopted pursuant to the provisions of this Act; to be issued by the building commissioner in accordance with the provisions of this Act, and the regulations to be adopted pursuant thereto.

(b) After the adoption of any regulations by the city and county legislative bodies as hereinbefore provided, no building within such five mile zone shall be altered, changed, built or rebuilt nor shall any premises be used for any purpose until the owner, tenant, occupant or lessee thereof shall receive from the building commissioner a certificate of compliance with the provisions of the regulations adopted pursuant to this Act. Any owner, tenant, occupant or lessee, desiring to change the use of any premises, lot, or tract of land from that to which it was devoted at the time of the passage of such regulations, or to build a new, or alter, or rebuild any old structure, shall apply in writing to the building commissioner for a permit which shall set forth the name of the occupant or proposed occupant, and description of the same with reference to all known boundaries, the use to which such premises has been put, and such other information as may be necessary to advise the said building commissioner whether the provisions of the regulations adopted pursuant to the provisions of this Act will be complied with. And on payment of the necessary fee, if any shall be fixed, it shall be the duty of the building commissioner to issue a use and occupancy permit to the occupant, if he shall find that all the provisions of the regulations adopted by the city and county legislative bodies have been or will be complied with by such occupant. If he shall find that any have not been or will not be complied with, he shall reject such applications and endorse thereon his reasons for such declination. (Priv. Acts 1931, ch. 613, §§ 9, 10)

Sec. 159.8. County board of adjustment.

(a) There is hereby created a county board of adjustment which shall consist of seven members of which number the chairman and secretary of the board of county commissioners, the chairman of the quarterly county court and the chairman of the board of adjustment of any city, within the population classification above referred to, and duly appointed and elected in pursuance of the provisions of Chapter 428, of the Private Acts of the General Assembly of 1925* shall be ex officio members. The remaining three members of said board shall be chosen and elected by resolution of the legislative body of such city within such county, one of whom shall be elected for one, another for two and the last for three years. And after appointment of the first board, the members other than ex officio members shall be appointed for terms of three years each, and it shall be no objection to the validity of the organization of the county board of adjustment that the term of any member of the city board of adjustment other than the chairman thereof, shall have expired. Vacancies in the membership of the county board of adjustment, other than the ex officio members, shall be filled for the unexpired term of the vacant member by the legislative body of such municipality. All members of the board, other than the ex officio members, shall be removable for cause by the appointing authority upon written charges and after hearing.

(b) Said city and county legislative bodies shall have power to appropriate monies to pay for clerical help and other necessary expenses of such board, but no member thereof shall receive any compensation for his services.

(c) The board shall elect its own chairman, who shall serve for one year, and shall elect its secretary, who may or may not be a member thereof, and who may receive such compensation as may be fixed by the joint action of the legislative bodies of such city and county; provided, however, that said board of adjustment may designate and appoint the secretary of the city board of adjustment as the secretary, and who shall hold office at the will and pleasure of the board, whose compensation shall be fixed by the county board of adjustment subject to the approval of the county and city legislative authorities aforesaid.

(d) The board shall adopt rules in accordance with the provisions of any regulations adopted pursuant to this Act, and may adopt any not in conflict with the provisions of such regulations or with the provisions of this Act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine, but said board shall meet not less than once a month. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(e) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city or county affected by any decision of the county building commissioners or other administrative officer. Such appeal shall be taken within five days, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(f) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the county board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(g) Said county board of adjustment shall fix a reasonable time for the hearing of the appeal, and decide the same within a reasonable time.

(h) Said board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any regulation adopted pursuant thereto.

(2) To hear and decide all matters referred to it upon which it is required to pass under such regulations.

(3) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such regulations, to vary or modify the application of any of the regulations passed pursuant to

this Act, relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the regulations and this Act shall be observed, the public health, safety, morals, convenience and welfare secured and substantial justice done.

(i) In exercising the above mentioned powers, such board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(j) The concurring vote of five-sevenths of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulations, or to effect any variation in such regulations.

(k) Any person or persons, jointly or severally, aggrieved by any decision of the county board of adjustment may present to the circuit court of such county a petition for certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision of the board.

(l) Upon presentation of such petition, the circuit court may allow a writ of certiorari directed to the county board of adjustment to review its decision, and shall prescribe therein the time within which a return thereto must be made, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay the proceedings upon the decision appealed from, but the court may, on application and on notice to the board and on due cause shown, grant a restraining order or supersedeas, on such conditions as it may fix.

(m) The county board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return sworn copies thereof or of such portion thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(n) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report same to the court with his findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review, or may remand the matter to the county board of adjustment for further proceedings under such orders and directions as it may make.

(o) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings except such as may be given prior preference by other provisions of law. (Priv. Acts 1931, ch. 613, § 11)

***Cross reference—**Election of chairman of city board of adjustment, § 144.

Sec. 159.9. Nonconforming uses.

The lawful use of a building existing at the time of adoption of regulations under the provisions of this Act, which shall not be effective until the approval of both legislative bodies as hereinbefore provided for, although such use does not conform to the provisions of such regulations, may be extended throughout the building, provided no structural alterations except those required by the law are made therein.

Where no structural alterations are made in a building of a nonconforming use, such use may be changed to a use of a similar or higher classification, according to the provisions of the regulations adopted under the authority of this Act.

The lawful use of premises existing at the time of the adoption of the regulations under the provisions of this Act, although such use does not conform to the provisions thereof, may be continued; but if such nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of the regulations adopted pursuant to the authority of this Act.

Where structural alterations are made in a building of nonconforming use, such building shall be changed in conformity with the provisions of the regulations adopted under the authority of this Act, for the district in which such building is located. When the boundary line of any such district divides a parcel of ground in common ownership at the time of the adoption of the regulations under the provisions of this Act, nothing herein contained shall be construed to prevent the extension of the use existing on either portion of ground to the entire parcel, but for a distance of not greater than twenty-five feet.

Nothing in this Act shall be taken to prevent:

(a) The erection of a building for which a permit shall have been issued previous to the final adopting of regulations under the provisions of this Act;

(b) The restoration of a building destroyed to the extent of not more than 75% of its reasonable value, by fire, explosion, an act of God or the public enemy, and the occupancy or use of such building or part thereof, if such use existed at the time of such partial destruction;

(c) The restoration of a wall declared unsafe by any officer thereunto duly authorized. (Priv. Acts 1931, ch. 613, § 8)

Sec. 159.10. Remedies for violations.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of the provisions of this Act or of any regulations made under authority conferred hereby, the proper local county or city authorities, in addition to other remedies, may institute any appropriate action for proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

The undertaking or operation of any business, the construction or preparation or commencement of construction of any building or other structure, or the use or occupancy of any land within the jurisdiction of a county board of adjustment and without the permit of such board or in violation of the terms of a permit issued by said board, is hereby declared to be a nuisance and may, by proper proceedings in the name of such county board of adjustment in the chancery or probate court of such county, be enjoined and abated as such; provided, further, that such board on the filing of such bill in the chancery or probate court of such county shall not be required to give an injunction bond or other security for the granting of any injunction or other extraordinary process. (Priv. Acts 1931, ch. 613, § 12; Priv. Acts 1937, ch. 377, § 1)

Sec. 159.11. Penalty for and jurisdiction over violations; continuing violations.

Any person, firm or corporation violating any of the provisions of this Act, or of any of the regulations established pursuant to the authority hereof, shall be guilty of a misdemeanor, and shall be fined not less than $5.00 nor more than $50.00 for each offense. Each day that any violation of any of such provisions or regulations shall continue shall be deemed a separate offense. Violations of the provisions of this Act or of any of the regulations lawfully adopted pursuant thereto shall be deemed to come under the provisions of the small offense law, and justices of the peace and committing magistrates of the county shall be held to have jurisdiction to hear and try persons accused of violations thereof. (Priv. Acts 1931, ch. 613, § 14)

Sec. 159.12 Territory exempt from Act.

Nothing herein contained shall be held to authorize either such counties or cities of the population classification hereinbefore set forth, to exercise the powers herein granted over territory within such five mile zone as may be now or may hereafter be incorporated under the laws of the State of Tennessee as a village, town or city with power to pass regulations to promote the public safety, health and welfare of the inhabitants of such incorporated territory. (Priv. Acts 1931, ch. 613, § 13)

ARTICLE 23. DEPARTMENT OF FINANCES AND INSTITUTIONS*

***Cross reference—**Financial affairs generally, §§ 813.1—833.

Sec. 160. What department embraces.

The department of finances and institutions shall embrace the collector of licenses and privileges, the city treasurer, the delinquent tax collector, the front foot assessment collector, and all matters pertaining to these offices. Said department shall also have supervision and control of the expenditures of the city assessor's office and the city board of equalization. (Priv. Acts 1937, ch. 122, § 7)

Sec. 161. Commissioner of finances and institutions to supervise certain institutions.

The commissioner of finances and institutions shall have in his department and under his jurisdiction the general supervision, operation, and management, through the boards and commissions now provided by law and by the ordinances of the City of Memphis, the following institutions:

The Juvenile Court
The John Gaston Hospital
The Auditorium and Market House
The Municipal Airport
The Oakville Sanitorium.
(Priv. Acts 1937, ch. 122, § 8)

Cross references—Juvenile court, §§ 295—320; hospitals, §§ 432—438; auditorium and market, §§ 494.1—494.6; airports, § 655—662.

Code references—Airports, Ch. 12-76.

ARTICLE 24. DEPARTMENT OF PUBLIC SERVICE

Sec. 162. What department embraces.

The department of public service shall embrace all the affairs of the city connected with railroads, streetcar lines, gas and electric light companies, telephone and telegraph companies, water department, wharfage and wharfmaster, market house and marketmaster.* Within this department shall also be embraced the building inspector, the gas and electric light inspector, the boiler inspector and the electric inspector, and all matters connected with those offices. This department shall also embrace all public grounds and buildings and public parks; provided, however, that nothing in this Act shall be deemed to affect the power and duties of the park commissioners of Memphis as the same are now prescribed by law, or the water commission. (Acts 1909, ch. 298, § 15; Priv. Acts 1937, ch. 122, § 4)

***Editor's note—**The office of Marketmaster was abolished by Priv. Acts 1921, ch. 367.

Editor's note—This section should be read in light of Priv. Acts 1939, ch. 381 (§ 666 et seq. herein) which vests control and management of the manufacture, production, distribution and sale of electricity, gas and water for the city in the Memphis Light, Gas and Water Division.

ARTICLE 25. DEPARTMENT OF WEIGHTS AND MEASURES*

***Cross reference—**Inspection of weights and measures, § 231.

Code reference—Weights and measures, Ch. 6-104.

Sec. 163. Authority to maintain; purpose; inspection fees.

All municipal corporations having a population of one hundred and thirty thousand (130,000) or over by the Federal Census of 1910 or any future Federal Census are hereby authorized to maintain a department of weights and measures for the purpose of inspecting the weights and measures used in said municipalities. The said department shall be independent of [the] state department of inspection of weights and measures and the said municipality shall have the right, by proper ordinance, to fix a scale of fees for the inspection of all weights and measures used within the said municipalities. (Priv. Acts 1915, ch. 21, § 1)

Sec. 163.1 Inspection laws.

The local government shall have power to establish inspection laws for the inspection, weighing and measuring of all kinds of provisions, provender and fuel for man and beast, and to provide for the gauging and inspection of all kinds of liquors and illuminating oils. (Acts 1879, ch. 11, § 3)

Editor's note—This section appeared as § 388 of the 1949 compilation. It was redesignated as § 163.1 at the discretion of the editor.

ARTICLE 26. SINKING FUND COMMISSION*

***Cross reference—**Financial affairs generally, §§ 813.1—833.

Sec. 164. Created; composition; terms of members; secretary; quorum.

[The charter of the City of Memphis] is amended so as to create a sinking fund commission for the City of Memphis. Said sinking fund commission shall be composed of the mayor, the commissioner of finances and institutions, and the comptroller of the City of Memphis. The term of office of the members of said sinking fund commission shall be co-extensive with the term for which they are elected to their respective offices of mayor, commissioner of finances and institutions, and comptroller. The comptroller shall be the secretary of said sinking fund commission and shall be required to keep the minutes of the proceedings of all meetings held by said sinking fund commission. A majority of the members of the sinking fund commission shall constitute a quorum at any meeting of said sinking fund commission and a majority of said sinking fund commission shall be required to decide any and all questions coming before said sinking fund commission. (Priv. Acts 1987, ch. 497, § 1)

Sec. 165. Administration and investment of funds.

The sinking fund commission shall have authority to administer all sinking funds of the City of Memphis that have heretofore been created or that may hereafter be created, and in the course thereof, may purchase with any sinking fund, as an investment thereof, bonds of the United States of America, the State of Tennessee, Shelby County, and the City of Memphis. No sinking funds of the City of Memphis shall be invested in the notes, debenture bonds or stocks of persons, firms, or private corporations, nor in real estate mortgages. All bonds purchased by the sinking fund commission with sinking funds created for the retirement of the bonds so purchased shall not be regarded as an investment and said bonds shall not be reissued, but shall be cancelled. (Priv. Acts 1937, ch. 497, § 2)

Sec. 166. Deposit and sale of bonds generally.

All bonds purchased by the sinking fund commission which are not required to be cancelled as provided for in the next preceding section, shall be deposited in a safety deposit vault in the City of Memphis to which access can be had only by the commissioner of finances and institutions and the comptroller of the City of Memphis, jointly. The sinking fund commission shall have authority to sell any of the bonds purchased by it as an investment for any of the sinking funds of the City of Memphis at any time said sinking fund commission shall deem such sale advisable. In the purchase and sale of bonds by the sinking fund commission under the authority herein granted the sinking fund commission shall do so upon the best obtainable terms. (Priv. Acts 1937, ch. 497, § 3)

Sec. 167. Resolution for disbursement of funds; approval of checks.

No disbursement shall be made out of any of the sinking funds of the City of Memphis, unless a resolution has been adopted by said sinking fund commission authorizing said disbursement, which resolution shall recite the purposes for which said disbursement is to be made. All checks issued for the payment of principal and interest on bonded indebtedness of the City of Memphis or for disbursements out of sinking funds for investment purposes, shall not be valid unless said checks have been approved by the mayor, comptroller, and treasurer of the City of Memphis. (Priv. Act 1937, ch. 497, § 4)

Sec. 168. Delivery and deposit of proceeds from bond sales.

Whenever the sinking fund commission shall sell any of the bonds that were purchased out of sinking funds for investment purposes, the proceeds of such sale shall be delivered to the treasurer of the City of Memphis immediately after the consummation of said sale, and the sinking fund commission shall be required to instruct the treasurer to deposit said funds in the particular sinking fund out of which said bonds were sold, and the treasurer shall make the deposit of said funds in accordance with such instructions. (Priv. Acts 1937, ch. 497, § 5)

Sec. 169. Records to be kept.

The secretary of the sinking fund commission shall be required to keep a record in a well-bound book of all transactions authorized by the sinking fund commission. His record book shall at all times disclose the description of the bonds purchased for each sinking fund account for investment purposes, together with the name, numbers, and amount of said bonds. In the purchase and sale of said bonds, the record book shall show the name of the individual, partnership, or corporation with whom each transaction was conducted. (Priv. Acts 1937, ch. 497, § 6)

Sec. 170. Deposit of interest and profits from investments; transfer of funds.

All interest or profits earned on investments made for particular sinking funds shall be deposited to the credit of the sinking fund for the benefit of which the bonds sold were originally purchased. Whenever the amount in any sinking fund exceeds an amount sufficient to pay all of the interest and principal of the bonds for which such sinking fund was created, the sinking fund commission shall have authority to transfer the excess to such other sinking fund as they may deem advisable. (Priv. Acts 1937, ch. 497, § 7)

Sec. 171. Annual report to council.

The sinking fund commission shall be required to make a report to the Council of the City of Memphis on or before November 15th of each year, showing the standing of each sinking fund account of the City of Memphis. (Priv. Acts 1937, ch. 497, § 8)

Sec. 172. Recommendations as to creation of sinking funds.

The sinking fund commission shall have authority to recommend to the council the creation of sinking funds for the payment of outstanding bonds for which sinking funds have not heretofore been created, and to that end, furnish the council with a statement showing the most advantageous method of retiring such outstanding bonds. (Priv. Acts 1937, ch. 497, § 9)

Sec 173. Bond required of members.

Each member of the sinking fund commission, before entering upon their duties as members of the sinking fund commission, shall give a good and solvent bond in the sum of $ _____, to be approved by the council of the City of Memphis, conditioned for the faithful performance of their duties under the provisions of this Act, and handling, paying, and accounting for all sinking funds coming into their hands. (Priv. Acts 1937, ch. 497, § 10)

Editor's note—The amount of the bond was left blank in the original Act.

Cross reference—Bonds of officers and employees generally, § 178.

ARTICLE 27. OFFICERS AND EMPLOYEES, GENERALLY

Sec. 174. Nomination and election of officers.

Every officer for whose election by the council provision is herein made shall first be nominated by the commissioner to whose department such officer belongs, and no such officer shall be elected by the council except on such nomination; provided, however, that if the council member whose duty and function it is to nominate any officer shall fail within thirty days to make a nomination, then any member of said council shall have the right to make a nomination, or nominations, and the council may thereupon elect the person so nominated. (Acts 1909, ch. 298, § 21)

Sec. 175. Fitness for office; political faith or party affiliation.

All officers and employees who shall be employed by the City of Memphis shall be elected or appointed with reference to their qualifications and fitness and for good of the public service, and without reference to their political faith or party affiliation. (Acts 1909, ch. 298, § 35)

Sec. 176. Interest in city contracts.

No council member, nor any officer nor subordinate officer of the city, shall be connected with, or interested in, directly or indirectly, any contract with the city. (Acts 1909, ch. 298, § 20)

Cross reference—Similar provisions, § 20.

Sec. 177. Work or contracts with relatives affecting city.

No officer, agent, or employee of the city government shall pass upon, supervise or control any work for the city, or purchase or contract for any kind of material for the city with a person or persons who are related by blood or marriage within the sixth degree, as computed by common law. (Acts 1905, ch. 54, § 31)

Sec. 178. Bonds of officers and employees.

The Council of the City of Memphis shall fix the amount of bonds and the method of their approval to be required of all elective, appointive, or subordinate officers, and such other city employees whom the Council of the City of Memphis shall require to give bond. The approval of the official bonds of all elective, appointive, or subordinate officers and other employees must be endorsed thereon and signed by the Council of the City of Memphis, and shall be given and made by some good and solvent surety company. All bonds when approved shall be filed with the comptroller of the City of Memphis; all provisions of any law of this state relating to official bonds, not inconsistent with this Charter, shall be complied with. (Acts 1909, ch. 298, § 22; Acts 1937, ch. 122, § 4)

Cross references—Bonds to be approved by city attorney and comptroller prior to approval by council, § 328; additional authority of council to fix bonds of officers, agents and employees, § 834.

Bonds for specific officers and employees: members of council, § 42; members of sinking fund commission, § 173; tax assessor, § 199; treasurer, § 210; purchasing agent, § 225; civil service commissioners, § 241; city court clerk, § 262; city comptroller, § 323; members of port commission, § 628; light, gas and water commissioners, § 667; officers, agents and employees of light, gas and water division, § 676; president of school board and school commissioners, § 945; secretary and treasurer of school board, § 973.

Code reference—Official bonds, §§ 2-4-10, 2-4-20.

Sec. 179. Filling of vacancies occasioned by death, resignation or removal.

In the event of the death, resignation, or removal of any officer of this city, other than a member of the council, it shall be the right and duty of the council to elect as soon as practicable a successor to fill the vacancy; and if no election be had within thirty days after such vacancy occurs, the mayor shall have the right, and it shall be his duty, to appoint some fit person to fill such vacancy until an election by the council shall occur. The election by said council to fill such vacancy shall be on nomination by the council member of the department to which such officer belongs. (Acts 1909, ch. 298, § 25)

Sec. 180. Filling of temporary vacancies.

In the event of the temporary absence or disability of any officer, other than a member of the council, the council shall, if a majority of the members thereof see fit, have the power to appoint some proper person to act in the place and stead of such officer during his absence or disability, and to provide for the compensation of such person temporarily discharging the duties of said officer; provided, however, that there shall be no deduction from the salary of the regular incumbent of said office during such absence or disability, unless the council shall, by resolution, declare the absence from office of such incumbent to be without excuse. (Acts 1909, ch. 298, § 25)

Sec. 181. Authority of mayor to suspend officers.

The mayor shall have power to suspend any city officer for misconduct or dereliction in office, reporting such action, with his reason therefor, in writing to the next regular meeting of the council. (Acts 1905, ch. 54, § 9)

Code reference—Suspension or removal of officers generally, § 2-4-7.

Annotation—For a case involving the mayor's authority under this section, see Barnes v. Ingram, 397 S.W. (2d) 821 (1966).

Sec. 182. Suspension or discharge of subordinates by department heads.

The chief of the police department, chief of the fire department, superintendent of the health department, or any superintendent or foreman in charge of municipal work, may peremptorily suspend or discharge any subordinate then under his direction for neglect of duty or disobedience to his orders; but shall, within twenty-four hours thereafter, report in writing such suspension or discharge and a reason therefor, to the commissioner in charge of his department, who shall thereupon affirm or revoke such discharge or suspension, according to the facts. Such employee (or officer discharging or suspending him) may, within five days of such ruling, appeal therefrom to the Council of the City of Memphis, who shall fully hear and determine the matter, and their conclusions in the premises shall be final. (Acts 1909, ch. 298, § 29)

Editor's note—This section should be considered in light of §§ 247 and 250.14 relative to the procedure for the discharge of employees under civil service.

Sec. 183. Candidates and officers not to influence political support.

It shall be unlawful for any candidate for office or any officer in the employment of the City of Memphis, directly or indirectly, to give or promise any person or persons any office, employment, benefit, or anything of value for the purpose of influencing or obtaining the political support, aid, or vote of any person or persons. Any violation of the provisions of this section shall be a misdemeanor, and shall be grounds for removal from office. (Acts 1909, ch. 298, § 36)

Sec. 184. Soliciting or calling upon officers and employees for political contributions.

No officer, employee or agent of the city government shall be called on by any other officer or agent of the city for any contribution or assessment by any political organization or member or committee thereof. No such officer, employee or agent shall be allowed to solicit any contribution or to sell any tickets or to procure any money by any device from the public. Any person violating any of the provisions of this section shall, upon conviction in the city court, be fined not exceeding fifty ($50.00) dollars and removed from office. (Acts 1905, ch. 54, § 53)

Sec. 184.1. Political Activity Prohibited.

No full-time employee of the City with the exception of elected and appointed officials, shall continue in the employment of the City after becoming a candidate for nomination or election to any public office. No person shall directly or indirectly give, render or pay any money, service or other valuable consideration to any person for or on account of or in connection with obtaining or procuring employment with the city government. No person shall solicit directly or indirectly any assessment, subscription or contribution from any full-time employee of the City in connection with any city election. No full-time employee shall make any contribution to the campaign funds of any candidate in any city election. No such employee shall engage in political activity, directly concerned with the city government or any candidate for political office thereunder, except to vote and state his opinions privately or through an organization. Any person who wilfully violates or brings about the violation of any provision of this section directly or indirectly shall be guilty of a misdemeanor and punishable by fine not in excess of fifty ($50.00) dollars, and if an employee or official of the City shall upon finding of guilty immediately cease to be such employee or official of the City and be ineligible to hold any position with or employment with the City for a period of five (5) years thereafter. (Ord. No. 1852, 11-8-66)

Sec. 185. Removal of officers by council.

All city officers whose removal from office is not otherwise provided for in this Act, shall be subject to removal by the Council of the City of Memphis, sitting as a court, upon written charges preferred by the mayor or any member of the council. The person accused shall have the right to be heard in person or by his counsel, and said court shall act under oath or affirmation. No person so tried shall be so removed from office without the concurrence of four-fifths of the council in joint session, the vote to be taken by ayes and nays and a record thereof kept on the minutes. When a person has been so removed from office, he shall be ineligible thereto during the term for which he shall have been elected or appointed. (Priv. Acts 1937, ch. 122, § 11)

Sec. 186. Reserved.

Editor's note—Former § 186 has been omitted at the discretion of the editor. It was derived from the general law (T.C.A. § 26-518) and not from a private act relating to the city.

Sec. 187. Salaries of certain officers to be fixed by council.

The salaries of the city engineer, John Gaston Hospital superintendent, city court clerk, collector of licenses and privileges, collector [inspector] of weights and measures, chief building inspector, electrical inspector, city boiler and smoke inspector, and the city plumbing inspector, of the City of Memphis shall be fixed by the Council of the City of Memphis, either by resolution or by ordinance, in such amounts as they may deem proper. (Priv. Acts 1951, ch. 149, § 1)

Editor's note—Section 187 previously fixed the salaries of various city officers, including those specified above. It is the opinion of the editor that the former section is superseded by the above and other sections of this compilation relative to salaries.

Sec. 188. Reserved.

Editor's note—Former § 188, which pertained to partial payment of employees salaries in cases of disability, was repealed by Ord. No. 3796, adopted Aug. 9, 1988 and approved at referendum Nov. 8, 1988. The repealed provisions derived from Acts of 1879, ch. 11 and Private Acts of 1937, ch. 489.

Sec. 189. Authority of council to employ, fix salary, terminate employment and transfer employees.

The Council of the City of Memphis shall have the power, by resolution passed upon majority vote, to employ, fix the salary of, terminate the employment of, and transfer from one department to another, any employee of the City of Memphis whose salary and whose term of office is not fixed specifically by the Charter of the City of Memphis or any legislative act pertaining thereto. (Priv. Acts 1947, ch. 519, § 12a)

Sec. 190. Residence requirements of persons employed solely by city and board and commission members.

(a) Hereafter all persons, employed solely by the City of Memphis or any of its departments, boards, bureaus or commissions, shall be required to live and maintain a residence within the boundaries of the City of Memphis, as now defined or as may be hereafter defined and except that the city council may exempt therefrom employees of any division, board, department or bureau whose duties as employees of such departments, boards, bureaus or commissions require them to perform services for the city outside the territorial limits therein.

(b) Failure of any officer or employee to comply with the provisions of this section shall be cause for removal or discharge from city employment, except that no individual employed by the city as of the effective date of the ordinance codified in this section, including any appointed employee who may be later reappointed, shall be disciplined or discharged for failure to comply. New employees shall be allowed six (6) months after the date they are hired or appointed to comply with this section. (Priv. Acts. 1941, ch. 44, § 1(9); Priv. Acts 1963, ch. 248, § 1; Ord. No. 3286, § 1, 3-29-83; Ord. No. 3400, § 1, 8-28-84: Ord. No. 5063, § 1, 6-15-04)

Sec. 190.1. Hospitalization insurance for officers and employees.

The Council of said City [Memphis] be and they are hereby authorized to establish, by ordinance, a hospitalization plan for all officers and persons regularly employed by said city and members of their families; to determine who shall be eligible to participate under said plan; to incur the expense of experts to determine the feasibility of such a plan, its probable costs and administrative matters pertaining thereto; to contract with any insurance company licensed to do business in Tennessee in connection therewith, or any hospital doing business in Shelby County, Tennessee, including, but not limited to the John Gaston Memorial Hospital; to determine to what extent, if any, the cost of such hospitalization shall be borne by employees, by the City of Memphis, or both, and fix rates based on the beneficiaries of such plan; to determine how the share of the employee, if any, shall be collected; to appropriate and pay for the share, if any, of the City of Memphis; to provide for the administration of said plan and the costs in connection therewith, and to do all things necessary to establish and carry out the purpose of this Act. (Priv. Acts 1953, ch. 292, § 1)

ARTICLE 28. CITY ATTORNEY*

***Cross references—**Claim agent in city attorney's office, § 239; authority of mayor to employ special attorneys for city, § 839.

Code reference—City attorney, Ch. 2-8.

Sec. 191. Establishment of; election; term.

The Legal Department of the City is hereby constituted a department under the Mayor. It shall be headed by a City Attorney appointed as department heads are appointed and removable in the same manner as said department heads.

There shall be a city attorney as now provided by law, who shall be elected for a term of two years by the council on nomination of the mayor. (Acts 1905, ch. 54, § 61; Acts 1909, ch. 298, §§ 9, 11, and 21; Ord. No. 1852, 11-8-66)

Sec. 192. Salary.

The Council of the City of Memphis shall have authority to fix the salary of the city attorney, in such amount as they may deem proper, and all acts or parts of acts in conflict with this provision are repealed. (Priv. Acts 1937, ch. 489, § 4)

Sec. 193. Duties generally.

It shall be the duty of the city attorney, in addition to the duties now incumbent upon him, to prosecute and defend, as the case may be, all suits brought by or against the city, the county trustee (city treasurer) or the county assessor, involving the assessment or collection of city taxes; and all fees and commissions now allowed by law to the attorney employed for the collection of delinquent city taxes shall not be paid to such attorney, but shall be turned in to the city. (Acts 1899, ch. 53, § 1)

Sec. 194. Authority to settle lawsuits.

The city attorney of the City of Memphis shall have authority to compromise and settle all civil litigation to which the City of Memphis may be a party wherever the amount of such compromise or settlement does not exceed $500.00 and said city attorney, by and with the approval of the mayor of the City of Memphis, shall have authority to compromise and settle any and all claims or civil litigation to which the City of Memphis may be a party where the amount of such compromise or settlement exceeds $500.00. (Acts 1879, ch. 11; Priv. Acts 1937, ch. 7, § 2)

Sec. 195. Assistant city attorneys.

The Council of the City of Memphis, upon the recommendation of the mayor, shall have power to determine the number of assistant city attorneys to be employed by the City of Memphis, and to fix their compensation. (Acts 1909, ch. 298; Priv. Acts 1921, ch. 367, § 1; Priv. Acts 1945, ch. 56, § 10)

ARTICLE 29. CITY ENGINEER*

*__Code reference—__City engineer, Ch. 2-22.

Sec. 196. Authority to employ; salary.

For the purpose of the construction of drains and sewers and other sanitary work, bridges, wharves, and the lighting of the city, the council may employ a competent civil engineer, and shall have power to enter into all necessary contracts for all of said works, subject to the limitations and restrictions of this Act. The council shall, by ordinance or resolution, fix his salary at not to exceed $7,300 per annum. (Acts 1879, ch. 11, § 6; Priv. Acts 1925, ch. 259)

Editor's note—The last sentence of this section has been superseded by the Act included herein as § 187.

Sec. 197. Election.

The Council of the City of Memphis shall elect the city engineer upon the recommendation of the commissioner of public works. (Priv. Acts 1941, ch. 44, § 1, subsec. 23)

Sec. 198. Term.

The term of the city engineer shall be one year and the city engineer elected in the year 1943 shall serve until December 31, 1943. (Priv. Acts 1941, ch. 44, § 1; Priv. Acts 1943, ch. 157, § 1, adding subsec. 27)

ARTICLE 30. CITY TAX ASSESSOR*

***Editor's note—**This entire article should be considered in light of § 200.1.

Cross references—Taxation generally, §§ 752—776; assessment of property for taxation, § 797—813.

Code reference—Taxation, T. 5.

Sec. 199. Office created; bond; duties to be fixed by council.

There is created and established the office of city tax assessor of the City of Memphis. The council shall by ordinance fix the bond and duties of such tax assessor, and determine when and how he shall make assessments of such taxable property and return the same.

A Tax Assessor for the City of Memphis shall be appointed pursuant to present authority upon nomination by the Mayor and with the approval of a majority of the Council, for a period of one (1) year, and shall continue in office until his successor is either appointed or elected and qualified. The said Tax Assessor may be removed from office only as now provided by the Law of the State of Tennessee in connection with public offices. (Acts 1903, ch. 366, § 3; Ord. No. 1852, 11-8-66)

Cross reference—Bond of officers and employees generally, § 178.

Sec. 200. Election; term of office.

Upon the expiration of the term of the present city assessor of the City of Memphis, the Council of the City of Memphis shall elect a city assessor for a term expiring December 31, 1939.

The election for city assessor shall thereafter be held every four years, the first such election to be held on the first Thursday after the first Monday in November, 1939, and the term of office of said city assessor shall begin and terminate at the same time as is now required for the mayor and Council of the City of Memphis. The election of said city assessor shall be held according to the laws now governing the election of members of the Council of the City of Memphis. (Priv. Acts 1937, ch. 117, §§ 2, 3)

Sec. 200.1. Authority to appoint or suspend office; contract for assessments by county officers.

(a) The Council of the City of Memphis shall be empowered and authorized to adopt an ordinance effective January 1, 1964, which shall provide for the appointment of a city tax assessor for the City of Memphis for a term not exceeding one year and for successive terms not exceeding one year and which shall assign such duties and provide for such compensation to the appointed tax assessor as the council shall determine or designate, or by the terms of said ordinance the council may suspend the office of city tax assessor. Said ordinance provided for herein shall provide to whom the certification of City of Memphis tax assessments shall be made, how and when equalization of said assessments shall be made and a means of appeal from tax assessments made for the City of Memphis.

(b) The Council of the City of Memphis shall have the right and power by ordinance to contract with the appropriate County of Shelby officials and governing bodies for the assessment by County of Shelby officials of taxable property within the City of Memphis for city ad valorem taxes, including, but not limited to ad valorem taxes imposed on merchants, to the end that assessments of property in Shelby County within the City of Memphis by county officials may be totally or partially used for City of Memphis taxation.

(c) The passage of the ordinance provided for herein shall suspend all laws and parts of laws in conflict herewith to the extent of such conflict, including, but not limited to the existing laws providing for the election of a city tax assessor, during the existence of the ordinance or ordinances and amendments thereto provided for herein in Sections I or II [paragraphs (a) or (b)] or both. (Priv. Acts 1963, ch. 68, §§ 1—3)

Editor's note—At the time of publication of this compilation, the city was exercising the authority granted by this section and appointing the assessor by annual ordinance.

Sec. 201. Residence requirements.

No person shall hereafter be elected to the office of city tax assessor unless he shall have been a resident of the City of Memphis for at least five years next preceding his election. (Priv. Acts 1921, ch. 922, § 1)

Sec. 202. To give entire time to office.

The city tax assessor shall give his entire time and attention to the duties of his office and shall not engage actively in any business or profession not directly connected therewith. (Priv. Acts 1929, ch. 860)

Sec. 203. Salary.

The salary of the city tax assessor of the City of Memphis shall be $12,000.00 per annum, to be paid in equal monthly installments. (Priv. Acts 1959, ch. 181, § 1)

Editor's note—All prior provisions prescribing the tax assessor's salary have been omitted. It should be noted that, under § 200.1, the council sets the salary of the appointed tax assessor.

Sec. 204. Vacancy in office.

Upon any vacancy hereafter occurring in the office of city assessor of the City of Memphis by death, resignation, removal, or otherwise, such vacancy shall be filled by the Council of the City of Memphis upon nomination of the mayor, but the person so chosen to fill said vacancy shall hold said office only until this successor shall be elected and qualified; the proper authorities shall hold a special municipal election on the date of the general election next thereafter for county officers in the county in which said city is located, at which special municipal election to be participated therein by the qualified voters of said city, there shall be elected a successor to the city assessor chosen to fill said vacancy; provided, that the person so chosen may be a candidate for said office in said special municipal election. The person elected as city assessor in said special municipal election, upon his qualification, shall hold office for the remainder of the unexpired term of the city assessor whose office was originally vacated. That is to say, until the qualification of his successor to be elected at the next regular municipal election for city assessor as provided in section 3 of this Act [section 200 herein]. (Priv. Acts 1937, ch. 117, § 4)

Sec. 205. Powers and duties generally.

It shall be his duty to assess all taxable property within the city assessed by the state and county assessor, and he is authorized and empowered to assess for city taxation all ad valorem taxes imposed on merchants and others, and all other ad valorem taxes heretofore assessed for taxation by the county court clerk of Shelby County. (Acts 1903, ch. 366, § 3; Acts 1909, ch. 342, § 1)

Cross reference—For general provisions relative to assessment and reassessment of property, see §§ 797—813.

Sec. 206. Duty to prepare assessment rolls; failure to prepare.

It shall be the duty of the city tax assessor to prepare the assessment rolls of all classes of taxable property within the limits of the City of Memphis, which it shall be his duty by law to assess, including realty, personalty, and merchants' capital, and present same, duly certified according to law, to the Council of the City of Memphis, on or before April first of each calendar year. In the event that the city tax assessor shall not turn over completed rolls duly certified according to law within the time prescribed in this Act, he shall, on demand of the Council of the City of Memphis, turn over such assessments as shall have been completed, and shall certify to the correction of such assessments made by him.

In the event the city tax assessor shall not complete the work of assessing property within the City of Memphis, to be by him assessed on or before April first of any calendar year, the assessed values fixed by the city tax assessor for the previous year shall stand as the assessed value for the current taxing year, subject, however, to review by the city board of equalization. (Priv. Acts 1921, ch. 190, § 1)

Sec. 207. Authority to administer oaths.

Said city assessor and his assistants, or any of them, shall have the power and authority to administer oaths in respect to assessments and in connection with the valuation of property for city taxation. (Acts 1909, ch. 342, § 3)

Sec. 208. Deputy city tax assessors and clerical assistants; budget.

The Council of the City of Memphis shall have authority to provide for and appoint as many deputy city tax assessors and as many clerical assistants and other employees in the office of the city tax assessor of the City of Memphis as the said Council of the City of Memphis shall deem necessary and proper to efficiently perform the duties of assessing the taxable property of the City of Memphis. The said council shall also have the power and authority to fix the salaries of the deputy city tax assessors, clerical assistants, and other employees in the office of the city tax assessor, and shall have authority to define their respective duties. Said council shall also have authority to provide all other necessary expenses for the operation of said tax assessor's office. The budget of expenditures for said office shall be made through the department of finances and institutions. (Priv. Acts 1937, ch. 560)

ARTICLE 31. CITY TREASURER*

***Cross reference—**Financial affairs generally, §§ 813.1—833.

Sec. 209. Election; term of office; removal.

The said council shall elect the first city treasurer to serve until the first meeting in January, 1912, and the city treasurer shall be elected biennially thereafter at the first meeting in January to hold office for two years, his election to be upon the nomination of the commissioner of the department of finances and institutions, and to be subject to all of the conditions and restrictions now required in regard to the election of the other city officials by the council. Said city treasurer shall be removable for proper cause upon a vote of at least three of said council. (Priv. Acts 1911, ch. 209, § 5; Priv. Acts 1937, ch. 122, § 4)

Sec. 210. By whom nominated; when elected; bond.

The said city treasurer shall be nominated by the commissioner of the department of finances and institutions, and elected by the Council of the City of Memphis at the first regular meeting of said council after the passage of this Act, or within thirty days thereafter, and he shall, before entering upon his duties, give a bond in such amount as shall be fixed by the council at the time of his election for the faithful performance of his duties. (Priv. Acts 1911, ch. 209, § 5; Priv. Acts 1937, ch. 122, § 4)

Cross reference—Bond of officers and employees generally, § 178.

Sec. 211. Authority of council to reduce bond during term; minimum bond required.

The Council of the City of Memphis are authorized and empowered to reduce the bond of the city treasurer of said city, should they deem proper, during his term; provided, however, that said bond shall not be reduced below one hundred thousand dollars. (Priv. Acts 1919, ch. 814)

Sec. 212. Salary.

The Council of the City of Memphis shall have authority to fix the salary of the city treasurer, in such amount as they may deem proper, and all acts or parts of acts in conflict with this provision are repealed. (Priv. Acts 1937, ch. 489, § 4)

Sec. 213. Clerical assistance.

The city treasurer of the City of Memphis shall have such clerical assistance as may be given him from time to time by the council, for the collection of city taxes. (Priv. Acts 1935, ch. 148, § 2)

Sec. 214. To be collector and disburser of city funds.

The city treasurer of Memphis shall be the collector and disburser of the municipal taxes of the City of Memphis, including all funds derived from assessments for street improvements and proceeds of all bond sales. He shall have and possess all the powers and be subject to all the duties and obligations now vested in or imposed upon the treasurer or tax receiver of said city. (Priv. Acts 1911, ch. 209, § 1)

Sec. 215. Monies to be kept in depository designated by council; bond of depository.

He shall keep the municipal taxes collected by him in such bank or banks as shall be designated by the council, which said bank shall give a bond to indemnify the City of Memphis in such sum as shall also be fixed by said council. (Priv. Acts 1911, ch. 209, § 2)

Secs. 216—218. Reserved.

Editor's note—Former §§ 216—218 were identical with §§ 511 (last sentence), 516, 518 and 519 and were derived from the same source. To avoid repetition §§ 216—218 have been omitted.

Sec. 219. To keep separate account of public libraries tax; monthly disbursements.

A separate account shall be kept in the offices of the city treasurer, for the use and benefit of the public libraries already established and in operation within each city having a population of 100,000 or more by the Federal Census of 1900, or any subsequent Federal Census, and the city treasurer shall, at the end of each month, pay over to the treasurer, or other officers of such public libraries, all sums then in hand arising from the public library tax, and take receipt therefor. (Acts 1903, ch. 534, § 2; Priv. Acts 1921, ch. 670, § 1)

Sec. 220. Deputy city treasurer.

The council or other legislative council of the City of Memphis shall have authority, whenever they may determine, to elect a deputy city treasurer, define his duties, fix his compensation, and the amount of bond to be required of said deputy city treasurer. (Priv. Acts 1937, ch. 489, § 5)

ARTICLE 32. CITY PURCHASING AGENT*

***Cross references—**Powers and duties of purchasing agent relative to abandoned, stolen and recovered property, §§ 495—502; duties of purchasing agent may be extended to purchases for park commission, § 581.1.

Code references—Purchases generally, § 5-4-8; powers and duties of purchasing agent relative to unfit property belonging to city, § 2-18-1; purchases for alcoholic beverage commission, § 2-82-100.

Sec. 221. Office created; term; election; salary.

The office of city purchasing agent (is created). The term of said office shall be two years. Said office shall be filled by election by the council on nomination by the mayor. The salary of the city purchasing agent shall be fixed by the council. (Priv. Acts 1937, ch. 123, §13)

Sec. 222. Duty to make purchases; bids required for certain purchases.

It shall be the duty of the city purchasing agent for and on behalf of the City of Memphis and such of the departments of the municipal government thereof as may be designated by the council of said city by resolution, to make all purchases of supplies, materials and equipment required for use by said municipal government or personal services or labor in connection therewith of a value not exceeding two thousand dollars ($2,000.00).

On all purchases of supplies, materials, equipment or other personal property or personal services or labor in connection therewith of a value in excess of five hundred dollars ($500.00) and not exceeding two thousand dollars ($2,000.00), the city purchasing agent shall obtain bids from competitive concerns prior to making said purchases from the lowest and best bidder therefor.

The city council by ordinance may adjust the limits for purchases and newspaper advertisement for competitive bidding and the purchase orders therefore. (Priv. Acts 1929, ch. 515, § 2; Priv. Acts 1941, ch. 44, § 1(10); Priv. Acts 1949, ch. 499, § 1; Priv. Acts 1957, ch. 116, § 1; Ord. No. 732, approved by referendum 11-3-70; Ord. No. 832, § 1, 12-15-70; Ord. No. 4434, 08-30-96)

Editor's note—Ord. No. 732. enacted June 16, 1970, approved at a referendum election held November 3, 1970, amended § 222 by increasing the limit from $150.00 to $500.00 on purchases not requiring bids. See ordinance set out under "Home Rule Amendment" of this volume. Ord. No. 832, § 1, amended § 222 to conform to Ord. No. 732.

Sec. 223. Requisitions for supplies, equipment, etc.; duty of purchasing agent upon receipt of requisition.

Whenever it is necessary or proper for the City of Memphis to purchase supplies, equipment and other articles of personal property or personal services or labor in connection therewith required to be procured through the city purchasing agent, the officer in charge of the department or bureau requiring such purchases shall make requisition therefor in duplicate itemizing the articles to be purchased or services required and filing said requisition with the city purchasing agent who shall proceed to purchase said article or articles or contract for services at the lowest and best price obtainable and in the manner hereinabove provided. One copy of each such requisition submitted to the city purchasing agent shall be kept on file in his office, together with all bids for such supplies, equipment or other personal property or personal services or labor in connection therewith, and all of said records shall be open for the inspection of the public. (Priv. Acts 1929, ch. 515, § 3; Priv. Acts 1949, ch. 499, § 2)

Sec. 224. Annual inventory of city property.

It shall be the duty of the city purchasing agent to make and keep a complete and correct inventory of all of the fixtures, equipment, furnishings, supplies and other personal property belonging to the municipal government of the City of Memphis, except municipal property in the possession or under the control of the separate boards and commissions named in section 222 hereof,* and annually, on or before January 15th, beginning with the year 1930, to file with the department under which said city purchasing agent functions a complete inventory of all equipment, supplies, furnishings, materials and other like property belonging to the said city government, which said inventory shall be kept open for the inspection of the public.

The separate commissions and boards named in section 222 hereof,* likewise shall make and keep a complete and correct inventory of all equipment, fixtures, furnishings, supplies, and other personal property which said boards and commissions have in their possession and charge, and, annually on or before January 15th, beginning with the year 1930, shall file with the city purchasing agent a complete and correct inventory of all equipment, supplies, fixtures, furnishings and personal property belonging to the said city government and in the hands of said boards and commissions. (Priv. Acts 1929, ch. 515, § 4)

***Editor's note—**Under § 222 as it existed prior to the enactment of Priv. Acts 1949, ch. 499, the purchasing agent did not make purchases for the board of education, the park commission, the harbor commission, the river and rail terminal commission, the Cossitt Library board, Oakville Sanitarium, the auditorium and market house commission, the artesian water department, the art commission or the Memphis General Hospital. These are the boards and commissions referred to in the text.

Sec. 225. Bond.

The person appointed city purchasing agent shall give good and sufficient bond in the sum of $10,000.00 payable to the City of Memphis, conditioned for the faithful performance by said official for the duties of said office and for the faithful accounting to the city for all goods, money and other property that may come into his hands as such and to indemnify and save said City of Memphis harmless for and on account of any and all of his official acts. Said bond shall be filed with the comptroller when the city purchasing agent enters upon the discharge of said office, and the premium in said bond shall be paid by the City of Memphis. (Priv. Acts 1929, ch. 515, § 5; Priv. Acts 1937, ch. 123, §§ 2, 18)

Cross reference—Bonds of officers and employees generally, § 178.

Sec. 226. Charter provisions as to advertising and letting of certain contracts.

Nothing contained in this Act shall be held to repeal those provisions of the Charter of Memphis requiring the advertisement for bids on contracts involving the expenditure of over two thousand dollars ($2,000.00)* or repeal any provision of the Charter of the City of Memphis now requiring certain contracts to be let directly by the council of said city. (Priv. Acts 1929, ch. 515, § 6; Priv. Acts 1941, ch. 44, § 1(10); Priv. Acts 1957, ch. 116, § 1)

***Cross reference—**See § 51.

Sec. 227. Reserved.

Editor's note—§ 227 was not derived from any legislative act, but was in the nature of a cross reference to § 51 relating to bids for contracts involving more than $2,000.00. It has been omitted by the editor.

Sec. 228. Authority of council to change duties.

The duties of the said city purchasing agent may be further enlarged, qualified, clarified, and defined by city ordinances of said City of Memphis duly passed by the council of said city not in conflict with the laws of the State of Tennessee. (Priv. Acts 1937, ch. 123, § 14)

ARTICLE 33. MISCELLANEOUS OFFICERS

Sec. 229. Boiler and smoke inspector.

The council shall elect a boiler and smoke inspector, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Cross reference—Salary of boiler and smoke inspector, § 187.

Sec. 230. Collector of licenses and privileges.

The council shall elect a collector of licenses and privileges, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Cross reference—Salary of collector of licenses and privileges, § 187.

Code reference—Collector of licenses and privileges generally§ 5-12-1.

Sec. 231. Inspector of weights and measures.

The council shall elect an inspector of weights and measures, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Cross reference—Salary of inspector of weights and measures, § 187.

Code reference—Inspector of weights and measures, § 6-104-2.

Sec. 232. Building commissioner.

The council shall elect a building commissioner, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Editor's note—This officer is now known as the chief building inspector.

Cross reference—Salary of chief building inspector, § 187.

Sec. 233. Chemist.

The council shall elect a city chemist whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Sec. 234. Plumbing inspector.

The council shall elect a city plumbing inspector, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Cross reference—Salary of plumbing inspector, § 187.

Sec. 235. Meat inspector.

The council shall elect a city meat inspector, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Cross reference—Inspection and regulation of meat and meat products, § 429.

Code reference—Meat and meat products, §§ 9-52-790—9-52-830.

Sec. 236. Superintendent of hospital.

The council shall elect a superintendent of the city (general) hospital, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Editor's note—The hospital referred to in this section was first known as the "City Hospital." The name was later changed to the "General Hospital." At present it is known as the "John Gaston Hospital."

Cross reference—Salary of superintendent of John Gaston Hospital, § 187.

Sec. 237. Director of research.

There is hereby created the office of the director of research of the City of Memphis, who shall be appointed by the Council of the City of Memphis upon nomination by the mayor, and who shall hold office at the will and pleasure of the city council. The salary of the director of research shall be fixed by resolution of the Council of the City of Memphis and his office shall be under the direction of the mayor and the commissioner of administration and health. (Priv. Acts 1947, ch. 519, § 11)

Sec. 238. Forester.

The Council of the City of Memphis is also authorized and empowered to elect a city forester, who shall be a person with practical experience, skilled and learned in the science of forestry, and shall hold office at the will and pleasure of the council. His compensation shall be fixed by the Council of the City of Memphis; and his duties shall be to serve as city forester, and to enforce any ordinance adopted by the City of Memphis for the planting, pruning, cultivation and preservation of plants, flowers, shrubbery and trees along the streets, alleys, sidewalks, and other public ways, and in the public parks, and on the public playgrounds, and other public property of the City of Memphis. His duties and powers may be further enlarged, qualified and defined by ordinance duly adopted by the Council of the City of Memphis, not in conflict with the laws of the State of Tennessee. (Priv. Acts 1945, ch. 56, § 6)

Cross reference—General provisions relative to planting and care of plants, trees, etc., on streets and other public places, § 861.

Sec. 239. Claim agent.

The Council of the City of Memphis shall have authority by resolution to appoint a city claim agent, upon nomination of the city attorney. Said claim agent shall be attached to the city attorney's office, and shall hold his position at the will and pleasure of the council. He shall receive such salary as may be fixed by the council. He shall investigate all claims for damages against the city, shall attend to the settlement of such claims under the direction of the city attorney, shall keep a docket of all lawsuits pending in which the city is a party, and assist in the preparation of all cases for trial. He shall assist the city attorney and city engineer in acquiring such land as may be needed for public use, and shall perform such other duties as the city attorney may from time to time direct. (Priv. Acts 1939, ch. 173, § 6)

Code reference—Similar provisions, § 2-8-7.

Sec. 239.1. Electrical inspector.

The council shall elect an electrical inspector, whose term of office shall be one year. (Acts 1909, ch. 298, § 9)

Sec. 239.2. Gas and electric light inspector.

The council shall elect a gas and electric light inspector, whose term of office shall be one year, and whose duties shall be to see that the gas furnished is of the quality and illuminative power prescribed by ordinance; that the gas meters furnished properly measure the gas passing through them, and generally to perform such services as may be impose upon him by ordinance. (Acts 1887, ch. 91, § 3; Acts 1909, ch. 298, § 9)

ARTICLE 34. CIVIL SERVICE*

***Editor's note—**In the 1949 compilation, §§ 240—250 consisted of the 1935 Civil Service Act (Priv. Acts 1935, ch. 142), and the 1949 Civil Service Act (Priv. Acts 1949, ch. 129, §§ 1—15) was included as§§ 250.1—250.15. The 1949 Act did not expressly repeal the 1935 Act. However, the city had been operating under the 1949 Act as evidenced by Ordinance No. 24, enacted August 9, 1949, and codified as Chapter 12 in the Code of Ordinances. The editor therefore, omitted the 1935 Act and included the 1949 Act as former §§ 240—250.4. Subsequently, pursuant to Ord. No. 3233, adopted by the city council on August 31, and approved at referendum on November 2, 1982, Art. 34, §§ 240—250.4 were deleted as repealed. Ord. No. 3233 enacted a new Art. 34, §§ 1—12, which, for numerical continuity, the editor has included as [240]— [250.1].

Code reference—Civil service, Ch. 3-8.

Sec. [240]. Composition of commission.

There is hereby created a commission to be composed of seven (7) members, to be known as the Civil Service Commission of the City of Memphis. (Ord. No. 3233, § 4, 8-31-82)

Sec. [241]. Qualifications of members; compensation.

The Council of the City of Memphis shall have the power to fix the qualifications and compensation of the members of the Civil Service Commission and to pass such ordinances as may be required to carry out the purposes and provisions of this article. (Ord. No. 3233, § 4, 8-31-82)

Sec. [242]. Appointment of members.

The Mayor shall appoint members to the commission, with the approval of a majority of the Council, for the following terms: two (2) members for a term of one (1) year, two (2) members for a term of two (2) years, and three (3) members for a term of three (3) years. One of said commissioners shall be designated by the Mayor to serve as chairman of the commission. In the event that the chairman is unable to attend a commission hearing, the Mayor shall have the power to designate someone from the commission membership to serve as substitute chairman. Subsequent to the initial terms of the commissioners, as provided for in this section, each commissioner appointed thereafter shall serve for a term of three (3) years. (Ord. No. 3233, § 4, 8-31-82)

Sec. [243]. Oath of commissioners.

The said commissioners shall qualify and take an oath to uphold the Constitutions of the United States and of the State of Tennessee, and faithfully to discharge the duties of their respective offices, and, upon the organization thereof, shall undertake the duties of said office. (Ord. No. 3233, § 4, 8-31-82)

Sec. [244]. Removal of commissioners.

Any commissioner may be removed for just cause during his term of office by a majority vote of the City Council on recommendation by the Mayor, but only after such commissioner shall have been served with a statement in writing of the reasons alleged to justify his removal, and only after such commissioner is allowed an opportunity to be represented and publicly heard in his defense before the City Council. Said action of the City Council shall be final. (Ord. No. 3233, § 4, 8-31-82)

Sec. [245]. Powers and duties of commissioners.

The Civil Service Commission shall have the power and it shall be its duty to conduct hearings to review disciplinary actions, limited to suspensions, dismissals, or demotions of any employees not exempted from the provisions of this article. In the course of any hearing conducted under the provisions of this article, the Civil Service Commission shall have power to administer oaths, to subpoena and require the attendance of witnesses within the City and the production by them of books and papers pertinent to any matter of inquiry, and to examine such witnesses under oath in relation to any matter properly involved in such proceeding. For such purposes, the commission may invoke the power of any court of record in the City, or judge thereof, to compel the attendance and testimony of witnesses and the production of books and papers in compliance with such subpoena. (Ord. No. 3233, § 4, 8-31-82)

Sec. [246]. Termination, suspension, or demotion of employee.

The City may terminate, suspend, or demote an employee for just cause, and the employee shall be given a written notice of the reasons for the action. Just cause shall exist when the employer had a reasonable basis for the action taken. Enumeration of the above-stated disciplinary actions, which are reviewable by the commission, shall not be construed as a limitation on powers of the City to impose other less stringent disciplinary measures which shall not be appealable to the commission. (Ord. No. 3233, § 4, 8-31-82)

Sec. [247]. Appeals to commission.

Any employee holding a position not exempted from the provisions of this article and not in his initial probationary period, who has been suspended in excess of ten (10) days, terminated, or demoted, may appeal to the commission within ten (10) calendar days after notification in writing of such action. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five (5) days within a six-month period and any subsequent suspension within said period shall be appealable to the commission. If an employee has previously elected a remedy other than as provided by federal law, he shall be barred from appealing to the Civil Service Commission, except that informal appeals within the particular division or within the administration shall not bar an appeal to the commission. In no event shall the ten (10)-day time period for appealing to the commission be waived. (Ord. No. 3233, § 4, 8-31-82)

Sec. [248]. Hearings.

Upon an employee's appeal from his termination, demotion, or suspension, a hearing shall be held before the hearing board of the commission within a reasonable time thereafter, not to exceed sixty (60) days from filing of the appeal. Any employee who has been indicted by a federal or state grand jury or against whom a presentment or information has been filed shall be granted, upon his request and at his election, a postponement of hearing before the Civil Service Commission until such indictment, presentment, or information has been finally disposed of by a court of competent jurisdiction. The hearing board shall consist of the chairman and two (2) commissioners, and a majority vote shall be required to reverse or sustain the disciplinary action of the City. The secretary of the commission shall have the duty of convening said hearing board. At such hearing both the appealing employee and the official whose actions are being reviewed shall have the right to be heard and to present evidence and to be represented by themselves or by legal counsel of their choosing. The burden of proof required to sustain the action of the City shall be by a preponderance of the evidence. If, after a presentation of the proof, the commission finds that there exists a reasonable basis for the disciplinary action taken, the action of the City shall be sustained. The decision of the commission shall be stated in writing and shall include the commission's findings of fact and conclusions therefrom. The decision of the commission shall be appealable by either the City or the employee as provided by state law. (Ord. No. 3233, § 4, 8-31-82)

Sec. [249]. Director of personnel.

There shall be a Director of Personnel, who shall be appointed by the Mayor with the approval of a majority of the Council. The Director of Personnel shall be subject to removal by the Mayor with the concurrence of a majority of the Council. His term of office shall be the same as that of the appointing Mayor, and he shall continue in office until his successor has been appointed and approved. The Director of Personnel shall be a person in sympathy with the application of merit as a basis for advancement, and with the application of sound business principles in the administration of persons, and shall prescribe methods whereby appropriate records of the work of employees may be kept. Said director shall likewise prescribe methods for grading the work of employees in the various departments affected herein, shall measure such work by fidelity to duty, punctuality, proper exercise of judgment, cooperation with superiors and other employees of the City of Memphis, courtesy to the general public, and other pertinent factors, to the end the said departments and the personnel thereof may function for the advancement of efficiency of said departments, and the promotion of public safety and welfare. There shall be no discrimination in the City employment of personnel because of religion, race, sex, creed, political affiliation, or other nonmerit factors, nor shall there be any discrimination in the promotion or demotion of City employees because of religion, race, sex, creed, political affiliation, or other nonmerit factors. (Ord No. 3233, § 4, 8-31-82)

Sec. [250]. Classification of officers and positions; exemptions from article.

The Director of Personnel shall classify all offices and positions in the City service according to the duties and responsibilities of each position, provided, however, that the following officers and employees shall be exempted from the provisions of this article:

a. Officers and judges who are elected by popular vote and their successors;
b. Members of and employees of the Board of Education;
c. Members of the board and employees of the Memphis Light, Gas and Water Division;
d. Division directors who are either now or may be hereafter appointed by the Mayor and Council;
e. All employees of the legal department;
f. Members of the various boards and commissions now existing or hereafter created;
g. All staff employees of the offices of the Mayor and Chief Administrative Officer;
h. One executive secretary for each board, commission, division director, and for the administrative judge of the city court;
i. All officers and employees of the Memphis and Shelby County Public Library;
j. All employees of the City Council office;
k. Such other officers or employees whose positions, in the judgment of the Mayor, with the concurrence of the City Council, cannot be subject to the rules herein provided, and who shall not be affected by such rules and regulations. The provisions of this subsection (k) shall not allow removal of civil service protection from any employee whose position at that time is covered by this article. (Ord. No. 3233, § 4, 8-31-82)

Sec. [250.1]. Examinations for applicants for employment.

All applicants for employment in positions protected by this article, shall be subjected to competitive job-related examinations under such rules and regulations as may be adopted by the Director of Personnel. The examinations to be provided for shall be of a practical nature and relate to such matters as will fairly test the relative competency of the applicant to discharge the duties of the particular position. These examinations should be developed in conjunction with other tools of personnel assessment and complemented by sound programs of job design to aid significantly in the development and maintenance of an efficient work force and in the utilization and conservation of human resources. No question in any examination shall relate to political or religious opinions or affiliations. The examination shall be conducted and controlled by the Director of Personnel. (Ord. No. 3233, § 4, 8-31-82)

ARTICLE 35. CITY COURT*

***Editor's note—**In view of the provisions of §§ 253.1 and 253.2, the word "judge" should be construed in the plural throughout this article.

Code reference—City court, Ch. 2-12.

Sec. 251. Created; jurisdiction generally.

There shall be a city court. Said court shall be a court of record and shall have original and exclusive jurisdiction of all violations of municipal ordinances, and shall also be clothed with the same powers and duties possessed by a justice of the peace, touching the arrest and preliminary trial, discharging, binding over, or punishing under the small offense law, of all persons charged with offenses against the state, committed in the city. (Acts 1905, ch. 54, §§ 36, 39)

Sec. 252. Judge to be elected by people.

The city judge of the City of Memphis shall be hereafter elected by the qualified voters of the City of Memphis. (Priv. Acts 1921, ch. 83, § 1)

Cross reference—Elections generally, §§ 6—13.

Sec. 253. Time of election and term of judge; judge may succeed himself.

Beginning with the year 2003, a city judge shall be elected for a term of eight (8) years. Said term to coincide with the election of the mayor and other elected officials of the City of Memphis. A city judge may at the end of his/her term immediately succeed himself/herself as city judge. (Priv. Acts 1921, ch. 83, § 3; Priv. Acts 1931, ch. 562, § 1; Ord. No. 4670, § 1, 5-18-99)

Sec. 253.1. Second division and judgeship.

(a) A second judgeship of the city court of the City of Memphis is hereby created. Two divisions of the said city court of the City of Memphis are hereby created. The present judge of the city court of the City of Memphis is hereby made and designated judge of division one of said court and the judge to be elected as hereinafter provided is hereby made judge of division two of said court.

(b) The first judge of the second division of the said city court shall be elected by the Council of the City of Memphis upon nomination of the mayor to serve until the expiration of the present term of the present judge of the city court of the City of Memphis.

(c) At the next regular municipal election to be held on the first Thursday after the first Monday in November, 1951, there shall be elected a judge of division one of the city court of the City of Memphis and a judge of division two of the city court of the City of Memphis, each for a term of four years beginning on the first Monday in January 1952. Subsequent elections of said judges shall be held at the regular municipal elections when the mayor and members of the Council of the City of Memphis shall be elected, for a term of four years coincident with the term now provided by law for said mayor and members of the council.

(d) Both of the judges of said city court shall have all of the powers, duties and qualifications now provided by law for the judge of the city court of the City of Memphis and, except as the same may be inconsistent herewith, all provisions of law pertaining to the city court of the City of Memphis and the judge thereof, shall be applicable to both judges of the said court. (Priv. Acts 1951, ch. 387, §§ 1—3, 5)

Sec. 253.2. Third division and judgeship.

(a) A third judgeship of the city court of the City of Memphis is hereby created. A third division of the said city court of the City of Memphis is hereby created. The judge to be elected as hereinafter provided is hereby made judge of division three of said court.

(b) The first judge of the third division of said city court shall be elected by the Council of the City of Memphis upon nomination of the mayor, to serve until the expiration of the present term of the present judges of the city court of Memphis.

(c) At the next regular municipal election to be held on the first Thursday after the first Monday in November, 1959, there shall be elected a judge of division three of the city court of the City of Memphis for a term of four years beginning on the first day of January, 1960. Subsequent elections of said judge shall be held at the regular municipal elections when the mayor and members of the council are elected, for a term of four years coincident with the term now provided by law for said mayor and members of the council.

(d) The judge of division three of said city court shall have all of the powers, duties and qualifications now provided by law for the judges of the city court of the City of Memphis and, except as the same may be inconsistent herewith, all provisions of law pertaining to the city court of the City of Memphis and the judges thereof, shall be applicable to division three of said court and the judge of division three. (Priv. Acts 1957, ch. 91, §§ 1—3, 5)

Sec. 253.3. Reserved.

Editor's note—Ord. No. 770, § 5, enacted Aug. 25, 1970, approved at a referendum election held Nov. 3, 1970, repealed § 253.3 For amendment see Ord. No. 770 set out in full under "Home Rule Amendments" of this volume.

Sec. 253.4. Administrative judge.

There shall be an administrative judge of the City Court, who shall, upon the city judges' taking office, be appointed by the Mayor with the approval of the City Council. During the interim prior to the next general election, the mayor shall appoint, with approval of the City Council, an administrative judge. In the event the administrative judge is incapacitated, the mayor shall appoint, with approval of the City Council, an interim administrative judge. (Ord. No. 770, § 1, 8-25-70)

Sec. 253.5. Duties of administrative judge.

The duties of said administrative judge shall be as follows:

(1) Preside at en banc sessions of the Court; (2) Promulgate and publish rules of the Court; (3) Prepare with the advice of the other judges a budget for the City Courts to be submitted by the judges to the operating budget of the City of Memphis and submit same to the Council for approval or amendment as now provided by law for the operating budget of the City of Memphis; (4) Request or convene conferences of judges, prosecutors and clerks to consider the status of judicial business and to expedite and improve procedures in the administration of justice; (5) In all administrative matters carry out the directives of a majority of the City Court Judges; (6) Such other duties as the Council may by ordinance prescribe. (Ord. No. 770, § 1, 8-25-70, Ord. No. 2246, §1, 4-29-75)

Sec. 254. Salaries of judges.

The salaries of the City Court Judges shall be a minimum of $16,000.00 per annum; provided, however, that the administrative judge shall receive a minimum of $600.00 per annum in addition. The salaries shall become effective on the approval of this provision and may not be diminished during the term of office of said City Court Judges; provided, however that the salaries as provided for in the budget of the City Court may be increased effective the beginning of the fiscal year covered by the budget. (Priv. Acts 1957, ch. 91, § 4; Ord. No. 770, § 2, 8-25-70)

Sec. 255. Judge to give entire time to duties of office, etc.

The city judge shall give his entire time and attention to the duties of his office, and it shall be unlawful for him to engage in the practice of law or engage in any business or profession not directly connected therewith, and the city

judge shall maintain an office in the same building where the city court is located, and shall be available at all reasonable hours (Priv. Acts 1935, ch. 389, § 2)

Sec. 256. Vacancy in office of judge; election of successor.

In the case of a vacancy by resignation, death, or otherwise, in the office of the city judge, such vacancy shall be filled as now provided by law, but the person so chosen to fill said vacancy shall hold said office only until his successor shall be elected and qualified; and the proper authorities shall hold a special municipal election on the date of the general election next thereafter for county officers in the county in which said city is located, at which special municipal election, to be participated in by the qualified voters of said city, there shall be elected a successor to the city judge chosen to fill said vacancy, provided that the person so chosen may be a candidate for said office at said special municipal election. The person elected as city judge in said special municipal election, upon his qualification, shall hold office for the remainder of the unexpired term of the city judge whose office was originally vacated, that is to say, until the qualification of his successor to be elected at the next regular municipal election of mayor, council and city judge of said city. (Priv. Acts 1921, ch. 83, § 5)

Sec. 257. Qualifications of judge.

The judge of said court shall be at least twenty-five years old and a lawyer by practice and profession, and of good moral character, and shall have been for two years before his election a bona fide resident and voter in the County of Shelby and a bona fide resident of the City of Memphis, at the time of his election. (Acts 1905, ch. 54, §§ 36, 37; Acts 1919, ch. 769, § 2)

Sec. 258. Special judge.

In the temporary absence or during the disability of the judge from any cause, the City Court Clerk shall appoint some person possessing all the qualifications of the regular judge, as special judge, to act in his room and stead, and such appointment shall be copied on the minutes of the court, and the said special judge shall take the same oath and be clothed with the same power, pro tempore, as the regular judge. If he shall serve for a period of two days or longer, he shall be paid same compensation as the regular judge, which sum so paid said special judge shall be deducted from the salary of the regular judge. But no deduction shall be made from his salary. unless the council shall, by resolution, declare that the absence from his duties was without reasonable excuse.

The City Court Clerk shall choose special judges on a rotating basis from a list composed of all attorneys who volunteer for said service. All Tennessee licensed attorneys shall be eligible. (Acts 1905, ch. 54, § 40; Acts 1909, ch. 298, § 42; Ord. No. 770, §§ 2, 3, 8-25-70; Ord. No. 2246, § 3, 4-29-75)

Sec. 259. Effect of indictment of judge.

The city judge of the City of Memphis shall not be eligible to hold court at any time while under indictment by any court of Shelby County, Tennessee, and upon the fact of such indictment being brought to the attention of the Council of the City of Memphis, it shall be their duty to at once appoint a duly qualified person to act as city judge until the indictment against the city judge has been disposed of. Such person so appointed shall, during the time of his appointment, receive the same salary as that fixed for the city judge. In the event the charges against the city judge are disposed of in his favor, then the city judge shall be forthwith returned to office and shall receive full compensation for the time that he was removed therefrom. (Priv. Acts 1935, ch. 498)

Sec. 260. City Court Clerk.

The City Court Clerk shall be director of the division of city government known as the Office of the City Court Clerk. The Clerk shall have at least two (2) chief clerks, one of whom shall be responsible for the Traffic Violations Bureau, the other shall be responsible for the clerical functions of the City Courts per se. These two (2) chief clerks shall be selected by the elected City Court Clerk with the approval of the Mayor and Council. These chief clerks shall be responsible at all times to the City Court Clerk.

The Clerk shall have sole responsibility for the docket and minute books of the City Court. The Clerk shall supervise the execution clerks. The Clerk shall assign cases to the divisions. The Clerk shall have the power to select personnel for his department based on their qualifications for this type work. The Clerk shall have responsibility for preparing and

submitting a budget for his office to the Mayor. The Clerk shall submit a report of his division every quarter, with the first quarterly report due on January 1, to the Mayor, the Administrative Judge, the Chairman of the Council and the Chairman of the Council's Budget Committee. This report should indicate the status of the Traffic Violations Bureau regarding its number of tickets properly processed through the payment of fines or decisions of the Court and the number of tickets yet uncollected and pending in Court. The salary of the City Court Clerk shall be two thousand dollars ($2,000) less than the standard City Court judge's salary. The salary may not be diminished during the term of the Clerk; provided, however, that the salaries as provided for in the budget of the City Court Clerk's Office may be increased effective the beginning of the fiscal year covered by that budget.

The Clerk of the City Court shall be elected by a vote of the qualified electors of the City for a term of four (4) years and shall hold office until his successor is elected and qualified. The first Clerk shall be elected at the first general election to be held in 1976 and shall take office as soon as his election is certified. Such term shall expire on January 1, 1980. Subsequent City Court Clerks shall take office January 1 after their election. Subsequent elections of City Court Clerk shall take place at the same time as the regular election of the Mayor and Council. In the period after the approval of this referendum by the people but before the election of the Clerk, the Mayor shall, with the approval of the Council, appoint an interim Clerk. Interim Clerks shall be chosen in the same manner whenever a vacancy in the office occurs, provided that a new Clerk shall be elected at the next general election after the vacancy occurs, if such vacancy arises at such time as to permit the election to be placed upon the ballot.

To be eligible to seek election as City Court Clerk, one must have been a resident voter of Memphis, Tennessee, for not less than five (5) years preceding his or her election, unless he or she shall have resided during the five (5) years preceding the election or appointment in territory that has been annexed to and at the time of such election or appointment form a part of the City of Memphis. (Acts 1909, ch. 298, § 9; Priv. Acts 1921, ch. 367; Ord. No. 2246, § 4, 4-29-75)

Sec. 261. Reserved.

Editor's note—Section 261, as formerly set out herein, provided a residency and voter registration requirement for those holding the office of city court clerk. Pursuant to Ord. No. 2246, § 4, adopted April 29, 1975, provisions as to residency and voter registration as requirement for those seeking election as city court clerk were incorporated in § 260; the editor, at his discretion, deleted former § 261, which set forth the provisions of Acts 1905, ch. 54, § 38. The user's attention is directed to Ord. No. 2246, set out in full under "Home Rule Amendments" in this volume.

Sec. 262. Bond; jurisdiction over records, etc.

Before assuming the duties of his office, said clerk shall give bond in the sum of $2,500.00, conditioned to faithfully discharge the duties of his office as such clerk and properly report and account for all the funds coming through his hands into his office.

The bond of the clerk of the city court of the City of Memphis shall be approved by the Council of the City of Memphis and filed with the comptroller of the City of Memphis and the clerk of the city court of the City of Memphis shall be the custodian of the books, dockets and records of the city court and he shall have exclusive jurisdiction over same. (Acts 1905, ch. 54, § 38; Priv. Acts 1935, ch. 389, § 10; Priv. Acts 1937, ch. 123, § 18)

Cross reference—Bonds of officers and employees generally, § 178.

Sec. 263. Reserved.

Editor's note—Ord. No. 770, § 5, enacted Aug. 25, 1970, approved at referendum held Nov. 3, 1970, repealed § 263, pertaining to vacancy in office of clerk of the city court, and derived from Acts 1905, ch. 54, § 63. See Ord. No. 770 set out in full under "Home Rule Amendments" of this volume.

Sec. 263.1. Reserved.

Editor's note—Ord. No. 770, § 5, enacted Aug. 25, 1970, approved at referendum held Nov. 3, 1970, repealed § 263.1, pertaining to deputy clerk, and derived from Priv. Acts 1951, ch. 387, § 7. See Ord. No. 770 set out in full under "Home Rule Amendments" of this volume.

Sec. 264. Duties of judge in state cases before court on warrant.

Whenever any person is brought before the judge of said court upon a warrant for any criminal offense or misdemeanor against the state, if the grand jury of the county where the offense is charged to have been committed is in session, the said city judge shall not try the case unless the defendant pleads guilty, but shall, if the offense charge is bailable, take bond of the defendant in such sum as now prescribed by law for the offense charged for his appearance from day to day before the court in charge of, or impanelling said grand jury, pending an investigation of said offense by said grand jury. (Acts 1905, ch. 54, § 39; Priv. Acts 1929, Ex. Sess., ch. 36)

Sec. 265. Duties of judge in state cases before him prior to issuance of warrant.

Whenever, on any person being brought before the judge of said court without warrant having been previously issued, it appears that reasonable cause exists for believing that a criminal offense or misdemeanor against the state has been committed, a warrant charging the offense shall be issued, and if the grand jury of the county where the offense is believed to have been committed is in session, the city judge shall not try the case against the state unless the defendant pleads guilty, but shall, if the offense charged is bailable, take bond of the defendant in such sum as now prescribed by law for the offense charged for his appearance from day to day before the court in charge of, or impaneling the grand jury, pending an investigation of said offense by said grand jury.

If any such case is not bailable, or the defendant fails to give the bond required, he or she shall be committed to jail, pending the investigation. The warrant and the bond, if any be given, shall be at once transmitted to said court. If the defendant pleads guilty to the charges in said warrant, the proceedings in the case shall then be the same in all respects as now prescribed by law. Nothing herein shall be construed as affecting the trial of cases involving the violation of city ordinances. (Acts 1905, ch. 54, § 39; Priv. Acts 1929, Ex. Sess., ch. 36)

Sec. 266. Sessions generally; reading of minutes; fines to be imposed in open court; docket entries; no fine to be remitted or released.

A session of said court shall be held daily, except Sunday or legal holidays. At the opening of each session the minutes of the proceeding session shall be read and signed by the judge in open court.

All fines shall be imposed in open court, and as soon as judgment is pronounced, said judgment shall be entered in open court on the judge's docket and upon the docket of the clerk of the city court, in ink, and it shall be unlawful and a misdemeanor in office to make any erasures or corrections in said figures after said entry has been made and when any fine has been so imposed, the judge shall have no power to remit or release the same or any part thereof, nor shall he have authority to instruct the clerk of said court to remit or release the same or any part thereof, and the clerk of said court shall have no authority to remit or release the same or any part thereof. (Acts 1905, ch. 54, § 40; Priv. Acts 1929, Ex. Sess., ch. 36, § 1; Priv. Acts 1935, ch. 389, § 6)

Code reference—Time of court sessions, § 2-12-4.

Sec. 267. Authority of board to require more than one session daily.

TheCouncil of the City of Memphis shall have authority to require the city judge to hold more than one session daily in the city court if in their judgment the business of said court so requires. (Priv. Acts 1935, ch. 389, § 3)

Sec. 268. Oaths and affirmations.

The judge of said court is authorized to administer oaths and affirmations. Likewise the clerk of said court and his deputies. (Acts 1905, ch. 54, § 43; Priv. Acts 1921, ch. 723, § 2)

Sec. 269. Process to be signed by judge or clerk; authority of clerk to issue warrants.

All process issuing from said court shall be signed by either the judge or the clerk thereof. The clerk of said court and his deputies shall have power to issue warrants for the arrest of all persons charged with violations of the ordinances of the city. (Acts 1905, ch. 54, § 40; Priv. Acts 1921, ch. 723, § 2)

Sec. 270. Arraignment within twenty-four hours after arrest; exceptions.

Every person arrested on the charge of violating an ordinance, or on process issuing from said court, shall be presented to the court for arraignment within twenty-four hours after his arrest, unless Saturday, Sunday or legal

holiday shall intervene. At such arraignment the defendant may plead guilty or request a trial date. (Acts 1905, ch. 54, § 39; Ord. No. 2384, § 1, 3-2-76; Ord. No. 2487, § 18-31-76)

Sec. 271. Costs generally in city cases.

In city cases such fees and costs in such amounts as may be fixed by ordinance of said city shall be taxed, and the clerk of said city court shall collect the same and pay them into the city treasury; but in no event shall the schedules of fees and costs exceed those allowed in the circuit and criminal courts of this state. (Acts 1905, ch. 54, § 42; Priv. Acts 1929, Ex. Sess., ch. 36, § 1)

Sec. 272. Fee as cost to cover issuance of warrant and other process.

Every person found guilty in the city court of the City of Memphis for the violation of any ordinances of said City of Memphis shall, in addition to any fine assessed by said court, be required to pay to the clerk of said court a fee as costs, in the sum of one dollar ($1.00) to cover the issuance of the warrant and other process that may be necessary in the prosecution of said cause, and the fees so collected shall be paid by said clerk into the office of the city treasurer of the City of Memphis. (Priv. Acts 1939, ch. 173, § 7)

Sec. 273. Appeals generally.

In all city cases an appeal may be taken to such circuit court of Shelby County as now or may be provided by law, but no appeal shall lie from a judgment of said court, unless the judgment be for a fine of more than ten dollars and costs; and provided further, that no order of said court remitting any fines shall become effective until it shall have been signed by the mayor and two council members. (Acts 1905, ch. 54, § 39; Acts 1909, ch. 298, § 43)

Sec. 274. Amount and conditions of appeal bond.

Any person convicted in the city court of the City of Memphis shall, upon appeal or other proceeding taking such case to the circuit court, give bond with approved surety in the amount of two hundred fifty dollars ($250.00), conditioned that if the circuit court shall find against the appellant and the fine imposed by said court is not paid, the defendant will surrender himself to the police authorities to be dealt with as other offenders whose fines are not paid, and the judgment of the circuit court shall, in addition to imposing the fine, if defendant is convicted before it, order that such defendant be rearrested upon failure to pay such fine and costs and turned over to the police authorities to be dealt with as other offenders found guilty before the city court of the City of Memphis. (Priv. Acts 1939, ch. 173, § 5)

Sec. 275. Qualification of sureties on appeal bonds.

Each bond given to appeal any cause from the city court shall be executed by a corporate surety duly authorized and qualified to transact such business in the State of Tennessee, or by two individual sureties, each of whom shall take an oath before the clerk of said court that he, or she, owns in his, or her, own right, in fee simple, and unencumbered, real estate situated in Shelby County, Tennessee, and of stated value, sufficient over and above all exemptions allowed by law, to secure payment of the judgment and cost awarded against defendant in the circuit court.

The city court clerk shall investigate the title and value of property scheduled and the amount of contingent liability against each piece of property by reason of being scheduled on other bonds, and if in the judgment of the city court clerk he shall deem the property scheduled insufficient for any reason, it shall be his duty to refuse the bond. (Acts 1905, ch. 54, § 39; Priv. Acts 1929, Ex. Sess., ch. 36, § 1)

Sec. 276. Reserved.

Editor's note—Former § 276 was derived from Acts 1881, ch. 79, § 1, and prescribed the amount and conditions for appeal bonds. It has been omitted as superseded by the act compiled herein as § 274.

Sec. 277. Liability of surety on appeal bond; judgment against surety.

When appeals are prosecuted from judgments rendered in the police [city] court of said city, the appellant shall give a bond with good and sufficient surety or sureties and conditioned in addition to all other conditions now prescribed by law, that the surety or sureties shall be liable for whatever judgment may be rendered against the principal in the

appellate court; and such appellate court shall, when rendering judgment against the appellant, render a like judgment against the surety or sureties on his appeal bond. (Acts 1897, ch. 156, § 1)

Sec. 278. Cash deposit in lieu of appearance bond.

Whenever any person is charged with the violation of any city ordinances he may, in lieu of an appearance bond, deposit such sum, as may now be fixed by law, with the clerk of the city court, or, in his absence, with the chief of police, or any captain of police on watch, and on the appearance of such person before the city court at the time prescribed by law, such deposit shall be returned to him. On the failure of such person to appear at the time specified, the amount so deposited shall be forfeited to the City of Memphis, and he shall not be entitled to the return of any part thereof, and no scire facias or other process need be issued to make such forfeiture final; provided, however, that within two days of the declaration of the forfeiture the judge of the city court shall have power to set such forfeiture aside, when it shall be made to appear that the failure of the accused to appear and defend his suit was due to no fault or negligence of the accused. After the expiration of two days the declaration of forfeiture shall be final, as hereinbefore provided for. (Priv. Acts 1921, ch. 723, § 3)

Sec. 279. Refunding of cash forfeits.

Whenever any defendant upon arrest has posted a cash forfeit, and after the hearing of said case the defendant shall be entitled to the return of said cash forfeit, or any part thereof, the clerk shall have no authority to refund or release said sum to any person other than the defendant, in which event the clerk shall be required to take a receipt from the defendant for the amount refunded and said release shall be preserved for the inspection of the city auditor and any other person designated by the mayor of the City of Memphis. (Priv. Acts 1935, ch. 389, § 7)

Sec. 280. Civil action for violation of ordinance—Authority to institute in lieu of arrest; issuance of summons.

Whenever any city ordinance is violated by any person, firm or corporation, who or which is a resident of the City of Memphis, whether the violation of such ordinance is a misdemeanor or not, an action, in the nature of a civil action, may be begun by the City of Memphis to recover the penalty provided for violation of such ordinance, in the city court of the City of Memphis, in lieu of arresting the person, firm or corporation violating the provisions of such ordinance.

In such case, a summons shall be issued by the clerk of the city court or by the judge thereof, summoning the person named therein to personally appear before the city court at a time specified therein, and said summons shall contain a brief description of the offense with which the defendant is charged, but the ordinance alleged to have been violated need not be set out, in haec verba, and the summons shall issue without affidavit. (Priv. Acts 1921, ch. 935, § 2)

Sec. 281. Same—Form of summons.

The summons shall be in the following form, to wit:

STATE OF TENNESSEE,
City of Memphis.
To the Police Officer of the City of Memphis.
GREETINGS:

You are hereby commanded to summon _____ if to be found within the City of Memphis, personally to be and appear before the Judge of the City Court of the City of Memphis, Tennessee, at _____ o'clock __M., on the _____ day of _____, 19__, at the place where such Court may be lawfully held in the City of Memphis, then and there to answer the City of Memphis in an action for a penalty for violation of an ordinance alleged to have occurred on the _____day of _____, by _____ .

Herein fail not, and have you then and there this writ.

WITNESS_____

(Clerk or Judge) this _____day of _____, 19__.

(Priv. Acts 1921, ch. 935, § 2)

Sec. 282. Same—Service of summons; return.

The officer to whom the summons is directed shall serve the same in the manner now provided by law for the service of civil process, and shall make return by the time prescribed in said writ. (Priv. Acts 1921, ch. 935, § 2)

Sec. 283. Same—Court may set apart special days for such cases; procedure where defendant cannot be found by return day; pleading; etc.

The judge of the city court shall be authorized to set aside a certain day, or days, in each week at which he will hear such civil suits, and the writ shall be returnable and the case triable, at the next succeeding day after the issuance of the writ, at which civil suits shall be heard by the judge of the city court. If the defendant named in the writ shall not be found by the return day, no alias need issue, and the writ shall automatically be returnable to the next succeeding day set apart for the hearing of such actions. The defendant shall appear in person or by attorney at the time specified, and the pleadings in such action shall be ore tenus, and the trial shall proceed, conformably to the provisions of law now applicable to trials before justices of the peace. (Priv. Acts 1921, ch. 935, § 3)

Sec. 284. Same—Judgments; appeal.

The judge shall have the power to render judgment for the city, whenever any person, firm or corporation is found guilty of a violation of any city ordinance, in any amount now prescribed by law, and if dissatisfied with the judgment of the court, any defendant may appeal to the next term of the circuit court of Shelby County, Tennessee, on giving bond, with good security, conditioned to pay the judgment of the city court, together with all costs; provided, however, that any judgment of the city court in favor of the city for $10.00 or less shall be final. (Priv. Acts 1921, ch. 935, § 4)

Sec. 285. Same—Execution of judgments; issuance of capias.

In the event any person, firm or corporation shall, on such trial, be found guilty of a violation of a city ordinance, the said judge shall grant execution thereon against the goods and property of the defendant, and the proceedings thereon shall be in conformity with the provisions of law now applicable to executions issued by justices of the peace in civil actions before them; provided, however, that in any event any judgment rendered by the city court in such cases is not paid within ten days of the rendition thereof, the judge of the city court may issue a capias, in the form now provided by law, commanding any police officer of the City of Memphis to bring the body of the person named therein before the court to be dealt with according to law, for violation of a city ordinance, as if no civil suit had been begun. (Priv. Acts 1921, ch. 935, § 5)

Sec. 286. Powers and duties of police officers with respect to executions.

All police officers of the City of Memphis, with respect to executions issued from the city court, are hereby vested with all the powers, and are charged with all the duties in respect thereto, as constables of any civil district of counties in this state. (Priv. Acts 1921, ch. 935, § 6)

Sec. 287. Ex parte proceedings upon failure to appear.

On failure of any person served with process to appear before the judge of the city court as commanded in said summons, the cause may be proceeded with ex parte, and the judgment of such court shall be valid and binding, subject to the right of the defendant to appeal within two days of the rendition of such judgment. (Priv. Acts 1921, ch. 935, § 7)

Secs. 288, 289. Reserved.

Editor's note—Former §§ 288 and 289 were derived from the general law (T.C.A. §§ 40-1207, 40-1208) relating to the taking of bail, and have been omitted from this compilation.

Sec. 290. Disposal of cases in open court only.

It shall be the duty of the clerk of the city court to call out the names of all defendants appearing upon the docket, in open court, and the judge of said court shall have no authority to dispose of any case appearing upon the docket except in open court, after a full and complete hearing. (Priv. Acts 1935, ch. 389, § 4)

Sec. 291. Defendants required to appear in person; forfeiture of bond.

All defendants appearing upon the docket of the city court shall be required to appear in person for trial upon any charge when his or her name is called, and it shall not be lawful to waive the appearance of said defendant, and if said defendant shall fail to appear when the case is called, the judge of said court shall be required to authorize the clerk of said court to immediately take a forfeiture on the bonds or cash forfeit of said defendant. (Priv. Acts 1935, ch. 389, § 5)

Cross reference—Council may authorize municipal courts to cancel summons issued by police department without necessity of defendant appearing in open court, § 53.4.

Sec. 292. Authority of council to promulgate rules and regulations.

The Council of the City of Memphis shall have the power to promulgate from time to time such rules and regulations for the conduct and operation of said court as they may deem right and proper. (Priv. Acts 1935, ch. 389, § 8)

Sec. 293. Violation of certain sections declared misdemeanor.

The violation of any of the provisions of this Act [§§ 255, 262, 266, 267, 279, 290, 291, 292] shall constitute a misdemeanor in office. (Priv. Acts 1935, ch. 389, § 9)

Sec. 294. Reserved.

Editor's note—Former § 294 has been omitted by the editor. It was derived from Priv. Acts 1935, Ch. 389, § 11, which section was the general repealer clause.

ARTICLE 36. MUNICIPAL JUVENILE COURT*

***Editor's note—**Ord. No 1851 adopted Aug. 9, 1966, approved at referendum election held November 8, 1966, amended the charter to authorize the amendment of the charter provisions relating to the juvenile court, if and when a county-wide juvenile court system is established for Shelby County. For amendment see Ord. No. 1851 set out in full in "Home Rule Amendments" of this volume.

Cross reference—Juvenile court under jurisdiction of commissioner of finances and institutions, § 161.

General law reference—Juvenile courts generally, T.C.A. § 37-201 et seq.

Sec. 295. Established; jurisdiction generally.

In all cities of this state having a population of one hundred sixty thousand (160,000) inhabitants or over by the Federal Census of 1920, and by each succeeding Federal Census, there shall be established and is hereby established a municipal juvenile court, which together with the judge thereof, shall be vested with all the rights, powers and jurisdiction to try and dispose of cases of juvenile delinquents, dependents or offenders, with the same rights, powers and jurisdiction as are vested in other judges and courts under chapter 58 of the Public Acts of the General Assembly for 1911,* and all Acts amendatory thereof. The territorial jurisdiction of the judge of the municipal juvenile court shall extend and be consistent with the territorial jurisdiction of the judge of the city or police court having jurisdiction to try offenders for the violation of city ordinances, as provided by the Charters of such cities. (Priv. Acts 1921, ch. 407, § 1)

Council may by ordinance amend sections of this article or, if and when a county-wide juvenile court system is established for Shelby County, abolish the city juvenile court system entirely. (Ord. No. 1851, 8-9-66)

*T.C.A. § 37-201 et seq.

Sec. 296. Judge generally—Qualifications.

The judge of such municipal juvenile court shall be a person of good moral character, who shall have resided within the city for not less than five years next preceding his appointment or election, and who shall have attained the age of twenty-five years. There shall be no limitation upon the right of a woman to hold office, nor shall it be required that the judge of such municipal juvenile court be a licensed or practicing attorney. (Priv. Acts 1921, ch. 407, § 2)

Sec. 297. Same—Election; term of office.

Upon the expiration of the present term of the judge of the juvenile court of such cities as come within the classification of this Act, the council or other legislative body of such municipality shall elect a judge of the juvenile court for a term of one year, said term to begin on January 1, 1939, and shall expire on December 31, 1939.

The elections for judge of the juvenile court shall hereafter be held every four years, the first such election to be held on the first Thursday after the first Monday in November, 1939, and the term of office of said judge shall begin and terminate at the same time as now required for the mayor and council of such municipalities. The elections shall be held according to the laws now governing the elections for council members or members of the legislative body of such municipalities. (Priv. Acts 1921, ch. 407, § 2; Priv. Acts 1937, ch. 116, §§ 2, 3)

Editor's note—The election is now held on the third Thursday in August. See § 6.1.

Sec. 298. Same—Oath; vacancy in office.

Such judge shall take the oath of office now prescribed by law to be taken by circuit judges of this state. Vacancies occurring through death, resignation, removal, or otherwise, shall be filled by the council, or other legislative body, of (the City of Memphis); provided, however, that if any general state election shall intervene before the expiration of the term of the regular incumbent, special municipal elections shall be held to fill such vacancies. (Priv. Acts 1921, ch. 407, § 2; Priv. Acts 1937, ch. 387, § 2; Priv. Acts 1937, ch. 116, § 3)

Sec. 299. Same—Salary.

The salary of the judge of the juvenile court shall, by ordinance, be fixed in an amount not to exceed $9,500.00 per annum, payable in equal monthly installments. (Priv. Acts 1935, ch. 387, § 2; Priv. Acts 1939, ch. 530, § 2; Priv. Acts 1947, ch. 521, § 1; Priv. Acts 1951, ch. 152, § 2; Priv. Acts 1953, ch. 284, § 2; Priv. Acts 1955, ch. 9, § 2; Priv. Acts 1959, ch. 182, § 2)

Sec. 300. Same—Temporary absence; appointment of acting judge.

Whenever it becomes necessary that the judge of the juvenile court be absent from the city on court days, said judge shall so notify the mayor of the city and give the reason for such absence, and the mayor may appoint an acting judge of said juvenile court, who shall hold said court during the absence of said regularly elected judge of the juvenile court. (Priv. Acts 1935, ch. 387, § 4)

Sec. 301. Powers and duties of judge, officers, etc.; enforcement of state law.

The judge, clerk, probation officers and other officers and persons shall have and exercise all the powers and shall perform all the duties required of like officers under chapter 58 of the Public Acts of the General Assembly of 1911, and all Acts amendatory thereof, and the said chapter 58 of the Public Acts of 1911, and all Acts amendatory thereof, except wherein inconsistent with the provisions of the Act, shall govern the organization, jurisdiction and management of municipal juvenile courts established under this Act, and it shall be the duty of the judge, clerk, probation officers and other assistants to carry out the provisions and purpose of chapter 58 of the Acts of 1911, this Act being merely intended to establish special municipal juvenile courts for cities of this state within the classification of this Act, which shall exercise jurisdiction within the territorial limits hereinbefore set out. (Priv. Acts 1921, ch. 407, § 5)

Editor's note—The 1911 Act referred to in the text is codified as T.C.A., § 37-201 et seq.

Sec. 302. Sessions.

The judge of said juvenile court shall be required to hold a session of said court daily, except Saturdays, Sundays or legal holidays. (Priv. Acts 1935, ch. 387, § 3)

Sec. 303. Hearing within seven days of arrest; entry of judgment upon docket, etc.

All persons who have been arrested and detained in the juvenile court upon any charge coming within the jurisdiction of said court shall be given a hearing by the judge of the juvenile court within seven days of the date of such arrest and detention. When the judge of the juvenile court shall render decision in such case, said judgment shall be entered upon the docket of said court within twenty-four hours and it shall be unlawful and a misdemeanor for any erasures or corrections to be made on said docket thereafter. However, the judge may order any matter retained in court

for further adjudication from time to time as the welfare and the best interests of the child may require. (Priv. Acts, 1935, ch. 387, § 5)

Sec. 304. Clerks, officers, etc.

The council or other legislative body shall by ordinance provide for the appointment of necessary clerks, probation officers, matrons, dietitians, custodians, engineers, and all other necessary employees, and shall fix their terms of office, duties and compensation. Provided, however, that the clerks, probation officers, matrons, dietitians, custodians, engineers and all other necessary employees shall be appointed and discharged by a majority of the members of the board of supervisors hereinafter provided for. Provided, however, that the probation officers shall be appointed by the judge from an eligible list secured from the department of personnel, said appointments to be subject to approval by the members of the board of supervisors. (Priv. Acts 1935, ch. 387, § 8)

Editor's note—The board of supervisors referred to above has been abolished. See § 307.

Sec. 305. Detention home for delinquents.

The municipal authorities shall have the right to prepare and maintain at the expense of such municipality a proper place or places for the detention of juvenile delinquents, dependents or offenders pending trial, or afterward, provided, however, that the county authorities and municipal authorities may cooperate and contract to share the expenses incident to providing and maintaining such place or places of detention, to which county delinquents, dependents or offenders may be committed, together with offenders, delinquents or [of] dependents tried or triable in such municipal juvenile court. (Priv. Acts 1935, ch. 387, § 8)

Sec. 306. Assignment of conduct and operation of court to department.

The conduct and operation of the juvenile courts of the municipalities coming within the classification of this Act shall be assigned by the legislative council of said municipalities to that department of the municipal government the legislative council may deem advisable. (Priv. Acts 1937, ch. 490, § 4)

Sec. 307. Assignment of duties, powers and responsibilities to council.

All of the duties, powers and responsibilities heretofore vested in the board of visitors and supervisors of the juvenile courts under the provisions of chapter 407 of the Private Acts of 1921 and chapter 387 of the Private Acts of 1935, shall be vested in the legislative councils of said municipalities, and said legislative councils shall have authority to impose upon the commissioner to whose department said juvenile court is assigned, such duties and responsibilities as they may deem proper for the efficient operation of said juvenile court. (Priv. Acts 1937, ch. 490, § 5)

Sec. 308. Council to supply necessary funds; tax levy to enforce Act.

The council shall provide the necessary funds to pay the salaries of the judge, clerk and other officers provided for by this Act and shall pass ordinances pursuant to authority hereby delegated to provide the expenses of operating and maintaining the court and detention homes, and all other expenses incident to carry out the provisions of this Act; and to that end it shall have the rights and power, and it is hereby authorized and empowered, to levy taxes on all classes of property within the corporate limits, subject to taxation, so as to carry out the provisions of this Act. (Priv. Acts 1921, ch. 407, § 6)

Cross reference—Taxation generally, § 752 et seq.

Secs. 309—314. Reserved.

Editor's note—Former §§ 309—314 were derived from Public Acts 1911, ch. 58 (T.C.A. § 37-201 et seq.) and have been omitted from this compilation.

Sec. 315. Retirement of judge—Authorized after twenty years service.

Any judge of the juvenile court who shall have served as judge of that court for twenty years or more, consecutively, next preceding, may apply for retirement and be retired as hereinafter set out. (Priv. Acts 1943, ch. 29, § 1)

Sec. 316. Same—Application to be made to mayor; approval or disapproval; vacancy to be filled by mayor.

Said application shall be made by the judge to the mayor, who shall endorse upon the application his approval or disapproval and shall then file it with the city comptroller. When the application has been approved and filed, the office of such judge shall at once become vacant and the vacancy shall be filled by the mayor, with the approval of the council for the unexpired term. (Priv. Acts 1943, ch. 29, § 2)

Sec. 317. Same—Approved application to be certified to comptroller; amount of payments.

Upon approving any such application, the mayor shall certify this fact to the city comptroller, and there shall be paid to the judge so retired, for and during his or her life, the salary to which he or she would have been entitled had he or she continued in service. The city council shall appropriate sufficient sums for the purpose of paying the salaries of such retired judges. (Priv. Acts 1943, ch. 29, § 3)

Sec. 318. Same—Authority of judge to conclude cases pending at time of retirement.

Any judge who has retired or may hereafter retire, under the provisions of this Act shall be empowered to conclude the hearing or trial of the case, and all matters subsequent thereto, in any proceedings pending before him or her where trial or hearing of the case has been begun prior to his or her retirement, including the entry of judgments and orders in connection with said trial of the case, and otherwise finally disposing of any and all matters connected with or arising out of the said trial or hearing of the case. However, nothing herein shall be construed to restrict the power that the successor to a trial judge might otherwise have, and such successor shall try the case upon any new trial or rehearing granted by the retired judge. (Priv. Acts 1943, ch. 29, § 4)

Sec. 319. Same—Power of mayor to recall retired judge.

The mayor shall be empowered to recall such retired judge who may hereafter be retired under the provisions of this Act, to hold court or preside over the juvenile court whenever in his judgment it is necessary or advisable to do so. (Priv. Acts 1943, ch. 29, § 5)

Sec. 320. Same—Certification of intention to retire.

Any judge who may elect to retire under the provisions hereof shall certify to the mayor at least one hundred and twenty days prior to the time of the election of his or her successor in office his intention to retire during or at the expiration of the term of office then held by him or her. (Priv. Acts 1943, ch. 29, § 6)

ARTICLE 37. DEPARTMENT OF PERSONNEL AND EFFICIENCY

Sec. 321. Authority to create; composition; appointment, terms and salaries of director and assistants.

In all cities in this state having a population of 250,000 inhabitants or over by the Federal Census of 1930, and by each succeeding Federal Census, the legislative body of said cities shall have authority by ordinance to create a department of personnel and efficiency. Said department shall consist of a director and such other assistants as are necessary to operate said department. The director and assistants shall be appointed by the mayor, with the approval of the legislative body and they shall serve at the will and pleasure of said mayor and legislative body. The salaries of said director and assistants shall be fixed by the legislative body. (Priv. Acts 1935, ch. 144, § 1)

Code reference—Personnel, T. 3.

Sec. 322. Duties.

The department of personnel and efficiency shall be charged with the responsibility of recommending measures for coordinating the various departments of the city government for increased individual, group and departmental efficiency, and to create a merit system, under such rules and regulations as shall be adopted by the legislative council of said city. (Priv. Acts 1935, ch. 144, § 2)

ARTICLE 38. CITY COMPTROLLER

Sec. 323. Office created and office of city clerk abolished; election; term; bond; salary.

There is created the office of comptroller of the City of Memphis, and the office of city clerk is abolished. The comptroller shall be elected by the Council of the City of Memphis upon nomination by the mayor. The first person elected to the office of comptroller shall hold said office until January 1, 1938, and thereafter the term of said office shall be for two years. The comptroller shall be required to execute a bond to the City of Memphis for such amount, not less than $100,000, as shall be determined by the council. The salary of the comptroller shall be fixed by the council in a sum of not less than $4,000.00 per annum. (Priv. Acts 1937, ch. 123, § 2)

Cross reference—Bonds of officers and employees generally, § 178.

Sec. 324. Comptroller substituted for city clerk; powers and duties of clerk vested in comptroller; obligations executed by clerk validated.

In addition to all of the duties, powers, liabilities, rights, and obligations herein conferred upon the comptroller, he shall also be vested with all of the duties, powers, liabilities, rights, and obligations of the present city clerk of the City of Memphis, and the words "city clerk," wherever the same may appear in the present Charter of the City of Memphis, are stricken, and the word "comptroller" shall be substituted in lieu thereof. All bonds, notes, or other obligations of the City of Memphis executed by the city clerk prior to the date on which the office of city clerk is abolished and the office of comptroller substituted therefor are declared to be the valid and binding obligations of the City of Memphis, notwithstanding the fact that said bonds, notes, or other obligations may be issued, sold or delivered subsequent to the date on which the duties of the city clerk are assumed by the city comptroller under the provisions of this Act. (Priv. Acts 1937, ch. 123, § 18)

Editor's note—For former Acts relating to the office of city clerk, see Acts 1905, ch. 54; Acts 1909, ch. 298; Priv. Acts 1933, ch. 416, Acts 1909, ch. 298, § 9, as amended by Priv. Acts 1933, ch. 416, § 3, describes the powers and duties of the city clerk as follows:

"The city clerk, after he shall have been elected and qualified and given his bond as required, shall have charge and custody of all books, papers, documents, accounts, official bonds, and insurance connected with the city government, and he shall be held responsible for the safe keeping of same. The city clerk shall supervise the matters pertaining to referendum bond elections, the sale, delivery of bonds and notes and redemption of the principal and interest of the funded debt of the city and the keeping of such redeemed bonds and coupons. He shall administer the sinking funds of the city as may be directed by ordinance or resolution of the board of commissioners.

"He shall have power to administer oaths to witnesses in any matter pertaining to the duties of his office or the affairs of said city, and have power to certify to documents and papers of said city, and shall have custody of the official seal of said city.

"The city clerk shall supervise the keeping of the general books of the city wherein shall be kept accurate and correct accounts of all the transactions of the city government, accounts of the receipts and disbursements of all the funds of the city and such other accounts, and shall make such reports as the board of commissioners may require. The method of accounting and reporting the fiscal affairs of the city shall be prescribed by the board of commissioners by ordinance.

"The city clerk shall attend in person, or by someone designated by the board of commissioners, all of the public meetings of the board of commissioners, and keep a correct copy of the proceedings of that body. He shall have such clerical help as said board shall deem necessary for the work to be performed properly. Said city clerk shall publish a statement annually, showing in detail the financial condition of the city government.

"All books, papers and documents in the care and custody of said city clerk shall be open to inspection and investigation by any taxpayer, upon the petition of any ten taxpayers residing in the city of Memphis."

Sec. 325. Deputies, auditors and other employees; power to administer oaths; removal.

The Council of the City of Memphis is authorized to provide the comptroller with two or more deputies, who shall be designated as deputy comptrollers, and who shall have the power of deputies, and such auditors and other employees as the council may deem necessary for the efficient conduct of said office. The Council of the City of Memphis may, by resolution, authorize one of said deputies to act as comptroller during the absence or disability of the comptroller. The comptroller and his deputies shall have power to administer oaths. One of said deputies shall act as clerk of the Council of the City of Memphis, shall attend all of the meetings of said council, shall keep the minutes and records of the council, and shall perform such other duties as may be assigned to him by the comptroller. One of said deputies shall be the chief accountant of the City of Memphis, and perform such other duties as may be assigned to him by the comptroller. Salaries of the deputy comptrollers, auditors and other employees in the office of the comptroller shall be

fixed by the Council of the City of Memphis. The duties of the auditors and other employees shall be defined by the council. The comptroller may be removed from office in the manner now provided for the removal of officers of the City of Memphis by section 52 of chapter 54 of the Acts of Tennessee of 1905. (Priv. Acts 1937, ch. 123, § 2; Priv. Acts 1937, ch. 499)

Editor's note—The act referred to in the last sentence of § 325 was repealed by Priv. Acts 1937, ch. 112, § 11. For present provisions relative to removal of officers, see § 185.

Sec. 326. Supervision of general accounts; records required; preservation of contracts, books, documents, etc.

The comptroller shall have supervision and control of the general accounts of the city. He shall keep suitable and proper records in his office, showing the financial operations and financial condition of the city. He shall keep a complete and accurate record of all the property, assets, claims and liabilities of the city. He shall keep a true, accurate, and proper record of all expenditures authorized. He shall keep in a safe place all contracts, books, documents, records, papers, insurance policies, indemnity bonds, and other bonds of all the officers and employees of the City of Memphis, and he shall receive and preserve in his office all books, vouchers and papers relating to the fiscal affairs of the City of Memphis. (Priv. Acts 1937, ch. 123, § 3)

Sec. 327. Destruction of public records.

The Council of the City of Memphis, upon certification by the comptroller, city attorney and the head of any department, board or bureau, or office of the City of Memphis, shall have authority, by resolution, to authorize the comptroller to destroy any documents, cancelled notes, bonds, and/or coupon books, vouchers, papers, or cancelled blank forms, pertaining to any department, board, bureau, or office of the City of Memphis. Before such resolution is adopted, the council shall be required to determine that the instruments to be destroyed are of no further value to the City of Memphis. The Council of the City of Memphis shall have no power to authorize the destruction of any of the minute books of the City of Memphis. (Priv. Acts 1937, ch. 123, § 3)

Sec. 328. Approval of bonds by city attorney and comptroller.

Before any bond of any officer or employee of the City of Memphis shall be approved by the council, said bonds shall have received the approval of the city attorney as to form and legality, and the comptroller shall have approved the same as to qualification of sureties. (Priv. Acts 1937, ch. 123, § 4)

Cross reference—Bonds of officers and employees generally, § 178.

Code reference—Approval of bonds by mayor, comptroller and city attorney, § 2-4-2.

Sec. 329. Drawing and signing of checks.

All checks drawn for and on behalf of the City of Memphis shall be issued and signed by the comptroller, and countersigned by the city treasurer. Any deputy comptroller may be designated by the comptroller, after first being approved by the mayor, to draw checks of the City of Memphis, with the same effect as if signed by the comptroller, such designation to be in writing, and in triplicate, filed with the mayor, the city treasurer, and the depository bank, provided that the mayor may make such designation if the comptroller be absent or disabled and there be no one in the comptroller's office designated to act. Any such designation may be revoked by the comptroller by filing the revocation with the mayor, the city treasurer, and the depository bank. (Priv. Acts 1937, ch. 123, § 5)

Sec. 330. Department heads to prepare estimate of receipts and requirements; duty of comptroller to prepare financial analysis annually; information required.

On or before the first day of May of each year, the commissioner of each department of the City of Memphis shall prepare an estimate of the receipts and requirements of such department for the ensuing year, upon a form prescribed by the comptroller. The comptroller shall prepare for the council from such departmental statements an analysis, with his suggested financial plan for conducting the affairs of the city for the ensuing fiscal year. The analysis shall include the following information, and such other information as the council may from time to time require:

(1) *Detailed estimate of expense*. Detailed estimate of the expense of conducting each department and office of the city for the ensuing fiscal year; the classification of the estimates shall be as nearly uniform as possible for the main division of all departments.

(2) *Appropriation*. Appropriations for corresponding items for the current year, with reasons for increases and decreases recommended as compared with requests for the ensuing year.

(3) *Amount of debt*. The amount of the total and net debt of the city together with a schedule of maturities of bond issues.

(4) *Interest; principal*. A statement of the amounts to be appropriated for interest on the city debt, for paying off any serial bonds maturing during the year, and such sinking funds required by law.

(5) *Itemization of anticipated income*. An itemization of all anticipated income of the city from sources other than taxes and bond issues, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year.

(6) *Estimate of money to be raised*. An estimate of the amount of money to be raised from taxes and from other sources, which shall be necessary to meet the proposed expenditures.

(7) *Other required information*. Such other information as is necessary to clarify items, or as may be required by the council. (Priv. Acts 1937, ch. 123, § 6; Ord. No. 1553, § 3, 8-3-65)

Editor's note—Pursuant to the authority granted by Priv. Acts 1957, ch. 304 (§ 813.1 of this compilation), the board of commissioners, by Ordinance No. 1553, § 1, changed the fiscal year of the city, the park commission and the public libraries from January 1 through December 31 to July 1 through June 30 (see § 2-1 of the Code of Ordinances). Section 3 of Ordinance No. 1553 amended § 330 above by changing "first day of November" to "first day of May."

Sec. 331. Submission of consolidated financial statement to mayor; duty of mayor to draft appropriation ordinance, etc.

The comptroller, pursuant to the foregoing requirements, shall submit to the mayor, on or before May 15 of each year, a consolidated statement for all departments, and the mayor shall proceed informally to the consideration of said estimates of requirements with the various commissioners and draft a proposed appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. The passage of such ordinance shall be as now provided for other city ordinances, and said ordinance shall be adopted on or before June 30 of each year. (Priv. Acts 1937, ch. 123, § 6; Ord. No. 1553, § 3, 8-3-65)

Editor's note—Ordinance No. 1553, § 3 amended § 331 by changing "November 15" to "May 15" and "December 31" to "June 30." See note following § 330.

Sec. 332. Limitation upon authority to authorize withdrawals from current revenues.

The comptroller shall have no power to authorize the withdrawal of any funds constituting the current operating revenues of the City of Memphis from the treasury of the City of Memphis, nor shall any obligations for the expenditure of any such fund be incurred except in pursuance of the annual budget ordinance; provided, that the council may expend in any year a greater amount for any department or for any corporate purpose than shall have been appropriated in the annual budget, provided that the current revenue shall be available for such purposes, and provided further, that said expenditures shall be authorized by ordinance or resolution duly passed by the council. (Priv. Acts 1937, ch. 128, § 8)

Sec. 333. Unencumbered balance of appropriation to revert to general fund; additional appropriations.

At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund, and shall be subject to reappropriation by the council; but appropriations may be made during any year from any unencumbered balance or any unappropriated funds to be paid out of the income of the current year in furtherance of improvements or for any corporate purpose which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned. (Priv. Acts 1937, ch. 123, § 8)

Sec. 334. Accounts for each classification of appropriations to be kept.

The comptroller shall be required to keep accounts for each classification of appropriations made by the council, and each such account shall show the appropriations made thereto, the amounts drawn thereon, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof. (Priv. Acts 1937, ch. 123, § 8)

Sec. 335. Examination and payment of pay rolls, claims, etc.

The comptroller shall be required to examine all pay rolls, bills, and other claims and demands against the city, and shall issue no checks for payment unless he finds that the pay rolls, bills, or claims are in proper form, correctly computed and duly approved; and that they are due and payable; that an appropriation has been made therefor which has not been exhausted; and that there is money in the treasury to make payment. (Priv. Acts 1937, ch. 123, § 9)

Code reference—Claims to be filed with comptroller, § 5-4-7.

Sec. 336. Money deemed to be in treasury for purpose of comptroller's certification; investigation of pay rolls and claims.

All moneys actually in the treasury to the credit of a fund from which they may be drawn, all moneys anticipated to be received from taxes or other sources to the amount stated in the annual budget estimate and appropriated in the annual appropriation ordinance or in any amendment thereto, all moneys anticipated to be received from assessments due and money's to be derived from bonds, notes and certificates of indebtedness, either then or previously authorized, and either sold or to be sold, shall, for the comptroller's certification, be deemed in the treasury to the credit of the appropriate fund and subject to certification. The comptroller may investigate any pay roll, bill or claim, and for that purpose may summon before him any officer, agent, or employee, other than members of the council, of the city, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a pay roll, bill, or claim to be fraudulent, erroneous, or otherwise invalid, he shall not issue a check therefor, and shall promptly notify the mayor and the commissioner in whose department said pay roll, bill or claim originated of the facts and circumstances surrounding such transaction. (Priv. Acts 1937, ch. 123, § 9)

Code reference—Certification of appropriations, § 5-4-6.

Sec. 337. Appropriation required for expenditures out of funds derived from sale of bonds.

No expenditures shall be made out of any funds derived from the sale of bonds unless an appropriation has been made for such expenditure by resolution of the Council of the City of Memphis. (Priv. Acts 1937, ch. 123, § 10)

Sec. 338. Limitation upon power to authorize withdrawal of sums derived from sale of bonds.

The comptroller shall have no power to authorize the withdrawal of any sums from funds derived from the sale of bonds except in pursuance to appropriations made by resolution of the council. But no expenditure shall be made out of any funds derived from the sale of bonds except for the purpose or purposes for which the bonds were authorized to be issued, unless the funds to be expended constitute a surplus over and above the amount necessary for the accomplishment of the purpose or purposes for which the bonds were issued. (Priv. Acts 1937, ch. 123, § 10; Priv. Acts 1937, ch. 499)

Sec. 339. Issuance of pay roll checks.

The salaries and wages due the employees of the various departments of the city government, excepting those departments under separate boards and commissions named in section 2, chapter 515, of the Private Acts of Tennessee of 1929,* shall be duly set forth in a pay roll schedule to be approved by the commissioner of the department in which said employees are employed, and when said schedule is approved by said commissioner, one check may be issued by the comptroller for the whole amount shown in said schedule payable to the employee in the comptroller's office who shall be designated to handle the pay roll, and said employee shall make distribution to the various employees as set forth in said schedule. (Priv. Acts 1937, ch. 123, § 11)

***Editor's note—**Priv. Acts 1929, ch. 515, § 2, as amended, appears herein as § 222. A 1949 amendment eliminated reference to the board of education, the park commission, the harbor commission, the river and rail terminal commission, the Cossitt Library board, Oakville Sanitarium, the auditorium and market house commission, the artesion water department, the art commission, and the Memphis General Hospital. These are the departments, boards and commissions referred to in the text.

Sec. 340. Issuance of checks for payment of purchases.

All purchases made as provided in section 3, of chapter 515 of the Private Acts of Tennessee of 1929 [§ 223 herein] shall be set forth by departments in a schedule of invoices payable, which shall be approved by the commissioner of the department for which said purchases were made, and when said schedule has been approved by the commissioner of such department or departments, checks may be issued by the comptroller for the payment of such obligations. (Priv. Acts 1937, ch. 123, § 11)

Sec. 341. Certification of balances; approval of contracts, etc.

No contract, order, agreement or other obligation involving the expenditure of money out of appropriations made by the council shall be entered into, nor shall any order for such expenditure be valid, unless the comptroller shall first certify that there is an unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by said contract, agreement, order, or other document. Such certification shall be evidenced by the word "Approved" and the signature of the comptroller or the deputy comptroller on such contract, agreement, obligation, or order, or by his certificate. Provided, that whenever it shall become necessary to enter into any agreement or contract involving an expenditure not exceeding $1,000, for emergency purposes, the approval of such expenditure by the commissioner of that department of the city government entering into such contract or agreement shall be authority for the disbursement of such funds by the comptroller. (Priv. Acts 137, ch. 123, § 12)

Sec. 342. Notification of mayor and department head of insufficient funds to pay obligations.

If any claim, contract, order, agreement, or other document shall be presented to the comptroller for which no appropriation has been made, or there shall not be a sufficient balance in the proper fund for the payment thereof, or which for any other cause should not be approved, he shall notify the mayor and the commissioner of the department wherein said matter originated for further consideration. (Priv. Acts 1937, ch. 123, § 12)

Sec. 343. Authority to prescribe and regulate manner of paying creditors, etc.

The comptroller shall prescribe and regulate, by and with the approval of the council, the manner of paying creditors, officers, and employees of the city. (Priv. Acts 1937, ch. 123, § 12)

Sec. 344. Authority to regulate manner of making audits and requisitions for purchases.

The council shall require proper fiscal accounts, records, settlements and reports to be kept, made and rendered to the comptroller by the several departments and divisions of the city government, and the comptroller shall be required to control and continually audit the same, and prescribe forms, rules and regulations therefor. The comptroller, by and with the approval of the council, shall regulate the manner of the making of all requisitions for purchases. (Priv. Acts 1937, ch. 123, § 15)

Sec. 345. Authority of council to make rules and regulations governing comptroller.

The Council of the City of Memphis shall have authority by ordinance to adopt and promulgate such other rules and regulations governing the conduct and operation of the office of city comptroller as they may deem right and proper. (Priv. Acts 1937, ch. 123, § 20)

ARTICLE 39. MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES

Sec. 346. Acceptance of money or gifts declared felony.

No council member or officer herein named shall demand or receive in any manner or form any greater compensation than provided for herein, and it shall be a felony for a mayor, any Council Member of the City of Memphis, any park or water department commissioner, any civil service commissioner, any elective, appointee, or subordinate officer, any employee, or anyone connected with the government of the City of Memphis in any manner to accept any moneys or gifts of any character whatever other than that stipulated for performing the duties of their office. For any violation of the above and conviction thereof he shall be guilty of a felony and imprisoned in the state penitentiary for not less than one year nor more than five years. (Acts 1909, ch. 398, § 10)

Sec. 347. Extra pay to commissioners or officers prohibited; expenses excepted.

No council member of the city shall receive any compensation other than that herein specifically provided for herein, nor shall extra pay be allowed or received by any council member or officer of the city serving on a committee, agency or commission whatever, when appointed to said service by the council member during his term of office; provided, however, that whenever the duties of any council member shall require him to visit a town beyond the limits of Shelby County, his reasonable expenses shall be paid by the city. (Acts 1909, ch. 298, § 20)

Sec. 348. Reserved.

Editor's note—Former § 348, relating to the removal of officers was derived from the general law (T.C.A. § 8-2701) and has been omitted from this compilation.

Sec. 349. City funds to be paid out only on warrant.

It shall hereafter be unlawful to pay out any funds of the City of Memphis to any person, firm or corporation, except upon warrant, stating the name of the person to whom paid and for what purpose. The same shall be signed by the persons designated and empowered to sign same by the present Charter of the City of Memphis. (Priv. Acts 1927, ch. 644, § 1)

Sec. 350. Only employees on bona fide pay roll to be paid.

No employee of the City of Memphis or any department thereof, whose name is not on the bona fide pay roll of said department, which pay roll shall be subject to public inspection, shall be paid in any sum of money whatsoever, directly or indirectly. (Priv. Acts 1927, ch. 644, § 2)

Sec. 351. Violation of sections 349 and 350 by mayor or council member declared a misdemeanor in office; inspection of pay roll.

It shall be a misdemeanor in office for any mayor or council member to pay or permit to be paid to any person or employee any money, unless by voucher or warrant, as hereinbefore provided, and in which voucher or warrant the name of the person so receiving same shall appear, or unless said person or employee is on the bona fide pay roll of the city and is rendering service to the city in the capacity stated in the pay roll. Said pay roll shall be subject at all times to the inspection of the public. (Priv. Acts 1927, ch. 644, § 3)

Sec. 352. Misdemeanor to permit secret pay roll.

It shall be unlawful and a misdemeanor in office for the mayor of the City of Memphis, or any council member or officer thereof, to permit any secret pay roll to be used in any department of the City of Memphis but all pay rolls shall be subject at all times to the inspection of the public. (Priv. Acts 1927, ch. 644, § 4)

Sec. 352.1. Disciplinary action against striking employees.

Whereas the people of the City of Memphis desire that all negotiation of employment agreements between the City of Memphis and its employees be conducted in a spirit of good faith and with the intent to reach an equitable agree-ment in a reasonable period of time, and the people of the City of Memphis hereby find that the instigation of or participation in strikes against said city by any officer or employee of said city constitutes a serious threat to the lives, property and welfare of the citizens of said city and hereby declare as follows:

(1) The City Council shall, by ordinance, set up procedures for arbitration of economic issues of municipal labor disputes by the Council or a Committee of the Council, and establish rules and procedure therefor; provided, however, neither the Council nor any Committee thereof shall engage in arbitration of economic issues of municipal labor disputes unless and until there has occurred an impasse on a total economic package, which impasse remains deadlocked for seven (7) consecutive days.

(2) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations

of services by employees, or the willful abstinence in whole or in part from the full, faithful and proper performance of the duties of employment; provided, however, that nothing contained in this section shall be construed to limit, impair or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment, or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

(3) No person holding a position by appointment or employment under direct supervision of the mayor, City Court Clerk, or City Judges, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the City of Memphis. For the purpose of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike, shall be deemed to be on strike. Any municipal employee who participates in a strike as herein defined shall be conclusively deemed to have resigned his appointment or employment with the City; provided, however, nothing herein shall infringe upon any individual's rights under the Civil Service provisions of this Charter. For the purposes of this Section, the members of the Civil Service Board are hereby established as a special hearing Board of the City of Memphis for the purpose of hearing appeals of employees not covered by civil service or grievance procedure and determining if a strike occurred, and if petitioner before the Board participated in such strike.

(4) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission, or committee of the City of Memphis shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(5) Notwithstanding any other provisions of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the City of Memphis but only on the following conditions:

(a) Such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or re-employed in accordance with all charter provisions, ordinances, rules or regulations of said city in effect for new employees at the time of appointment, reappointment, employment, or re-employment;

(b) The compensation of such person shall not be increased by virtue of any previous employment with said city.

(6) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this Charter, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the Civil Service Commission and maintained therein for the term of his or her employment with the City of Memphis.

(7) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Ord. No. 2766, 9-5-78)

Sec. 352.2. Disciplinary action against striking employees of divisions, agencies, boards, commissions, or authorities.

Whereas the people of the City of Memphis desire that all negotiation of employment agreements between the City of Memphis and its employees be conducted in a spirit of good faith and with the intent to reach an equitable

agreement in a reasonable period of time, and the people of the City of Memphis hereby find that the instigation of or participation in strikes against said city by an officer or employee of said city constitutes a serious threat to lives, property and welfare of the citizens of said city and hereby declare as follows:

(1) The City Council shall, by ordinance, set up procedures for arbitration of economic issues of municipal labor disputes by the Council or a Committee of the Council, and establish rules and procedure therefor, provided, however, neither the Council or any Committee thereof shall engage in arbitration of economic issues of municipal labor disputes unless and until there has occurred an impasse on a total economic package which impasse remains deadlocked for seven (7) consecutive days.

(2) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations of services by employees, or the willful abstinence in whole or in part from the full [,] faithful and proper performance of the duties of employment, provided, however, that nothing contained in this section shall be construed to limit, impair or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion or any matter related to the conditions or compensation of municipal employment, or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

(3) In addition to those persons defined as municipal employees in Ordinance Number 2766 approved by referendum election on November 7, 1978, any person employed by any Division, Agency, Board, Commission, or Authority of the City of Memphis including any joint body with any other governmental unit which joint body is administered by the City of Memphis are here and after referred to as municipal employees and no person holding a position by appointment or employment in said organizations shall strike nor shall any municipal employee cause, instigate, or afford leadership to a strike against the City of Memphis. For the purpose of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike, shall be deemed to be on strike. Any municipal employee who participates in a strike as herein defined shall be conclusively deemed to have resigned his appointment or employment with the City; provided, however, nothing herein shall infringe upon any individual's rights under the Civil Service provisions of this Charter. For the purposes of this Section, the members of the Civil Service Board are hereby established as a special hearing Board of the City of Memphis for the purpose of hearing appeals of employees not covered by civil service or grievance procedure and determining if a strike occurred and if petitioner before the Board participated in such strike.

(4) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No Officer, Division, Agency, Board, Commission, Authority or Committee of the City of Memphis shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(5) Notwithstanding any other proviions [provisions] of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the City of Memphis but only on the following conditions:

(a) Such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or re-employed in accordance with all charter provisions, ordinances, rules or regulations of said city in effect for new employees at the time of appointment, reappointment, employment, or re-employment;

(b) The compensation of such person shall not be increased by virtue of any previous employment with said city.

(6) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this Charter, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the Civil Service Commission and maintained therein for the term of his or her employment with the City of Memphis.

(7) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Ord. No. 3236, 8-31-82)

ARTICLE 40. ORDINANCES GENERALLY*

***Cross reference—**Approval or veto of ordinances by mayor, § 40; ordinances authorizing street lighting on petition of property owners, § 394 et seq.; ordinance for street improvements under front-foot assessment law, § 506 et seq.

Sec. 353. Authority to pass; to embrace but one subject expressed in title.

The council shall have full power to pass, for the government of the city, any ordinance not in conflict with the Constitution or laws of the United States, or of the State of Tennessee; within specific limitations set forth hereinbelow; and no ordinance shall be valid if it embraces more than one subject, that subject to be expressed in its title. (Acts 1905, ch. 54, § 21; Ord. No. 1852, 11-8-66)

Sec. 354. Adoption procedure; recording; effective date.

No ordinances shall become effective until the same shall have passed at least three (3) regular meetings of the council, and shall have received at such meeting a majority vote of all of the members composing said council, and unless the same shall have been published in some newspaper circulated in Memphis, Tennessee, by one publication, the same to take place between the date of first and second readings of each ordinance. Nothing herein contained shall be construed to limit the right of the council to amend any ordinance at any time before final passage. After its final passage, every ordinance shall be signed by the chairman of the council, certified by the comptroller or such other officer of the council as the city may designate, and recorded in a well-bound book to be kept by the comptroller, which shall contain only ordinances. Ordinances shall not become effective until the adoption of the ordinance in final form has been certified and delivered to the office of the Mayor in writing by the Comptroller or such other officer of the City as the Council may designate, unless the ordinance itself specifies a future date at which it is to become effective, and then it shall become effective on the date named in the ordinance. (Acts 1909, ch. 298, § 44; Priv. Acts 1923, ch. 427, § 1; Priv. Acts 1929, ch. 406, § 2; Priv. Acts 1937, ch. 123, § 18; Ord. No. 1852, 11-8-66)

Sec. 355. Power to impose fines for violations; ordinances continued in force.

They shall have the power, by ordinance, to impose fines, not exceeding $50.00, for the violation of any ordinance. All ordinances now in force and not in conflict with this Act are continued in force, but the council shall have the power to amend or repeal any of them by ordinance. (Acts 1905, ch. 54, § 22)

Editor's note—Ord. No. 764, enacted Aug. 11, 1970, approved at referendum held November 3, 1970, added a new section to Article 40 of the charter authorizing the council of the city to impose penalties not exceeding $200.00 for the violation of any ordinance of the city. The ordinance is set out in full under "Home Rule Amendments" of this volume.

Code reference—General penalty for violating Code and Ordinances, § 1-24-1.

Sec. 356. Franchises generally.

The council shall have charge and control of the giving, granting and selling of all franchises, special privileges to individuals, firms or corporations, and no such franchise or privilege shall be bestowed or sold for any period of time exceeding thirty years.

The authority to grant franchise rights under established procedures as now provided by the Charter of the City of Memphis, including the right to open and close streets, shall vest in the Council. (Acts 1905, ch. 54, § 28; Ord. No. 1852, 11-8-66)

Sec. 357. Method of granting franchises.

The method of granting franchises shall remain as prescribed in section 29 of chapter 54 of the Acts of 1905, save and except that the ordinance granting such franchise shall be passed by a majority vote of all the members composing the council; provided, however, that no ordinance granting any franchise shall become effective until passed at three separate regular meetings of the council and shall have been published in full, by one publication in some newspaper published and circulated in the City of Memphis, said publication to take place between the date of the first and second readings of such ordinance. After final passage, such ordinance shall be published once in the form in which it was adopted. Every such ordinance shall be recorded in the record of ordinances provided for in section 354, hereof. (Acts 1909, ch. 298, § 40; Priv. Acts 1923, ch. 427, § 2; Priv. Acts 1929, ch. 406, § 3)

[Under Acts 1905, Ch. 54, Sec. 29, the method of granting franchises, as above referred to, is as follows: No franchise shall be granted or sold to any commercial railroad, street railroad, gas company, electric light company, water company, or other quasi public corporation, except by ordinance, fully guarding and protecting the rights of the public. Nor shall such ordinance become effective until it is first submitted to and approved by a majority of the citizens voting either at some general or special election upon the question; provided such submission be demanded by petition of at least five hundred freeholders of the city and presented to the legislative council before the passage of said ordinance or within thirty days thereafter; provided, further, that no such ordinance shall become effective until thirty days after it has passed and been signed by the mayor; and provided further, that no second election for the same purpose shall be held within twelve months from the first election; and provided further, that no such contract shall be made by ordinance or become effective until signed by a majority of the members of each board.]

Sec. 358. Ordinances relative to bond issues.

No ordinances authorizing or providing for any issue of bonds shall be effective until thirty days after its final passage and until the same shall have been approved by a majority of the qualified voters of the city, voting at an election to be called and ordered for that purpose; provided, however, that such submission to and approval of by said voters shall be unnecessary, unless same shall have been requested by a petition in writing, signed by at least 500 qualified voters of the City of Memphis, within thirty days after the final passage of the ordinance providing for such bond issue.

Nothing contained herein shall change or modify the procedures now established by State Law in connection with the sale of municipal bonds; provided, however, that the Council shall be and it is hereby designated as the "governing body" within the meaning of pertinent Sections of the Tennessee Code and the authority provided for therein shall be exercised by the Council. (Acts 1909, ch. 298, § 41; Ord. No. 1852, 11-8-66)

Cross references—Ordinance authorizing bond issues under front-foot assessment law, § 514; ordinances for bond issues for drainage improvement under district plan, § 601; requirements for bond issue ordinances under public works act, § 871.

Sec. 359. Reserved.

Editor's note—Former § 359 was derived from Acts 1909, ch. 298, § 32, and related to the board of commissioners' authority to pass ordinances imposing penalties for violating any act relating to the civil service commission. Said section has been omitted as superseded by § 250.4.

Sec. 360. Ordinances as to misdemeanors under state law.

The council shall have full power and authority to declare by ordinance duly passed that any person guilty of any misdemeanor under the laws of the State of Tennessee, committed within the boundaries of said city, shall also be guilty of an offense against such city, and subject to such punishments as may now, or which may hereafter be inflicted under the Charter of said city; and to this end, in addition to any general ordinance passed in pursuance of the provisions of this Act, the said council shall have full power and authority to pass any ordinance or police regulation, specifically prohibiting the commission of any offense within the boundaries of such city, and to provide punishment

therefor, whenever, under the laws of the State of Tennessee, such an offense would be a misdemeanor under the State law; and the said council, or other legislative body, shall have power to make it a misdemeanor to commit any offense within the boundaries of such city, whenever such an offense is made a misdemeanor by the laws of the State of Tennessee. (Priv. Acts 1921, ch. 245)

Code reference—State misdemeanors adopted, § 10-4-1.

Sec. 360.1. Penalties for ordinance violations.

The Council of the City of Memphis shall have the power, by ordinance, to impose penalties not exceeding $200.00 for the violation of any ordinance of the city; and provide for the enforcement, recovery and appropriation of the same and further provide for terms of confinement for failure to pay such penalties. (Ord. No. 764, 8-11-70)

ARTICLE 41. CITY CODE AND DIGEST

Sec. 361. Authority to codify ordinances.

The City of Memphis, in the preparation of any digest of its local laws, ordinances and contracts, is hereby authorized and empowered to codify, revise and collect in the form of a code, all ordinances of a general nature, and in so doing the council shall have full power, without special ordinance referring to each ordinance amended, altered, repealed or modified, to amend, alter, repeal or modify any ordinance of a general nature other than contract ordinances, franchises, ordinances relating to bond issues, or other ordinances in or by which the city has assumed such contract obligations as are protected by the Constitutions of the United States or the State of Tennessee. (Priv. Acts 1923, ch. 416, § 1)

Sec. 362. Digest of local laws.

A digest of the local laws shall be prepared at least once in five years and oftener if deemed necessary by the council, which digest may be read as evidence in all courts of the state without further proof of the laws contained in such digest. Upon the preparation of such digest of the local laws, the council shall be authorized and empowered by ordinance to provide that such digest shall be the official digest of local laws, an official copy of which shall be deposited with and remain in the custody of the comptroller. The original so deposited or any copy thereof certified under the hand or facsimile signature of the comptroller, to be a true and correct copy, may be read in evidence in all courts of the state without further proof of the laws contained in such digest.

In publishing the ordinance as now required by law, making such digest the official digest, it shall not be necessary to publish the contents of such digest, but it shall be sufficient for such ordinance to recite that an official digest has been approved by the council, and a copy thereof deposited with the comptroller, so that such official copy may be identified. The mayor and council shall certify that the copy so deposited is the official digest of all local laws. (Acts 1879, ch. 11, § 21; Acts 1889, ch. 163, § 13; Priv. Acts 1921, ch. 732; Priv. Acts 1937, ch. 123, § 18)

Sec. 363. How codification effected.

Such code shall be in the form of an ordinance, and shall be passed by the council in the same form and manner as is now provided for the passage of other ordinances; provided, however, that it shall not be necessary to publish any such ordinances in the manner now provided by law for the publication of ordinances in some daily newspaper published in the City of Memphis, and the fact that the code established by such ordinance has not been published shall not affect its validity. (Priv. Acts 1923, ch. 416, § 1)

Sec. 364. Provisions of code conclusively held to be the law.

The provisions of any such code shall be conclusively held to be the law of the City of Memphis at the time of its passage, with respect to any subject or provisions contained therein, and no person shall be permitted to impeach any such code provision on the ground that it was not duly and regularly passed in accordance with the laws existing at the time of its passage. (Priv. Acts 1923, ch. 416, § 1)

Sec. 365. Code may be read in evidence.

Such code, or any copy thereof which purports to be published by authority of the City of Memphis, may be read in evidence in any court in this state without further proof of its passage. (Priv. Acts 1923, ch. 416, § 1)

Sec. 366. Official name of Code.

The legislative body of the City of Memphis may, in any ordinance promulgating such code, give such code or digest an official name by which it shall be known. (Priv. Acts 1923, ch. 416, § 2)

Sec. 367. Invalidity of part of Code not to affect remainder.

The invalidity of any section or part of section of such code shall not affect the validity of any other part of such code or digest, and only such invalid part shall be elided from such code or digest. (Priv. Acts 1923, ch. 416, § 3)

Sec. 368. Provisions not inconsistent not repealed.

Nothing herein contained shall be held to repeal or alter any of the existing provisions of the Charter of the City of Memphis with reference to publication and promulgation of a digest of its laws and ordinances, unless repugnant to the express provisions hereof. (Priv. Acts 1923, ch. 416, § 4)

ARTICLE 42. PEACE, SAFETY AND GENERAL WELFARE

Sec. 369. Powers generally.

The local government shall have power over all affairs in the city in which the peace, safety, or general welfare of the inhabitants is interested. (Acts 1879, ch. 11, § 3)

Sec. 370. Misdemeanors and punishments.

Said local government is authorized to declare what acts shall be misdemeanors, and when committed within the city, to punish the offenders by fines and forfeitures, and by imprisonment and labor, within and without the workhouse, in default of payment of the fines imposed as punishment. It may also declare, by ordinance, that any person guilty of any misdemeanor under the laws of the state, committed in the city, shall be guilty of an offense against the city; and may pass any ordinance or police regulation specifically prohibiting the commission of any offense within the city, and provide punishment therefor, whenever such offense would be a misdemeanor under the state law, and may make such offense a misdemeanor against the city. (Acts 1879, ch. 11, § 3; Priv. Acts 1921, ch. 245)

Cross reference—Similar provisions, § 360.

Code references—State misdemeanors adopted, § 10-4-1.

Sec. 370.1. Police power extended one mile beyond corporate limits.

The police power of said city shall extend to a distance of one mile from the corporate limits thereof; and all ordinances of said city of a general character, passed for the preservation of the public peace, health and safety, shall have full force and effect for such distance of one mile beyond the corporate limit and all breaches of said ordinances within said distance may be punished by arrest, fine and imprisonment, as if committed within the corporate limits. (Acts 1887, ch. 59, § 3)

Editor's note—This section appeared as § 444 in the 1949 compilation. It was moved to this article at the discretion of the editor.

Sec. 371. Arrest and trial of offenders.

The local government shall have power to arrest and confine for trial, or to take forfeit for the appearance for trial, of all persons charged with offenses which are punished as misdemeanors by the laws of the city. (Acts 1879, ch. 11, § 3)

Sec. 372. Bringing paupers into city.

The local government shall have power to prohibit by fine the introduction of paupers into the city by steamboats, railroads, or other carriers of persons. (Acts 1879, ch. 11, § 3)

Sec. 373. Disturbers of the peace; suspicious persons.

The local government shall have power to provide for the punishment of persons disturbing the good order and quiet of the corporation by clamor and noise in the night season, or otherwise violating the public peace by indecent or disorderly conduct, or by lewd, lascivious behavior; to provide for the punishment of habitual disturbers of the peace and of any suspicious person who cannot give a reasonable account of himself; and whenever any person shall be arrested as a suspicious person it shall be lawful for the police to detain such person for investigation for a reasonable time. (Priv. Acts 1921, ch. 968)

Sec. 374. Disorderly houses and houses of ill-fame.

The local government shall have power to regulate, control and suppress disorderly houses and houses of ill-fame. (Acts 1879, ch. 11, § 3)

Code references—Houses of ill-fame prohibited, § 10-20-2.

Sec. 375. Gaming and gaming houses.

The local government shall have power to suppress gaming houses and to punish gaming by fine and imprisonment. (Acts 1905, ch. 251)

Code reference—Gambling, § 10-8-11.

Secs. 376, 377. Reserved.

Editor's note—Former §§ 376 and 377 were taken from the general law (T.C.A. § 39-4215) and have been omitted from this compilation.

Sec. 378. Vagrants, tramps, drunken and disorderly persons.

The local government shall have power to cause the arrest of all vagrants, tramps, and drunken and disorderly persons within the city and provide for the punishment of the same in the manner above provided. (Acts 1879, ch. 11, § 3)

Code references—Drunkenness, §§ 10-8-5, 10-8-6.

Secs. 379. Pari-mutuel wagering on horse racing.

The City of Memphis shall permit pari-mutuel wagering on horse racing. (Ord. No. 3667, 5-26-87)

Sec. 380. Reserved.

Editor's note—Former §§ 379 and 380 were taken from the general law (T.C.A. § 39-2302) and have been omitted from this compilation.

ARTICLE 43. PRISONERS

Sec. 381. Power to establish workhouses and houses of correction.

The local government established by this Act shall have power to establish workhouses and houses of correction. (Acts 1879, ch. 11, § 3)

Code reference—Workhouse and commitment of prisoners thereto, § 1-24-2.

Sec. 382. Care of city prisoners by county—Authority to make contract.

All counties in this state having a population of one hundred ninety thousand (190,000) or over by the Federal Census of 1910, or any subsequent Federal Census, and municipalities within said counties are authorized to enter into and make contracts by which the said counties are to take and care for the prisoners of said municipalities. (Priv. Acts 1913, ch. 243, § 1)

Code reference—Ordinance authority to contract with county for keeping prisoners, § 1-24-2.

Sec. 383. Same—Separation of prisoners; prisoners may be worked any place in county.

Said counties, after making a contract in the manner herein set out, are authorized and empowered to keep the prisoners of said municipalities, and to board, house and guard them, and the said counties shall board, house and guard said cities' prisoners separate from the counties' prisoners, but not necessarily in separate buildings. It will be sufficient compliance with this statute if the said cities' prisoners are boarded, housed and guarded in the same building, but separate and apart from the county prisoners in separate portions of the building for themselves alone. The said counties are authorized and empowered to work said prisoners at any point in said counties inside the corporate limits of said municipalities or not, but no greater degree of labor can be imposed upon said cities' prisoners than could be imposed by the particular municipalities under its existing charter powers.

In the working of the said prisoners by the counties, the said prisoners shall not be worked with the counties' prisoners, but shall be worked separate and apart unto themselves. (Priv Acts 1913, ch. 243, § 2)

Sec. 384. Same—City authorized to pay for housing and guarding prisoners.

The said municipalities are authorized to pay for the boarding, housing and guarding of said prisoners by their work on the county roads, or in any other way agreed upon between the cities and counties. (Priv. Acts 1913, ch. 243, § 2)

Sec. 385. Same—Approval of contract by county.

The contract to be entered into between the counties and municipalities here set out shall be passed by the Quarterly County Court and be approved by it in every detail on the part of the county, except in such counties as possess boards of commissioners in whom is vested the authority concerning matters of this character, and in which counties the said contract shall be passed and approved in every detail by the said board of commissioners. (Priv. Acts 1913, ch. 243, § 3)

Sec. 386. Working prisoners on parks and parkways.

All counties in this state having a population of one hundred ninety thousand (190,000) or more by the Federal Census of 1910, or any subsequent Federal Census, and municipalities within said counties are authorized to work prisoners committed to the workhouse of such counties or cities upon any public park or parkways belonging to the county or city; and the workhouse commissioners, quarterly county court, or any other board or commission having charge of such prisoners, is authorized to make such contracts as may be necessary for the employment of such prisoners upon said parks or parkways. In case a contract should be entered into [by] any county and city or by a county or city with other lessees, for the working of such prisoners upon public parks or parkways, such contract shall be in accordance with laws now in force in counties under the provisions of this Act, insofar as it concerns the care, protection and control of such prisoners. (Priv. Acts 1919, ch. 586)

Cross reference—Parks generally, §§ 576—584.

Sec. 387. Reformatory institutions, houses of refuge, etc., for women.

The City of Memphis shall have power and it shall be its duty to establish, direct and maintain reformatory institutions, houses of refuge for women, and detention or quarantine institutions or hospitals for infected women, or for one or all of these purposes, the said institutions to be under the control and management of a board of five trustees, and when said trustees shall be duly organized, said institutions shall be established and shall constitute a body politic and corporate under the name and style given to it; and whenever any woman over the age of sixteen years and under the age of twenty-five years shall have been found guilty of the violation of any state law or municipal ordinance involving the offense of prostitution, or soliciting same, such as keeping a house of prostitution, being an inmate of same, streetwalking, or making an assignation for prostitution, etc., and such like offenses, whether by a court of record or under the small offense law, and sentenced to punishment for same, it shall be within the power and jurisdiction of the court, unless some higher offense is included, to sentence and commit her to punishment and control to such institution, for a period of not less than six months, nor more than eleven months, instead of sentencing her to the county jail or workhouse. (Priv. Acts 1919, ch. 662)

ARTICLE 44. STREET LIGHTING ON PETITION OF PROPERTY OWNERS*

***Cross references—**General authority of city relative to lighting of public places, § 481.1; street improvements generally, § 503 et seq.; public works act, § 868 et seq.

Secs. 388—390. Reserved.

Editor's note—Sections 388, 389 and 390 of the 1949 compilation have been redesignated as §§ 163.1, 480.1 and 481.1 at the discretion of the editor.

Sec. 391. General power of council.

The council, upon petition signed by the owner, or owners, of sixty per cent (60%) of the frontage of the lots or parcels of land abutting on such portions of any streets within the corporate limits as set out in the petition, shall have power to provide by ordinance for the improvement of such street by erecting and equipping lamp posts, light towers or other instrumentalities to light such street or the part thereof in front of the property abutting such street or part thereof; and it shall have power to provide for making special levies or assessments or exacting local contributions upon, on and from the land abutting on such street to be improved in the manner hereinafter set forth, so as to provide funds to pay for such improvements. (Priv. Acts 1927, ch. 451, § 1)

Sec. 392. Requirements as to petition.

In order to bring the contemplated improvement of any street within the provisions of this Act, the owner, or owners, of not less than sixty per cent (60%) of the frontage of the lots or parcels of land abutting on such street shall first file with the council a petition requesting the establishment of an improvement district and the lighting thereof. Such petition shall set forth the point on such street where such system of lighting shall begin and terminate; the character of posts, towers, standards, or instrumentalities desired, and it shall aver the willingness of each of the signers of said petition to pay the total cost of installing such lighting system to be assessed according to the frontage of the property owned by each petitioner. Each signer shall, opposite his name, designate the location of his lot by street number, or otherwise, and the frontage thereof abutting on said street. A substantial compliance with this section shall be sufficient to authorize the legislative body to proceed in the premises, and no formal or immaterial defect shall invalidate any petition. (Priv. Acts 1927, ch. 451, § 2)

Sec. 393. Granting or rejecting petition.

Upon the filing of such petition, the legislative body may, in its discretion, either grant same or reject the same. If such petition is granted, such legislative body shall have full power and authority to cause such street to be improved by the adequate lighting thereof. (Priv. Acts 1927, ch. 451, § 3)

Sec. 394. Ordinance authorizing improvement.

Before any work shall be done on any improvement herein authorized, it shall be the duty of the legislative body to adopt an ordinance that said improvement shall be made, which shall specify that the work is being done by virtue of the petition filed, shall name the location and terminal points of the district to be improved by adequate lighting, and shall give a reference to said petition by the date of its filing. The estimated total cost of such improvement, together with the maximum rate per front foot, shall be inserted in said ordinance, and after the adoption and confirmation of such ordinance, such municipality shall have no right to collect more per front foot than the maximum rate per front foot set forth in such ordinance, but shall pay any excess out of its general funds. (Priv. Acts 1927, ch. 451, § 4)

Cross reference—Ordinances generally, § 353 et seq.

Sec. 395. Publication of notice of passage of ordinance.

A notice of the passage of such ordinance shall be given by publication one time in some daily newspaper published in such municipality admonishing all interested property owners to appear on a day to be named therein, not earlier than ten (10) days after the date of publication, to protest against the confirmation of such ordinance, if they so desire. Said notice need not set forth the entire ordinance, but shall contain a description of the terminal points of the proposed district, shall set forth in general terms the proposed improvement, the total estimated cost thereof, and the maximum rate per front foot to be assessed against the abutting property. (Priv. Acts 1927, ch. 451, § 4)

Sec. 396. Hearing of protests; effect of failure to protest.

On the day prescribed in said notice, the legislative body shall meet to hear remonstrances or protests against the construction of said improvement, and at said meeting, or at a time and place to which the same may be adjourned, all persons whose property will be affected by said improvement may appear in person, by attorney, or by petition, and protest against the construction of said improvement, and after hearing such protests, if any, said legislative body may confirm, modify, or rescind such ordinance. If protests be filed and overruled, no work shall be done, or contract let, for ten days from the date of such overruling, within which time it shall be the duty of all persons whose protests have been overruled, and who claim that the said improvements as ordered is, for any reason, illegal, to cause to be reviewed the right of said legislative body of such municipality to make said improvement in the form or shape ordered by filing the proper proceeding in a court of competent jurisdiction. All persons failing to protest in the manner above set forth, or failing to file proceedings for review in a court of competent jurisdiction within the time herein prescribed, shall be conclusively held to have consented to the improvement, and to pay the proportionate part of the cost thereof to be assessed against the lands abutting said improvement, and shall be conclusively held to waive any objections to the power of the municipality to make said improvement as ordered. (Priv. Acts 1927, ch. 451, § 4)

Sec. 397. Contracts for the construction of improvement; cost generally.

From and after the day the confirmation of any such ordinance becomes final, the municipality shall have power to contract for the construction of such improvement or any part thereof and/or shall have power to construct the same or any part thereof with its own forces, but an accurate account of the cost thereof shall be kept. Every item of cost, together with an unitemized charge of ten per cent (10%) of all sums otherwise expended, which shall cover the cost of the city of printing, advertising, clerical help, collection of funds, legal advice, stenographic fees, abstracts, plats and accounting, shall be assessable against the abutting property in the manner herein provided, subject, however, to the maximum rate per front foot set forth in such ordinance or order of confirmation or modification. (Priv. Acts 1927, ch. 451, § 5)

Sec. 398. Assessments generally.

After the completion and acceptance of said improvement, the legislative body of the municipality shall, subject to the limitation of the maximum rate per front foot, assess the entire cost of said improvement upon and against the several lots of land abutting the street according to their respective frontage; and all such assessments shall be and constitute a lien on the respective lots upon which they are levied, superior to all other liens except those of the state and county for taxes or the municipality for opening, widening, paving and otherwise improving the street itself. The enforcement, by the state, or county, or city, of its lien for taxes or front foot assessments on any lot upon which has been levied an assessment for any improvement authorized by this Act shall not operate to discharge or in any manner affect the city's lien for said assessment; but the purchaser, at a tax sale or sale to enforce the lien of a front foot assessment for street purposes, shall take the same subject to the lien of an assessment, and if bought by the state or city, any conveyance of the title thus acquired, or any redemption, shall be subject to the lien of such assessment. (Priv. Acts 1927, ch. 451, § 6)

Sec. 399. Preparation and contents of assessment book.

When the amount to be assessed against each lot of land for any improvement shall have been ascertained, the city engineer shall cause a well-bound book to be prepared which shall show the names of the owners of the property assessed, if known, and opposite each name the description of such lot or parcel of land assessed belonging to such owner and the amount assessed against each, and shall contain an appropriate column in which payments may be credited and the lien of the assessment marked "Satisfied"; and, if the name of the owner to be assessed be unknown, said book shall contain under the head of "Owner Unknown" a list of the property to be assessed, the owners of which are unknown. (Priv. Acts 1927, ch. 451, § 7; Priv. Acts 1937, ch. 123, § 18)

Sec. 400. Notice of and objections to assessments.

After the completion of the entries, said book shall be delivered to the comptroller, who shall thereupon give notice by one publication in some daily newspaper published in said municipality that said book has been delivered to him and is open to inspection at his office. In addition, said notice shall contain the general character of the improvement

and the location thereof, and designate a time and place, not less than ten (10) days from the date of publication, at which the legislative body of said municipality will meet to hear and determine any objection or defense presented by any owner of property affected by said assessment. All persons whose property is to be assessed may, at any time on or before the date named in said notice and before the meeting of the legislative body, file in writing in the office of the comptroller their objection, or defense, to the proposed assessment or the amount thereof, and at the meeting on the date named, or any date to which said meeting may be adjourned, said legislative body shall hear and determine said objections or defenses to the assessments, and after so doing shall confirm, modify or set aside the assessment.

If no objection or defense to the assessment or the amount thereof is filed within the time prescribed herein, or if the property owner fails to appear in person, or by attorney, and present the same, with his reasons therefor, to the legislative body at the hearing, the assessment shall be confirmed and made final. (Priv. Acts 1927, ch. 451, § 7; Priv. Acts 1937, ch. 123, § 18)

Sec. 401. When assessments due and payable; transmission of assessment roll to city treasurer; collection; delinquent assessments; interest; foreclosure of lien and sale of property.

All assessments levied by virtue of this Act shall become due and payable from and after the order of the legislative body fixing the same. Upon entry of the order fixing the same, the assessment roll shall be transmitted to the city treasurer, who shall proceed with the collection of the amounts assessed against each lot. Said assessments shall become delinquent sixty (60) days after the entry of the order by the legislative body fixing them, and shall thereafter bear six per cent (6%) interest and a penalty of ten per cent (10%). After the delinquent date, the lien on the respective lots for such assessments shall be foreclosed and the collection of assessments enforced by the municipality, and the municipality may join in any suit all lots and delinquent owners in the improvement district, but shall not be required to do so. The property thus sold may be redeemed at any time during a period of two (2) years after sale on payment of the assessment, interest, penalties and all court costs and other costs accruing on account of such sale.

At such sale no bid less than the amount of the assessment, interest, penalties and costs shall be received, and in the absence of such bid, the treasurer of the municipality, on its behalf, shall bid in the same, and if struck off to such municipality, and after the redemption period, the property shall be held by such municipality in fee simple absolute, subject to the lien of the taxes and assessments set forth in section 398 hereof. (Priv. Acts 1927, ch. 451, § 8)

Sec. 402. Appointment of receiver to collect rents and profits for payment of assessments.

Any court having jurisdiction of any suit brought for the enforcement of the lien of such assessments shall, in addition to the power to order a sale, have power and authority to appoint a receiver to collect the rents and profits of such lots and apply the proceeds thereof to the payment of costs, assessment, interest and penalties. (Priv. Acts 1927, ch. 451, § 8)

Sec. 403. Sales to be governed by chancery rules.

Any sale made under the provisions of this Act shall be governed as to notice, terms, costs and in all other respects by the rules of chancery practice now or hereafter enforced, governing sales of land by the chancery courts of this state. (Priv. Acts 1927, ch. 451, § 8)

Sec. 404. Reassessment in case original assessment declared invalid.

If any assessment levied for any improvement authorized by this Act be declared invalid, by reason of any mistake or irregularity in the proceeding, the legislative body of such municipality shall have the power at any time before the expiration of three (3) years from and after the determination of such invalidity, to reassess such property, and may, when necessary, reassess all property abutting upon the street improved, the assessment on which had not been paid. (Priv. Acts 1927, ch. 451, § 9)

ARTICLE 45. MISCELLANEOUS POWERS TO PROMOTE PUBLIC SAFETY

Sec. 405. Establishment of fire limits and building regulations; dangerous buildings; fireworks, gunpowder, coal oil, etc.

The governing authority shall have power to designate and establish fire limits within which wooden buildings shall not be erected; to prevent the erection, maintenance, or occupancy of building(s) dangerous to persons or property; and to remove them when erected without their consent; to regulate the manner of building partition walls, parapet walls and partition fences; to regulate fireworks, stove pipes and flues in all shops, kitchens and other like places; to regulate the keeping and storage of gunpowder, coal oil and other combustible articles, and to prevent the same from being stored within the limits of the city, or within one mile of the same. (Acts 1879, ch. 11, § 3; Acts 1889, ch. 163, § 2(4))

Sec. 406. Inspection of steam boilers, locomotive engines, etc.; power to appoint inspector of boilers.

The governing authority shall have power to regulate, control and provide for the inspection of all steam boilers used in said municipality, including locomotive engines; to prevent the introduction of all such as are unsafe, and to appoint an inspector of boilers, to be paid out of the salary account by the municipality. (Acts 1889, ch. 163, § 2(1))

Cross reference—For subsequent provision relative to appointment of boiler and smoke inspector, see § 229.

Sec. 407. Reserved.

Editor's note—Former § 407, relating to the regulation of electricians and electrical work, was taken from the general law (T.C.A. § 6-611) and has been omitted from this compilation.

Sec. 408. Authority to require excavations, wells, ponds, etc., to be filled.

The council shall have authority, by ordinance, to require that whenever a structure or other erection within the City of Memphis is removed, the owner or person removing said structure or other erection, except when the City of Memphis, in accordance with law, removes same, shall immediately thereafter fill or cause to be filled any excavation, wells, open places, basements or depressions, level with the ground adjacent thereto. It may, likewise, require any owner of land upon which a pond has formed to fill or cause same to be filled level with adjacent land and to require all present excavations, open places, basements and depressions within the city to be filled, in accordance with the provisions of this Act. (Priv. Acts 1941, ch. 44, § 1 (5))

Code references—Excavations not to be left unguarded, § 10-12-4; filling of condemned or abandoned wells, § 9-76-10.

ARTICLE 46. PUBLIC HEALTH*

***Cross reference—**Public health generally, T. 9.

Sec. 409. Powers generally.

The governing authority shall have power to pass all laws to preserve the health of the city. (Acts 1879, ch. 11, § 3)

Sec. 410. Definition and prevention of nuisances; quarantine law; prohibiting the erection of soap factories, houses for curing hides, slaughter pens, etc.

The governing authority shall have power to define, prevent and remove nuisances within the city, and for a distance of one mile outside the same; to make quarantine laws and enforce the same within ten miles of the city; to prohibit the erection of soap factories, or houses for curing hides, or slaughter pens, and all houses of like character. (Acts 1879, ch. 11, § 3)

Code reference—Nuisances prohibited, § 9-8-21.

Sec. 411. Condemnation and abatement of nuisances.

They shall have power, and it shall be their duty, to condemn as nuisances all buildings, cisterns, wells, privies and other erections in the city which, on inspection, shall be found to be unhealthy, unsanitary, or dangerous to persons or property, and cause the same to be abated or removed, unless the owners thereof, at their own expense, upon notice,

shall reconstruct the same in such manner as shall be prescribed by the laws of the city; and as to all buildings, cisterns, wells, privies and other private improvements to be constructed in the future they shall have the power, and it shall be their duty, to have the same so constructed as not to interfere with the health or safety of persons or property within the city. (Acts 1879, ch. 11, § 3; Acts 1889, ch. 163, § 2, subsec. 4)

Code reference—Abatement of nuisances, § 9-8-21.

Sec. 412. Authority to require houses and premises to be kept clean; prohibiting the placing of trash, etc., on streets, etc.

They shall have the power, and it shall be their duty, to provide that the city is, from day to day and every day, kept in a clean and healthy condition, that the yard and premises of every occupant of every dwelling, outhouse, office, store, shop, or other place of business, including the cellars and other places having unhealthy material, are cleaned and so kept by such occupant every day at his own expense, and to prohibit by proper laws and penalties every such occupant from throwing or putting any trash or improper material in the streets, alleys, or sidewalks, except for the purpose of removal; to require such occupant, daily, to deposit all unhealthy material in the street near by, in some suitable vessel, to be provided by the occupant at his or her own expense, to be carried off by the public carts and rendered harmless. (Acts 1879, ch. 11, § 3)

Code reference—Littering streets prohibited, § 9-56-21.

Sec. 413. Water regulations generally.

The governing authority is authorized to regulate wells, cisterns, hydrants and fire plugs, and to convey water into the city from the vicinity. (Acts 1879, ch. 11, § 3)

Cross reference—Regulation of wells when used in connection with air conditioning systems, § 863.

Code reference—Regulations for quasi-public and private water supplies, Ch. 9-76.

Sec. 413.1. City-county water control board—Established; composition; appointment, terms and removal of members; vacancies; ex officio members.

There is hereby established a board composed of five members, to be known as the Memphis and Shelby County Water Control Board. The term of office of the first board appointed shall be from the time of appointment until December 31, 1950, or until the appointment of their successors. Thereafter, succeeding boards shall be appointed for a term of two years, or until the appointment of their successors.

The Council of the City of Memphis, upon the nomination of the Mayor of said City, shall appoint three of said board members. The quarterly county court of Shelby County, upon nomination of the chairman thereof, shall appoint the other two board members. Any and all of said members shall, however, serve subject to the will and pleasure of the authority electing said member as hereinabove provided, and may be removed by said authority at any time for any cause, or without cause. In case of the removal from office, the resignation, the death or the inability to act, of any member, his successor shall be appointed for the remainder of his unexpired term by the authority which appointed him.

The mayor of the City of Memphis, the chairman of the county court of Shelby County and the chairman of the board of commissioners of Shelby County shall at all times be ex officio members of said commission, but without the right to vote. (Priv. Acts 1949, ch. 498, § 2)

Sec. 413.2. Same—Qualifications and compensation of members.

The members of the said board shall be resident citizens of Shelby County, Tennessee, and may be employees or officials of the City of Memphis or Shelby County. No compensation shall be paid the members of the said board for their services. (Priv. Acts 1949, ch. 498, § 3)

Sec. 413.3. Same—Election of chairman and secretary; meetings; rules and regulations.

The said board shall have the power to elect a chairman and secretary from its own members; to fix the time and the place of its meetings; to keep the minutes of its proceedings and to make and promulgate regulations providing for public hearings on applications and petitions which may be made to it, fixing its procedure, and such other rules as may

be reasonably necessary to implement and effectuate the purposes of this Act and the powers herein given to said board. (Priv. Acts 1949, ch. 498, § 4)

Sec. 413.4. Same—Authority to regulate or prohibit drilling of wells.

The said board, subject to such supervision and direction as may be given to it by the Council of the City of Memphis and the quarterly county court of Shelby County, shall have the power and authority to regulate the drilling of wells within Shelby County, the size, bore and depth of same, the quantity of water pumped therefrom, and shall have the right to prohibit the drilling of any and all wells within said county. The said board may require the filing with it of an application to drill a well in Shelby County, which application it shall have authority to grant or deny. The board may, by regulation, exempt from its supervision and control the drilling and operation of wells of less than a certain bore and depth, and the drilling and operation of wells in areas fixed by
it.

The board is empowered to set up by regulation the machinery for conducting hearings upon applications to construct and bore wells with the county, and if such machinery is set up, the board shall keep minutes of its proceedings, and make minute entries of its decisions in all matters. The action of the said board in all matters coming within its jurisdiction shall be final.

The said board shall have no power to regulate or prohibit the drilling of wells by any municipality in Shelby County or by the light, gas and water division of the City of Memphis, or any commission, board, or authority which shall succeed to the powers and duties of providing the public water supply for the City of Memphis now exercised by the said light, gas and water division of the City of Memphis. (Priv. Acts 1949, ch. 498, §§ 5, 7)

Cross reference—Regulation of wells used in connection with air conditioning systems, § 863.

Sec. 413.5. Same—Clerical and technical assistance.

Said board shall, by and with the consent of the Council of the City of Memphis and the quarterly county court of Shelby County, have authority to employ such clerical assistance and such engineering and other technical assistance as may be required by it for the carrying on of such investigations and research as may be deemed advisable by the board and to take care of its administrative and clerical duties. The compensation paid to such employees shall be paid by the City of Memphis or by Shelby County, or by both the said city and the county, and may be the subject of contractual relationship between the said city and county, both said city and county being hereby authorized to make appropriations for said purpose. (Priv. Acts 1949, ch. 498, § 6)

Sec. 413.6. Same—Annual statement and report.

The said Memphis and Shelby County Board of Water Control shall file an annual statement and report with the Council of the City of Memphis and with the county court of Shelby County, reporting in general their operations for the preceding year, and making such recommendations as the board may deem fit and proper. The said report shall be made as of December 31 of each year. (Priv. Acts 1949, ch. 498, § 8)

Sec. 414. Power to compel use of water system.

The governing authority shall have power to compel owners and occupants of houses to take and use for sanitary purposes the water furnished by any general water system owned or operated by the city or by a private company. (Acts 1899, ch. 47)

Sec. 415. Authority to compel construction of water closets and other sanitary appliances; connection with water and sewer mains; lien in favor of tenant.

The governing authority shall have power to compel all owners, tenants, or occupants of improved property in all instances necessary to good sanitation to construct water closets, slop sinks, and other sanitary appliances, and to connect the same with the water and sewer mains; to confer power on said municipality to appoint an inspector of all such work, provided that whenever any tenant or occupant shall be required, under any ordinance of the city, to lay a pavement, make sewer connection, or do any other thing of which the city has the power to compel the performance, such tenant or occupant shall have a lien upon the property occupied for reimbursement and reasonable attorney's fees, if the primary obligation to do the same was on the landlord, said lien to be enforced by attachment proceedings in any

court of competent jurisdiction, and to date only from the commencement of such proceedings as against other lien creditors or assigns of the owner, and the tenant or occupant may, when so entitled under the general principles of the law of set off, use such claim against his liability for rent. (Acts 1879, ch. 11, § 3; Acts 1889, ch. 163, § 1)

Sec. 416. Regulation of plumbers and plumbing work.

Said local government shall have power to regulate and control plumbers and plumbing works, and to enforce the efficiency of same. (Acts 1889, ch. 163, § 2, subsec. 2)

Sec. 417. Establishment and regulation of markets and markethouses.

The governing authority shall have power to establish and regulate markets and markethouses. (Acts 1879, ch. 11, § 3)

Cross reference—Auditorium and market, §§ 494.1—494.6.

Sec. 418. Permit for sale or production of milk—Authority to issue; contents.

For the purpose of enabling the boards of health within taxing districts and cities having a population of one hundred thousand (100,000) and upwards according to the Federal Census of 1900, or any subsequent Federal Census, to secure a better control and a better inspection of the milk supplied in said taxing districts and cities, said boards of health are hereby authorized and empowered to issue permits to all per sons, firms, or corporations engaged in the selling of milk at wholesale or retail within the limits of said cities, or engaged in the production of milk which is sold by others in said cities. Said permits shall read as follows:

"This is to certify that _____is hereby permitted by the Board of Health to sell milk at wholesale or retail within the limits of _____, or to produce milk to be sold therein by others for the period of twelve months from this date. This permit is subject to revocation by this Board, if at any time said _____, who holds this permit, shall violate the ordinances of _____ or the laws of the State with reference to the production or sale of milk or its products. This permit is not transferable. The fee for this permit, $15, has been paid, and the receipt is hereby acknowledged. Attest: The Board of Health of _____ By _____ President; _____ Secretary." (Acts 1907, ch. 202, § 1)

Sec. 419. Same—Revocation.

It shall be the duty of said board of health, at its discretion, to revoke said permit at any time that the party holding same shall have been convicted of the violation of the ordinances of said cities, or the laws of the state with reference to the production or sale of milk and its products; and if said party shall have been convicted of the violation of said laws or ordinances as many as three times, then the board of health shall revoke said permit, and said party shall not be entitled to receive another permit until twelve months have elapsed after the revocation of his permit. (Acts 1907, ch. 202, § 2)

Sec. 420. Same—Fee.

The fee for this permit shall be $15 in each case, and said fees shall be collected by the secretary of the board of health when the permits are issued, and the funds arising from these fees shall be used by the board of health, in addition to any appropriation that it may now have, for the employment of a chemist and for such milk inspectors as may, in their discretion, be considered necessary, and to defray any other expenses connected with the inspection of the milk supply. (Acts 1907, ch. 202, § 3)

Sec. 421. Same—Collection and disbursement funds arising from fees.

The secretary of the board of health shall collect and disburse the funds arising from these fees upon the orders of the board of health. (Acts 1907, ch. 202, § 4)

Sec. 422. Authority to fix standard of milk and milk products; penalty for violation of standards.

The board of health of the respective cities to which this Act may apply [see § 418] is hereby given the power to fix the standard of milk, cream, and other milk products to be sold in said cities, and after said standard shall have been fixed, it shall be unlawful for any person, firm or corporation to offer for sale any milk, cream or milk products of a

lower standard than that fixed by the board of health, and to do so shall be a misdemeanor, and, upon conviction, the party found guilty thereof shall be fined not less than $25 or more than $100 for each offense. (Acts 1907, ch. 202, § 5)

Code reference—Milk and milk products, Ch. 9-52.

Sec. 423. Rules and regulations for control and inspection of milk.

The board of health of the respective cities to which this Act may apply [see § 418] is hereby given the power to enact such rules and regulations as may, in their discretion, be necessary for the proper control and inspection of the milk that may be offered for sale in said cities and to enforce same. (Acts 1907, ch. 202, § 6)

Sec. 424. Weeds and grass—Authority to require cutting; failure to cut; cutting by city; costs; lien.

The Council of the City of Memphis shall have the power by proper ordinance to require all rank weeds and grasses to be kept cut or otherwise destroyed, and shall have the authority to compel the owner, occupant or tenant of any property to cut or destroy such weeds or grasses; they shall also have power upon the refusal of the owner to cut or destroy such weeds or grasses, or in case the owner of the property is a nonresident or unknown, to cut or destroy such weeds or grasses, and shall have a lien upon the property on which said weeds or grasses are cut or destroyed for the cost of such removal, which lien can be enforced by attachment suit in any court of competent jurisdiction; they shall also have the power to make the refusal to cut or destroy such weeds or grasses a misdemeanor, punishable as other city offenses are punishable. (Priv. Acts 1921, ch. 61, § 1)

Code reference—Cutting of weeds, grass and noxious growths§§ 9-96-2—9-96-5.

Sec. 425. Same—Costs may be collected as special tax.

As an additional and cumulative remedy the council of the said city may by ordinance provide that on certification of the cost of cutting weeds, grass, and noxious growths upon the property described in said Act, to the city treasurer, it shall be the duty of the city treasurer to put the amount so certified on the tax bill against said property, and it shall be the duty of the city treasurer to collect, as a special tax, the amount so certified, and for the purposes of this Act, the cost of cutting weeds, grass and noxious growths upon any property in the limits of said city may by ordinance duly passed be declared to be a special tax to be collected as other general taxes levied by such city are now or may be hereafter collected. (Priv. Acts 1915, ch. 20, § 1; Priv. Acts 1921, ch. 107, § 1)

Sec. 426. Same—Powers considered cumulative.

The provisions of this Act shall not be construed as abridging or amending any other power or authority which the City of Memphis or its council may have, on this subject, under existing or future laws; but the provisions of this Act shall be construed as being cumulative and in addition thereto. (Priv. Acts 1921, ch. 61, § 2)

Sec. 427. Contagious diseases generally.

Said local government shall have power to prevent the introduction of contagious diseases within the city; and shall notify the board of education of the facts in every such case of contagious disease, giving name, age and sex of the individual so sick, name of disease, street and number of house. (Acts 1879, ch. 11, § 3; Acts 1893, ch. 151; Acts 1905, ch. 519)

Sec. 428. Authority to construct, equip, acquire and operate abattoirs, slaughterhouses, etc.

The council and other legislative council of the City of Memphis, in addition to all the powers now delegated or provided, shall have full power, independently or in conjunction with any other governmental agency or agencies, to erect, equip, acquire and operate abattoirs, slaughterhouses, plants, places, and/or facilities for the inspection and storage of meats intended for human consumption, and/or for the slaughter and disposal of lower animals, in the protection of public health; and the acquisition, erection and operation of such abattoirs, slaughterhouses, plants and/or facilities shall be governmental functions of such municipalities or taxing districts, exercised for the public health, safety or general welfare. (Priv. Acts 1935, ch. 17)

Sec. 429. Inspection and regulation of meat and meat products.

The council and/or other legislative council, in addition to all of the powers now delegated or provided, shall have full power to provide adequate and qualified inspection service; to regulate inspection of meat intended for human consumption sold or offered for sale within the City of Memphis; to designate the place or places, regulate the manner, and prescribe the conditions under which all animals intended for human consumption in said city shall be slaughtered, and/or inspected, both before and after being slaughtered; to provide for proper chilling and storage of such meat and to provide for the sanitary transportation of all such meat within such city; to prohibit the sale or exposure for sale in said city of any meat which has not been slaughtered and/or inspected in accordance with regulations prescribed by the governing authorities or agencies of said city; to prohibit the sale of all meat within said city which has not been slaughtered in said city in accordance with the prescribed regulation, unless such meat has been inspected by duly authorized inspectors of the United States Department of Agriculture, or has been inspected in a manner approved by the health officer of the City of Memphis; and to make such other regulation as may be necessary in order to carry out the purposes of this Act, in the interest of the public health, safety and general welfare. (Priv. Acts 1935, Ex. Sess., ch. 106)

Cross reference—Appointment of meat inspector, § 35.

Code reference—Meat and meat products, §§ 9-52-75—9-52-83.

Sec. 430. Authority of superintendent of health to order autopsy of persons dying at John Gaston Hospital.

The superintendent of the health department of the City of Memphis shall have authority and it shall be his duty whenever he deems an emergency to exist requiring it to order an autopsy of any person dying at the John Gaston Hospital under circumstances and with diseases deemed dangerous to the health and welfare of the community. (Priv. Acts 1941, ch. 44, § 1(11))

Sec. 431. Authority to regulate the sale, etc., of fruits and vegetables.

The council and/or other legislative councils or governing bodies of such taxing districts, in addition to all other powers now delegated or provided, shall have full power and authority to provide and establish adequate inspection service as to any or all fruits and vegetables intended for human consumption in the City of Memphis, to regulate, and to provide for, inspection of any or all fruits and vegetables intended for human consumption in the City of Memphis sold, offered or exposed for sale, in the city, whether at wholesale, at retail, or either, or otherwise; to regulate, and to provide for the inspection of any establishment, grocery, public and private market, lot, storeroom, building, structure, warehouse, freight car, office, stall, stand, car booth, truck, trailer, wagon or other vehicle, or other place where such fruits and vegetables or [are] kept, stored, packed, transported, sold, exposed or offered for sale; to regulate, to require and provide for, the licensing of any building, public and private market, or other place set forth immediately above, where such fruits and vegetables are kept, stored, packed, transported, sold, exposed or offered for sale; to impose inspection fee or fees for inspection, and to designate the place or places, time or times therefor; to regulate and prescribe the manner and conditions under which such fruits and vegetables shall be kept, stored, packed, labeled, transported, sold, exposed or offered for sale, and inspected; to require, regulate and provide for the licensing of any person, partnership, firm, corporation, association, cooperative marketing association, selling, exposing or offering for sale such fruits and vegetables, as commission merchant, wholesaler, producer, retailer, huckster, peddler, itinerant, grocer, broker, agents or otherwise within the City of Memphis, and to impose license fees therefor; to prohibit the sale or exposure for sale in said city of any such fruits and vegetables which may not have been inspected, kept, stored, packed, labeled or transported in accordance with regulations prescribed or adopted by the governing authorities or agencies of said city, or which may be sold or offered for sale in some place or by some such person in said city not inspected and licensed in accordance with such regulations; to acquire by purchase, lease, gift or otherwise, and to establish and equip depots and inspection facilities in said city; to provide penalties for violation of regulations; to require the keeping and submission of books, records and reports in regard to the sales, quality and kind of such fruits and vegetables; to provide for city inspectors and to fix their compensation; and to make such other regulation as may appear to the said governing authorities or agencies of the City of Memphis to be necessary in order to carry out the purposes of this Act, in the interest of, and for the protection and preservation of, the public health, safety, and general welfare in the City of Memphis. (Priv. Acts 1939, ch. 211, § 1)

Code reference—Food, Ch. 9-52.

ARTICLE 47. HOSPITALS*

***Cross references—**John Gaston Hospital and Oakville Sanitarium under jurisdiction of commissioner of finances and institutions, § 161; John Gaston Hospital to be furnished free water, § 696; authority of council to cooperate with boards of trustees, commissions, and incorporated institutions in the erection and maintenance of hospitals, § 836.

Sec. 432. Power to establish and regulate generally.

Said local government shall have power to establish and regulate hospitals in accordance with the present laws of the state. (Acts 1879, ch. 11, § 3)

Sec. 433. Reserved.

Editor's note—Former § 433 was taken from the general law (Pub. Acts 1921, ch. 106; T.C.A. § 53-1101 et seq.) and has been omitted from this compilation.

Sec. 434. Contracts of city with University of Tennessee with reference to operation of general hospital.

The City of Memphis and the University of Tennessee, their legislative council, boards of trustees and officers be and are hereby authorized and empowered to enter into contracts with reference to the operation of the general hospital, so as to provide for such hospital and medical staff, and so as to make available to the faculty and students of the University of Tennessee for study, cases and clinical materials in said hospital. (Pub. Acts 1925, ch. 103)

Sec. 435. Hospital for tuberculosis and other chest diseases.

The council is authorized to erect, equip, support and maintain a tuberculosis and other chest diseases hospital or hospitals for the treatment of tuberculosis and other chest diseases or to cooperate with Shelby County in the erection, equipment, support and maintenance of said hospital in the City of Memphis, or without the corporate limits of said city, and to place the erection, government, management and control thereof in the charge of such board of trustees or managers as said council may direct, or in charge of such joint board of trustees or managers as may be selected by said council and the board of county commissioners of Shelby County; said council is also authorized to appropriate out of the general fund such moneys as may be necessary for such purposes and to levy a special annual tax of one-tenth of one per cent on the $100.00 of taxable property in the City of Memphis, real and personal.

The Council of the City of Memphis be and is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to aid, cooperate with, negotiate and contract with the State of Tennessee, acting by and through the Tennessee Tuberculosis Hospital Commission, created under Chapter 60 of the Public Acts of the General Assembly of Tennessee for the year 1943, and/or any other Department, Commission, Bureau or Agency of the State of Tennessee, now in existence or hereafter created, and/or with the County of Shelby, and/or with any other institutions or persons relative to the site, construction, maintenance, and operation of the Tuberculosis Hospital contemplated to be built in the City of Memphis by the Commission created under said Chapter 60 of the Public Acts of 1943, and to appropriate and contribute such amount or amounts from the funds of the City of Memphis to the acquisition of the site, construction, maintenance and operation of said hospital as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1917, ch. 387; Priv. Acts 1945, ch. 56, § 4; Priv. Acts 1961, ch. 301, § 1)

Sec. 436. Hospitals for infected women.

The city may establish, erect and maintain a detention or quarantine institution or hospital for infected women, either as an independent institution or in connection with reformatory institutions or houses of refuge for women, to be under the control and management of a board of five trustees. (Priv. Acts 1919, ch. 662)

Sec. 437. Hospital and nurses' home for colored persons.

The Council of the City of Memphis be and it is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to acquire the site for, construct, erect, equip and maintain, in conjunction with and in co-operation with the County of Shelby, a hospital and nurses' home for colored persons in the City of Memphis, and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the acquisition of the site for, construction, erection, maintenance and operation of said hospital as it shall deem proper, and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 2)

Sec. 438. Maternity ward of John Gaston Hospital.

The Council of the City of Memphis be and it is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to acquire the site for erect, construct and equip an addition or additions to the maternity ward of the John Gaston Hospital, located in Memphis, Tennessee, and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for such purposes as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 10)

ARTICLE 48. MASSAGE OPERATORS AND INSTITUTES

Sec. 438.1. Definition of terms.

(1) *Massage operator*. A person who applies manual or mechanical massage or similar treatment to the human body, but shall not include a doctor or a nurse or any type of treatment which is otherwise regulated by law.

(2) *Massage institute*. Any place in which two or more massage operators give treatment, but shall not include a hospital or sanitarium or any establishment which is otherwise regulated by law. (Priv. Acts 1961, ch. 234, § 1)

Sec. 438.2. Permit required; permit fee and term.

No person shall act as a massage operator or conduct a massage institute in the City of Memphis without first obtaining a permit as hereinafter provided from the chief of police.

The annual permit fee for each massage institute shall be five dollars ($5.00) and for each operator two dollars ($2.00), and the permits so issued shall be good for a period of twelve (12) months from the date of their issuance. (Priv. Acts 1961, ch. 234, § 2)

Sec. 438.3. Application for permit.

[Application for] permits issued hereunder shall be made upon blank forms prepared and made available by the chief of police, and shall state:

(1) The full name, age, residence, present and previous occupations of the applicant;

(2) Whether the person signing the application is a citizen of the United States;

(3) A specific description of the location of the principal place of business of the applicant;

(4) The number of years experience the applicant has had as a massage operator or the operator of a massage institute or in related fields;

(5) The length of time applicant has been a bona fide resident of the State of Tennessee immediately preceding the filing of the application;

(6) The application required hereunder shall be accompanied by a full set of fingerprints and a recent photograph;

(7) Such other information as the chief of police shall find reasonably necessary to effectuate the general purpose of this Act and to make a fair determination of whether the terms of this Act have been complied with. (Priv. Acts 1961, ch. 234, § 3)

Sec. 438.4. Investigation of applicant for permit.

Within ten (10) days after receipt of an application as provided for herein, the chief of police shall cause an investigation to be made of the applicant and his proposed operation. (Priv. Acts 1961, ch. 234, § 4)

Sec. 438.5. Standards for issuance of permit.

The chief of police shall issue a permit hereunder when he finds:

(1) That the applicant is of good moral character;

(2) That the applicant has never been convicted of any felony or any offense against the decency and morals of the community;

(3) That the applicant is a natural born or a fully naturalized citizen of the United States. (Priv. Acts 1961, ch. 234, § 5)

Sec. 438.6. Standards applicable to employees.

All employees of any person having or applying for a permit hereunder shall meet the standards set forth above, and violation of such standards shall be an additional ground for revocation of the permit of the employer. (Priv. Acts 1961, ch. 234, § 6)

Sec. 438.7. Conditions of permit.

The following conditions shall apply to all permits:

(1) *Transferability*. Permits issued hereunder shall not be transferable.

(2) *Persons treated*. It shall be a violation of this article for any operator to treat a person of the opposite sex, except upon the signed order of a licensed physician, or osteopath, which order shall be dated and shall specifically state the number of treatments, not to exceed ten, to be given, except as such treatments are given in the residence of the patient, the office of a physician, or in a hospital or sanitarium. The date and hour of each treatment given and the name of the operator shall be entered on such order and shall be subject to inspection by the police.

(3) *Sign required*. Every such licensed massage operator and institute shall display a sign upon which the words "Licensed Masseur", "Licensed Masseuse", or "Licensed Massage Institute", in accordance with the license as issued, shall be conspicuously and legibly set forth in English in such manner that the words may be readily seen by persons entering such premises where massage is given.

(4) *Revocation and suspension*. Permits issued hereunder shall be subject to revocation or suspension by the chief of police for violation of any of the provisions of this Act, or of the rules and regulations issued hereunder, or misconduct by the permittee or his employees, after reasonable notice and an opportunity to be heard has been given the permittee. The chief of police shall immediately notify any permittee in writing of such suspension or revocation. (Priv. Acts 1961, ch. 234, § 7)

Sec. 438.8. Rules and regulations of chief of police.

The chief of police may have the authority to enact and enforce reasonable rules and regulations for the operation of massage institutes in the interest of public safety, morals and welfare and to effectuate the general purpose of this Act. (Priv. Acts 1961, ch. 234, § 8)

Sec. 438.9. Violations of Act.

Any person who shall violate any provision of this Act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than fifty dollars ($50.00). Each day's continuance of a violation shall be considered a separate offense. (Priv. Acts 1961, ch. 234, § 9)

Secs. 438.10—438.20. Reserved.

ARTICLE 48A. DISSEMINATION OF OBSCENE MATERIAL TO JUVENILES

Sec. 438.21. Board of review; establishment by ordinance authorized.

The Home Rule Charter of the City of Memphis, Tennessee, is amended to authorize the establishment by ordinance of a board of review for the control of the dissemination of obscene material to juveniles, to prescribe the duties, qualifications, terms of office, number and compensation of the members of said board and to grant all necessary powers to said board, including the power to sue and to prevent the dissemination of obscene material to juveniles. (Ord. No. 272, § 1, 9-3-68 approved to referendum election Nov. 5, 1968)

Editor's note—The voters of the city ratified the provisions of Ord. No. 272, § 1, enacted Sept. 3, 1968, at an election held Nov. 5, 1968. The editors, in their discretion, codified said ordinance § 1, as 438.21 of this compilation.

ARTICLE 49. PUBLIC AMUSEMENTS

Sec. 439. General power to regulate theatrical performances and motion picture shows.

Chapter 11 of the Acts of the General Assembly of the State of Tennessee for 1879, entitled "An Act to establish taxing districts in this State, and to provide the means of local government for same," approved January 31, 1879, and all Acts amendatory thereof, constituting the Charter of the City of Memphis, be and the same are hereby amended so as to give to the council of said city, or other legislative body, the power to regulate theatrical performances and motion picture shows. (Priv. Acts 1921, ch. 54, § 1)

Code reference—Regulations for motion picture shows, § 6-4-1.

Sec. 440. Authority to prevent lewd, obscene, etc., acts, pictures, performances, etc.

The said council shall have power, by ordinance, to prevent the exhibition of immoral, lewd, obscene or lascivious pictures, acts, performances, representations, plays, or pantomimes, subversive of the morals of such city. It shall also have power, by ordinance, to prevent plays, pictures, pantomimes, or other representations or performances inimical to public safety, health, morals, and welfare, and likewise performances, representations, pictures, or plays denouncing, deriding or seeking to overthrow the present form of National Government; provided, however, this grant of power shall not be deemed to prevent the private exhibition of any pictures, plays, pantomimes or representations for purely scientific or educational purposes, nor those exhibited by any recognized school, college, seminary, or other educational institution as part of its educational work. (Priv. Acts 1921, ch. 54, § 1; Priv. Acts 1963, ch. 145, § 1)

Sec. 441. Board of censors generally.

The said council, or other legislative body, shall have power, by resolution, to appoint a board of seven members, any four of whom shall constitute a quorum, each of whom shall be nominated by the mayor, said board to be known as the board of censors, and the said council may, by ordinance, prescribe the duties, qualifications, terms of office, and compensation of the members of said board, and to give them the power to censor, supervise and regulate public exhibitions, plays, motion pictures, performances, pantomimes, and other representations. The said council shall likewise have power, by ordinance, to provide penalties for the failure of any proprietor, operator, actor, designer, manager or other person participating in, having the control of, or any financial interest in any such public performance for refusal or failure to obey any lawful order of said board of censors, the amount of such penalties to be governed by the Charter of the City of Memphis. (Priv. Acts 1921, ch. 54, § 2; Priv. Acts 1929, ch. 394, § 2; Priv. Acts 1951, ch. 153, § 2; Priv. Acts 1961, ch. 125, §§ 2, 3)

Annotation—The constitutionality of statutes and ordinances creating a board of censors for the city cannot be questioned on the ground of abridgement of the right of freedom of speech except by someone who has the right to speak and is denied the privilege of speaking. United Artists Corp. v. City of Memphis, 189 Tenn. 397, 225 S.W. (2d) 550 (1949), holding that a foreign corporation doing business in the state by supplying motion pictures for exhibition in local theaters under a contract providing for such foreign corporation to receive a percentage of the theater's gross receipts, without qualifying to do business in the state, could not maintain a proceeding in the state courts to review the action of the city board of censors in banning a particular picture.

Sec. 442. Suspension of performances violating order of board of censors or ordinance.

The Council of the City of Memphis shall likewise have power, by ordinance, to provide for the suspension of any play, performance or public exhibition for failure on the part of any proprietor, operator, actor, designer, manager, or other person participating in, having control of, or any financial interest in any such public performance, to obey any lawful order of the said board of censors, and shall likewise have power by ordinance to provide for the closing of any theatre, hall, opera-house, or place, within which any act, play, performance, representation, pantomime, or other public exhibition is given or sought to be given in violation of any of the provisions of any ordinance passed pursuant to the authority of this Act, or under the police power of such municipality, or for the failure of any person connected with such performance to obey any lawful order of the said board of censors. (Priv. Acts 1921, ch. 54, § 3)

Sec. 443. Finality of findings of board of censors.

Said council shall have the power, by ordinance, to provide that the findings and judgment of said board of censors, made after the passage of such ordinance, on all matters of censorship shall be final and subject to review only for illegality or want of jurisdiction. (Priv. Acts 1929, ch. 394, § 3)

Secs. 444—451. Reserved.

Editor's note—Former §§ 444, 445, 449, and 451 have been redesignated as §§ 369.1, 851.1, 451.1, and 824.1 at the discretion of the editor.

Sections 446, 447 and 445, derived from Acts 1897, ch. 286, related to the taking of a special census in the city. Since they have served their purpose, these sections have been omitted.

Section 450 was taken from the general law relating to the city's authority to act as trustee for cemeteries (T.C.A. § 46-301) and has been omitted.

ARTICLE 50. CITY PROPERTY GENERALLY*

***Cross reference—**Authority of council relative to municipal property not needed for public use, § 835.

Sec. 451.1. Authority to accept money or property for public use.

Said city is authorized to accept any money or property for the purpose of any public or corporate use. (Acts 1889, ch. 163, § 2 (3))

Editor's note—This section appeared as § 449 in the 1949 compilation. It was moved to this article by the editor.

Sec. 451.2. Purchase of capital equipment and real estate on deferred payments.

The City of Memphis is authorized to purchase upon deferred payments, including the giving of a security interest, to lease and to enter into lease purchase agreements for capital equipment for periods not in excess of five (5) years and to purchase real estate not to exceed ten (10) years. The Council of the City of Memphis in adopting its budget ordinance or upon proper amendment thereof shall provide for payment of current obligations on such deferred payment plan or lease or lease purchase and the resolution to be adopted authorizing entrance into such contract or lease shall bind itself to provide for the future payments thereon not to exceed the period of five (5) years. Such capital equipment which may be purchased upon deferred payment with security interest given or leased or lease purchase shall mean what is commonly considered as capital equipment and includes but is not limited to automobiles, fire and police equipment, sanitation vehicles and equipment used for sewers and drains, street maintenance and sanitation, hospital and medical equipment, computers and other machinery.

The City Council shall likewise have authority to purchase real estate and provide for future payments thereon not to exceed a period of ten (10) years. (Ord. No. 784, 8-25-70)

Sec. 452. Authority to convey property and close streets and alleys.

The governing authorities of said City of Memphis shall have full authority to convey any property acquired by them or held by the City of Memphis not used for municipal purposes, and to give good title thereto to any purchaser. Said city shall also have power to convey any street or alley closed by it by virtue of municipal authority, and to convey good title to said street or alley as far as any title held by said city is concerned. The said city shall further have authority to close by resolution any street or alley whenever, in the judgment of the council, the closing of said street or alley shall be conducive to the public welfare. (Priv. Acts 1913. ch. 163; Priv. Acts 1939, ch. 173, § 2)

Sec. 453. Closing of certain streets and alleys for use of Arkansas & Memphis Railway Bridge & Terminal Company confirmed.

The action of the Council of the City of Memphis, Tennessee, by the terms of a certain ordinance passed upon third and final reading February 4, 1913, entitled "An Ordinance granting certain rights, privileges and franchises in the City of Memphis, Tennessee, to the Arkansas & Memphis Railway Bridge & Terminal Company, its successor and assigns, for the purpose of constructing, operating and maintaining within the corporate limits of said city, passenger stations,

freight depots, warehouses, railway tracks, terminals and other railway facilities," insofar as it declared closed the following streets, alleys and public places in said city, namely:

Webster Avenue between the east line of South Fourth Street and a projection across Webster Avenue of the west line of Lot 164 of Block 33 of John Overton's Subdivision of his 181 acre tract; Clay Avenue between the east line of South Fourth Street and a projection across Clay Avenue of the west line of Lot 84 in Block 32 of John Overton's Subdivision of his 181 acre tract, and all of the existing public and private alleys between Calhoun Avenue on the north, and Georgia Avenue on the south, and between South Fourth Street on the west and a projection of the west line of Lot 237 in Block 33 of John Overton's Subdivision of his 181 acre tract from Georgia Avenue to Calhoun Avenue;

Corinth Place between Kansas Street and Pennsylvania Street and north of a projection of the east and west center line of Blocks twenty (20) and twenty-one (21) of what is known as Fort Pickering across Corinth Place;

Louisiana and Arkansas Streets between the north line of Virginia Avenue and a line parallel to and thirty-five (35) feet north of the south line of Broadway or Railroad Avenue; Indiana Street between the north line of Virginia Avenue and a line parallel to and fifty (50) feet north of the south line of Broadway or Railroad Avenue;

Delaware Street between the north line of Virginia Avenue and the south line of Carolina Avenue; that portion of Broadway or Railroad Avenue described as follows, to-wit:

The south thirty-five (35) feet of said avenue from the west line of Pennsylvania Street to the west line of Arkansas Street; the south half of Broadway or Railroad Avenue lying between a projection of the west line of Arkansas Street and the west line of Indiana Street; all other streets lying north of Virginia Avenue and the property of the Kansas City & Memphis Railway and Bridge Company, on the south and west, and west line of Pennsylvania Street to the west line of Indiana Street on the north and east; and all public and private alleys between Kansas Street on the east and the Mississippi River on the west and between Virginia Avenue on the south and Lanham Place and Broadway or Railroad Avenue on the north,

be and the same is hereby ratified and confirmed; and that said streets, alleys and other public places hereinbefore described, be and they are hereby declared now and as of February 4, 1913, closed, vacated and abandoned, and the rights therein of said Arkansas & Memphis Railway Bridge and Terminal Company, its successors and assigns, are ratified and confirmed, subject to all the terms and conditions of said ordinance. (Priv. Acts 1929, ch. 503, § 1)

Sec. 454. Authorization of voters for alienation of certain strip of ground on Broadway—Required.

The City of Memphis and the mayor and council thereof shall have no authority to alienate in any manner, and are forbidden to alienate in any manner, by sale, lease, grant of right-of-way or otherwise, any or all right of the City of Memphis in or to that certain strip of ground located on the north side of Broadway or Railroad Avenue in the City of Memphis which is approximately twelve and one-half (12 1/2) feet wide from north to south and extends along the entire length of said Broadway or Railroad Avenue, except after the voters of the City of Memphis shall, in an election held as hereinafter provided, authorize the grant or alienation in whole or in part of all or any part of said land. (Priv. Acts 1927, ch. 597, § 1)

Sec. 455. Same—Required ordinance; election generally.

In order to alienate in whole or in part any of the land referred to in section 454 hereof, it shall be necessary for the mayor and the Council of the City of Memphis to first pass an ordinance setting forth the portion of said land sought to be alienated and all the terms and conditions of said alienation. And said ordinance shall, after its passage, be published for five days in some daily newspaper in the City of Memphis, and shall not become effective until an election of the people shall be held at which the majority of the votes passed [cast] shall be in favor of the ordinance alienating said property. If any general election of the City of Memphis is to be held within thirty (30) days, then the question of the approval or disapproval of said ordinance shall be submitted to the voters at said election, but if no said election is to be

held, then the mayor shall in writing request the board of county election commissioners to hold an election in the City of Memphis for the purpose of securing from the people their approval or disapproval of said ordinance, and election shall thereupon be held not less than forty (40) nor more than fifty-five (55) days from receipt of letter in the manner in which other city elections are held, and with the same supplemental registration prior thereto that is required in other city elections. If a general election is held within thirty (30) days from the passage of the ordinance, the mayor shall request the question to be placed upon the ballot and the board of county election commissioners shall thereupon place upon the ballot the question of the approval or disapproval of the ordinance. (Priv. Acts 1927, ch. 597, § 2)

Sec. 456. Same—Question to be placed upon ballots; effect of approval or disapproval of ordinance.

The question placed upon the ballot shall be, "Shall the ordinance alienating the City property along Broadway or Railroad Avenue be approved?" and proper places shall be provided, marked, "YES," and "NO," so that the voter may indicate by a cross mark how he votes. If the majority of those voting at the election shall approve the ordinance, it shall thereupon be signed and become effective, but if the majority shall not approve said ordinance, this fact of nonapproval shall be spread upon the minutes of the mayor and the council and the ordinance shall not be signed and shall not become effective for any purpose. (Priv. Acts 1927, ch. 597, § 3)

Sec. 457. Condemnation of private property—For public use generally.

The private property within the city may be taken for public use in the manner now provided by law for the application of private property for public use. (Acts 1879, ch. 11, § 20; Acts 1889, ch. 163)

Cross references—Condemnation for specific purposes: building lines under eminent domain for street widening, § 126 et seq.; under front-foot assessment law, § 525; park purposes, §§ 577, 578; levies, pumping stations, dams, etc., § 585; drainage improvements under frontage plan, § 625; harbor and port purposes, §§ 648, 654.6; airport purposes, § 660; by light, gas and water division, § 684; street transportation purposes, § 714; vehicle parking system, § 751.4; historical sites, memorials, etc., § 867.5; public works, §§ 869, 888; housing authority's power of eminent domain, § 908; school purposes, § 968.

Sec. 458. Same—For public buildings.

Private property to be used in the erection of public buildings for the municipality, or otherwise, may be condemned. (Acts 1879, ch. 11, § 20; Acts 1889, ch. 163)

Sec. 459. Same—For Memphis General Hospital.

For the purpose of acquiring additional real estate for the Memphis General Hospital, the right of eminent domain and condemnation is hereby expressly conferred upon said city, to be exercised in the manner prescribed by law, particularly set forth in sections 1325 to 1348, both inclusive, of the Code of Tennessee of 1858.* (Priv. Acts 1923, ch. 421, § 9)

***Editor's note—**See now T.C.A. § 23-1401 et seq.

Secs. 460—466. Reserved.

Editor's note—Former § 460, relating to condemnation for school purposes, was derived from the general law (T.C.A. § 49-805) and has been omitted from this compilation.

Section 461 was a duplicate of § 585 and has been omitted.

Section 462 was merely a cross reference to § 577. Sections 463, 464 and 465, relating to condemnation, were taken from the general law (T.C.A. §§ 23-1504, 23-1505 and 6-1007 respectively) and have been omitted from this compilation.

Section 466 was derived from Priv. Acts 1923, ch. 409, and granted specific authority to condemn property of the Southern Railway Company for the purpose of extending Jefferson Avenue. Since this section has served its purpose, it has been omitted.

Sec. 467. Same—For waterworks.

Said city, after the plant, etc., of any waterworks company furnishing water to such city shall have been taken, shall have power, by eminent domain, to take private property for such. purpose, whether the land lies within or without the city limits. (Acts 1899, ch. 68)

Sec. 468. Condemnation of public utilities—Authority of city to take possession, etc.

The Council of the City of Memphis shall have specific authority and power to take possession of, use and control all or any part of the plants, rights-of-way, equipment, franchises, appurtenances, wires, poles, and properties of every character whatsoever of any public utility, as defined in section 5448 of chapter 23 of the Code of 1932,* operating within the corporate limits of the City of Memphis or territory adjacent thereto. (Priv. Acts 1935, ch. 496, § 2)

Sec. 469. Same—City vested with powers of eminent domain, etc.

For the purposes mentioned in the foregoing section, the Council of the City of Memphis is vested with the power of eminent domain; and is authorized and empowered to condemn, take possession of, use and control all or any part of the plants, rights-of-way, equipment, franchises, appurtenances, wires, poles, and properties of any character whatsoever of any public utility, as defined in section 5448 of chapter 23 of the Code of 1932,* operating within the corporate limits of the City of Memphis or territory adjacent thereto, from said utilities, their lessees, or any person, firm or corporation that may be in possession of, using or controlling all or any part of the properties of said utilities, or other corporations, in the manner, mode, or upon the terms provided in sections 3398 to 3401, inclusive, of the Code of Tennessee for 1932.** (Priv. Acts 1935, ch. 496, § 3)

***Editor's note—**See now T.C.A. § 65-401.

****Editor's note—**See now T.C.A. § 6-1007 et seq.

Sec. 470. Same—Railroad and public utility commission deprived of jurisdiction.

The railroad and public utility commission is deprived of all jurisdiction in all proceedings where eminent domain and condemnation is resorted to under this Act; and it shall not be necessary to secure by order or otherwise the approval of the railroad and public utility commission of any proceedings authorized hereunder; and said commission shall have no power or authority in any wise to interfere by injunction or otherwise with any proceedings passed pursuant to this Act. (Priv. Acts 1935, ch. 496, § 4)

Sec. 471. Erection of public buildings generally.

The governing authority shall have power to erect all necessary public buildings. (Acts 1879, ch. 11, § 3)

Secs. 472—480. Reserved.

Editor's note—Section 472 was derived from Acts 1883, ch. 236, and authorized a specific appropriation for the building of a station and workhouse. Since the section has served its purpose, it has been omitted from this compilation.

Sections 473—480, relating to the auditorium and market, have been redesignated as article 51, §§ 494.1—494.6.

Sec. 480.1. Landings and wharves.

The governing authority shall have power to make, preserve and improve steamboat and flatboat landings and all wharves within the city; to regulate the anchorage and mooring of boats and other water craft at landings in the city; and to prohibit or regulate wharfboats. (Acts 1879, ch. 11, § 3)

Editor's note—This section appeared in the 1949 compilation as § 389. It has been redesignated as § 480.1 at the discretion of the editor.

Cross references—City-county port commission, § 627 et seq.; river front harbor commission, § 654.1 et seq.

Sec. 481. Authority as to streets, sidewalks and other public grounds generally.

The governing authority shall have power to repair, and
keep in repair, streets, sidewalks and other public grounds and places within the city; to open and widen streets, to change the location [of] or to close the same, and to lay off new streets and alleys when necessary; and to have and exercise entire control over all streets and other public property of the city, as well [as] that within and without the city. (Acts 1879, ch. 11, § 3)

Code reference—Streets and sidewalks, T. 5.

Annotation—This section confers power on the city to demand and receive compensation for the use of its streets by a telegraph company for the erection of its poles and wires. Memphis v. Postal Telegraph Cable Co., 139 F. 707 (1906).

Sec. 481.1. Lighting public places.

The governing authority shall have power to make provisions for lighting streets, alleys and other public places in front of churches, jails and other public buildings in the city. (Acts 1879, ch. 11, § 3)

Editor's note—This section appeared in the 1949 compilation as § 390. It has been redesignated as § 481.1 at the discretion of the editor.

Cross reference—Street lighting on petition of property owners, § 391 et seq.

Sec. 482. Digging up streets.

Said governing authority is also empowered to forbid the opening and digging up of the streets by gas or water companies, to the public detriment. (Acts 1879, ch. 11, § 3)

Code reference—Street cuts, Ch. 12-8.

Secs. 483—489. Reserved.

Editor's note—Former §§ 483—489 have been omitted from this compilation. Section 483 was a duplicate of the last paragraph of § 452 and §§ 484—489 were taken from the general law (T.C.A. §§ 6.1013 and 54-531—54-535).

Sec. 490. Authority to erect and maintain buildings for use by Memphis Cotton Carnival Association and other civic or public organizations.

The City of Memphis is hereby authorized and empowered, in addition to all other authority and powers delegated to it, in conjunction with and in cooperation with Shelby County, Tennessee, to acquire the site for, construct, erect, equip and maintain a building or buildings to be used for public purposes, including, but not being limited to, use by the Memphis Cotton Carnival Association, a general welfare corporation, and other civic or public organizations for like purposes; and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the acquisition of the site for, construction, erection, equipping and maintenance of said building as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 3)

Sec. 491. Authority to acquire lands, erect buildings and beautify and improve grounds of Mid-South Fairgrounds and Amusement Park.

The City of Memphis is hereby authorized and fully empowered, in addition to all other authority and powers delegated to it, in conjunction with and in cooperation with the County of Shelby, to acquire lands for, improve present existing buildings on, erect new buildings, and generally beautify and improve he grounds of the Mid-South Fairgrounds and Amusement Park, in Memphis, Shelby County, Tennessee, and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the accomplishment of such purposes as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 4)

Sec. 492. Authority to erect new City Hall.

The Council of the City of Memphis is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to acquire the site for, erect, equip and construct a new City Hall within the corporate limits of the City of Memphis, which said City Hall will be erected in conjunction with the Memphis Light, Gas & Water Division of the City of Memphis, or not, as the Council of the City of Memphis may elect; and the said council shall have the power to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the aforesaid purpose or purposes as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 7)

Sec. 493. Authority to erect and equip building for use of Memphis Light, Gas and Water Division.

The Council of the City of Memphis is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to act by and through the Memphis Light, Gas and Water Division in acquiring the site for, erecting and equipping a building for the use and occupancy of the Memphis Light, Gas and Water Division, which said building will be erected in conjunction with a new City Hall building, or not, as the Council of the City of Memphis may elect; and to appropriate and contribute and authorize the Memphis Light, Gas and Water Division to appropriate and contribute such amount or amounts from the funds of the City of Memphis and/or the Memphis Light,

Gas and Water Division for such purpose or purposes as the Council of the City of Memphis shall deem proper and to the best interest of the City of Memphis; and the said council shall have the authority and power to authorize the said Memphis Light, Gas and Water Division to pledge its revenues of or any part thereof to the payment of the principal and interest of any bonds which may hereafter be issued by the City of Memphis and/or the Memphis Light, Gas and Water Division for the accomplishment of the aforesaid purpose or purposes; and the said council shall have the power to levy taxes for the accomplishment of the aforesaid purpose or purposes. (Priv. Acts 1947, ch. 519, § 8)

Cross reference—Light, gas and water division generally, §§ 666—699.

Sec. 494. Authority to enlarge, improve, etc., Cossitt Library.

The Council of the City of Memphis is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, to provide funds for the purpose of financing the acquisition of lands, in conjunction with and in cooperation with Shelby County, Tennessee, and erecting, constructing and equipping new branches of the Cossitt Library and for the financing and construction of new buildings and additions to present buildings and for the enlarging, improving and equipping the said Cossitt Library and its present branches; to appropriate or contribute such amount or amounts from the funds of the City of Memphis for such purposes as the Council of the said City of Memphis shall deem proper and to the best interest of the said City of Memphis; and to sell bonds therefor in accordance with specific authority heretofore and hereafter granted; and the proceeds from the sale of said bonds shall be applied exclusively to the aforesaid purposes and in the event of the sale of any bonds authorized for said purposes, the proceeds shall be paid over to the treasurer of the said Cossitt Library, or to such officers authorized to receive the same, and shall be, by the said treasurer of the said Cossitt Library, or by such officers authorized to receive the same, used for the purpose hereinabove set forth; and the City of Memphis shall have the further power to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 9)

Cross reference—Taxes for library purposes, § 773.

ARTICLE 51. AUDITORIUM AND MARKET*

***Editor's note—**Priv. Acts 1917, ch. 421, from which this article is derived, appeared as §§ 473—480 in the 1949 compilation. The sections were redesignated herein by the editor.

Sections 2—12 and the first paragraph of § 17 of Priv. Acts 1917, ch. 421, related to a special commission appointed to acquire the property for and supervise the construction of the auditorium and market building and to the issuance of bonds to finance the project. Since these sections have served their purpose, they have been omitted from this compilation.

Cross references—Auditorium and market under jurisdiction of commissioner of finances and institutions, § 161; authority of city to establish and regulate markets and market houses, § 417.

Sec. 494.1. Authority to own and operate.

Chapter 11 of the Acts of the General Assembly of 1879, entitled "A Bill to establish taxing districts in this State to provide for the means of local government for the same," and all Acts amendatory thereof, constituting the present Charter of the City of Memphis, be and the same are hereby amended so as to authorize said City of Memphis, in connection and by cooperation with the County of Shelby, to construct, own, maintain and operate an auditorium and public market house and to enter into any contracts and agreements with the County of Shelby in regard to said matters, consistent with the provisions of this Act. (Priv. Acts 1917, ch. 421, § 1)

Sec. 494.2. Auditorium and market commission generally.

As soon as said auditorium and market building shall have been completed the said auditorium and market building commission* shall turn said building over to the City of Memphis and Shelby County, and the mayor of said city and the chairman of the county court of said county are hereby authorized and directed thereupon to appoint a commission to be known as the auditorium and market commission, consisting of five persons, whose terms of office shall be one, two, three, four and five years, and who shall operate, manage, control, regulate and care for the said auditorium and market, but without compensation. The mayor of the City of Memphis shall appoint three of such commissioners, whose terms shall be one, three and five years, respectively. The chairman of said county court shall appoint the other two members whose terms shall be two and four years respectively. Upon the expiration of the term of any of said

commissioners so appointed by the mayor of said city, the then mayor of said city shall appoint a successor to the commissioner whose term of office thus expires; and upon the expiration of the term of any of said commissioners so appointed by the chairman of the county court, the then chairman of said court shall appoint a successor to the commissioner whose term has thus expired. The term of all commissioners appointed subsequently to the original members of said commission shall be two years, and successors shall be appointed from time to time as vacancies may occur as herein provided by the mayor of said city or chairman of the county court of said county, according as the last incumbent of the last office so vacated was appointed by said mayor or said chairman. The members of said commission shall give bond in the sum of five thousand dollars to the State of Tennessee, for the use and benefit of the City of Memphis and County of Shelby, conditioned upon the faithful performance of their duties as such commissioners. Said bonds shall be in solvent surety companies, qualified to do business in the State of Tennessee. The expenses of said bonds shall be paid from the revenues from said auditorium and market, as a part of the operating expenses thereof. The commissioner of finances and institutions of the City of Memphis and the chairman of the county court of Shelby County and the chairman of board of commissioners of Shelby County shall likewise at all times be ex officio members of said commission with the right to vote, but shall give no bond. (Priv. Acts 1917, ch. 421, § 13; Priv. Acts 1929, ch. 492, § 1; Priv. Acts 1937, ch. 122, § 9)

In addition to all the powers and authority heretofore given to the Auditorium and Market Commission, the City of Memphis by ordinance, is authorized to change the name of said Commission and to increase the members from five (5) to not more than nine (9), whose appointments, qualifications, duties, powers and responsibilities may be fixed by ordinance and under whose jurisdiction the City of Memphis may place the general charge, supervision, management and control not only of the present facilities assigned to the Auditorium and Market Commission but the Memphis Memorial Stadium, the Coliseum and such other property used for similar activities, owned by the City of Memphis or by the City of Memphis and County of Shelby jointly, or under contract that property owned by the County of Shelby. The assignment of such public property to be made by ordinance to said Commission being property either presently existing or hereinafter constructed as may from time to time be approved by the City Council upon request of the Mayor by ordinance and the Quarterly County Court by resolution. In the assignment of other public buildings to the Auditorium and Market Commission, the present distribution of receipts and expenditures between the governing bodies shall continue unless changed by the mutual agreement of the City of Memphis and the County of Shelby. The parties may hereinafter agree by joint ordinance and resolution on the distribution of all expenditures and revenues between the parties. (Ord. No. 1436, 9-5-72)

***Editor's note—**This refers to the special commission appointed to acquire the property for and supervise the construction of the auditorium and market building.

Sec. 494.3. Use charges and rentals; disposition of revenue; deficits; failure of city to pay its share of expenses.

The said commission in connection with their authority to operate and maintain said building, shall have power, among other things, to fix and regulate all charges for the use, occupancy, lease and rental of any and all parts of said building, and to collect such revenues; and to fix and collect a charge for admission to said auditorium, as said commission may see fit. The net revenue from said auditorium and market building, including all receipts therefrom after deducting the cost of operating, repairs, insurance and general maintenance, shall be divided equally and paid over to the City of Memphis and the County of Shelby, and the portion thereof received by the City of Memphis shall be applied first to the payment of the interest and establishment of a sinking fund, if required, for said bonds, and any surplus remaining shall belong to the general fund of said city. In case of a deficit resulting from the operation, maintenance, repairs and insurance of said auditorium and market building, one-half of said deficit shall be paid by the City of Memphis from its general funds to be paid as necessary to said auditorium and market commission. Should the City of Memphis at any time fail to pay its part of the amount required for the operation and maintenance of said auditorium and market, as above provided, and part or all of such obligations of said city be paid by the County of Shelby, then said county shall have a lien upon the interest of the city in said building to secure the repayment of amounts so expended; but this shall not deprive the county of the right to recover said amounts from the city by any form of proceeding permitted by law, or of the right to compel the city by mandamus to discharge its obligations with reference to the maintenance and operation. of said auditorium and market. (Priv. Acts 1917, ch. 421, § 14)

Sec. 494.4. Financial statement and report of commission; use of premises by city and county.

The said auditorium and market commission shall file a semiannual financial statement and report with the Council of the City of Memphis, and the county court of Shelby County, showing their operations and financial condition. Any part of said auditorium and market building may be used by the City of Memphis or the County of Shelby for offices of said city or county, by agreement of said city and county, and said auditorium and market commission. (Priv. Acts 1917, ch. 421, § 15)

Sec. 494.5. Withdrawal of property by city; title to premises.

The City of Memphis shall have no power or authority to withdraw its property or its cooperation from the maintenance and operation of said auditorium and market, except by the consent and agreement of the County of Shelby, but during the operation and maintenance thereof the title to the said building and other improvements shall be in said city and said county equally, share and share alike; the same to be true of any real estate acquired by said city and county or said auditorium and market building commission as a part of the site of said building. The right of eminent domain and condemnation conferred herein upon said city and said commission shall extend to the condemnation of any lease-holds upon property within the location of said auditorium and market owned by said city or the County of Shelby. Should the use of said auditorium and market house be permanently discontinued or abandoned by mutual consent, then the said city and county shall continue as joint owners, as tenants in common, of such improvements and real estate so acquired; but the real estate now belonging to said city and county and to be used for the purpose of said auditorium and market shall, in case of such discontinuance and abandonment, remain the property of its present respective owners. (Priv. Acts 1917, ch. 421, § 16)

Sec. 494.6. Authority to levy tax to pay operating expenses.

Said city shall be authorized to levy and collect, if necessary, an annual tax in addition to all other taxes authorized by law, for the purpose of paying its part of the expenses of operating said auditorium and market as hereinbefore mentioned. (Priv. Acts 1917, ch. 421, § 17)

Cross reference—Taxation generally, § 752 et seq.

ARTICLE 52. ABANDONED, STOLEN AND RECOVERED PROPERTY*

***Code references—**Disposition of property lost or abandoned at airport, § 12-76-17.

Sec. 495. May be sold at public auction; authority of city to divest and vest title.

Hereafter all abandoned, stolen, and/or recovered property of every kind and character, including motor vehicles, which shall remain unclaimed with the police department of the City of Memphis, for the period of thirty days, the owners of which, whether known or not, shall fail or refuse within said period of thirty days to claim or reclaim such property, may be sold and disposed of at public auction as herein provided. By virtue of this Act the City of Memphis shall have authority to divest and vest title to property sold under the hereinafter stated provisions. (Priv. Acts 1939, ch. 599, § 2; Priv. Acts 1941, ch. 44, § 1 (16); Priv. Acts 1955, ch. 11, § 1)

Sec. 496. Delivery of property to purchasing agent.

The commissioner of fire and police shall give to the purchasing agent of the City of Memphis a list of all property subject to sale hereunder and shall thereafter deliver said property, except motor vehicles, to the purchasing agent before the date of sale, and take a receipt from the purchasing agent showing in detail all property so delivered. Motor vehicles shall be kept by the commissioner of fire and police until a sale has been made. (Priv. Acts 1939, ch. 599, § 3)

Sec. 497. Notice of and general provisions relative to sale.

Thirty days' notice of the time and place of sale, and a descriptive list of the property and/or motor vehicles to be offered for sale, shall be posted at the courthouse door of Shelby County, Tennessee, and at the regular entrance to the City Hall, Memphis, Tennessee, and a copy thereof sent by registered mail to the last known address of the owner (in the event the name of the owner is known to the purchasing agent), and thereafter said property shall be offered at public auction to the highest bidder for each piece of property, or assembled in lots, whichever, in the discretion of the

purchasing agent of the City of Memphis, shall tend to bring the best price for said property, except motor vehicles shall be sold separately. (Priv. Acts 1939, ch. 599, § 4)

Sec. 498. Auctions to be conducted at place and hour designated; sales to be for cash.

Said public auction shall be conducted at the place and hour designated in the notice and all sales shall be for cash. (Priv. Acts 1939, ch. 599, § 5)

Sec. 499. Purchasing agent to conduct sale; records to be kept; report to comptroller.

The purchasing agent shall conduct said public auction, and he shall keep an accurate statement of each article and/or motor vehicle sold and the price bid and paid therefor, and shall make a complete report in writing to the city comptroller of the City of Memphis of the time and place where said sale was conducted and all funds received on account of said auction sale, which shall be delivered to the comptroller of the City of Memphis who shall give his receipt therefor. (Priv. Acts 1939, ch. 599, § 6)

Sec. 500. Proceeds of sale to be credited to general fund.

The comptroller of the City of Memphis is hereby required to place all funds received by him under and by virtue of this Act to the credit of the general fund of the City of Memphis to be thereafter appropriated as the council, or other legislative council of the City of Memphis shall order. (Priv. Acts 1939, ch. 599, § 7)

Sec. 501. Disposition of worthless property.

Any property as herein provided, which, after having been listed, advertised and offered for sale, shall bring no price, then and in that event the purchasing agent shall deem such property as worthless and shall dispose of said property in such manner as he and the commissioner of fire and police may deem right and proper, and he shall report to the comptroller of the City of Memphis the date and manner of the disposal of such worthless property. (Priv. Acts 1939, ch. 599, § 8)

Sec. 502. Rules and regulations of council.

The Council of the City of Memphis shall have authority to provide by ordinance such further rules and regulations with reference to the disposition of abandoned, stolen, and/or recovered property of every kind and character, including motor vehicles. (Priv. Acts 1939, ch. 599, § 9)

Sec. 502.1. Disposition of property by director of fire and police.

The director of fire and police of the City of Memphis shall have authority, in his discretion, to authorize and direct that abandoned, stolen and recovered bicycles, food, clothing, household goods and similar property, which shall remain unclaimed with the Memphis Police Department, as provided for in section 495 of the Charter of the City of Memphis, be turned over to any charitable or other worthy organization, cause, project or program for use in activities of such organization, cause, project or program; said property may be so disposed of by order of the director of fire and police without the necessity of holding public auction or otherwise complying with the provisions of Article 52, Code of the City of Memphis. Provided, however, when such property is so disposed of in the discretion of the director of fire and police, he shall thereafter report to the comptroller of the City of Memphis in writing the date of disposition and description of said property, and the identity of the organization, cause, project or program which received the property. (Ord. No. 271, § 1, 9-3-68 ratified Nov. 5, 1968)

Editor's note—Section 502.1 is derived from Ord. No. 271, § 1, enacted Sept. 3, 1968, ratified by the voters of the city Nov. 5, 1968. This ordinance directed that the provisions of § 1 of said ordinance be added after Article 52, Section 502, therefore the editors designated said provisions as § 502.1.

ARTICLE 53. STREET IMPROVEMENTS UNDER FRONT FOOT ASSESSMENT LAW*

***Cross references—**Building lines under eminent domain for street widening, § 126 et seq.; Public Works Act, § 868 et seq.

Code references—Street improvements generally, Ch. 12-4; street concrete work, Ch. 12-12.

Annotations—Under the Front Foot Assessment Law, the city, in levying special assessments, is authorized to proceed solely against property abutting the street or part of the street to be improved and assessments are to be made by the front foot rule. Property remote from the actual

improvement and property not abutting upon the improvement is not subject to assessment, nor can assessments be made on the basis of benefit to the property. City of Memphis v. Hill, 141 Tenn. 250, 208 S.W. 614 (1919).

The city may repave streets, when necessary, and assess the costs thereof against the owners of adjoining property under the Front Foot Assessment Law. Edington v. City of Memphis, 152 Tenn. 152, 274 S. W. 549 (1925).

Sec. 503. General definitions.

The following shall be [the] definition and meaning of the terms used in this Act:

(1) *The "current year"* shall mean the calendar year in which the lien shall attach by law to the property.

(2) *The "assessed value"* shall mean the value of the property abutting the street, alley or highway improved, and all improvements thereon as fixed by the duly constituted authorities as the value of same for the purposes of city taxation for the "current year".

(3) *The phrases "the cost of making any such improvement" and "the expense of constructing said improvements"* shall be held to mean every item of expense whatsoever incurred by the city or paid out as a result of said improvement and shall, in addition to all other items of cost or expense, be expressly held to include:

(a) The cost of any property purchased, condemned or otherwise acquired for the purpose of opening, extending or widening any street, alley or highway, and all court costs and every other charge incidental to such condemnation, purchase or acquisition.

(b) The cost of removing, altering or relaying any property or tracks of any person or corporation which the city is by existing contract or law required to remove, alter or relay.

(c) The amount of damage paid as a result of injury to abutting property by change of grade or drainage, including all court costs and incidental expenses arising as a result of injury to abutting property by a change of grade or drainage, including all court costs and incidental expenses arising as a result of any proceedings had to ascertain and fix said damages.

(d) The cost of any retaining walls, sidewalks or fences built or altered, in lieu of cash payment for the damage to property or the acquisition thereof.

(e) The cost to the city of all printing, advertising, clerical help, collection of funds, loss of interest on money advanced, engineering supervision, legal advice, stenographers, abstracts, plats, accounting and in general the expense of supervising, directing and controlling the work or improvement which said amounts need not be itemized and charged to the improvement, but shall be ascertained by adding to the total of the sums which have been otherwise expended 10 per cent of all said sums otherwise expended, save the cost of acquiring any property necessary to the improvements, and said 10 per cent shall be held to be the amount of said unitemized sums expended on the improvement.

(f) The cost of any bridge, culvert or other structure upon which a street is carried over any bayou, creek or drain.

(g) The cost of improving the entire street, alley or highway, including that portion of the intersecting streets or alleys lying between the boundaries or sidelines of the street or alley or highway improved, when said intersections are improved in like manner with the rest of the street, alley or highway, so as to make a continuous thoroughfare of one kind or character.

(h) The cost of moving or altering any store or other structure where such removal or alteration is made necessary by the change of the street, alley or highway improved.

(i) It shall also be lawful for any municipality to include in the cost of making any such improvement, any sum or sums it may have paid out of any general or special fund for the cost of establishing a building line, or lines on the street to be improved, under any ordinance establishing a building line; provided, however, that this shall not apply where a building line or lines were established and the cost thereof assessed against the abutting property.

(4) *The term "lots or parcels of land"* shall be held to mean all the real estate by whomsoever owned or occupied, which abuts the street, alley or highway improved, and shall include the right of way of any steam railroad, interurban railroad, electric railroad, tram road, toll road or neutral strip of any street railroad, whether the same crosses the highway, street or alley, or lies in or contiguous and adjacent thereto, and also any street or alley which may be temporarily closed and under lease. The area included shall be all the land under the same ownership which abuts upon the street and is assessed for city taxation as one tract, irrespective of the depth thereof, or any plan of subdivision adopted; provided, that upon application of the owner of a tract more than 250 feet deep before the assessment is

confirmed, the lot or parcel of land shall be described and considered as running back from the street within parallel lines to a distance of 250 feet. (Priv. Acts 1913, ch. 244, § 2; Priv. Acts 1923, ch. 423)

Sec. 504. Definition of "special and peculiar benefit."

The words "special and peculiar benefit" shall be held to mean a benefit different, from those received by the public at large from said improvements. (Priv. Acts 1919, ch. 765, § 2)

Sec. 505. General authority of city.

In all municipalities of this state having a population of not less than one hundred thousand (100,000) inhabitants, according to the Federal Census of 1900 or any subsequent Federal Census, it shall be lawful for the legislative bodies of said municipalities, of their own motion and without petition of property owners, to provide by ordinance for the improvement of any street, highway or alley, or part of or parts thereof, in such municipality by opening, extending, widening, grading, paving, macadamizing, curbing, guttering, or otherwise improving in such manner and with such materials and with such culverts as such legislative bodies may determine; and to provide for making special levies or assessments upon the land abutting on such street, highway or alley, or part or parts thereof to be improved in the manner hereinafter set forth to pay one-half of the cost of such improvement, the other one-half to be borne by the [city]. (Acts 1907, ch. 341, § 1; Acts 1909, ch. 109; Priv. Acts 1925, ch. 512; Priv. Acts 1949, ch. 495, § 1)

Sec. 505.1. Apportionment of costs charged; maximum assessment.

Chapter 341 of the Acts of the General Assembly of 1907, the caption of which is set out in the caption hereof, and all Acts amendatory thereof constituting the Front Foot Assessment Law of all municipalities falling within the population classification therein set forth, be and the same is hereby amended so as to provide that one-half (1/2) of the cost of improvements made pursuant to the provisions of such Acts shall be assessed against the land abutting on or affected by such improvements, the remaining one-half (1/2) of such costs to be borne by the city; said Acts shall be and are hereby further amended so as to provide that any assessment upon any lot shall not exceed two-thirds of the assessed value thereof for city taxes for the year in which the lien against the lot attaches; provided, that if for any cause no assessment for such year has been fixed on any lot, the value for the purposes of determining the maximum assessment shall be determined by the officer or agency now or hereafter charged by law with the duty of assessing escaped property. It being the purpose of this Act to change the basis of apportionment between the property owner and the municipality from three-fourths (3/4) and one-fourth (1/4), as now apportioned, to a division of the costs, that is, one-half (1/2) to the property owner and one-half (1/2) to the municipality. This division shall likewise be applicable to those sections of chapter 341 of the Acts of 1907 and all Acts amendatory thereof providing for the issuance of certificates of indebtedness, or negotiable bonds, or such other sections wherein reference is made to apportionment. (Priv. Acts 1949, ch. 495, § 1)

Editor's note—Changes have been made throughout this article to reflect the provisions of this section. Section 2 of act from which this section is derived exempted from the act cities having a population of less than 250,000.

Sec. 506. Adoption and contents of ordinance.

Before any work shall be done on any public improvement authorized by the preceding section, one-half of the cost of which is to be assessed against the property abutting on the street, highway or alley, or part or parts thereof to be improved, it shall be the duty of the legislative body of the municipality to adopt an ordinance that such improvement or improvements shall be made, which ordinance shall state the general character of the improvement or improvements, and name the location and terminal points thereof, and [the] streets, alleys or highways, or part or parts thereof on which such improvement or improvements are to be made. (Acts 1907, ch. 341, § 4; Acts 1909, ch. 109, § 3; Priv. Acts 1925, ch. 512; Priv. Acts 1929, ch. 407, § 1; Priv. Acts 1949, ch. 495, § 1)

Cross reference—Ordinances generally, § 353 et seq.

Sec. 507. Publication of notice of adoption of ordinance; hearing of protests; confirmation, modification or rescinding of ordinance.

Notice of the adoption of such ordinance shall be given by publishing such notice once in some daily newspaper of general circulation in such municipality. It shall not be necessary to set out in full [in] such notice said ordinance, and it

shall not be necessary to publish said ordinance; but such notice shall state the approximate cost of such improvement or improvements, and also the time and place, not earlier than ten (10) days from the date of publication of such notice, at which the legislative body of such municipality shall meet to hear the remonstrances or protests against the making of such improvement or improvements. At the time and place thus appointed, the legislative body shall meet; and if the legislative body consists of two branches, it shall meet in joint session, and at said meetings, or at a time and place to which the same may be from time to time adjourned, all persons whose property will be affected by such improvement, or improvements, may appear in person or by attorney or by petition, and pro-. test against the making of such improvement, or improvements; and after hearing such protests, if any, the said legislative body may confirm, modify, or rescind such ordinance, in whole or in part. (Acts 1907, ch. 341, § 4; Acts 1909, ch. 109, § 3; Priv. Acts 1925, ch. 512; Priv. Acts 1929, ch. 407, § 1)

Sec. 508. Assessments generally.

If any such improvement is finally ordered, the legislative body of the municipality shall have the power and authority, after completion and acceptance thereof by the legislative body, to assess one-half of the cost of making any such improvement upon and against the several lots or parcels of land abutting the street, highway or alley, or part or parts thereof, improved according to their respective frontages; provided, however, that any assessment upon any lot shall not exceed two-thirds of the assessed value thereof for city taxes for the year in which the lien against the lot attaches; provided, that if for any cause no assessment for such year has been fixed on any lot, the value for the purposes of determining the maximum assessment shall be determined by the officer or agency now or hereafter charged by law with the duty of assessing escaped property; and all such assessments shall be and constitute a lien on the respective lots or parcels of land upon which they are levied superior to all other liens, except those of the state and county for taxes. (Acts 1907, ch. 341, § 5; Acts 1909, ch. 109, § 4; Priv. Acts 1925, ch. 512; Priv. Acts 1949, ch. 495, § 1)

Sec. 509. Assessment book; notice of assessments.

When the amount to be assessed against each lot or parcel of land for any improvement shall have been ascertained, the city engineer shall cause the same to be entered in a well-bound book prepared for the purpose, which shall show the names of the owners of the property assessed, if known, and opposite each name the description of each lot or parcel of land assessed belonging to such owner and the amount assessed against each, and shall contain appropriate columns in which payment may be credited and the lien of the assessment marked satisfied by the proper officers of the municipality; and if the name of the owner of property proposed to be assessed be unknown, said book shall contain under the head of “Owner Unknown,” a list of the property to be assessed, the owners of which are unknown. After the completion of the proper entries of each improvement, said book shall be delivered to the comptroller, who shall thereupon give notice by publication in some daily newspaper of general circulation in said municipality that said book of assessment for public improvements has been delivered to him and is open for inspection at his office; and at a time and place named therein, not less than ten days from the date of publication, the legislative body of such municipality will meet to hear and determine any objection or defense that may be filed in his office by any owner of property proposed to be assessed against the said assessment. Said notice shall also state the general character of the improvement, the terminal points thereof, and the streets, alleys or other highways or portions thereof along which it is to be constructed. (Acts 1907, ch. 341, § 6; Priv. Acts 1937, ch. 123, § 18)

Sec. 510. Objections to assessments.

All persons whose property it is proposed to assess for the cost of said improvement may at any time on or before the date named in said notice and before said meeting file in writing with the comptroller of the municipality or in his office any objection or defense to the proposed assessment against his property or to the amount thereof; and at a meeting on the date named, or any date to which said meeting may be adjourned, said legislative body of said municipality shall hear and determine said objection or defense, and after so doing shall confirm, modify or set aside the assessment. If no objection or defense to the assessment or to the amount thereof is filed, or if the property owner fails to appear in person or by attorney and insist upon the same, the assessment shall be confirmed and made final. (Acts 1907, ch. 341, § 6; Priv. Acts 1937, ch. 123, § 18)

Sec. 511. When assessments due and payable; payment of assessments in installments.

All assessments levied by virtue of this Act shall be due and payable within thirty days after the assessment is made final as aforesaid, but at the election of the property owner, to be expressed by notice as hereinafter provided, said assessment may be paid in five annual installments, and shall bear interest at the rate of six per cent per annum, interest payable annually. A property owner desiring to exercise the privilege of payment by installments shall, before the expiration of the thirty days aforesaid, enter into an agreement in writing with the municipality that in consideration of such privilege he will make no objection to any illegality or irregularity with regard to the assessment against his property, and will pay the same as required by law with the specified interest. Such agreement shall be filed in the office of the comptroller of the municipality, and in all cases where such agreement has not been signed and filed within the time limited, the entire assessment shall be payable in cash without interest before the expiration of said thirty days; provided, that any property owner who shall have elected to pay his assessment in five annual installments shall have the right and privilege of paying up the assessment in full at any installment period by paying the full amount of the installments, together with all accrued interest thereon. Should such property owner elect to pay off his installments in full between the installment periods, all assessments or installments thereof shall be payable to the city tax receiver or treasurer, whose duty it shall be to receive the same and give proper credits therefor and enter the proper credit and satisfaction. (Acts 1907, ch. 341, § 7; Priv. Acts 1937, ch. 123, § 18)

Cross reference—Additional authority to permit installment payment of assessments, § 836.

Sec. 512. Default in payment of assessments; sale of property under lien; period within which property may be redeemed.

Upon default for the period of thirty days in the payment of any installment and interest, the entire unpaid assessment shall immediately become due and payable and the lien thereof foreclosed and collection enforced by the municipality.

The property thus sold may be redeemed at any time during a period of two years after said sale by paying costs, penalties and interest having accrued on account of said sale. (Acts 1907, ch. 341, § 8)

Sec. 513. Certificates of indebtedness.

After the construction of any improvement shall have been finally ordered and entire cost thereof estimated, the legislative body shall have the power and authority, for the purpose of providing means to pay the expense of said improvement, to order the issue of and issue and sell, at not less than par, certificates of indebtedness at an amount not to exceed three-fourths of the estimated cost of said improvement. Said certificates shall be negotiable, payable to bearers, and shall have attached thereto coupons for the interest thereon, and shall be payable in lawful money of the United States and be in such form as may be provided in the ordinance directing such issue.

The certificates shall run for one, two, three, four and five years, and bear interest at the rate of six per cent per annum, payable semiannually, at such place or places as may be named therein, and shall be in such denominations as said legislative body may direct. Any certificates of indebtedness issued hereunder shall be payable at the option of the municipality at any interest-paying period.

In the event such municipality should elect to pay off any such certificate in full at any interest period, it shall pay as a bonus to the holder thereof a sum equal to one-half of the annual interest thereon for one year; provided, however, that said legislative body shall give public notice before such interest period by publication three times, once a week for three consecutive weeks, in a daily paper published in such municipality, the first publication to be not less than thirty days prior to the interest period of said certificates proposed to be redeemed, stating its intention to redeem the same and describing the same by number and series. They shall state on their face the caption and number of the ordinances under which said improvement is constructed, and said ordinance shall state the general character of the improvement, to pay for which they shall be issued, and the terminal points thereof, and the streets, highways or alleys or parts thereof along which the improvement is to be constructed as hereinbefore provided. They shall be issued under the corporate seal of such municipality, and the certificate shall be signed by the comptroller of said municipality; and the coupon shall bear the facsimile signature of said comptroller; provided, however, that the validity of said certificates shall be in no wise affected by reason of any defect in the form thereof or any omission therefrom.

The proceeds arising from the sale of said certificates or so much thereof as may be necessary shall be applied exclusively to the payment of the cost of the improvement to pay for which said certificates were issued; but if there

should remain any surplus after paying such cost, the same shall be and become a part of the fund pledged for the payment of said certificates; provided, however, that the legislative body of such municipality may borrow money and advance the same for the construction of such work and improvement; and after the completion of such work and assessment of the cost hereof shall have been made final, the said legislative body may then issue and sell certificates, as hereinbefore provided in such amounts as may be necessary to pay two-thirds of the cost of said improvements, including such amounts as may be borrowed for that purpose, and all interest and other expenses so incurred for the construction of said improvements as hereinbefore provided shall be charged and assessed as a part of the cost of such improvements upon the property assessed for the same. But said legislative body may provide in the ordinance ordering the improvements to be constructed or in the agreement with the contractor by whom it is done for the issue of all or a part of such certificates directly to the contractor at not less than par value in part or in full payment of the contract price, in which case the certificates shall be delivered to the contractor upon completion and acceptance of the work and allowance of the final estimate. (Acts 1907, ch. 341, §9; Priv. Acts 1937, ch. 123, § 18)

Cross reference—Applicability of 1949 amendment to issuance of certificates of indebtedness, § 505.1.

Sec. 514. Issuance of bonds in lieu of certificates of indebtedness.

Instead of issuing certificates of indebtedness as provided in section 513 hereof, the legislative body of the city shall have the power, at their option, to issue negotiable bonds of the municipality to an amount in par value not to exceed two-thirds of the estimated cost of any improvement or improvements, which cost shall for this purpose be estimated by the legislative body in the ordinance authorizing the issue of said bonds. Such bonds shall be made payable to bearer in lawful money of the United States, either at the office of the treasurer of the municipality or at such other place in the United States as may be designated in the bond, and be in such form and signed by such officers as may be provided in the ordinance directing their issue.

Coupons may bear facsimile signature or signatures. In case any of such officers whose signatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of the bonds. The bonds shall run for one, two, three, four and five years, and bear interest at a rate not exceeding six per centum per annum, as may be designated in the bonds, payable semiannually, and such bonds shall be of such denomination as the legislative body may direct. The municipality may, in its discretion, in such ordinances provide that any bonds shall be payable at the option of the municipality at any interest-paying period; and in the event of bonds being thus made payable at the option of the municipality before maturity, and in the event that the municipality shall elect to pay any such bond in full at any interest period before its maturity, it shall pay as a bonus to the holder thereof a sum equal to one-half of the annual interest thereon for one year; provided, however, that the legislative body shall give public notice before any such interest period by publication three times once a week for three consecutive weeks in a daily newspaper published in such municipality, the first publication to be not less than thirty days prior to the interest period at which it is proposed to redeem the bonds, such notice stating the intention to redeem the bonds, and describing them by number and series. The municipality shall have no right or option to pay any bonds prior to maturity unless such right or option is expressly reserved in the bonds.

Said bonds shall be sold at public or private sale at not less than par and accrued interest. Such bonds shall be the absolute and general obligation of the municipality. The legislative body of the municipality shall provide by ordinance that the assessments levied upon the property abutting on the streets, alleys or highways, or part or parts thereof, in respect of which any such bonds are issued, shall be set apart as a fund for the payment of such bonds and interest. It shall be the duty of the legislative body of the municipality to levy an ad valorem tax upon all the taxable property in the municipality to pay the principal and interest of said bonds as it becomes due, or to pay such part or parts thereof as are not provided for by the assessments levied and actually collected and in the treasury of the municipality set apart for the payment of such bonds and interest. Such tax shall be in addition to all other taxes which such municipality is by law authorized to levy.

Any ordinance authorizing the issuance of any such bonds may be passed by both branches of the legislative body, if there be two branches, in joint session, upon two readings, one reading being on each of two separate days, the ordinance to be approved by the mayor or passed over the veto of the mayor by a vote of not less than two-thirds of the total number of members-elect of the joint session, and neither such ordinance nor the bill for the same need be published at any time before passage; and after passage the ordinance need be published only once in some daily

newspaper published in the municipality. Such ordinance may, in the discretion of the legislative body, provide for the issuance of bonds in one lot or amount in respect of any one or more of such improvements on one or more streets, alleys or highways, or part or parts thereof, and may, in the discretion of the legislative body, provide that any assessments levied in respect of any such improvement or improvements, on one or more streets, alleys or highways, or part or parts thereof, may be applied as a whole toward payment of such entire lot or amount of bonds or interest thereon; and it shall not be necessary that each assessment for each separate improvement shall be kept separate and applied to the bonds issued in respect of that particular improvement.

After the passage of any ordinance authorizing the issue of bonds, any proceedings authorizing the advertisement or sale or award of the bonds may be taken by order made at a joint session of the two branches of the legislative body, if there be two branches, and need not be by ordinance. No proceeding on the part of any such municipality in respect to the issuance of such bonds shall be necessary, except such proceedings as are required by this Act. Any such bonds may, in the discretion of the legislative body of the municipality, be issued in substantially the following form, or in such other form as the legislative body of the municipality may from time to time prescribe: (Here follows the form of bond and of coupon.)

If the municipality reserves the right or option to pay off said bonds before maturity, such right or option shall be expressly reserved in the bonds, and the language of such reservation inserted in such case in the bond may be substantially as follows, or in any other appropriate language: (Here follows form of option to retire before maturity.) (Acts 1907, ch. 341, § 9; Acts 1909, ch. 109, § 5)

Cross references—Applicability of 1949 amendment to bonds issued under this section, § 505.1; general provisions relative to ordinances authorizing bond issues, § 358.

Sec. 515. Proceeds from collection of assessments to constitute separate funds; funds pledged for payment of certificates and interest coupons.

The proceeds arising from the collection of assessments levied for each improvement shall be and constitute a separate and distinct fund, and each such fund, together with its accumulations, is hereby pledged for the payment of the certificates and interest coupons issued for the improvement, from the assessment of which said fund arises, and shall be applied exclusively to the payment of said certificates and coupons. (Acts 1907, ch. 341, § 10)

Sec. 516. Treasurer to keep separate accounts of funds arising from assessments; proceeds not to be diverted; disposition of surplus; payment of contractors and reimbursement of general funds of city of amounts borrowed.

It shall be the duty of the treasurer (or tax receiver) of such municipality to keep an accurate account of all funds arising from all assessments for public improvements under this Act, and to carefully and accurately keep a separate account of the funds arising from the collection of assessments for each particular improvement, and no proceeds arising from assessments levied for one improvement shall be diverted to the payment of the certificates issued for any other improvement or to the payment of any other indebtedness of such municipality; provided, however, that if at any time the account of any particular fund shall exceed the amount of any outstanding certificates and interest entitled to payment out of such fund after the payment of any sum that such municipality may have advanced or borrowed for the purpose of constructing said improvement, the legislative body of said municipality shall apply such surplus to the redemption of certificates issued for such improvements as hereinbefore provided, and all certificates so redeemed shall be cancelled; provided, further, that said legislative body shall have the power after the expiration of sixty days from the date of the final assessment for any improvement, if no certificates of indebtedness for said improvement have been issued and sold, to order the payment out of the proper fund to the contractor who constructed the improvement of all or any part of the assessment for said improvement previously collected, or to reimburse from said collection the general funds of the city to the extent of any money advanced out of the general fund or borrowed to pay the cost of said improvements, and to issue and sell certificates as hereinbefore provided, either to the contractor in full settlement or to others, to an amount not exceeding the balance due the contractor and the general fund of the city or borrowed for such purpose. (Acts 1907, ch. 341, § 10)

Sec. 517. Disposition of surplus above cost of improvement.

If there shall be any surplus arising from the sale of certificates issued for any improvements above the cost of said improvement, said surplus shall be and become a part of the fund levied for said improvement, and shall be kept and applied in the manner as said fund is herein required to be kept and applied. (Acts 1907, ch. 341, § 10)

Sec. 518. Proceeds to be kept in depository in separate account.

All proceeds arising from the collection of assessments levied for an improvement shall as soon as collected be deposited by the city treasurer or tax receiver in some bank designated by the legislative body of such city, and such collection shall not be deposited with the general funds of the city, but shall be considered a separate deposit to the account of "public improvement," and shall be drawn out on checks or order directing the amount designated therein to be paid out of the public improvement fund. (Acts 1907, ch. 341, § 10)

Sec. 519. Liability of treasurer, and commissioners for misappropriation of funds.

The city treasurer (or tax receiver) shall be liable on his official bond to any holder of the certificates of indebtedness authorized by this Act for any loss or injury to such certificate holder caused by the diversion by said officer of any fund or part thereof to the payment of any bond, certificate of indebtedness, or interest coupons or indebtedness of the city other than the certificates and interest coupons and indebtedness herein authorized to be paid out of said fund, or by the use or misappropriation by said officer of any part of the fund out of which said certificates are required and contemplated herein to be paid for any other purpose than herein provided for or for the benefit of the city or others; and all members of said legislative body who shall by their vote or in any other manner cause, aid, or encourage any such diversion, use or misappropriation of the fund out of which the certificate holders are entitled to be paid for any other purpose than that authorized and required herein whereby loss or injury to the certificate holders or any of them is caused, shall be jointly and severally liable to such certificate holders injured to the extent of such loss or injury. (Acts 1907, ch. 341, § 10)

Sec. 520. Redemption of certificates.

When the amount of the fund arising from the collection of assessments levied for any improvement shall, with its accumulations, equal the amount of the outstanding certificates and accrued interest entitled to payment out of such fund, the legislative body of such municipality shall have authority to redeem any and all certificates that may be presented for redemption at such time thereafter as the holders may desire to present them for redemption. (Acts 1907, ch. 341, § 11)

Sec. 521. Sale of delinquent property to satisfy assessments.

Such legislative body shall have authority to sell all property against which an assessment has been levied at any time after said assessment shall have become due to satisfy the same, together with all costs, and such sale shall be governed as to notice, terms, costs and in all other respects, except as to the time of sale, by the laws and ordinances of such municipality now in force or which may hereafter be enacted, providing for the sale of real estate for city taxes. But such legislative body shall have power to adopt other and different laws and ordinances governing and regulating such sales of real estate for said assessments, and in addition to such remedy by sale for the enforcement of the collection of said assessment, the lien of said assessment, irrespective of the amount thereof, may be foreclosed by a proceeding instituted in any court of competent jurisdiction, and in all such proceedings and number of persons, the assessments against whose property are in default, may be joined as defendants; provided, that after maturity of any of the certificates of indebtedness issued for any improvement the holders of the outstanding certificates or any of them may maintain a bill of equity in his or their name to foreclose the lien of said assessment, irrespective of the amount thereof, and may recover interest, costs and reasonable attorneys' fees; and in such bill any number of persons, the assessments against whom are in default, may be joined as defendants. In such suits the liens shall be foreclosed for the whole amount of the unpaid assessment against the property of said defendant, and the recovery shall inure to the benefit of all the certificate holders. (Acts 1907, ch. 341, § 12)

Sec. 522. Reassessment of property.

If any assessment levied on property for any improvement authorized by this Act be declared invalid by reason of some mistake or irregularities in the proceeding, the legislative body of said municipality shall have power at any time before the expiration of three years from maturity of the certificates issued for the improvement for which assessment was levied to reassess said property; and may, when necessary, reassess all property abutting upon the street, highway or alley improved, the assessment for which has not been paid. (Acts 1907, ch. 341, § 13)

Sec. 523. Assessments against railroads.

Should there be a street, electric or steam railroad track or tracks on any street, alley or highway improved under this Act, the cost of such improvement between the rails and the spaces between such tracks and two feet beyond the outer rails, including switches and turnouts, shall be paid by the owners of such railroads, and shall be assessed and collected from such owner, and shall be a lien upon the railroad and the property used in connection therewith; and in the event a culvert be constructed, which drains streets or highways on which there is a street, electric or other railroad, there shall be assessed against such railroad a fair and just proportion of the cost of construction of such culvert, to be determined by such legislative body, and such assessment shall be a lien like other assessments, and may be collected in like manner; provided, however, that where any such railroad shall occupy any street, alley or highway under ordinance or contract with the municipality, it shall pay or improve according to the provisions of such ordinance or contract. (Acts 1907, ch. 341, § 14)

Sec. 524. Act not to affect existing laws as to laying and repairing sidewalks.

Nothing in this Act shall be so construed as to take from the legislative body of any municipality or in any way affect its power or authority to compel property owners by penal ordinance or otherwise to repair the sidewalks in front of their property in such manner and with such materials as may be directed and under supervision of the city engineer or other officer or agent of the city, or to cause such repairs to be made at the expense of the property owner. (Acts 1907, ch. 341, § 15)

Sec. 525. Authority of city to purchase or condemn land.

Whenever in the judgment of the legislative body of such municipality it may be necessary or expedient for the carrying out and full exercise of the powers thereby granted, said municipality shall have full power and authority to acquire by purchase or condemnation of the necessary lands or rights or easements, and may proceed to condemn in the manner provided by the general laws of the state governing the taking of land or the acquiring of an interest therein for the uses for which private property may be taken, and such proceedings may be governed in every respect by the general laws of the state pertaining thereto. (Acts 1907, ch. 341, § 16)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 526. Authority of city to set off price of property purchased or condemned against assessments.

In any improvement projected under the terms of this Act, or any amendments hereto, said legislative body shall have full power and authority to set off and apply the purchase price of any lands, rights or easements purchased or taken by said municipalities, toward the payment and discharge of the assessments levied against the abutting realty adjoining the property purchased or taken as authorized in this section. Should the purchase price of the property taken be ascertained prior to the fixing of the assessments, or prior to the election of the property owner to pay same in annual installments as provided in section 511 hereof, same shall be deducted from the assessment as a whole; and, if said purchase price be ascertained subsequent to the election of the property owner to pay same in annual installments, the aforesaid purchase price of property taken shall be applied and set off against the unpaid assessments, the purchase price to be divided according to the number of unpaid installments and applied equally toward the satisfaction of each unpaid installment. (Priv. Acts 1921, Ex. Sess., ch. 37, § 1)

Sec. 527. City's full faith and credit pledged for payment of certificates.

The full faith and credit of any municipality issuing certificates of indebtedness to pay for improvements under the provisions of this Act is hereby pledged for the payment of such certificates, with interest, according to their tenor. (Acts 1907, ch. 341, § 17)

Sec. 528. City to pay one-half of cost.

Whenever any improvement is made under the provisions of this Act for which it is herein provided that one-half of the cost thereof shall be paid by the owners of abutting real property, the municipality within whose corporate limits such improvement is made shall pay the remaining one-half of such cost out of any funds available or provided for that purpose. (Acts 1907, ch. 341, § 18; Priv. Acts 1925, ch. 512; Priv. Acts 1949, ch. 495, § 1)

Sec. 529. Reserved.

Editor's note—Former section 529, derived from Acts 1909, ch. 109, § 6, has been omitted as obsolete. It related to procedural matters when the legislative body consisted of two branches.

Sec. 530. Misdescription of assessed land.

In case a lot or parcel of land against which any assessment has been or shall be made or attempted to be made, as provided for in section 6 [section 509 herein], or other parts of said chapter 341 of the laws of 1907, or said chapter 341 as amended by this Act, is not fully described in any assessment book, ordinance or notice, or in any other place or proceeding, then in order to fix the identity of the lot or parcel, reference may be had to any plot, petition or other document or paper on file in the proceedings for making the improvement or for the assessment of the land, or evidence aliunde may be heard, and vagueness of description or misdescription or want of description shall not defeat the lien on any lot or parcel of land for its proportion of the assessment for any such improvement on the street, alley or highway, or part or parts thereof abutting on such lot or parcel of land. (Acts 1909, ch. 109, § 7)

Sec. 531. Cost of relaying or repairing pipes, etc.

In case, in the opinion of the legislative body, it becomes necessary or proper in the making of any such improvement on any street, highway or alley, or part or parts thereof for the municipality, either itself to relay, or through a water company to cause to be relaid, any water pipe, or to lay new water pipes, or it becomes necessary or proper for the municipality to relay sewer drains or build new sewers, or for water or sewer connections to be repaired or replaced, or otherwise reconstructed or improved, or it becomes necessary or proper to provide for drainage or oiling of the street improvement, or it becomes necessary or proper to make other improvements, then the cost of any and all such improvements or any part thereof may, in the discretion of the legislative body, be included in the cost of improvement, one-half of which cost may be assessed against the abutting property as provided in Acts 1907, chapter 341, as amended. (Acts 1909, ch. 109, § 8; Priv. Acts 1925, ch. 512; Priv. Acts 1949, ch. 495, § 1)

Sec. 532. Levy of ad valorem tax to pay principal and interest of certificates and bonds.

In the event of the issuance of bonds as in this Act pro-vided, or in the event of the issuance of certificates of indebtedness, as provided in said chapter 341 of the Acts of 1907, or as provided in said chapter 341 as amended by this Act, or in the event of the issuance of some bonds and some certificates of indebtedness, the power and authority to levy assessments as provided in said chapter 341 of the Acts of 1907, or as provided in this Act, as the case may be, shall continue to exist, and the proceeds arising from the collection of assessments shall be and are hereby pledged for the payment of such bonds and interest or such certificates and interest, as the case may be, and shall be applied to that purpose. It shall be the duty of the legislative body of the municipality to ascertain in due season, in advance of the time for the payment of the principal or interest, or both of any and all such certificates of indebtedness already issued or hereinafter issued, and in advance of the time for the payment of the principal or interest, or both, of any such bonds, whether or not there is or will be sufficient moneys provided by the assessments levied and actually collected and in the treasury of the municipality set apart for the payment of the principal and interest of such certificates of indebtedness and bonds as the same, respectively, from time to time become due; and it shall be the duty of the legislative body of the municipality in due season, in advance, to levy an ad valorem tax upon all the taxable property in the municipality sufficient to pay the principal and interest of such certificates and such bonds as they respectively become due from time to time, or to pay such part or parts thereof as are not or will not be fully provided for by the assessments levied and actually collected and in the treasury of the municipality in season for the payment of the principal and interest of such certificates of indebtedness and bonds as the same, respectively, from time to time become due. In case the municipality shall levy and collect ad valorem taxes for the purpose of paying the principal and interest of any

certificates of indebtedness or bonds, or any part thereof, the municipality shall nevertheless have the power and authority to proceed with the levy and collection of assessments, and such assessments or part thereof sufficient for the purpose shall be paid into the treasury of the municipality to reimburse the treasury for the amount thus paid out of such ad valorem taxes, and such money thus reimbursed to the treasury shall be used under the direction of the legislative body of the municipality for any lawful corporate purpose for which ad valorem taxes may legally be levied and collected. (Acts 1909, ch. 109, § 9)

Cross reference—Taxation generally, § 752 et seq.

Sec. 533. Noncompliance with law not to affect validity of certificates and bonds; validation of certificates previously issued.

Any failure on the part of any municipality to comply with any of the provisions of said chapter 341 of the laws of 1907, or said chapter 341 as amended by this Act, and any failure in the existence or performance of any of the conditions precedent to the issuance of any certificates of indebtedness or bonds under said chapter 341, or under said chapter 341 as amended by this Act, shall not affect the validity of such certificates of indebtedness or bonds or of the assessments made under said chapter 341, but the same shall be in all respects valid and binding.

Any certificates of indebtedness heretofore issued or hereafter issued under said chapter 341, or said chapter 341 as amended by this Act, shall be and are hereby declared to be the absolute obligations of the municipality by which issued. In the event that for any reason the amount of the assessments levied and actually collected and set apart in the treasury of the municipality for the payment of the principal and interest of any such certificates of indebtedness shall not be sufficient to make such payment, the legislative body of the municipality shall be and is hereby authorized and directed to levy and collect, in addition to all other taxes authorized by law, an ad valorem tax on all the taxable property in such municipality sufficient to provide for the payment of the principal and interest of such certificates as the same become due. (Acts 1909, ch. 109, § 10)

Sec. 534. Entire cost may be assessed upon petition of property owners.

In the event a petition be presented to the legislative body of the municipality averring the willingness of each of the signers to pay his or her pro rata share of the entire cost of any improvement such as is authorized by this Act and relieves the municipality from the payment of any part thereof as to any street, highway or alley, or part or parts thereof, which petition is signed by the owners of at least seventy-five per centum of the frontage of the lots or parcels of land abutting on such street, highway or alley, or part or parts thereof proposed to be thus improved, such petition may be granted by the legislative body and thereupon proceedings may be had under this Act the same in all respects as if the improvement had been begun by the legislative body of its own initiative, and bonds or certificates of indebtedness may be issued, and assessments may be made, except that the assessments shall, in such event, be made for the entire cost of the improvement, and bonds or certificates of indebtedness may be issued for the entire cost instead of assessments being made for only three-fourths [one-half] of the cost thereof; and bonds or certificates of indebtedness being issued for only two-thirds of the cost thereof; provided, that no assessment under this section shall in any event exceed on any lot two-thirds of the assessed value thereof for city taxes for the year in which the lien against the lot attaches, and all other provisions of said chapter 341 as amended by this Act shall be applicable in respect of any improvement made under this section, except as in this section otherwise expressly provided. This section is hereby declared to be separate from the remainder of the Act, and the validity or invalidity of this section shall not affect the remainder of the Act. (Acts 1907, ch. 341, § 19; Acts 1909, ch. 109, § 12; Priv. Acts 1925, ch. 512)

Sec. 535. Authority of city to do work with own forces.

It shall not be necessary for the improvements under this Act to be done under contracts let accordingly to the requirements for letting other contracts of the municipality carrying on said improvement, but the municipality may, if the ordinance directing said improvement so states, do all or any part of said improvement by labor hired by the municipality, and with materials purchased as other municipal purchases are required to be made. (Priv. Acts 1913, ch. 244, § 3)

Sec. 536. City to have lien for improvement.

When an ordinance for the improvement of any street, alley or highway shall have been duly passed and confirmed, the municipality shall have a lien upon all property abutting on said street, alley or highway so improved for its pro rata cost of said improvement, the amount of said lien to be determined and assessed against said property as now provided by law. (Priv. Acts 1913, ch. 244, § 4)

Sec. 537. Notice of improvement to contain estimate of cost of every item to be expended.

The notice of the adoption of an ordinance for the improvement of any street, alley or highway shall contain an estimate of the cost of every item to be expended in said improvement, and no item not embraced in said estimate shall be assessed as part of the cost of the improvement, except the 10 per cent charge for the general supervision an unitemized expense of the city, which shall in all cases be in such estimate and embraced in said assessment without being itemized or set out in detail. The amount of the estimated cost of any item shall not control or affect the amount to be assessed for said item if the cost thereof shall not exceed by more than 10 per cent the amount as estimated. If the bids received for said improvement shall exceed by 10 per cent or more the amount estimated for any item it shall be the duty of the legislative body of the municipality to pass a new ordinance for said improvement or abandon same, or in default of such action, to pay the amount expended upon any item in excess of said estimate. (Priv. Acts 1913, ch. 244, § 5)

Sec. 538. Objections to items of cost to be made in writing before date fixed for hearing; effect of failure to protest.

All objections to any improvement on the ground that it contains items which cannot properly be charged to the property holders, or that it is for any default or defect in the passage or character of said ordinance, or the estimate void or voidable, in whole or in part, or that it exceeds the powers of the legislative body of the municipality, shall be made in writing on or before [the] date fixed by notice for the hearing of remonstrances against the confirmation of said ordinance. Any objections against the making of said improvements or improvement not presented in person or by attorney prior to the confirmation of said ordinance shall be considered as waived, and if said protest or objections shall be made and overruled, the finding of the legislative body of said municipality shall be the final adjudication of the issues presented and determined, unless proper steps shall be taken in court of competent jurisdiction to review said finding within thirty days. A protest of property holders shall not inure to the benefit of any property holder not signing the same in person or by attorney. (Priv. Acts 1913, ch. 244, § 6)

Sec. 539. Effect of failure to object to amount of assessment.

No ground of protest shall be made against the confirmation of the assessment which by law is required to be made before the confirmation of the ordinance and any ground of protest not made shall be considered waived. The judgment overruling a protest shall be treated as the final judgment of an inferior tribunal and reviewable only as such. The protest of other property holders shall not inure to the benefit of those not protesting. (Priv. Acts 1913, ch. 244, § 7)

Sec. 540. Widening, extending or connecting streets.

In any case where any municipality shall desire to extend any existing street, alley or highway, so as to connect with any other existing street, alley or highway, or shall desire otherwise to extend any existing street, alley or highway, or to widen the same, the said municipality shall, in the ordinance providing for such improvement, designate the portions of such existing streets, alleys or highways, and the portions of the extension and extensions of such streets, alleys or highways upon which, in the judgment of the council or other governing authorities of said municipality, the abutting property receives a special and peculiar benefit from said improvement, whether the said portions of said streets, so designated, shall abut the physical improvements or not and one-half of the total cost of the following items incident to said improvement, to-wit:

(a) *Property acquired*. The cost of any property purchased, condemned or otherwise acquired for the purpose of opening, extending or widening said streets, alleys or highways, and all court costs and every other charge incidental to said condemnation, purchase, or acquisition.

(b) *Damages.* The amount of damage paid as a result of injury to abutting property by a change of grade or drainage, including all court costs and incidental expenses arising as a result of any proceedings had, to ascertain and fix said damages.

(c) *Retaining walls, etc.* The cost of any retaining walls, sidewalks or fences built or altered in lieu of cash payment for the damages to property on the acquisition thereof.

(d) *Moving or altering buildings.* The cost of moving or altering any store or other structures shall be assessed against the property abutting upon the said portions of said streets, alleys or highways or designated by said ordinance as receiving a special or peculiar benefit from said improvement, according to the frontages of the several lots or parcels of land abutting upon the portions of said streets, alleys or highways so designated and the remaining one-half of the cost of said items above enumerated shall be borne by said municipality.

(e) *(Abutting property assessment.)* One-half of the cost of grading, paving and of all other expense incident to such improvement excepting the items (a), (b), (c), and (d) above-mentioned, shall be assessed against the property abutting the physical improvements, consisting of the opening, extending or widening of said streets, alleys, or highways in proportion to the frontages of the several lots or parcels of land thus abutting upon the said physical improvements and the remaining one-half of the expense of said items shall be borne by the municipality. (Priv. Acts 1919, ch. 765, § 1; Priv. Acts 1925, ch. 512; Priv. Acts 1949, ch. 495, § 1)

Sec. 541. Manner of making improvements under amendment; construction of Act.

The improvements made under this amendment shall be made in all respects in the same manner as other improvements are now authorized to be made, and the proceedings for the passage of ordinances and filing of protests thereunder and review thereof, shall be the same as now provided by existing laws except so far as modified by this amendment.

This Act shall not be construed as repealing or limiting any existing powers possessed by any municipality by virtue of said chapter 341 of the Acts of 1907, and the amendments thereof, prior to this amendment, but the powers herein granted shall be in addition to powers already possessed. (Priv. Acts 1919, ch. 765, §§ 3 and 4)

Sec. 542. Cost of establishing building lines.

Whenever, under the provisions of this Charter, or any law authorizing it, any municipality coming within the provisions of chapter 341 of the Acts of 1907, and Acts amendatory thereof and supplementary thereto, shall have the right to establish a building line, or lines, on any street, avenue, parkway, boulevard, esplanade, or highway in said municipality, the cost of establishing such building line, or lines may be assessed against the abutting property in accordance with the provisions of said chapter 341 of the Acts of 1907, and Acts amendatory thereof and supplementary thereto, subject to all the provisions of said Acts, it being the intention of the general assembly to amend said Acts so as to give full power to all municipalities coming within the classification of said Acts to assess the cost of establishing a building line, or lines, against the property abutting on said line, or lines, according to the front foot plan. (Priv. Acts 1923, ch. 424)

Cross reference—Building lines under eminent domain for street widening, §§ 126—136.

Secs. 543—545. Reserved.

Editor's note—Section 543—545 were derived from Priv. Acts 1935, ch. 140, §§ 1—3, and related to extending the time for payment of assessments levied prior to January 1, 1935, such extension not to exceed five years. Since these sections have served their purpose, they have been omitted.

ARTICLE 54. STREET IMPROVEMENTS UNDER DISTRICT PLAN (NOT FRONT FOOT)*

***Cross references—**Building lines under eminent domain for street widening, § 126 et seq.; Public Works Act, § 868.

Code references—Street improvements generally, Ch. 12-4; street concrete work, Ch. 12-12.

Sec. 546. Authority to establish and purpose of districts.

The council or other governing authority of any municipality in this state having a population of one hundred sixty thousand (160,000) or over by the Federal Census of 1920, or any future Federal Census, is hereby vested with the jurisdiction, power and authority to establish an improvement district or districts, for the purpose of opening new streets, alleys or highways, extending or widening existing streets, alleys or highways, or connecting existing streets, alleys or highways, and acquiring the necessary property therefor by condemnation or otherwise, paving, curbing, macadamizing, guttering, grading said streets, alleys or highways, paying for all property acquired and for all damages to any property by the change of grade or otherwise, paying for all plumbing, water and other connections damaged, the moving of any houses, buildings and any damage thereto and the removal of trees, fences, retaining walls and other structures, and the paying of all legal expenses, court costs, engineering fees, paying for all printing, advertising, clerical help, collections of funds, loans or interest on money advanced, stenographer's charges, abstracts, plats, accountants, and in general the expenses of supervising, directing and controlling the work of improvement; paying the cost of bridges, culverts, and any structures, upon which the street, alley or highway is carried over any bayou, creek or drain, paying for the costs of removing, altering or relaying any tracks of any person or corporation to whom the city is under any legal obligation to relay said tracks, and in general paying for all costs of said improvement, of any kind or character whatever. (Priv. Acts 1923, ch. 426, § 1)

Sec. 547. City engineer's plan and statement.

Before the governing authority of any municipality shall establish [an] improvement district or districts, the city engineer of said municipality shall file in the office of the comptroller of said municipality a plan setting forth the body or district of land or streets, alleys or highways or parts thereof described by metes and bounds or otherwise so as to convey an intelligible description of such lands sought to be improved by the opening of new streets, alleys or highways, the extension or widening of any existing streets, alleys or highways or the connection of existing streets, alleys or highways.

Accompanying such plans shall be a statement of the reason for said improvements and the nature thereof, which said statement shall set out the nature of the land to be improved and the nature of the improvement, whether by extending or widening existing streets, alleys, or highways, opening new streets, alleys or highways, or connecting existing streets, alleys or highways, and the approximate amount of paving, curbing and guttering to be done thereon and stating the starting point, the route and the terminal of said improvements.

Said plans shall show, as near as may be, the nature of improvement with such drawing or drawings as will indicate a general idea of the nature or character of said improvement; but no variance between the plan and the description of the improvement which does not materially alter or change the nature of the improvement shall vitiate any of the proceedings or the assessment for the improvement. (Priv. Acts 1923, ch. 426, § 2; Priv. Acts 1937, ch. 123, § 18)

Sec. 548. Protests against plan; notice of hearing; filing of objections; adoption, rejection or modification of plan.

After such plans and description have been filed, the governing authorities of such municipality shall, at some regular meeting within thirty days thereafter, determine whether or not said plans shall be adopted. The governing authorities of said municipality shall by proper resolution appoint the time and place [at] which the said governing authorities will meet to hear protests, if any, against the making of said improvement.

Said time shall not be less than twenty days from the passage of said resolution; and due notice of such hearing shall be given by the comptroller by at least four publications in some daily paper in said city, the last of which shall be at least five days before the date of the meeting.

Said notice shall state the general character of the improvement and the metes and bounds thereof.

Any person desiring to object to said improvement shall file his objection with the comptroller in writing on or before the date of hearing, and at the time fixed for the hearing shall appear in person or by attorney and present his objections to the said governing authorities.

Said governing authorities shall have the power to adopt, reject or modify said plans; and if said plan is adopted or modified and said modifications do not so materially alter the plan as to make it substantially a new plan, then the governing authorities shall proceed further with said work as hereinafter provided. (Priv. Acts 1923, ch. 426, § 3; Priv. Acts 1937, ch. 123, § 18)

Sec. 549. Detail plans showing cost.

After said plans as originally drawn or modified have been adopted, the governing authorities shall direct the city engineer to make detail plans, showing the cost of each item of construction as estimated by said city engineer, which said plans shall be filed with the comptroller within sixty days of the adoption of said general plans of work. (Priv. Acts 1923, ch. 426, § 4; Priv. Acts 1937, ch. 123, § 18)

Sec. 550. Viewers and assessments generally.

At the first meeting after said plans are filed it shall be the duty of the governing authorities of said municipality to appoint five viewers, who shall be free-holders of said municipality and not interested in any property to be improved in said district embraced in the plans.

These viewers shall be duly sworn by the mayor to make an investigation of all the property affected by said improvement and embraced in the district, and shall file a report in writing with the comptroller which shall show, first, the fair market value of all property which is to be taken in making said improvements; second, the damage to any property affected by said improvement, less any particular benefit received by said property; third, the proportions in which the various plots or parcels of ground in said district are to be assessed, which said proportions shall be ascertained by determining the benefits derived by each piece of ground from said improvement and assessing same accordingly, the said valuation to show in percentages the amount to be borne by each piece of land according to its value; provided, however, that only two-thirds of the total cost shall be so assessed against the property within the districts and the remaining one-third shall be paid by the municipality, and in making said assessment the viewers shall determine what particular plot or plots shall be regarded as a unit and assess all others according to their proportionate improvement as compared to said unit. (Priv. Acts 1923, ch. 426, § 4; Priv. Acts 1937, ch. 123, § 18)

Sec. 551. Filing of viewers report; engineer to file estimate of cost; elements of cost.

Said report must be filed with the comptroller within sixty days from the appointment of said viewers, and within fifteen days after said report is filed, the city engineer shall file with the comptroller an estimate which shall set forth the amount to be borne by each particular piece of land, the cost of said improvement in which said estimate shall be included, the following items, to-wit:

The cost of all labor and material necessary to do the improvement contemplated.

The cost of all property to be acquired and all damages to be paid.

The cost of all proper supervision of said work, which may be done by engineers hired for that purpose by the engineering department of said municipality; and if said work is done by the engineering department of the municipality the cost thereof shall be ascertained by adding to the cost of labor and materials, ten per cent of the amount thereof which sum shall be conclusively held to be the entire cost to said municipality of said engineering and of all the costs of collecting and clerical work connected with said improvement; the cost of the viewers in determining damages and the value of the property taken, court costs, and the expense of litigation, and in general, all expenses incurred on account of said improvement.

The cost of abstracts, plans, advertisement, collections and clerical help shall also be charged unless the engineering work is to be done by the municipality, in which event these items shall be embraced in the ten per cent above set out. (Priv. Acts 1923, ch. 426, § 4; Priv. Acts 1937, ch. 123, § 18)

Sec. 552. Complaints against values fixed or assessments; notice of hearing; failure to appear; confirmation or modification of report; right of appeal to circuit court.

Within ten days after the filing of said engineer's estimate of the cost of assessment, the governing authority of said municipality, shall by proper resolution, fix a time and place not less than twenty days from the date of said resolution, for the hearing of complaints against the value fixed for property to be taken as damages to property or the assessment to be made upon any property.

Due notice of said hearing shall be given by at least six publications made in some newspaper in said municipality, which said notice shall set out the estimated cost of said improvements and the fact that the detail estimate and the assessment against each piece of property has been filed, and notifying the property holders to appear and make their protest at the time and place appointed and setting out the metes and bounds of said improvement district and the nature

and character of said improvement. Any person objecting to the fixed value upon his property as [or] the amount ascertained as the damages thereto or the assessment thereon shall file his objections in writing on or before the time fixed for said hearing, and appear in person or by attorney at said hearing and present his objections.

Any person failing to appear shall be considered as accepting the amounts fixed in the reports as the values of their property, the damages to or the assessments thereon.

The governing authorities of the municipality shall hear all complaints made and confirm or modify the reports in accordance therewith.

Any person dissatisfied with the award of the governing authority of said municipality shall, within ten days file a certiorari to the circuit court of the county in which said municipality is situated, for the purpose of reviewing said holding; and unless said certiorari is filed, the finding of the governing authority shall be final both as to value of the property taken and the damages thereto and as to the maximum amount of the assessment to be borne by said property. (Priv. Acts 1923, ch. 426, § 5)

Sec. 553. Viewers' findings on damages and values not to be increased.

In no event shall the district be charged with any greater sum than the amount fixed by the viewers as to the damage to, or the value of, the property. (Priv. Acts 1923, ch. 426, § 6)

Sec. 554. Statement of cost after completion of work; reduction of assessments.

After the work in any improvement district shall have been completed, the city engineer shall file with the comptroller a statement, showing the complete and detailed cost of said work, including all of the items embraced in the estimate. If the said statement shows the cost of the work to have been less than the estimate, then the assessment on all of the property in said district shall be reduced proportionately; but if the statement shows a greater cost than the estimate, the assessment as previously made shall stand, and the excess shall be borne by the municipality. (Priv. Acts 1923, ch. 426, § 7; Priv. Acts 1937, ch. 123, § 18)

Sec. 555. Maximum assessment; resolution of confirmation; publication of resolution; when assessment due and payable; lien.

If the amount assessed against any piece of property shall be greater than one-third of its assessed value for city taxation in the year when the first assessment against said property was filed, then the assessment upon said property shall be reduced so as not to be greater than one-third of the assessed values, and the municipality shall pay the excess. Within ten days after said final statement of cost has been filed, the governing authorities of the municipality shall, by proper resolution, confirm said assessment, and the same shall thereupon become a lien upon all the property in said district for the amount assessed against it. The said resolution of confirmation shall be published three times subsequent to its passage, in some newspaper in said municipality, and the property holders shall have thirty days from said last publication in which to pay the assessment in full or sign a contract to pay the same in installments. (Priv. Acts 1923, ch. 426, § 7)

Sec. 556. Assessment book; payment of assessments in installments.

The assessments for any district shall be written in a well-bound book, which shall show the amount assessed against any property in said district, with appropriate columns to credit the payment of said assessment. Any property holder who desires to do so may, within the thirty days allowed for so doing, sign said assessment book, agreeing to pay the said assessment in five annual installments, together with six per cent interest on each of said installments, until paid.

If said installments are not paid when due, then all of the said sums shall become due and collectible as hereinafter provided. (Priv. Acts 1923, ch. 426, § 8)

Cross reference—Additional authority to permit installment payment of assessments, § 836.

Sec. 557. Procedure for enforcement of lien.

The lien hereby credited [created] on any property in any improvement district shall be collectible by a suit in the chancery court, or may be enforced as a lien for city taxes is enforced by a sale of said property. If suit is filed in the chancery court, any number of pieces of property may be embraced in one suit; and if a lien is enforced as city taxes are

enforced, the proceedings shall be those provided by existing statutes and laws for the collection of city taxes at the time said sums become due. (Priv. Acts 1923, ch. 426, § 9)

Sec. 558. Authority of city to issue bonds; amount not to exceed estimated cost.

The governing authorities of such municipalities shall have the right and power to issue negotiable bonds of the municipality to any amount in par value not to exceed the amount of the estimated cost to be paid by the owners of property other than the city in such improvement district as said estimated cost is determined and fixed after all preliminary steps have been taken and the work is ready to be begun. (Priv. Acts 1923, ch. 426, § 10)

Sec. 559. Where bonds payable; form and signature; coupons.

Such bonds shall be payable to bearer in lawful money of the United States at such place or places as may be designated in the bonds and be in such form and signed by such officers as may be provided in the ordinance directing their issue. Coupons may bear a facsimile signature or signatures; and in case any of such officers whose signatures appear on said bond or coupon shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until delivery of the bonds. (Priv. Acts 1923, ch. 426, § 10)

Sec. 560. When bonds to mature; interest rate; denominations; sale; assessment levy to be set apart as fund for payment of bonds and interest; levy of ad valorem tax to pay principal and interest.

The bonds shall run, one, two, three, four and five year and bear interest at the rate of not exceeding six per cent per annum, as may be designated in the bonds, payable semiannually; and such bonds shall be of such denomination as the legislative body may direct. Said bonds shall be sold at public or private sale at not less than par and accrued interest, and shall be the absolute and general obligation of the municipality. The governing authorities of said municipality shall provide by ordinance that the assessment levied upon property in said improvement district in respect of which any such bonds are issued shall be set apart as the fund for the payment of such bonds and interest; and it shall be the duty of the governing authorities of the municipalities to levy, in addition to all other taxes which said municipality is by law authorized to levy, an ad valorem tax on all the taxable property in said municipality to pay the principal and interest on such bonds as they become due, or to pay such part or parts thereof as are not provided for the reassessment levied and actually collected and in the treasury of the municipality set apart for the payment of such bonds and interest. (Priv. Acts 1923, ch. 426, § 10)

Sec. 561. More than one improvement may be included in single bond issue.

Such ordinances for the issuance of bonds shall be passed, and the municipality may, in its discretion, provide for the issuance of bonds in one lot or amount in respect to any one or more of such improvements, and may provide that any assessment levied in respect to all such improvements may be applied as a whole towards the payment of the entire lot or amount of bonds or interest thereon. (Priv. Acts 1923, ch. 426, § 10)

Sec. 562. Proceedings required; irregularities not to affect validity of bonds.

No proceedings on the part of said municipality in any respects to the issuance of said bonds shall be necessary, except such proceedings as are required by this Act. The failure in the existence or performance in any of the conditions precedent to the issuance of said bonds shall not affect the validity of said bonds, but the same shall be in all respects valid and binding. The levy by the municipality of any ad valorem tax shall not prevent the collection of the assessment levied for the improvement district for which the bonds were issued; but said assessment shall remain and be collected, the proceeds thereof to be devoted to reimbursing the municipal treasury for the amount paid out under said ad valorem tax. (Priv. Acts 1923, ch. 426, § 10)

Sec. 563. Compensation of viewers.

The viewers hereinbefore provided for shall receive for their services the sum of five dollars per day for the time engaged upon the duties prescribed in this Act, and in the ordinance under which they are appointed. (Priv. Acts 1923, ch. 426, § 11)

Sec. 564. Preliminary expense to constitute part of cost of assessment.

The municipality shall be reimbursed on account of the preliminary steps taken in forming any district herein provided for; any such expense shall be embraced in the final and detailed cost of the improvement. (Priv. Acts 1923, ch. 426, § 12)

Sec. 565. Act not to repeal front foot plan.

This Act shall not be construed or have the effect of repealing or limiting any powers possessed by any municipality by virtue of chapter 341 of the Acts of 1907, and the amendments thereto [sections 503 to 545 herein], or under any law or Act; but the powers herein granted shall be in addition to all powers already possessed. (Priv. Acts 1923, ch. 426, § 13)

ARTICLE 55. RESERVED

Secs. 566—570. Reserved.

Editor's note—Former sections 566—570 were derived from Priv. Acts 1913, ch. 138, and Priv. Acts 1923, ch. 147, and they related to the separation of the grades of specific streets from the grades of intersecting railroads. It is felt that these sections have served their purpose and they have been omitted from this compilation.

ARTICLE 56. SIDEWALKS*

***Cross reference—**Public Works Act, § 868 et seq.

Code reference—Sidewalks, Ch. 12-28.

Sec. 571. General power to compel construction by lot owners.

The city shall have power to compel lot owners to make, adjoining their lots, safe and proper sidewalks of brick; or of stone or granolith. (Acts 1879, ch. 11; Acts 1887, ch. 233)

Sec. 572. Further power to compel lot owners to build, repair, etc.; failure of owners to comply with ordinance; work by city generally.

The council shall have power, by proper ordinance, to require the owners of all property within the limits of the City of Memphis to build, repair, keep clean, and open for public passage, all sidewalks abutting on or adjacent to such property. The said council shall have full authority and power to make the failure to carry out the provisions of any ordinances passed in pursuance to such power a misdemeanor, and to provide a fine of not less than $5, nor more than $50, for failure to carry out the provisions of such ordinance. The said council shall also have power to provide that, upon the failure of the owners of the property to build, repair, clean, or keep free as a passageway, any sidewalk abutting on or adjacent to such property after due notice, the length of which shall be fixed by such ordinance, [the city shall] have such sidewalk laid, or repaired, or cleaned, or any obstruction removed therefrom, and that the cost of such work shall be a lien on said property, to be enforced by suit in any court of competent jurisdiction. (Priv. Acts 1921, ch. 846, § 1)

Code references—Duty of property owner to build, repair and clean sidewalks, § 12-28-2; failure of property owner to comply with notice; § 12-28-6.

Sec. 573. Cost of building, repairing, etc., as a special tax on abutting property.

As an additional and cumulative remedy, the council of the said city may, by ordinance, provide that on certification of the cost of building, repairing, cleaning, or freeing from obstruction any sidewalk, by the city engineer, any sidewalk inspector provided for by the Charter or laws of such city, or any agent of such officers thereunto authorized by said ordinance, it shall be the duty of the city treasurer to place the amount, so certified, on the bill for city taxes against such property, and it shall be the duty of the city treasurer to collect, as a specific tax, the amount so certified, and for the purpose of this Act, the cost of putting down, repairing, cleaning, or freeing from obstruction any sidewalk, may, by

ordinance duly passed, be declared to be a special tax on the property abutting or adjacent to such sidewalk. And such special tax may be collected as other general taxes levied by such city. (Priv. Acts 1921, ch. 846, § 2)

Sec. 574. City has full power and authority to regulate and control all sidewalks, pass ordinances, etc.

The city shall have full power to regulate and control, and have full authority and power over all sidewalks, in the City of Memphis, and may pass all ordinances and by-laws not inconsistent with the general laws, or the Charter of the city, the purpose of which is to regulate, control and exercise its power over all sidewalks in the corporation, and to carry out the provisions of this Act, including the right to specify the length of notice, how notice shall be given, and all other matters not inconsistent with the provisions of this Act. (Priv. Acts 1921, ch. 846, § 3)

Sec. 575. Reserved.

Editor's note—Section 575 was derived from Priv. Acts 1913, ch. 140, § 3, and related to the approval of subdivision plans. It is felt that the section is superseded by § 109 et seq. and it has been omitted.

ARTICLE 57. PARKS AND PARK COMMISSION*

***Cross references—**Working prisoners in parks, § 386; taxes for park purposes, § 773.

Code references—Parks and recreation, Ch. 12-84; park commission, Ch. 2-64.

Sec. 576. Power to acquire and maintain parks generally.

The City of Memphis is authorized and empowered to acquire, improve and maintain parks for the benefit of the public. The parks or lands to be used for park purposes may be purchased either by private negotiation or by condemnation, as hereinafter provided, as may be determined by the council. If the parks or land for park purposes be purchased by private negotiation, the negotiation shall be conducted by such member or members of the council as shall be designated by it, but no purchase shall be effected until the same has the approval of a majority of the council. And said parks or land for park purposes may be purchased either within or without the limits of such city, but not more than ten miles from the nearest point on the limits of such city, as such limits may be at the time of such purchase. (Acts 1899, ch. 142, § 1)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 577. Condemnation of land for park purposes.

The City of Memphis may condemn parks, or land for park purposes, under the power of eminent domain, and such city is hereby expressly given the power to condemn for park purposes the yards, switches, tracks, the depot and property of every character of any railroad company, and also the property of any manufacturing establishment, and also the property of any other person or corporation, either within or without the limits of said city, but not over ten miles beyond the nearest point in said limits, as such limits may be at the time of such condemnation, and the proceedings for the exercise of this power of condemnation shall be the same as that now provided by law for the taking of private property for public uses. (Acts 1899, ch. 142, § 2)

Sec. 578. Acquisition of parkways between city and parks or between parks.

Such city shall have the power to purchase, by private negotiation, or acquire by condemnation, a parkway or parkways, either running from said city to any such park, or running between and connecting such park, and such city may purchase or condemn such parkways, either within or without the limits of such city, but in no case more than ten miles beyond the nearest point on the limits of such city as the same may be at the date of such purchase or condemnation. (Acts 1899, ch. 142, § 5)

Sec. 579. Park commission generally.

(a) The council of such city shall have the power to establish, by ordinance, a park commission, composed of three members, who shall be elected by said council. The first park commissioners elected shall be elected for the following terms: One for two years, one for four years, and one for six years, and at the expiration of the term of office of each

commissioner, his successor shall be elected for a term of six years. Such park commissioners shall have the entire control of the parks, park lands and parkways acquired by such city under the provisions of this Act. It shall be their duty to direct the laying out, improvement and maintenance of said parks, engage all superintendents, gardeners and other employees, and no moneys shall be paid out of the proceeds of said park bonds, nor park tax, until the vouchers for the same are approved by at least two of said park commissioners. Said park commissioners are hereby expressly empowered to open or close up any streets, alleys or roadways running across or in such parks, or park lands, and they shall have this power as well within the limits of such city as without such limits. (Acts 1899, ch. 142, § 6)

(b) Section 6 of Chapter 142 of the Acts of 1899 [paragraph (a) above], being a part of the Charter of the City of Memphis shall be amended so as to provide that the Council of the City of Memphis shall be authorized to fix the term of office of the members of the park commission; the terms of the present commissioners, however, shall remain as now fixed by said Act until the expiration of their respective terms. (Priv. Acts 1941, ch. 44, § 1 (24))

(c) The park commission of the City of Memphis shall be composed of five members instead of three members as presently constituted; and the Council of the City of Memphis are hereby authorized and empowered to elect two additional members to said park commission each for a term of three years, and at the expiration of the term of office of each such additional commissioner, his successor shall be elected for a term of six years. (Priv. Acts 1947, ch. 712, § 2)

Code reference—Park commission, Ch. 2-64.

Sec. 579.1. Authority of council to prescribe qualifications and term of members of park commission and rules and regulations governing commission; disbursements by park commission; etc.

The Council of the City of Memphis shall have full and ample power at any time and from time to time to provide by ordinance or resolution the qualifications and terms of office of the members of the park commission and the rules, regulations and provisions to govern the park commission with respect to the control, maintenance, management, conduct or operation by the park commission of any of the parks, playways, playgrounds, recreational centers or park or recreational facilities, devices, concessions or any properties, projects or operations now or at any time devoted to or designated for use or used for park purposes or as part of the park system of the City of Memphis or under the control, supervision or jurisdiction of the park commission; and the Council of the City of Memphis shall have the power and authority from time to time by resolution or ordinance to limit, restrict and to change or entirely terminate the use or operation of any such property for park purposes or by the park commission and to provide rules and regulations to govern the park commission with respect to the fiscal and accounting methods and systems to be followed in or in connection with any of said activities or operations, including, without limitation of the foregoing, the budgeting, financing, handling and disbursement of the tax funds or receipts appropriated, set aside or devoted to park purposes or uses under the jurisdiction of the park commission; provided that the vouchers for all disbursements of such park funds or receipts on the item or items therefor, whether such disbursement is provided by resolution or ordinance to be made by or through the city comptroller or other official of the City of Memphis or by or through the park commission, shall be approved by the chairman of the park commission or by at least two of the park commissioners; provided, further, that the park commission, in its employment of such superintendents, engineers, assistants, consultants and other subordinate officers and employees as may be necessary for the efficient operation of the park system and activities within its jurisdiction, shall not be authorized to fix any salary or compensation to be paid by the park commission in excess of three thousand dollars ($3,000.00) per annum without the consent and approval of the Council of the City of Memphis; and provided, further, that no contract involving expenditures in excess of five thousand dollars ($5,000.00) shall be entered into by the park commission without the consent and approval of the Council of the City of Memphis. (Priv. Acts 1949, ch. 494, § 2)

Sec. 580. Reserved.

Editor's note—Former § 580 appears herein as paragraph (c) of § 579.

Sec. 581. Additional authority of council relative to park commissioners.

The council of the city shall have full and ample power to establish, by ordinance, rules and regulations to govern said park commission, and to govern the employment and discharge of employees, and to fix the official bonds and compensation of such park commissioners and the employees. (Acts 1899, ch. 142, § 7; Acts 1901, ch. 103, § 1)

Editor's note—The last sentence of § 581, as it appeared in the 1949 compilation, has been omitted as having served its purpose. It related to the appropriation of $15,000.00 for a statue of General Nathan Bedford Forrest.

Sec. 581.1. Duties of purchasing agent may be extended to purchases for park commission.

The Council of the City of Memphis shall have the power and authority at any time and from time to time by resolution or ordinance to enlarge the duties of the city purchasing agent so as to extend the same to include purchases for and on behalf of the park commission, whether of commodities for resale in connection with the operations under the supervision or jurisdiction of the park commission or of materials, equipment or supplies for use in connection with any of the activities or operations under the supervision and control of the park commission upon such terms, conditions or restrictions as may be set forth in such resolution or ordinances defining the duties of the city purchasing agent in the above respects. (Priv. Acts 1949, ch. 494, § 3)

Cross reference—Purchasing agent generally, §§ 221—228.

Sec. 582. Park commission attorney.

By and with the consent of the Council of the City of Memphis, the park commission of the City of Memphis shall employ a park commission attorney, whose duties shall be to attend to any and all legal work which the park commission of the City of Memphis may have, growing out of the administration of the duties of said park commission. The compensation of said park commission attorney shall be fixed by the said park commission, subject to the approval of the Council of the City of Memphis. (Priv. Acts 1919, ch. 660, § 1; Priv. Acts 1945, ch. 56, § 11)

Editor's note—Priv. Acts 1915, ch. 424, imposed upon the city attorney the duty to act as attorney for the park commission. This act has been omitted as superseded by the above section.

Sec. 583. Authority of park commission to lease fairgrounds.

The park commission shall have the power to lease said grounds for the purpose of an agricultural fair, which may be held upon said grounds for a period not to exceed thirty (30) days per annum upon the condition that the said agricultural fair or the association supporting the same shall obligate itself to keep and maintain the said public parks and playgrounds at all times in good condition or shall pay to the City of Memphis a rental commensurate to the value of said park to he fixed upon by said commission. The terms of said lease shall, in any event, be subject to ratification by the Council of the City of Memphis. In case no contract is made for the upkeep and maintenance of said park or parks in the manner herein provided, then the board or commission directed to be appointed by the Council for the City of Memphis shall, after the purchase and equipment of said property, turn the same over to the park commissioners of the City of Memphis, to be kept and maintained by it in the same manner that the other parks of the City of Memphis are maintained.

The said park commissioners shall have the power to lease or rent said grounds, not only for an agricultural fair, but also for any purpose deemed to be in their judgment to the best interests of the City of Memphis. (Priv. Acts 1911, ch. 505, § 9; Priv. Acts 1915, ch. 209, § 1)

Editor's note—Priv. Acts 1911, ch. 505, § 9, provided for the election of commissioners of public recreation grounds and playgrounds, who were empowered to select a proper site therefor and expend the proceeds of a $275,000 bond issue. The fairgrounds was purchased for this purpose out of the proceeds of said bond issue. This commission was abolished by Priv. Acts 1917, Ch. 489, and its powers and duties vested in the park commission.

Sec. 584. Contributions of city to agricultural fair.

Each and every county in this state having a population of more than two hundred twenty thousand (220,000) inhabitants by the Federal Census of 1920, or any subsequent Federal Census, and every municipality within such county, in which is conducted an annual agricultural fair upon grounds owned, operated or controlled by such county or the municipal corporation being the county seat thereof, is hereby authorized and empowered to contribute out of its general funds, or out of any special tax levy for fair purposes, in aid or furtherance of any annual fair held on such grounds, such sum, not to exceed twenty-five thousand dollars ($25,000.00) per annum for the maintenance and operation of and in furtherance of such fair in such manner as may be determined by the governing authorities of such county or municipality. And the governing authorities of such county or municipality are hereby empowered and authorized by proper ordinance or resolution to be passed in the manner provided by law governing the legislative acts

of such governing body to provide for such aid to such fair, and for the payment to the proper governing authorities of such fair of such sum, not to exceed the amount hereinbefore specified, to be used exclusively for the purposes hereinbefore mentioned. (Priv. Acts 1923, ch. 425)

ARTICLE 58. DRAINAGE IMPROVEMENTS GENERALLY*

*__Cross reference—__Public Works Act, § 868.

Sec. 585. Authority of city to purchase or condemn property for levees, pumping stations, dams, etc.

For the purpose of enabling the City of Memphis to build and maintain a levee or levees along the river front and Bayou Gayoso and to build and equip pumping stations, dams, reservoirs, wells and locks for the purpose of protecting itself, its streets, property and sewer system, and in order to continue the efficiency of said sewer system so that the city may be enabled to properly provide for emptying the sewerage and surface drainage of the said city during high water, into the Mississippi or Wolf River, in order to that end and that the same may be accomplished, the City of Memphis is hereby authorized and empowered when it, the said city, shall deem it necessary, to purchase land for any or all of said purposes, and to take private property for such public use by condemning the same for said purpose or purposes. Said condemnation shall be had and made in the same manner as is now provided by law and ordinance for the condemnation of property for public use. (Acts 1903, ch. 556, § 1)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 586. Use of streets and alleys in building levees, pumping stations, dams, etc.

The City of Memphis shall have the right to use any of its streets or alleys or any parts thereof as it may deem necessary in the erection of said levee or levees in building, providing for and equipping said pumping stations, dams, locks, reservoirs and wells. (Acts 1903, ch. 556, § 2)

Sec. 587. Improvements by property owner—Authority to order work; notice to owner; etc.

Power is hereby conferred upon the Council of the City of Memphis, where in the judgment of said council it is necessary to have drains, ditches or other natural water courses or culverts opened or constructed through private property to carry surface water according to the natural flow thereof, to order the owner or owners to construct proper ditches or to lay drain pipes or culverts or to open and clean out bayous or other natural water courses for the purposes aforesaid. In making the order, the council shall cause notice of the order to be given to the owner or owners of the property, stating a time within which work must be commenced and that it must be prosecuted to completion within a reasonable time. (Acts 1909, ch. 480, § 1; Priv. Acts 1915, ch. 474, § 1)

Sec. 588. Same—Failure of owner to comply with order.

The failure to comply with such order of the council shall be a misdemeanor punishable by a fine of not less than one dollar nor more than fifty dollars; and an additional or cumulative remedy is likewise given the city upon failure of the owner or owners to comply with such order to have the work done by the city at the cost of the owner, a bill for which is to be rendered the owner or owners, and, in case of failure to pay the same, the city attorney shall sue for the amount thereof in any court having jurisdiction, and the amount shall be and constitute a lien upon the property through or upon which the improvements are made. (Acts 1909, ch. 480, § 2; Priv. Acts 1915, ch. 474, § 2)

ARTICLE 59. DRAINAGE IMPROVEMENTS UNDER DISTRICT PLAN*

***Cross reference—**Public Works Act, § 868 et seq.

Sec. 589. Authority to establish districts and make improvements.

The council or other governing authority of any municipality in this state having a population of one hundred and thirty thousand (130,000) or over, by the Federal Census of 1910 or any future Federal Census, is hereby vested with the jurisdiction, power and authority to establish a drainage district or districts, and to locate and establish levees, and cause to be constructed, as hereinafter provided, any levee, ditch, drain, culvert, pipe culvert or water course, or to

straighten, widen, deepen or change any natural water course in such municipality, or to provide for the same being done, together with all necessary inlets, manholes, junctions, catch basins and lateral drains as are necessary whenever the same will be of public utility or conducive to the public health or welfare and as hereby provided. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 1)

Sec. 590. City engineer's plans and statement generally.

Before the governing authorities of any municipality shall establish a drainage or levee district or districts, the city engineer of said municipality shall file in the office of the comptroller of said municipality a plan, setting forth the body or district of land in such municipality described by metes and bounds or otherwise so as to convey an intelligible description of such lands sought to be improved by the creation of a levee or drainage district. Accompanying such plans shall be a statement of the reason for said improvement and the nature thereof, which said statement shall set out the nature of the land to be improved and the nature of the improvement, whether by draining, ditching, leveeing, the construction of culverts on inlets and laterals, and setting out as near as may be the starting point, route and terminal, and the lateral branches, if any. Said plans shall show as near as may be the nature of the improvements, with such drawing or drawings as will indicate and give a general idea of the nature and character of the improvement; but no variance between the plan and the description of the improvement which does not materially alter or change the nature of the improvement shall vitiate any of the proceedings or the assessment for the improvements. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 2; Priv. Acts 1937, ch. 123, § 18)

Sec. 591. Appointment of time and place to hear protests against improvements; notice of hearing.

After such plans and description have been filed, the governing authorities of such municipality shall, at some regular meeting within thirty days thereafter, determine whether or not said plans shall be adopted. If said plans shall be adopted, the governing authorities of said municipality shall by proper resolution appoint the time and place at which the said governing authorities will meet to hear protests, if any, against the making of said improvement. Said time shall be not less than twenty days from the passage of said resolution, and due notice of such hearing shall be given by at least four publications in some daily paper in said city, the last of which shall be at least five days before the date of the meeting. Said notice shall state the general character of the improvement and the metes and bounds thereof. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 3)

Sec. 592. Objections to improvements; adoption, rejection or modification of plans.

Any person desiring to object to said improvement shall file his objections in writing on or before the date of hearing, and at the time fixed for the hearing shall appear in person or by attorney and present his objections to the said governing authorities. Said governing authorities shall have the power to adopt, reject or modify said plans, and if said plan is adopted or modified and said modifications do not so materially alter the plan as to make it substantially a new plan, then the governing authorities shall proceed further with said work as hereinafter provided. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 3)

Sec. 593. Engineer to prepare detailed plans; appointment and qualification of viewers; investigation and report of viewers; information to be shown in viewers report; engineer's estimate of cost; elements of cost.

After said plans, as originally drawn or modified, have been adopted, the governing authorities shall direct the city engineer to make detail plans, showing the cost of each item of construction as estimated by said city engineer, which said plans shall be filed with the comptroller within sixty days of the adoption of said general plans of work. At the first meeting after said plans are filed it shall be the duty of the governing authorities of said municipality to appoint five viewers, who shall be freeholders of said municipality and not interested in any property to be improved in said district embraced in the plans. These viewers shall be duly sworn by the mayor to make an investigation of all the property affected by said improvement and embraced in the district, and shall file a report in writing with the comptroller, which shall show:

First, the fair market value of all property which is to be taken in making said improvement;

Second, the damage to any property affected by said improvement, less any particular benefit received by said

property;

Third, the proportions in which the various plots or parcels of ground in said district are to be assessed, which said proportions shall be ascertained by determining the benefits derived by each piece of ground from said improvement and assessing same accordingly, the said valuation to show in percentages the amount to be borne by each piece of lane according to its area; and in making said assessment the viewers shall determine what particular plot or plots shall be regarded as a unit, and assess all others according to their proportionate improvement as compared to said unit.

Said report must be filed with the comptroller within sixty days from the appointment of said viewers.

Within fifteen days after said report is filed, the city engineer shall file with the comptroller an estimate, which shall set forth the amount to be borne by each particular piece of land of the cost of said improvement in which said estimate shall be included, the following items, to-wit:

The cost of all labor and material necessary to do the improvement contemplated;

The cost of all property to be acquired and all damages to be paid;

The cost of all proper supervision of said work, which may be done by engineers hired for that purpose or by the engineering department of said municipality; and if said work is done by the engineering department of the municipality, the cost thereof shall be ascertained by adding to the cost of labor and materials ten per cent of the amount thereof, which sum shall be conclusively held to be the entire cost to said municipality of said engineering and of all the costs of collecting and clerical work connected with said improvement.

The cost of the viewers in determining damages, and the value of the property taken, court costs, and the expense of litigation, and, in general, all expenses incurred on account of said improvement.

The cost of abstracts, plans, advertisements, collections and clerical help shall also be charged, unless the engineering work is to be done by the municipality, in
which event these items shall be embraced in the ten per cent charge above set out. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 4; Priv. Acts 1937, ch. 123, § 1)

Sec. 594. Appointment of time and place for hearing of complaints against value fixed for property, damage to property or assessments; notice of hearing; objections to be filed in writing; presentation of objections; effect of failure to appear; hearing of complaints; confirmation or modification of report; right of appeal.

Within ten days after the filing of said engineer's estimate of the cost of assessment, the governing authority of said municipality shall, by proper resolution, fix a time and place, not less than twenty days from the date of said resolution, for the hearing of complaints against the value fixed for property to be taken or damages to property or the assessment to be made upon any property. Due notice of said hearing shall be given by at least six publications made in some newspaper in said municipality, which said notice shall set out the estimated cost of said improvements and the fact that the detail estimate and the assessment against each piece of property has been filed, and notifying the property holders to appear and make their protests at the time and place appointed, and setting out the metes and bounds of said improvement district and the nature and character of said improvement. Any person objecting to the fixed value upon his property or the amount ascertained as the damages thereto, or the assessment thereon, shall file his objections in writing on or before the time fixed for said hearing, and appear in person or by attorney at said hearing and present his objections. Any person failing to appear shall be considered as accepting the amounts fixed in the reports as the values of their property, and damages to or the assessment thereon. The governing authorities of the municipality shall hear all complaints made and confirm or modify the reports in accordance therewith. Any person dissatisfied with the award of the governing authority of said municipality shall, within ten days, file a certiorari to the circuit court of the county in which said municipality is situated for the purpose of reviewing said holdings, and unless said certiorari is filed, the finding of the governing authority shall be final, both as to the value of the property taken and the damages thereto and as to the maximum amount of the assessment to be borne by said property. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 5)

Sec. 595. Effect of appeal upon prosecution of work.

If no objection shall be filed or certiorari taken from the findings of the governing authorities of said municipality as to the assessment to be borne by each piece of property, and objections be made only to the value of any piece of property taken and the damages thereto, the governing authorities of the municipality shall have the right to proceed with said improvement without awaiting the determination of said suits; provided, however, that in no event shall the

district be charged with any greater sum than the amount fixed by the viewers as the damage to or the value of the property.

If the objections be to the amount of the assessment to be borne by any piece of property, no work shall be done until said suits have been determined. All of said suits shall be advanced from the dockets of the circuit courts so as to be given, as far as possible, an immediate hearing; and if more than one suit has been filed objecting to the assessment to be fixed upon property within the district, said suits shall be heard together. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 6)

Sec. 596. Engineer's statement of cost of work; procedure where statement varies from estimate.

After the work in any improvement district shall have been completed, the city engineer shall file with the comptroller a statement, showing the complete and detailed cost of said work, including all of the items embraced in the estimate. If the said statement shows the cost of the work to have been less than the estimate, then the assessment on all of the property in the said district shall be reduced proportionately, but if the statement shows a greater cost than the estimate, the assessment as previously made shall stand, and the excess shall be borne by the municipality. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 7; Priv. Acts 1937, ch. 123, § 18)

Sec. 597. Maximum assessment; confirmation of assessment; lien; publication of confirmation; when assessment due.

If the amount assessed against any piece of property shall be greater than one-third of its assessed value for city taxation in the year when the first assessment against said property was filed, then the assessment upon said property shall be reduced so as not to be greater than one-third of the assessed value, and the municipality shall have the excess. Within ten days after said final statement of cost has been filed, the governing authorities of the municipality shall by proper resolution confirm said assessment, and the same shall thereupon become a lien upon all the property in said district for the amount assessed against it. The said resolution of confirmation shall be duly published three times subsequent to its passage in some newspaper in said municipality, and the property holders shall have thirty days from said last publication in which to pay the assessment in full or sign a contract to pay same in installments. (Priv. Acts 1913, 1st Ex. Sess., ch 51, § 7)

Sec. 598. Record of assessment; payment in five annual installments; interest; failure to pay installment when due.

The assessment for any district shall be written in a well-bound book, which shall show the amount assessed against any property in said district, with appropriate columns to credit the payments of said assessment. Any property holder who desires to do [so] may, within the thirty days allowed for so doing, sign said assessment book, agreeing to pay the said assessment in five annual installments, together with six per cent interest on each of the said installments, until paid. If said installments are not paid when due, then all of the said sums shall become due and collectible, as hereinafter provided. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 8)

Sec. 599. Enforcement of lien.

The lien hereby created upon any property in any improvement district shall be collectible by a suit in the chancery court, or may be enforced as a lien for city taxes is enforced by a sale of said property. If suit is filed in the chancery court, any number of pieces of property may be embraced in one suit, and if a lien is enforced as city taxes are enforced, the proceedings shall be those provided by existing statutes and laws for the collection of city taxes at the time said sums become due. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 9)

Sec. 600. Streets, alleys and railroad rights of way to be assessed.

The streets and alleys owned by the municipality and the tracks of any commercial or street railroad company and their rights of way shall be assessed as other property in the district is assessed. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 10)

Sec. 601. Bond issue for costs.

The governing authorities of such municipalities shall have the right and power to issue negotiable bonds of the municipality to any amount in par value not exceeding the amount of the estimated cost to be paid by the owners of property other than the city in such improvement district as said estimated cost is determined and fixed after all preliminary steps have been taken and the work is ready to be begun. Such bonds shall be payable to bearer in lawful money of the United States at such place or places as may be designated in the bonds, and be in such form and signed by such officers as may be provided in the ordinance directing their issue. Coupons may bear a facsimile signature or signatures, and in case any of such officers whose signatures appear on said bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of the bonds.

The bonds shall run for one, two, three, four and five years and bear interest at a rate not exceeding six per cent per annum, as may be designated in the bonds, payable semiannually, and such bonds shall be of such denomination as the legislative body may direct. Said bonds shall be sold at public or private sale at not less than par and accrued interest, and shall be the absolute and general obligation of the municipality. The governing authorities of said municipality shall provide by ordinance that the assessment levied upon property in said improvement district in respect of which any such bonds are issued shall be set apart as the fund for the payment of such bonds and interest, and it shall be the duty of the governing authorities of the municipality to levy, in addition to all other taxes which said municipality is by law authorized to levy, an ad valorem tax on all the taxable property in said municipality to pay the principal and interest of such bonds as they become due, or to pay such part or parts thereof as are not provided for by the reassessment levied and actually collected and in the treasury of the municipality set apart for the payment of such bonds and interest.

Such ordinances for the issuance of bonds shall be passed as other ordinances are passed, and the municipality may, in its discretion, provide for the issuance of bonds in one lot or amount in respect to any one or more of such improvements, and may provide that any assessments levied in respect to all such improvements may be applied as a whole toward the payment of the entire lot or amount of bonds or interest thereon.

No proceedings on the part of said municipality in any respect to the issuance of said bonds shall be necessary, except such proceedings as are required by this Act. The failure in the existence or performance in any of the conditions precedent to the issuance of said bonds shall not affect the validity of said bonds, but the same shall be in all respects valid and binding.

The levy by the municipality of any ad valorem tax shall not prevent the collection of the assessment levied for the improvement district for which the bonds were issued; but said assessment shall remain and be collected, the proceeds thereof to be devoted to reimbursing the municipal treasury for the amount paid out under said ad valorem tax. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 11)

Cross reference—Ordinances relative to bond issues generally, § 358.

Sec. 602. Compensation of viewers.

The viewers hereinbefore provided for shall receive for their services the sum of five dollars per day for the time engaged upon the duties prescribed in this Act and in the ordinance under which they are appointed. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 12)

Sec. 603. City to be reimbursed for preliminary costs.

The municipality shall be reimbursed on account of the preliminary steps taken in forming any district herein provided for, and such expense shall be embraced in the final and detailed cost of the improvement. (Priv. Acts 1913, 1st Ex. Sess., ch. 51, § 13)

ARTICLE 60. DRAINAGE IMPROVEMENTS UNDER FRONTAGE PLAN*

***Cross reference—**Public Works Act, § 868 et seq.

Sec. 604. Definitions.

The following shall be [the] definition and meaning of the terms used in this Act:

(1) The “current year” shall mean the calendar year in which the lien shall attach by law to the property.

(2) The “assessed value” shall mean the value of the property abutting the ditch, drain, or water course improved, and all improvements thereon as fixed by the duly constituted authorities as the value of the same for the purposes of the city taxation for the current year.

(3) The phrases “the cost of making any such improvement” and “the expense of constructing said improvement,” shall be held to mean every item of expense whatsoever incurred by the city or paid out as a result of said improvement, and shall, in addition to all other items of cost or expense, be expressly held to include:

(a) The cost of any property purchased, condemned, or otherwise acquired for the purpose of constructing, straightening, widening, deepening, or changing any ditch, drain or water course, and all court costs and every other change incidental to said condemnation, purchase, or acquisition.

(b) The cost of removing, altering, or relaying any property or tracks of any person or corporation which the city is, by existing contract or law, required to remove, alter, or relay.

(c) The amount of damage paid as the result of injury to abutting property by a change of drainage including all court costs and incidental expenses arising as a result of any proceedings had to ascertain and fix said damages.

(d) The cost of retaining walks [walls], fences, or other improvements built or altered in lieu of cash payment for the damages to property or the acquisition thereof.

(e) The cost to the city of all printing, advertising, clerical help, collection of funds, loss of interest on money advanced, engineering supervision, legal advice, stenographers, abstracts, plats, accounting, and in general the expense of supervising, directing, and controlling the work of improvement, which said amounts need not be itemized and charged to the improvement, but shall be ascertained by adding to the total of the sums which have been otherwise expended ten per cent (10%) of all said sums otherwise expended save the cost of acquiring the property necessary to the improvements, and said ten per cent (10%) shall be held to be the amount of said unitemized sums expended on the improvements.

(f) The cost of any bridge, culvert, pipe, inlets, or other structure under or through which water of said ditch, drain or water course is carried.

(g) The cost of improving the entire ditch drain or water course including that portion of intersecting streets, or alleys, lying between the boundaries or sidelines of the ditch, drain or water course improved, when said intersections are improved in like manner with the rest of the ditch, drain or water course, so as to make a continuous improvement of one kind or another.

(h) The cost of moving or altering any store or other structure where such removal or alteration is made necessary by the change of the ditch, drain or water course improved.

(4) The term “lots or parcels of land” shall be held to mean all real estate by whomsoever owned or occupied which abuts the ditch, drain or water course, and shall include the right of way of any steam railroad, whether the same crosses the ditch, drain or water course, or lies in or contiguous and adjacent thereto, and also any street or alley which may be temporarily closed and under lease. The area included shall be all the land under the same ownership which abuts upon the ditch, drain or water course and is assessed for city taxation as one tract irrespective of the depth thereof, or any plan of subdivision adopted; provided, that upon application of the owner of a tract more than two hundred and fifty feet deep before the assessment is confirmed, the lot or parcel of land shall be described and considered as running back from the ditch, drain or water course within parallel lines to a distance of two hundred and fifty feet. (Priv. Acts 1931, ch. 215, § 5)

Sec. 605. General authority to make improvements.

The council or other governing authority of any municipality in this state having a population exceeding two hundred and fifty thousand (250,000) inhabitants by the Federal Census of 1930, or any future Federal Census, is hereby vested with jurisdiction, power and authority to cause to be constructed as hereinafter provided, any ditch, drain, culvert, pipe culvert, or water course, or to straighten, widen, deepen, or change any natural water course, or do any work of bank protection in connection therewith, whether such ditch, drain or water course be on public or private property in such municipality, or to provide for the same being done, together with all necessary inlets, manholes, junctions, catchbasins and lateral drains as are necessary, whenever the same may be a public utility or conducive to the public health or welfare. (Priv. Acts 1931, ch. 215, § 1)

Sec. 606. City engineer to file plan of improvement.

Before the governing authorities of any municipality shall undertake any work on or improvement to ditches, drains, or water courses under this Act, the city engineer of said municipality shall file in the office of the comptroller of said municipality, a plan setting forth the ditch, drain, or water course to be constructed or improved, the description of the property fronting upon said water course, a statement of the reason for said improvement, and the nature thereof, the starting point, route and terminal of such ditch, drain, or water course, and the lateral branches, if any. Said plan shall show as near as may be, the nature of the improvement, with such drawing, or drawings, as will indicate and give a general idea of the nature and character of same, but no variance between the plan and the description of the improvement which does not materially alter or change the nature of the improvement shall vitiate any of the proceedings or the assessment for the improvements. (Priv. Acts 1931, ch. 215, § 2; Priv. Acts 1937, ch. 123, § 18)

Sec. 607. Adoption of improvement ordinance; form; notice of hearing of protests against construction; presentation of protests; confirmation, etc., of ordinance; effect of failure to object before confirmation.

Before any work shall be done on any improvement authorized by the preceding section, the cost of which is proposed to be assessed against the property abutting said ditch, drain, or water course to be improved, it shall be the duty of the council or other governing authority of said municipality to adopt an ordinance that said improvement shall be made, which ordinance shall state the general character of the improvement and location and terminal points thereof, and the ditches, drains, or water courses or parts thereof to be so improved. Said ordinance shall be passed as now provided by law for the passage of ordinances providing for the special assessments for street improvements in said municipality, and after the final passage of said ordinance, notice shall be given by at least one publication in some newspaper in said municipality fixing a day not earlier than ten (10) days from the date of such publication and the place at which the council or other governing authority of such municipality shall meet to hear remonstrances or protests against the construction of said improvement. At said meeting, or at a place and time at which the same may be adjourned, all persons whose property will be affected by said improvement may appear in person, or by attorney, and present their written petition and protest against the construction of said improvement; and after hearing such protest, if any, said council may confirm, modify, or rescind such ordinance. Any objection against the making of said improvements, not presented in person or by attorney prior to the confirmation of said ordinance shall be considered as waived, and the protest of the property holders shall not inure to the benefit of any other property holder not signing the same, in person or by attorney. The judgment of the council overruling a protest shall be treated as the final judgment of an inferior tribunal and reviewable only as such. (Priv. Acts 1931, ch. 215, § 3)

Sec. 608. Assessments generally.

If said improvement be finally ordered, the council or other governing authority of the municipality shall have power and authority, after completion and acceptance thereof, to assess two-thirds of the expense of constructing said improvements upon and against the several lots or parcels of land abutting the ditch, drain or water course improved according to their respective frontages; provided, however, that said assessment upon any lot shall not exceed two-thirds of the assessed value thereof for city taxes for the current year; and all such assessments shall be and constitute a lien on the respective lots or parcels of land upon which they are levied superior to all other liens, except those of the state and county for taxes. The enforcement by the state or county or city of its lien for taxes on any lot or parcel of land upon which has been levied an assessment for any improvement authorized by this Act shall not operate to discharge or in any manner affect the city's lien for said assessment; but a purchaser at a tax sale by the state, county or city of any lot or parcel of land upon which said assessment has been levied shall take the same subject to the lien of such assessment; and if brought by the state, any conveyance of the title thus acquired or any redemption shall be subject to the lien of such assessment. (Priv. Acts 1931, ch. 215, § 4)

Sec. 609. City may do work with own forces.

It shall not be necessary for the improvements under this Act to be done under contracts let according to the requirements for letting other contracts of the municipality carrying on said improvement, but the municipality may do all or any part of said improvement by labor hired by the municipality and with material purchased as other municipal purchases are required to be made. (Priv. Acts 1931, ch. 215, § 5)

Sec. 610. Lien for improvements.

When an ordinance for the improvement of any ditch, drain or water course shall have been duly passed and confirmed, the municipality shall have a lien upon all property abutting on said ditch, drain or water course so improved for its pro rata cost of said improvement, the amount of the said lien to be determined and assessed against said property as now provided by street improvement Acts applicable to the said municipality. (Priv. Acts 1931, ch. 215, § 5)

Sec. 611. Notice of improvement to contain estimate of cost; variance between estimate of cost and assessments.

The notice of the adoption of an ordinance for the improvement of any ditch, drain or water course shall contain an estimate of the cost of every item to be expended in said improvement, and no item not embraced in said estimate shall be assessed as part of the cost of the improvement, except the ten per cent (10%) charge for the general supervision, an unitemized expense of the city which shall in all cases be in such estimate and embraced in said assessment without being itemized or set out in detail. The amount of the estimated cost or [of] any item shall not control or affect the amount to be assessed for said item if the cost thereof shall not exceed by more than ten per cent (10%) the amount as estimated. If the bids received for said improvement shall exceed by ten per cent (10%) or more the amount estimated for any item, it shall be the duty of the council or other governing authority of the municipality to pass a new ordinance for said improvement or abandon same, or in default of such action, to pay the amount expended upon any item in excess of said estimate. (Priv. Acts 1931, ch. 215, § 5)

Sec. 612. Assessment book; publication of notice to abutting owners; filing of objection or defense to assessment; hearing.

When the amount to be assessed against each lot or parcel of land for any improvement shall have been ascertained, the city engineer shall cause the same to be entered in a well-bound book prepared for the purpose, which shall show the names of the owners of the property assessed, if known, and opposite each name the description of each lot or parcel of land assessed belonging to such owner and the amount assessed against each, and shall contain appropriate columns in which payment may be credited and the lien of the assessment marked satisfied by the proper officers of the municipality; and if the name of the owner of property proposed to be assessed be unknown, said book shall contain under the head of “Owner Unknown” a list of the property to be assessed, the owners of which are unknown. After the completion of the proper entries of each improvement, said book shall be delivered to the comptroller who shall thereupon give notice by publication in some daily newspaper of general circulation in said municipality that said book of assessment for public improvements has been delivered to him and is open for inspection at his office; and at a time and place named therein, not less than ten days from the date of publication, the council or other governing authority of such municipality will meet to hear and determine any objection or defense that may be filed in his office by any owner of property proposed to be assessed against the said assessment. Said notice shall also state the general character of the improvement, the terminal parts thereof, and the ditch, drain or water course, or portions thereof which are to be improved. All persons whose property it is proposed to assess for the cost of said improvement may at any time on or before the date named in said notice and before said meeting, file in writing with the comptroller of the municipality or in his office any objection or defense to the proposed assessment against his property or to the amount thereof; and at a meeting on the date named, or any date to which said meeting may be adjourned, said council or other governing authority of said municipality shall herein determine said objection or defense, and after so doing, shall confirm, modify, or set aside the assessment. If no objection or defense to the assessment or to the amount thereof is filed, or if the property owner fails to appear in person, or by attorney and insist upon the same, the assessment shall be confirmed and made final. (Priv. Acts 1931, ch. 215, § 6; Priv. Acts 1937, ch. 123, § 18)

Sec. 613. When assessments due and payable; payment of assessments by installment.

All assessments levied by virtue of this Act shall be due and payable within thirty days after the assessment is made final as aforesaid, but at the election of the property owner, to be expressed by notice as hereinafter provided, said assessment may be paid in five annual installments, and shall bear interest at the rate of six per cent per annum, interest payable annually; a property owner desiring to exercise the privilege of payment by installment shall, before the

expiration of the thirty days aforesaid, enter into an agreement in writing with the municipality that in consideration of such privilege he will make no objection to any illegality or irregularity with regard to the assessment against his property, and will pay the same as required by law with the specified interest; such agreement shall be filed in the office of the comptroller of such municipality, and in all cases where such agreement has not been signed and filed within the time limited, the entire assessment shall be payable in cash without interest before the expiration of said thirty days; provided, that any property owner who shall have elected to pay his assessment in five annual installments shall have the right and privilege of paying up the assessment in full at any installment period by paying the full amount of the installments together with all accrued interest thereon. Should such property owner elect to pay his installments in full between the installment periods, all assessments or installments thereof shall be payable to the city tax receiver or treasurer, whose duty it shall be to receive the same and give proper receipts therefor and enter the proper credit and satisfaction. (Priv. Acts 1931, ch. 215, § 7; Priv. Acts 1937, ch. 123, § 18)

Cross reference—Additional authority to permit installment payment of assessments, § 836.

Sec. 614. Default in payment of installment.

Upon default for the period of thirty days in the payment of any installment and interest, the entire unpaid assessment shall immediately become due and payable and the lien thereof foreclosed and collection enforced by the municipality. The property thus sold may be redeemed at any time during a period of two years after said sale by paying costs, penalties, and interest having accrued on account of said sale. (Priv. Acts 1931, ch. 215, § 8)

Sec. 615. Certificates of indebtedness generally.

After the construction of any improvement shall have been finally ordered and [the] entire cost thereof estimated, the council or other governing authority shall have the power and authority, for the purpose of providing means to pay the expense of said improvement, to order the issue of and issue and sell, at not less than par, certificates of indebtedness at an amount not to exceed two-thirds of the estimated cost of said improvement. Said certificates shall be negotiable, payable to bearers, and shall have attached thereto coupons for the interest thereon, and shall be payable in lawful money of the United States and be in such form as may be provided in the ordinance directing such issue. The certificates shall run for one, two, three, four and five years, and bear interest at the rate of six per cent per annum, payable semiannually, at such place or places as may be named therein, and shall be in such denominations as said legislative body may direct. Any certificates of indebtedness issued hereunder shall be payable at the option of the municipality at any interest-paying period.

In the event such municipality should elect to pay off any such certificate in full at any interest period, it shall pay as a bonus to the holder thereof a sum equal to one-half of the annual interest thereon for one year; provided, however, that said council or other governing authority shall give public notice before such interest period by publication three times, once a week for three consecutive weeks, in a daily paper published in such municipality, the first publication to be not less than thirty days prior to the interest period of said certificates proposed to be redeemed, stating its intention to redeem the same and describing the same by number and series. They shall state on their face the caption and number of the ordinance under which said improvement is constructed, and said ordinance shall state the general character of the improvement, to pay for which they shall be issued, and the terminal points thereof, and the ditches, drains, or water courses or parts thereof which are to be improved as hereinbefore provided. They shall be issued under the corporate seal of such municipality, and the certificate shall be signed by the chief officer and comptroller of such municipality, and the coupon shall bear the facsimile signature of said comptroller; provided, however, that the validity of said certificates shall be in no wise affected by reason of any defect in the form thereof or any omission therefrom.

The proceeds arising from the sale of said certificates or so much thereof as may be necessary shall be applied exclusively to the payment of the cost of the improvement, to pay for which said certificates were issued; but if there should remain any surplus after paying such costs, the same shall be and become a part of the fund pledged for the payment of said certificates; provided, however, that the council or other governing authority of such municipality may borrow money and advance the same for the construction of such work and improvement; and after the completion of such work and assessment of the cost thereof shall have been made final, the said council or other governing authority may then issue and sell certificates as hereinbefore provided in such amounts as may be necessary to pay two-thirds of the cost of said improvements, including such amounts as may be borrowed for that purpose, and all interest and other expenses so incurred for the construction of said improvements as hereinbefore provided shall be charged and assessed

as a part of the cost of such improvements upon the property assessed for the same. But said legislative body may provide in the ordinance ordering the improvements to be constructed or in the agreement with the contractor by whom it is to be done, for the issue of all or a part of such certificates directly to the contractor at not less than par value in part or in full payment of the contract price, in which case the certificates shall be delivered to the contractor upon completion and acceptance of the work and allowance of the final estimate. (Priv. Acts 1931, ch. 215, § 9; Priv. Acts 1937, ch. 123, § 18)

Sec. 616. Assessments collected to constitute separate fund pledged to payment of certificates.

The proceeds arising from the collection of assessments levied for each improvement shall be and constitute a separate and distinct fund, and each such fund, together with its accumulations, is hereby pledged for the payment of the certificates and interest coupons issued for the improvement, from the assessment of which said fund arises, and shall be applied exclusively to the payment of said certificates and coupons. (Priv. Acts 1931, ch. 215, § 10)

Sec. 617. Treasurer to keep separate account of funds; diversion of proceeds to different fund prohibited, etc.

It shall be the duty of the treasurer or tax receiver of such municipality to keep an accurate account of all funds arising from all assessments for public improvements under this Act, and to carefully and accurately keep a separate account of the funds arising from the collection of assessments for each particular improvement, and no proceeds arising from assessments levied for one improvement shall be diverted to the payment of the certificates issued for any other improvement or to the payment of any other indebtedness of such municipality; provided, however, that if any time, the amount of any particular fund shall exceed the amount of any outstanding certificates and interest entitled to payment out of such fund, after the payment of any sum that such municipality may have advanced or borrowed for the purpose of constructing said improvement, the council, or other governing authority of such municipality shall apply such surplus to the redemption of certificates issued for such improvements as hereinbefore provided, and all certificates so redeemed shall be cancelled; provided, further, that said council, or other governing authority shall have the power, if no certificates of indebtedness for said improvement have been issued and sold, to order the payment out of the proper fund to the contractor who constructed the improvement of all or any part of the assessment for said improvement previously collected, or to reimburse from said collection the general funds of the city to the extent of any money advanced out of the general funds of the city borrowed to pay the cost of said improvement, and to issue and sell certificates as herein-before provided, either to the contractor in full settlement or to others, to an amount not exceeding the balance due the contractor and the general fund of the city or borrowed for such purpose. (Priv. Acts 1931, ch. 215, § 10)

Sec. 618. Disposition of surplus.

If there shall be any surplus arising from the sale of certificates issued for any improvements above the cost of said improvement, said surplus shall be and become a part of the fund levied for said improvement, and shall be kept and applied in the manner as said fund is herein required to be kept and applied. (Priv. Acts 1931, ch. 215, § 10)

Sec. 619. Proceeds to be kept in separate account in depository.

All proceeds arising from the collection of assessments levied for an improvement shall, as soon as collected, be deposited by the city treasurer or tax receiver in some bank designated by the council or other governing authority of such city, and such collections shall not be deposited with the general funds of the city, but shall be considered a separate deposit to the account of "public improvement," and shall be drawn out on checks or order directing the amount designated therein to be paid out of the public improvement fund. (Priv. Acts 1931, ch. 215, § 10)

Sec. 620. Liability of officials for misappropriation of funds.

The city treasurer or tax receiver shall be liable on his official bond to any holder of the certificates of indebtedness authorized by this Act for any loss or injury to such certificate holder caused by the diversion by said officer or any fund or part thereof to the payment of any bond, certificate of indebtedness, or interest coupons or indebtedness of the city other than the certificates and interest coupons and indebtedness herein authorized to be paid out of said funds, or by the use of [or] misappropriation by said officer of any part of the funds out of which such certificates are required

and contemplated herein to be paid for any other purpose than herein provided for, or for the benefit of the city or others; and all members of said legislative body who shall by their vote, or in any other manner, cause, aid, or encourage any such diversion, use, or misappropriation of the fund out of which the certificate holders are entitled to be paid for any other purpose than that authorized and required herein whereby loss or injury to the certificate holder or any of them is caused shall be jointly and severally liable to such certificate holders injured to the extent of such loss or injury. (Priv. Acts 1931, ch. 215, § 10)

Sec. 621. Redemption of certificates.

When the amount of the fund arising from the collection of assessments levied for any improvement shall, with its accumulations, equal the amount of the outstanding certificates and accrued interest entitled to payment out of such fund, the council or other governing authority of such municipality shall have authority to redeem any and all certificates that may be presented for redemption at such time thereafter as the holders may desire to present them for redemption. (Priv. Acts 1931, ch. 215, § 11)

Sec. 622. Sale of delinquent property.

Such council or other governing authority shall have authority to sell all property against which an assessment has been levied at any time after said assessment shall have become due to satisfy the same, together with all costs, and such sale shall be governed as to notice, terms, costs, and in all other respects, except as to the time of sale, by the laws and ordinances of such municipality now in force or which may hereafter be enacted providing for the sale of real estate for city taxes. But such council or other governing authority shall have power to adopt other and different laws and ordinances governing and regulating such sales of real estate for said assessments, and in addition to such remedy by sale for the enforcement of the collection of said assessment, the lien of said assessment, irrespective of the amount thereof, may be foreclosed by a proceeding instituted in any court of competent jurisdiction, and in all such proceedings any number of persons, the assessments against whose property are in default, may be joined as defendants; provided, that after maturity of any of the certificates of indebtedness issued for any improvement the holders of the outstanding certificates or any of them may maintain a bill of equity in his or their names to foreclose the lien of said assessment, irrespective of the amount thereof, and may recover interest, costs, and reasonable attorney's fees; and in such bill any number of persons, the assessment against whom are in default, may be joined as defendants. In such suits the liens shall be foreclosed for the whole amount of the unpaid assessment against the property of said defendant, and the recovery shall inure to the benefit of all the certificate holders. (Priv. Acts 1931, ch. 215, § 12)

Sec. 623. Assessments against railroads.

Should there be a street, electric, or steam railroad track or tracks over any ditch, drain or water course improved under this Act, the cost of such improvements across the right of way, including switches and turnouts, shall be paid by the owners of such railroads, and shall be assessed and collected from such owner, and shall be a lien upon the railroad and the property used in connection therewith; and in the event a culvert be constructed, there shall be assessed against such railroad a fair and just proportion of the cost of construction of such culvert, to be determined by such council or other governing authority, and such assessment shall be a lien like other assessments, and may be collected in like manner. (Priv. Acts 1931, ch. 215, § 13)

Sec. 624. Construction of Act.

Nothing in this Act shall be so construed as to take from the council or other governing authority of any municipality or in any way affect its power or authority to compel property owners, by penal ordinance or otherwise, to open or construct drains, ditches, or culverts through their property in such manner and with such materials as may be directed and under supervision of the city engineer or other officer or agent of the city, or to cause such repairs to be made at the expense of the property owner. (Priv. Acts 1931, ch. 215, § 14)

Sec. 625. Authority of city to condemn or purchase land.

Whenever in the judgment of the council or other governing authority of such municipality it may be necessary or expedient for the carrying out and full exercise of the powers hereby granted, said municipality shall have full power and authority to acquire by purchase or condemnation of the necessary lands or rights or easements, and may proceed to condemn in the manner provided by the general laws of the state governing the taking of land or the acquiring of an

interest therein for the uses for which private property may be taken, and such proceedings may be governed in every respect by the general laws of the state pertaining thereto. (Priv. Acts 1931, ch. 215, § 15)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 626. City's full faith and credit pledged for payment of certificates.

The full faith and credit of any municipality issuing certificates of indebtedness to pay for improvements under the provisions of this Act is hereby pledged for the payment of such certificates, with interest, according to their tenor. (Priv. Acts 1931, ch. 215, § 16)

ARTICLE 61. MEMPHIS AND SHELBY COUNTY PORT COMMISSION*

***Editor's note—**This commission was originally known as the Memphis and Shelby County Harbor and Port Commission. Priv. Acts 1951, ch. 385, § 2, amended Priv. Acts 1947, ch. 500, from which this article is derived, by changing the name to "Memphis and Shelby County Port Commission" wherever it appears. This change has been made by the editor.

Code reference—Rivers and harbors, Ch. 12-92.

Sec. 627. Created; composition; appointment, terms and compensation of members.

Chapter 11 of the Acts of the General Assembly of 1879, entitled "A Bill to establish taxing districts in this State and to provide the means of local government for the same," and all Acts amendatory thereof, constituting the Charter of the City of Memphis, be and the same are hereby amended so as to establish and create a commission to be composed of five (5) members, to be known as the Memphis and Shelby County Port Commission, whose terms of office shall be one, two, three, four and five years, said commissioners to serve without compensation and to be selected as follows: The Council of the City of Memphis, on nomination of the mayor of the City of Memphis, shall appoint three of such commissioners, whose terms shall be one, three and five years, respectively. The quarterly county court of Shelby County shall elect the other two members, whose terms shall be two and four years, respectively. Upon the expiration of the terms of said aforesaid commissioners appointed by the council on nomination of the mayor of said city, the then council and mayor shall appoint a successor to the commissioners whose term of office thus expired; and upon the expiration of the term of any of said commissioners so elected by the quarterly county court of Shelby County, the then quarterly county court shall elect a successor to the commissioner whose term thus expired. The term of all commissioners appointed or elected subsequently to the original members of said commission shall be two years and successors shall be appointed or elected from time to time as vacancies occur, as above provided, by the mayor and council of the City of Memphis or by the quarterly county court of Shelby County. (Priv. Acts 1947, ch. 500, § 1)

The City of Memphis by ordinance is authorized to provide for the combining of the Memphis River Front Harbor Commission with the Memphis and Shelby County Port Commission and to increase the membership of the Port Commission from five (5) to no more than nine (9) members. The appointment, qualifications, duties, powers and responsibilities of the new board shall be fixed by ordinance and all powers of the Memphis River Front Harbor Commission shall be transferred by said ordinance to the Memphis and Shelby County Port Commission, who shall have general charge, supervision, management and control over the property under the jurisdiction of the Memphis River Front Harbor Commission and shall have all the powers now granted to the Memphis River Front Harbor Commission as well as the powers of the present Port Commission. Title to all parcels of property, lands or real estate in the name of the City of Memphis shall be continued in said body, unless transferred by contract mutually agreed upon by the City of Memphis and the County of Shelby, to the County or to a joint ownership, and expenditures and revenues of the Memphis River Front Harbor Commission shall continue as presently provided unless changed by mutual agreement between the City of Memphis and The County of Shelby.

Nothing in this provision shall impair any obligations heretofore entered into by the Memphis River Front Harbor Commission or its predecessors to any persons but all contracts outstanding heretofore made under the existing law shall be binding upon the Memphis and Shelby County Port Commission upon the transfer.

Nothing in this amendment shall be construed to amend the present Charter powers of the Port Commission as set forth in Section 634 through Section 654. (Ord. No. 1437, 9-5-72)

Sec. 628. Bond required of members; ex officio members.

The members of said commission shall give bond in the sum of five thousand dollars ($5,000.00) to the State of Tennessee for the use and benefit of the City of Memphis and the County of Shelby, conditioned upon the faithful performance of their duties as such commissioners. Said bonds are to be in solvent surety companies qualified to do business in the State of Tennessee and having an agent in Memphis, Shelby County, Tennessee, the expenses thereof to be paid from the revenue of said commission, and as a part of the operating expenses thereof. The commissioner of public service of the City of Memphis and the chairman of the board of county commissioners of Shelby County shall be ex officio members of said commission, with the right to vote, but shall give no bond. (Priv. Acts 1947, ch. 500, § 1)

Cross reference—Bonds of officers and employees generally, § 178.

Sec. 629. Qualifications of members; jurisdiction and duties generally; removal of members.

The mayor and council of the City of Memphis and the quarterly county court of Shelby County shall have the power to fix the qualifications of the members of said commission; shall have the power to prescribe their jurisdiction and duties and said commissioners may be removed at the will and pleasure of the Council of the City of Memphis and the quarterly county court of Shelby County without the necessity of a hearing or notice, and their action in removing any commissioner shall be final. (Priv. Acts 1947, ch. 500, § 1)

Sec. 630. Authority to pass ordinances to carry out provisions of Act.

The mayor and Council of the City of Memphis shall have full authority to pass ordinances to carry out the aforementioned powers and any and all other or additional ordinances that may become necessary in order to carry out the purposes and provisions of this Act. (Priv. Acts 1947, ch. 500, § 1)

Sec. 631. Commissioners to qualify and take oath; acquisition of property, etc.

The said commissioners shall qualify and take an oath to uphold the Constitution of the United States and of the State of Tennessee and faithfully to discharge the duties of his office, as soon as practicable after this Act becomes effective, and upon the organization thereof, the City of Memphis is hereby authorized and empowered to vest the management and control of any and all properties devoted to harbor purposes owned by the City of Memphis, or its predecessors, in the commission herein authorized, subject to such terms and conditions as may be deemed advisable. The City of Memphis and the County of Shelby are hereby authorized to enter into a contract or contracts with reference to the acquisition by the Memphis and Shelby County Port Commission of all right, title and interest, as well as the assumption of all liabilities of the said City of Memphis and/or the harbor commission of the City of Memphis, or its predecessors, in and to any and all such property owned by said city or harbor commission of said city, or its predecessors. (Priv. Acts 1947, ch. 500, § 1)

Sec. 632. Designation and term of chairman.

Immediately upon the qualifications of the commissioners of the Memphis and Shelby County Port Commission, the Council of the City of Memphis and the quarterly county court of Shelby County shall designate one of the members of said commission as chairman, who shall hold office as such during the term for which he is elected a member thereof. (Priv. Acts 1947, ch. 500, § 2)

Sec. 633. Meetings; quorum; salary of chairman.

The said commission shall hold regular meetings each month at a definite time to be fixed by resolution of the Memphis and Shelby County Port Commission, and such special meetings as may be necessary for the transaction of business shall be held. A majority of the commission shall constitute a quorum for the transaction of business at any regular or special meeting. The chairman shall receive a salary not exceeding $1,800.00 per annum, to be fixed by the Council of the City of Memphis and the quarterly county court of Shelby County. (Priv. Acts 1947, ch. 500, § 2)

Sec. 634. Manager, secretary, treasurer and attorneys.

The Memphis and Shelby County Port Commission shall, as soon as practicable after the organization thereof, certify the nomination of the following subordinate officers to the Council of the City of Memphis and to the board of county commissioners of Shelby County for approval, and said subordinate officers, after having been approved, shall

receive such salaries as may be fixed by the said port commission, subject, however, to final approval by the Council of the City of Memphis and the board of county commissioners of Shelby County.

(a) *Manager*. A manager, who may be required to devote his entire time and attention, or such parts thereof as may be required, to the duties of the office, and shall be subject to the supervision and direction of the Memphis and Shelby County Port Commissioners. He shall make and file a bond in such sum as may be prescribed by said port commissioners and shall take the same oath required of the members of said commission.

(b) *Secretary; treasurer*. A secretary and/or treasurer, or both, if deemed necessary, shall have charge and custody of all books, papers, documents and accounts, and under whose supervision all necessary accounting records shall be kept and all checks and vouchers prepared. The said commission shall, by resolution, delegate a person or persons who shall sign checks, which shall be countersigned by one of said commissioners. Said secretary and/or treasurer, or both, as the case may be, shall be required to attend, in person or by assistants, all the meetings of said commission and keep a correct record of all the proceedings of that body and perform such other duties as may be imposed by the said port commission. Clerical assistance shall be provided as may be deemed necessary for the work to be properly performed, and a bond or bonds shall be made in such sum as may be fixed by said commission, and the same oath taken as required of members of the said commission. The secretary and/or treasurer, or both, need not be a member or members of the commission.

(c) *Attorneys*. One or more attorneys may be appointed, who shall be practicing attorneys at law, and who shall make and file bonds and take the same oath required by the said commissioners and secretary and/or treasurer, or both, and who shall counsel and advise the Memphis and Shelby County Port Commission in all matters of law which may arise, and whose compensation shall be fixed by said commission. (Priv. Acts 1947, ch. 500, § 3)

Sec. 635. Superintendents, engineers, and other subordinate officers and employees.

Said Memphis and Shelby County Port Commission shall be authorized to employ such other superintendents, engineers, assistants, consultants and other subordinate officers and employees as may be necessary for the efficient operation of said commission, who shall hold office at the will and pleasure of said commission and shall receive such salaries as may be fixed by said commission; provided, that no salary shall be fixed in excess of the sum of three thousand dollars ($3,000.00) per annum, without the consent and approval of the Council of the City of Memphis and the board of county commissioners of Shelby County; and provided, further, that the said port commission shall certify to the said Council of the City of Memphis and the board of county commissioners of Shelby County for approval the nomination of all subordinate officers and employees whose salaries shall be fixed in excess of three thousand dollars ($3,000.00) per annum, but the consent and approval of the Council of the City of Memphis and the board of county commissioners of Shelby County to any salary or nomination shall not be necessary where the salary of any subordinate officer or employee shall be less than three thousand dollars ($3,000.00) per year. (Priv. Acts 1947, ch. 500, § 4)

Sec. 636. Disposition of revenue; authority of commission to issue bonds, notes, etc.; liability of city in case of deficit; special tax.

The revenue received from the operation of the Memphis and Shelby County Port Commission shall be used as follows:

(1) The net revenue from all properties now owned by the City of Memphis and/or the harbor commission of the City of Memphis used in connection with the purposes set forth herein shall, until such time as the City of Memphis and the County of Shelby shall agree upon the acquisition thereof by the Memphis and Shelby County Port Commission, as herein provided, be used for the reduction of the outstanding bonded indebtedness, and the remainder, if any, paid into the general funds of the City of Memphis. Separate records shall be kept of these transactions and the moneys and securities shall be placed in separate funds until such time as the said commission shall acquire such properties as above set forth.

(2) All other revenue received each year from the operation of said commission shall be used for the following purposes and in the order named:

(a) For the payment of all operating expenses of said commission, for interest accruals and sinking fund accruals on bonds or mortgages issued by the County of Shelby and City of Memphis for the benefit of said commission.

(b) For all expenditures incident to the extension and/or development of said harbor and port as provided for and authorized herein.

(c) Any revenues thereafter remaining shall be paid into the general funds of the County of Shelby and City of Memphis in a sum equal in amount to what would be the city and county taxes on the properties owned by the City of Memphis and County of Shelby and managed and controlled by said commission.

Said commission shall have no authority to issue bonds or notes, or any other obligations constituting a lien upon the properties managed, controlled, or owned, or hereafter to be acquired by it, except by and with the consent of the Council of the City of Memphis and the board of county commissioners of Shelby County.

In the event a deficit should result by reason of the ownership, operation, maintenance or development of said harbor and port, the City of Memphis shall pay one-half (1/2) of any such amount, from its general funds, to said Memphis and Shelby County Port Commission.

The City of Memphis shall be authorized to levy and collect, if necessary, an annual tax, in addition to all other taxes authorized by law, for the purpose of paying its part of the expenses incident to the ownership, operation, maintenance and development of the harbor and port authorized and provided for herein. (Priv. Acts 1947, ch. 500, § 5)

Sec. 637. Reserved.

Editor's note—Former § 637, derived from Priv. Acts 1947, ch. 500, § 6, transferred rights and duties of certain previous commissions and boards to the harbor and port commission. These duties were then transferred to the river front harbor commission by Priv. Acts 1951, ch. 385, § 3. See § 654.4.

Sec. 638. Act not to impair existing obligations.

This Act shall not in any way impair any obligations heretofore entered into by the City of Memphis, the harbor commission of the City of Memphis, or its predecessors, to any person or persons, and shall not change or alter the obligations of any existing contracts, but all contracts outstanding, heretofore made under the existing law, shall be binding upon the City of Memphis and the Memphis and Shelby County Port Commission as herein established. (Priv. Acts 1947, ch. 500, § 7)

Sec. 639. Reserved.

Editor's note—Former § 639, derived from Priv. Acts 1947, ch. 500, § 8, related to the powers and duties of the harbor and port commission with respect to river and rail terminal facilities, etc., which powers and duties were transferred to the river front harbor commission by Priv. Acts 1951, ch. 385, § 4. See § 654.2.

Sec. 640. Supervision of wharves, boats, etc.

Said Memphis and Shelby County Port Commission, likewise, shall have general charge and supervision of all wharves created and maintained, or to be erected and maintained within the area hereinafter described, and shall have general supervision of those portions of the Mississippi River and Nonconnah Creek that lie within the area hereinafter described, and the landing, docking, mooring, departure and removal of steamboats, gasoline boats, motor-propelled boats, house boats, wharf boats, and other craft, and the fixing and collection of wharfage and other fees due from river craft within the area hereinafter described. (Priv. Acts 1947, ch. 500, § 8; Priv. Acts 1951, ch. 385, § 4)

Sec. 641. Control of property on banks of Mississippi River and Nonconnah Creek; duty as to riparian rights.

The said commission shall have charge, control and management of all property, other than property already devoted, or hereafter to be acquired and devoted to park and flood control purposes, now owned, or hereafter to be acquired by the County of Shelby, City of Memphis or by the said commission, on those banks of the Mississippi River and Nonconnah Creek lying within the area hereinafter described; shall safeguard, protect and advance the right and interest of the City of Memphis and the County of Shelby in any riparian rights and powers it may have in, on or under the waters and banks of any navigable stream, or any island now owned or that may hereafter be acquired pursuant to the powers herein conferred. (Priv. Acts 1947, ch. 500, § 8; Priv. Acts 1951, ch. 385, § 4)

Sec. 642. Rules and regulations; police powers.

The power to promulgate and enforce rules and regulations governing the matters and things over which said port commission has jurisdiction and control by this Act is hereby expressly conferred on said commission, and the authorized agents of said commission shall have police powers, in order to carry out and effectuate the purposes of this Act. (Priv. Acts 1947, ch. 500, § 9)

Sec. 643. Cooperation with public or private agencies; power to regulate speed of vessels, anchorage areas, etc.

The said Memphis and Shelby County Port Commission shall cooperate with the Mississippi River Commission, an agency of the United States Government, and with all other agencies, public or private, in the development, preservation and utilization of the harbor and port of the City of Memphis and County of Shelby, and the said commission shall have power to regulate the movement and speed of vessels, to establish anchorage areas, harbor lines and grade of slope of banks and to prohibit filling or dumping in violation of such established lines and grades and to prohibit pollution of harbor waters by the discharge of wastes or oils therein within the area hereinafter described. (Priv. Acts 1947, ch. 500, § 9; Priv. Acts 1951, ch. 385, § 5)

Sec. 644. Duty as to the best method of developing, policing and beautifying harbor and port.

The said commission may collect data, hold hearings, and do all other things necessary to inform itself as to the best method of developing, policing and beautifying the harbor and port of the City of Memphis and County of Shelby, increasing river traffic, building transportation facilities, both by water and rail, into and through the City of Memphis and County of Shelby, and further industrial development, trade and commerce within the area hereinafter described. (Priv. Acts 1947, ch. 500, § 9)

Sec. 645. Authority of city as to lease or sale of land to commission.

The mayor and council of the City of Memphis shall have the right and power to lease or license the use of, or sell any municipally owned lands abutting on any navigable streams now owned by the City of Memphis, or formerly owned or operated by the Memphis Harbor Commission, or its predecessors, or hereafter to be acquired pursuant to the provisions of this Act to the Memphis and Shelby County Port Commission on such terms as shall be prescribed; provided, said council of said city shall have no power to sell any property abutting the Mississippi or Wolf River from Beale Avenue on the south to Jefferson Avenue on the north, or lease or license the use of such property for a term exceeding thirty years, and each such lease or license shall be first submitted to the Memphis and Shelby County Port Commission for its recommendation thereon. To effectuate the grant of power here conferred, Section 35 of Chapter 54 of the Acts of the General Assembly of 1905, [which reads as follows]:

> "§35. Be it further enacted, That the Legislative Council shall have no right or power to grant, lease, or sell any lands on the river front between the low water line and a line extending along the east line of Front Street on the east from the northern limits of the City on the north to the southern limits of the City on the south,"

is hereby repealed. (Priv. Acts 1947, ch. 500, § 10)

Sec. 646. General authority of commission to acquire and sell property, make contracts, etc.

The said port commission shall have the authority and power to purchase, receive by deed or otherwise hold, lease, improve, exchange and condemn as more particularly set forth hereinafter, and/or sell real estate for the development and/or extension of the City of Memphis and County of Shelby port and harbor and the furtherance of commerce and transportation by water, railroad, truck, airplane or other transportation facilities; to contract with any person, firm, corporation or agency, public or private, with reference to any of the objects of its creation and in the performance of the duties imposed on said commission, provided, any purchase, condemnation, lease, sale or exchange of real estate shall first be approved by the mayor and Council of the City of Memphis and the county board of commissioners of Shelby County. (Priv. Acts 1947, ch. 500, § 11; Priv. Acts 1963, ch. 157, § 1)

Sec. 647. Contracts or expenditures involving more than five thousand dollars to be approved; execution of instruments; plans to be submitted to planning commission.

Any contract or expenditure [made by the commission] for improvements that involves more than five thousand dollars ($5,000.00) shall be valid only if approved by the mayor and the Council of the City of Memphis and the board of county commissioners of Shelby County. Deeds, leases, and other instruments evidencing conveyances, contracts and other obligations of said commission shall be executed by the chairman and the secretary and/or treasurer of said commission; and purchasers from said commission shall not be bound to see to the application or use of any sums paid to said commission. Any general plan for the development and extension of the City of Memphis and/or County of Shelby port and harbor and the improvement of real estate conveyed to or placed under the jurisdiction of said commission shall first be submitted to the City of Memphis planning commission and/or the County of Shelby planning commission, whichever of said planning commissions may have jurisdiction, for an advisory opinion. (Priv. Acts 1947, ch. 500, § 11)

Sec. 648. City and commission authorized to acquire property within specified area.

The City of Memphis and the Memphis and Shelby County Port Commission are hereby expressly authorized to purchase, or otherwise acquire title to land, easements or rights of way, to be used in connection with the authority herein granted and may likewise condemn any land, riparian rights, easements and rights of way under, on or above the ground or water in connection with said harbor and port within the area hereinafter described, as now provided by the mode of condemnation in the city Charter of the City of Memphis.

Said area hereinabove referred to being described as follows:

Beginning at the point of intersection of the center line of the Mississippi River with the center line of the Memphis and Arkansas Bridge and running thence eastwardly in the center line of said Bridge and the center line of E. H. Crump Boulevard to its point of intersection with a northerly projection of the center line of Delaware Street; thence southwardly along said northerly projection of the center line of Delaware Street and along the center of Delaware Street to its intersection with the center line of Wisconsin Avenue; running thence westwardly in the center line of Wisconsin Avenue to its intersection with the center line of Riverside Boulevard, running thence southwardly in the center line of Riverside Boulevard to its intersection with the center line of Mallory Avenue at the southeast corner of Riverside Park, running thence eastwardly in the center line of Mallory Avenue to its intersection with the center line of Hernando Road, running thence southwardly in the center line of Hernando Road to a point 1000 feet north of center line of Nonconnah River, running thence eastwardly, southwardly and westward to an arc of 1000 feet radius (with a radius point at the intersection of the center line of Hernando Road and the center line of Nonconnah River) to a point in the center line of Hernando Road, running thence southwardly in the center line of Hernando Road to its intersection with the center line of Brooks Avenue, running thence westwardly in the center line of Brooks Avenue to its intersection with the center line of Horn Lake Road, running thence northwardly in the center line Horn Lake Road to its intersection with the center line of Peebles Avenue, running thence westwardly in the center line of Peebles Avenue and continuing in the projection of said center line to its intersection with the eastern or southern right-of-way line of the Y. & M. V. Railroad; thence continuing westwardly and southwardly along the south and/or the eastern right-of-way line of the Yazoo and Mississippi Valley Railroad low line or southbound main line to the south line of the County of Shelby; thence westwardly with the south line of the County of Shelby to the center line of the Mississippi River being defined as the state line between Arkansas and Tennessee, running thence northwardly in the center line of the Mississippi River to the point of beginning, save and except that portion of the Memphis River and Rail Terminal which lies within the area hereinabove defined.

Provided, however, the mayor and council of the City of Memphis and the quarterly county court of Shelby County, Tennessee, by joint resolution from time to time may redefine the territorial limits of the area over which the Memphis and Shelby County Port Commission has jurisdiction, which shall not extend outside of Shelby County, Tennessee. (Priv. Acts 1947, ch. 500, § 12; Priv. Acts 1951, ch. 385, § 6; Priv. Acts 1957, ch. 117, § 1)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 649. Reports; inspection and audit of books, papers, etc.

The said Memphis and Shelby County Port Commission shall, on or before January 30th of each year, and at such other times as may be requested by the Council of the City of Memphis and the board of county commissioners of

Shelby County, file with the mayor and Council of the City of Memphis and the board of county commissioners of Shelby County a report in writing of its activities of the previous year, together with an accurate account of all its receipts and expenditures. The mayor and council of the City of Memphis and the board of county commissioners of Shelby County shall have the right, at all times, to inspect all books, papers and accounts of said commission, and shall have the right to audit, or cause to be audited, the books of said commission at such times as they may elect. (Priv. Acts 1947, ch. 500, § 13)

Sec. 650. Authority of city to appropriate funds to carry out purposes of Act.

The mayor and Council of the City of Memphis are authorized and empowered to provide and appropriate out of the revenues of said city its proper and proportionate share with the County of Shelby of the funds necessary to carry out the purposes and requirements of this Act. (Priv. Acts 1947, ch. 500, § 14)

Sec. 651. Power of commission to fix rates, charges, and wharfage and grant permits.

The Memphis and Shelby County Port Commission shall be empowered to fix rates, charges and wharfage, and grant permits for the use of all harbor and port facilities. (Priv. Acts 1947, ch. 500, § 15)

Sec. 652. Authority of city to enter into contracts and agreements to carry out provisions of Act.

The mayor and council of the City of Memphis may enter into any other contract or agreement, not hereinbefore specifically or expressly authorized, with the County of Shelby with reference to any matter which may appear consistent with the provisions of this Act and necessary to carry out the objects thereof and in conjunction with the County of Shelby and/or the Memphis and Shelby County Port Commission, to acquire, lease, erect, construct, make, equip, operate and maintain port and harbor facilities; to sell, rent, exchange or dispose of any property, real or personal, as may seem advisable; to construct docks, wharves, terminals, warehouses and all other necessary port and harbor facilities; to contract with any and all persons, individuals, firms or corporations, including, but not limited to, steamship and railroad companies, with reference to the development of transportation and other utility services and to do and perform any and all other acts which may tend, either directly or indirectly, to promote trade, industry and commerce. (Priv. Acts 1947, ch. 500, § 16)

Sec. 653. Development, maintenance, etc., of harbor and port declared a public governmental function; restriction as to actions.

The development, maintenance and operation of and all matters incident to the ownership of the harbor and port provided for and authorized herein is declared a public governmental function and no action shall be brought or maintained against the port commission or the City of Memphis on account of any claim arising from or growing out of either one or all of the aforesaid provisions and or authorizations. (Priv. Acts 1947, ch. 500, § 17)

Annotation—In Thornton v. Carrier, 43 Tn. A. 615, 311 S.W. (2d) 208 (1958), it was held that the city could claim governmental immunity under this section even though it was shown that the city might make a profit from the project.

Sec. 654. Additional powers of city as to harbor and port facilities.

The Council of the City of Memphis is hereby authorized and fully empowered, in addition to all other authority and powers delegated to it, to acquire additional lands for, operate, maintain and develop additional harbor and port facilities and improve the present harbor and port facilities and to enter into contracts with the United States of America, the State of Tennessee and the County of Shelby and/or with any other department, commission, bureau or agency of the said United States of America, State of Tennessee and County of Shelby, Tennessee, or any of them relative to the accomplishment of the aforesaid purposes; and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the accomplishment of the aforesaid purposes as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 5)

ARTICLE 62. MEMPHIS RIVER FRONT HARBOR COMMISSION*

***Code references—**Rivers and harbors generally, Ch. 12-92.

Sec. 654.1. Authority to create; composition; general powers and duties; control of designated area.

Chapter 11 of the Acts of the General Assembly of 1879, entitled "An Act to establish taxing districts in this State and to provide the means of local government for the same," and the Acts amendatory thereof constituting the present Charter of the City of Memphis, being and the same are hereby amended so as to authorize the Council of the City of Memphis, by ordinance, to create a commission to be known by the name "Memphis River Front Harbor Commission" to be composed of not less than three nor more than five members, whose appointments, qualifications, duties, powers and responsibilities may be fixed by ordinance of said council and under whose jurisdiction said council may place the general charge, supervision, management and control of all property, other than property already devoted, or hereafter to be acquired and devoted to park, flood control and vehicular parking purposes, now owned or hereafter to be acquired by the City of Memphis or by the said commission on those banks of the Mississippi and Wolf Rivers lying within the area hereinafter described:

Beginning at the point of intersection of the center line of the Memphis and Arkansas Bridge with the center line of the Mississippi River, which forms a portion of the western city limits of the City of Memphis, and running thence northwardly with said center line of the Mississippi River and said western city limits to a westerly projection of Water Works Avenue, which forms a portion of the northern city limits; thence eastwardly with said projection and with said northern city limits to the midstream of Wolf River, which forms a portion of the western and northern city limits, thence northwardly and eastwardly with the mid-stream of Wolf River and said western and northern city limits and continuing eastwardly with the present northern city limits where the same intersects the mid-stream of Wolf River to the center line of Bellevue Boulevard, thence southwardly with the center line of Bellevue Boulevard to its intersection with the center line of White Avenue, thence westwardly with the center line of White Avenue and the center line of Firestone Boulevard to the center line of Thomas Street; thence northwardly with the center line of Thomas Street to the center line of Pear Avenue; thence westwardly with the center line of Pear Avenue to the center line of North Second Street, thence southwardly with the center line of North Second Street to a point where the center line of North Front Street projected would intersect the center line of North Second Street; thence southwardly with said projection and continuing southwardly with the center line of Front Street to its intersection with the center line of Georgia Avenue, thence westwardly with the center line of Georgia Avenue to its intersection with the center line of Pennsylvania Street; thence southwardly with the center line of Pennsylvania Street to its intersection with the center line of E. H. Crump Boulevard; thence westwardly with the center line of E. H. Crump Boulevard and the center line of the Memphis and Arkansas Bridge to the center line of the Mississippi River, being the point of beginning, and in addition thereto that portion of the Memphis River and Rail Terminal which lies south of the area hereinabove defined. (Priv. Acts 1951, ch. 386, § 1)

Sec. 654.2. Supervision of river and rail terminal facilities, wharves, river craft, etc.

The Council of the City of Memphis is authorized by ordinance to vest in said Memphis River Front Harbor Commission, subject to such terms and conditions as may be provided by action of said council, the general charge and supervision, within the area hereinabove defined, of the river and rail terminals owned and operated by the City of Memphis, and the operation of such railroads, tracks, locomotives, barges, boats and water craft as may be owned and operated by the city in furtherance of its river and rail terminal facilities, together with the general supervision, development, operation and conduct of warehouses, elevators and storage facilities owned and operated by the City of Memphis; of all wharves created and maintained or to be erected and maintained; of the landing, docking, mooring, departure and removal of steam boats, gasoline boats, motor propelled boats, house boats, wharf boats, and other craft, and the fixing and collection of wharfage and other fees due from river craft; and of those portions of the Mississippi, Loosahatchie and Wolf Rivers over which the City of Memphis has jurisdiction and control within the area hereinabove defined. (Priv. Acts 1951, ch. 386, § 2)

Sec. 654.3 Rules and regulations; police powers.

The Council of the City of Memphis is further authorized by ordinance to vest in said Memphis River Front Harbor Commission the power to promulgate and enforce rules and regulations governing the matters and things over which said Memphis River Front Harbor Commission has jurisdiction and control by this Act and there is hereby expressly conferred upon said commission police powers to enforce the rules and regulations and orders of said commission in

order to carry out and effectuate the purposes of this Act and such police power may be exercised by said commission through its duly authorized agents. (Priv. Acts 1951, ch. 386, § 3)

Sec. 654.4. Powers and duties of former boards and commissions.

The Memphis River Front Harbor Commission, in addition to the other duties prescribed for it within the area hereinabove defined, shall perform all duties to be performed by the river and rail terminal commission created by an ordinance passed pursuant to the provisions of Chapter 483 of the Private Acts of the General Assembly of 1917; the duties of the board of terminal commissioners created by Chapter 641 of the Private Acts of the General Assembly of 1919; the duties of the Memphis wharf master, and also the duties of the Memphis Harbor Commission created by Chapter 513 of the Private Acts of the General Assembly of 1929, as amended by the Private Acts of the General Assembly of 1931, Chapter 479; and shall also perform the duties of any or all other boards or commissions which had like or similar powers or duties; all of the rights and powers conferred by the Acts hereinbefore mentioned are hereby transferred to, vested in, merged with and conferred by this Act on the said Memphis River Front Harbor Commission, except where the same conflict with the terms and provisions of this Act. (Priv. Acts 1951, ch. 385, § 3; Priv. Acts 1951, ch. 386, § 4)

Sec. 654.5. Act does not impair existing obligations.

This Act shall not in any way impair any obligations heretofore entered into by the City of Memphis, the harbor commission of the City of Memphis, the Memphis & Shelby County harbor and port commission, or its predecessors, to any person or persons, and shall not change or alter the obligations of any existing contracts, but all contracts outstanding, heretofore made under the existing law, shall be binding upon the City of Memphis and the Memphis River Front Harbor Commission as herein established. (Priv. Act 1951, ch. 386, § 5)

Sec. 654.6. Acquisition of property.

The City of Memphis and the Memphis River Front Harbor Commission are hereby expressly authorized to purchase, or otherwise acquire title to land, easements, or rights of way, to be used in connection with the authority herein granted and may likewise condemn any land, riparian rights, easements and rights of way under, on or above the ground or water in connection with said harbor and port within the area hereinabove described, as now provided by the mode of condemnation in the city Charter of the City of Memphis. (Priv. Acts 1951, ch. 386, § 6)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 654.7. Right of city to lease or sell property in designated area.

The mayor and Council of the City of Memphis shall have the right and power to lease or license the use of or sell any municipally owned lands abutting on any navigable streams now owned by the City of Memphis, or formerly owned or operated by the Memphis Harbor Commission, the Memphis & Shelby County Harbor and Port Commission, or its predecessors, or hereafter to be acquired pursuant to the provisions of this Act within the area hereinabove defined on such terms as shall be prescribed; provided, said council of said city shall have no power to sell any property abutting the Mississippi or Wolf River from Beale Avenue on the south to Jefferson Avenue on the north, and the power to lease or license the use of such property, which cannot be sold, shall be limited to a term not exceeding thirty years in usual and ordinary circumstances, but the council is empowered to lease or license the use of such property, when it finds that there are unusual or extraordinary circumstances for an additional period of time not exceeding an additional thirty years, by option or otherwise, and each such lease or license may be first submitted to the Memphis River Front Harbor Commission for its recommendation thereon. To effectuate the grant of power here conferred, Section 35 of Chapter 54 of the Acts of the General Assembly of 1905, which reads as follows:

> "SECTION 35. *Be it further enacted*, That the Legislative Council shall have no right or power to grant, lease, or sell any lands on the river front between the low water line and a line extending along the east line of Front Street on the east from the northern limits of the City on the north to the southern limits of the City on the south,"

is hereby repealed. (Priv. Acts 1951, ch. 386, § 7; Priv. Acts 1961, ch. 124, § 1)

Sec. 654.8. Tax levy for harbor and port purposes.

The City of Memphis shall be authorized to levy and collect, if necessary, an annual tax, in addition to all other taxes authorized by law, for the purpose of paying its part of the expenses incident to the ownership, operation, maintenance and development of a harbor and port authorized and provided for herein. (Priv. Acts 1951, ch. 386, § 8)

Cross reference—Taxation generally, § 752 et seq.

Sec. 654.9. Harbor development declared governmental function; limitation on actions.

The acquisition, development, maintenance and operation of and all matters incident to the ownership of the harbor development provided for and authorized herein is declared a public governmental function and no action shall be brought or maintained against the City of Memphis and/or said Memphis River Front Harbor Commission on account of any claim arising from or growing out of any one or all of the aforesaid provisions and/or authorizations. (Priv. Acts 1951, ch. 386, § 9)

ARTICLE 63. AIRPORTS*

***Cross references—**Municipal airport under jurisdiction of commissioner of finances and institutions, § 161; authority of council to regulate landing and operation of airplanes, § 834.

Code reference—Airports and aircraft, Ch. 12-76.

General law reference—Municipal airports, T.C.A., § 42-301 et seq.

Sec. 655. Authority to establish, equip, operate, etc.

Chapter 11 of the Acts of the General Assembly of 1879, entitled "A bill to establish taxing districts in this State and to provide the means of local government for the same," and all acts amendatory thereof, constituting the present Charter of the City of Memphis, be and the same are hereby amended so as to authorize, empower and enable the council, or other governing authorities of said municipality, to establish, construct, equip, improve, maintain and operate for said city one or more public airports or landing fields for the use of aeroplanes and other aircraft, and to acquire by purchase, condemnation or lease for such purposes real property situated within said city or outside the boundaries of said city, or set apart and use for such purposes real property owned by the city and whether or not already set apart for other public uses, whether originally acquired by condemnation or purchase or by grant from the state and/or otherwise.

(Priv. Acts 1929, ch. 408, § 1; Ord. No. 269, § 1, 9-3-68, ratified Nov. 5, 1968)

Editor's note—Ord. No. 269, § 1, enacted Sept. 3, 1968, ratified by the voters of the city Nov. 5, 1968, deleted from § 655, the words "within ten miles from the nearest boundary thereof to said airport," and inserted in lieu thereof the words, "outside the boundaries of said city."

Sec. 656. Airport commission—Authority to establish; composition; qualifications, compensation, removal, etc. of members.

The Council of the said City of Memphis shall have full authority and power, by ordinance, to create and establish a commission to be composed of five or more members to be known as the Memphis Municipal Airport Commission, and in whom the council of said city shall have full power to vest authority for the construction, improvement, equipment, maintenance and operation of said municipal airports or landing fields. The Council of the said City of Memphis shall have full power to fix the qualifications, compensations, and powers of said commission, shall have power to prescribe the duties of the members of said commission, not inconsistent with the provisions of this Act, and shall have power to remove, after notice and hearing, any member of said commission who shall fail to perform the duties of his office, or who shall be guilty of malfeasance, misfeasance and nonfeasance in office. All vacancies for the unexpired term of any member of said commission shall be filled by the council on nomination by the mayor. (Priv. Acts 1929, ch. 408, § 2)

Sec. 657. Same—General powers.

The said Memphis Municipal Airport Commission, when vested with power and authority by the council of said city, shall have general charge and supervision of any and all municipal airports or landing fields constructed and owned or leased by the City of Memphis and, subject to such regulations as may be prescribed by the council of said

city, shall have power to make and promulgate rules and regulations for the operation and management thereof, fix and collect landing, storage and other charges and fees for the use or occupancy of said airports or landing fields, exercise police powers and manage the property and facilities provided for said purposes. The said Memphis Municipal Airport Commission shall have the power to cooperate with other similar commissions and agencies, public and private, in the development of aviation and travel by air, collect data, hold hearings, and do all other things necessary to inform itself as to the best methods of developing transportation by air, into and through the City of Memphis. (Priv. Acts 1929, ch. 408, § 3)

Sec. 658. Same—Authority to contract, employ assistants, lease facilities, etc.

Said Memphis Municipal Airport Commission shall have the right, on behalf of the City of Memphis, to contract with any person, firm, corporation, or governmental agency with reference to any of the objects of its creation and in furtherance of the duties imposed upon it; provided, however, that capital expenditures for improvements and betterments shall first be submitted to the Council of the City of Memphis for its approval or disapproval. The said municipal airport commission may employ such engineers, superintendents, and other help as may be required to perform the duties of their offices, provided, nothing herein contained shall be held to limit or abridge the right of the Council of the City of Memphis to regulate the number of assistants, their duties, liabilities, compensations and terms of employment; and, provided, further, that the council of said city may terminate any contract of employment by said Memphis Municipal Airport Commission whenever said council deems it advisable or necessary. The Memphis Municipal Airport Commission also shall have the power to make leases, and license the use of portions of said airports for aviation schools or colleges and for commercial purposes, provided same shall not interfere with the public purposes for which said airport is created. The said municipal airport commission shall have authority, in connection with the maintenance and furtherance of the said municipal airports or landing fields, to promote and encourage the development of aviation in all of its branches, including the industrial and commercial development and progress connected therewith, to the end that the City of Memphis may be made an aviation center. (Priv. Acts 1929, ch. 408, § 3)

Sec. 659. Same—Authority of council to perform or assign powers and duties of commission.

The council or other legislative council of the City of Memphis shall have authority to perform all of the duties and responsibilities that said council is authorized to impose upon the Memphis Municipal Airport Commission if such a commission were created as provided for in section 2 and section 3 of chapter 408 of Private Acts of 1929 [sections 656—658 hereof]. Said council or other legislative council of the City of Memphis shall have authority to assign the operation and management of the airports and landing fields of the City of Memphis to that department of the city government they may deem advisable and impose upon the commissioner in charge of said department such duties and responsibilities as they may deem proper for the efficient operation and management of said airports and landing fields.. (Priv. Acts 1937, ch. 486, § 1)

Sec. 660. Authority to acquire property, remove obstructions, etc.; for airport purposes.

The council of said city shall have the power and is hereby authorized to purchase, rent, lease or receive, by gift or otherwise, real property for the purpose of constructing such airports or landing fields, and said council is specifically authorized to acquire by purchase or condemnation, in the manner provided by law under which said city is authorized to acquire property for public purposes, all real and personal property needed for the erection of one or more complete, modern, adequate municipal airports or landing fields. Said council is also fully empowered and authorized to purchase, condemn, and remove all obstructions, trees, wires, cables, poles, posts, signs, towers, derricks and other obstacles or barriers interfering with or in the way of safe, convenient, proper and ready use of said municipal airports or landing fields, as well as forbid and prevent the placing or erection of any poles, wires, posts, cables, signs, towers, derricks, or any other obstructions adjacent to said municipal airports or landing fields that will hinder, retard, interfere with, or make unsafe or inconvenient the approach to, use of, and departure from said municipal airports or landing fields by air or otherwise. (Priv. Acts 1929, ch. 408, § 4)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 661. Appropriation of funds for purchase, etc., of airports.

The purchase price or award for property condemned, purchased or otherwise acquired for said airports or landing fields may be paid for by appropriations of moneys available therefor wholly or partly from the proceeds of the sale of bonds or revenue notes of said city. The council of said city is also authorized and empowered to provide and appropriate out of the revenues of said city, and not otherwise appropriated, sufficient funds to erect, equip, improve, maintain and operate said municipal airports or landing fields, and carry out all of the purposes of this act, or said city may contract with any private company or individual, in the manner provided by law, for the erection, equipment, and improvement of said municipal airports or landing fields. (Priv. Acts 1929, ch. 408, § 4)

Sec. 662. Reserved.

Editor's note—Former § 662 was derived from Public Acts 1933 ch. 116, § 1, declaring the operation of airports to be a governmental function, which act has since been repealed. See now T.C.A. § 42-326.

ARTICLE 64. HARAHAN BRIDGE

Secs. 663—665. Reserved.

Editor's note—Sections 663—665 of the 1949 compilation were derived from Priv. Acts 1917, ch. 121 and Priv. Acts 1925, ch. 201, and granted authority to the city to acquire and make specific improvements on the J. T. Harahan Bridge. These sections have been omitted as having served their purpose.

ARTICLE 65. LIGHT, GAS AND WATER DIVISION*

***Cross references—**City-county water control board not to regulate or prohibit drilling of wells by light, gas and water division, § 413.4; authority to erect and equip building for use of light, gas and water division, § 493.

Sec. 666. Control and management of municipal electric, gas and water utilities.

Any municipal utility system or systems heretofore or hereafter acquired by the City of Memphis for the manufacture, production, distribution or sale of electricity, natural or artificial gas, or water, and the properties, agencies and facilities used for any such purpose or purposes, shall be under the jurisdiction, control and management of [the] Memphis light, gas and water division, to be constituted and conducted as hereinafter set forth.

The Memphis Light, Gas & Water Division shall have jurisdiction, control and management of energy systems such as coal gasification, fuel cell, solar, steam, cogeneration, and all other types of energy systems acquired by the City of Memphis for the manufacture, production, distribution or sale of all forms of energy including electricity, natural or artificial gas, steam or water, and the properties, agencies, and facilities used for any such purpose or purposes. The Council of the City of Memphis may likewise assign the management or control of the manufacture, production, distribution and sale of energy from refuse or sludge or other properties collected and controlled by other departments of the City upon such terms and conditions as the Council shall prescribe. The Memphis Light, Gas & Water Division shall perform such other functions as prescribed by ordinance.

The Board of Light, Gas & Water Commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, or as permitted by State law, the energy systems as set forth above including all necessary equipment, property, rights-of-way, easements, and all other appurtenances usual for such facilities. The Board of Light, Gas & Water Commissioners shall have authority to make a schedule of rates for said energy systems and for different classes of consumers in accordance with the provisions now provided for establishing service rates with any rates or any change in rates to be presented in an application to the Council of the City of Memphis as presently provided.

The Board of Light, Gas & Water Commissioners shall have power to establish different divisions of the Memphis Light, Gas & Water Division for assigning of the separate energy functions or for the efficient operation of the Memphis Light, Gas & Water Division and [to] provide for the keeping of such books and records as it may require to properly account for the equitable distribution of expenses. Each of such energy systems [is] to be financially separate

with such joint or common expenses as shall be advisable and economical as determined by the Board of Commissioners.

The Board of Light, Gas & Water Commissioners shall provide for the organization of its own Board and for such other subordinate officers and employees as the Board deems appropriate. The Board of Light, Gas and Water Commissioners shall establish such organization as it deems best and advisable for the efficient operation of the Memphis Light, Gas & Water Division as presently constituted and any future energy systems.

The present provisions of the Charter for rights of condemnation, establishing of rules and regulations, the use of rights-of-way, and the issuance of bonds, notes or other obligations with the consent of the City Council shall also be applicable to any new energy systems or divisions established. The distribution of any revenue shall be in accordance with the same distribution as is provided for the disposition of revenue of the gas division as presently set forth in the Charter, provided, however, that any surplus funds (Section 7) remaining over and above safe operating margins may be devoted to rate reductions or to capital projects for energy as a means of providing funds for energy systems.

The allotment of funds may be changed in such manner as may be deemed necessary by the Board of Light, Gas & Water Commissioners in contracting with federal agencies or in the issuance and sale of any bonds or notes on behalf of or in conjunction with energy systems in the same manner as is now provided in the Charter for electric, gas or water divisions. (Priv. Acts 1939, ch. 381, § 1; Ord. No. 3054, 9-2-80)

Sec. 667. Composition of division and board of light, gas and water commissioners; bond and oath of commissioners.

The Memphis light, gas and water division shall consist of a board of light, gas and water commissioners composed of five members, and such subordinate officers and employees as may be selected by said board of light, gas and water commissioner as hereinafter provided.

Each member of said board shall give bond in the sum of ten thousand dollars ($10,000.00), with good securities, conditioned to faithfully perform the duties of his office, and shall take and subscribe an oath to uphold the Constitution of the United States and of the State of Tennessee, and faithfully to discharge the duties of his office. Said bonds shall be acceptable to and approved by the Council of the City of Memphis, and said oath and bond shall be filed with the comptroller of the City of Memphis. (Priv. Acts 1939, ch. 381, § 2; Priv. Acts 1945, ch. 422, § 1; Priv. Acts 1951, ch. 388, § 1)

Cross reference—Bonds of officers and employees, § 178.

Sec. 668. Appointment and terms of commissioners.

(a) The first board of light, gas and water commissioners shall be the members of the present board of light and water commissioners, as now constituted, who shall serve until the expiration of their present respective terms of office, and until their respective successors are duly elected and qualified, and upon the expiration of their respective terms of office their successors shall be elected by the Council of the City of Memphis and shall serve for a term of three years, unless sooner removed; and in the event of a vacancy occurring by death, resignation or removal of any of said light, gas and water commissioners, their successors shall be elected only to fill the unexpired term of such commissioner. (Priv. Acts 1939, ch. 381, § 10; Priv. Acts 1941, ch. 327, § 1; Priv. Acts 1951, ch. 388, § 2)

(b) The board of five members provided in section 1 above [section 667] shall be the present members of the board of light, gas and water commissioners as now constituted, and two additional members to be elected by the Council of the City of Memphis, all of whom shall serve until the expiration of the terms of the present board of light, gas and water commissioners, June 1, 1951, and until their successors are elected and qualified; and thereafter the Council of the City of Memphis shall elect two members of said board to serve for a term of three years, two members to serve for a term of two years and one member, who shall serve for a term of one year, and upon the expiration of their respective terms of office, the successors of the board hereby created shall be elected for a term of three years by the Council of the City of Memphis. (Priv. Acts 1951, ch. 388, § 3)

Sec. 669. Designation and terms of president.

Immediately upon the qualification of the board of light, gas and water commissioners, the Council of the City of Memphis shall designate one of the members of said board of light, gas and water commissioners as president; and the

president shall hold office as such during the term for which he is elected as a member of the board of light, gas and water commissioners.

The President of the Board of Light, Gas and Water Commissioners shall no longer be a member of the Board of Commissioners beginning June 1, 1981. The President shall thereafter be appointed for five-year terms by the Mayor, and approved by the Council of the City of Memphis. In the event of a vacancy occurring by death, resignation, or removal of the President, his successor shall be appointed for a five-year term commencing upon his appointment by the Mayor and approval by the City Council. The Chairman of the Board of Light, Gas & Water Commissioners shall perform any necessary acts until the appointment of a President.

The President shall attend the meetings of the Board of Commissioners, but shall have no vote and shall give his entire time and attention to the duties of his office as presently provided in the Charter. The President may be removed in the same manner and subject to the same procedures provided for directors. (Priv. Acts 1939, ch. 381, § 11; Ord. No. 3054, 9-2-80)

Sec. 670. Meetings of commissioners; quorum.

The board of light, gas and water commissioners shall hold regular meetings at least once each week, at a definite time to be fixed by resolution of the board of light, gas and water commissioners, and such special meetings as may be necessary for the transaction of the business of the light, gas and water division. The number of required regular meetings may be changed with the approval of the City Council. A majority of the board shall constitute a quorum for the transaction of business at any regular or special meeting. Notice of any special meeting may be waived, either before or after the holding thereof; and personal attendance at any special meeting shall constitute a waiver of notice by the members present; and absence of any member from the City of Memphis shall dispense with the necessity of giving such member any notice of any special meeting. (Priv. Acts 1939, ch. 381, § 11; Ord. No. 3054, 9-2-80)

Sec. 671. Salary of presidentand other commissioners.

The salary of the president of said board of light, gas and water commissioners shall be fixed by the Council of the City of Memphis, to be payable in monthly installments. The salary of the other members of said board of light, gas and water commissioners shall be fixed by the Council of the City of Memphis, payable in monthly installments. (Priv. Acts 1939, ch. 381, § 11; Ord. No. 3054, 9-2-80)

Sec. 672. President to devote entire time to office; general powers and duties of president.

The president of said board of light, gas and water commissioners shall give his entire time and attention to the duties of his office and shall not actively engage in any business or profession not directly connected therewith; and, subject to the regulations of the board of light, gas and water commissioners, shall have general supervision over the operation of said light, gas and water division and of all officers and employees of said light, gas and water division. The president shall keep the board of light, gas and water commissioners advised as to the general operating and financial condition of said light, gas and water division and he shall furnish a monthly report to the Council of the City of Memphis with regard to the operation, maintenance and financial condition of the light, gas and water division, and from time to time shall furnish such other information to the Council of the City of Memphis as they may request. (Priv. Acts 1939, ch. 381, § 11)

Sec. 673.

(Deleted by Ord. No. 3054, 9-2-80, § 1)

Sec. 674. Selection, duties, etc., of secretary and attorneys.

The board of light, gas and water commissioners shall, as soon as practicable after their qualification and organization, certify the nomination of the following subordinate officers to the Council of the City of Memphis for approval, and said subordinate officers, after having been approved by the council, shall serve at the will and pleasure of the board of light, gas and water commissioners, the salaries of said subordinate officers to be fixed by the board of light, gas and water commissioners subject to approval by the Council of the City of Memphis, or the duly authorized agent or representative of said Council of the City of Memphis, to-wit:

(a) *Secretary*. A secretary, who shall have charge and custody of all books, papers, documents and accounts of the light, gas and water division, and under whose supervision all necessary accounting records shall be kept, and all checks and vouchers prepared. The board of light, gas and water commissioners shall by resolution designate the persons who shall sign checks, and all checks shall be signed and countersigned in such manner as the board of light, gas and water commissioners may provide by resolution. Said secretary shall be required to attend in person or by one of his clerks, all of the meetings of the light, gas and water commissioners, and keep a correct record of all the proceedings of that body, and perform such other duties as may be imposed upon him by the board of light, gas and water commissioners. He shall have such clerical assistance in his work as the said board of light, gas and water commissioners shall deem necessary for the work to be properly performed. He shall make and file a bond in such sum as may be fixed by the board of light, gas and water commissioners and shall take the same oath required of members of the board of light, gas and water commissioners.

(b) *Attorneys*. One or more attorneys, who shall be practicing attorneys at law, and who shall make and file bonds in such sum as may be fixed by the board of light, gas and water commissioners and take the same oaths required of members of the board of light, gas and water commissioners, and who shall act as general counsel for the light, gas and water division and advise the board of light, gas and water commissioners and other officers of the light, gas and water division in all matters of law which may arise, and who shall prosecute and defend, as the case may be, all suits brought by or against the said light, gas and water division and all suits to which the said board of light, gas and water commissioner shall be parties. (Priv. Acts 1939, ch. 381, § 12; Priv. Acts 1947, ch. 723, § 1; Ord. No. 3054, 9-2-80)

Sec. 675. Employment, salaries, etc., of other subordinate officers and employees.

The board of light, gas and water commissioners shall be authorized to employ such other engineers, superintendents, assistants, consultants and other subordinate officers and employees as may be necessary for the efficient operation of said light, gas and water division, who shall hold office at the will and pleasure of the board of light, gas and water commissioners and shall receive such salaries as may be fixed by the board of light, gas and water commissioners; provided that no salary shall be fixed in excess of the sum of four thousand dollars ($4,000.00) per annum without the consent and approval of the Council of the City of Memphis; and provided further that the board of light, gas and water commissioners shall certify to the Council of the City of Memphis for approval the nomination of all subordinate officers and employees whose salaries shall be fixed in excess of four thousand dollars ($4,000.00) per annum, but the consent and approval of the council to any salary or nomination shall not be necessary where the salary of any subordinate officer or employee shall be less than four thousand dollars ($4,000.00) per year.

Provided, further, that no salaries, fees or other compensation in excess of four thousand dollars ($4,000.00) shall be paid by the board of light, gas and water commissioners, to engineers, auditors, attorneys, consultants, or any others employed to render extraordinary services to the light, gas and water division, unless such salaries, fees or compensation are approved by the Council of the City of Memphis or the duly authorized agent or representative of said Council of the City of Memphis.

The City Council by ordinance may raise the amount of contracts and salaries or compensation for employees or others requiring City Council approval to such amount as it may deem appropriate and may raise by ordinance the amount of equipment, materials or supplies requiring newspaper advertisement for competitive bids.
(Priv. Acts 1939, ch. 381, § 13; Priv. Acts 1947, ch. 723, § 2)

Sec. 676. Bonds of officers, agents and employees.

The Memphis light, gas and water division, if the board of light, gas and water division commissioners so elect, may insure the fidelity of any or all of its officers, agents, attorneys or employees, or may require them, or any of them, to execute bond; and the premium on any bond required by this Act, or on any of the aforesaid bonds that may be required by the board of light, gas and water commissioners, or the premium on any fidelity insurance, shall be paid out of the funds of Memphis light, gas and water division and be charged to operating expenses, unless the board of light, gas and water commissioners shall otherwise expressly provide by resolution. (Priv. Acts 1939, ch. 381, § 24)

Cross reference—.Bonds of officers and employees generally, § 178.

Sec. 677. Authority to construct, operate, etc., electric system; purchase of electricity.

The said board of light, gas and water commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, an electric plant or system, including without limitation, power plants, transmission lines, substations, feeders, primary and secondary distribution lines, including turbines, engines, pumps, boilers, generators, converters, switchboards, transformers, poles, conduits, wires, cables, lamps, fixtures, accessory apparatus, buildings and lands, right of way and easements, and all other appurtenances usual to such plants for the purpose of furnishing electric power and energy for lighting, heating, power or any other purpose for which electric power or energy can be used; provided no such electric plant or system shall be operated within the limits of any incorporated municipality, outside the corporate limits of the City of Memphis, without the consent of the governing body of such incorporated municipality.

Said board of light, gas and water commissioners shall have the power and authority to purchase electric current from the Tennessee Valley Authority or from any other person, firm or corporation as in the judgment of said board of light, gas and water commissioners shall be proper or expedient, and to make any and all contracts necessary and incident to carry out this purpose and to change, alter, renew or discontinue any contracts entered into by them at any time, provided, that the said board of light, gas and water commissioners shall not enter into any contract for the purchase of electricity for a period longer than five years, unless said contract shall have first been approved by the Council of said City of Memphis. (Priv. Acts 1939, ch. 381, § 3)

Sec. 678. Authority to construct, operate, etc., gas system; purchase of gas.

The said board of light, gas and water commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, a gas plant or system, including without limitation, all accessory apparatus, buildings and lands, right-of-way and easements, and shall have the power and authority to construct, purchase, improve, operate, maintain, abandon, sell, convey or remove within the corporate limits of the City of Memphis or elsewhere, all other appurtenances to or accessories for such plants, it being the intention of this Act that the distribution or selling of such natural or artificial gas shall be limited to the City of Memphis or elsewhere in Shelby County.

The board of light, gas and water commissioners shall have power and authority to purchase natural gas from the Memphis Natural Gas Company, or from any other person, firm, or corporation as in the judgment of said board of light, gas and water commissioners shall be proper or expedient, and to make any and all contracts necessary and incident to carry out this purpose and to change, alter, renew or discontinue any contracts entered into by them at any time, provided, that the said board of light, gas and water commissioners shall not enter into any contract for the purchase of natural gas for a period longer than five years, unless said contract shall have first been approved by the Council of said City of Memphis. (Priv. Acts 1939, ch. 381, § 4; Priv. Acts 1963, ch. 151, § 1)

Sec. 679. Authority to construct, operate, etc., water system.

The said board of light, gas and water commissioners shall have the power and authority to construct, purchase, improve, operate and maintain, within the corporate limits of the City of Memphis or elsewhere within the limits of Shelby County, a water plant or system, including, without limitation, wells, pumping plants, reservoirs, pipes, and all accessory apparatus, buildings and lands, rights of way and easements, and all other appurtenances usual to such plants or systems, for the purpose of producing, distributing, supplying or selling water to the City of Memphis, or to any person, firm, public or private corporation, or to any other user or consumer, in the City of Memphis or elsewhere in Shelby County. (Priv. Acts 1939, ch. 381, § 5)

Sec. 680. Service rates.

Said board of light, gas and water commissioners shall have authority to make a schedule of rates for the several services and for different classes of consumers; and shall make such rates for the service rendered as will enable them at all times to pay operating expenses, interest, sinking funds, reserves for working capital, renewals and replacements, casualties and other fixed charges; but the rates charged users or consumers outside of the City of Memphis shall not necessarily be as low as the rates within the city. The said light, gas and water commissioners shall have the right to change the schedule of rates for both light, gas and/or water in the city and outside the city, from time to time, as in

their judgment may be necessary or proper; provided, that before any change shall be made in rates, the board of light, gas and water commissioners shall be required to present an application to the Council of the City of Memphis, setting forth the reason for said proposed changes in rates, and said changes in rates shall not become effective until they shall have been approved by said council, and provided further, that the board of light, gas and water commissioners and the Council of the City of Memphis, shall prescribe rates that will be sufficient to pay all bonds or other indebtedness and interest thereon, including reserves therefor, and to provide for all expenses of operation and maintenance of said plants or systems, including reserves therefor. (Priv. Acts 1939, ch. 381, § 7)

Sec. 681. Authority of commissioners as to contracts generally.

The Memphis Light, Gas & Water Division, with the consent of the City Council, may contract with any person, federal agency, municipality, or public or private corporation for the construction or purchase of energy systems including joint ventures, partnership, or other financial arrangements under such terms and conditions as are approved by the City Council. The Board of Light, Gas & Water Commissioners shall have the right to make any and all contracts concerning such energy systems in accordance with the provisions now provided for contracts and have all other powers which presently exist in said Board as now provided in the Charter of the City of Memphis, including, but not limited to, (a) contracts with any person, federal agency, municipality, or public or private corporation, for the purchase or sale of electric energy, gas, or water, and (b) contracts with any person, federal agency, municipality, or public or private corporation for the acquisition of all or any part of any electric, gas, or water plants or systems; (c) contracts for loans, grants or other financial assistance from any federal agency; and, notwithstanding any provision of this or any other Act, in contracting with any federal agency the light, gas and water commissioners shall have power to stipulate and agree to such covenants, terms and conditions as the board may deem appropriate, including, but without limitation, covenants, terms and conditions with respect to the resale rates, financial and accounting methods, services, operation and maintenance practices, and the manner of disposing of the revenues of the system or systems conducted and operated by the commission. Except as may be otherwise expressly provided herein, all contracts made by the light, gas and water division shall be entered into and executed in such manner as may be prescribed by the board of light, gas and water commissioners, but no contract for equipment, apparatus, materials, or supplies involving more than $1,000.00* shall be made except after said contract has been advertised in the manner now or hereafter provided by law for the advertisement of contracts made by the Council of the City of Memphis in the making of city contracts.

The light, gas and water commissioners shall have no authority to make any contracts entailing an obligation of or involving an expenditure in excess of five thousand dollars, without the consent and approval of the Council of the City of Memphis or the duly authorized agent or representative of said Council of the City of Memphis.

Provided, however, the light, gas and water commissioners shall have authority to submit bids to and make purchases from the United States Government, or any of its agencies, departments or divisions, of materials, supplies and equipment needed by the division without the necessity of advertising for or receiving bids for such purchases.

The Board of Light, Gas and Water Commissioners may enter into such banking contract or contracts as it may determine under the procedures set forth for banking contracts for the City of Memphis with Council approval.

(Priv. Acts 1939, ch. 381, 15; Priv. Acts 1945, ch. 18, § 2; Priv. Acts 1947, ch. 723, § 3; Ord. No. 3054, 9-2-80)

***Editor's note—** City council is now authorized to set the advertisement and competitive bidding limits. See § 51.

Sec. 682. Use of rights of way, easements, etc., held by state, county or other municipality.

The Memphis light, gas and water division may use any right of way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of its electric system, gas system or water system, held by the State of Tennessee, Shelby County, or any other municipalities, provided that the State of Tennessee, Shelby County, or any other municipality shall consent to such use. (Priv. Acts 1939, ch. 381, § 25)

Sec. 683. Rules and regulations of commissioners.

Said board of light, gas and water commissioners shall have the power and authority to promulgate and enforce such rules and regulations governing the distribution of light, power, gas and water, as they may deem proper in the operation of said light, gas and water division. (Priv. Acts 1939, ch. 381, § 8)

Sec. 684. Right of condemnation.

[The] Memphis light, gas and water division is hereby authorized and empowered to condemn any land, easements, or rights of way, either on, under or above the ground, for any and all purposes in connection with the construction, operation, improvement or maintenance of said electric system, gas system, or water system. Title to such property so condemned shall be taken in the name of the City of Memphis. Such condemnation proceedings shall be pursuant to and in accordance with sections 3109—3134, inclusive, of the 1932 Code of Tennessee;* provided, however, that where title to any property sought to be condemned is defective, it shall be divested out of all persons, firms or corporations who have, or may have, any right, title or interest thereto, and be vested by decree of court; provided, further, that the court in which any such proceedings are filed shall, upon application by [the] Memphis light, gas and water division, and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just.

Whenever the board of light, gas and water commissioners shall deem it necessary and proper, the right of condemnation herein granted shall extend to an [and] include the right to condemn any property devoted to another public use, whether such property was acquired by condemnation or purchase; provided, that no property devoted to another public use shall be condemned without the consent and approval of the Council of the City of Memphis. (Priv. Acts 1939, ch. 381, § 9)

***Editor's note—**Sec now T.C.A. § 23-1401 et seq.

Cross reference—Condemnation generally, § 457 et seq.

Sec. 685. Removal of commissioners.

The light, gas and water commissioners may be removed at the will and pleasure of the Council of the City of Memphis without the necessity of a hearing or notice, and their action in removing a commissioner shall be final. (Priv. Acts 1939, ch. 381, § 14; Priv. Acts 1941, ch. 327, § 2)

Sec. 686. Restriction as to issuance of bonds or notes, incurring indebtedness, etc.

Said board of light, gas and water commissioners shall have no authority to issue any bonds or notes, or any obligations constituting a lien upon the properties used in the production and distribution of electricity, gas and water in the City of Memphis and Shelby County, except by and with the consent of the Council of the City of Memphis.

The Council of the City of Memphis may, whenever requested by the board of light, gas and water commissioners, incur indebtedness and issue and sell bonds or notes on behalf of the light, gas and water division to such extent and in such manner as may now or hereafter be authorized by any applicable private or public act or general law of the State of Tennessee. (Priv. Acts 1939, ch. 381, § 16)

Sec. 687. Separate books and accounts to be kept on electric, gas and water operations.

The board of light, gas and water commissioners shall require that separate books and accounts be kept on the electric, gas and water operations, so that said books and accounts will reflect the financial condition of each division separately, to the end that each division shall be self sustaining, and may require that the moneys and securities of each division be placed in separate accounts. (Priv. Acts 1939, ch. 381, § 17)

Sec. 688. Divisions to be operated independent of each other; exception.

Each of said divisions (electric, gas and water) shall be operated independent of each other, except insofar as the board of light, gas and water commissioners may be of the opinion that joint operation shall be advisable, and economical, in which event the expense incurred in such joint operation, including the salaries of said commissioners, shall be prorated between the several divisions in such manner as the light, gas and water commissioners shall find to be equitable. (Priv. Acts 1939, ch. 381, § 17)

Sec. 689. Moneys and funds of one division may be loaned to another; restriction.

Notwithstanding any other provision of the Charter, the monies and funds of any division may be loaned to another division in such amounts and upon such terms as the Board of Light, Gas & Water Commissioners may authorize and approve. (Ord. No. 3054, 9-2-80)

Sec. 690. Authority to create revolving fund; loans to property owners for purpose of making service connections.

The light, gas and water commissioners are authorized and empowered to set aside from any available funds of Memphis light, gas and water division a revolving fund in an amount not to exceed one hundred thousand dollars, and said commissioners are further authorized and empowered, at their discretion, to make loans not to exceed the sum of one hundred dollars per water service, or gas service, or electric service, to any one property owner who is a citizen and resident of the City of Memphis, or Shelby County, to enable said property owner to install water, gas or electric service connections and appliances. (Priv. Acts 1939, ch. 381, § 18)

Sec. 691. Disposition of revenue of light division.

The revenue received each year from the operation of the light division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

(1) The payment of all operating expenses of the light division for the year.

(2) For interest accruals and sinking fund accruals on bonds and mortgages issued for the benefit of the light division.

(3) For cash payments to a working capital reserve, a renewals and replacement reserve, and a casualties reserve, for the benefit of the light division, said cash payments to said reserves to be in such amounts as the light, gas and water commissioners think proper and by resolution elect to set up from time to time.

(4) For payment to the general funds of the municipality a sum equal in amount to what would be the city taxes on the properties of the light division within the city limits of the City of Memphis if said properties were privately owned.

(5) For payment to a reasonable surplus account which may be used by the board of light, gas and water commissioners for extensions and improvements to the light plant or system and/or for the purchase of outstanding bonds that may have been issued for the benefit of the light division, as the board of light, gas and water commissioners may deem advisable.

(6) For payment to the general funds of the municipality a sum not to exceed a cumulative return of six per cent (6%) per annum of the equity or investment, if any, of the municipality in the properties of the light division, the said percentage to be fixed by resolution of the Council of the City of Memphis. Should the said percentage as fixed by the Council of the City of Memphis exceed a reasonable figure in the opinion of the board of light, gas and water commissioners, the amount to be paid by the board of light, gas and water commissioners to the Council of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the city council and one member of the board of light, gas and water commissioners, who shall elect a third member, and the findings of this board of arbitration shall be final and binding on both the city council and the board of light, gas and water commissioners.

Provided that in no event shall the aforesaid payment to the municipality for any year exceed one-half of the net profits realized by the light division during that year, unless the board of light, gas and water commissioners shall, by resolution, consent thereto.

(7) Any surplus then remaining, over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the board of light, gas and water commissioners in contracting with the Tennessee Valley Authority for the purchase of power, or as may be deemed necessary by the Council of the City of Memphis, with the approval of the board of light, gas and water commissioners, in the issuance and sale of any bonds or notes on behalf of the electric system, or on behalf of the electric system in conjunction with the gas or water systems. (Priv. Acts 1939, ch. 381, § 19)

Sec. 692. Disposition of revenue of water division.

The revenue received each year from the operation of the water division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

(1) For the payment of all operating expenses of the water division for the year.

(2) For interest accruals and sinking fund accruals on bonds or mortgages issued for the benefit of the water division.

(3) For cash payments to a working capital reserve, a renewals and replacements reserve, and a casualties reserve, for the benefit of the water division. Said cash payments to said reserves to be in such amounts as the light, gas and water commissioners think proper and by resolution elect to set up from time to time.

(4) For the payment to the general funds of the municipality a sum not to exceed a cumulative return of three per cent (3%) per annum of the equity or investment, if any, of the municipality in the properties of the water division, the said percentage to be fixed by resolution of the Council of the City of Memphis. Should the said percentage as fixed by the Council of the City of Memphis exceed a reasonable figure in the opinion of the board of light, gas and water commissioners, the amount to be paid by the board of light, gas and water commissioners to the Council of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the city council and one member of the board of light, gas and water commissioners, who shall select a third member, and the findings of this board of arbitration shall be final and binding on both the city council and the board of light, gas and water commissioners.

(5) Any surplus thereafter remaining shall be retained by the board of light, gas and water commissioners and may be used by them for expansion and enlargement of the water division and/or purchase of bonds that may have been issued and outstanding for the benefit of said division.

(6) Any surplus thereafter remaining over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the Council of the City of Memphis with the approval of the board of light, gas and water commissioners in the issuance and sale of any bonds or notes on behalf of the water system, or on behalf of the water system in conjunction with the gas or electric systems. (Priv. Acts 1939, ch. 381, § 20)

Sec. 693. Disposition of revenue of gas division.

The revenue received each year from the operation of the gas division, before being used for any other purpose, shall be used for the following purposes, in the order named, to-wit:

(1) For the payment of all operating expenses of the gas division for the year.

(2) For interest accruals and sinking fund accruals on bonds or mortgages issued for the benefit of the gas division.

(3) For cash payments to a working capital reserve, a renewals and replacements reserve, and a casualties reserve, for the benefit of the gas division. Said cash payments to said reserves to be in such amounts as the light, gas and water commissioners think proper and by resolution elect to set up from time to time.

(4) For payment to the general funds of the municipality a sum equal in amount to what would be the city taxes on the properties of the gas division within the city limits of the City of Memphis if said properties were privately owned.

(5) For payment to a reasonable surplus account which may be used by the board of light, gas and water commissioners for extensions and improvements to the gas plant or system and/or for the purpose of outstanding bonds that may have been issued for the benefit of the gas division, as the board of light, gas and water commissioners may deem advisable.

(6) For the payment to the general fund of the municipality a sum not to exceed a cumulative return of six per cent (6%) per annum of the equity or investment, if any, of the municipality in the properties of the gas division, the said percentage to be fixed by resolution of the Council of the City of Memphis. Should the said percentage as fixed by the Council of the City of Memphis exceed a reasonable figure in the opinion of the board of light, gas and water commissioners, the amount to be paid by the board of light, gas and water commissioners to the Council of the City of Memphis shall be determined by a board of arbitration, consisting of one member of the city council and one member of the board of light, gas and water commissioners who shall select a third member, and the findings of this board of arbitration shall be final and binding on both the city council and the board of light, gas and water commissioners.

Provided that in no event shall the aforesaid payment to the municipality for any year exceed one-half of the net profits realized by the gas division during that year, unless the board of light, gas and water commissioners shall, by resolution, consent thereto.

(7) Any surplus thereafter remaining over and above safe operating margins, shall be devoted solely to rate reduction.

It is further provided that said allotment of funds may be changed in such manner as may be deemed necessary by the Council of the City of Memphis, with the approval of the board of light, gas and water commissioners, in the issuance and sale of any bonds or notes on behalf of the gas system, or on behalf of the gas system in conjunction with the electric or water systems. (Priv. Acts 1939, ch. 381, § 22; Priv. Acts 1945, ch. 18, § 1; Priv. Acts 1947, ch. 491, § 1; Priv. Acts 1959, ch. 224, § 1)

Sec. 694. Investment and reinvestment of funds or reserves.

The Board of Light, Gas & Water Commissioners shall provide for the investment and reinvestment of its funds and reserves as determined in the discretion of the Board of Commissioners and the funds of all divisions may be combined for the purpose of obtaining the best investment. The Board shall shall be able to make such investments as authorized by state law and as the Board of Light, Gas & Water Commissioners may deem best with such security as the Board may deem proper. The funds of any division may be separately invested and reinvested, or may be invested and reinvested in conjunction with the funds of any other division or divisions, as the board of light, gas and water commissioners may deem best; and any profit or loss resulting from any such investment or reinvestment shall be credited or charged to the several divisions in proportion to the respective funds of the several divisions so invested or reinvested. (Priv. Acts 1939, ch. 381, § 23; Ord. No. 3054, 9-2-80)

Sec. 695.

(Deleted by Ord. No. 3054, 9-2-80)

Sec. 696. City, school board, hospital, crematory, police stations, etc., to be furnished water free of charge.

The light, gas and water commissioners shall furnish to the City of Memphis free, sufficient water for all fire hydrants of the city for fire protection and for sprinkling the streets of the city, and shall also furnish free, sufficient water for the school board, the general hospital,* the city crematory, and the police stations, and may also furnish free to said city such additional water as the light, gas and water commission may deem expedient for public purposes. (Priv. Acts 1939, ch. 381, § 21)

Editor's note—Now John Gaston Hospital.

Sec. 697. City and its governmental agencies to be furnished electric current and gas; payment to be based on prevailing rate scales.

The light, gas and water commissioners shall furnish to the City of Memphis electric current and gas for all of its governmental agencies, and the City of Memphis shall be required to pay for said current and gas under the prevailing rate scales adopted for the sale of electric current and gas. (Priv. Acts 1939, ch. 381, § 26)

Sec. 698. Act not to impair existing obligations; existing contracts binding upon division.

This Act shall not in any way impair any obligations of the City of Memphis, or the board of water commissioners or the board of light and water commissioners of Memphis light and water division, to any person or persons, and shall not change or alter the obligations of any existing contracts, but all contracts outstanding, heretofore made under the existing law, shall be binding upon Memphis light, gas and water division as herein established. (Priv. Acts 1939, ch. 381, § 6)

Sec. 699. Construction of Act.

The powers, authority and rights conferred by this Act shall be in audition [addition] and supplemental to, and the limitations imposed by this Act shall not affect, the powers conferred by any other general, special, or local law; and this Act is hereby declared to be remedial in nature, and the powers hereby granted shall be liberally construed to effectuate the purposes hereof, and to this end the Memphis light, gas and water commissioners shall have power to do all things necessary or convenient to carry out the purposes hereof, in addition to the powers expressly conferred in this Act. (Priv. Acts 1939, ch. 381, § 27)

ARTICLE 66. RESERVED*

***Editor's note—**Ord. No. 2252, §§ 1—13, adopted May 13, 1957, abolished the Memphis Transit Authority, Art. 66, §§ 700—718, and created, in lieu thereof, the Memphis Area Transit Authority, which has been codified as Ch. 2, Art. XXI, §§ 2-279—2-291. The Memphis Transit Authority was derived from Priv. Acts 1939, ch. 381, § 6; Priv. Acts 1943, ch. 26, §§ 2—4, 6—11, 13—15; Priv. Acts 1961, Ch. 319, §§ 3—7, 9, 11.

ARTICLE 67. PRIVATELY OWNED UTILITIES*

***Cross reference—**Condemnation of public utilities, § 468 et seq.

Sec. 719. Regulation of railroads and street cars generally.

The local governing authority is authorized to permit and regulate the laying of railroad tracks of iron and the passage of railroad cars through the city, and to remove such railroad track if it obstructs travel, or does not conform to the laws of the city; and to make all suitable and proper regulations in regard to the use of the streets for street cars, and to regulate the running of the same, so as to prevent injury or inconvenience to the public. (Acts 1879, ch. 11, § 3)

Code reference—Railroads. ch. 34.

Sec. 720. Authority to regulate, remove, etc., railroad tracks which approach at an angle but do not cross public thoroughfare.

Wherever railroad tracks approach at an angle, but do not cross, any street or other public thoroughfare in the City of Memphis, the Council of the City of Memphis, in addition to all other powers vested in it, shall have full authority and power, by ordinance, to regulate, prohibit the use of, or require the removal of such track for such distance from the street or other thoroughfare as the public safety in the use of such street or other thoroughfare may require. (Priv. Acts 1947, ch. 709, § 2)

Sec. 721. Authority to regulate operation, use and movement of railroad locomotives, cars and trains.

The City of Memphis, in addition to all other powers possessed by it, is hereby fully empowered by ordinance to regulate the operation, use and movement of all railroad locomotives, cars and trains within the corporate limits of the City of Memphis and to prescribe the kinds and types of engines, fuel and motive power used to propel all railroad locomotives, cars and trains within the corporate limits of the City of Memphis. (Priv. Acts 1945, ch. 56, § 12)

Sec. 722. Tax on railroad rolling stock.

The City of Memphis, in addition to all other powers it now possesses, is hereby authorized, by ordinance, to impose a tax upon all railroad and railroad car company vehicles, including but not limited to any railroad train, locomotive, passenger, coach, diner, express, baggage, sleeping, pullman, club, observation, freight, caboose, or work car, or any other vehicle of like character which is propelled over the highways, roads, streets, alleys, thoroughfares or other public property of the city or any portion thereof, by steam, distillate, gasoline, electrical, diesel or other mechanical power and constructed for the purpose of transporting or facilitating the transport of tangible personal property or other property or passengers, whether the same are engaged in interstate or intrastate commerce, as compensation for use of the streets, highways, alleys, thoroughfares and other public property of the city. The taxes levied and collected under the authority herein granted shall be applied exclusively by the city to the construction and maintenance of the streets, alleys and thoroughfares of the city. (Priv. Acts 1945, ch. 56, § 13)

Cross reference—Taxation generally, § 752 et seq.

Secs. 723, 724. Reserved.

Editor's note—Former §§ 723 and 724 were derived from the general law (T.C.A. § 48-610) and have been omitted from this compilation.

Sec. 725. Regulation of gas and light companies.

Said governing authority is authorized to regulate and control all gas and other companies furnishing light to said city by means of pipes, wires and other conductors laid in or over the streets or sidewalks of said city, and to enact by ordinance that the gas furnished shall be of not less than sixteen candlepower, and that the same shall be as pure and free from deleterious and hurtful elements as practicable. (Acts 1887, ch. 91)

Sec. 726. Authority of gas and electric companies to condemn property.

Every corporation incorporated under the laws of any state and authorized to construct, own and operate a gas or electric plant, or both, within counties having a population of 220,000 or more, according to the Federal Census of

1920, or any subsequent Federal Census, in this state, for the purpose of furnishing gas, or electricity, or both, to persons in this state, be and the same is and shall be empowered and authorized to take and appropriate lands and interests in lands reasonably necessary for use in the construction, maintenance and operation of either its gas or electric plants, or both; provided, however, that the corporation seeking to take such land or interests in lands shall proceed in the same manner as provided for railroads, turnpike, canal, and other public service corporations in sections 1326 to 1344, inclusive, of the Code of Tennessee;* provided further that nothing herein shall be construed to empower any such corporation to condemn any right of way or easement in any street, alley, highway, or property of any county, or municipality; provided further, that the power hereby conferred shall not be exercised by any such corporation to acquire land or interest in land for more than one gas or electrical plant or both. (Priv. Acts 1921, ch. 698)

***Editor's note—**See now T.C.A. § 23-1401 et seq.

Sec. 727. Authority to regulate rates of messenger companies, vehicles for hire, etc.

Said City of Memphis shall have the right to regulate, within reasonable limits, the charges of messenger companies, hackney coaches, automobiles for hire, and city express companies. (Priv. Acts 1911, ch. 186, § 7)

ARTICLE 68. MOTOR VEHICLES, BICYCLES, ACCESSORIES, ETC.

Sec. 728. General authority to regulate automobiles and operators.

The Council of the City of Memphis shall also have power to regulate the running of automobiles and the persons in charge of the same, and to require each driver of an automobile to obtain a license to operate said machine, and attain such efficiency in the operation of said machine as may be required by the said board prior to the issuance of said license. Full authority is hereby given to said board to appoint a person or persons to examine the applicants for license and determine their efficiency. Said license shall be renewable annually, and for said license and each renewal thereof a fee fixed by ordinance, not to exceed five dollars, may be charged. (Priv. Acts 1913, ch. 242, § 2)

Cross reference—Additional authority of council to regulate vehicles and traffic, §§ 834, 835.

Code reference—Motor vehicles and traffic, T. 11.

Sec. 729. Reserved.

Editor's note—Section 729 was derived from a provision of the general law relative to the city's authority to regulate the speed of vehicles, which provision has since been repealed. See now T.C.A. § 59-853.

Sec. 730. Dealers in secondhand vehicles, bicycles and accessories—Record of purchases; dealing with minors.

In counties having a population of 190,000 or more by the Federal Census of 1910 or any subsequent Federal Census, it shall be the duty of each dealer in secondhand automobiles, trucks, motorcycles, and other self-propelled vehicles, and secondhand bicycles, and secondhand accessories for all such vehicles, to keep a well-bound book and enter therein in legible manuscript or typewriting a particular, minute and detailed description of every secondhand automobile, truck, motorcycle, or other self-propelled vehicle, and every secondhand bicycle, and all secondhand accessories of every kind for any of such vehicles bought, exchanged, or traded for by said dealer; also the name, color, and residence of the party or parties selling, trading, or exchanging same; such entries in said book to be made immediately after said dealer acquires such vehicle and articles, and said book to be indexed and open at all times to the inspection of the police or other officers. And provided further, that it shall be unlawful under any circumstances to exchange, purchase from, or trade for any of the above-named vehicles or articles from a minor unless written permission be given by the parents or guardian of such minor and filed as a part of the record of the transaction. (Priv. Acts 1917, ch. 110, § 1)

Code references—Records of secondhand dealers, §§6-68-6—6-68-12; dealing with minors, § 6-68-4.

Sec. 731. Same—Report of purchases to police.

Every person, firm or corporation engaged in said business in said counties shall prepare and deliver to the chief of police or chief of detectives of the town or city in which said business is carried on, every day before the hour of nine o'clock A. M., a legible copy of such register and the description of all secondhand automobiles, trucks, motorcycles and bicycles with the motor numbers, factory numbers or engine numbers thereof and a description of all secondhand accessories purchased or traded for during the preceding day. If said business is carried on in a town or city where there is no chief of police or chief of detectives then said description of the various articles, as aforesaid, shall be delivered to the mayor of said town or city, if any, otherwise to the sheriff of the county in which said business is located. (Priv. Acts 1917, ch. 110, § 2)

Code reference—Report required of secondhand dealers, § 6-68-3.

Sec. 732. Same—Articles not to be disposed of for twenty-four hours.

No secondhand automobile, truck, motorcycle or bicycle or any secondhand accessories purchased or traded for shall be disposed of or permitted to be sold or disposed of by said dealer for a period of twenty-four hours after the copy of said register, description and information provided for in the preceding section shall have been delivered to the chief of police, chief of detectives, mayor or sheriff, as therein provided. (Priv. Acts 1917, ch. 110, § 3)

Code reference—Retention period for articles purchased by secondhand dealers, § 6-68-2.

Sec. 733. Same—Penalty for violation of sections 730 through 732.

A failure on the part of any dealer in the secondhand vehicles and articles hereinbefore mentioned (sections 730 to 732) to do and perform all and any of the things required in this Act shall constitute a misdemeanor and be punishable by a fine of not less than twenty-five dollars and not more than one hundred dollars upon conviction in any criminal court having jurisdiction. (Priv. Acts 1917, ch. 110, § 4)

Sec. 734. Same—Applicability of sections 730 through 733.

This Act (sections 730 to 734) shall not apply to dealers or agents who handle new automobiles and accept old automobiles as part payment for new automobiles. (Priv. Acts 1917, ch 110, § 5)

Sec. 735. Mechanical inspection of motor vehicles—Authority to require.

The Council of the City of Memphis shall have authority to require by ordinance the mechanical inspection of all automobiles, taxicabs, buses, or other motor propelled vehicles operating upon the streets of the City of Memphis, at such place or places as shall be designated by the said council of said city. (Priv. Acts 1935, ch. 143, § 1)

Cross reference—Additional authority of council to require inspection of vehicles, § 834.

Code reference—Inspection required, § 11-64-1.

Sec. 736. Same—Authority to erect buildings, provide rules and regulations and fix inspection fee.

The council of said city shall have authority to erect, maintain and operate a building or buildings in which said inspection shall be made, and they shall have authority to provide rules and regulations governing the method and time said inspections shall be made, and to fix an inspection fee for the making thereof. (Priv. Acts 1935, ch. 143, § 2)

Sec. 737. Same—Penalty for operation of vehicle that has failed to pass inspection; confiscation, etc.

The council of said city shall have authority to prohibit any automobile, taxicab, bus, or other motor propelled vehicle that has failed to pass said inspection from operating on the streets of the City of Memphis, and they shall have authority to prescribe a penalty not to exceed fifty dollars ($50.00) for operating such automobiles, taxicabs, buses, or other motor propelled vehicles upon the streets of the City of Memphis without having first had such automobiles, taxicabs, buses, or other motor propelled vehicles mechanically inspected as provided by this Act; and they shall have authority to confiscate and/or impound such automobiles, taxicabs, buses, or other motor propelled vehicles and hold same until such mechanical inspection is made as provided by said ordinance; and provided further, that any expense incurred in the confiscation, and/or impounding of said automobiles, taxicabs, buses, or other motor propelled vehicles, together with any storage fees, shall be a first lien on said automobiles, taxicabs, buses, or other motor propelled vehicles; and shall have authority to enforce said lien as provided by law. (Priv. Acts 1935, ch. 143, § 3)

Sec. 738. Same—What vehicles subject to inspection.

Any automobile, taxicab, bus or other motor propelled vehicle that is operated upon the streets of the City of Memphis more than four days of each calendar year shall be subject to the inspection provided for in this Act. (Priv. Acts 1935, ch. 143, § 4; Priv. Acts 1935, ch. 388, § 7)

Code reference—Similar provisions, § 11-64-1(B).

Sec. 739. Regulation of vehicles for hire generally; signs and billboards; junkyards; auctioneering; public solicitation of funds.

The council is given, in addition to all other powers now delegated or provided, full power to regulate and/or control the size, weight, width, length, tonnage and operation of taxicabs, motor buses, motor trucks and all other motor propelled vehicles and auxiliary vehicles commonly called trailers, operated over the streets and other highways of said cities and taxing districts; designate, fix and restrict the places, zones, and/or districts in which taxicabs, motor buses, motor trucks and all other motor propelled vehicles operated for hire and/or engaged in the business of hauling freight or passengers may stand, park, load and unload passengers, maintain and operate terminals, depots and stations in said cities and taxing districts; regulate, inspect, control and specify appliances, machines and equipments for measuring distances which taxicabs, automobiles and other such vehicles travel, and regulate the charges made by the owners and/or operators of any and all taxicabs, automobiles, and other such vehicles operated for hire within such cities and taxing districts; require and regulate the installation and maintenance of all proper safety appliances used or in connection with the operation of taxicabs, automobiles and other such vehicles operated for hire; and require the owners and/or operators of taxicabs, automobiles and other such vehicles operated for hire within said cities and taxing districts to furnish and maintain in force bonds and/or other indemnities sufficient, in the discretion of the council or other legislative councils or bodies of such cities and taxing districts, to indemnify and protect passengers, pedestrians and the public generally against loss by reason of injuries to persons and/or damage to property through the operation and/or use of such taxicabs, automobiles and other such motor propelled vehicles operated for hire, regulate the location, erection, and maintenance of all sign boards, billboards, and other paraphernalia and/or places where advertising signs, bills and/or placards are posted or affixed in said cities and taxing districts; and regulate, control and designate the location, erection, construction, and maintenance of yards, lots, sheds, buildings and other places in which the business or occupation of collecting, dismantling, storing, buying, selling, exchanging, and otherwise dealing in all secondhand materials, machinery, parts, junk, and other similar commodities is conducted or carried on; regulate the business of auctioneering directly or through duly constituted and authorized boards and/or agencies providing qualifications, licenses and bonds of auctioneers operating in such cities and taxing districts; and regulate the public solicitation of funds in such cities and taxing districts, directly or through duly constituted and authorized boards or agencies. (Priv. Acts 1931, ch. 446, § 1)

Cross references—General authority to regulate transient vendors, canvassers and solicitors, § 837; additional authority to regulate outdoor signs, § 853; auctions and auctioneering generally, § 840 et seq.; public solicitations generally, § 856.

Code references—Auctions and auctioneers, § 14-4-97; junk dealers, Ch. 6-40; public solicitations, Ch. 6-64; vehicles for hire, Chs. 6-32, 6-44, 6-80.

Sec. 740. Certificate of public convenience and necessity for vehicles for hire—Generally.

The council and other legislative council or body of (the City of Memphis), in addition to all other powers now delegated or provided, (shall have) full power to require that no person, firm or corporation shall be entitled to operate any motor propelled vehicle, other than those now or hereafter under the jurisdiction of the railroad and public utilities commission of Tennessee, for the transportation of persons for compensation over the streets and other highways within said city and/or taxing district, without having first obtained from the commissioner of the department of public service of said taxing district or city, a certificate declaring that the public convenience and necessity warrant such operation; full power to provide for the filing of application by operators of the vehicles aforesaid for certificates of public convenience and necessity with said commissioner of the department of public service and hearings before him on such applications to ascertain and consider such proper rules and regulations as the legislative body may promulgate, the service to be rendered and/or capacity of being rendered by the applicant and the facilities already in existence for the transportation of passengers, the public demand for or need of the service proposed and all other

pertinent facts; to fix fees to defray the cost of conducting such hearings, making inspections of vehicles and examinations of operators employed in such operations, and keeping records of such matters; to provide for the granting of said certificate upon a finding by said commissioner of the department of public service that the convenience and necessity of the public warrant or will be promoted by granting such certificate, and the denial of the application upon findings to the contrary, and to provide for the attaching to the issuance of such certificate any and all such terms and conditions as may be for the public welfare of the taxing district, and which shall not be contrary to the constitution or laws of the United States or the State of Tennessee, and to provide that such certificate shall be subject to such rules and regulations as the commissioners of the department of public service may provide; to provide further that such certificate of public convenience and necessity, when once issued, may be assigned and transferred, but no such certificate shall be so assigned or transferred without the approval of said commissioner of the department of public service; to provide that upon a denial of an application for a certificate of public convenience and necessity, the applicant may appeal to the council or other legislative council of such taxing districts, in which case the decision of the commissioner of the department of public service shall be prima facie correct and valid; to provide for the revocation of said certificate by the commissioner of the department of public service after hearing had upon notice to the holder of said certificate and opportunity given such holder to be heard, when it has been proved that such certificate holder has discontinued operation or has violated or refused or neglected to observe any of the proper orders, rules and regulations of said commissioner or any ordinance of the City of Memphis or law of the State of Tennessee relative to the operation of said vehicles; to provide for an appeal from any decision of said commissioner aforesaid revoking said certificate of convenience and necessity to the council or other legislative body of said taxing district, in which case the decision of said commissioner shall be prima facie correct and valid. (Priv. Acts 1933, ch. 404, § 1; Priv. Acts 1937, ch. 122, § 4)

Code reference—Certificates of public convenience and necessity, §§ 6-80-7—6-80-23.

Sec. 741. Same—Applicability of section 740 to persons engaged in transportation prior to enactment of section.

Any ordinance passed by the council or other legislative body of said taxing district, providing for the exercise of the powers delegated in section 1 [section 740] shall provide that all persons, firms and corporations engaged at the time of the passage of said ordinance in the business of transporting passengers for hire by such motor propelled vehicles shall be entitled of right to a certificate of public convenience and necessity, subject to a continuing right and power of said commissioner of the department of public service to deal with those certificates and the operation of holders thereunder in the same way and manner and to the same extent that said commissioner is hereby empowered to deal with all these things in respect of certificates of public convenience and necessity to be issued to those beginning their operations after the passage of the ordinance and the operation of any and all holders thereof and thereunder. (Priv. Acts 1933, ch. 404. 2; Priv. Acts 1937, ch. 122, § 4)

Sec. 742. Removal of illegally parked vehicles.

Whenever any automobile, truck, taxicab, bus, or other motor propelled vehicle shall be found parked upon the streets of the City of Memphis in violation of any of the ordinances of said city, the police department shall have authority to remove said automobile, truck, taxicab, bus, or other motor propelled vehicle from the streets of the City of Memphis, and hold same until claimed by the owner or person in whom the said automobile, truck, taxicab, bus, or other motor propelled vehicle is registered, and the person claiming said automobile, truck, taxicab, bus, or other motor propelled vehicle shall be required to pay a reasonable charge for the removing and storing of said automobile, truck, taxicab, bus, or other motor propelled vehicle, and this shall be in addition to any fines that may be imposed for the violation of said ordinances. (Priv. Acts 1935, ch. 388, § 5)

Code reference—Impounding vehicles obstructing streets, § 11-40-26.

Sec. 743. Reserved.

Editor's note—Former § 743 was a duplicate of § 738 and has been omitted.

Sec. 744. Parking meter zones, taxicab stands and loading zones.

The council shall have authority to establish and maintain parking meter zones, to impose charges for use of the streets and other public property for parking, to establish and maintain taxicab stands or zones, to require compensation for their use, and to establish, mark and maintain loading and unloading zones for benefit of abutting property owners, to require said owners to pay compensation therefor, and to adopt and promulgate ordinances, rules and regulations governing said zones and stands. (Priv. Acts 1941, ch. 44, § 1, subsec. 2)

Code references—Loading and unloading zones, §§ 11-40-17, 11-40-18; taxicab stands, § 11-40-20; parking meters, Ch. 11-44.

Sec. 745. Regulation of tow-cars and ambulances.

The council shall have authority to regulate, by ordinance, the use of the streets of the City of Memphis by tow-cars and ambulances responding to automobiles and other accidents and casualties, and to prohibit tow-cars and ambulances from responding to automobile and other accidents and casualties unless notified to so respond by the department of police. (Priv. Acts 1941, ch. 44, § 1, subsec. 3)

Code references—Ambulances, Ch. 9-20; wrecker or towing operators, Ch. 6-88.

Sec. 746. City vehicles to be marked.

All vehicles owned and operated by the various departments, divisions, bureaus and commissions of the City of Memphis shall have painted in a conspicuous place upon said vehicle the name of the City of Memphis and of the particular department, division, bureau and commission operating said vehicle and the number assigned to such vehicle by such division, bureau, department or commission. (Priv. Acts 1941, ch. 44, § 1, subsec. 4)

Sec. 747. Authority to require that taxicabs have rates painted on sides.

All taxicabs operating within the City of Memphis may be required to have painted on the side front doors in conspicuous words and figures the taxicab rates. (Priv. Acts 1941, ch. 44, § 1, subsec. 7)

Code reference—Display of taxicab rates, § 6-88-51.

Sec. 748. Authority to establish truck routes and to require trucks to operate thereon.

The Council of the City of Memphis shall have authority, by ordinance, to prohibit the operation of trucks on streets designated by it in the City of Memphis and to establish truck routes. (Priv. Acts 1941, ch. 44, § 1, subsec. 12)

Code reference—Truck routes, § 11-16-48.

Sec. 749. Regulation of sale, use and operation of bicycles; report of dealers.

The council shall have authority, by ordinance, to regulate the sale, use and operation of bicycles upon the streets, highways, alleys and other public places of the City of Memphis and to require all dealers to make reports of sales and purchases of all bicycles. And all ordinances passed prior to the enactment of this Act are hereby ratified. (Priv. Acts 1941, ch. 44, § 1, subsec. 15)

Code reference—Bicycles, Ch. 11-24.

Sec. 750. Authority to impose tax on freight and passenger motor vehicles.

The City of Memphis, in addition to all other powers it now possesses, is hereby authorized, by ordinance, to impose a tax upon all freight and passenger motor vehicles, including but not limited to any automobile truck, automobile trailer, automobile tractor, electrically operated truck or tractor, bus, or gasoline or electrically operated street railway buses, or any other vehicle of like character which is propelled over the highways, roads, streets and other public thoroughfares of the city, by either steam, distillate, gasoline, electrically or other mechanical power and constructed for the purpose of transporting tangible personal property or other property or passengers, whether the same are engaged in interstate or intrastate commerce, as compensation for use of the streets, highways, alleys and thoroughfares of the city. The taxes levied and collected under the authority herein granted shall be applied exclusively by the city to the construction and maintenance of the streets, alleys and thoroughfares of the city. (Priv. Acts 1943, ch. 157, § 1)

Annotation—In City of Memphis v. Yellow Cab, Inc., 201 Tenn. 71, 296 S. W. (2d) 864 (1956), the above section was held unconstitutional as suspending, for the benefit of the City of Memphis, the general law (T.C.A. § 6-727) which provides that licensing, as a privilege, of the driving of

any motor vehicle is an exclusive state privilege and that no tax for such privilege shall be levied or collected by any municipality under any guise or shape.

Code reference—Registration of vehicles, Ch. 11-60.

Sec. 750.1. Automobile tag fees; classification of motor vehicles.

The Council of the City of Memphis are hereby authorized, in addition to all other powers now delegated or provided, to regulate by ordinance the operation of motor vehicles over the streets of the City of Memphis and to require payment of a fee for city automobile tags to defray the cost of administration of the regulation of vehicular traffic over the streets of the city.

The governing body of the City of Memphis, by ordinance, is authorized to classify the types and uses of motor vehicles being operated upon the streets of the city, and to designate a registration fee per annum, based on such classification, to be used to administer all services provided by the city to regulate the flow of motor vehicular traffic upon the streets of the city.

The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other act upon the City of Memphis, and are not in substitution for the powers conferred by any other acts, provided that any act or any ordinance passed pursuant to any act relating to the subject matter of this act may be modified or discontinued and new regulations instituted by ordinance of the governing body of the city, under this Act. (Priv. Acts 1957, ch. 281, § 1—3)

Cross reference—Registration fee for freight vehicles, § 790.

Code references—Automobile registration fee, § 11-60-4; classification of and registration fee for freight vehicles, § 11-60-9.

Sec. 751. Authority to designate routes to be used by street railway and other freight or passenger motor vehicles.

The Council of the City of Memphis shall have power by ordinance or resolution to designate the route or routes to be used by any street railway and any gasoline or electrically operated street railway bus or truck line, or any freight or passenger motor vehicle operated on the streets of the City of Memphis, whether the same is engaged in interstate commerce or intrastate commerce. (Priv. Acts 1943, ch. 157, § 1)

Code references—Truck routes, § 11-16-48; approval of terminals, § 6-80-2.

ARTICLE 69. VEHICULAR PARKING SYSTEM

Sec. 751.1. General authority to acquire and maintain; composition.

The Council of the City of Memphis shall be authorized to buy, purchase, acquire, acquire by lease or rental, build, construct, own, improve and maintain upon lands now owned or which may hereafter be acquired by the City of Memphis for park purposes or otherwise a vehicular parking system which may include one or more parking lots, garages and shelters either above or below the surface of the ground or both, and to so build, construct, and equip the same that they may be used as shelters for the protection of persons and property from bombing or other military attacks or other catastrophes. (Priv. Acts 1951, ch. 150, § 1)

Sec. 751.2. Authority to sell or lease; operating commission.

The Council of the City of Memphis is further authorized to rent, lease, sell or otherwise dispose of any part or all of said vehicular parking system upon the terms and conditions and for such length of time as said council may deem advisable; or to operate and maintain said vehicular parking system under the jurisdiction of one of the departments of the City of Memphis; or by ordinance create a commission to be known as the “Vehicular Parking System Commission” to be composed of not less than three nor more than five members whose appointments, qualifications, duties, powers and responsibilities may be fixed by ordinance of said council and under whose jurisdiction said council may place the acquisition, construction, maintenance and operation of said vehicular parking system. (Priv. Acts 1951, ch. 150, § 2)

Sec. 751.3. Use as air-raid shelters; financing.

The Council of the City of Memphis is further authorized to cause to be incorporated or installed in all or any part of said vehicular parking system any features of design or construction or special equipment which may be reasonably necessary or advisable for rendering all or any part of said vehicular parking system available and useable as a shelter or shelters for the protection of persons and property from bombing or other military attacks or other catastrophes. Said council are authorized to defray the cost of such construction work or equipment or both from the general funds of the City of Memphis or from funds derived from the sale of bonds authorized for the purpose of acquiring, construction and equipping said vehicular parking system or for the purpose of converting the same to such a shelter or shelters or said council may join with, cooperate with, receive funds from and match funds of the Federal Government and the State of Tennessee and any agency of either such government in defraying such costs. Said council is further authorized in its discretion to determine when and to what extent any part or all of said vehicular parking system shall be used as such shelter or shelters and is authorized to transfer the operation and maintenance of that portion of said vehicular parking system as shall be designated for use as such shelter or shelters to any department or other commission which is now or may hereafter be created by said council. (Priv. Acts 1951, ch. 150, § 3)

Sec. 751.4. Authority to purchase or condemn property.

The Council of the City of Memphis is hereby expressly authorized to purchase or otherwise acquire title to land, easements and rights-of-way to be used in connection with the authority herein granted and may likewise condemn any land, riparian rights, easements and rights-of-way over, on and above the ground in connection with said vehicular parking system as now provided by the mode of condemnation in the City Charter of the City of Memphis. (Priv. Acts 1951, ch. 150, § 4)

Cross reference—Condemnation generally, § 457 et seq.

Sec. 751.5. Acquisition, operation, etc., declared to be governmental function.

The acquisition, development, maintenance and operation of and all matters incident to the ownership of the vehicular parking system provided for and authorized herein is declared a public governmental function and no action shall be brought or maintained against the City of Memphis and/or said vehicular parking system commission on account of any claim arising from or growing out of any one or all of the aforesaid provisions and/or authorizations. (Priv. Acts 1951, ch. 150, § 5)

ARTICLE 70. TAXATION GENERALLY*

***Cross references—**Taxes exempt from legal process, § 15; special tax levy for police pension fund, § 78; special tax levy for firemen pension fund, § 92; tax assessor, § 199 et seq.; account for and disbursement of public library tax, § 219; tax levy to enforce Juvenile Court Act, § 308; authority to levy tax to pay operating expenses of auditorium and market, § 494.6; levy of tax to pay principal and interest on certificates and bonds issued under Front-Foot Assessment Law, § 532; tax levy for harbor and port purposes, § 654.8; tax on rolling stock of railroads, § 722; tax levy for payment of revenue and refunding bonds and notes, § 827; tax levy for maintenance of historical sites, memorials, etc., § 867.5; tax levy for payment of expenses in connection with programs of study and research by colleges and universities, § 867.6; bond holders under Public Works Act may enforce payment by taxation, § 882; school property exempt from taxation, §§ 1038, 1039; school taxation and revenue generally, § 1040.

Code reference—Taxation, T.5.

Sec. 752. Power of city to levy generally; maximum property tax**.**

Power is hereby conferred upon the Council of the City of Memphis to levy and impose all necessary taxes for the support of the government of said city. In the exercise of said power, it shall always levy and impose a sufficient tax to pay the interest of the outstanding bonds of said city, and to provide a sinking fund for the retirement of the bonds themselves as required by the laws under which said bonds were issued. The Council shall have no power to establish a property tax rate in excess of $2.45 per $100.00 of assessed valuation. (Acts 1893, ch. 84, § 4; Ord. No. 1852, 11-8-66)

Sec. 753. Double and illegal assessments.

The legislative authority shall have power to dispose of and cancel double and illegal assessments of taxes assessed for or in favor of such city. (Acts 1879, ch. 11; Acts 1891, ch. 80)

Sec. 754. Budget to be furnished by certain institutions before tax can be levied; board may alter budgets.

(a) It shall not be legal for the council or other governing authorities of the City of Memphis to levy any tax for the support of the Cossitt Library, the board of education of the Memphis city schools, the parks, or park boards, or any other specific tax for the support of maintenance of any city institution or branch of the municipal government to which municipal taxes are contributed, unless said institution or branch of the municipal government shall furnish to the comptroller of the City of Memphis, a budget, showing in detail the manner in which all of the funds received by said institution or branch or arm of the municipal government are to be expended during the ensuing year. Said budget must be filed by said institutions on or before May 1 of each year. Provided, that the board of education of the Memphis city schools shall be required to furnish its budget with [to] the comptroller on or before the 15th day of February, 1938, and on or before the 15th day of February of each year thereafter. (Priv. Acts 1937, ch. 123, §§ 7, 16; Ord. No. 1553, § 3, 8-3-65)

(b) It shall be the duty of the board of education of Memphis city schools, the park commission of the City of Memphis and the board of trustees of Cossitt Library each to submit to the council of said city budgets showing the approximate amounts needed for the operation of their respective institutions and departments during the year for which the respective taxes are to be levied, and the council of said city shall examine said budgets, make recommendations to the respective boards and corporations with reference to the expenditures provided for therein, and, if said council shall deem advisable, to require said boards or corporations to make necessary reductions and/or changes in any or all of said budgets, and in no event shall said board or corporations expend, or obligate said institutions or bodies to expend, for the operation of their respective organizations and departments in any one year any amounts in excess of the maximum amounts finally fixed in said budgets by the council of said city. (Priv. Acts 1951, ch. 381, § 3)

Editor's note—Ordinance No. 1553, § 3, amended § 754(a) by changing "November 1" to "May 1." See note following § 330 of this compilation.

Sec. 755. Authority of council to increase or decrease appropriations.

After the beginning of the fiscal year and after the annual appropriation ordinance has been passed, the council may increase or decrease the appropriations for current department expenses, chargeable to the appropriations of the year, sufficient to cover the necessary expenses of the various departments. (Priv. Acts 1937, ch. 123, §§ 6, 16)

Sec. 756. What property taxable generally.

The power conferred thus to impose taxes shall apply to every object and subject to taxation within the corporate limits of the City of Memphis. Said power shall extend to every species of property, and to privileges and wharfage dues, and all other things upon which the legislature or the city has heretofore laid taxes, rates, or assessments for the support and maintenance of said government, the object being to provide for the exercise of the power herein conferred under the restrictions named as fully as the same could be exercised if the legislature and not the city were exercising the power. (Acts 1893, ch. 84, § 4)

Sec. 757. Reduction of assessment where property destroyed by fire.

Whenever the improvements on real property, or whenever personal property in the City of Memphis, shall be assessed for taxes, and shall after such assessment, and before the tenth of January of the next succeeding year be destroyed, wholly or partially, by fire or otherwise, the legislative council of said city shall have power to reduce the assessment to the actual value of the property on said tenth day of January, _____ the whole value of the property to be taken as conclusively determined by the last preceding assessment, and the reduction to be of such proportion thereof as may have been destroyed by fire or otherwise. (Acts 1879, ch. 84, § 3; Acts 1897, ch. 274, § 1)

Editor's note—For more recent provisions relative to reducing the assessment on real property where improvements are destroyed, see § 798.

Sec. 758. Block map system for description of property in assessment roll.

The City of Memphis is authorized and empowered to cause to be prepared comprehensive block maps of all the territory within the corporate limits, and to number or otherwise identify the blocks and lots within blocks. Upon the preparation of such plans and maps and adoption thereof as official maps of the City of Memphis by the council, said

maps may be filed for record in the office of the county register of Shelby County. Thereafter all lands within the corporate limits may be described in the assessment rolls by lot and block number. After the filing of such maps or plats in the register's office, descriptions of all lands or parcels of land within the corporate limits by the legally adopted lot and block number shall be valid and sufficient descriptions of such lands or parcels thereof. (Priv. Acts 1925, ch. 406)

Sec. 759. Interest and penalties not to be added until sixty days after assessment rolls and tax books are open; publication of notice of opening of books.

No interest or penalties whatsoever shall be added to or collected with the real estate, ad valorem and personalty taxes of the City of Memphis levied and payable for any year, until sixty days have elapsed from the day on which the assessment rolls and tax books are open for the payment of taxes; and it shall be the duty of the Council of the said City of Memphis to give notice by publication, for two consecutive days, in any newspaper published in said City of Memphis, of the day and time on which said tax books shall be open for the payment of taxes, and said time limit of sixty days shall begin to run from the day and time announced in said published notice. (Priv. Acts 1921, ch. 190, § 3)

Sec. 760. Collection of delinquent taxes generally.

The council or other governing authority of said city shall have the power by proper ordinance to direct the sale of real estate for delinquent city taxes, and to adopt for this purpose the system used for the sale of property for delinquent state and county taxes. If said system shall be so adopted, the city treasurer or tax receiver shall have full authority to sell said property in the same manner that county trustees now sell property delinquent for state and county taxes, and the city shall have as to property thus sold the right to take all steps now permitted to be taken by county trustees in the enforcement of said sales and the protection of the lien thereunder.

The council shall have further authority to direct the city attorney to institute suits in the chancery court of Shelby County for the collection of any delinquent taxes upon real estate, together with the cost, penalties, and interest, due as a result of said delinquency, and for the purpose of confirming the sale of said property for said delinquent taxes. Said suits shall be brought at any time after the time for redemption of said property, after sale shall have expired, and any number of defendants and pieces of property may be joined in one suit without the same being considered multifarious. Said suits shall be conducted in accordance with the practice of courts of chancery of this state, save that no copy of the bill shall be issued save to a defendant demanding such copy and paying therefor; and the courts shall have full authority to declare the state the owner of said property and place it in the possession of the same for the use and benefit of the city, or to appoint a receiver to collect the rents and profits of said property until a sufficient sum has been collected to pay all delinquent taxes upon said property, or to enforce the lien for taxes by a sale of the property upon a credit of not more than six months and in bar of the equity of redemption. This remedy shall be cumulative and in addition to all other remedies for the collection of delinquent taxes. (Priv. Acts 1913, ch. 140, § 1)

Code reference—Collection of delinquent taxes, Ch. 5-24.

Sec. 760.1. Contract for collection of city ad valorem taxes by county.

(a) The Council of the City of Memphis shall have the right and power to contract with the appropriate County of Shelby officials and governing bodies for billing for and collection of City of Memphis ad valorem taxes by the county officials.

(b) The Council of the City of Memphis shall have the right and power to adopt an ordinance partially or totally removing from the duties of the city treasurer and other city officials the duties of billing for and collecting City of Memphis ad volorem taxes. Said ordinance shall only be adopted after approval and execution of the contract referred to in section 1 hereof [subsection (a)] by all necessary officials of the City of Memphis and County of Shelby.

(c) The passage of the ordinance provided for herein shall suspend all laws and parts of laws in conflict herewith to the extent of such conflict. (Priv. Acts 1963, ch. 64, §§ 1—3)

Secs. 761, 762. Reserved.

Editor's note—Former §§ 761 and 762 were derived from the general law (T.C.A. §§ 67-2036 and 67-2037) and have been omitted from this compilation.

Sec. 763. Appropriation of delinquent taxes.

The council of said municipality is authorized to appropriate all delinquent taxes (except school, interest, and sinking fund taxes) against which no demands are outstanding, and the purposes of which have been fulfilled and satisfied, to any proper corporate purposes; and at the end of each calendar year thereafter to declare all such delinquent taxes with the exception aforesaid, a surplus fund, and to direct that the same, as collected be carried in bulk into the surplus account, subject to appropriation by said board to pay any proper claim against the municipality or for any other municipal purpose. (Acts 1879, ch. 11, § 12; Acts 1889, ch. 163, § 7)

Sec. 764. When taxes become payable and delinquent.

The City of Memphis, through its council, is vested with power to fix the time for the payment of its taxes, and when the same shall become delinquent; to fix penalties, interest, and costs on delinquent taxes with the laws applicable to state and county taxes; to provide for the advertisement and sale of property upon which delinquent taxes may be due, and said city is vested with power by ordinance to enforce the collection of its delinquent taxes by all the means provided for the collection of delinquent state and county taxes. (Priv. Acts 1911, ch. 209, § 6)

Code references—When and where taxes payable; delinquency date, § 5-8-3; penalty and interest on delinquent taxes, § 5-8-7.

Sec. 765. Payment of taxes in quarterly installments.

The Council of the City of Memphis is hereby authorized and empowered to provide, by ordinance, for the payment in quarterly installments of real estate, ad valorem, and personalty taxes assessed and levied by said city on property situated therein, prescribe the terms and conditions under which quarterly payments of such taxes can be made and the dates on which quarterly payments of such taxes shall be due and payable, and fix the manner of payment, the official receipts to be given to taxpayers, and do all other things necessary to enable and expedite the payment of all such taxes in quarterly installments. (Priv. Acts 1929, ch. 398, § 1)

Code reference—Installment payment of taxes, §§ 5-8-5, 5-8-6.

Sec. 766. Discount for payment of taxes during first quarterly payment period.

The said council is further authorized and empowered to grant and allow by ordinance to taxpayers who pay said annual taxes in full at or before the expiration of the first quarterly payment period a discount, the amount of such discount to be fixed by the council, from the total annual tax so paid, for and in consideration of the advance payment of said taxes in full. (Priv. Acts 1929, Ex. Sess., ch. 44)

Sec. 767. Advance payment of taxes.

The council or other governing body of the City of Memphis is authorized and empowered to provide by ordinance or resolution, for receiving moneys into the city treasury in advance payment of real estate, ad valorem, and/or personalty taxes of the current year, and for the payment of interest thereon at a rate not to exceed five per centum per annum from the time of the receipt of such taxes until the first day of September of said current year. Receipt shall be given by the treasurer of the said city for such advance payments, and the excess of such advance payments, if any, over the amount of taxes of the current year payable by the person, firm or corporation making such advance payments, shall be returned to such taxpayer on or before the said first day of September of each current year. Such ordinance or resolution adopted by said council shall prescribe the terms and conditions under which such advance payments of taxes can be made, the frequency thereof, the manner of payment, the form of receipt to be given for such tax payments, and all other things necessary to enable the advance payment of all such taxes as may be due said city. This power and authority to said governing body shall not affect or impair the power and authority now possessed by said Council of the City of Memphis to accept quarterly payments of city taxes or give discounts for the advance payment of such taxes when paid prior to the expiration of the first quarterly payment period. (Acts 1879, ch. 11; Priv. Acts 1933, ch. 400, § 1)

Sec. 768. Returns of taxpayers generally.

The Council of the City of Memphis shall have full power and authority, by ordinance, to regulate the time within which returns of taxpayers now required by law shall be filed with the city tax assessor; provided, however, that such time shall be fixed at some date not later than the first day of March of any taxing year. (Priv. Acts 1921, ch. 190, § 2)

Sec. 769. Returns on personal property.

In all municipalities having a population of 130,000 or over by the Federal Census of 1910 or any future Federal Census, the governing authority of said municipality shall have the power to provide by ordinance when the property holders shall make their returns of personal property, and the failure of the property holder to make his return as provided by the ordinance shall subject him to the penalties now provided for a failure to make a return according to the provisions of chapter 602 of the Acts of 1907. (Acts 1907, ch. 602; Priv. Acts 1913, ch. 147, § 1)

Sec. 770. Ordinance relative to assessment, levy and collection taxes.

Said council shall likewise have power to pass any ordinance regulating the assessment, levy and collection of all city taxes not inconsistent with the provisions of the Constitution and laws of the United States and of the State of Tennessee. (Priv. Acts 1921, ch. 190, § 2)

Sec. 771. Reimbursement of taxes generally.

The council of the City of Memphis, or a majority thereof, upon undoubted proof to be filed and established, may audit the claim, and, at their option, reimburse or pay any person or citizen who may have erroneously or wrongfully paid taxes into the city treasury, for any cause whatever; and where money is or was due, but withheld owing to dispute, or to any uncertainty as to the justice of the demand or claim of same, they may return or pay it to the proper persons, the action of said council, or a majority thereof, in the premises, to be final adjudication in the matter. The said reimbursements or payments shall be paid out of the current fund of the department which may have received the benefit of such payment or claim, or out of any unappropriated moneys that may be in the city treasury; provided said application is made within five (5) years after the earlier of the date said taxes are delinquent or the date upon which they are paid. (Acts 1889, Ch. 163, § 14; Ord. No. 3294, § 1, 6-14-83)

Sec. 772. Refunding of taxes and privileges paid in duplicate.

Whenever any claim shall be made covering a duplicate payment of taxes, licenses, or privileges in an amount not exceeding $100.00, the commissioner of finances and institutions, by and with the approval of the comptroller and city attorney, upon undoubted proof filed and established, may audit such claim and at their option, authorize the refund of such duplicate payment to the person, firm or corporation who shall have made such duplicate payment. (Priv. Acts 1937, ch. 489)

Sec. 773. Maximum rate of general ad valorem tax; taxes for school, park and library purposes.

(a) The Council of said City of Memphis shall have power by ordinance to levy and collect annually a general ad valorem tax upon all property within said city, taxable under the laws of the State of Tennessee, not to exceed a maximum of two dollars twenty-five cents ($2.25) on every hundred dollars ($100.00) of assessed value for all purposes; except that, in the event the levy fixed as hereinafter authorized for the board of education of Memphis city schools shall exceed sixty-five cents (65¢) on every one hundred dollars ($100.00) of assessed value, the said maximum tax rate for all purposes shall be two dollars twenty-five cents ($2.25) plus such amount as the levy for the board of education of Memphis city schools exceeds sixty-five cents (65¢) on every one hundred dollars ($100.00) of assessed value, provided further, however, that said tax levy for the board of education of Memphis city schools shall not be fixed in excess of eighty-five cents (85¢) on every one hundred dollars ($100.00) of assessed value.

(b) Out of said levy each year there shall be paid, as collected, to the board of education of Memphis city schools, not exceeding eighty-five cents (85¢) on every hundred dollars ($100.00) of assessed value; to the park commission of the City of Memphis not exceeding fifteen cents (15¢) on every hundred dollars ($100.00) of assessed value; and to the board of trustees of Cossitt Library not exceeding four cents (4¢) on every hundred dollars ($100.00) of assessed value; provided, that the City of Memphis shall retain, in lieu of a charge for the expense of collecting said taxes for school, park and library purposes, an amount equal to one-half (½) of one per cent (1%) of the amounts collected. The amount of tax to be levied for and paid to the board of education of Memphis city schools, the park commission of the city of Memphis and the board of trustees of Cossitt Library shall be determined and fixed by the Council of the City of Memphis, subject to the respective maximum hereinabove set out. The proceeds of said tax levies shall be used,

respectively, by the board of education of the Memphis city schools, the park commission of the City of Memphis and the board of trustees of Cossitt Library for the purposes provided now by law. (Priv. Acts 1951, ch. 381, §§ 1, 2)

Editor's note—The above superseded §§ 773 and 774 of the 1949 compilation, which related to taxes for school, park and library purposes and which was derived from Priv. Acts 1903, ch. 584; Acts 1907, ch. 7: Priv. Acts 1927, ch. 514; Priv. Acts 1931, 1st and 2nd Ex. Sess., ch. 39, § 2.

Sec. 774. Reserved.

Note—See editor's note following § 773.

Sec. 775. Authority of city to provide for payment in monthly installments, or otherwise, of current or delinquent real estate, ad valorem and personalty taxes.

The Council of the City of Memphis is hereby authorized and empowered to provide for the payment in monthly installments, or otherwise, of current or delinquent real estate, ad valorem and personalty taxes assessed and levied by said city on property situated therein, and do all other things necessary to enable and expedite the payment of all such current and delinquent taxes. (Priv. Acts 1941, ch. 44, § 1, subsec. 20)

Sec. 776. Creation of delinquent tax bureau.

The Council of the City of Memphis shall have authority to create a bureau for the collection of delinquent city taxes and shall provide for such attorneys and clerical assistants necessary to operate said bureau. (Priv. Acts 1935, ch. 148, § 5; Priv. Acts 1935, ch. 388)

ARTICLE 71. PRIVILEGE AND SPECIAL LICENSE TAXES GENERALLY*

***Code reference—**Licenses and privilege taxes, Ch. 5-12.

General law references—Privilege taxes generally (General Revenue Law), T.C.A., Title 67, chapter 40 et seq.; privileges taxable by both state and local authorities, §§ 67-4201—67-4203.

Sec. 777. Authority to levy on unenumerated privileges taxed as such by state.

The Council of the City of Memphis is authorized to assess on all privileges not herein specifically enumerated, a tax not greater than that assessed for state purposes, the same to be collected as other privileges are collected. (Acts 1915, ch. 408, § 2)

Sec. 778. Licenses issued for sole benefit of licensee; transfer of license.

All licenses issued shall be for the sole and exclusive benefit of the party in whose name and for whose benefit such license shall be issued, and no license shall be transferred save those which were originally issued for a period of one year. A fee of two dollars ($2.00) shall be charged for the transfer of every license, for the use of the City of Memphis. (Acts 1915, ch. 408, § 2)

Sec. 779. License to embrace but one business, etc.; exhibiting license.

No license which may be issued shall authorize or embrace more than one business, pursuit or avocation, and all persons desiring to carry on more than one pursuit or avocation shall take out a separate and distinct license for each pursuit, business or avocation, and pay the full tax required by law for each, save and except as herein otherwise provided. Each and every person obtaining a license, shall, when called upon by the police officers, exhibit the same to him, and on failure to do so, shall be fined in the sum of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00). (Acts 1915, ch. 408, § 3)

Sec. 780. Penalty for doing business, etc., without license.

Each and every person exercising or carrying on any of the branches of business or occupation hereinabove taxed, without having first paid tax thereon or having obtained the license required to be taken out, shall be guilty of a misdemeanor, and upon arrest and conviction thereof before the judge of the city court, shall be fined for each separate offense not less than two dollars ($2.00) nor more than fifty dollars ($50.00). (Acts 1915, ch. 408, § 4)

Sec. 781. To whom payable.

The taxes herein fixed shall be payable to the collector of city taxes and privileges and shall be by him turned over to the city treasurer or tax receiver of the City of Memphis, in the manner in which other funds of the city are paid. (Acts 1915, ch. 408, § 5)

Sec. 781.1. Contract for collection by county.

(a) The Council of the City of Memphis shall have the right and power to contract with the appropriate County of Shelby officials and governing bodies for total or partial billing for and collection of City of Memphis license and privilege taxes, fees and all other emoluments by the county officials.

(b) The Council of the City of Memphis shall have the right and power to adopt an ordinance partially or totally removing from the duties of the collector of licenses and privileges and other city officials the duties of billing for and collecting City of Memphis license and privilege taxes, fees and all other emoluments. Said ordinance shall only be adopted after approval and execution of the contract or contracts referred to in section 1 hereof [subsection (a)] by all necessary officials of the City of Memphis and County of Shelby.

(c) The passage of the ordinance provided for herein shall suspend all laws and parts of laws in conflict herewith to the extent of such conflict, including but not limited to Chapter 408 of the Private Acts of 1915 [this article] and all Acts amendatory thereof. (Priv. Acts 1963, ch. 65, §§ 1—3)

Sec. 782. Collections to be part of general fund.

The funds derived from the collection of said taxes shall be part of the general fund of the City of Memphis, and may be appropriated to such uses as the council may direct. (Acts 1915, ch. 408, § 6)

Sec. 783. When due and payable.

The privilege taxes herein fixed shall for the year 1916 be due and payable on the first day of January; and for all subsequent years shall be due and payable on the first day of January. (Acts 1915, ch. 408, § 7)

Sec. 784. Authority of city to provide for pro rata payment.

The payment of the privilege taxes herein fixed shall entitle the payer thereof to do business to the 31st day of December of the year in which the tax is paid, but no further; and the privilege taxes herein fixed must be paid for the entire year, irrespective of the time when the party so paying enters into business; provided, however, that the municipal authorities may by proper ordinance, permit persons entering into business in any quarter of the year to pay for the remaining portion of the year pro rata; provided, further, that any person doing business for any portion of a quarter more than five days shall pay for the entire quarter. In the absence of any ordinance upon the part of the City of Memphis, the privilege tax as herein specified and set out shall apply. (Acts 1915, ch. 408, § 7)

Sec. 785. State privilege Act not to abrogate taxes herein fixed.

The privilege taxes fixed herein shall be due and payable for the year 1916 and for all subsequent years, and the fixing of a privilege tax by legislative act for the state and county shall not abrogate any taxes herein fixed, unless this Act shall be specifically repealed. (Acts 1915, ch. 408, § 7)

Sec. 786. Authority to fix tax at less than amount herein fixed.

The City of Memphis shall have the right to by ordinance fix privilege taxes at an amount less than there is herein set out, but no city ordinance shall be necessary to assess a tax equal to that levied for all state purposes and not herein mentioned and set out, but in default of said ordinance the amount levied by the state shall be the privilege tax of said city. (Acts 1915, ch. 408, § 8; Priv. Acts 1919, ch. 801, § 5)

Secs. 787, 788. Reserved.

Editor's note—Sections 787 and 788 were derived from the general law (T.C.A. §§ 67-4005—67-4007, 67-4202 and 67-5204) and have been omitted from this compilation.

Sec. 789. Special privilege tax on automobiles for hire and drivers of motor vehicles.

The council shall also have power to fix a privilege tax on automobiles for hire not to exceed fifteen dollars per annum, and until the board shall adopt another or different privilege, the tax on said automobiles for hire shall be fifteen dollars per annum. The board shall also have authority to levy a privilege tax upon the running of automobiles for pleasure and motorcycles, not to exceed five dollars per annum on automobiles and two dollars per annum on motorcycles.

The proceeds of all such privilege taxes shall be available for all general purposes of the City of Memphis, as other privilege taxes of said city are available. (Priv. Acts 1913, ch. 242, § 2; Priv. Acts 1917, ch. 297, § 2)

Editor's note—In the 1949 compilation; § 789 contained two additional paragraphs which duplicated § 728. To avoid repetition, these paragraphs have been omitted. For further provisions relative to taxing freight and passengers motor vehicles, see § 750.

Sec. 790. Registration fee for freight vehicles.

Before the owner of any truck or other vehicle of like character used for the purpose of conveying freight, or for any other purpose whether such vehicle is propelled by steam, gasoline, electricity, or any other mechanical power, shall operate or be permitted to operate upon any street or highway within the corporate limits of the City of Memphis, such owner shall register such truck, or other vehicle of like character with the collector of license and privileges of the City of Memphis, giving the motor serial number, rated horse power, tonnage capacity and make of same, together with the name and residence of such owner, and shall pay the following fees:

CLASS 1.	Freight motor vehicles with declared maximum gross weight, including vehicle and load of not more than 8,000 pounds. Registration fee	$ 10.25
CLASS 2.	Freight motor vehicles with declared maximum gross weight, including vehicle and load over 8,000 pounds and not exceeding 14,000 pounds. Registration fee	20.25
CLASS 3.	Freight motor vehicles with declared maximum gross weight, including vehicle and load over 14,000 pounds and not exceeding 18,000 pounds. Registration fee	35.25
CLASS 4.	Freight motor vehicles with declared maximum gross weight, including vehicle and load over 18,000 pounds and not exceeding 24,000 pounds. Registration fee	50.25
CLASS 5.	Freight motor vehicles with declared maximum gross weight, including vehicles and load over 24,000 pounds. Registration fee for 24,000 pounds and $5.00 per ton or fraction thereof for each ton in excess of 24,000 pounds.	50.25

(Priv. Acts 1937, ch. 557)

Cross reference—Authority to classify vehicles and require annual registration fee, § 750.1.

Code reference—Registration of freight vehicles, §§ 11-60-7—11-60-9.

Secs. 791—796. Reserved.

Editor's note—Sections 791—796 were derived from the general law relating to licensing transient merchants (T.C.A. §§ 67-4801—67-4803 and 67-4805—67-4808) and have been omitted from this compilation.

ARTICLE 72. PRIVILEGE TAX ON PURCHASE OF ALCOHOLIC BEVERAGES*

***Code reference—**Privilege tax on alcoholic beverages, § 7-12-2.

Sec. 796.1. Definitions.

(a) For the purposes of this Act, the term "alcoholic beverages" shall mean and include whiskey, wine, rum, gin, and all other alcoholic beverages, the definition of alcoholic beverages contained in section 3 of Chapter 49 of the Public Acts of the General Assembly of 1939* being hereby adopted.

(b) The term "person" shall include individuals, partnerships, corporations and associations.

(c) The term "retailer" means a person who sells alcoholic beverages for consumption and not for resale.

(d) The term "wholesaler" means a person who sells alcoholic beverages to retailers, and shall include distributors, distillers or any person making sales to retailers. (Priv. Acts 1955, ch. 13, § 2)

***Editor's note—**See T.C.A. § 57-106.

Sec. 796.2. Levied; amount; collection by wholesaler from retailer; amount to be included in retail price.

For the purpose of providing additional revenue for the City of Memphis, and so as to provide the means of regulation of the liquor business in the City of Memphis, there is hereby levied upon each purchaser of alcoholic beverage from a retailer in the City of Memphis a privilege tax. The said privilege tax shall be measured by the wholesale price of the alcoholic beverage purchased by such person, paid by the retailer to the wholesaler, and shall be 3% of such wholesale price. The said tax shall be added by the wholesaler to each invoice for alcoholic beverages sold to such retailer and shall be collected by such wholesaler from such retailer and remitted to the said city as hereinafter set out. Each such retailer shall include the amount of such tax paid by him to the wholesaler in the retail price charged by him to the consumer on each package of alcoholic beverage sold. (Priv. Acts 1955, ch. 13, § 3)

Sec. 796.3. Remittance by wholesalers; ordinance to implement Act.

The tax hereby levied shall be remitted by all wholesalers who sell alcoholic beverages within the City of Memphis to the collector of licenses and privileges of the City of Memphis monthly, not later than the 20th day of each month, for the preceding month. The wholesaler is hereby required to collect the said tax from the retailer at the time of delivery of all alcoholic beverages on which said tax is levied, and if credit be granted by the wholesaler to the retailers then the obligation to the City of Memphis for the tax shall be that of the wholesaler. The Council of the City of Memphis is hereby authorized and empowered to enact an ordinance providing reasonable rules and regulations for the implementation of the provisions of this Act. Without limitation upon the provisions which may be included in such ordinance, said ordinance may provide for the making of a monthly tax return by the wholesaler under oath, with such number of copies thereof as may be reasonably required by the said collector, and including such facts and information as may be deemed reasonable for the verification of the tax due, and may provide for and require access to the pertinent records of all wholesalers at reasonable times. (Priv. Acts 1955, ch. 13, § 4)

ARTICLE 73. PRIVILEGE TAX ON PURCHASE OF CIGARETTES*

***Code reference—**Privilege tax on purchase of cigarettes, Ch. 5-16.

Sec. 796.4. Definitions.

For the purposes of this Act:

(a) The term "retailer" means a person who sells cigarettes for consumption and not for resale.

(b) The term "wholesaler" means the person who sells cigarettes to retailers and shall include distributors, manufacturers or any other person making sales to retailers. (Priv. Acts 1955, ch. 295, § 2)

Sec. 796.5. Authority to levy; amount.

All counties within the State of Tennessee having a population according to Federal Census of 1950 of 482,393 or more and all incorporated cities within such counties be and they hereby are authorized to levy a privilege tax upon the purchase at retail of cigarettes of one cent per package containing 20 or less cigarettes and for packages containing more than 20 cigarettes at the rate of one cent for each 20 cigarettes or fraction thereof; said tax so levied being a privilege tax upon the consumer of said cigarettes to be collected as hereinafter provided. (Priv. Acts 1955, ch. 295, § 1)

Sec. 796.6. Area of city and county taxation.

The tax imposed under the authority of this Act by any county shall be levied upon the retail purchases of cigarettes made in such county from retailers whose places of business are located in the portions of such county outside the boundaries of any incorporated city.

A county may, if it shall so determine, by appropriate resolution, levy the tax herein authorized upon all purchases of cigarettes within any city in the county which shall have failed to itself levy said tax on purchases within its boundaries, but shall not levy said tax within any city which has levied the tax within its boundaries.

The tax levied by the action of the government of any incorporated city within such county shall be levied only on the retail purchases of cigarettes made from retailers whose places of business are located within the city limits of such incorporated city imposing such tax by the authority of this Act.

Any city within a county having a population of 482,393 or more according to the Federal Census of 1950 or any subsequent census may cause the provisions of this Act to become effective within its boundaries, even though the county itself or other cities within such county, have failed to do so. (Priv. Acts 1955, ch. 295, § 3)

Sec. 796.7. Collection by wholesalers from retailers; amount to be added to retail price.

Said tax shall be added by each and every wholesaler who sells cigarettes to retailers within such counties and cities, to each invoice for cigarettes sold to a retailer within a county or city which shall have levied the tax under the authority hereof and shall be collected by such wholesaler from such retailer and remitted to said counties and cities as may be entitled thereto as hereinafter set out. Each such retailer shall include the amount of such tax paid by him to the wholesaler in the retail price charged by him to the consumer on each and every package of cigarettes sold. (Priv. Acts 1955, ch. 295, § 4)

Sec. 796.8. Failure of retailer to collect.

It shall be unlawful for any retailer to sell any cigarettes within a county or a city which has adopted the provisions of this Act and levied the tax herein authorized without collecting the tax hereby authorized and each separate sale without the collection of such tax is hereby made a separate offense, punishable as hereinafter provided. (Priv. Acts 1955, ch. 295, § 5)

Sec. 796.9. Remittance by wholesaler; ordinance to implement Act; contract with county.

The tax hereby levied shall be remitted by all wholesalers who sell cigarettes within counties and cities which have adopted the provisions of this Act to the county court clerk, in the case of the county, and to that official who is charged with the duty of collection of privilege taxes within such city, or such other officer as may by resolution or ordinance be charged with the duty of collection thereof, said tax to be remitted to such officer not later than the 20th day of each month for the preceding month. The wholesaler is hereby required to collect the said tax from the retailer at the time of delivery of all cigarettes on which said tax is levied, and if credit be granted by the wholesaler to the retailer then the obligation to all counties and cities entitled to said tax shall be that of the wholesaler. The county court of any county or the governing body of any city which has adopted the provisions of this Act is hereby authorized and empowered, by resolution in case of the county and by ordinance in case of a city, to provide reasonable rules and regulations for the implementation of the provisions of this Act. Without limitation upon the provisions of such resolution or ordinance, such resolution or ordinance may provide for the making of a monthly tax return by the wholesaler under oath with such number of copies thereof as may be reasonably required by the collection of said tax and including such facts and information as may be deemed reasonable for the verification of the tax due and may provide for and require access to the pertinent records of all wholesalers at reasonable times. Such resolution or ordinance may likewise require the placing or printing by the wholesaler of a stamp upon each package of cigarettes showing the payment of said tax and in the event such provision is made then such stamps may be printed and sold by such counties and such cities to wholesalers. Such resolution or ordinance may also exempt from the tax herein provided all purchases of cigarettes made upon any military base, post, hospital or other military establishment of the United States of America.

A county and a city within the county or two or more cities within a county may contract with each other for the purpose of adopting common methods, measures, agencies, rules and regulations for the collection of their several taxes. (Priv. Acts 1955, ch. 295, § 6)

Sec. 796.10. Possession of unstamped packages.

If the counties and cities levying the tax herein authorized shall elect by resolution or ordinance to provide and sell stamps to be affixed to packages of cigarettes, or shall elect by resolution or ordinance to permit the wholesaler to print a stamp on each package of cigarettes indicating the payment of the tax due thereon, it shall then be unlawful for a retailer or a consumer to have in his possession within such county or within such city any package or packages of cigarettes which are not so stamped or printed, and the possession of each and every package of unstamped cigarettes by a retailer or a consumer shall constitute a separate offense under the provisions of this Act, punishable as provided hereinafter. (Priv. Acts 1955, ch. 295, § 7)

Sec. 796.11. Penalty for violation of Act.

Each violation of any provision of this Act shall be punishable by a fine of not less than $50.00 nor more than $500.00. (Priv. Acts 1955, ch. 295, § 8)

Sec. 796.12. Discount to wholesalers.

Each county and each city adopting the provisions of this act may, by resolution or ordinance, as the case may be, allow the wholesaler a discount of not to exceed 5% of the tax collected by him as compensation for affixing or printing stamps, making reports and such other services as may be required of the wholesaler in the administration of the provisions of this Act. (Priv. Acts 1955, ch. 295, § 9)

ARTICLE 74. ASSESSMENT OF PROPERTY FOR TAXATION GENERALLY*

***Cross reference—**Tax assessor, § 199 et. seq.

Code reference—Assessment for taxation generally, § 5-8-1.

Sec. 797. Real property to be assessed biennially; other property to be assessed annually; exception.

It shall be the duty of the city tax assessor of the City of Memphis, in person or by deputy, to assess the real estate in said city every two years and to assess all other classes of taxable property annually. The first assessment of real estate under this Act shall be made for the year 1929 and shall stand for two years, except for the changes in value hereinafter provided for; provided, this act shall not authorize the assessment by the city tax assessor of the properties of railroad, telephone, power, gas and other companies, the assessment of which is provided for in chapter three of Acts of the general assembly of Tennessee of 1919* and acts supplementary thereto or amendatory thereof. (Priv. Acts 1929, ch. 393, § 1)

***Editor's note—**See T.C.A. § 67-901 et seq.

Sec. 798. Reassessment of real estate where improvements are destroyed to extent of $200.00.

If any improvements to the value of $200.00 or more on any real estate shall be destroyed by fire or flood or other casualty, then the owner thereof may, on his application to the city tax assessor, have the real estate so damaged reassessed by said assessor, and such reassessed valuation shall be substituted on the assessment roll in place of the original assessment. (Priv. Acts 1929, ch. 393, § 2)

Sec. 799. Reassessment of real estate where improvements to extent of $200.00 are made.

It shall be the duty of the city tax assessor in making his annual assessment of personal property to ascertain whether or not any permanent improvements have been placed upon any real estate previously assessed, so as to increase the value thereof to the amount of $200.00 or more, and in such case he shall reassess such real estate, taking into consideration the value thereof resulting from permanent improvements, which assessment shall in all cases be made as of the tenth day of January of the year for which the assessment is made. (Priv. Acts 1929, ch. 393, § 3)

Sec. 800. Assessment of escaped and annexed real property.

It shall be the duty of the city tax assessor to assess all real estate annexed to and brought within the limits of said city since his last biennial assessment, and to assess all real property not formerly assessed through oversight or

mistake, which said assessments shall in all cases be made as of the tenth day of January of the year for which the assessment is made. (Priv. Acts 1929, ch. 393, § 4)

Sec. 801. Construction of sections 797 to 801.

Nothing in this Act (sections 797 to 801) shall be construed as abridging or effecting [affecting] the rights and duties of the board of equalization of said city to equalize any and all assessments for taxes now provided by law; this act shall not be construed as repealing any acts or parts of acts not in conflict herewith; and shall not be construed as depriving the City of Memphis of any authority or power now possessed under its said Charter. (Priv. Acts 1929, ch. 393, § 5)

ARTICLE 75. BOARD OF EQUALIZATION

Sec. 802. Election; composition; general duties.

The Council of the City of Memphis, or other legislative body of said city, shall have the power and is hereby authorized to elect a board of equalization, consisting of five freeholders, citizens of such municipality, whose duty it shall be to revise and equalize the assessments of personalty, realty, merchants capital and each and every class and kind of taxable property situated within the limits of such municipality, appearing on the tax rolls as returned by the tax assessor of such municipality, except such property as may be now, or hereafter, assessed and equalized for the purposes of municipal taxation by the state. (Priv. Acts 1921, ch. 112, § 1)

Sec. 803. Appeals to board; charging assessments on own motion.

The owner, or any person beneficially interested in any property assessed by such municipality, or the municipality itself, acting through any officer concerned in the assessment, levy or collection of taxes, may object or complain of such assessment as made by the tax assessor, and shall have the right to appeal from the returns made by said tax assessor to the board of equalization, which shall proceed to review such assessment, and the revision of such assessment, either upwards or downwards, as may be determined upon by the board of equalization, shall be final.

The board of equalization shall likewise be empowered on its own motion, to raise or lower the assessment fixed by the tax assessor against any class of taxable property in such municipality so that final assessments, on which taxes shall be levied and collected shall be equal and uniform; and otherwise conform to the Constitution and laws of the State of Tennessee. (Priv. Acts 1921, ch. 112, § 1)

Sec. 804. Rules and regulations.

The council, or other legislative body of such municipality, shall have the power and is hereby authorized to make and establish, by ordinance, rules and regulations for the governing of such board of equalization, and for the review and equalizing of all assessments not in conflict with the Constitution and laws of the State of Tennessee and this Act, and such board, or legislative body, shall be held to have full and plenary power in such matters unless limited as heretofore set out. (Priv. Acts 1921, ch. 112, § 2)

Sec. 805. Surrender of tax rolls to board.

The council shall appoint a board of equalization, as now provided by law, and said tax rolls shall be surrendered to said board of equalization for review. (Priv. Acts 1921, ch. 190, § 1; Priv. Acts 1929, ch. 397)

Sec. 806. Residence requirements for members.

No person shall be appointed or elected a member of the board of equalization of the City of Memphis, unless such person shall have been a resident of said City of Memphis for at least five years next preceding his appointment. (Priv. Acts 1921, ch. 922, § 1, subsec. 2)

Sec. 807. Minutes generally.

It shall be the duty of said board of equalization to keep, in a well-bound book, full and complete minutes of their proceedings, including any and all actions taken by such board of equalization in revising assessments; separating land valuations on [from] improvements; and on adjournment of said board such minutes shall be signed by the members

thereof, and delivered to the comptroller, but said records shall at all times be accessible to the tax assessor and to any taxpayer. (Priv. Acts 1925, ch. 418, § 2; Priv. Acts 1937, ch. 123, § 18)

Sec. 808. Informalities or defects in minutes not to affect assessments.

No informality in the manner, or inartificiality in the method of keeping said minutes, and no defects in said minutes, shall invalidate or affect any assessment made by said board of equalization. (Priv. Acts 1921, ch. 922, § 1, subsec. 6)

Sec. 809. Opening tax books; time for petition for reassessment.

It shall be the duty of said board of equalization to throw open the tax books within ten (10) days after the tax assessor has delivered the assessment rolls and they shall be displayed for such time as may be fixed by ordinance or rule of the Council of the City of Memphis or by rule of the said board of equalization during which time taxpayers may petition said board of equalization for alterations or revisions in assessed values as submitted by said tax assessor. (Priv. Acts 1925, ch. 418, § 2)

Sec. 810. Duration of sessions; no changes to be made in assessed values after adjournment.

Said board of equalization shall not remain in session for more than a period of 90 consecutive days, and after adjournment of said board no changes shall be made in assessed values from any source whatsoever, except for clerical errors arising in the said tax assessor's office, or during the sessions of the board of equalization. (Priv. Acts 1925, ch. 418, § 2)

Sec. 811. Arbitrary or blanket raise in assessments prohibited.

It shall hereafter be unlawful for the city board of equalization to raise or increase the assessment of property made by the city assessor and submitted to them, as provided by law, by an arbitrary or blanket raise. (Priv. Acts 1927, ch. 568, § 1)

Sec. 812. Notice of raise in assessment to be given to property owner.

It shall be unlawful for the city board of equalization to increase or raise the assessment of property fixed by the city assessor and submitted to them unless the owner or owners of each piece of property so sought to be raised is served with notice of said proposed raise, either by notice served on him in person or by post card or letter mailed to his last known address; or, if the owner or owners of the property be non-residents of the State of Tennessee or are unknown, then by at least one publication made in some newspaper published in the City of Memphis, ten days before the date of the hearing on such proposed increase. (Priv. Acts 1927, ch. 568, § 2)

Sec. 813. Violation of sections 811 and 812 to render increase void.

Any violation of the provisions of sections 811 and 812, herein, shall render the raise or increase in the assessment made by the city board of equalization void and of no effect. (Priv. Acts 1927, ch. 568, § 3)

ARTICLE 76. FINANCIAL AFFAIRS GENERALLY*

***Cross references—**Department of finances and institutions, §§ 160, 161; sinking fund commission, § 164 et seq.; city treasurer, § 209 et seq.; city comptroller, §§ 323—345; financial affairs of school board, § 1040 et seq.; obligation of city to pay bonds and notes issued by school board, § 1052.

Sec. 813.1. Authority to prescribe fiscal year.

(a) The Council of the City of Memphis [is authorized] to adopt by ordinance a fiscal year for budgetary and financial purposes and for appropriations for the City of Memphis and all departments, boards or commissions connected therewith.

(b) The City of Memphis may adopt by ordinance any twelve-month period it deems appropriate to constitute the fiscal year for the City of Memphis, its departments and any or all of the boards or commissions connected therewith. (Priv. Acts 1957, ch. 304, §§ 1, 2)

Code reference—Fiscal year fixed as July 1 through June 30 § 5-4-1.

Sec. 814. Annual audit of all departments required.

The mayor shall annually select and appoint, by and with the approval of the Council of the City of Memphis, a certified public accountant to thoroughly audit all accounts, books, expenditures, obligations, assets and liabilities of all departments of the government of the City of Memphis. The certified public accountant so appointed shall be given full access to all financial records, accounts, bills, notes, and other evidences of assets and liabilities of the City of Memphis and shall be otherwise aided and assisted by all officers and employees of the City of Memphis in the making of such audit. The expense incident to the making of this audit shall be paid out of the general fund of the City of Memphis. Provided, that this section shall not apply to the board of education of Memphis city schools, board of light and water commissioners, park commission, auditorium and market house commission, Cossitt Library and Oakville Sanitorium. The departments last above-mentioned shall provide for an annual audit as hereinabove set out to be awarded by the trustees, board, or commission in charge of each such department. The expense incident to the making of these audits shall be borne by each of said departments. (Priv. Acts 1937, ch. 122, § 12)

Sec. 815. Audit to show financial condition of city, etc.; filing of audit and publication of financial statement.

Upon its completion, the said audit shall show the financial condition of the City of Memphis, with all its bonded indebtedness, and unpaid outstanding liabilities of every kind and nature. Said audit shall be filed within ten (10) days of its completion with the comptroller and shall constitute a part of the records of his office.

A statement showing the financial condition of the city, its assets and liabilities, as shown by said audit, shall be published in one or more daily newspapers printed in the City of Memphis, within thirty days after the filing of said audit with the comptroller. (Priv. Acts 1929, ch. 399, § 4; Priv. Acts 1937, ch. 123, § 18)

Sec. 816. Boards and commissions of subsidiary departments to file copies of audits of their departments with comptroller.

The trustees, boards or commissioners in charge of the specified departments of government set out in section 814, herein shall, within ten days of the completion of the audits of their departments, file copies of said audits with the comptroller; which said audits when so filed shall constitute a part of the records of his office. (Priv. Acts 1929, ch. 399, § 5; Priv. Acts 1937, ch. 123, § 18)

Sec. 817. Failure of officer or employee to disclose financial records declared misdemeanor.

It shall be a misdemeanor in office for any officer or employee of the City of Memphis to fail or refuse to disclose and make available to said public accountant or public accountants, for the purposes of said audit, all financial records and information regarding same, in his charge as such officer or employee, or to fail or refuse to file with the comptroller a copy of the audit of his or their department as herein provided. (Priv. Acts 1929, ch. 399, § 7; Priv. Acts 1937, ch. 123, § 18)

Sec. 818. Reserved.

Editor's note—Section 818 was taken from the general law exempting municipal bonds from taxation (T.C.A. § 67-505) and has been omitted from this compilation.

Sec. 819. Registration of bonds.

Said council may, by ordinance, prescribe rules and regulations for registration, in the name of the holder, of bonds of said city hereafter to be issued by it, and may adopt such methods of registration for said purposes as said council may deem expedient. (Priv. Acts 1921, ch. 904)

Code reference—Ordinance enacted pursuant to this section, Ch. 5-32.

Sec. 820. Notice of sale of bonds, notes, etc., to be published.

In all cases where the City of Memphis shall offer for sale its bonds, short time notes, or other evidences of indebtedness, where the act or ordinance authorizing the issuance of such bonds, notes, or other evidences of indebtedness makes no provision for publication of notice of sale, the notice of sale shall be published as follows: Such notice shall be given by publication once per week for three weeks in a daily newspaper published in the City of Memphis, Tennessee, the first publication of notice of sale to take place at least twenty days prior to the date fixed for the sale. In lieu of such publication, the Council of the City of Memphis is authorized, in the exercise of its discretion, to publish one notice of sale in a newspaper or financial periodical in New York City, and two notices to be published in some newspaper circulated in the City of Memphis, Tennessee, the first, publication to take place at least twenty days prior to the date fixed for such sale. (Priv. Acts 1929, ch. 485, § 2)

Sec. 821. Use of surplus funds derived from bond issues.

Whenever any surplus funds shall arise under any project being constructed by the City of Memphis with funds derived from the issuance and sale of bonds, the Council of the City of Memphis, by resolution, shall have authority to use such surplus funds for any public improvement or for any corporate purpose authorized by the Charter of the City of Memphis or any general law of the State of Tennessee applicable to the issuance of bonds for public improvements by any incorporated municipality or city. (Priv. Acts 1937, ch. 122, § 13)

Sec. 822. Permanent improvement fund.

The Council of the City of Memphis is also authorized and empowered to establish a permanent improvement fund for the financing of permanent improvements for the City of Memphis; to transfer from time to time such amounts from the surplus unencumbered
funds to the City of Memphis to said improvement fund as the said council may deem proper; and to include and appropriate in the annual budget ordinance of the City of Memphis reasonable sums for said permanent improvement fund. (Priv. Acts 1945, ch. 56, § 7)

Sec. 823. Designation of depositories.

The council shall have authority to designate the bank or banks where all moneys belonging to and collected by the various departments and divisions of the City of Memphis shall be deposited, and it shall be unlawful to deposit any moneys in banks other than those designated by the council. (Priv. Acts 1941, ch. 44, § 1, subsec. 8)

Cross references—Contracts with bank depositories, § 49; depositories to give bond, § 50.

Sec. 824. Authority of city to carry own insurance.

The City of Memphis shall have authority, by ordinance or resolution, to provide for carrying its own insurance and may create insurance funds and reserves for that purpose. (Priv. Acts 1941, ch. 44, § 1, subsec. 21)

Sec. 824.1. Authority to contribute to charities.

Said city is authorized to contribute out of its general funds to any charity, charitable institution, or charitable organization, the object of which is to care for the poor and afflicted residents of the City of Memphis. (Priv. Acts 1927, ch. 633)

Editor's note—This section appeared as § 451 in the 1949 compilation. It was redesignated as § 824.1 by the editor.

Sec. 824.2 Use of funds for purpose of busing school children to achieve racial balance prohibited.

It shall be unlawful for the Council of the City of Memphis to levy any ad valorem tax upon property within the City of Memphis, or to levy any other privilege, license, or property tax or any fee of any character for the purpose of providing funds for the purchase or operation of buses, or for any other transportation mode, the use of which is for the busing of students to achieve racial balance in the schools operated by the Board of Education of the Memphis City Schools. Ord. No. 1276, § 1, 5-9-72.

Sec. 825. Enumeration of bond issues authorized by private acts.

Year	*Chapter*	*Amount*	*Purpose*
1883	170		Compromise of old city indebtedness.
1893	86	$60,000	Beale Avenue Market.
1895	56		Gold refunding bonds.
1898 (1st Ex. Sess.)	14	500,000	Sewer bonds.
1899	142	250,000	Acquisition of park lands.
1901	9		Amending Acts 1899, ch. 142, so as to secure bond issue and establish sinking fund.
1903	339	3,500,000	Water department.
1905	172	1,000,000	Electric light and gas plant.
1907	246	600,000	Refunding bond issue.
1907	341		Streets, sewers, drainage and grade separations under general front foot assessment law.
1909	109		Streets, sewers, drainage and grade separations under general front foot assessment law.
1909	141	1,000,000	Southern Railway yards.
1909	356	260,000	Police station and engine house.
*1909	580	100,000	Normal schools.
1909	587	1,000,000	Street improvements and sewers.
1911	9	20,000	Tuberculosis hospitals.
1911	134	750,000	Street improvements, grade separations and sewers.
1911	379	250,000	Waterworks system.
1911	505	275,000	Public recreation and playgrounds.
1913 (1st Ex. Sess.)	2	250,000	Waterworks system.
1913 (1st Ex. Sess.)	3	1,500,000	North Memphis levee.
1913 (1st Ex. Sess.)	51		Improvement district bonds.
1913	55	$1,500,000	Electric light and gas plant
1915	5		Amended Priv. Acts 1913, ch. 55.
1915	11		Amended Priv. Acts 1913, ch. 55.
1915	74		Amended Priv. Acts 1913, ch. 55.
1915	411	750,000	Refunding bonds.
1917	234	488,000	Various specific purposes.
1917	421	375,000	Auditorium and markethouse.
1917	483	500,000	River-rail terminals and warehouses.
1919	296	150,000	Tuberculosis hospitals.
1919	641	500,000	River-rail terminals and warehouses.
1919	789	200,000	Streets, sewers and drains.
1921	7	1,750,000	Streets, sewer mains, drainage projects and grade separations.
1921	141	2,000,000	Waterworks system.
1921	524		Amended Priv. Acts 1917, ch. 421.

Year	*Chapter*	*Amount*	*Purpose*
1921	634	250,000	Tri-State fairgrounds.
1923	357	100,000	Tuberculosis hospitals.
1923	357	150,000	Cossitt Library.
1923	357	100,000	Tuberculosis hospitals.
1923	387	750,000	Streets, drains, sewers and grade separations.
1923	388	100,000	Fire stations.
1923	389	1,500,000	Waterworks system.
1923	421	150,000	Memphis General Hospital.
1923	426		Opening, extending and improving streets.
1925	197	500,000	Waterworks system.
1925	198	225,000	Memphis General Hospital and Nurses' Home.
1925	199	1,000,000	Refunding bonds.
1925	200	75,000	Auditorium and markethouse.
1925	201	350,000	Harahan Bridge and viaduct.
1925	202	900,000	Streets, drains, sewers and grade separations.

* Amended by Pub. Acts 1915, ch. 132.

*1925	223	300,000	"Lake Woods" Park; Purchase of "Vance Woods".
1927	262	350,000	General park purposes.
1927	447	150,000	Memphis General Hospital.
1927	449	100,000	Tuberculosis hospitals.
1927	450	650,000	Streets, drains, sewers and grade separation and protection of Mississippi River bank.
1927	461	150,000	Sewer bonds.
1927	466	1,000,000	Waterworks system.
1927	638	100,000	Fire and police departments.
1929	505	850,000	Streets, drains, sewers, grade separations, crematory, levee and banks of Mississippi River.
1929	506	300,000	Fire department.
1929	507	100,000	Highland Heights' sewers.
1929	516	850,000	Sewer bonds.
1929	725	200,000	Memphis General Hospital.
1931	126	3,000,000	Waterworks system.
1931	216	850,000	Streets, grade separations, crematory and other public improvements.
1931	217	$450,000	Sewers, drains, levees, banks of Mississippi River and other improvements.
1935	19	75,000	Erecting and equipping abattoir.
1935	141	350,000	Refunding bonds.
1935	147	125,000	Memphis municipal airports.
1935	150	500,000	Refunding bonds.
1935	386	450,000	Sewers, drainage works, levees reservoirs, pumping stations and other public improvements.
*1935	390	850,000	Streets, grade separation, crematory and other public improvements.
1935	446	9,000,000	Electric light and power system.
*1937	4	1,000,000	Motor transportation system.
1937	493		Amended Priv. Acts 1935, ch. 466.
*1937	534	2,500,000	Sewers, drainage projects, levees, reservoirs pumping stations and other public improvements.

Year	*Chapter*	*Amount*	*Purpose*
1937	770	75,000	General park purposes.
*1939	66	450,000	Drainage projects, levees and other public improvements.
*1939	67	850,000	Streets under front foot assessment laws; separation of grades; crematories and other public improvements.
1939	69	250,000	John Gaston Hospital.
1939	333	100,000	Addition to Crump Stadium.
1939	382	17,000,000	Electricity and gas systems.
1941	78	300,000	Police and fire departments and other public improvements.
1941	79	100,000	Coliseum or arena at the Fair Grounds Park.
1941	80	500,000	Memphis Municipal Airport.

*Repealed by Priv. Acts 1968, ch. 160.

*1941	81	50,000	Erection and equipping of armory buildings and other public improvements.
1943	27	4,000,000	Plants or systems to supply and distribute electricity.
1943	28	5,000,000	Acquisition, etc., of a system of street railroads, electric coaches and motor buses.
*1943	301	250,000	Additions to Memphis Municipal Airport.
1943	335	5,000,000	Additions, extensions, etc., of system of street railroads, electric coaches and motor buses.
**1943	336	4,000,000	Plants or systems to supply and distribute electricity.
*1943	337	375,000	Construction of bridge across Mississippi River.
*1947	501	300,000	New branches of the Cossitt Library.
1947	503	500,000	Construction of bridge across Mississippi River.
*1947	507	200,000	Garbage disposal plant.
*1947	508	1,700,000	Buildings and facilities of department of public safety.
*1947	510	4,000,000	Erection, etc., of new City Hall.
*1947	511	3,000,000	Construction of memorials to veterans.
1947	520	$4,000,000	Building for use of Memphis Light, Gas and Water Division.
***1947	522	175,000	Erection, etc., of public markethouse.
*1947	523	3,300,000	Opening, improving, etc., of streets, alleys and highways.
***1947	524	100,000	Erection, etc., of municipal warehouse building.
1947	525	1,000,000	Construction of sewers, drains and drainage improvements.
1947	526	298,000	Construction of Tuberculosis Hospital.
***1947	527	413,000	Construction and equipping hospital and nurses' home for colored persons.
***1947	583	2,110,000	Construction and acquisition of new parks, park buildings, etc., and for improving and enlarging the park system of the city.

Year	*Chapter*	*Amount*	*Purpose*
***1947	584	2,000,000	Acquiring additional lands for Memphis Municipal Airport or for one or more additional municipal airports.
1947	585	535,000	Development of harbor and port in City of Memphis and County of Shelby.
***1947	586	2,000,000	Equipment, additions and improvements at Mid-South Fair Grounds and Amusement Park.
1947	587	640,000	Additions to maternity ward of John Gaston Hospital.
***1951	146	1,000,000	Construction of hospital and nurses' home.
***1951	151	1,000,000	General park purposes.
***1951	216	2,000,000	Vehicular parking system.
1951	383	2,000,000	Civil defense.

*Repealed by Priv. Acts 1963, ch. 160

**Repealed by Priv. Acts 1957, ch. 94.

***Repealed by Priv. Acts 1963, ch. 160.

*1951	507	1,000,000	Harbor and port facilities.
1951	578	7,000,000	Electricity, water and gas systems.
1951	579	4,000,000	Reducing bond issue authorized by Acts 1935, ch. 466 for acquiring electrical system.
1951	580	1,200,000	Limits bond issue for waterworks system.
1951	581	15,000,000	Electricity, gas and water systems.
*1953	302	700,000	Hospital or nurses' home.
*1953	303	300,000	Increasing present city facilities.
*1953	304	200,000	Improving, etc., Memphis Juvenile Court and other public improvements.
*1953	305	1,000,000	Construction, etc., of hospital and nurses' home for colored persons.
*1953	306	2,000,000	Construction of sewers and drains.
*1953	324	300,000	Sewers, drains, levees, reservoirs, pumping stations and other public improvements.

*Repealed by Priv. Acts 1963, ch. 160.

Cross reference—Enumeration of bond issues by board of education, § 1055.

Sec. 826. Revenue and refunding bonds and notes generally.

Said city through its council shall have power from time to time to borrow money and issue revenue bonds or notes, bearing interest at not more than six per cent per annum and maturing not more than one year from their date, for the purpose of providing funds in anticipation of the collection of taxes and revenues of the current calendar year in which said revenue bonds or notes are issued, said bonds or notes to be issued for the purposes for which said taxes and revenues are collected, and also to issue refunding bonds or notes, with like limitations upon interest and maturity, where such refunding notes or bonds shall be necessary to provide for the payment of any of such revenue notes or bonds at their maturity.

At no time shall the total amount outstanding of (1) such revenue notes or bonds issued in anticipation of revenues, and (2) such refunding bonds or notes, exceed eighty-five per cent of the revenues of said city derived from taxes for general municipal purposes of the previous fiscal year, exclusive of any taxes levied for the purpose of paying the principal and interest of said city's bonded debt; provided, that where refunding notes or bonds have been issued or have been ordered issued for the purpose of refunding any of said revenue notes or bonds, the said original notes or bonds so ordered to be refunded shall not be included in estimating the total amount of revenue notes and bonds

outstanding, but for that purpose shall be treated as having been refunded and retired by such refunding notes or bonds. (Priv. Acts 1917, ch. 487, § 1)

Sec. 827. Same—Sale; form; disposition of proceeds; tax levy for payment; remedies of purchases.

Said revenue notes or bonds and said refunding notes or bonds shall be sold by the council of said city in said city in such manner and upon such terms as they may elect, either at public or private sale, but shall not be sold for less than par except by a vote of at least four members of said council, and then at a price not less than $99.00 on the $100.00. The said notes or bonds shall be in such form as may be prescribed by the council of said city and shall be the absolute, direct and general obligation of said City of Memphis. The proceeds of said revenue notes or bonds shall be paid into the treasury of the City of Memphis to the credit of the general fund or any special fund against which they shall have been issued; and the council of said city are authorized to levy sufficient taxes upon all the taxable property of said city to pay said notes or bonds at their maturity and any legal holder or owner of said notes or bonds shall be entitled to enforce his rights thereunder by legal process, as shall also the holder or owner of any refunding notes or bonds issued hereunder. (Priv. Acts 1917, ch. 487, § 2)

Sec. 828. Borrowing money and issuing bonds and notes for payment of interest on bonded indebtedness.

Said City of Memphis shall likewise have full power and authority to borrow money every year from time to time as needed for the purpose of providing for the payment of interest upon its bonded indebtedness, in anticipation of the collection of taxes already levied for that purpose, and may issue notes or bonds therefor; but the total amount of such notes or bonds shall at no time exceed eighty-five per cent of the taxes levied for the payment of such interest, and said notes or bonds shall be issued and sold subject to all restrictions and limitations as to maturity, rate of interest, and price at which the same may be sold, as are stated in the preceding section with reference to other notes or bonds issued in anticipation of collection of revenues. (Priv. Acts 1917, ch. 487, § 3)

Sec. 829. Borrowing money and issuing bonds for emergencies.

Said City of Memphis, in case of fire, flood, pestilence, storm or other public calamity, shall have power, by unanimous vote of all the members of the council of said city, to borrow money and issue negotiable bonds of said city in such sums not exceeding fifty thousand dollars as shall be necessary in case of any one such emergency; provided, however, that such bonds shall mature and become payable in annual installments within five years from their date, shall bear interest at a rate not exceeding six per cent per annum, and shall be issued or sold at not less than par, exclusive of all commissions and brokerage. Said bonds shall be in such form as the council of said city shall prescribe, and they shall be sold by the council in such manner and under such terms as they may elect, either at public or at private sale. (Priv. Acts 1917, ch. 487, § 4)

Sec. 830. Action of council under sections 826—829 final.

The council of said city shall have authority, either by ordinance or resolution, to provide for and cause the issuance of any of the notes or bonds hereinbefore mentioned [in sections 826—829] and to prescribe the form, maturity, method of sale and all other matters connected with the issuance and sale of said notes and bonds, subject only to the restrictions hereinbefore stated, and the action of said council in that regard shall be full and final authority, without the necessity of submitting said matters to a referendum or vote of the people, or awaiting a petition for such referendum or vote, the purpose hereof being that the action of the council upon the above matters shall be final and not subject to referendum. (Priv. Acts 1917, ch. 487, § 5)

Sec. 831. Temporary improvement notes and bonds.

Said City of Memphis shall also have authority temporarily to finance the carrying out of any purpose for which it has been or may be authorized by Act of the Legislature to issue its bonds, by borrowing money and issuing from time to time temporary improvement notes or temporary improvement bonds, which shall state in general terms the purposes for which they are issued and shall mature in not exceeding one year from their date, and shall bear interest at not exceeding six per cent per annum and shall be issued or sold at not less than par, exclusive of all commissions and brokerage; provided however, that if a vote of the electors or taxpayers of said city is required as a condition precedent to any issue of bonds in respect of any improvements, such vote shall be had before any temporary improvement notes

or temporary improvement bonds shall be issued in respect of such improvement. Such temporary notes or bonds may from time to time be renewed by the issuance of new temporary notes or bonds of similar maximum maturity and rate of interest which renewal notes or bonds shall be subject to all the provisions of this section.

Such renewal notes or bonds shall not be renewed after two years after the purpose for which they are issued has been carried out, and the proceeds of any issue of bonds for such purpose shall be first applied in the payment of any outstanding temporary notes or bonds issued in respect thereof. Such temporary notes or bonds shall be authorized by ordinance or resolution of the council of said city and shall be executed in such manner as shall be directed by said board, and sold in such manner as they may prescribe. (Priv. Acts 1917, ch. 487, § 6)

Sec. 832. Construction of sections 826—833.

Nothing contained in this Act [sections 826—833] shall limit, qualify or affect any grant of power heretofore made to the City of Memphis to issue its bonds for any purpose, or to limit, qualify or affect any grant of power heretofore or hereafter made to said city to enter into banking contracts covering its financial arrangements, or to deprive said city of the benefit of any general statute authorizing the issuance of bonds, notes or evidences of indebtedness by municipalities, whether heretofore or hereafter passed, the purpose of this Act being to give said City of Memphis the powers hereinbefore stated in addition to any and all other powers it may have. (Priv. Acts 1917, ch. 487, § 7)

Sec. 833. Disqualification of mayor and council to vote on matters arising under sections 826—832.

The fact that the mayor or any other member of the Council of said City of Memphis may be a director or stockholder in any bank or trust company purchasing any of the notes, bonds, or evidences of indebtedness hereinbefore mentioned [in sections 826—832] or making any of the loans contemplated hereunder, shall not invalidate or affect the legality of any such transaction with said bank or trust company, provided such mayor or council so interested in said bank or trust company shall not vote upon the matter of selling said notes, bonds or evidences of indebtedness to said bank or trust company or the matter of contracting with said bank or trust company in that regard. (Priv. Acts 1917, ch. 487, § 7)

ARTICLE 77. POWERS AS TO VARIOUS SPECIAL PURPOSES

Sec. 834. Additional powers as to fire prevention; deputy city court clerk; bonds of officers, employees, etc.; fire hazards; electricians and electrical works; motor vehicles and operators thereof; burials and cemeteries; explosives and inflammables; acetylene; dry-cleaning; combustible fibers; vagrancy, loitering and disorderly conduct; railroad grade separations; traffic; airplanes and airships; public streets, etc.; removal, etc., of bodies of persons meeting violent deaths.

The council or other legislative council or body of the City of Memphis, in addition to all other powers now delegated or provided, shall have full power to establish a department, or bureau of fire prevention, to appoint fire marshals or fire prevention inspectors, and to fix their powers, duties and compensation; to appoint deputy city court clerks and fix their duties and compensation; to fix the bonds of all officers, agents or employees of the city, other than the mayor, council or legislative council; to pass ordinances to prevent the ignition or spread of fires and suppress practices tending to create fire hazards; to regulate and control electricians and electrical works, and to enforce efficiency of the same; to regulate and control the drivers of automobiles, trucks, taxicabs, buses or other motor propelled vehicles; to inspect such motor vehicles and enforce proficiency in the driving of same; to regulate the burial of the dead, and the operation and conduct of cemeteries within the corporate limits; to prescribe rules and regulations for the manufacture, having, keeping, storage, sale and transportation of explosives; to provide rules and regulations for the use, handling, storage and sale of inflammable liquids and the products thereof; to regulate the installation and operation of acetylene generators, and the use of acetylene for welding, lighting, cutting and heating, and the storage of calcium carbide; to regulate the business of dry-cleaning; to regulate the manufacture, storage, handling, sale and use of combustible fibers and fibrous products, celluloid and pyroxylin plastics; to define and punish vagrancy, loitering and disorderly conduct; to compel railroads to separate the grade of their tracks from that of streets and highways when crossing it grade, upon such terms and upon such equitable division of cost as may be agreed upon by the city and railroads; or if the city and railroads fail to agree, then upon such equitable and reasonable terms as the city may prescribe; provided, that this grant of power shall not be held to take away, limit or abridge any power now possessed

by the city to compel railroads to separate the grade of their tracks from that of streets and highways; to regulate traffic; to regulate the landing of airplanes and airships, and the operation thereof above or in the city; to regulate the use of all public streets and places; and to prevent the removal or disturbance of bodies of persons meeting violent deaths or suicides until arrival of and investigation by police. (Priv. Acts 1925, ch. 419)

Code references—Bonds of officers and employees, §§ 2-4-1, 2-4-2; airports and aircraft, Ch. 12-76; fire prevention, Ch. 9-36; disorderly conduct, § 10-8-2; motor vehicles and traffic, T. 11; railroads, Ch. 12-80; streets, Chs. 12-4—12-16.

Sec. 835. Art schools and academies; daylight savings time; authority to borrow money for public improvements; use of municipal property not needed for public use; regulate weights, etc., of motor vehicles; sales, etc., of property for delinquent taxes; protection of property of public library.

The City of Memphis, in addition to all other powers now delegated or provided, shall have full power to aid and appropriate municipal funds toward the maintenance of free schools or academies for the study and development of the fine and applied arts in said city; to establish and enforce by ordinance daylight savings time in and for said city; to borrow money on such terms, securities, and conditions as said council or other legislative body of said city may determine for the construction, rebuilding, repairing, improving, or relocation of structures, buildings and other municipal property to the end that such property may be utilized advantageously by or for said city; to permit and enable said city to put to profitable use by improvement, lease or license any municipal property not presently needed for public purpose; to regulate and limit the tonnage, weights and loads of automobile trucks, wagons, moving vans, trailers and other vehicles on the streets and highways of said city, and prescribe and regulate the wheels, treads, or tires on such vehicles; and to fully protect the rights and interests of said city in any property sold at public or court sale for delinquent taxes by bidding and paying for such property so sold such amounts as will insure the recovery of any and all delinquent city taxes thereon, and to take immediate possession of, lease, rent, and sell and convey title to, any property so purchased; to make it a misdemeanor to wilfully or maliciously cut, write upon, injure, deface, tear or destroy any book, periodical, map, newspaper, plate, engraving or other property belonging to any public library. (Priv. Acts 1929, ch. 502)

Code references—Authority of commissioner of finances and institutions to bid for city at tax sales, § 5-24-11; management, rental, sale, etc., of property acquired for delinquent taxes, Ch. 5-28.

Sec. 836. Cooperation with humane societies; erection and maintenance of hospitals; partial payment of assessments.

The council or other legislative council or body of the City of Memphis, in addition to all other powers now delegated or provided shall have full power to aid and cooperate with incorporated societies having for their purpose the prevention of cruelty to animals and the eradication of rabies in said city; cooperate with boards of trustees, commissions, and/or incorporated institutions in the erection and maintenance of hospitals for the treatment of sick and injured; and to take such steps as may be proper in the discretion of the legislative council of said cities to permit partial payment of street improvements and other assessments on property in said cities and extend the time for the payment thereof with such adjustments of penalties, interest and fees thereon as may be proper in the discretion of said legislative council but without impairing or discharging the liens on such properties for the payment of such assessments. (Priv. Acts 1933, ch. 852, § 1)

Sec. 837. Regulation of transient vendors, canvassers and solicitors.

For the purpose of preventing unfair trade practices in and the perpetration of frauds and cheats upon the people of the City of Memphis in connection with the sale of goods, wares and merchandise by transient vendors, canvassers, and solicitors within the corporate limits of said city, the council of said city is hereby authorized and empowered, by appropriate ordinance or ordinances:

(1) To prescribe reasonable rules and regulations governing the sale or offering for sale of goods, wares and merchandise within the corporate limits of said city by transient vendors, canvassers, and solicitors, whether by sample or otherwise, or whether for immediate or future delivery;

(2) To provide for the inspection of goods, wares, and merchandise sold or offered for sale in said city by said transient vendors, canvassers, and solicitors, and of places in said city where the same may be sold or offered for sale, and to appoint inspectors or other officers for that purpose;

(3) To fix the compensation of said inspectors or other officers and all other persons who may be charged with the enforcement of said ordinance or ordinances, and to provide for the payment thereof and all other expenses incident thereto;

(4) To provide reasonable inspection fees to be paid by persons subject to the provisions of any such ordinance or ordinances, and to provide for the payment and collection thereof;

(5) To require that persons subject to said ordinance or ordinances, before selling or offering for sale in said city any goods, wares or merchandise, shall first obtain from such person or persons as the said council may designate a permit or permits therefor, and to prescribe reasonable fees for the granting of said permit or permits, to be paid by the applicant or applicants therefor; and

(6) To fix and provide penalties and punishment for the violation of the provisions of any such ordinance or ordinances, provided that said penalties or punishment shall be by fine not to exceed the sum of fifty dollars ($50.00) for each offense. (Priv. Acts 1931, ch. 611, § 1)

Cross reference—Authority to regulate public solicitation of funds,

§ 739.

Code references—Public solicitations, Ch. 6-64.

Sec. 838. Authority to do extra work on improvement projects without advertising for bids in certain instances.

Whenever it becomes necessary to do any extra work in the completion of any construction or improvement project that has been awarded under the contract of the City of Memphis, which contract was for an amount in excess of $1,000.00, and in which contract was awarded after advertising for bids as now required by law, the city engineer, by and with the approval of the Council of the City of Memphis, shall have authority to authorize an expenditure for such extra work without the necessity of advertising for bids on such special work, provided that the cost of the extra work shall not exceed ten per cent of the original contract price contained in said award. (Priv. Acts 1935, ch. 388, § 2)

Editor's note—Bids are now required on contracts exceeding $2,000.00. See § 51.

Sec. 839. Employment of special attorneys.

The mayor, by and with the approval of the council, shall have authority to employ special attorneys for and on behalf of the City of Memphis whenever they shall deem them necessary. (Priv. Acts 1935, ch. 388, § 3)

Cross reference—City attorney, §§ 191—195.

Sec. 840. Auctions and auctioneering—Regulations generally; "auctioneering board."

The council or other governing body of the City of Memphis, or such board as may be created by ordinance for the purpose of carrying out the terms and provisions of this Act, (hereinafter called "auctioneering board"), is given full and complete power and authority to regulate the time, place, manner and conduct of auctions and/or the business of auctioneering, and/or the persons, firms or corporations conducting such auctions, and/or the offering of goods, wares and merchandise for sale at auction; and to regulate auctions and auctioneering in all of its phases and aspects. (Priv. Acts 1935, Ex. Sess., ch. 102, § 1)

Cross reference—Additional authority of board to regulate auctions, § 739.

Sec. 841. Same—Rights and powers of council or auctioneering board.

In furtherance of the power and authority granted to the City of Memphis in section 1 hereof [section 840], and in no wise in limitation of said powers granted, said Council of the City of Memphis, or other board hereinabove authorized, shall have the right and power:

(a) To make rules and regulations respecting the qualifications of auctioneers.

(b) To require licenses and bonds of persons conducting auctions, including the criers at said auctions and any person, firm or corporation offering goods, wares and merchandise for sale at auction.

(c) To regulate the owner of goods, wares and merchandise sold at auction, by requiring the filing of sworn inventories as a condition precedent to the issuing of a permit to hold or conduct an auction; by requiring that bonds be filed with said council or other board to guarantee compliance with the terms and provisions of any ordinance adopted pursuant to this Act; or other conditions as may be issued by the auctioneering board as a condition precedent to the issuance of such license.

(d) To require the filing with said board or boards and approval by them or each of them, of any advertising, radio broadcasts, or other advertising matter to be used in connection with such auctions.

(e) To require the filing of a full, true and complete sworn inventory of goods to be sold or offered for sale at such auction.

(f) To authorize the council or auctioneering board to revoke permits issued for the holding of said auction upon violation of any of the terms of this Act, or of any ordinance passed pursuant hereto, or of the rules and regulations promulgated by said auctioneering board or Council of the City of Memphis. (Priv. Acts 1935, Ex. Sess., ch. 102, § 2)

Sec. 842. Same—Exempt sales.

The term "auction" and "business of auctioneering," as herein used, shall not be construed to include judicial sales at public authority, pursuant to any orders, judgment or decrees of any court in the State of Tennessee or of the United States of America; or any sale of real estate by foreclosure pursuant to a deed of trust or mortgage. (Priv. Acts 1935, Ex. Sess., ch. 102, § 3)

Sec. 843. Same—Sections 840 to 844 to be liberally construed.

This Act [sections 840 to 844], and any ordinance adopted pursuant hereto, shall be liberally construed so as to accomplish the object and purposes hereof, and so as to provide for the effective regulation and control of auctions and auctioneering. It is here recognized that the business of auctioneering, and the conduct of auctions of personal property is fraught with opportunities for fraud and deceit; that "poppers," "cappers" and "buster bids" may be made; that auctions and auctioneering lead to congestion of people and traffic in and upon public streets and places, and stores or other places where such auctions are held; and that the public interest imperatively demands that auctioneering and the conduct of auctions in all phases be regulated and controlled, in order to promote the public health, safety and well-being. (Priv. Acts 1935, Ex. Sess., ch. 102, § 4)

Sec. 844. Same—Findings of auctioneering board or council to be final.

The findings of facts made by said auctioneering board or council in passing upon any application filed hereunder shall be final; and said action shall be subject to review only for illegality, or acts in excess of jurisdiction of said board or boards. (Priv. Acts 1935, Ex. Sess., ch. 102, § 5)

Sec. 844.1. Sales other than in ordinary course of business—Authority to regulate, restrict and control.

Chapter 11 of the Acts of the General Assembly of 1879, entitled "An Act to establish taxing districts in this State and to provide the means of local government for same" and the Acts amendatory thereof, constituting the Charter of the City of Memphis, be and the same are hereby amended so as to authorize the Council of the City of Memphis, by ordinance, to regulate, restrict and control the conducting of sales or offering to sell other than in ordinary course of business, as hereinafter defined.

Sales of goods, wares and merchandise, other than in ordinary course of business, shall include but are not limited to the following:

Going out of business sales.

Fire or other catastrophe sale.

Creditors', receiver's, trustee's, executor's or administrator's sales, except when conducted under a lawful order of court.

Liquidation or reorganization sale.

Alteration or loss-of-lease sale.

Wholesale close-out sale.

Insurance salvage sale.

Any other wording conveying a meaning similar to the above or implying the termination, closing, liquidation, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. Sales shall include offering to sell by advertisement through whatever medium. (Priv. Acts 1955, ch. 316, §§ 1, 2)

Sec. 844.2. Same—Board of extraordinary sales.

The said council shall be authorized to appoint a board of extraordinary sales, or any other name it may designate, and prescribe its powers and duties, and employ such inspectors or any other persons necessary to carry out its functions as said council may determine. (Priv. Acts 1955, ch. 316, § 3)

Sec. 844.3. Same—Permit.

Said council may prescribe an application form to conduct such sales, which, if approved, shall entitled [entitle] the holder to conduct same under the conditions specified thereon, upon payment of a permit fee fixed by said board. (Priv. Acts 1955, ch. 316, § 4)

Sec. 844.4. Same—Penalty may be prescribed for violation of ordinance enacted pursuant to Act.

The said council may prescribe penalties for the violation of any ordinance pertaining to this Act [sections 844.1—844.3]. (Priv. Acts 1955, ch. 316, § 5)

Sec. 845. Adoption of housing code.

The Council of the City of Memphis is authorized to promulgate and adopt, by ordinance, a housing code regulating the light and ventilation, sanitation, fire protection, and use of buildings occupied as dwellings and buildings hereafter constructed, maintained, altered or improved for use as dwellings, and to provide penalties for violation of said ordinance. (Priv. Acts 1935, ch. 595)

Sec. 846. Control and regulation of subcontractors engaged in building and construction work.

The City of Memphis [is given] power and authority, in addition to powers and authorities heretofore granted to it, from and after the passage of this Act, to regulate and control the business of all persons, firms and corporations engaged as subcontractors in building and construction work. The authority to regulate and control the business of such persons, firms and corporations engaged in building and construction work as subcontractors shall include authorization to provide, by municipal ordinance, for the levy and collection of a privilege tax or license of the business of such persons, firms and corporations engaged in building and construction work, as subcontractors; provided, however, that the amount of such license or privilege tax shall not exceed the amount of the privilege tax or license levied by state law on those engaged in similar work as general contractors. The authority to regulate and control the business of such persons, firms and corporations engaged in building and construction work, as subcontractors, shall also include authorization to provide, by municipal ordinance, for inspection and approval of the kind, character, quality and safety of the work done by such subcontractors; but the enumeration of specific authorization, as herein provided for, shall not be construed as excluding such other details of regulation and control as may be deemed necessary or expedient by said city or its legislative board or council, for the protection of [or] preservation of public health and safety in such cities, towns and taxing districts. (Priv. Acts 1931, ch. 557, § 1)

Sec. 847. Consolidation and joint operation of governmental functions of city with Shelby County—Authority granted.

Shelby County and/or all municipal corporations and/or other local governmental agencies located in said county are authorized and empowered to consolidate or operate jointly any or all governmental or corporate activities or functions of said county and/or municipal corporations and/or other local governmental agencies located therein which may now or hereafter be authorized to operate or conduct, which may be conveniently or advantageously consolidated or operated jointly. (Priv. Acts 1933, ch. 413, § 1)

Cross references—Joint city-county ownership and use of election paraphernalia, § 13; joint city-county planning commission and board of adjustment, § 108.1 et seq.; authority to contract with county for assessment of property for city taxes, § 200.1; care of city prisoners by county, § 382 et seq.; city-county water control board, §§ 413.1—413.6; city-county port commission, § 627 et seq.; contract for collection of city taxes by

county, § 760.1; contract for collection of license and privilege taxes by county, § 781.1; consolidation of facilities and services of city and county school boards, § 954.1.

Code references—City youth guidance commission, Ch. 2-72; city-county health department, Ch. 9-4.

Sec. 848. Same—Power to enter into contracts.

For the purpose of carrying out the powers and authorities granted by this Act [sections 847 to 850], said Shelby County and/or all municipal corporations and/or other local governmental agencies located therein are expressly authorized and empowered to enter into contract for the purpose of affecting and carrying out any such consolidation and/or joint operation of governmental or corporate activities or functions authorized by this Act. (Priv. Acts 1933, ch. 413, § 2)

Sec. 849. Same—Contracts to be executed by governmental bodies.

Contracts authorized by this Act [sections 847 to 850] shall be entered into and executed by and on behalf of Shelby County by either its quarterly county court or by its board of county commissioners, with reference to any governmental or corporate activities or functions operated, conducted or controlled by either of them, and by and on behalf of municipal corporations and/or other local governmental agencies located in said county by the legislative council or other appropriate governing bodies of such municipal corporations and/or other local governmental agencies. (Priv. Acts 1933, ch. 413, § 3)

Sec. 850. Same—Provisions of contracts.

Any and all contracts authorized by the provisions of this Act [sections 847 to 850] may be executed in such form and with such provisions, conditions and limitations, and for such considerations, as may be acceptable to the contracting parties; and it is hereby expressly provided that any such contracts may authorize the carrying on within the corporate limits of any such municipal corporation of any governmental or corporate activity or function provided for under the terms of any such contract by or through any agents, employees or other character of agency therein agreed on, whether or not they reside within the corporate limits of such municipal corporation. (Priv. Acts 1933, ch. 413, § 4)

Sec. 851. Welfare commission.

The Council of the City of Memphis shall have authority to create by ordinance a welfare commission for the purpose of cooperating with all Federal, state, and local agencies, in furthering the welfare of the citizens of Memphis who may be in need of assistance due to unemployment and other causes, to promulgate rules and regulations under which said welfare commission is to be conducted; to provide for all necessary expenses for the operation of said welfare commission, to provide for such employees that may be necessary in the operation of said welfare commission, and fix their salaries and duties, to assign said welfare commission to that department of the city government the council may deem advisable. (Priv. Acts 1937, ch. 489, § 4)

Sec. 851.1. Registration of births.

The council of said city shall have authority to provide for the registration of all births in said city, and to prescribe penalties for a failure to do so. (Priv. Acts, 1913, ch. 140)

Editor's note—This section appeared as § 445 in the 1949 compilation. It was redesignated as § 851.1 by the editor.

General law reference—Vital Statistics' Act of 1941, T.C.A. § 53-401 et seq.

Sec. 852. Reserved.

Editor's note—Section 852, derived from Priv. Acts 1937, ch. 120, granted authority to the city to sell to the board of education the "Hyde Park School Building and Grounds." Said section has been omitted as having served its purpose.

Sec. 853. Outdoor advertising.

The Council of the City of Memphis shall have authority to regulate, by ordinance, the erection, hanging, placing, painting, displaying, removing, and maintenance of all outdoor signs, bulletin boards, and all other forms of exterior

advertising, and/or the erection of scaffolding or equipment to do any such work on the public ways and public space, and on private property within the public view, in the City of Memphis. Said council shall have authority to require that all persons, firms and corporations engaged in the business of erecting, hanging, placing, painting, displaying, removing, and maintaining of all outdoor signs, bulletin boards, and all other forms of exterior advertising, and/or the erection of scaffolding or equipment to do any such work on the public ways and public space and on private property within public view, shall obtain such license or permit before undertaking to do any of the things enumerated in this section as said council shall provide, and shall also be required to file a bond with surety to be approved by the official designated by the council for the taking of such bonds, expressly stipulating and agreeing to pay all damages for personal injuries to any person, or damage to any property which may be caused by the erection, hanging, placing, painting, displaying, removal, or maintenance of said signs, bulletin boards and other forms of exterior advertising, and/or the erection of scaffolding or equipment to do any such work on the public ways and public space and on private property within public view in the City of Memphis. (Priv. Acts 1937, ch. 121, § 2)

Cross reference—Additional authority to regulate signs and billboards, § 739.

Sec. 854. Animals and fowl.

The Council of the City of Memphis shall have authority to regulate by ordinance lower animals and domestic fowl in the City of Memphis, including dogs, cattle, sheep, horses, goats, mules, chickens, ducks, geese, and turkeys. They shall also have authority to regulate by ordinance the running at large of dogs on the streets, alleys, parkways, and in the parks and other public places in the City of Memphis; the harboring and keeping of dogs; and they shall have authority to provide for the registration and licensing of dogs, to provide means of apprehending and disposing of dogs running at large, and to provide for detention and examination of dogs suspected of being infected with contagious diseases. The council shall also have authority to provide for the operation of a pound, and to create a board to be known as the Memphis Animal Shelter Board, and to prescribe the powers and duties of said board. Said council shall also have authority to provide penalties for the violation of any such ordinance. (Priv. Acts 1937, ch. 121, § 3; Ord. No. 2296, § 1, 9-2-75)

Code references—Animals and fowl generally, T. 8; licensing of dogs, § 8-16-2 et seq.; dogs running at large, § 8-16-6.

Sec. 855. Unnecessary noises.

The Council of the City of Memphis shall have authority to prohibit and regulate by ordinance the making of unnecessary noises within the limits of the City of Memphis by any automobile, motorcycle, bus, street car, or other vehicle, or by the use of any bell, gong, siren, or whistle, or by the use of any horn or other warning devices, operated by the engine or exhaust of any motor driven vehicle, or by any radio, phonograph, musical instrument, or other sound devices, or by any animal, bird, or fowl; and said council shall have authority to prescribe a penalty for the violation of said ordinance. (Priv. Acts 1937, ch. 121, § 4)

Code reference—Noise regulations, Ch. 9-68.

Annotation—A “juke box” falls within the classification of this section and may be made the subject of regulation by the city. Miller v. City of Memphis, 181 Tenn. 15, 178 S.W. (2d) 382 (1944), holding valid the ordinance codified as §§ 31-39—31-67 of the Code of Ordinances.

Sec. 856. Public begging or soliciting of money; creation of board of supervisors of public solicitations.

The Council of the City of Memphis shall have authority by ordinance to regulate, restrict and control public begging or soliciting of money, subscriptions, and/or contributions for any charitable, religious, educational, benevolent, or for any other purpose or agency whatsoever. Said council shall have authority to create a board to be known as the board of supervisors of public solicitations, or to be known by any other name to be designated by said council, and said council shall prescribe the powers and duties of said board, and prescribe penalties for the violation of such ordinance. (Priv. Acts 1937, ch. 121, § 5)

Cross reference—Additional authority to regulate public solicitation of funds, § 739.

Code reference—Public solicitations, Ch. 6-64.

Sec. 857. Power to compel erection of fences around open lots.

The Council of the City of Memphis shall have authority to require by ordinance that all open and uninclosed space or lots within the corporate limits of the City of Memphis now used or which may hereafter be used for the sale,

purchase, exchange, or storage of any goods, wares, merchandise, and including, but without limitation, farm products, produce, cotton, lumber, brick, cement, building materials of every kind and character, or any other commodity whatsoever; or where any new or secondhand automobiles, buses, trucks, trailers, or other motor driven or motor drawn vehicles are stored or parked; or where any railroad cars or railroad equipment is stored or parked; shall be enclosed by a fence or such other enclosure, the type, height, and size of which to be determined by the Council of the City of Memphis. The council shall have authority to provide penalties for the failure to comply with any of the provisions of such ordinance. (Priv. Acts 1937, ch. 489)

Sec. 858. War memorial.

The Council of the City of Memphis be and it is hereby authorized and fully empowered, in addition to all other authority and powers conferred upon it, in cooperation with and conjunction with Shelby County, Tennessee, to acquire the cite [site] for, erect, construct and maintain a suitable memorial or memorials to veterans, both living and dead, who have fought in the service of their country for the preservation of American ideals, and said Council of the City of Memphis be and it is further authorized to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the accomplishment of the aforesaid purposes as it shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1947, ch. 519, § 6)

Sec. 859. Disposition of bodies.

The City of Memphis is hereby authorized and empowered, in addition to all other authority and powers delegated to it, to control and regulate, by ordinance, the removal, burial, interment, cremation, or other disposition of the bodies of all persons who die within the corporate limits of the City of Memphis, or whose bodies are brought into the City of Memphis, for burial, interment, cremation, or other disposition; and to provide penalties for the violation thereof. (Priv. Acts 1945, ch. 56, § 2)

Cross reference—Additional authority to regulate burials, § 834.

Sec 860. Private institutions or other places conducted as foster homes for care of children.

The City of Memphis is authorized and empowered, in addition to all other authority and powers granted it, to control and regulate, by ordinance, the opening, maintenance and operation of homes, private institutions or other places conducted as foster homes for the care, for remuneration, of one or more children under sixteen years of age, and unrelated by blood or marriage to the person or persons conducting such foster home; to provide for the issuance of licenses or permits therefor; and to provide penalties for the violation thereof. (Priv. Acts 1945, ch. 56, § 3)

Code reference—Day care centers for children, Ch. 4-28.

Sec. 861. Planting and care of plants, flowers, shrubbery and trees on streets and other public places.

The City of Memphis, in addition to all other powers granted to it, is authorized and fully empowered to regulate and control by ordinance the planting, pruning, cultivation and preservation of plants, flowers, shrubbery, and trees on and along the streets, alleys, sidewalks and other public ways of the City of Memphis, and on the public playgrounds, public parks, and other public property of the City of Memphis; and to provide penalties for the violation thereof. (Priv. Acts 1945, ch. 56, § 5)

Cross reference—City forester, § 238.

Sec. 862. Bridges across Mississippi River.

The Council of the City of Memphis be and is also hereby authorized and empowered to aid, cooperate with, negotiate and contract with the United States of America, and/or any department, commission or agency of the United States of America, the State of Tennessee, and/or any department, commission, county, other subdivision or agency thereof, and/or any other state, and/or any department, commission, subdivision or agency thereof, and/or any other public or private corporation, firm or person, relative to the construction, maintenance and operation of any bridge across the Mississippi River that enters the City of Memphis, and/or the acquisition, grading, construction and maintenance of the right of ways and approaches to any such bridge; and to appropriate and contribute such amount or amounts from the funds of the City of Memphis to such projects as the said council shall deem proper and to the best interest of the City of Memphis; and to levy taxes therefor. (Priv. Acts 1945, ch. 56, § 8)

Sec. 863. Regulation of wells and sewers when used in connection with air-conditioning-by-water systems; charge for use of city sewer system.

The council shall have authority, by proper ordinance, to regulate the use of wells and sewers within the city when used in connection with and as an adjunct to air-conditioning-by-water systems, and is authorized to require the use of cooling towers or evaporative condensers in connection therewith and to prohibit the digging of wells for the purpose of procuring artesian water for use as a cooling medium in air conditioning systems.

The Council of the City of Memphis shall also have authority to impose charges upon the users of the city sewer system where the users thereof do not obtain their water supply wholly from the City of Memphis. (Priv. Acts 1941, ch. 44, § 1, subsec. 6; Priv. Acts 1943, ch. 157, § 1)

Cross reference—Authority of city-county water control board to regulate and prohibit drilling of wells, § 413.4.

Sec. 864. Tourist homes, trailer camps, tourist cabins, and outdoor parking lots.

The council shall have authority to regulate tourist homes, trailer camps, tourist cabins and other places engaged in the business of providing food, lodging or space to tourists and other travelers, and shall also have authority to regulate outdoor parking lots for motor vehicles, including the power to prohibit their operation in locations where traffic hazards may exist. (Priv. Acts 1941, ch. 44, § 1, subsec. 17)

Code reference—Trailers and trailer courts, Ch. 14-20.

Sec. 865. Expenditures for advertising.

The City of Memphis is empowered to expend in any one calendar year, a sum not to exceed $10,000 for the purpose of advertising in such manner, times, and places as may be determined by the mayor and council, and said expenditures may be made in conjunction with the County of Shelby, if so determined by the mayor and council. (Priv. Acts 1941, ch. 44, § 1, subsec. 18; Priv. Acts 1943, ch. 157, § 1)

Sec. 866. Authority to require use of gas as fuel in buildings operated or maintained by city.

The City of Memphis shall have authority to require the use of gas as fuel in all buildings operated or maintained by the city or which are maintained in whole or in part by taxes imposed by the City of Memphis. (Priv. Acts 1941, ch. 44, § 1, subsec. 22)

Sec. 867. Permit required for demolition of buildings.

No house or building in the City of Memphis shall be demolished without a permit from the commissioner of public service, and said commissioner is authorized to refuse to issue such permits, if after investigation, he finds that such house or building is structurally sound and that there is a need for such building and a probable use therefor. (Priv. Acts 1941, ch. 44, § 1; Priv. Acts 1943, ch. 157, § 1)

Sec. 867.1. Building permit applicant may be required to register.

The Council of the City of Memphis be and it is hereby empowered and authorized, in addition to the powers and authorities already delegated to it, to enact an ordinance or ordinances to authorize the requirement that all persons, firms or corporations who take out a building permit shall first register with the chief building inspector, on forms provided by the inspector, setting forth thereon sufficient information to identify the person, firm or corporation and the location of its place of business. (Priv. Acts 1959, ch. 215, § 2)

Sec. 867.2. Rewards.

Chapter 11 of the Acts of the General Assembly of 1879, entitled, “A Bill to establish Taxing Districts in this State and to provide the means of local government for the same”, and all Acts amendatory thereof, constituting the present Charter of the City of Memphis, be and the same is hereby amended so as to authorize the mayor and Council of the City of Memphis, for the public good, to offer a reward not to exceed the sum of five thousand dollars ($5,000.00) for the apprehension and conviction of any person or persons who have committed a high or atrocious offense against the criminal laws of the State of Tennessee. (Priv. Acts 1963, ch. 66, § 1)

Sec. 867.3. Foreign trade zone—Authority to apply for privilege of establishing.

Chapter 11 of the Acts of the General Assembly of the State of Tennessee of 1879, entitled, "An Act to establish taxing districts in this State, and to provide the means of the local government of the same," be amended so as to authorize the mayor and council, in cooperation with [the] County of Shelby, to make application to the Foreign-Trade Zones Board for a grant to such city and county of the privilege of establishing, operating and maintaining within Shelby County, Tennessee, a foreign trade zone in accordance with the provisions of Chapter 590 of the Acts of Congress of June 18, 1934, as amended (19 USC Section 81a et seq.). (Priv. Acts 1959, ch. 207, § 1)

Sec. 867.4. Same—Authority to establish, operate and maintain if privilege granted.

The mayor and Council of the City of Memphis be and they hereby are authorized, upon the granting of said application, and in cooperation with the County of Shelby, to establish, operate and maintain or cause to be established, operated and maintained through the Memphis and Shelby County Port Commission or through contract with any other persons, firms or corporations a foreign trade zone within Shelby County, Tennessee. (Priv. Acts 1959, ch. 207, § 2)

Sec. 867.5. Historical sites, memorials, monuments, etc.

The Council of the City of Memphis be and it is hereby authorized and empowered in addition to all other authorities and powers delegated to it, and in conjunction with and in cooperation with Shelby County, Tennessee, to acquire, erect, construct, reconstruct, renovate, restore, repair and maintain, a site or sites, building or buildings, and statutes, memorials, markers and monuments, and to supervise the operation, maintenance preservation and control thereof, for public purposes, including but without being limited to use or uses as historical site or sites, historical building or buildings, statues, memorials, markers and monuments, or other similar sites, structures and objects; and to appropriate and contribute such amount or amounts from the funds of the City of Memphis for the aforesaid purposes as it shall deem proper and in the best interest of the City of Memphis; and to levy taxes therefor. The City of Memphis is hereby expressly given the power, in conjunction with and in cooperation with the County of Shelby, Tennessee, to condemn, for the purposes hereinbefore enumerated, the property of any other person or corporation, and the procedure for the exercise of this power of condemnation shall be the same as that now provided by law for the taking of private property for public uses. (Priv. Acts 1953, ch. 444, § 2)

Cross references—Authority of planning commission relative to historical landmarks, § 102; condemnation generally, § 457 et seq.

Sec. 867.6. Programs of study and research by colleges, universities, etc.

(a) Chapter 11 of the Acts of the General Assembly of the State of Tennessee of 1879 entitled "An Act to establish taxing districts of this State and to provide the means of the local Government of the same", and all Acts amendatory thereof constituting the Charter of the City of Memphis be in the same is hereby further Amended to provide that City of Memphis may contract with public or tax supported colleges, universities or other public institutions of higher education whereby said colleges, universities and other public institutions may provide programs of study and research which will be a benefit to business and industry in the City of Memphis and surrounding territory.

(b) The City of Memphis may pay from the general funds of the City of Memphis such sums not to exceed $100,000.00 annually for such programs of study and research as the council deem proper.

(c) The City of Memphis may levy such taxes as are necessary to provide for said payments. (Priv. Acts 1961, ch. 127, §§ 1-3)

ARTICLE 78. PUBLIC WORKS ACT*

***Cross references—**Street lighting on petition of property owners, § 388—404; street improvements under front-foot assessment law and under district plan, §§ 503—565; sidewalks, §§ 571—575; drainage improvements, §§ 585—626.

Sec. 868. Definitions.

The following terms wherever used or referred to in this Act shall have the following meaning unless a different meaning appears from the context:

(a) *The term "municipality"* shall mean the City of Memphis.

(b) *The term "governing body"* shall mean the Council of the City of Memphis.

(c) *The term "law"* shall mean any act or statute, general, special or local, of this State, including without being limited to, the Charter of the City of Memphis.

(d) *The term "bonds"* shall mean bonds, interim certificates or other obligations of the City of Memphis issued by its governing body pursuant to this Act, or pursuant to any other law, as supplemented or in conjunction with this Act.

(e) *The term "public works project"* shall include any one or more or any combination of the following: Electric light and/or power plants and/or generating stations, and/or substations, and/or distribution systems for the manufacture and distribution of electrical energy, including the sale and distribution of all appliances, instrumentalities of service and appurtenances connected therewith. The power to be distributed may be furnished by the Tennessee Valley Authority, or any governmental agency, or manufactured by the City of Memphis, or any agency thereof, or derived from any other source whatsoever, for any and all purposes, as the Council of the City of Memphis may by ordinance determine. Said term shall also include abattoirs, airports, auditoriums, bridges, tunnels, viaducts, city and town halls, fire halls, community houses, stadiums, courthouses, grain elevators, wharves, docks, harbors and waterfront improvements, facilities for the exchange from means of river transportation to land transportation and vice versa; facilities for the storage, handling and transshipment of grain, ore, coal, produce, steel, freight and merchandise of every character, hospitals, sanitaria, dispensaries, almshouses, jails, workhouses, reformatories, libraries, markets, memorials, parks, playgrounds, recreation centers, reclamation of land, public buildings, plazas, reservoirs, waterworks, water distribution systems, schools, gymnasia, sewers, sewerage or drainage systems, sewerage disposal or treatment plants, incinerators, streets, roads, avenues, alleys, highways, sidewalks, curbs, gutters, storm water sewers or drains, swimming pools, and all property, real and personal, appurtenant thereto or connected with such works, undertaking or project and the existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment, or improvement.

(f) *The term "to construct"* shall mean to build, to construct, to reconstruct, to erect, to replace, to extend, to repair, to better, to equip, to develop, to embellish, to improve, to acquire by gift, purchase or the exercise of the right of eminent domain, of any one or more or all of the foregoing.

(g) *The term "construction"* shall mean building, construction, reconstruction, erection, replacement, extension, repairing, betterment, equipment, development, embellishment, improvements, acquisition by gift, purchase, or the exercise of the right of eminent domain, of any one or more or all of the foregoing.

(h) *The term "Recovery Act"* shall mean Title 11 of the National Industrial Recovery Act being the Act of the Congress of the United States of America, approved June sixteenth, nineteen hundred and thirty-three, entitled, "An Act to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes," and any acts amendatory thereof, and any acts supplemental thereto, and revisions thereof, the Emergency Relief Appropriation Act of 1935, and any further acts or joint resolutions of the Congress of the United States of America to reduce and relieve unemployment or to provide for the construction of public works.

(i) *The term "Federal agency"* shall include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated, created or authorized by or pursuant to any act or acts of The Congress of the United States of America, to make loans or grants.

(j) *The term "contract" or "agreement"* between a Federal agency and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise or other commitment by a Federal agency by which it shall undertake to make a loan or grant or both upon performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated, prescribed or published by a Federal agency. In the case of such an allotment of funds, resolution, unilateral promise or other commitment by a Federal agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of this Act, be deemed to constitute covenants of such a contract that are to be performed by the municipality, if the municipality accepts any money from such Federal agency. (Priv. Acts 1935, ch. 108, § 1, 1st Spec. Sess.)

Sec. 869. Powers of city generally.

The City of Memphis shall have power and is hereby authorized:

(a) To construct any public works project, within or without the municipality, or partially within and partially without the municipality.

(b) To operate and maintain any public works project for its own purposes or for the benefit and use of its inhabitants and also to operate and maintain such public works project for the benefit and use of the municipality and persons, firms and corporations therein and persons, firms and corporations, including municipal corporations, which are situated or whose residence or places of business are situated outside of the territorial boundaries of such municipality but within the state and within a radius of twenty miles from the territorial boundaries of such municipality.

(c) To accept from any Federal agency grants for or in aid of the construction of any public works project.

(d) To contract debts for the construction of any public works project, to borrow money, and to issue its bonds to finance such construction, and to provide for the rights of the holders of the bonds and to secure the bonds as hereinafter provided.

(e) To assess, levy and collect unlimited ad valorem taxes on all property subject to taxation to pay bonds, and the interest thereon, issued to finance any public works project.

(f) To fix, levy, and collect fees, rents, tolls, or other charges for the use of or in connection with any public works project, and, in the event any agreements with holders of bonds shall be made as hereinafter provided, to fix, levy, and collect such fees, rents, tolls, and other charges in accordance with such agreements and subject thereto.

(g) To acquire by purchase, gift or the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, in connection with any public works project, whether or not subject to mortgages, liens, charges or other encumbrances, and to construct any public works project subject thereto, and whether within or without the municipality, or partially within and partially without the municipality.

(h) To exercise the power of eminent domain, which is hereby expressly granted, for the purpose of acquiring any property, real, personal, or mixed, or any right, title or interest therein, necessary to carry out any public works project, as defined in section 1 (e) of this Act (section 868), such right to be exercised in accordance with the general law now in force, or hereafter to be enacted, governing the acquisition of private property for public use. Said power of eminent domain may be exercised by the City of Memphis as to any such property within, or without the municipality in furtherance of any public works project as herein defined.*

(i) To make contracts and execute instruments containing such terms, provisions and conditions as in the discretion of the governing body of the municipality may be necessary, proper or advisable for the purpose of obtaining a grant, loan or other financial assistance from any Federal agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project; and to carry out and perform the terms and conditions of all such contracts or instruments.

(j) To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in or for the furtherance of any public works project.

(k) To subscribe to and comply with the Recovery Act and any rules and regulations made by any Federal agency with regard to any grants or loans, or both, from any Federal agency.

(1) To perform any acts authorized under this Act through, or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals.

(m) To exercise, for the purpose of obtaining a grant, loan or other financial assistance from any Federal agency pursuant to or by virtue of the Recovery Act, any power conferred by this Act independently or in conjunction with any other power or powers conferred by this Act or heretofore or hereafter conferred by any other law.

(n) To delegate to any board, commission or department of the City of Memphis already created, or hereafter to be created, subject to such limitations as may be prescribed by any existing law or ordinance, or any law or ordinance to be passed, all the rights, powers and privileges herein granted to the municipality with reference to the acquisition, construction, operation and maintenance of any public works project as herein defined, subject to such conditions as the governing body may elect to impose, and, to that end, to pass any ordinance in furtherance of such public works project not inconsistent with the Constitution of the United States, or of the State of Tennessee.

(o) To lease grounds, buildings, structures, facilities and/or equipment to carry out any public works project; and to contract with the United States Government, or any agency thereof, the State of Tennessee, or any political subdivision or agency, or any of them, or with any person, firm or corporation for the acquisition, building, leasing and

letting of such facilities, or any of them, and/or for the equipment, operation and maintenance thereof as may be determined upon by the governing body, and to that end, shall have, and may exercise, all rights and powers with reference to the acquisition, operation and maintenance of public works as fully as if it were a natural person.

(p) To mortgage or convey in trust any public works acquired under the provisions of this Act, including land, buildings, equipment, franchises, tolls, revenues, or facilities incidental to the operation of such public works, as security, for money borrowed to carry out the purposes of this Act to pay the principal and interest of any bonds, certificates of indebtedness, or other evidences of indebtedness issued to carry out the purposes of this act, on such terms and conditions as may be determined by the governing body.

(q) To do all acts and things necessary or convenient to carry out the powers given in this Act. (Priv. Acts 1935, ch. 108, § 2, 1st Spec. Sess.)

***Cross references—**Eminent domain generally, § 457; condemnation of property already in public use, § 888.

Sec. 870. Disposition of moneys; separate accounts to be kept.

All proceeds received from the sale of bonds issued under this Act and all fees, rents, tolls, or other charges, received by the municipality from any public works project, and all moneys received from any Federal agency shall be paid to the financial officer or officers, board or commission, of the municipality designated for such purposes. Such financial officer or officers, board or commission, shall not commingle any money received from and Federal agency with any other moneys, but the moneys received from any Federal agency shall be deposited in a separate bank account or accounts in the name of the municipality. (Priv. Acts 1935, ch. 108, § 3, 1st Spec. Sess.)

Sec. 871. Requirements of ordinance for issuance of bonds; items to be included in determining cost of project.

Before any bonds are issued under this Act, the governing body of the municipality shall adopt an ordinance determining to issue the bonds which ordinance shall state in substance (a) the amount or maximum amount of bonds to be issued; (b) the purpose or purposes for which such bonds are to be issued; (c) the rate or maximum rate of interest which such bond are to bear; (d) a brief concise statement of the fact whether such bonds will be payable (1) exclusively from revenues, or (2) exclusively from taxes, or (3) from revenues and in the event of a deficiency in such revenues from taxes, or (4) from taxes and additionally secured by a pledge of revenues, or (5) from revenues additionally secured by a mortgage or deed of trust of the physical properties. In determining the cost of any public works project, the following items may be included as a part of the cost of such public works project and finances by the issuance of the bonds: (a) engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising, and other similar expenses; (c) any interest costs during the period of construction of such public works project and for six months thereafter on money borrowed or estimated to be borrowed. Such ordinance shall be passed and published in accordance with the provisions of the Charter of the City of Memphis providing for the passage and publication of ordinances. (Priv. Acts 1935, ch. 108, § 4, 1st Spec. Sess.)

Cross reference—Bond issue ordinances generally, § 358.

Sec. 872. When no election required for issuance of bonds.

No vote of the qualified electors upon the proposition of the issuance of bonds by the City of Memphis under the provisions of this Act shall be necessary, unless the full faith and credit of the city is pledged for the payment of the principal and interest of said bonds, and they shall become general liabilities of the city. (Priv. Acts 1935, ch. 108, § 5, 1st Spec. Sess.)

Sec. 873. When election required for issuance of bonds.

Where such bonds are general liabilities of the City of Memphis, and the full faith and credit of the city is pledged for the payment of the principal and interest on such bonds, no vote of the qualified electors upon the proposition for the issuance of such bonds shall be necessary, if the ordinance is adopted by at least three-fourths of the members of the governing body, unless within ten days from the date of publication of such proposed ordinance, as now required by the Charter, a petition, signed by at least ten per cent of the qualified electors of the City of Memphis, shall have been filed with the comptroller protesting the issuance of such bonds. If (1) at least three-fourths of the members of the governing body shall fail to concur in the adoption of such ordinance, or (2) if a petition protesting the issuance of such bonds

signed by at least ten per cent of the qualified electors of the municipality shall have been filed with the comptroller within ten days from the publication of such proposed ordinance, then no bonds shall be issued under this Act without the assent of a majority of those voting upon a proposition for the issuance of such bonds in the manner provided by section 7 of this Act [section 874]. For the purpose of filing a petition protesting the issuance of bonds, a qualified elector shall be any resident citizen of the City of Memphis who is, on the date of the filing of said petition, qualified under the laws of the State of Tennessee and the Charter of the City of Memphis, qualified to vote for members of the council, if such election were then to be held. No qualified elector shall be permitted to withdraw his signature from such a petition after signing it. (Priv. Acts 1935, ch. 108, § 6, 1st Spec. Sess.; Priv. Acts 1937, ch. 123, § 18)

Sec. 874. Bond elections and procedure thereof.

If it is necessary to hold an election on the proposition to issue the bonds for either of the reasons set forth in section 6 of this Act [Section 873], such election shall be called by the governing body of the municipality, and the commissioners of election of Shelby County shall hold an election of the people to determine whether said bonds shall be issued, and such election is hereby ordered and provided for by this Act, and such commissioners of election are required to hold said election as hereinafter provided. Such election shall be held in the manner that other municipal elections are held, in the City of Memphis, and the voters at said election, save as otherwise herein provided, shall possess all of the qualifications required of voters in municipal elections in the City of Memphis. Said election shall be held under all of the restrictions now surrounding municipal elections in the City of Memphis, except that the commissioners of registration shall not be required to hold any supplemental registration prior to said election, but all persons who are registered in the city shall be eligible to vote, and those who have moved their place of residence since the last supplemental registration shall be permitted to vote in the ward in which they formerly registered, upon making affidavit to the officers of election that they have moved their residence since the last registration, and shall deliver to said officers of election their registration certificates, said registration certificates to be delivered up by the officers of said election to the commissioners of registration for cancellation. The date for the election provided for herein shall be fixed by the Council of the City of Memphis, and, if other elections are held on the same day, the elections herein provided for shall be held jointly or concurrently therewith, and the ballots hereinafter provided for may be printed so as to include all propositions voted for at the same election on the same ballot. (Priv. Acts 1935, ch. 108, § 7, 1st Spec. Sess.)

Sec. 875. Requirements as to ballots in bond elections.

At such election herein directed to be held the ballot shall contain, in addition, to the official designation of the ward and precinct in which the election is to be held, the question:

> "Shall the City of Memphis issue $_____ (naming the amount) of bonds for (briefly stating the purpose or purposes for which to be issued)."

And beneath or beside that question shall be: "Yes" and "No," so situated that the voters may conveniently mark beside said words with a cross mark, and the voter shall indicate his preference by marking opposite one of the two words. (Priv. Acts 1935, ch. 108, § 8, 1st Spec. Sess.)

Sec. 876. Canvass of ballots; conclusiveness of election.

The commissioners of election shall certify to the council, after a canvass of the ballots in the manner now required by law in municipal elections, the result of said election, and if a majority of the valid votes cast in said election shall be in favor of the bond issue provided for in this Act, then the council shall have the power to take all necessary steps and pass all necessary and proper ordinances for the issuance of said bonds. The bonds shall be salable immediately upon proper advertisement directly after the ordinance providing for their issuance, subsequent to the election hereinabove provided for, and no citizen or number of citizens shall have a right to demand another election upon the question of the issuance of said bonds; but the determination of the election herein provided for shall be conclusive and final, and the said bonds may be issued at any time after the final passage of the ordinance authorizing their issue. (Priv. Acts 1935, ch. 108, § 9, 1st Spec. Sess.)

Sec. 877. Contest of election; when election returns to be canvassed.

There shall be no contest of the election hereinabove directed to be held, unless proceedings to contest any such election are taken prior to the canvass of the returns by the commissioners of election. The said election returns shall be canvassed upon Monday of the week following any election provided for in this Act. (Priv. Acts 1935, ch. 108, § 10, 1st Spec. Sess.)

Sec. 878. Method of calling election; when bonds to be issued.

If it is necessary to hold an election as hereinbefore provided, the call for such election may be made by the governing body by resolution and delivery of a copy thereof, certified by the comptroller, delivered to the chairman of the commissioners of election, and shall require the holding of such election at the time fixed in said resolution. Should a petition for election be filed before final passage of the ordinance authorizing the issuance of such bonds, the passage of such ordinance shall not be stayed, but same may proceed to final passage; provided, however, that no bonds shall be issued until the determination of such election and the receipt by the governing body of the City of Memphis of the certificate of the commissioners of election after a canvass of the ballots, if the results of such election is favorable to the issuance of such bonds. (Priv. Acts 1935, ch. 108, § 11, 1st Spec. Sess.; Priv. Acts 1937, ch. 123, § 18)

Sec. 879. Bond provisions.

The bonds may be issued in one or more series, may bear such date or dates, shall mature serially, commencing not later than five years from the date thereof, at such time or times, not exceeding forty years from their respective dates, may bear interest at such rate or rates, not exceeding six per centum per annum, payable semiannually, may be in such denomination, may be in such form, either coupon or registered, may be payable at such place or places, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption, with or without premium, and may be declared to become due before the maturity date thereof, as may be provided by ordinance of the governing body of the municipality. Said bonds may be sold at public or private sale by order of said council or other governing body at such times and places in such lots and manner as said council or governing authorities may deem best. No bonds shall be sold at less than par and accrued interest. The bonds shall be fully negotiable for all purposes. The validity of the authorization and issuance of the bonds authorized under this Act shall not be dependent on or affected in any way by proceedings taken for the construction of any public works project or contracts made in connection with the construction of any public works project. Bonds issued under this Act bearing the signature of officers in office on the date of signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. Pending the preparation or delivery of the definitive bonds for the purpose of financing the construction of a public works project, interim certificates or other temporary obligations may be issued by the municipality to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the governing body of the municipality issuing the same may determine. At any time after the bonds have been delivered to the purchaser thereof such bonds may be repurchased by the municipality at a price not more than the principal amount thereof plus the accrued interest, and all bonds so purchased shall be cancelled.

The passage of the ordinance of said city directing the issuance of said bonds and their sale shall be conclusive evidence in favor of any purchaser thereof of the necessity of such bond issue, and the receipt of the city treasurer for the proceeds of said bonds shall be a full acquittance to the purchaser, who shall be under no obligation to see to the actual application of said proceeds. (Priv. Acts 1935, ch. 108, § 12, 1st Spec. Sess.)

Sec. 880. Authority as to issuance and sale of bonds; incontestability of bonds.

This Act shall, without reference to any other Act of the general assembly of the State of Tennessee, be full authority to the City of Memphis to issue and sell bonds as in this Act authorized, which shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers for value. No proceedings on the part of said city in respect to the issuance of any such bonds shall be necessary except such as are required by this Act. (Priv. Acts 1935, ch. 108, § 13, 1st Spec. Sess.)

Sec. 881. Tax exemption for principal and interest on bonds.

In the event the faith and credit of the City of Memphis are pledged to payment of the principal and interest of said bonds, neither the principal of nor the interest on the bonds issued shall be taxed by the State of Tennessee, or by any county or municipality thereof; and it shall be so stated on the face of the bonds in conformity to the provisions of section 1088 of the Code of Tennessee of 1932.*

If by the provisions of the Public Works Acts of 1935 or any other law passed by this or any later general assembly the incorporated cities and towns of the state are empowered to issue bonds to finance public works projects made non-taxable by the State of Tennessee, or any county or municipality thereof, whether the faith and credit of such municipality be pledged to the payment of principal and/or interest thereof or not, then neither the principal of, nor the interest on, the bonds issued under the provisions of this Act shall be taxed by the State of Tennessee, or by any county or municipality thereof; and it shall be so stated on the face of the bonds. (Priv. Acts 1935, ch. 108, § 14, 1st Spec. Sess.)

***Editor's note—**See now T.C.A. § 67-505.

Sec. 882. Power of holders to enforce payment by taxation.

Unless the ordinance authorizing the issuance of said bonds pledges the full faith and credit of the City of Memphis to payment of principal and interest thereof no holder or holders of any such bond shall ever have the right to compel any exercise of taxing power of the municipality to pay such bonds or the interest thereon. If the full faith and credit of the city is pledged to payment of principal and interest, such fact shall be recited in the face of the bonds. If issued without the pledge of such faith and credit each such bond issued under the provisions of this Act shall recite in substance that said bond including interest thereon is payable from the revenue pledged to the payment thereof, and/or is secured by mortgage, deed of trust or other security to be briefly described therein, and that the holder of said bond shall have no recourse to the power of taxation. (Priv. Acts 1935, ch. 108, § 15, 1st Spec. Sess.)

Cross reference—Taxation generally, §§ 752 et seq.

Sec. 883. Projects to be self-supporting.

The governing body of the municipality issuing bonds for the payment of principal and interest on which the full faith and credit of the city is not pledged, shall prescribe and collect reasonable rates, rents, fees or charges for the services, facilities and commodities of such public works project, and shall revise such rates, fees or charges from time to time whenever necessary so that such public works project shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered including the accumulation during the first five years of the operation of such public works project of a reserve equal to the average annual requirements for the payment of principal and interest on outstanding bonds issued pursuant to this Act for such public works project, which reserve shall be accumulated at the rate of twenty per centum per annum, and (b) to provided for all expenses of operation and maintenance of such public works project, including reasonable reserves therefor. (Priv. Acts 1935, ch. 108, § 16, 1st Spec. Sess.)

Sec. 884. Authority to issue bonds regardless of debt limitation.

Bonds may be issued under this Act notwithstanding and without regard to any limit on indebtedness provided by law. Said bonds are not to be taken into consideration in computing any limitation of indebtedness applicable to the City of Memphis. (Priv. Acts 1935, ch. 108, § 17, 1st Spec. Sess.)

Sec. 885. Additional powers of city to secure bonds and make agreements.

In order to secure the payment of any of the bonds issued pursuant to this Act, and interest thereon, or in connection with such bonds, any municipality shall have power as to such bonds:

(a) To pledge the full faith and credit and unlimited taxing power of the municipality to the punctual payment of the principal of and interest on such bonds, except bonds payable exclusively from the revenues of a public works project.

(b) To pledge all or any part of the fees, rents, tolls, or other charges received or receivable by the municipality from any public works project then existing or thereafter to be constructed to the punctual payment of bonds issued for

such public works project, and interest thereon, and to covenant against thereafter pledging any such fees, rents, tolls, or charges to any other bonds or any other obligations of the municipality for any other purposes.

(c) To provide for the terms, form, registration, exchange, execution and authentication of such bonds.

(d) To provide for the replacement of lost, destroyed or mutilated bonds.

(e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.

(f) To covenant as to the fees, rents, or tolls to be charged in connection with the public works project for which such bonds are to be issued and as to the disposition to be made thereof.

(g) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.

(h) To redeem such bonds, and to covenant for their redemption, and to provide the terms and conditions thereof.

(i) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.

(j) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(k) To covenant as the rights, liabilities, powers and duties arising upon the breach by it of any covenant, conditions, or obligations.

(l) To vest in a trustee or trustees the right to receive all or any part of the income and revenue pledged and assigned to, or for the benefit of, the holder or holders of bonds issued hereunder, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay in relation to the bonds; to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting the liabilities thereof and describing what happenings or occurrences shall constitute events of default and prescribing the terms and conditions upon which such trustee or trustees of the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate.

(m) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties.

(n) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the discretion of the governing body of the municipality tend to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the purpose hereof to give the municipality power to do all things in the issuance of the bonds and for their security that may be consistent with the Constitution of the State of Tennessee. (Priv. Acts 1935, ch. 108, § 18, 1st Spec. Sess.)

Sec. 886. Additional rights of holders of bonds.

Any holder or holders of the bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(a) By mandamus or other suit, action or proceeding in any court of competent jurisdiction to enforce his or their rights against the municipality, and the governing body of the municipality and any officer, board, commission, agent or employee of the municipality, including, but not limited to, the right to require the municipality and the governing body and any proper officer, board, commission, agent or employee of the municipality to assess, levy and collect taxes, and to fix and collect fees, rents, tolls, or other charges adequate to carry out any agreement as to, or pledge of, such taxes, fees, rents, tolls, or other charges, and to require the municipality and the governing body of the municipality and any officer, agent or employee of the municipality to carry out any other covenants and agreements and to perform its and their duties under this Act, provided, however, no holder or holders of bonds to the payment of which the faith and credit of the city has not been expressly pledged shall ever have the right to compel the levying and collection of taxes to pay such bonds or the interest thereon.

(b) By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such holder or holders of bonds. (Priv. Acts 1935, ch. 108, § 19, 1st Spec. Sess.)

Sec. 887. Authority of city to confer additional rights to holders of bonds.

The municipality shall have power by ordinance of its governing body to confer upon any holder, or holders of a specified amount or percentage of bonds, payable in whole or in part from the revenue of a public works project including a trustee or trustees for such holders, the right should there occur or happen an "event or default" as defined in such ordinance or as may be defined in any agreement with the holder or holders of such bonds or the trustee or trustees therefor:

(a) By suit, action or proceeding in the chancery court to obtain the appointment of a receiver of any public works project of the municipality or any part or parts thereof. If such receiver be appointed he may enter and take possession of such public works project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, tolls, or other charges thereafter arising therefrom in the same manner as the municipality itself might do and shall dispose of such money in a separate account or accounts and apply the same in accordance with the obligations of the municipality as the court shall direct.

(b) By suit, action or proceeding in the chancery court to require the governing body of the municipality to account as if it were the trustee of an express trust. (Priv. Acts 1935, ch. 108, § 20, 1st Spec. Sess.)

Sec. 888. Use and acquisition of property already in public use.

The municipality may use any right of way, easement, or other similar property right already devoted to a public use necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a public works project held by the state, or any political subdivision or agency thereof, or by any person, firm or corporation enjoying the right of eminent domain, provided that the state or the political subdivision or agency thereof or the party holding or enjoying such right of public use shall consent to the use thereof.

If the parties cannot agree to the use of said property for a public works project, then the municipality shall have the right to condemn the same under the general law now in force, or which may hereafter be enacted, providing for the taking of property for public use, provided, however, nothing herein contained shall be held to authorize the taking of property for a public works project which shall destroy or unnecessarily interfere with the prior use of such property by the owner or holder thereof for other public uses, for which such property has been acquired by purchase, condemnation or otherwise. (Priv. Acts 1935, ch. 108, § 21, 1st Spec. Sess.)

Sec. 889. When consent of another municipality required.

The municipality shall not construct a public works project wholly or partly within the corporate limits of another municipality except with the consent of the governing body of such other municipality. (Priv. Acts 1935, ch. 108, § 22, 1st Spec. Sess.)

Sec. 890. Allotment of funds by Federal agency required before delivery of bonds.

No bonds shall be delivered under this Act unless a Federal agency has made an allotment of funds to aid by way of loan or grant or both (or has entered into an agreement to make such loan or grant or both) the construction of the public works project for which such bonds are to be issued. (Priv. Acts 1935, ch. 108, § 23, 1st Spec. Sess.)

Sec. 891. Supplemental nature of Act.

The powers conferred by this Act shall be in addition and supplemental to, and the limitations contained in any provision of this Act shall not affect the powers conferred by any other law and not in substitution for the powers conferred by any other law. Bonds may be issued hereunder for any public works project notwithstanding that any other law may provided for the issuance of bonds for like purposes and without regard to the requirements, restrictions or procedural provisions contained in any other law. Any proceedings heretofore taken by any municipality relating to the subject matters of this Act, whether or not commenced under any other law, may be continued under this Act, or, at the option of the governing body, may be discontinued and new proceedings instituted under this Act. (Priv. Acts 1935, ch. 108, § 24, 1st Spec. Sess.)

Sec. 892. Separability of bond provisions from general grant of powers.

The provisions of this Act relating to the issuance of bonds or other evidences of indebtedness for the purposes of raising money to carry out the purposes of this Act are hereby declared to be separable from all other provisions of this

Act; and in the event that the municipality shall have initiated a project falling within the purview of a public works project as defined in this Act, and has power under any other law or referendum election to issue bonds for such projects, the power and authority to issue such bonds under the powers of such other Act, shall not be abridged nor impaired, and it shall not be necessary for the municipality to issue bonds under the provisions of this Act in order to take advantage of the provisions hereof with reference to the acquisition, ownership, management, maintenance or operation of a public works project; and the municipality shall have the right to contract with the United States Government, or any agency or corporation thereof, or with any other person, firm or corporation, with whom or which it is authorized to contract under the provisions of this Act with respect to any power granted to it under the provisions of this Act irrespective of the compliance by the municipality with the provisions hereof relating to the issuance of bonds, certificates of indebtedness, or other evidences of indebtedness. (Priv. Acts 1935, ch. 108, § 25, 1st Spec. Sess.)

Sec. 893. Purpose of Act; construction.

It is the purpose of this Act to enable municipalities to secure the benefits of the Recovery Act, to encourage public works, to reduce unemployment and thereby to assist in the national recovery and promote the public welfare, and to these ends the municipality shall have power to do all things necessary or convenient to carry out said purpose in addition to the power conferred in this Act. This Act is remedial in nature and the powers hereby granted shall be liberally construed. (Priv. Acts 1935, ch. 108, § 26, 1st Spec. Sess)

ARTICLE 79. HOUSING AUTHORITY LAW*

***General law reference—**Housing Authorities Law, T.C.A. §§ 13-801—13-1133.

Sec. 894. Definitions.

The following terms, wherever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) *"Authority" or "housing authority"* shall mean a public body and a body corporate and politic organized in accordance with the provisions of this Act for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(2) *"City"* shall mean the City of Memphis.

(3) *"Board"* shall mean the council charged with governing the City of Memphis.

(4) *"Comptroller" and "mayor"* shall mean the comptroller and mayor, respectively, of the city or the officers thereof charged with the duties customarily imposed on the comptroller and mayor, respectively.

(5) *"Commissioner"* shall mean one of the members of the authority appointed in accordance with the provisions of this Act.

(6) *"Government"* shall include the state and Federal governments and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(7) *"State"* shall mean the State of Tennessee.

(8) *"Federal government"* shall include the United States of America, the Federal Emergency Administration of Public Works, or any agency, instrumentality, corporate or otherwise, of the United States of America.

(9) *"Housing project"* shall include all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking (a) to demolish, clear, remove, alter or repair unsanitary or unsafe housing, and/or (b) to provide safe and sanitary dwelling accommodations for persons of low income. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of the property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) *"Community facilities"* shall include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority and/or the occupants of the dwelling accommodations.

(11) *"Bonds"* shall mean any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this Act.

(12) *"Mortgage"* shall include deeds of trust, mortgages, building and loan contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof.

(13) *"Trust indenture"* shall include instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

(14) *"Contract"* shall mean any agreement of the authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(15) *"Real property"* shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(16) *"Obligee of the authority" or "obligee"* shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the Authority.

(17) *"Persons of low income"* shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding. (Priv. Acts 1935, ch. 615, § 28; Priv. Acts 1937, ch. 900, § 1)

Sec. 895. Short title.

This Act may be referred to as the Memphis Housing Authority Law. (Priv. Acts 1935, ch. 615, § 2)

Sec. 896. Necessity for law.

It is declared that unsanitary or unsafe dwelling accommodations exist in the City of Memphis, Shelby County, Tennessee, and that such unsafe or unsanitary conditions arise from overcrowding and concentration of population, the obsolete and poor condition of the buildings, improper planning, excessive land coverage, lack of proper light, air and space, unsanitary design and arrangement, lack of proper sanitary facilities, and the existence of conditions which endanger life or property by fire and other causes; that many persons of low income are forced to reside in unsanitary or unsafe dwelling accommodations; that there is a lack of safe or sanitary dwelling accommodations available to all the inhabitants thereof and that consequently many persons of low income are forced to occupy overcrowded and congested dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens and impair economic values; that these conditions cannot be remedied by the ordinary operations of private enterprises; that the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination. (Priv. Acts 1935, ch. 615, § 3)

Sec. 897. Council to determine need for authority; factors to be considered.

The Council of the City of Memphis shall have authority to determine whether there is need for an authority to function in the City of Memphis, and in so determining, shall consider

(1) Whether unsanitary or unsafe inhabited dwelling accommodations exist in the city.

(2) Whether there is a lack of safe or sanitary dwelling accommodations in the city available for all the inhabitants thereof.

In determining whether dwelling accommodations are unsafe or unsanitary, the council [] shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. (Priv. Acts 1935, ch. 615, § 4)

Sec. 898. Adoption of resolution embodying decision; appointment of commissioners.

If it shall determine that either or both of the above enumerated conditions exist, the Council of the City of Memphis shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall cause notice of such determination to be given to the mayor who shall thereupon appoint, as hereinafter provided, five commissioners to act as an authority, and who shall be known as the Memphis Housing Authority. Said commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings. (Priv. Acts 1935, ch. 615, § 4)

Sec. 899. Application for incorporation.

The commissioners shall present to the secretary of the state an application signed by them, which shall set forth (without any detail other than the mere recital) (1) that the mayor has appointed them as commissioners; (2) the name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Act; (3) the term of office of each of the commissioners; (4) the name which is proposed for the corporation; and (5) the location of the principal office of the proposed corporation. The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the state to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The secretary of state shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this state or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office. (Priv. Acts 1935, ch. 615, § 4)

Sec. 900. Certificate of incorporation.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the secretary of state shall make and issue to the add commissioners, a certificate of incorporation pursuant to this Act, under the seal of the state, and shall record the same with the application. (Priv. Acts 1935, ch. 615, § 4)

Sec. 901. Boundaries of authority.

A. *City of Memphis.* The boundaries of the authority shall include all territory within the corporate limits of the City of Memphis.

B. *Shelby County.*

(a) Upon adoption of an ordinance by the Shelby County Board of Commissioners as provided in paragraph (b) below, the authority is authorized and empowered to exercise and operate its governmental or corporate activities or functions for and on behalf of Shelby County and within the boundaries thereof outside the City of Memphis, provided, however, that the authority shall not be authorized to exercise its powers or functions in any city or municipality other than the City of Memphis located within the boundaries of Shelby County unless an ordinance declaring that there is a need for the authority to exercise its powers within such city or municipality and containing similar provisions as those applicable to Shelby County in paragraph (b) below shall have been adopted by the governing body of such city or municipality, such governing body to then have the same rights and privileges as to its community as the other governing bodies are granted in subparagraph (b)6) below and the authority to then be deemed authorized to exercise and operate its governmental and corporate activities for such city or municipality.

(b) Upon adoption of an ordinance by the Shelby County Board of Commissioners declaring that there is a need for only one housing authority to operate in Memphis and Shelby County, that the authority (Memphis Housing Authority) is designated as the housing authority to so operate, that such authority is delegated and granted all the necessary and convenient powers and attributes of the county to carry on and exercise any and all functions of a housing authority in this state for public purposes and in the public interest as permitted and allowed under the housing authority law and under the Charter of the City of Memphis, and that the provisions and action set forth below in subparagraphs (1) through (6) and Section 907 of the Charter of the City of Memphis as hereafter clarified are approved and adopted by the Shelby County Board of Commissioners, the authority shall be deemed authorized and

empowered as provided in paragraph (a) above to exercise and operate its governmental and corporate activities for and on behalf of Shelby County and within its boundaries outside the City of Memphis and outside the boundaries of other cities and municipalities located in Shelby County, and the following provisions shall be in force and effect:

(1) That the Shelby County Housing Authority is directed to transfer all of its property (real, personal, mixed or of whatever kind or character) and to assign all its contracts, choses in action, and rights of any other kind or character to the authority, which shall be accomplished with reasonable expedition, provided that, if there are any bonds and notes outstanding against Shelby County Housing Authority, the holders thereof shall first consent in writing to the substitution of the authority in lieu of Shelby County Housing Authority on all such bonds or notes.

(2) That the authority shall be responsible for all debts, liabilities, and obligations of the Shelby County Housing Authority.

(3) That the authority shall commence its functions on behalf of Shelby County with reasonable expedition.

(4) The Shelby County Housing Authority shall be deemed dissolved upon compliance with the provisions of subparagraph (2) above.

(5) The cooperation agreement now in existence between Shelby County and the Shelby County Housing Authority shall be deemed to continue in effect as between the authority and Shelby County, with the authority succeeding to the rights of the Shelby County Housing Authority under such cooperation agreement.

(6) That whenever a public hearing is required by Section 13-20-104 of the Tennessee Code Annotated, such public hearing shall be held by the Shelby County Board of Commissioners when the proposed project is located outside the City of Memphis and by the city council of the City of Memphis when the proposed project is located in such city, the Shelby County Board of Commissioners being authorized to approve public housing project plans located in the county outside of the City of Memphis and the city council of the City of Memphis being authorized to approve public housing plans located in the City of Memphis. (Acts 1879, ch. 11; Priv. Acts 1935, ch. 615, § 4; Ord. No. 3793, § 1(1), 8-9-88)

Sec. 902. Presumption of establishment of authority in accord with Act, etc.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate, duly certified by the secretary of state, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof. (Priv. Acts 1935, ch. 615, § 4)

Sec. 903. Composition of authority; appointment; chairman; term; vacancies; quorum; compensation; employment of officers; agents and employees.

The authority shall consist of five commissioners appointed by the mayor and he shall designate the first chairman.

The commissioners who are first appointed shall be designated by the mayor to serve for terms of one, two, three, four and five years respectively from the date of their appointment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Three commissioners shall constitute a quorum. The mayor shall file with the comptroller a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. The authority shall select from among its members a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The authority may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. (Priv. Acts 1935, ch. 615, § 5; Priv. Acts 1937, ch. 123, § 18)

Sec. 904. Duty to comply with Act and contracts.

The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Act, and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed. (Priv. Acts 1935, ch. 615, § 6)

Sec. 905. Commissioners and employees to have no interest in project.

No commissioner or employee of the authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of the authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interests shall constitute misconduct in office. (Priv. Acts 1935, ch. 615, § 7)

Sec. 906. Removal of commissioners.

The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner shall have been given a copy of the charges against him (which may be made by the mayor) at least ten (10) days prior to the hearing thereon and had an opportunity to be heard in person or by counsel.

Any obligee of the authority may file with the mayor written charges that the authority is violating wilfully any laws of the state or any term, provision or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of such charges at least ten days prior to the hearing thereon and an opportunity to be heard in person or by counsel and shall within fifteen days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such wilful violation.

A commissioner shall be deemed to have acquiesced in a wilful violation by the authority of a law of this state or of any term, provision or covenant contained in a contract to which the authority is a party, if before a hearing is held on the charges against him, he shall not have filed a written statement with the authority of his objections to, or lack of participation in such violation.

In the event of the removal of any commissioner, the mayor shall file in the office of the comptroller a record of the proceedings together with the charges made against the commissioners and the findings thereof. (Priv. Acts 1935, ch. 615, § 8; Priv. Acts 1937, ch, 123, § 18)

Sec. 907. Powers of authority generally.

The authority shall constitute a public body and body corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where unsafe, or unsanitary dwelling or housing conditions exists; to study and make recommendations concerning the plan within the boundaries of the city in relation to the problem of clearing, replanning and reconstruction of areas in which unsafe, or unsanitary dwelling or housing conditions exist, and the providing of dwelling accommodations for persons of low income, and to cooperate with the city; to prepare, carry out and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to act as agent of the Federal Government in connection with the acquisition, construction, operation and/or management of a housing project or any part thereof; to provide and maintain parks and sewerage, water and other facilities adjacent to or in connection with housing projects, and to lease or rent any of the dwellings or other accommodations or any of the lands, buildings, structures or facilities embraced in any housing project and to establish and revise the rents or charges therefor; to enter upon any building or property in order to conduct investigations or to make surveys or soundings; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, device, or otherwise any property real or personal or any interest therein from any person, firm, corporation, city, municipality, or government; to acquire by eminent domain any real property, including improvements and fixtures thereon; to sell, exchange, transfer, assign, or pledge any property real or personal or any interest therein to any person, firm, corporation, municipality, city, or government; to own, hold, clear and improve property; to insure or

provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable; to procure insurance or guarantees from a [the] Federal Government of the payment of any debts or parts thereof secured by mortgages made or held by the authority or any property included in any housing project; to borrow money upon its bonds, notes, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues, and (subject to the limitations hereinafter imposed) by mortgages upon property held or to be held by it, or in any other manner; in connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof or to undertake additional housing projects; in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the authority by this Act; to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with this Act, to carry into effect the powers and purposes of the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the authority, or excused from attendance; and to make available to such agencies, boards or commissions as are charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare. Any of the investigations or examinations provided for in this Act may be conducted by the authority or by a committee appointed by it, consisting of one or more commissioners, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination shall have power to administer oaths, take affidavits and issue subpoenas or commissions. The authority may exercise any or all of the powers herein conferred upon it, either generally or with respect to any specific housing project or projects, through or by an agent or agents which it may designate, including any corporation or corporations which are or shall be formed under the laws of this state, and for such purposes an authority may cause one or more corporations to be formed under the laws of this state or may acquire the capital stock of any corporation or corporations. Any corporate agent, all of the stock of which shall be owned by the authority or its nominee or nominees, may to the extent permitted by law exercise any of the powers conferred upon the authority herein. In addition to all of the other powers herein conferred upon it, the authority may do all things necessary and convenient to carry out the powers expressly given in this Act. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to the authority unless the legislature shall specifically so state.

Notwithstanding anything to the contrary contained in this Act or in any other provision of law, the authority may include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractor comply with requirements as to minimum wages and maximum hours of labor and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

In addition to its rights, powers and privileges granted to the authority in this section and in other sections of this article and elsewhere, the authority is granted the rights, powers, privileges, immunities, and limitations of a housing authority organized in accordance with the provisions of the “Housing Authority Law” of the State of Tennessee (to-wit: Sections 13-20-101 et seq., of the Tennessee Code Annotated) that such law presently grants to such housing authorities and that such law may hereafter grant to housing authorities by amendment thereto, it being further clarified and provided that the authority is a governmental entity under Section 29-20-101 et seq., of the Tennessee Code Annotated and is governed by the provisions of such statute and that the immunities provided commissioners, supervisors, and employees under Sections 29-20-201 and 29-20-310 of the Tennessee Code apply to the commissioners, supervisors and employees of the authority. (Priv. Acts 1935, ch. 615, § 9; Priv. Acts 1937, ch. 900; Ord. No. 3793, § 1(2), 8-9-88)

Sec. 908. Power as to eminent domain.

The authority shall have the right to acquire by eminent domain any property real or personal which it may deem necessary to carry out the purposes of this Act after the adoption by it of a resolution declaring that the acquisition of

the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of either:

(a) Sections 3109 to 3134 of the Code of Tennessee of 1932,* and any amendments thereto; or

(b) Pursuant to any other applicable statutory provisions, now in force or hereafter enacted, for the exercise of the power of eminent domain.

Property already devoted to a public use may be acquired, provided that no property belonging to the city or the government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officer or tribunal, if any there be, having regulatory power over such corporation. (Priv. Acts 1935, ch. 615, § 10)

***Editor's note—**See now T.C.A. § 23-1401 et seq.

Cross reference—Eminent domain generally, § 457 et seq.

Sec. 909. Power to convey title or deliver possession.

The authority may acquire by purchase or by the exercise of its power of eminent domain as aforesaid, any property real or personal for any housing project being constructed or operated by a government. The authority upon such terms and conditions, with or without consideration, as it shall determine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such housing project. (Priv. Acts 1935, ch. 615, § 11)

Sec. 910. Projects subject to zoning and building laws, etc.

All housing projects of the authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations of the City of Memphis. (Priv. Acts 1935, ch. 615, § 12)

Sec. 911. Bond issues generally.

The authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. The authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable from income and revenues of the authority and from grants or contributions from the Federal Government or other source. Such income and revenues securing the bonds may be:

(a) exclusively the income and revenues of the housing project financed in whole or in part with the proceeds of such bonds; (b) exclusively the income and revenues of certain designated housing projects, whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) the income and revenues of the authority generally. Any such bonds may be additionally secured by a pledge of any income or revenues of the authority or in certain instances as hereinafter provided, may be additionally secured by a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city and neither shall the city be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness against the city within the meaning of any constitutional, statutory or charter debt limitation or restriction. Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed by any statute. (Priv. Acts 1935, ch. 615, § 13; Priv. Acts 1939, ch. 235, § 2)

Sec. 912. Maturity; interest; denominations; redemption; etc., of bonds.

The bonds of the authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding 60 years from their respective dates, bear interest at such rate or rates, not exceeding six per centum (6%) per annum payable semi-annually, be in such denominations (which may be made interchangeable), be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such

terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide. (Priv. Acts 1935, ch. 615, § 14)

Sec. 913. Notice of bond sale; selling price for bonds.

The bonds may be sold at public sale held after notice published once at least ten days prior to such sale in a newspaper having a general circulation in the city and in a financial newspaper published in the City of New York, New York, or in the City of Chicago, Illinois, provided, however, that such bonds may be sold to the Federal Government at private sale without any public advertisement. The bonds may be sold at such price or prices as the authority shall determine provided that the interest cost to maturity of the money received for any issue of said bonds shall not exceed six per centum (6%) per annum. (Priv. Acts 1935, ch. 615, § 14)

Sec. 914. Interim certificates or temporary obligations.

Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine.

In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. (Priv. Acts 1935, ch. 615, § 14)

Sec. 915. Purchase of bonds by authority; negotiability of bonds, certificates and other obligations.

The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any such revenues available therefor. All bonds so purchased shall be cancelled. This paragraph shall not apply to the redemption of bonds.

Any provision of any law to the contrary notwithstanding any bonds, interim certificates, or other obligations issued pursuant to this Act shall be fully negotiable. (Priv. Acts 1935, ch. 615, § 14)

Sec. 916. General powers of authority in connection with bonds and other obligations.

In connection with the issuance of bonds and/or the incurring of any obligation under a lease and in order to secure the payment of such bonds and/or obligations, the authority shall have power:

(1) To pledge by resolution, trust indenture, mortgage (subject to the limitations hereinafter imposed), or other contract all or any part of its rents, fees, or revenues.

(2) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon.

(3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects.

(4) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

(5) To provide for the lease of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

(6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) To covenant as to what other or additional debt may be incurred by it.

(8) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(9) To provide for the replacement of lost, destroyed or mutilated bonds.

(10) To covenant that the authority warrants the title to the premises.

(11) To covenant as to the rents and fees to be charged, the amount (calculated as may be determined) to be raised each year or other period of time by rents, fees, and other revenues and as to the use and disposition to be made thereof.

(12) To covenant as to the use of any or all of its property, real or personal.

(13) To create or to authorize the creation of special funds in which there shall be segregated (a) the proceeds of any loan and/or grant; (b) all the rents, fees and revenues of any housing project or projects or parts thereof; (c) any moneys held for the payment of the costs of operation and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases and/or as a reserve for such payments; and (e) any moneys held for any other reserves or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(14) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(15) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(16) To prescribe the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(17) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(18) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto.

(19) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(20) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

(21) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of any event of default (as defined in the contract) and to vest in an obligee the right without judicial proceedings to take possession and to use, operate, manage, and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the moneys collected in accordance with the agreement of the authority with such obligee.

(22) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(23) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

(24) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the authority may reasonably require.

(25) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the constitution of the state and no consent or approval of any judge or court shall be required thereof; provided, however, that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in section 16 hereof [section 917]. (Priv. Acts 1935, ch. 615, § 15)

Sec. 917. Power to mortgage premises; rights of trustees and obligees.

In connection with any project financed in whole or in part or otherwise aided by a government (whether through a donation of money or property, a loan, the insurance or guarantee of a loan, or otherwise), the authority shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, and hereby:

(a) To vest in a government the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, so long as a government shall be the holder of any of the bonds secured by such mortgage.

(b) To vest in a trustee or trustees, the right upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings.

(c) To vest in other obligees the right to foreclose such mortgage by judicial proceedings.

(d) To vest in obligee, including a government, the right of foreclosing any mortgage as aforesaid, to foreclose such mortgage as to all or such part or parts of the property covered thereby as such obligee (in its absolute discretion) shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings and/or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold as aforesaid. (Priv. Acts 1935, ch. 615, § 16)

Sec. 918. Additional rights of obligee.

An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority of [by] this Act.

(b) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

(c) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority. (Priv. Acts 1935, ch. 615, § 17)

Sec. 919. Power of authority to confer upon obligee additional rights.

The authority shall have power by its trust, indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations, the right upon the happening of an "event of default" as defined in such instrument:

(a) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(b) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust. (Priv. Acts 1935, ch. 615, § 18)

Sec. 920. Rights and remedies of obligees declared cumulative.

All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority. (Priv. Acts 1935, ch. 615, § 19)

Sec. 921. Property of authority exempt from execution and foreclosure; exception.

No interest of the authority in any property, real or personal, shall be subject in [to] sale by the foreclosure of a mortgage thereon, either through judicial proceedings or the exercise of a power of sale contained in such mortgage,

except in the case of the mortgages provided for in section 16 hereof [section 917]. All property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall be a charge or lien upon its property, real or personal. The provisions of this section shall not apply to or limit the right of obligees to foreclose any mortgage of the authority provided for in section 16 hereof [section 917] and, in case of a foreclosure sale thereunder, to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby and issued on the credit of the authority. Such deficiency judgment or decree shall be a lien and charge upon the property of the authority which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree. (Priv. Acts 1935, ch. 615, § 20)

Sec. 922. Mortgage of property may be subordinate to supervision contract of government.

The authority may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon; in such event, any purchaser or purchasers at a sale of the property of an authority pursuant to a foreclosure of such mortgage or any other remedy in connection therewith shall obtain title subject to such contract. (Priv. Acts 1935, ch. 615, § 21)

Sec. 923. Power of authority to borrow money and take land from Federal Government; supervision of Federal Government.

In addition to the powers conferred upon the authority by other provisions of this Act, the authority is empowered to borrow money or accept grants from the Federal Government for or in aid of any housing project which such authority is authorized to undertake, to take over any land acquired by the Federal Government for the construction or operation of a housing project, to take over or lease or manage any housing project, constructed or owned by the Federal Government, and to these ends, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the Federal Government may require, including agreements that the Federal Government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and intent of this Act to authorize every authority to do any and all things necessary to secure the financial aid and the cooperation of the Federal Government in the undertaking, construction, maintenance and operation of any housing project which the authority is empowered to undertake. (Priv. Acts 1935, ch. 615, § 22)

Sec. 924. Annual report to mayor.

The authority shall at least once a year file with the mayor of the city a report of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this Act. (Priv. Acts 1935, ch. 615, § 26)

Sec. 925. Operation not for profit.

It is declared to be the policy of this state that the housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that the housing authority shall not construct or operate any such project for profit, or as a source of revenue to the city. To this end the authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (a) to pay, as the same becomes due, the principal and interest on the bonds of the authority; (b) to meet the cost of, and to provide for, maintain and operating the projects (including the cost of any insurance on its property or bonds) and the administrative expenses of the authority; and (c) to create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve. (Priv. Acts 1937, ch. 900, § 5)

Sec. 926. Rentals and tenant selection.

In the operation or management of housing projects, the authority shall at all times observe the following duties with respect to rentals and tenant selections: (a) It may rent or lease the dwelling accommodations therein only to persons of

low income. (b) It may rent or lease dwelling accommodations therein only at rentals within the financial reach of such persons of low income. (c) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding. (d) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in the Memphis Housing Authority Law, as hereby amended, shall be construed as limiting the power of the Authority: (a) To vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by said law, as amended, with respect to rentals, tenant selection, manner of operation, or otherwise; or (b) pursuant to section 16 [section 917], to vest in obligees the right, in the event of a default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by said law, as amended, except those imposed by sections 16 and 21 [sections 917 to 922]. (Priv. Acts 1937, ch. 900, § 5; Priv. Acts 1939, ch. 235, § 3)

Sec. 927. Ratification of acts under former provisions.

The creation, establishment and organization of housing authorities under the provisions of the Housing Authorities Law, Chapter 20 of the Public Acts of Tennessee, First Special Session 1935, as amended by Chapter 234 of the Public Acts of 1937, and under the provisions of the Memphis Housing Authority Law, Chapter 615 of the Private Acts of Tennessee 1935, as amended by Chapter 900 of the Private Acts of Tennessee 1937, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

All contracts, agreements, obligations and undertakings of such housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions, contracts and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise made a part of the contract with such holders or notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

All proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, execution and delivery of notes and bonds by housing authorities for the purposes of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority. (Priv. Acts 1939, ch. 531, § 1—3)

Sec. 927.1. Urban renewal projects.*

(a) In addition to its authority under any other section of this Act, an [the] authority is hereby authorized to plan and undertake urban renewal projects. As used in this Act, an urban renewal project may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose,

"rehabilitation or conservation work" may include (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the objectives of the urban renewal project; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project; provided that such disposition shall be in the manner prescribed in this Act for the disposition of property in a redevelopment project area.

(b) Any urban renewal project undertaken pursuant to the preceding section [subsection] shall be undertaken in accordance with an urban renewal plan for the area of the project. As used in this Act, an "urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the City of Memphis as a whole; and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements. An urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in this Act with respect to a redevelopment plan.

(c) An [the] authority shall have all the powers necessary or convenient to undertake and carry out urban renewal plans and urban renewal projects, including the authority to acquire and dispose of property, to issue bonds and other obligations, to borrow and accept grants from the Federal Government or other source and to exercise the other powers which this Act confers on an [the] authority with respect to redevelopment projects. In connection with the planning and undertaking of any urban renewal plan or urban renewal project, the authority, the municipality, and all public and private officers, agencies, and bodies shall have all the rights, powers, privileges, and immunities which they have with respect to a redevelopment plan or redevelopment project, in the same manner as though all of the provisions of this Act applicable to a redevelopment plan or redevelopment project were applicable to an urban renewal plan or urban renewal project; provided that for such purpose the word "redevelopment" as used in this Act (except in this section and in the definition of "redevelopment project" in section 3) shall mean "urban renewal", the word "slum" and the word "blighted" as used in this Act (except in this section and in the definitions in section 4) shall mean "blighted, deteriorated, or deteriorating"; and provided further that this subsection shall not change the corporate name of the authority or the short title of this Act or amend any section of this Act. In addition to the surveys and plans which an [the] authority is otherwise authorized to make an [the] authority is hereby specifically authorized to make (i) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and (ii) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight.

(d) The Council of the City of Memphis is hereby authorized (without limiting any provision in the preceding section [subsection]) to do any and all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project in the said city, including the furnishing of such financial and other assistance as the said city is authorized by this Act to furnish for or in connection with a redevelopment plan or redevelopment project. The City of Memphis is hereby authorized to enter into agreements with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

(e) The Council of the City of Memphis is hereby authorized to prepare a workable program (which may include an official plan of action, as it exists from time to time for effectively dealing with the problem of urban slums and blighted, deteriorated, or deteriorating areas within the community and for the establishment and preservation of a well-planned community with well organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate and prevent the development or

spread of slums and urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of blighted, deteriorated, or slum areas, or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program. (Priv. Acts 1955, ch. 141, §§ 2—6)

***Editor's note—**Priv. Acts 1955, ch. 141, from which this section was derived, was enacted as an amendment and addition to Priv. Acts 1935, ch. 615, the Memphis Housing Authority Law set out in this Article. This section makes frequent reference to a "redevelopment project" and "redevelopment plan" as defined or provided for "in this Act," but such terms are not used or defined in either of these acts. or general law as to "redevelopment projects," see T.C.A. § 13-814 et seq.

Sec. 927.2. Unfit dwellings.

(a) Whenever the municipality finds that there exist in such municipality dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, including those set forth in subsection (c) hereof, rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety or morale, or otherwise inimical to the welfare of the residents of such municipality, power is hereby conferred upon such municipality to require or cause the repair, closing or demolition or removal of such dwellings in the manner herein provided. A "dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(b) Upon the adoption of an ordinance finding that dwelling conditions of the character described in subsection (a) hereof exist within a municipality, the council is hereby authorized to adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances shall include the following provisions:

(1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances.

(2) That whenever a petition is filed with the public officer by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complainant [complaint] stating the charges in that respect. Such complainant [complaint] shall contain a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of said complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(3) That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which

(A) If the repair, alteration or improvement of the said dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(B) If the repair, alteration or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to remove or demolish such dwellings.

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved, or to be vacated and closed.

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.

(6) That the amount of the cost of such repairs, alteration or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the

Chancery Court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

(c) An ordinance adopted by the municipality pursuant to this section shall provide that the public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morale of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such municipality, or which have a blighting influence on properties in the area. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements. Such ordinance may provide additional standards to guide the public officer or his agents or employees in determining the fitness of a dwelling for human habitation.

(d) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the municipality, or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the county in which the dwelling is located and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(e) Any person affected by an order issued by the public officer may petition the Chancery Court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty days after the posting and service of the order of the public officer, such person shall petition the court. Hearings shall be had by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all such proceedings the findings of the public officer as to fact, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be elusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of compliance by such person with any order of the public officer.

(f) An ordinance adopted by the council may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article [section], including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(4) To appoint and fix the duties of such officers, agent and employees as he deems necessary to carry out the purposes of such ordinance; and

(5) To delegate any of his functions and powers under such ordinance to such officers, agents and employees as he may designate.

(g) The council adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in such municipality for the purpose of determining the fitness of such dwellings for human habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.

(h) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(i) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Priv. Acts 1955, ch. 141, § 7)

Editor's note—Although the housing authority is not mentioned in this section, the section was enacted as an amendment and addition to the Memphis Housing Authority Law, from which this article is derived.

General law reference—Similar provisions, T.C.A. § 13-1202 et seq.

ARTICLE 80. CONDUIT DISTRICTS

Sec. 928. Power to establish.

The council or other legislative council of the City of Memphis shall have authority to establish by ordinance a conduit district or districts within the corporate limits of the City of Memphis for the purpose of placing in underground conduits all electric service wires that have heretofore been constructed by telephone, telegraph, electric power, or other electric service companies along or across public thoroughfares, streets, or alleys within the City of Memphis. (Priv. Acts 1937, ch. 487, § 2)

Code reference—Conduit district established, § 12-56-13.

Sec. 929. Authority to require removal of poles, wires, etc.

Whenever the council or other legislative council of the City of Memphis shall establish a conduit district or districts they shall have authority by ordinance to require that all persons, firms, or corporations owning telephone, telegraph, electric power, or other electric service lines passing along or across the public thoroughfares, streets or alley with such conduit district or districts shall remove their poles, wires, guy wires, and other appurtenances that have heretofore been constructed above the ground in such conduit district or districts, and said council or other legislative council shall have authority to prohibit by ordinance the construction of any such poles, wires, guy wires, or other appurtenances in the public thoroughfares, streets, or alleys located in such conduit district or districts. (Priv. Acts 1937, ch. 487, § 3)

Sec. 930. Authority to require electric service wire lines to be placed underground.

Whenever the council or other legislative council of the City of Memphis shall establish a conduit district or districts, they shall have authority to require by ordinance that all such electric service wire lines be placed in conduits underground, under such restrictions and regulations as said council or other legislative council shall adopt; provided, however, that the council shall have authority, by resolution, to permit the placing of conduits underground in those streets where no conduit districts have been established. (Priv. Acts 1937, ch. 487, § 4; Priv. Acts 1941, ch. 44, § 1, subsec. 13)

Code reference—Wires to be underground in conduit district, § 12-56-14.

Sec. 931. Cost of removal of poles, wires, etc.

The council or other legislative council of the City of Memphis shall have authority to require that the entire cost of removing such poles, wires, guy wires, and other appurtenances shall be borne by the persons, firms or corporations who are now using said appliances for the transmission of electric service. (Priv. Acts 1937, ch. 487, § 5)

Sec. 932. Cost of constructing and maintaining conduits.

The council or other legislative council of the City of Memphis shall have authority to require that the cost of constructing and maintaining conduits and manholes for electric service wire lines shall be borne by the persons, firms or corporations operating within the City of Memphis any telephone, telegraph, electric light or power service requiring the distribution of electric energy by means of such wires. (Priv. Acts 1937, ch. 487, § 6)

Sec. 933. Joint use of conduits.

The council or other legislative council of the City of Memphis shall have authority to require the construction and maintenance of joint or separate conduits for putting such wires underground by the various telegraph, telephone, electric power, or other electric service companies operating in the City of Memphis within the conduit district or districts hereafter established and whenever the council or other legislative council shall require the construction and maintenance of conduits for the joint use of two or more of said companies, said council or other legislative council shall have authority to determine the pro rata cost to be borne by each of such companies for the construction and maintenance of said conduits and manholes. (Priv. Acts 1937, ch. 487, § 7)

Sec. 934. Liability for damage to public or private property occasioned by the removal of poles, etc.

The council or other legislative council of the City of Memphis shall have authority to require that all damages that may result to public or private property in the removal of said poles, wires, guy wires and other appurtenances and in the construction and maintenance of conduits and manholes shall be borne by such telephone, telegraph, and electric light or power service companies. (Priv. Acts 1937, ch. 487, § 8)

ARTICLE 81. CHARTER OF THE BOARD OF EDUCATION OF MEMPHIS CITY SCHOOLS*

***Editor's note—**Art. 81 is derived from and has been amended from time to time by the ordinances indicated in the history note following the sections. Due to the nature of the subject matter involved, editorial analysis of ordinances adding, deleting or otherwise revising the content of said sections is omitted.

Cross references—School board to be furnished free water, § 696; taxes for school purposes, § 773; authority of council relative to art schools and academies, § 835.

DIVISION 1. IN GENERAL

Sec. 935. Management and control of schools vested in board; composition of board.

The Memphis city schools shall hereafter be placed under the exclusive management and control of a board of education, consisting of nine (9) members who shall be elected from said City of Memphis at large as hereinafter directed. (Priv. Acts 1868-69, ch. 39, § 1; Acts 1883, ch. 17, § 1; Priv. Acts 1970, ch. 340, § 2)

Sec. 936. Creation of board; general corporate powers.

Said board are [is] hereby created and constituted a body politic and corporate, by the name and style of the Board of Education of the Memphis City Schools, the life and existence of which corporation shall be perpetual and permanent, and by the name and style aforesaid, may purchase, receive, hold and possess property of any kind for the use of said city schools; may sue and be sued, plead and be impleaded, answer and be answered unto in all courts of record and courts of inferior jurisdiction. And said board shall have power to make, have and use a common seal, the same to break, alter and renew at pleasure, and generally to do and execute all acts, matters and things which a corporation or body politic in law may and can lawfully do and execute. (Priv. Acts 868-69, ch. 30, § 1; Priv. Acts 1959, ch. 24, § 2)

Sec. 937. Election and term of members of board.

(a) The board of education of the Memphis city schools shall consist of nine (9) members, seven (7) of whom shall be elected from seven (7) districts within the limits of the City of Memphis and two (2) of whom shall be elected from the City of Memphis at large, as hereinafter described. Each member shall be a resident of the City of Memphis and of the district from which he or she is elected. No person shall be elected, or appointed as hereinafter provided, as a member of the board of education of the Memphis city schools unless he or she shall have been a resident voter and taxpayer of the City of Memphis for not less than five (5) years preceding his or her election or appointment, or unless he or she shall have resided during the five (5) years preceding his or her election or appointment in territory that has been annexed to, and at the time of such election or appointment forms a part of, the City of Memphis, but it shall not be necessary for the territory in which such person resides to be annexed for five (5) years; nor shall any person be elected or appointed as a member of the said board of education from a particular district unless he or she has been a

resident of such district for not less than six (6) months preceding the date of his or her election. A second “home” or apartment in a district, where true domicile is not established, shall not be sufficient for residency under this section.

(b) Each of the seven (7) districts for the election of members of the board of education of the Memphis city schools shall be the same district as provided in the charter of the City of Memphis, as from time to time amended, for councilmen of the City of Memphis as such districts exist on the final qualification date for submission of nominating petitions to the Shelby County election commission prior to the municipal election in which such members of the said board are elected.

(c) The first election of the board of education of the Memphis city schools as herein provided shall take place on the first Thursday following the first Tuesday in October, 1971. In all elections for members of the board of education of the Memphis city schools, it shall be required that, in order to be elected, a candidate for membership on the board of education of the Memphis city schools must receive a majority of all of the votes cast for that office in his district or for his or her at large position. If no candidate receives such. a majority of votes in the election held on the first Thursday following the first Tuesday in October of every fourth year beginning in October, 1971, then a municipal election shall be held four (4) weeks thereafter wherein the two (2) candidates receiving the highest number of votes in the October election shall be the only candidates in such district or position, and the candidates in each district or position receiving a majority of the votes cast in such run-off election shall be elected.

(d) Members of the board of education of the Memphis city schools shall serve for terms of four (4) years, beginning January 1, 1972, and shall hold office until their successors are elected and qualified. They shall meet at times now required of the board of education of the Memphis city schools under the Act of 1869, as amended. The board of education of Memphis city schools shall elect from among its membership its own presiding officer, who shall be designated president of the board of education, for a term of one (1) year. The president shall be eligible to succeed himself. (Priv. Acts 1961, ch. 379, § 2; Priv. Acts 1967, ch. 220, §§ 1, 2; Priv. Acts 1967, ch. 260, §§ 1, 2; Priv. Acts 1970, ch. 340, §§ 2—5)

Cross reference—Elections generally, §§ 6—13.

Sec. 937.1. Candidates to run for numbered places.

A nominating petition or other qualifying procedure on behalf of a candidate for the office of member of the board of education of the Memphis city schools for a district shall designate the number of the particular district for which he or she is a candidate. A nominating petition or other qualifying procedure on behalf of a candidate for the said board of education for an at large position shall designate the position by number one or two for which he or she is a candidate. Each nominating petition shall be personally signed by the candidate in the same manner as provided in Section 2-811, Tennessee Code Annotated, and shall be accompanied by a deposit of one hundred dollars ($100.00) to be made with the secretary of the Shelby County election commission. In the event a candidate shall be elected, or shall receive as much as ten per cent (10%) of the total votes polled in the particular race in which he or she is a candidate, said amount shall be refunded to such candidate; otherwise, said amount shall be paid by the secretary of the Shelby County election commission to the comptroller of the City of Memphis and by him added to the funds theretofore authorized by the legislative council of the City of Memphis to be paid to the board of education of the Memphis city schools. Such funds shall be earmarked for education within the city limits of the City of Memphis and shall be in addition to all other funds, whether local, state or federal, authorized and/or paid over to the Memphis city schools, to be used in such manner for the improvement of education within the City of Memphis as the board of education of the Memphis city schools. shall direct. (Priv. Acts 1959, ch. 226, §§ 1—5; Priv. Acts 1967, ch. 260, § 3; Priv. Acts 1970, ch. 340, § 7)

Sec. 938. Organization of board; election of officers.

At the first meeting following each election of school commissioners, the board shall, from among its members, select a president and vice-president. The board shall also select the secretary, treasurer and superintendent who shall not be members of the board. The board may also select such other officers and servants as to them shall seem necessary to accomplish the object of the corporation and shall prescribe the powers, duties, obligations and compensation of the same. (Priv. Acts 1868-69, ch. 30, § 6; Acts 1883, ch. 17, § 7; Priv. Acts 1941, ch. 42; Priv. Acts 1967, ch. 260, § 4; Priv. Acts 1970, ch. 340, § 5)

Sec. 939. Adjournments until organized.

They may adjourn from day to day until the organization is perfect. (Priv. Acts 1868-69, ch. 30, § 5)

Sec. 940. Commissioners ineligible as secretary or treasurer.

No commissioner shall be eligible to the position of secretary or treasurer during the term for which he was elected commissioner. (Acts 1883, ch. 17, § 7; Acts 1907, ch. 87, § 3)

Sec. 941. Qualifications of members generally; board to be judge of qualifications.

No member of the council, or officer of the corporation of the City of Memphis, elected, shall be eligible to membership in the board of education.

They shall be citizens of said city.

Each commissioner shall be a man of good moral character and temperate habits. He shall be able to read and write and shall have a general knowledge of the common branches of learning sufficient to enable him to judge of the qualifications of teachers. He shall not hold any office or position for pay or compensation in the employ of the board of education, except the office of president, vice-president or chairman of its committee on buildings and grounds, nor shall he be interested, directly or indirectly, in any contract or business of said board. The board of education shall be judge of the qualifications of its own members. (Priv. Acts 1868-69, ch. 30, § 12; Acts 1883, ch. 17, § 5; Acts 1907, ch. 87, § 1)

Sec. 942. Eligibility of women to election on board.

In the election of members of boards of education in cities and counties, and in the election of members of the governing boards of all state, county and municipal institutions, women of the age of twenty-one and otherwise possessing the necessary qualifications shall be eligible for such positions; provided, that this Act shall not apply to counties having a population between 16,525 and 16,540 or counties of population of 25,390 to 25,400 of the Federal Census of 1910 or any subsequent Federal Census. (Pub. Acts 1915, ch. 16, § 1)

Sec. 943. Quorum.

The board of education of the Memphis city schools shall require a majority of its members to form a quorum for the transaction of business, but a smaller number may adjourn from day to day, and is empowered to adopt such measures as are necessary to compel the attendance of absent members. (Acts 1907, ch. 87, § 2; Priv. Acts 1970, ch. 340, § 10)

Sec. 944. By-laws.

Said board of education shall enact the by-laws for their government. (Acts 1883, ch. 17, § 7; Acts 1907, ch. 87, § 3)

Sec. 945. Bonds of president and commissioners.

Each one of the five commissioners shall enter into bonds in the sum of $5,000 with two good and sufficient sureties, which bonds shall be approved, in writing, by and filed with the mayor of the city for the faithful performance of their duties; and the president of the board shall also enter into an additional bond of $5,000, secured, approved and filed in like manner, for the faithful performance of his duties as president. (Acts 1883, ch. 17, § 5; Acts 1907, ch. 87, § 1)

Sec. 946. Compensation of president and members of board.

Members of the board of education of the Memphis city schools shall be paid five thousand dollars ($5,000.00) per annum, payable semi-monthly, and the president of the said board shall be paid five thousand dollars ($5,000.00) per annum, payable semi-monthly. The members of the board of education, including the president, shall not be required to devote full time to their duties but may engage actively in other businesses or professions not directly connected therewith. (Priv. Acts 1951, ch. 378, §§ 2, 3; Priv. Acts 1970, ch. 340, § 6)

Sec. 947. Vacancies—Removal of residence.

Removal of residence by a member of the board of education of the Memphis city schools from the City of Memphis shall constitute a vacancy on the said board, but removal from one district to another shall not constitute such

vacancy: Provided, however, that such person moving from one district to another shall not be eligible for re-election from the district in which he originally resided. Upon any vacancy occurring on the board of education, including a vacancy in the office of president, by reason of death, resignation, removal, or otherwise, the remaining members of the board shall have the power by a majority vote to elect a person to fill such vacancy and to serve until the next general election when his or her successor is elected and qualified. Said vacancy shall be filled as soon as possible and within a period not to exceed thirty (30) days thereafter. Such elected member shall possess the requisite qualifications for membership on the board of education of the Memphis city schools, including the requirement that he or she be a resident of the district from which he or she is elected. Such person shall take office immediately upon election and hold said office until his or her successor is elected and qualified. A successor shall be elected by the registered voters of the city or of the district to fill out the remainder of the term of the member of the board of education whose seat was vacated in the same manner as now provided for filling vacancies on the legislative council of the City of Memphis: Provided, however, that such special municipal election shall be held on the date of the next regular August or November election, whichever shall first occur, and provided, further, that not less than sixty (60) days occur between the creation of the said vacancy and the date of the next regular election. In the event that less than sixty (60) days exist between the creation of the vacancy and the next regular election, the election to fill the unexpired term shall go over to the next succeeding general or municipal election. (Priv. Acts 1868-69, ch. 30, § 12; Priv. Acts 1970, ch. 340, § 8)

Sec. 948. Same—Absent from city.

In the event a person elected as a member of the board of education of the Memphis city schools shall be absent from duty without proper and reasonable explanation therefor being made to the said board for a period of ninety (90) days, his or her said office shall be declared vacated and said vacancy shall be filled as hereinabove provided. (Acts 1883, ch. 17, § 4; Priv. Acts 1927, ch. 470, § 1; Priv. Acts 1951, ch. 378, § 5; Priv. Acts 1967, ch. 260, § 5; Priv. Acts 1970, ch. 340, § 9)

Secs. 948.1—948.4.Reserved.

Editor's note—Sections 948-1—948-4 of the 1949 compilation have been redesignated as §§ 1067.1—1067.4, so that they appear with the other provisions relating to retirement of employees.

Sec. 949. General powers of commissioners.

Said five commissioners shall each have and possess all the powers and privileges which have heretofore been conferred on a member of said board of education, except where said powers and privileges have been herein restricted and modified. (Acts 1883, ch. 17, § 6; Acts 1907, ch. 87, § 2)

Sec. 950. Power of board over its own members.

Said board shall have power to punish members for disorderly conduct at the meetings of the board or in the discharge of their duty as members of the board of education, and, with concurrence of two-thirds of the members elected, expel a member. (Priv. Acts 1868-69, ch. 30, § 7)

Sec. 951. Power of board over schools and subordinates.

Said board shall have the power to employ and dismiss superintendents, teachers, agents, servants, etc., and determine their compensation; to contract for school rooms, purchase maps, globes, and whatever else they may deem necessary for the proper instruction of the pupils, and adopt such rules and regulations for their own government and the government of the schools, as they may deem expedient, keeping a full record of their proceedings. (Priv. Acts 1868-69, ch. 30, § 7)

Sec. 952. Vacant or unused real estate—Authority of board to sell; investment of proceeds.

The Board of Education of the Memphis City Schools shall have the power and is hereby authorized in its discretion to sell for cash or upon reasonable credit terms any vacant or unused real estate, title to which is vested in the said Board of Education of Memphis City Schools, and to invest the proceeds of such sale or sales in permanent

improvements or in other real estate; provided this shall not apply to property in which the board of education has only an easement for school purposes. (Priv. Acts 1919, ch. 335, § 1)

Sec. 953. Same—Execution of warranty deeds.

The said Board of Education of the Memphis City Schools is hereby empowered to execute proper and necessary warranty deeds conveying title to any such real estate so sold, and the purchaser or purchasers at any such sale or sales shall not be required to look to the application of the purchase money. (Priv. Acts 1919, ch. 335, § 2)

Sec. 954. Same—Deferred purchase price to be secured by lien or deed of trust.

In the event such vacant or unused real estate shall be sold upon credit terms, the deferred payments for the purchase money shall be secured by a lien or deed of trust upon the property so sold. (Priv. Acts 1919, ch. 335, § 3)

Sec. 954.1. Consolidation of facilities and services of city and county boards.

The Act entitled "An Act to Charter the Memphis City Schools" passed January 27, 1869, and all amendments thereto, constituting the Charter of the Board of Education of the Memphis City Schools, be and the same are hereby amended so as to authorize and empower said board of education, with the approval of the Council of the City of Memphis, to enter into a contract, or contracts, with the Shelby County board of education, and with the approval of the quarterly county court of Shelby County, to provide for consolidation of all or any part of the facilities of and services rendered by said boards of education, including but not limited to the consolidation of administration, employment of personnel, acquisition of land, construction of buildings and other improvements, purchasing of material and supplies, maintenance of property and equipment, pension systems, issuance of bonds and disposition of proceeds of the sale thereof, and allocation of other funds received or to be received by said boards of education from any and all sources. (Priv. Acts 1955, ch. 350, § 1)

Secs. 955—967. Reserved.

Editor's note—Section 955—958, relating to night schools, were derived from the general law. (T.C.A. §§ 49-2501—49-2504) and have been omitted from this compilation.

Sections 959—965, relating to part time schools, were derived from former §§ 49-2401—49-2407, T.C.A., which were repealed by Acts 1963, ch. 13, § 1. Section 966 was derived from a public act relating to kindergartens which has been superseded by T.C.A. §§ 49-2301—49-2303.

Section 967 was derived from the general law (T.C.A. § 49-306) and has likewise been omitted.

Sec. 968. Condemnation of land for school purposes.

The said Board of Education of the Memphis City Schools is hereby authorized and empowered to take, appropriate and condemn, under the right of eminent domain, the fee of lands and interest in lands necessary for the erection of public school buildings, the establishment of school play grounds, or for the use in the maintenance or operation of public schools; provided, however, that said Board of Education of Memphis City Schools shall pay just compensation therefor, and shall proceed in the manner provided in sections 1326 to 1348, inclusive, of the Code of Tennessee.* And the aforesaid power so to condemn under the right of eminent domain may be exercised by said Board of Education of the Memphis City Schools with respect to lands situated either within or beyond the corporate limits of the City of Memphis, Tennessee. (Priv. Acts 1925, ch. 237, § 2; Priv. Acts 1953, ch. 291, § 1)

***Editor's note—**See now T.C.A. § 23-1404 et seq.

Cross reference—Condemnation generally, § 457 et seq.

Sec. 969. Signing and sealing of instruments.

All contracts, orders, drafts upon the school fund, notes, bonds, obligations, conveyances, transfers of real estate and all other instruments of writing made or ordered to be made or executed by the board shall be signed by the president, and shall be countersigned by the secretary, or by such other person as shall be duly and legally authorized by said board, and, when necessary, sealed with the corporate seal of the board. (Priv. Acts 1868-69, ch. 30, § 6)

Secs. 970—972. Reserved.

Editor's note—Sections 970—972 were derived from the general law (T.C.A. § 49-1701, 49-1702 and 49-1104) and have been omitted from this compilation.

Sec. 973. Bonds of secretary and treasurer.

The treasurer and secretary shall give bond in such penalty as the board may direct, for the faithful performance of their duties, with such security as the board may approve. (Priv. Acts 1868-69, ch. 30, § 6)

Sec. 974. Salary of superintendent and secretary.

The salary of the superintendent and the salary of the secretary shall be fixed by the board of education in such respective amounts as such board of education shall determine to be proper, without being restricted in amount to limitations that may have existed prior to the enactment of this Act; provided, however, the said salaries of the superintendent and secretary so fixed by such board of education shall be subject to the approval of the council or other governing body of such taxing district. (Priv. Acts 1951, ch. 378, § 4)

Editor's note—The 1951 Act did not specifically amend this section of the 1949 compilation, but it completely superseded it.

Sec. 975—984. Reserved.

Editor's note—Sections 975—984 were derived from public acts, codified in the following sections of T.C.A. and have been omitted: 49-812, 49-605, 49-1704, 49-603, 49-309, 49-1302, 49-1922, 49-1310.

Sec. 985. Observation and practice school for teachers.

The West Tennessee State Normal School (West Tennessee State Teachers College) shall give the teachers of said county (Shelby) and city (Memphis) all the privileges of an observation and practice school and render such reasonable services in the county and city institutes as may be required by said county and city board of education. (Priv. Acts 1911, ch. 36, § 2)

Sec. 986—999. Reserved.

Editor's note—Sections 986—988 were derived from the general law (T.C.A. §§ 49-1227 and 49-1902) and have been omitted. Sections 989—996 were derived from public acts which were repealed by Acts 1963, ch. 13, § 1.

Sections 997—999 were derived from the general law (T.C.A. §§ 49-1307, 49-1916 and 49-1917) and have been omitted.

Sec 1000. Board to provide separate schools for white and colored pupils.

Said board of education shall provide and maintain separate schools for the use and accommodation of the white and colored youths of the city entitled to admission in the public schools of the City of Memphis, subject to all respects, to the same rules, regulations and treatment. (Priv. Acts 1868-69, ch. 30, § 14)

Sec. 1001. Pupils who may attend; pupils beyond city limits; higher branches of study.

No one shall be admitted as a free pupil in said city schools except the children of persons who are bona fide residents within the limits of said city, but the board of education may admit children living beyond said city limits, upon payment, in advance, to the secretary or treasurer, of such tuition fees as they shall prescribe, and such payment may also be taken for pupils whose parents or guardians reside out of said city, but permit their children or wards to reside within it to attend said city schools, and the board may, at their discretion, prescribe higher branches of study than those which are commonly taught in the public schools of other cities. (Priv. Acts 1868-69, ch. 30, § 8)

Secs. 1002—1035. Reserved.

Editor's note—Sections 1002—1035, relating to pupils, holidays, special days and text books, were taken from various public acts codified in or superseded by Title 49 of the Tennessee Code Annotated, and such sections have been omitted from this compilation.

Sec. 1036. Free textbooks may be furnished pupils.

Incorporated boards of education of public schools in cities or taxing districts having a population of 130,000 or more according to the Federal Census of 1910, or any subsequent Federal Census, are hereby vested with authority and power forthwith to install, establish and maintain for the public schools of said cities or taxing districts a system whereby textbooks for the use of pupils or students in said public schools of such cities or taxing districts are provided by the said boards of education and furnished free of charge to the pupils or students attending the public schools of said city; and said boards of education are hereby authorized and empowered to install and establish said system of providing free textbooks for pupils of the public schools of said cities or taxing districts in such manner or means as said boards of education may deem expedient, economical, reasonable, and for the best interests of the inhabitants of said cities or taxing districts and the pupils attending the public schools therein situated; and said boards of education are hereby vested with power and authority to promulgate and enforce for the maintenance of said free textbook system such rules and regulations as may seem for the best interests of the inhabitants of said cities or taxing districts and the pupils attending the schools situated therein. (Priv. Acts 1917, ch. 480, § 1)

Sec. 1037. Cost of textbooks may be included in budget.

The boards of education in said cities or taxing districts are hereby authorized and empowered to include such sum or sums as may be necessary to install and maintain said free textbook system in any annual or supplementary budgets of the expenses of the operation of said schools that are presented to the boards of commissioners governing said cities or taxing districts, and said boards of education are hereby authorized to make provision for the establishment and maintenance of said free textbook system in any other manner that said board of education may see fit. (Priv. Acts 1917, ch. 480, § 2)

Sec. 1038. Property owned by board exempt from taxes and assessments.

The title of the schoolhouse sites, lots, furniture, books, apparatus and appurtenances, and all other school property in this Act mentioned, shall be and is hereby vested in the Board of Education of the Memphis City Schools, and the same, while used or appropriated for school purposes, or any other property, the title of which is vested in the board of education, shall not be subject to taxation or assessments while in the possession of said board for educational purposes. (Priv. Acts 1868-69, ch. 30, § 13)

Sec. 1039. Property leased by board exempt from taxation.

Lots of ground leased by said board of education for school purposes shall be exempt from taxation. (Priv. Acts 1868-69, ch. 30, § 13; Priv. Acts 1869, ch. 33, § 2)

Editor's note—This section in the 1949 compilation contained a second paragraph taken from the general law (T.C.A. § 67-502(8)) exempting from taxation leasehold estates held under incorporated institutions of learning. The paragraph has been omitted from this compilation.

Sec. 1039.1. County school property in annexed territory transferred to board.

All school lands, school buildings, leases and other school property, including desks and equipment, heretofore owned by Shelby County and situated within the territory annexed to the City of Memphis by any Act of the General Assembly of 1949, are hereby transferred to and title to same is vested in the Board of Education of the Memphis City Schools of the City of Memphis, effective July 1, 1950, and in the meantime, in order to prevent a disorganization of the conduct of said schools during the school term beginning in the fall of 1949, such schools shall be operated and conducted by the Shelby County Board of Education until July 1, 1950, just as if the annexed territory in which such schools are situated had not been annexed to the City of Memphis. (Priv. Acts 1949, ch. 496, § 1)

DIVISION II. FINANCIAL AFFAIRS

Sec. 1040. School taxation and revenue generally.

All revenue arising from assessments on real and personal property, privileges and polls, levied on account of public schools or public education in the [city], shall be for the use and benefit of the public schools in the [city], and when the tax is collected it shall be paid over weekly to the treasurer of the board of education of the [city]. (Acts 1879, ch. 84, § 11)

Cross reference—Taxation generally, § 752 et seq.

Sec. 1041. Reserved.

Editor's note—Section 1041 repeated the provisions of §§ 773 and 774 relative to the school ad valorem tax. To avoid repetition this section has been omitted.

Sec. 1042. State school fund to be paid to treasurer.

All moneys accruing from the state school fund to those civil districts of Shelby County which embrace within their boundaries any portion of the City of Memphis shall be paid directly by the state superintendent to the treasurer of the board of education in the proportion to which those portions are entitled by their amount of scholastic population; provided, that no school moneys shall be paid over by the state superintendent of instruction to said city school treasurer until said city board of education shall have returned to him the scholastic population and made all other reports required by them in accordance with the general school laws of the state. (Priv. Acts 1868-69, ch. 30, § 9)

Sec. 1043. Apportionment of county school funds.

In all counties of this state having a population of 350,000 or more inhabitants by the Federal Census of 1940, or any subsequent Federal Census, all school funds collected or received by the county officers or other authorities of said county, whether from state apportionment or apportionments made by the Federal Government, shall be divided between the county boards of education and any incorporated boards of education of any cities, towns, or taxing districts in such county, upon a per capita basis for each and every child in average daily attendance in the elementary and high schools in such counties, cities, towns or taxing districts.

In all counties of this state coming within the classification of this Act, all school funds collected or received by the county officers or other authorities of such counties, whether from county levy, poll taxes, circuit or county court clerk's collections, or escheats, or any other source of whatever nature, shall be divided between the county boards of education and any incorporated boards of education of any cities, towns, or taxing districts in such counties fifty per cent (50%) to the county boards of education and fifty per cent (50%) to such incorporated boards of education of cities, towns or taxing districts located in such counties, such division of school funds from local tax collection only to become effective July 1, 1955.

Should the county boards of education and the incorporated boards of education of such cities, towns or taxing districts desire by agreement to vary the above divisions and apportionments, full power and authority is hereby conferred upon said respective boards to contract with and bind each other as to the division or apportionment of the aforesaid school funds, or any of them, between said respective boards of education, and as to the manner and control of the disposition of said funds. (Priv. Acts 1947, ch. 711; Priv. Acts 1955, ch. 351, § 1)

Sec. 1044. Revenue and refunding bonds and notes generally.

Incorporated boards of education in cities or taxing districts of one-hundred sixty thousand inhabitants, or over, according to the Federal Census of 1920, or any future Federal Census, are hereby invested, in addition to powers already possessed by them, with the powers, rights and authority contained in this and the succeeding sections of this Act [sections 1044—1053] to wit: Said incorporated boards of education shall have the power from time to time to borrow money and issue revenue bonds or notes bearing interest at not more than six per cent per annum and maturing not more than one year from their date, for the purpose of providing funds in anticipation of the collection of school taxes, and revenues of the current calendar year in which said revenue bonds or notes are issued, said bonds or notes to be issued, for the purposes for which said taxes and revenues are collected, and also to issue refunding bonds or notes with like limitations upon interest and maturity, where such refunding notes or bonds shall be necessary to provide for the payment of any of such revenue notes or bonds at their maturity. At no time shall the total amount outstanding of (1) such revenue notes or bonds issued [in] anticipation of revenues, and (2) such refunding bonds or notes exceed seventy-five per cent of the revenues of such board of education derived from taxes for general school purposes of the previous fiscal year, exclusive of any taxes levied for the purpose of paying the principal and interest of the bonded debt of such board of education; provided, that where refunding notes or bonds have been issued or have been ordered issued for the purpose of refunding any of said revenue notes or bonds, the said original notes or bonds so ordered to be

refunded shall not be included in estimating the total amount of revenue notes or bonds outstanding, but for that purpose, shall be treated as having been refunded and retired by such refunding notes or bonds; provided, however, that said power shall not be exercised unless the consent of the council or other governing body of said cities or taxing districts shall first be obtained to the exercise of said power, and this consent shall be evidenced by a resolution regularly passed and entered upon the minutes of such governing body. (Priv. Acts 1921, ch. 5, § 1)

Sec. 1045. Sale and form of bonds and notes.

Said revenue notes or bonds and said refunding notes or bonds shall be sold by said board of education in such manner and upon such terms as they may elect, either at public or private sale, but shall not be sold for less than par, except by a vote of at least two-thirds of the members of such board of education, and then at a price of not less than $99.00 on the $100.00. The said notes or bonds, shall be in such form as may be prescribed by such board of education and shall be the absolute, direct and general obligation of such board of education. The proceeds of said revenue notes or bonds shall be paid into the treasury of such board of education to the credit of the general fund or any special fund against which they shall have been issued. (Priv. Acts 1921, ch. 5, § 2)

Sec. 1046. Payment of tax receipts to bond and note holders: enforcement of holder's rights.

The said boards of education are hereby clothed and vested with the irrepealable power and authority to pay the holders of said notes or bonds, as their interest may appear, the receipts from taxes collected by the governing bodies of cities wherein said boards of education so issuing said notes or bonds have their situs for the account of said boards of education, and likewise the receipts from taxes levied and collected by the tax levying and collecting machinery of the state and county, wherein said boards of education have their situs. The said boards of education shall pay said notes or bonds and the refunding notes or bonds and the interest on same as same mature and any lawful holder of any such note or bond or any refunding note or bond shall be entitled to enforce his rights thereunder by legal process. (Priv. Acts 1921, ch. 5, § 3)

Sec. 1047. Borrowing money for payment of interest on bonded indebtedness.

Such incorporated boards of education shall likewise have full power and authority to borrow money every year from time to time as needed for the purpose of providing for the payment of interest upon any of the bonded indebtedness of such boards of education, in anticipation of the collection of taxes already levied or to be levied for that purpose and may issue temporary notes or bonds therefor, but the total amount of such temporary notes or bonds shall at no time exceed seventy-five per cent of the taxes levied for the payment of such interest, and said temporary notes or bonds shall be issued and sold subject to all restrictions and limitations as to maturity rate of interest, and price at which the same may be sold, as are stated in the preceding sections hereof [sections 1044—1046] with reference to other notes or bonds issued in anticipation of collection of revenue; provided, however, that said power shall not be exercised unless the consent of the council or other governing body of said cities or taxing districts shall first be obtained to the exercise of said power, and this consent shall be evidenced by a resolution regularly passed and entered upon the minutes of the governing body. (Priv. Acts 1921, ch. 5, § 4)

Sec. 1048. Authority to prescribe maturity form, etc. of bonds and notes.

Such incorporated boards of education shall have authority by resolution to provide for and cause the issuance of any of the notes or bonds hereinbefore mentioned and to prescribe the form, maturity, method of sale and all other matters connected with the issuance and sale of said notes and bonds, subject only to the restrictions hereinbefore stated. (Priv. Acts 1921, ch. 5, § 5)

Sec. 1049. Temporary building or improvement bonds and notes.

Said incorporated boards of education shall also have authority, temporarily to finance the carrying out of any purpose for which said boards of education have been or may be authorized by Act of General Assembly to issue its bonds, by borrowing money and issuing from time to time temporary building or improvement notes, or temporary building or improvement bonds, which shall state in general terms the purpose for which they are issued and shall mature in not exceeding one year from their date, and shall bear interest at not exceeding six per cent per annum and shall be issued and sold at not less than par, exclusive of all commissions and brokerage. Such temporary notes or

bonds may from time to time be renewed by the issuance of new temporary notes or bonds of similar maximum maturity and rate of interest, which renewal notes or bonds shall be subject to all the provisions of this section. Such renewal notes or bonds shall not be renewed after two years after the purpose for which they are issued has been carried out and the proceeds of any issue of bonds for such purpose, shall be first applied in the payment of any outstanding temporary notes or bonds issued, in respect thereof. Such temporary notes or bonds shall be authorized by resolution of such boards of education and shall be executed in such manner as shall be directed by such board and sold in such manner as they may prescribe; provided, however, that said power shall not be exercised unless the consent of the council or other governing body of said cities or taxing districts shall first be obtained to the exercise of said power, and this consent shall be evidenced by a resolution regularly passed and entered upon the minutes of such governing body. (Priv. Acts 1921, ch. 5, § 6)

Sec. 1050. Powers granted by sections 1044—1049 cumulative.

Nothing contained in this Act [sections 1044—1053] shall limit, qualify or affect any grant of power heretofore made to said boards of education to issue bonds for any purpose or to limit, qualify or affect any grant of power heretofore or hereafter made to such boards of education to enter into banking contracts covering its financial arrangements or to deprive said boards of education of the benefit of any general or special statute authorizing the issuance of bonds, notes or evidences of indebtedness, whether heretofore or hereafter passed. The purpose of this Act [sections 1044—1053] being to give said boards of education the powers hereinbefore stated in addition to any and all other powers they may have. (Priv. Acts 1921, ch. 5, § 7)

Sec. 1051. Bonds or notes not invalidated by interest of board member in purchasing bank; such member not to vote.

The fact that any member of such boards of education may be a director or stockholder in any bank or trust company purchasing any of the notes, bonds or evidences of indebtedness hereinbefore mentioned, or making any of the loans contemplated hereunder, shall not invalidate or affect the legality of any such transaction with said bank or trust company; provided, such member so interested in said bank or trust company shall not vote upon the matter of selling said notes, bonds or evidences of indebtedness to said bank or trust company, or the matter of contracting with said bank or trust company in that regard. (Priv. Acts 1921, ch. 5, § 8)

Sec. 1052. Obligation of city to pay bonds and notes.

The obligation of boards of education to provide for the payment of the said notes or bonds together with the interest on same shall not, however, affect the liability of the said cities or taxing districts to pay the said notes or bonds as they severally mature, but the said cities and taxing districts shall be bound and obligated to pay the said notes or bonds and interest thereon, in case the same shall not be provided for by the boards of education in the manner herein set out, and the said bonds or notes shall be and constitute a general obligation of the said cities or taxing districts; provided however, that said notes or bonds shall have been issued as herein before provided; and provided further, that in case the boards of education shall make no effort to pay the interest upon said notes or bonds nor to pay said bonds or notes as they mature, then the governing authorities of said cities and taxing districts shall have the right to retain out of the taxes collected by them for the benefit of the boards of education a sufficient sum to pay the interest upon said notes or bonds and to pay said notes or bonds as they mature. (Priv. Acts 1921. ch. 5, § 10; Priv. Acts 1921, ch. 127, § 1)

Sec. 1053. Definitions of terms used in sections 1044—1052.

Within the meaning of this statute [sections 1044—1052], the term “fiscal year” shall mean the period corresponding to the calendar year. As to the taxes and revenue arising from the levying and collection of taxes within the cities, wherein said board of education have their situs, this statute refers to taxes, the lien for which attaches on the 10th day of January of the year in which said notes are first issued; and as to the taxes and revenues arising from the levying and collection of taxes known as state and county taxes in the county, wherein said board of education has its situs, this statute refers to the taxes the lien for which attaches on the 10th day of January in the calendar year prior to that in which said notes or bonds are first issued. To be more specific, said state and county taxes being levied in 1920, under a lien attaching, January 10th, 1920, became delinquent March 1, 1921, and reach said board of education as

common school funds during approximately the second quarter of the fiscal year, 1921, as herein defined. (Priv. Acts 1921, ch. 5, § 9)

Sec. 1054. Bank depositories.

The Act entitled "An Act to Charter the Memphis City Schools", passed January 27, 1869, and being Chapter 30 of the Acts of 1869, and all amendments thereto, constituting the Charter of the Board of Education of the Memphis City Schools, be, and the same is hereby amended, so as to authorize said Board of Education of the Memphis City Schools to enter into contract or contracts with any solvent bank or banks for the purpose of providing banking facilities and financial arrangements for said board of education; provided, however, that no such contract shall be entered into for a period of more than one year at a time; and provided further, that such contract shall be submitted to and approved by the Council of the City of Memphis.

Said Board of Education of the Memphis City Schools shall require that the contract or contracts with said bank or banks shall provide for interest on deposits of said board of education. Said board of education shall have authority to provide for advancement of funds to be made by said contracting bank or banks for payment of the drafts of said board of education pending the collection of school revenue for the current year; and for the payment by said board of education of interest upon such advancements at a rate not to exceed six per cent (6%) per annum. Said board of education may enter into such banking contracts after advertising and receipt of bids, or it may make such contracts without advertisement and competitive bidding as the board of education may deem best and determined by resolution. The fact that any member of said board of education may be a director or stockholder in any bank shall not prevent said board of education from making such banking contract or contracts with such bank or invalidate such contract when made, provided no member of said board of education shall vote upon the making of such contract with any bank in which he is so interested.

In making such banking contract or contracts, the Board of Education of the Memphis City Schools shall have power and authority, and it shall be their duty, to take from any bank receiving deposits of the funds of the board of education under such contract or contracts, a bond sufficient in the opinion of the board of education to protect the interests of said board of education; provided, however, that the board of education may permit the contracting bank or banks, in lieu of a bond, to place bonds of any state or any civil division subordinate thereto, or any other evidence of a substantial obligation thereof, which may be purchased or accepted as collateral by any Federal Reserve Bank, or any other gilt-edge securities which may be approved by the board of education and the secretary of said board, in escrow so conditioned as to make the collateral so deposited primarily subject to the claims of the Board of Education of the Memphis City Schools for the loss of any sum or sums deposited by it with said contracting bank or banks.

In the event no contract is entered into by the Board of Education of the Memphis City Schools, as authorized herein, the board of education shall designate the bank or banks where all moneys belonging to and collected by the board of education shall be deposited, subject to the approval of the Council of the City of Memphis; and it shall be unlawful to deposit any moneys in banks other than those designated by the board of education and approved by the Council of the City of Memphis. (Priv. Acts 1935, ch. 521, §§ 1, 2; Priv. Acts 1941, ch. 43, § 1; Priv. Acts 1951, ch. 147, § 1)

Sec. 1055. Enumeration of bond issues.

[The Board of Education of the Memphis City Schools was by the following Acts authorized to issue bonds as follows]:

Acts 1905, ch. 340	$125,000
Acts 1907, ch. 41	300,000
Acts 1909, ch. 238	500,000
Priv. Acts 1911, ch. 486	250,000
Priv. Acts 1913, ch. 154	40,000
Priv. Acts 1913, ch. 185	50,000
Priv. Acts 1915, ch. 208	350,000
Priv. Acts 1917, ch. 61	325,000
Priv. Acts 1919, ch. 429	500,000

Priv. Acts 1921, ch. 6, as amended by Priv. Acts 1921, ch. 126	1,000,000
Priv. Acts 1923, ch. 265	1,250,000
Priv. Acts 1925, ch. 203	750,000
Priv. Acts 1927, ch. 453	750,000
Priv. Acts 1929, ch. 770	1,350,000
Priv. Acts 1937, ch. 118	500,000
Priv. Acts 1945, ch. 264	2,000,000
Priv. Acts 1947, ch. 502	5,250,000
Priv. Acts 1953, ch. 294	3,500,000
Priv. Acts 1955, ch. 89	5,000,000
Priv. Acts 1959, ch. 25	25,000,000

Cross reference—Enumeration of city bond issues, § 825.

DIVISION III. RETIREMENT OF PERSONNEL

Sec. 1056. Teachers, principals, superintendents, supervisors, board secretary, school secretaries, school librarians, and office employees employed as of March 1937—Authority to retire.

Incorporated boards of education of public, schools in cities or taxing districts having a population of 250,000 or over according to the Federal Census of 1930, or any subsequent Federal Census, are hereby empowered and authorized, in the discretion of such boards of education in the case of each particular person, and either upon the application of such person or by the board of education on its own motion, to retire from service any of the following employees upon the conditions hereinafter set out, to-wit: Teachers, principals, superintendents, supervisors, secretary of the board of education, school secretaries, school librarians and office employees of the board of education; provided, that no person shall be retired under the provisions hereof unless such person is in the employ of the board of education at the time this Act shall take effect. (Priv. Acts 1937, ch. 291, § 1)

Editor's note—Section 6 of Priv. Acts 1937, ch. 291 provided that the act take effect from and after its passage. It was passed March 1, 1937, and approved by the Governor March 4, 1937.

Sec. 1057. Same—Retirement after 35 years' service.

The aforesaid persons or any of them shall be eligible for retirement, in the discretion of such board of education, when he or she, either heretofore or hereafter, shall have served in any of the capacities above-mentioned, or any combination of the capacities above-mentioned, for a period of 35 years, the last 20 years of which have been served in the public schools situated in said cities or taxing districts; but with reference to that portion of said 35 years other than the last 20 years, it shall be sufficient if such person shall have served the same in other public schools of this state or the public schools of any other state in the United States of America. For the purposes of this Act, schools located in territory which, by annexation, has become and is a part of such cities or taxing districts at the date of such retirement, shall be treated as having been within said cities or taxing districts for a period of 20 years prior to such retirement. And any such person who shall be retired by such board of education after the aforesaid service of 35 years shall be paid by such board of education in monthly installments for the remainder of the life of such person one-half of the annual sum which was being paid such person as a salary at the time of his or her retirement.

The aforesaid persons, or any of them, who have served as members of the Armed Forces of the United States, serving in the Armed Forces of the United States or in the Merchant Marine of the United States or serving in the American Red Cross, the United Service Organization, or any other organization attached to and serving with the Armed Forces of the United States, during the period of any war in which the United States has been or may be engaged, or serving at the call of the President during the period of any peacetime emergency, shall be entitled to credit as a teacher in the Memphis city schools for the period of such military service, provided such person begins or returns to service as teacher, or in any of the other capacities above mentioned, within two (2) years after he has received his honorable discharge. (Priv. Acts 1937, ch. 291, § 2; Priv. Acts 1951, ch. 379, § 1)

Sec. 1058. Same—Retirement after 25 years' service.

Any of the above-mentioned persons who shall have served as aforesaid for a period of 25 years, or for any period of time between 25 and 35 years, the last 20 years of which have been served in the public schools situated in said cities or taxing districts, may be retired by the board of education in its discretion, and upon such retirement shall he paid by such board of education in monthly installments for the remainder of the life of such person such proportion of the annual sum which such person would be entitled to under the provisions of this Act if he or she had served for 35 years, as the number of years actually served bears to 35 years. (Priv. Acts 1937, ch. 291, § 3)

Sec. 1059. Same—Retirement salary to terminate at death; not assignable or subject to garnishment, etc.

Said retirement salary provided for herein shall terminate with the death of the person who has been so retired and no estate shall be created thereby. Said retirement salary shall not be assignable by the beneficiary and shall not be taken for debt by any process of law and shall not be subject to garnishment. (Priv. Acts 1937, ch. 291, § 4)

Sec. 1060. Building custodians, head janitors and chief engineers employed as of January 1943—Authority to retire.

Incorporated boards of education of public schools in cities or taxing districts having a population of 275,000 or over according to the Federal Census of 1940, or any subsequent Federal Census, are hereby empowered and authorized, in the discretion of such boards of education in the case of each particular person, and either upon the application of such person or by the board of education on its own motion, to retire from service building custodians, head janitors or chief engineers, that are elected to their positions by the board of education; provided that no person shall be retired under the provisions hereof unless such person is in the employ of the board of education at the time this Act shall take effect. (Priv. Acts 1943, ch. 130, § 1)

Editor's note—Section 5 of Priv. Acts 1943, ch. 130 provided that the act take effect from and after its passage. It was passed January 22, 1943, and approved by the Governor January 30, 1943.

Sec. 1061. Same—Eligibility requirement; amount of pension.

The aforesaid persons or any of them shall be eligible for retirement, in the discretion of such board of education, when either he or she shall become disabled by reason of illness, or injury sustained while in the performance of his or her duties, and shall have served in any of the capacities above mentioned, or any combinations of the capacities above mentioned for a period of 20 years in the public schools situated in said cities or taxing districts. For the purposes of this Act, schools located in territory which, by annexation, has become and is a part of such cities or taxing districts, at the date of such retirement, shall be treated as having been within said cities or taxing districts for a period of 20 years prior to such retirement. Any such person who shall be retired by such board of education after the aforesaid service of 20 years shall be paid by such board of education in monthly installments for such period of time during said disability as the board of education, in its discretion, may deem right and proper. (Priv. Acts 1943, ch. 130, § 2)

Sec. 1062. Same—Pension to terminate at death; not assignable or subject to garnishment, etc.

Said retirement salary or pension provided for herein shall terminate with the death of the person who has been so retired and no estate shall be created thereby. Said retirement salary or pension shall not be assignable by the beneficiary and shall not be taken for debt by any process of law and shall not be subject to garnishment. (Priv. Acts 1943, ch. 130 § 3)

Sec. 1063. Teachers, principals, superintendents, supervisors, board secretary, school secretaries, school librarians and office employees employed after May, 1937—Authority to establish system.

Incorporated boards of education of public schools in cities and taxing districts having a population of 250,000 or over according to the Federal Census of 1930, or any subsequent Federal Census, are hereby empowered and authorized in the discretion of such boards of education to establish a system of contributory retirement, annuity or pension for teachers, principals, superintendents, supervisors, secretary of the board of education, school secretaries, school librarians and office employees of such boards of education, who shall become employees of such boards of education subsequent to the time when this Act shall take effect; provided, however, that this Act shall not apply to persons who are in the employ of such boards of education at the time of the passage of this Act; provided, further, that

substitute or temporary employees of such boards of education shall be excluded from all provisions and benefits of this Act. (Priv. Acts 1937, ch. 537, § 1)

Editor's note—Section 4 of Priv. Acts 1937, ch. 537, provided that the act take effect from and after its passage. It was passed May 12, 1937, and approved by the Governor May 15, 1937.

Sec. 1064. Same—Contract with insurance companies or other means to effectuate system; contributions of employees and board; board may fix retirement age, amount of pension, etc.

Said boards of education are empowered to contract with an insurance company or insurance companies to carry out and effectuate such system of retirement, annuity or pension in which event the annual amount of such annuity or pension to be paid each person upon such retirement shall not exceed a sum to be arrived at by adding together two per cent (2%) of each year's salary of such person from the time of his or her employment up to the time of retirement. But such boards of education are also empowered, in their discretion, to adopt any other means or method to effectuate said purpose, that is to say, any means or method that may be appropriate in their judgment other than contracting with an insurance company or insurance companies.

Said boards of education are authorized to contract with the aforementioned employees for the deduction of, and are authorized to deduct from the salary or compensation of each of the aforesaid employees, a certain percentage of the salary of each, not to exceed five per centum (5%) of such salary, and to supplement the same by contributing out of the funds of such boards of education an amount necessary to provide a retirement, annuity or pension as aforesaid, to be used by such boards of education in payment of the costs of such retirement, annuity or pension. The contribution of such boards of education for the aforesaid purpose shall be taken from the funds they annually receive from taxes for the support and maintenance of the public schools, and such boards of education are further authorized to contract for and fix the age of time at which the aforesaid employees shall be retired, and the amount and duration of the payments to be made said employees after retirement, and said boards of education are authorized to do and perform all things necessary or appropriate to establish and effectuate such contributory retirement, annuity or pension for the benefit of the aforesaid employees. (Priv. Acts 1937, ch. 537, §§ 2, 3)

Sec. 1065. Building custodians, head janitors and chief engineers employed after January, 1943—Authority to establish system.

Incorporated boards of education of public schools in cities and taxing districts having a population of 275,000 or over, according to the Federal Census of 1940, or any subsequent Federal Census, are hereby empowered and authorized, in the discretion of such boards of education, to establish a system of contributory retirement, annuity or pension for the building custodians, head janitors, or chief engineers that are elected to their positions by such boards of education, and who shall become employees of such boards of education subsequent to the time when this Act shall take effect; provided, however, that this Act shall not apply to persons who are in the employ of such boards of education at the time the passage of this Act; and provided further that substitute or temporary employees of such boards of education shall be excluded from all provisions and benefits of this Act. (Priv. Acts 1943, ch. 131, § 1)

Editor's note—Section 4 of Priv. Acts 1943, ch. 131, provided that the act take effect from and after its passage. It was passed January 22, 1943, and approved by the Governor January 30, 1943.

Sec. 1066. Same—Contract with insurance companies or other means to effectuate system.

Said boards of education are empowered to contract with an insurance company or insurance companies to carry out and effectuate such system of retirement, annuity or pension, in which event the annual amount of such annuity or pension to be paid each person upon such retirement shall not exceed a sum to be arrived at by adding together two per cent (2%) of each year's salary of such person from the time of his or her employment up to the time of retirement. But such boards of education are also empowered in their discretion to adopt any other means or method to effectuate said purpose, that is to say, any means or method that may be appropriate in their judgment other than contracting with an insurance company or insurance companies. (Priv. Acts 1943, ch. 131, § 2)

Sec. 1067. Same—Contributions by employees and board; board may fix retirement age, amount of pension, etc.

Said boards of education are authorized to contract with the aforementioned employees for the deduction of, and are authorized to deduct from the salary or compensation of each of the aforesaid employees, a certain percentage of the salary of each, not to exceed five per centum (5%) of such salary, and to supplement the same by contributing out of the funds of such boards of education an amount necessary to provide a retirement, annuity or pension as aforesaid, to be used by such boards of education in payment of the costs of such retirement, annuity or pension. The contribution of such boards of education for the aforesaid purposes shall be taken from the funds they annually receive from taxes for the support and maintenance of the public schools, and such boards of education are further authorized to contract for and fix the age or time which the aforesaid employees shall be retired, and the amount and duration. of the payments to be made said employees after retirement, and said boards of education are authorized to do and perform all things necessary or appropriate to establish and effectuate such contributory retirement, annuity or pension for the benefit of the aforesaid employees. (Priv. Acts 1943, ch. 131, § 3)

Sec. 1067.1. Cafeteria administrative personnel or employees, cafeteria managers, assistant cafeteria managers, and maintenance employees—Authority to establish system.

Incorporated boards of education of public schools in cities and taxing districts having a population of 275,000 or over, according to the Federal Census of 1940, or any subsequent Federal Census, are hereby empowered and authorized, in the discretion of such boards of education, to establish a system of contributory retirement, annuity or pension for cafeteria administrative personnel or employees, cafeteria managers, assistant cafeteria managers, and maintenance employees regularly and permanently employed and so classified by such boards of education, who are employed at the time when this Act shall take effect or who may be employed by such boards of education subsequent to the time when this Act shall take effect; provided, however, that temporary or substitute employees shall be excluded from all provisions and benefits of this Act. (Priv. Acts 1949, ch. 208, § 1)

Sec. 1067.2. Same—Contract with insurance companies or other means to effectuate system.

Said boards of education are empowered to contract with an insurance company or insurance companies to carry out and effectuate such systems of retirement, annuity or pension, in which event the annual amount of such annuity or pension to be paid to each person upon retirement shall not exceed the sum to be arrived at by adding together three per cent of each year's salary of such person from the time of his or her employment up to the time of retirement. But such boards of education are also empowered, in their discretion, to adopt any other means or methods to effectuate said purpose, that is to say, any means or methods that may be appropriate in their judgment, and any other means than contracting with an insurance company or companies. (Priv. Acts 1949, ch. 208, § 2)

Sec. 1067.3. Same—Contributions by employees and board; board may fix retirement age, amount of pension, etc.

Said boards of education are authorized to contract with the aforementioned employees for the deduction of, and are authorized to deduct from, the salary or compensation of each of the aforesaid employees, a certain percentage of the salary of each, not to exceed five per cent of such salary or compensation, and to supplement the same by contributing out of the funds of such boards of education an amount necessary to provide a retirement, annuity or pension as aforesaid, to be used by such boards of education in payment of the costs of such retirement, annuity or pension. The contribution of such boards of education for the aforesaid purpose may be taken from the funds they annually receive from taxes for the support and maintenance of the public schools, or from any other source or sources of revenue or income of such boards of education. And such boards of education are further authorized to contract for and fix the age or time at which the aforesaid employee shall be retired and the amount and duration of the payments to be made to said employee after retirement, which in no case shall exceed fifty per cent of the salary or compensation of the employee at the time of retirement, and said boards of education are authorized to fix and determine the allowance for creditable service of employees who are in the service of such boards of education at the time when this Act shall take effect. (Priv. Acts 1949, ch. 208, § 3)

Sec. 1067.4. Same—General powers to effectuate system.

Said boards of education are authorized to do and perform all things necessary or appropriate to establish, provide for, limit and effectuate such contributory retirement, annuity or pension for the benefit of the aforesaid employees. (Priv. Acts 1949, ch. 208, § 4)

Sec. 1068. President of board—Authority to retire.

Incorporated boards of education of public schools in cities or taxing districts having a population of 275,000 or over, according to the Federal Census of 1940 or any subsequent Federal Census, are hereby empowered and authorized, in the discretion of such boards of education in the case of each particular person, and either upon the application of such person or by the board of education on its own motion, to retire as president of such board of education any person who has served as such president for more than twenty (20) years prior to such retirement. (Priv. Acts 1947, ch. 714, § 1)

Sec. 1069. Same—Amount of retirement salary.

Any such person who shall be so retired as president by such board of education shall be paid by such board of education in monthly installments for and during the remainder of the life of such person an annual sum of money the amount of which shall be fixed and determined by the council or other governing body of such cities or taxing districts by resolution duly adopted and spread on the minutes of such governing body. (Priv. Acts 1947, ch. 714, § 2)

Sec. 1070. Same—Retirement salary to terminate upon death.

Said retirement salary provided for herein shall terminate with the death of the person who has been so retired, and no estate shall be created thereby. (Priv. Acts 1947, ch. 714, § 3)

Sec. 1071. Minimum allowance for persons who retired on or before December 31, 1957.

(a) An Act entitled: "An Act to Charter the Memphis City Schools" passed January 27, 1869, and all amendments thereto, constituting the Charter of the Board of Education of the Memphis City Schools, be and the same are hereby amended so as to authorize and empower said Board of Education of the Memphis City Schools to fix the minimum annual sum to be paid by it to any person or employee who has been retired on and prior to December 31, 1957, from service by said board under any act or law authorizing such retirement, at the sum of $1,200.00 per annum.

(b) When said board shall have so fixed said minimum annual sum as authorized in the foregoing section, the said Board of Education of the Memphis City Schools is hereby authorized and empowered thereafter to pay said minimum annual sum of $1,200.00 in equal monthly installments, to each of those persons who retired on and prior to December 31, 1957, and who except for the provisions of this Act and the action of said board thereunder, would otherwise receive less than said minimum annual sum; and in the discretion of said board of education, to pay same to each such retired person during the remainder of his or her life. (Priv. Acts 1959, ch. 179, § 2)

Sec. 1072. Authority to grant retirement allowances.

The Act entitled "An Act to Charter the Memphis City Schools" passed January 27, 1869, and all amendments thereto constituting the Charter of the Board of Education of the Memphis City Schools be and the same are hereby amended so as to authorize and empower said Board of Education of the Memphis City Schools, hereinafter referred to as the board of education, which has charge of the public schools in the City of Memphis and operates a pension or retirement system for teachers and other employees, to grant retirement allowances, as hereinafter provided, to employees who may be retired by said board of education after the passage of this Act. (Priv. Acts 1955, ch. 113, § 1)

Sec. 1073. Options as to payment of allowances.

An eligible employee at the time of retirement, or at any time after performing the minimum required service so as to become eligible for retirement, may elect to have his or her service retirement allowance paid in accordance with either of the following options:

Option 1. To have said retirement allowance paid for the lifetime of the retired member, and at his or her death to have paid to the member's beneficiary, if alive, or if said beneficiary is not alive, then to the estate of the member, the excess if any, of the amount of accumulated contributions of the member at the date of death over the total retirement payments made to the member.

Option 2. To have paid to the retired member a lesser retirement allowance of equivalent actuarial value, that is to say, an allowance of equal value when computed upon the basis of such mortality and experience tables as shall be adopted by said board of education, shall be paid to said retired member for and during his or her lifetime and after the death of such member to have paid to the member's beneficiary, designated by the member in writing and duly acknowledged at or before time of retirement, said lesser retirement allowance for the remaining lifetime of such beneficiary; provided that if a member who has so designated a beneficiary should die before actual retirement, but after becoming eligible for retirement, his beneficiary shall receive the aforesaid lesser amount during his or her lifetime. (Priv. Acts 1955, ch. 113, § 2)

Sec. 1074. Designation of person to receive benefits accruing between last payment and death.

A retired member who does not select either of the foregoing options, or the beneficiary of a deceased member who has selected one of said options, may designate in writing to the board of education a person to receive that portion of the monthly benefit accruing between the date of last payment and the date of death; and the payment by the board of education of such portion of the monthly benefit accrued shall constitute a full acquittance of any and all indebtedness of the board of education to the estate of such deceased member or beneficiary. (Priv. Acts 1955, ch. 113, § 3)

Sec. 1075. Deduction of employee contributions from salaries; matching contributions by board.

Said board of education is hereby authorized and empowered to deduct retirement contributions from the total salaries of contributing members, which total salaries shall include any and all salary supplements received by contributing members, and the contributions so deducted shall be matched by equal amounts contributed by the board of education from funds under its control. (Priv. Acts 1955, ch. 113, § 4)

Sec. 1076. Ratio between salary and retirement allowance; members of noncontributory system may become members of contributory system.

From and after the passage of this Act, employees retired by said board of education shall receive a retirement allowance which shall be the applicable ratio of the retired employee's total salary including supplements of any and every kind, provided that said employees are members of and contributing to the local contributory retirement system at the time of retirement; and provided further that members of the local noncontributory retirement system shall have the right to become members of the local contributory retirement system by notifying the board of education in writing within twelve (12) months after the passage of this Act that they wish to join the contributory system. (Priv. Acts 1955, ch. 113, § 5)

Sec. 1077. Use of board funds for necessary expenses.

Said board of education is hereby authorized and empowered to use funds annually collected from taxes or other funds coming into its hands to meet the necessary expenses of retirement allowance payments and matching contributions authorized by this Act. (Priv. Acts 1955, ch. 113, § 6)

Sec. 1078. Board authorized to obtain actuarial assistance and make rules and regulations.

Said board of education is authorized and empowered to engage and pay for such actuaries or actuarial assistance as may be necessary to carry out the provisions of this Act, and is further authorized to make such rules and regulations as may be required to put into effect the provisions of this Act. (Priv. Acts 1955, ch. 113, § 7)

Sec. 1079. Investment of retirement funds.

Said board of education shall have full power to invest and reinvest all retirement or pension funds coming into its possession; that said board of education shall have further power to hold, purchase, sell, transfer and dispose of any of the securities and investments in which any of the retirement funds may be invested, subject to the same limitations governing the management of funds under control of the Tennessee Teachers' Retirement System as provided in Chapter 29 of the Public Acts of the General Assembly of the State of Tennessee for the year 1945* and amendments thereto. (Priv. Acts 1955, ch. 113, § 8)

*__Editor's note—__See T.C.A. § 49-1501 et seq.

Sec. 1080. Retirement allowances not to be taken for debt or subject to garnishment.

The salaries or allowances paid or granted hereunder shall not be taken for debt by any process of law, and shall not be subject to garnishment. (Priv. Acts 1955, ch. 113, § 9)