

Property tax referendum on November 7 ballot

Residents to vote on tax break for the elderly

BY CAROLE GRAVES
TML Communications Director

A constitutional amendment that would provide property tax relief for senior citizens is on the November 7 ballot. If approved, Amendment 2 would allow, but not require, the legislature to implement a program of property tax relief for persons 65 years of age and older.

The Tennessee Constitution currently prohibits distinctions between taxpayers based on age or income.

The Homestead Exemption, sponsored by Sen. Mark Norris and Rep. Tre' Hargett, would provide some relief against future reassessments and property tax increases by freezing the amount of property tax imposed on a residence when a taxpayer turns 65. They would still pay property tax, but they would not be charged increases that become effective after their 65th birthday.

The exemption would only apply to homeowners who earn less than a certain income limit to be determined by the Legislature. It also would not apply to any property other than a taxpayer's primary residence.

Each city and county will have the option as to whether or not their jurisdiction participates in the program.

"Those on fixed incomes are hit hardest because they do not have



Sen. Mark Norris

extra income to pay the increased tax assessed upon the appreciated value of their home," said Sen. Norris. "It is important that we create opportunities for senior citizens to keep their homes later in life."

Providing a tax break for the elderly has been a legislative issue since 1979, when a similar law was enacted, but later found unconstitutional. Article II, Section 28 requires that all property be taxed according to its value and that such taxes be equal and uniform. Each respective taxing authority shall apply the same rate to all property within its jurisdiction, and elderly tax relief obligations shall not be imposed upon counties, cities and towns.

To amend the Tennessee Constitution, a resolution must pass by simple majority in one General As-

See **PROPERTY TAX** on Page 8

Private Property Rights Act passes U.S. House, Senate still to consider

With only days to go before Congress recesses for the mid-term elections, the House of Representatives passed The Private Property Rights Implementation Act (H.R. 4772).

After the bill was defeated on the first vote, 234 to 172, on Sept. 26, House Majority Leader John Boehner (R-Ohio) issued a statement that he intended to bring the bill back for another vote later in the week under a new rule that would prohibit amendments and only require a simple majority for passage.

In the second vote, held late in the evening on Sept. 29, the bill passed, but with more opposition, 231-181.

The legislation alters the rules on takings to the detriment of local land use and zoning authority.

The bill's sponsor, Rep. Steve Chabot (R-Ohio), argues this legislation is necessary to address public concerns regarding eminent domain

precipitated by the United States Supreme Court's *Kelo* decision.

Tennessee recently enacted a comprehensive reform of eminent domain laws in response to the *Kelo* decision. If H.R. 4772 is enacted, there is potential concern about the redundancy and the potential for conflict between this federal legislation and the General Assembly's actions.

In addition, the bill does not affect the use of eminent domain for economic development but rather is focused on regulatory takings. As such, the bill breaks new ground and invites federal intrusion into processes and policies that have long been considered the domain of local governments.

Three specific concerns with H.R. 4772 are:

- 1) H.R. 4772 allows corporations and developers to bypass state courts and local resolution procedures, where most land use

disputes are currently resolved, and sue cities and towns over land use issues in federal court.

If passed, this bill would usurp local governmental powers and undermine municipalities' authority to enforce local laws and regulations in a number of important areas, such as: land use, zoning, environmental protection, public health, housing, access for the disabled, workplace safety and historic preservation.

2) The bill would create a flood of litigation, creating a significant unfunded financial burden on state and local governments, both in terms of added litigation expenses and potential damage awards, the costs of which will be borne by local taxpayers.

3) H.R. 4772 appears to impose unconstitutional standards of liability under the Takings and Due Process, exposing federal, See **PRIVATE RIGHTS** on Page 4

Victory for cities in burden of proof with annexations

BY DENNIS HUFFER
MTAS Legal Consultant

In a victory for cities on the issue of burden of proof in annexation cases, the Tennessee Supreme Court refused plaintiffs' request to appeal a decision by the Court of Appeals upholding the annexation by the city of Knoxville of an area surrounded by the city. *State ex rel. Tipton v. City of Knoxville*.

The appeals court ruling, which was essentially upheld by the Supreme Court, rejected the city's contention that the word "or" in the burden of proof language in T.C.A. § 6-58-111(a), which requires plaintiffs to prove the annexation unreasonable or that the health, safety, and welfare of the area and the municipality would not be materially retarded in the absence of the annexation, should be read as "and" or as a drafting mistake. Even so, with the alternative burdens of proof open to

the plaintiffs under the statute, the appeals court held they failed to meet the burden of the one they chose: that the area and municipality would not be retarded in the absence of the annexation. Since the city already provided some services in the area and would provide others after annexation that would promote the public health, safety, and welfare, the area and the municipality would be materially retarded in the absence of the annexation, according to the appeals court.

In a restatement of the burden of proof chosen by the plaintiffs, the appeals court held that "proving lack of material retardation necessarily requires proof that annexation will not materially benefit the municipality and the territory." This depends on services already provided the territory as well as services that will be added or enhanced after the annexation, according to the court. Knox- See **ANNEXATIONS** on Page 7

Skateparks, jumping the hurdles in Tennessee



Photos by Victoria South

Skateboard parks are appearing in cities across Tennessee. See story on Page 9.

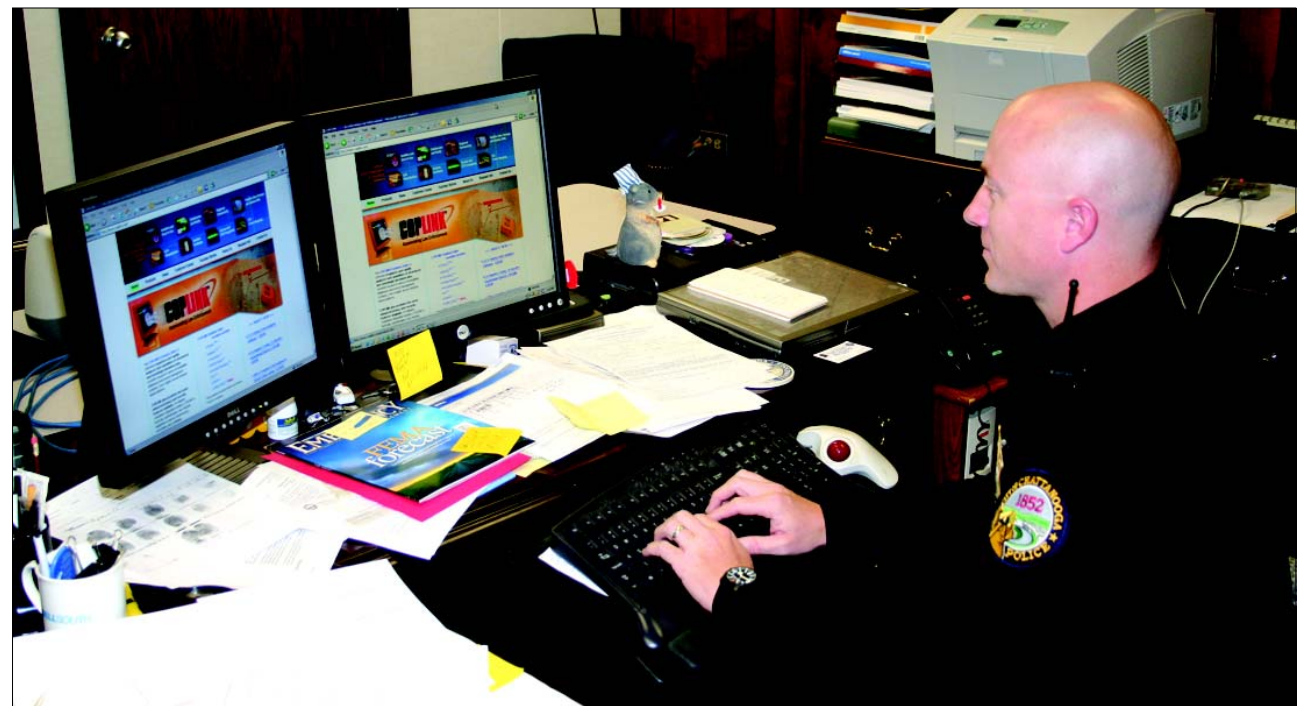


Photo Courtesy of Chattanooga Police Dept.

John Luquer of Chattanooga's Police Department conducts a search using the new CopLink software.

Athens, Chattanooga united through CopLink

BY VICTORIA SOUTH
TML Communications Coordinator

Criminals will have a tougher time operating across jurisdictional lines since law enforcement officials in Athens and Chattanooga have joined the new CopLink regional database system.

Acting on the same principle as Google inquiries, CopLink software is a data mining tool for law enforcement that analyzes and links electronic records management systems (RMS) information across all participating county and city lines.

"The main problem with law enforcement is not being able to keep up with crimes outside of the jurisdiction that are similar in nature," said Athens Police Chief Chuck Ziegler. "Crime is regional. It doesn't stop at the city line."

Copper thefts, according to Ziegler, are a prime example of a regional crime.

"Buildings are broken into for copper wiring," he said. "After Sunday, the walls of churches are stripped, the power cables for computers and big electrical products all stripped. Copper and aluminum are big business. Now we can broaden

the spectrum by looking at the volume of crime in other areas."

The program also saves time and manpower by providing direct information to outside sources.

"Through the CopLink system, we can have immediate access to online records that might have otherwise tied an individual up for half a day researching it for us," said Ziegler.

Both Athens and Chattanooga are in the preliminary stages of installing the software, which was provided through a Homeland Security grant of \$20,000. Athens is the only municipality to join the program in a 10-county district.

"As criminals become more mobile, they use jurisdictional boundaries to thwart criminal investigations," said Capt. J.L. Francis of the Chattanooga police department. "A criminal may manufacture methamphetamine in one county, while being stopped for a traffic violation while purchasing precursor chemicals in another county, and stealing supplies in a third jurisdiction. Running that person in the CopLink program could link the police reports from all three counties."

While some segments of a

CopLink record may be confidential, a hit on one piece of information may be all that's necessary to point an investigating officer in the right direction, according to Chattanooga police chief, Steve Parks.

"Every police department chooses how much information will be shared on CopLink," said Parks. "Some records are sensitive and an officer will need to call to get that particular information. However, one piece may be confidential, and another portion provides a pointer to another region."

Parks looks forward to national information sharing projects such as the FBI N-Dex program where sorted and analyzed CopLink inquiry data will one day be stored.

"This type of information sharing capability will make law enforcement more efficient and better," said Parks.

The \$20,000 Homeland Security grant covers the initial software licensure and connection to the main server for participating departments. Reoccurring maintenance costs will be covered by the individual jurisdictions, according to Parks.

CopLink is utilized by 150 jurisdictions nationwide.

Tennessee cities economic strength growing

BY CAROLE GRAVES

The economic strength of Tennessee communities is improving with several ranking in the top 10 percent nationally.

According to a recently released study on the 361 Metropolitan Statistical Areas (MSA) and the 577 Micropolitan areas in the United States, seven Tennessee cities are ranked in the top half of the MSAs in the country and 10 Tennessee cities are rated in the top half of all Micropolitan areas.

The Nashville-Murfreesboro area received the highest ranking, coming in at No. 2 in the nation in terms of economic strength. The Charlotte-Gastonia-Concord, N.C. See **MSA** on Page 3

Metropolitan Statistical Area	Economic Strength Ranking		
	2006	2005	2004
Nashville-Davidson/Murfreesboro, TN	2	4	7
Memphis, TN / MS-AR	12	25	23
Knoxville, TN	58	77	71
Chattanooga, TN-GA	71	105	145
Jackson, TN	125	158	159
Clarksville, TN / KY	159	180	209
Kingsport-Bristol, TN / Bristol, VA	238	226	249

Seven Tennessee cities are ranked in the top half of the MSAs in the country. See Page 3 for Micropolitan ratings.

TEAC, Clarksville/Springfield-led gas coalition to save \$40k daily

BY GAEL STAHL
Editor

The Tennessee Energy Acquisition Corporation, a Tennessee Municipal League Associate Participant, is the state of Tennessee's first natural gas joint action agency. It celebrated its first decade of service to Tennessee's publicly-owned gas distribution systems at its 10th Anniversary Membership Conference in Nashville Sept. 20-22.

At the conference, TEAC, as the agency is known, also marked a new and extraordinarily successful long-term gas supply acquisition from J. Aron & Company, an affiliate of the Goldman Sachs Group. The supply transaction, financed by issuing \$2.2 billion in revenue bonds, will provide TEAC a 20-year supply of reliable natural gas deliveries to its 17-member public gas systems in Tennessee as well as nine of TEAC's joint action gas supply partners in southeastern Kentucky, Alabama, Florida, Georgia, and South Carolina.

TEAC was formed in 1996 by Clarksville and Springfield. At the time, Don Trotter, who was mayor of Clarksville at the time, recommended Mark McCutchen to head the project. Dave Fisher was mayor of Springfield. Headquartered in Clarksville, TEAC has grown from two to 19 member gas systems in Tennessee.

Trotter says he is glad that what they accomplished 10 years ago has reduced the cost of natural gas to municipal consumers. Clarksville Natural Gas Acquisition Corporation spawned TEAC, the first prepaid natural gas group in the country. "It's a good prepaid back-up option for Clarksville and for other cities in a volatile market," he said.

TEAC President and General Manager McCutchen says project participants and consumers will save approximately \$40,000 per day in gas costs over the next 20 years by its purchase of slightly less than half of its members' historical requirements and leaving room for participation in other projects to create diversity of supply.

TEAC's members, referred to as TEAC's Associated Municipalities, under Tennessee law include the following public gas systems: the cities of Springfield, Waynesboro, Lexington, Ridgetop, Bolivar, Savannah, and Hohenwald; the towns of Linden, Selmer, and Centerville; the West Tennessee Public Utility District; the Greater Dickson Gas Authority; the Bedford County Utility District; the Oak Ridge Utility District; the Hawkins County Utility District; Rockwood Water and Gas System; and Marion Natural Gas System.

TEAC Board of Directors Chairman George Hall, the Gas System director for Springfield, one of TEAC's founding member cities, says that the TEAC Board invited joint action agency partners in the Southeast to participate in the project to reduce overall costs and achieve efficiencies.

Out-of-state participants include the Municipal Gas Authority of Georgia; the Public Energy Authority of Kentucky; the Lower Alabama Gas District; the Southeast Alabama Gas District; Patriot's Energy Group, based in South Carolina; a group from Northeast Alabama consisting of the Scottsboro Water Works, Sewer and Gas Board; Bridgeport Utilities and Stevenson Utilities; and the city of Tallahassee.

TEAC provides gas supply, transportation and storage management services, scheduling, nominations, and balancing services, and hedging and other price risk management services to its members. Membership is open to all public gas systems in Tennessee.

TEAC's previous 2006 supply acquisition is by far the most successful gas prepayment project in terms of economic savings and the number of requests from other publicly owned utilities, including Memphis Light, Gas and Water Division, for TEAC to undertake a second supply acquisition from J. Aron in which it could participate. TEAC is pursuing that and it is slated to be completed before the year's end.

Future leaders applaud MTAS internship

Seven men and women can say they have experienced the rigors of city administration within Tennessee's local government thanks to a recent summer internship program sponsored by the Municipal Technical Advisory Service (MTAS).

Working toward their master of public administration degrees at UT, Reem Abdelrazek, Scott Grammer, Lauren Harding, Wade Jenkins, Jelena Latic, Scott Robinson, and Abe Whaley are the new



(Front left to right) MPA students Abe Whaley, Reem Abdelrazek, Lauren Harding, Scott Robinson. (Back left to right) Bill Hammon (Alcoa), Bob Schwartz (MTAS), Jim Crumley (Morristown), Ron Woody (CTAS), Dr. Bob Cunningham (UT professor), and Dr. David Folz (UT professor)

faces of local leadership gaining hands-on experience before graduation.

"You can't get public works out of a book," said Dr. David Houston, coordinator of U.T.'s Masters of Public Administration (M.P.A.) program. "Being in the field motivates you to make sense of the information in the book."

The internships were created to give students an opportunity to acquire real world experience, the dynamics among city departments not learned in a classroom. "You can never get enough communication, human resource, and interpersonal skills," said Roger Campbell, assistant city manager in Maryville.

The interns submitted weekly reports while meeting the day-to-day challenges cities face in providing municipal services. They completed a myriad of tasks from installing sewer lines to writing grant proposals all on site in their assigned cities. Four shadowed city managers in Alcoa, Clinton, Morristown, and Sevierville while the remainder worked with MTAS or County Technical Assistance Service consultants or with leadership programs for the Institute of Public Service (IPS).

"Shadowing is an integral part of preparing students for the job market," said Harding, who worked in Morristown. "A candi-

date is more competitive if they have experience, projects, and contacts from an internship."

The students met with IPS representatives, political science faculty, and city administrators in August to recap how the internship enhanced their learning experience.

"I picked up much more than I realized," said Abe Whaley, who plans to obtain a PhD in political science. Whaley, said he especially enjoyed the field work he performed in the Alcoa public works department. "I kept the same schedule they kept," said Whaley, "arriving at 5:30 in the morning, if necessary. I was raised on a farm. I certainly didn't want to drive up at 8 a.m. and have utility workers saying 'There's the college boy!'"

Whaley also tried his hand at grant writing. "They just put one in my lap and let me do it," Whaley marveled, proud when the grant was accepted as written.

"What meant most to me was how I was made to feel right at home from the very beginning," said Jenkins who worked in Sevierville. "I worked on many nuts and bolts issues of human resources from implementing a new time-card system to the time-consuming insurance issues. I also helped the finance department prepare for the yearly audit and sat in on staff meetings which were very enlightening."

Jenkins, who also has a law degree, says he now has many options available to him in local govern-

ment. "I always hated politics until a high school government class," said Abdelrazek, who worked in Knoxville at MTAS under Executive Director Bob Schwartz. I assisted several cities doing research and worked on a TML survey. It was exciting. The consultants helped me a lot, especially Ron Darden who adopted me. I helped provide information to 13 cities about utility extension funding. I would be attracted to whatever is happening in local government that provides services and helps people."

Scott Grammer's work carried him to new heights - aboard a Blackhawk helicopter. Working primarily with the IPS leadership team, Grammer assisted with annual conferences for state and local officials and worked in the public relations division as a writer and editor. One of his assignments involved riding along in a Blackhawk.

"The best thing that I've gotten out of the internship is networking with people I ordinarily wouldn't get to meet in public service," Grammer said. "I would like to work for the Federal or state government to shape public policy."

Dr. Mary Taylor, IPS assistant vice president, encouraged the students to pursue careers in city management and praised the application of academics and real world experience through the M.P.A. and internship programs.

TML Policy Committees meet Nov. 2

The Tennessee Municipal League's 2007 legislative priorities will be determined as part of a member-driven process. On Nov. 2, TML Policy Committees will meet to establish the League's legislative agenda for the first session of the 105th General Assembly that begins Jan. 9, 2007.

As in past years, there will be four policy committees: Finance and General Administration; Public Safety; Utilities, Environment and Transportation; and Economic and Community Development. The four policy committees will meet simultaneously.

The priorities established by each committee will be presented to the TML Legislative Committee and ultimately the full board of directors for approval.

TML's Government Affairs Team will be responsible for lobbying the Tennessee General Assembly, using the policy positions to direct and prioritize their activities.

Chad Jenkins, TML deputy director, is responsible for coordinating and overseeing TML's legislative activities. Other members of the TML legislative team include John Holloway and Denise Paige. Jane Alvis will continue to serve as the urban coordinator; Edna Holland will lobby for the TML Risk Management Pool.

Participation in the TML Policy Committees is open to any TML member-municipality and its employees. For information about the policy process or to register for a policy committee, go to www.TML1.org.

Tennessee's mid-size cities continue to grow

MSA, from Page 1

area was the only MSA that was ranked above the Nashville-Murfreesboro MSA.

"Economic strength is the long term tendency for an area to consistently grow in both size and quality," said William H. Fruth, president of the POLICOM Corporation.

POLICOM, an independent economic research firm that specializes in analyzing local and state economies, conducted the research by collecting data on growth rates, consistency trends, industry averages, and other factors for each area. POLICOM uses the data to project the overall health, viability and sustainability of local economies.

To be classified as Metropolitan Statistical Areas, there must be at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. They must have at a minimum one county and often times include several counties.

Micropolitan areas are mid-level cities functioning as significant economic hubs. The term is an economic and demographic measurement of a U.S. region with a population count between 10,000 and 49,999. The area is removed

Micropolitan Statistical Area	Economic Strength Ranking		
	2006	2005	2004
Cookeville	22	54	45
Tullahoma	52	64	123
Greeneville	94	185	132
Sevierville	118	131	85
McMinnville	143	202	258
Crossville	193	139	87
Shelbyville	218	290	237
Athens	221	302	319
Dyersburg	228	312	353
La Follette	265	274	261
Harriman	281	352	411

Ten Tennessee cities are rated in the top half of all Micropolitan areas in the United States. In most cases, the city's

from larger cities, yet continues to thrive and grow in population and production, offering most of the cultural attractions and conveniences of their larger counterparts without the

financial trappings of urban sprawl. Tennessee has 10 MSAs and 20 Micropolitan areas. For a complete ranking of Tennessee's communities go to www.policom.com.

NATIONAL BRIEFS

BY TISH WOMACK
TML Research Analyst

The federal Homeland Security Department will provide \$5 million to NOAA's National Weather Service to supply hazard warning radios to 97,000 public schools across the nation. The radios will provide warnings of hazards from terrorism to weather.

Communities in Colorado, Georgia and Florida have turned to CH2M Hill to run their cities for a price. "Contract cities" indicate they are getting more efficient use of tax dollars and better services by hiring a private firm to run most departments. The idea is not without its detractors. Kerry Korpi of the American Federation of State, County and Municipal Employees stated that giving a private company control of city hall is giving away control of the city.



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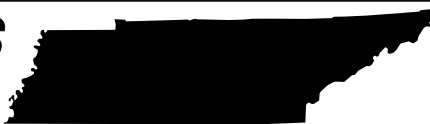
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STATE BRIEFS



2006 legislative changes impact city courts

BY TISH WOMACK
TML Research Analyst

The Tennessee Department of Revenue has redesigned its Web site, www.Tennessee.gov/revenue, to reflect the transfer of the Division of Title and Registration from the Tennessee Department of Safety to the Department of Revenue. The updated site is set up to be user-friendly.

"Smart Tennessee," a financial literacy pilot program, was launched by the state, First Tennessee Bank, and the University of Memphis to serve the first and fourth grades of 18 schools in Memphis, 18 in Nashville, and 9 in Knoxville. Additional grades will be added in future years. The program will serve 108 elementary, 44 middle, and 34 high schools annually when fully implemented.

Gov. Phil Bredesen's 41st Executive Order required companies that do business with the state to certify

that they do not hire illegal immigrants as of Oct. 1.

The following Tennessee Department of Transportation grants were announced by Gov. Phil Bredesen: \$1,080,000 to Pulaski-Giles County Airport; \$1,292,500 to the John C. Tune Airport in Nashville; \$2,961,800 to the Nashville International Airport; and \$150,000 to the Springfield-Robertson County Airport. The grants, through TDOT's Aeronautics Division, will be used by the airports for improvements to the facilities.

October is energy Awareness Month and the governor, along with the Tennessee Department of Economic & Community Development, asked that Tennesseans participate by signing onto the Change A Light pledge that can be found at www.energystar.gov/changealight. Each Tennessean is asked to replace at least one incandescent light bulb to an Energy Star Qualified bulb.

TDOT: Keep Tennessee Beautiful Awards Competition entries

Every two years, the Tennessee Department of Transportation and Keep Tennessee Beautiful recognize outstanding individuals, organizations and programs across the state for their creativity and dedication to engage fellow Tennesseans to take greater responsibility for their community environments.

A total of \$40,000 in awards will be presented at the 2007 TDOT/KTnB Awards of Excellence luncheon ceremony held Feb. 5, 2007, at the Radisson Opryland Hotel in Nashville. Awards of Excellence will be presented in these categories: **Public Education** for Adults, Business, Government, Media, Schools – Grades K-8 Schools – Grades 9-12, Higher Education – Junior Colleges, Universities & Vocational; **Leadership**; **Public Participation**: Great American CleanUp of Tennessee and the Adopt-a-Highway Program; **TDOT County Litter Grant Pro-**

gram; and **Keep America Beautiful- TN Affiliate Program**.

For information, submission guidelines and to enter online, visit www.ktnb.org or entries may be submitted by mail to: Awards of Excellence, Keep Tennessee Beautiful, 976 West Park Loop, Suite 113, Memphis, TN 38152. Competition applications are due by November 10, 2006.

All award winners will be notified via telephone by January 4, 2007, and recognized at the TDOT/KTnB Awards of Excellence Luncheon during the Keep Tennessee Beautiful State Conference.

Entries must be postmarked or submitted online by Nov. 12, 2006.

For questions about the application or awards process, please contact Gordon Wilson at 888.862.5326 or gwilson2@memphis.edu.

Thank you for helping to keep Tennessee beautiful and good luck!

BY MELISSA ASHBURN
MTAS Legal Consultant

The Tennessee General Assembly made changes in laws during the 2006 legislative session that affect municipal courts and municipal code enforcement.

Adoption of State Misdemeanors as Municipal Ordinances Municipal courts are civil courts rather than criminal courts and have jurisdiction only over ordinance violations. Municipal courts with concurrent general sessions jurisdiction are an exception to this rule, as such courts have specifically been granted criminal jurisdiction.

Municipal courts without concurrent jurisdiction may hear only offenses for actions that are in violation of municipal ordinances. For that reason, the law has long provided that certain state misdemeanors may be adopted by reference by cities as ordinance violations that may be tried in city courts, with certain limitations.

The method by which cities adopt state misdemeanors as ordinances was also changed. Previously, cities relied upon the authority granted under T.C.A. § 55-10-307, which provided that specific sections of the law could be adopted by reference through ordinance. Most of the sections of the code listed in the statute are found in the section of our state code titled "Rules of the Road." The laws requiring the use of seatbelts and child safety seats are also included. T.C.A. § 55-10-307 has been repealed, and another section of the state law has been amended to provide broader authority.

The statute that now provides authority to cities adopting state misdemeanors is T.C.A. § 16-18-302(a), which states: Notwithstanding any provision of law to the contrary:

- (1) A municipal court possesses jurisdiction in and over cases:
 - (A) For violation of the laws and ordinances of the municipality; or
 - (B) Arising under the laws and ordinances of the municipality; and

- (2) A municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute duplicated or cross-referenced is a Class C misdemeanor.

The above language amends the Municipal Court Reform Act and replaces certain language that prevented cities from enforcing state misdemeanors adopted as ordinance violations if the state statute levied a fine of more than \$50. Now, cities may adopt and enforce state Class C misdemeanors, regardless of the state fine, but may levy only a \$50 fine for violations. The Tennessee Supreme Court ruled that municipal ordinance violations are limited to fines of \$50. *City of Chattanooga v. Davis and Barrett v. Metropolitan Government of Nashville and Davidson County*, 54 S.W.3d 248 (Tenn. 2001)

The amendment to T.C.A. § 16-18-302(a) quoted above does not limit authority to particular sections of the state law but requires only that such laws be classified as Class C misdemeanors. Cities may, therefore, now adopt other offenses, including the law governing window tinting on vehicles codified at T.C.A. § 55-9-107.

If your city ordinance adopting state laws cites T.C.A. § 55-10-307, the ordinance must be amended to state that such adoption is made pursuant to the authority contained in T.C.A. § 16-18-302(a). This amendment to the city ordinance and code should be made as soon as possible, as the legislation took effect immediately upon being enacted in June 2006.

Note: Many city ordinances adopting state traffic laws do not cite T.C.A. § 55-10-307. If the ordinance does not mention the former statute, no amendment is necessary.

"Move Over Law," May Not Be Enforced in Municipal Courts

As noted in the new statutory language quoted above from T.C.A. § 16-18-302(a), municipalities may now adopt and enforce state Class C misdemeanors. One state law that has been adopted by many cities as an ordinance violation is the offense of failure to yield to emergency vehicles contained in T.C.A. § 55-8-132. 2006 Public Acts Chapter 653 amends the statute to now make the offense a Class B misdemeanor, subject to a fine of \$100 to \$500. Cities may now adopt and enforce state laws "if and only if the state criminal statute duplicated or cross-referenced is a Class C misdemeanor." T.C.A. § 16-18-302(a)(2). In light of this change and the upgrading of the offense to a Class B misdemeanor, the new language appearing in T.C.A. § 55-8-132 invalidates all municipal ordinances requiring drivers to yield to emergency vehicles. The effective date of this legislation is July 1, 2006.

Municipal courts may no longer hear cases for violation of ordinances requiring drivers to yield to emergency vehicles. Municipal courts with concurrent general sessions jurisdiction may try such offenses as state law violations. Cities without such jurisdiction should instruct their police officers to cite offenders to the general sessions court.

Other Offenses That May Not Be Heard in Municipal Courts

In limiting the jurisdiction of municipal courts to state offenses that are Class C misdemeanors adopted by ordinance, the legislature has removed jurisdiction over a number of former municipal offenses. Many municipal codes have provisions proscribing behavior that the state laws classify as Class B or A misdemeanors or felonies. Such code violations may no longer be heard in municipal court.

Following is a list of municipal offenses contained in many municipal codes that may not now be enforced in municipal courts:

- Reckless driving, adult underage drinking and driving without valid license: T.C.A. § 16-

18-302(b), may be enforced only by cities with population over 150,000;

- Cruelty to animals: T.C.A. § 39-14-202, Class A misdemeanor;
- Assault and battery: T.C.A. § 39-13-101, Class A or B misdemeanor;
- Malicious mischief and vandalism: T.C.A. § 39-14-408, Class A misdemeanor up to a Class B felony;
- Abandoned refrigerators and airtight containers: T.C.A. § 39-17-103, Class B misdemeanor;
- Disorderly houses, prostitution, and immoral conduct: T.C.A. §§ 39-13-513 through 515, Class A or B misdemeanor up to Class E felony;
- Obscene literature or material: T.C.A. § 39-17-901, et seq., Class A misdemeanor up to Class E felony;
- Public indecency and indecent exposure: T.C.A. § 39-13-511, Class A or B misdemeanor;
- Window peeping: T.C.A. § 39-13-607, Class A misdemeanor;
- Promotion of gambling: T.C.A. § 39-17-503, Class B misdemeanor;
- Criminal littering: T.C.A. § 39-14-502, Class B misdemeanor;
- Disrupting meeting or procession: T.C.A. § 39-17-306, Class B misdemeanor; and,
- Worthless checks: T.C.A. § 39-14-121, Class A misdemeanor or felony.

Note: Failure to appear ordinances that mirror, substantially duplicate, or reference T.C.A. § 39-16-609 may no longer be enforced in municipal court, as the statute makes such offense a Class A misdemeanor. T.C.A. § 7-63-105 appears to authorize cities to make failure to appear an ordinance violation, separate from the state law. If the city failure to appear ordinance cites T.C.A. § 7-63-105 or contains no state law citation, in the opinion of MTAS consultants the ordinance may still be enforced in municipal court.

For further information concerning the amendment to your municipal code made necessary by these legislative changes, please contact your MTAS municipal management consultant.

Municipal Courts Now Have Authority to Issue Administrative Inspection Warrants

In 2003 the General Assembly passed a law providing for the issuance of administrative inspection warrants, codified at T.C.A. § 68-120-117. This law created an important tool for code enforcement by local governments by establishing a procedure for code officials to seek an inspection warrant when probable cause exists that a code violation is occurring on private property. The statute provides that the burden of proof is not the same as is required for the issuance of criminal search warrants and further limits the purposes for which such warrants may be used.

The 2006 General Assembly passed an amendment to the administrative inspection warrant statute to make clear that municipal judges have the authority to issue such warrants. 2006 Public Acts Chapter 758 amends T.C.A. § 68-120-117(a)(1) by expanding the definition of "issuing officer" to include "[a]ny municipal court having jurisdiction over the agency making application for an administrative inspection warrant, provided that the judge of the court is licensed to practice law in the state of Tennessee."

Code enforcement officials may now apply to their municipal courts for administrative inspection warrants. No ordinance or resolution is required before a city takes action under the law and seeks a warrant, if the judge is also a licensed attorney. The statute sets the procedure to follow when making such an application and further specifies what information must be contained in the warrant. No hearing or notice to the property owner is required before an administrative inspection warrant is issued.

For further information about administrative inspection warrants, please contact your MTAS municipal management consultant.

Private Property Act passes U.S. House, no Senate companion bill

PRIVATE RIGHTS from Page 1 state and local governments to vast new financial liabilities based on their regulatory actions.

Despite the furious House activity over HR 4772, there is no Senate companion bill and previous

attempts to pass similar legislation have failed. With Congress in recess until November, there is no possibility for Senate action until the post-election lame duck session, which already faces a full agenda of appropriations bills and national security matters.

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Municipal Clerks, Recorders enjoy the perks of professional development, networking at Fall TAMCAR meeting in Franklin

Municipal clerks from across the state met last month in Franklin to attend the TAMCAR's annual business meeting and Fall Institute and Academy.

At their annual business meeting held TAMCAR elected their new slate of officers for 2006-2008. Connie Kittrell, Gallatin city recorder, was inducted as the 2006-2008 president.

The Tennessee Association of Municipal Clerks and Recorders is a professional organization dedicated to the advancement of the Municipal Clerk. TAMCAR encourages clerks to continue their professional growth and development through continuing educational opportunities.

City clerks fulfill a multitude of duties on a daily basis. From maintaining official council minutes to acting as a liaison between the city and its citizens, city clerks have a substantial amount of responsibility in local government.

TAMCAR assists clerks with personal and professional development by conducting education Institutes and Academies twice annually in the spring and fall, offering a curriculum that concentrates on public administration, social and interpersonal skill enhancement, and current issue sessions. Completion of these education sessions results in points needed to receive state certification through the Tennessee Secretary of State's Office.

TAMCAR is proud to be a part of the International Institute of Municipal Clerks (IIMC) Association. IIMC offers additional certification opportunities for clerks to become Certified Municipal Clerks (CMC) and Master Municipal Clerks (MMC).

Those who attend TAMCAR Institute/Academy sessions receive education points counting toward their CMC or MMC designation. TAMCAR encourages all of its members to become members of IIMC in order to further develop their professional growth opportunities.



Workshops are conducted at TAMCAR meetings covering topics such as public administration, social and interpersonal skills, and current issue sessions.



(Left to right) Cathy McClain, Cookeville City Clerk; Cindi Reynolds and Tomi Briggs, staff with UT Organizational Development.



TAMCAR instructors encourage clerks to continue their professional growth and development through continuing education classes.



Cleveland City Clerk Janice Casteel with Pulaski City Recorder Terry Harrison (left) and Covington City Recorder Jere Hadley (right.)



MTAS Management Consultant Warren Nevade and Crossville City Recorder Sally Oglesby.

COMING UP

Oct 1-19: Notable Trees of Tennessee Exhibit at Crossville City Hall.

Oct. 24-Nov. 4: Notable Trees of Tennessee Exhibit at First National Bank in Pulaski.

Oct 1-Oct. 29: Blount County Historical Museum, 200 E. Broadway Ave., Maryville. Smithsonian traveling exhibit: "Between Fences" that looks at the physical and cultural fences that sometimes separate people. Exhibit will travel to Jonesborough, Maynardville, Livingston, Hohenwald, and Paris in Tennessee.

Oct. 10-12: National Renewable Energy Conference: "Advancing Renewable Energy: An American Rural Renaissance," St. Louis, Mo., sponsored by the U.S. Department of Agriculture and U.S. Department of Energy. Contact: USDA at 202-720-4623 or DOE at 202-586-4940.

Oct. 12-15: National Land Conservation Conference at the Nashville Convention Center. Visit www.lta.org for full information.

Oct. 23: Economic Summit for Women at the Marriott Nashville Airport Hotel, 600 Marriott Drive, Nashville. Cost: \$80. Contact: Yvonne Wood at vcwood@aol.com or call 615-444-9663.

Oct. 30 - Nov. 1: Biofuels Workshop and Trade Show, Gaylord Opryland Resort & convention Center, Nashville. An in-depth seminar that explores the start to finish of developing a biofuels project and the new advancements and technologies in the biomass industry. Visit www.bbbiofuels.com/biofuelsworkshop for more information.

Nov. 12-17: Tennessee Recreation and Parks Association 2006 conference at Paris Landing State Park.



(Above) Participants conduct a mock city council meeting as part of an educational session of how a properly-run council meeting should be conducted. (At left) Randy Trivette, Erwin city recorder, plays the role of council member during the mock city council meeting.

Photos By Denise Page

TRA approves revised telephone rates for some state businesses

The Tennessee Regulatory Authority (TRA) approved rate changes for 18 telephone companies providing a reduction for services to some Tennessee businesses.

The changes were a result of property tax legislation passed by the Tennessee General Assembly in 2001, which effectively lowered the amount of property taxes that incumbent local exchange companies (ILECs) are assessed for their properties. In turn for this reduction, ILECs were required to revise their rates for Tennessee businesses to reflect their savings.

"The TRA is glad to be able to play a role in ensuring that needs of both the utility providers and consumers are being met. Thanks to legislation like this, the interests of

both have been acknowledged and balanced," said TRA Chairman Sara Kyle.

These tariff approvals equate to \$13.5 million for Tennessee companies.

"When there is a legislative body like ours in Tennessee, which works hard to ensure as many wins as possible, it is a little easier to promote the interests of both utility consumers and providers," said TRA Director Eddie Roberson. "The credit for these reductions goes to our General Assembly. This was made possible by the wisdom displayed by our legislature in coupling flow-through savings to consumers with tax rate reductions. Yesterday's approval is evidence of how this wisdom translates to benefits for

both parties."

The following companies revised their rates to reflect the tax savings adjustment: Crockett Telephone, Peoples Telephone, West Tennessee Telephone, United Telephone, Ardmore Telephone, Millington Telephone, CenturyTel of Adamsville, CenturyTel of Ooltewah, CenturyTel of Claiborne, Loretto Telephone, Concord Telephone, Humphreys County Telephone, Tellico Telephone, Tennessee Telephone, UTSE (dba Embarq), Citizens of Tennessee, Citizens of Volunteer State and BellSouth Telecommunications. Monday's action by the TRA will allow those adjusted rates to become effective on Oct. 1.

The mission of the TRA is to



Eddie Roberson

promote the public interest by balancing the interests of utility consumers and providers. For more information on the TRA, visit online at www.state.tn.us/tra.

NLC's Congress of Cities offers how-to workshops for improving municipalities

BY LATRICIA GOOD
Nations Cities Weekly

The job of serving as a local leader doesn't come with a standard manual or handbook on how to navigate it successfully.

Many local officials have the same question: "How do I begin to solve my city's problems?" It is indeed a question that requires a multifaceted answer. This year, at its Congress of Cities and Exposition, NLC is aiming to provide just that.

Bringing together nationally recognized speakers, seasoned subject matter experts and other experienced city officials, NLC will address the growing number of challenges facing city leaders during its Dec. 5-9 conference in Reno, Nev.

Critical challenges include threats of terrorism and natural disasters, infrastructure developments, shifts toward global economies, and failing schools.

With a new format under way, conference workshops will be organized around six main themed tracks, addressing major issues of critical importance to America's cities and towns. Each track will be assigned a facilitator who will moderate all workshops falling under a particular theme, and will sum up outcomes from each with an hour-long wrap-up session.

Through this comprehensive workshop lineup, NLC plans to give delegates an all-inclusive guide to navigating the various obstacles to improve their cities and towns. Focusing on the how-tos of solving city problems and making a city a great place to live, NLC's more than 40 concurrent workshops will highlight innovative programs and new approaches to local governance.

The specifically themed tracks are listed below with brief descriptions.

• **How to create a strong local infrastructure.** State and local governments own and operate the vast majority of the nation's infrastructure. This workshop series will address the required resources and approaches needed to build a strong infrastructure at the local level.

• **How to prepare for the unexpected.** Because all emergencies occur at the local level, preparation for unexpected events begins with



Reno, Nevada
Dec. 5-9

local governments. This workshop series will address resources and approaches to supporting response efforts of local agencies and ways to strengthen the local capacity to respond to emergencies in a timely and effective manner.

• **How to pay for essential services.** Providing essential services to citizens requires a comprehensive approach to addressing cost and access. This series of workshops offers approaches to thinking tactfully about cost, design and delivery of services in order to ensure that local agencies are able to provide cost-effective, quality services to citizens.

• **How to keep your economy strong.** Economic vitality and competitiveness are essential to the quality of life in cities and towns, and local leaders play a special role in advancing economic development goals in their communities. This workshop series will examine trends affecting local economies and discuss innovative strategies to achieve economic well-being at the local level.

• **How to make your city a great place to live.** Local governments are responsible for maintaining communities where their people can live, work, enjoy recreational activities and have access to services. Workshops in this series will focus on the critical components needed to ensure that a community is a great place to live.

• **How to engage and communicate with your citizens and community at-large.** A growing disconnection between citizens and government has highlighted the need for local leaders to revisit issues of democracy and governance. Workshops in this series will highlight successful tactics for promoting inclusion and using communication to strengthen democracy and governance at the local level.

Details: To learn more about the Congress of Cities and Exhibitions or to download a copy of the conference brochure, visit www.nlc.org.

Bond Fund Board of Directors to meet

Notice is hereby given that the Tennessee Municipal Bond Fund Board of Directors will meet in regular public session on Tuesday, Nov. 14, 2006, at 9 a.m., local time, in the Fifth Floor Conference Room of the TMBF, 226 Capitol Blvd., Suite 502, in Nashville, Tenn., for the purpose of considering and transacting all business which may properly come before said board. Some members of the board may participate in

such meeting by telephonic means, which will be audible to any member of the public attending such meeting.

If reasonably possible, an agenda will be available on Friday, Nov. 10, at the offices of TMBF, 226 Capitol Boulevard, Suite 502, in Nashville. Additional information concerning the above may be obtained from Lorrie Nelson at 615-255-1561.

States face big price tag for secure driver's licenses

BY LAURA TURNER
Nations Cities Weekly

The federal Real ID Act, which creates national standards for issuing state driver's licenses and identification cards with the goal of greater security, will cost states more than \$11 billion over the five-year implementation, according to a comprehensive analysis released last month by the National Governors Association (NGA), National Conference of State Legislatures (NCSL) and American Association of Motor Vehicle Administrators.

States will likely be required to reissue driver's licenses and identification cards to all 245 million current holders within the five years; establish on-site identification verification procedures at the source of issuance and meet specific security and production requirements for the new card.

"States feel it is vitally important for Congress and the administration to understand the substantial fiscal and operational cost of altering state systems," said NGA Executive Director Raymond C. Scheppach. "This report identifies the most significant costs of Real ID compliance and describes the impact to states' business processes."

NCSL Executive Director William T. Pound addressed the financial burden on states saying, "This is a very large unfunded mandate. The \$11 billion question is, 'Who's going to pay for it?'"

Detailed data provided by the 47 jurisdictions responding to a survey conducted by the three groups indicates that among the costs of the changes to the driver's licensing process are a one-time calculable expense of nearly \$1 billion and ongoing costs of more than \$10.1 billion for the first five-year enrollment period.

The report also suggests additional costs, such as the added time and effort citizens will spend



States will likely be required to reissue drivers licenses and ID cards to all 245 million current holders; establish on-site identification verification procedures at the source of issuance and meet specific security and production requirements for the new card within the five-year implementation under the federal Real ID Act, which creates national standards for issuing driver's licenses and identification cards with the goal of greater security.

to comply with the state motor vehicle department.

Anticipating three to four identity documents per applicant, with more than 80 million transactions performed annually, applicant processing time will more than double for citizens in most states, with waits in some areas increasing by up to 200 percent.

Several provisions under consideration by the Department of Homeland Security, which were not addressed by the survey, could potentially further impact citizens and state motor vehicle departments and add significantly to the costs.

Real ID is currently the top issue for the two state organizations. While local jurisdictions do not have a role to play in issuing driver's licenses, they will likely be impacted by such a heavy fiscal burden on states.

Among recommendations to fa-

cilitate a more realistic approach, the state associations asked the federal government to:

- extend the compliance deadline; provide the funds necessary to comply;
- provide the necessary federal electronic verification systems;
- require states to employ electronic verification systems only as they become available;
- implement a 10-year re-enrollment schedule;
- adopt uniform naming conventions to facilitate electronic verification between files;
- allow reciprocity for persons already vetted by the federal government;
- establish card security based on performance—not technology;
- grant the Secretary of Homeland Security the flexibility to recognize innovation at the state level.

City University November Class

City Recorder Duties—Beyond the Basics

MTAS

MUNICIPAL TECHNICAL
ADVISORY SERVICE

November 2	Collegedale
November 3	Smyrna
November 8	Johnson City
November 9	Knoxville
November 29	Bartlett
November 30	Jackson

Time

Public administration courses begin at 8:30 a.m. and conclude at 12:30.

Training Facilities

Bartlett Bartlett Performing Arts and Conference Center, 3663 Appling Road
Collegedale Collegedale City Hall, 4910 Swinyar Drive
Cookeville Town Center, One West First Street

The city recorder is a key official in Tennessee municipal governments. In smaller cities, this person may be the only office employee. Specific duties of the recorder depend upon provisions of the city charter, the municipal code of ordinances, directives of the municipal governing body, and, to some extent, the individual skills and capabilities of the officeholder. This course will give a summary of the duties of a city recorder, the authorization for these duties, and how these duties are to be properly administered.

Facilitator

Margaret Norris, MTAS consultant, author of the *City Recorder Update*

Who Should Attend?

City recorders and city clerks and those who want to know more about the duties and responsibilities of the city recorder.

Dates and Locations

November 1 Cookeville

NCSL explores ways to prevent obesity

State legislators will have more information about what states can do to combat obesity thanks to a \$245,440, two-year grant from the W.K. Kellogg Foundation to the National Conference of State Legislatures (NCSL).

The grant will fund NCSL's State Actions for Healthy Food, Physical Activity and Food Systems to Support Healthy Communities Project.

The project is designed to help state legislators and their staff members understand the complex mix of health, economic, social, cultural, and behavioral factors that contribute to the growing number of obese Americans.

The project will also examine the legal and policy framework that impacts these issues.

It will gather data and inform state legislators about policies

that support obesity prevention. Such policies offer more opportunities for physical activity, for example, or make nutritious foods available in schools, workplaces and communities.

"Armed with in-depth knowledge of this multifaceted subject, we hope to enable state legislators to craft sound policy on health, nutrition and obesity prevention," said Amy Winterfeld, NCSL health policy analyst.

"Today, almost 64 percent of Americans are overweight and more than 30 percent are considered obese. The costs of these problems are borne by the nation as a whole in terms of rising healthcare costs."

The W.K. Kellogg Foundation was established in 1930 "to help people help themselves through the practical application of knowledge

and resources to improve their quality of life and that of future generations."

To achieve the greatest impact, the Foundation targets its grants toward specific areas. These include: health; food systems and rural development; youth and education; and philanthropy and volunteerism.

Within these areas, attention is given to exploring learning opportunities in leadership; information and communication technology; capitalizing on diversity; and social and economic community development.

Grants are concentrated in the United States, Latin America and the Caribbean, and the southern African countries of Botswana, Lesotho, Malawi, Mozambique, South Africa, Swaziland, and Zimbabwe.

For further information, please visit the Foundation's Web site at www.wkff.org.

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Salad days for state budgets may be short-lived

BY NEAL PEIRCE
Washington Post Writers Group

It's the best fiscal break for state governments since the deep slump that followed the 9/11 terrorist attacks. Most states have just finished up budget years reveling in surpluses that are at least 10 percent ahead of their projections. The National Conference of State Legislatures, totaling up all the state surplus figures, reports a heartening \$57 billion figure.

Why all this good news? What's happened to let a good number of states start making up for years of lagging help for schools and colleges and local governments, even replenish their rainy day funds?

Reason No. 1: a strengthened national economy. No. 2: several one-time, probably temporary, breaks in individual states. Connecticut, for example, is realizing a windfall from capital gains on its income tax. Arizona is reveling in an unexpected \$1.5 billion income bubble generated by its real estate boom.

And there's another factor: new life in the beleaguered state corporate income tax. In recent years it's been so cleverly "gamed," with profits shifted around from state to state by clever company accountants, that some experts predicted its eventual demise. But now tax returns to the states have soared with rising corporate profits. States have begun to pass "add-back" laws to recapture money that corporations try to "shelter" in tax-haven states like Delaware.

Another factor in the corporate tax rebound, reports Governing magazine, is that companies decided in the wake of the Enron debacle and parallel corporate scandals to stretch laws less, play it safer. Also, the federal Sarbanes-Oxley Act has required new levels of transparency in

corporate fiscal dealings.

But are the happy days in state finances likely to last long? The answer, sadly, is almost surely not.

In the short term, there are indications the economy is slowing, with some discussion among economists whether we're headed to a recession or just a "soft landing."

Either way, says David Osborne, co-author of "The Price of Government" and veteran observer of the scene, we're in for lean years — maybe decades of lean years — for state governments. The basic reason is the aging of our population and the built-in, seemingly irreversible inflation of our health care costs that are now gobbling up about a third of state budgets, up from just 15 percent in 1985.

The federal government is in no position to come to the states' rescue. It not only has a rising tide of Social Security payments ahead but has to pay for Medicare, destined to gobble up ever-greater shares of the federal budget as the baby boomers reach retirement years. Add in our escalating budgets for armed forces and weapons, plus the huge interest payments on the massive deficits the current government in Washington has been running up, and there's little doubt about the future — a federal government less able to help out states.

As for the states themselves, no one's found a way to stop the inexorable upward march of Medicaid costs. Education is bound to cost a lot more — not just because of teacher union power, but because a 21st-century economy (and state economic success) makes not just high school but higher education, mandatory for most students.

On top of that, many local governments are highly dependent on state aid — and hobbled by state restrictions on how much they can raise themselves. State aid was cut

sharply starting in 2001, and has a long way to come back.

Add in long-overdue infrastructure repair, disaster preparedness, maintaining highways in an era of weakened federal support, plus the immense sums we spend on incarcerating more people than any other nation on earth, and any idea of easy fiscal times for states anytime soon is probably pure fancy. And that's before calculating the figures — as high as \$1 trillion in all — for unfunded state and local government worker pensions and full funding (which becomes mandatory next year) of retiree health plans.

It would be great if these realities were part of this fall's elections for governors in 36 states. But they aren't. Instead, candidates are typically promising new programs and shunning any talk of new taxes.

Some surreal situations have developed. Take Massachusetts. It's siphoning off \$550 million from its "rainy day" fund to balance its current budget — even while several of the candidates for governor wrangle over how much to cut the state income tax.

Maine, Montana, Nevada and Oregon have stiff tax and revenue limit measures on this fall's ballots. Similar initiative efforts are pending in six other states. Washington voters will consider repealing the estate tax, which generates about \$100 million a year for public schools and enrollment in higher education.

The more the anti-taxers succeed, the sooner the comeuppance in the state capitals. Yet Osborne's gloomy prognosis is probably correct: All states better gird themselves for "permanent fiscal crisis."

Editor's Note: The opinions expressed in this column are not necessarily those of the Tennessee Municipal League. Neal Peirce's email is nrp@citistates.com.



BY TISH WOMACK
TML Research Analyst

Let us know the particulars about your most important festivals at least six weeks in advance of the event. E-mail Tish Womack at twomack@TML1.org or fax to 615-255-4752.

Oct 1-Oct. 31: Smoky Mountain Harvest Festival — a countywide celebration. Call 800-568-4748 for more information.

Oct 13-15: 2006 Foothills Fall Festival in Greenbelt Park, downtown Maryville featuring music artists Sister Hazel, Deanna Carter, The Wreckers, Randy Travis, and more. Tickets: \$45 through Sept. 30; at the gate \$55. Visit www.foothillsfallfestival.com or call 865-981-1325 for more information.

Oct. 13-14: Lewisburg's Goats, Music & More Festival at Rock Creek Park featuring the famous fainting goats. Visit www.goatsmusicandmore.com or call 800-96-GOATS for more information.

Oct. 13-14: Spring Hill's Tractor Show at Rippavilla Plantation sponsored by the Tennessee Museum of Farm Life featuring plowing and barrel rolling contests, skillet throwing contest and other unique events. Admission: \$5, children under 12 are free. More information at 931-381-3686.

Oct. 14: Athens' Pumpkintown, a festival of history, harvest and heritage in downtown Athens from 11:30 a.m. to 6 p.m. East Tennessee crafts, music, food and history will be featured along with children's crafts, heritage craftsmen, storytellers and music. Admission free. Contact: Laura LeNoir at 423-746-0699 or visit www.athensdba.org.

Oct. 14: Rockwood Family Fall Festival in downtown Rockwood from 10 a.m. to 9 p.m. with rock climbing, mechanical bull, cow milking contest, speed pitch cage & radar, silent auction, food, and more. Contact: Lisa Collett at 865-354-9629.

Oct. 14: Sparta's Liberty Square Celebration featuring Marty Stewart along with an antique car show, craft fair, games, food and lots of giveaways. Contact: Lorie Spivey at 931-836-3248.

Oct 19-20: Bell Buckle, Tennessee Bell Buckle Arts & Crafts Downtown Shows Arts and Crafts Festival food & entertainment 931-294-5906 or 800-707-0483 for more information.

Oct. 20-22: Native American Indian Association of Tennessee's 25th Annual Fall Festival and Pow Wow at Long Hunter State Park, 2910 Hobson Pike, Nashville. Indian food, arts & crafts, live music and dances are featured. Cost: \$5 for adults, \$3 for children 6-12, free for children under 5.

Oct. 26: Institute of Government at Tennessee State University lecture by retired Tennessee Supreme Court Justice Adolfo A. Birch: "The Controversy Surrounding Tennessee's Selection of Justices and the Attorney General," 12-1 p.m. Old Supreme Court Chambers, state Capitol. Contact: Dr. Rizzo at 615-963-7241.

Oct. 28-29: Mountain Makins Festival in Morristown celebrating the traditions of Appalachia. Contact: Rose Center at 423-581-4330 or rosecenter.org.

Tenn. Supreme Court rules in favor of cities, burden of proof with annexations

ANNEXATIONS from Page 1
ville was already providing street lights, traffic signals, and storm drains that enhanced the value and safety of the territory. The city also already had fire hydrants in the area. After annexation, police and fire response to the territory would be improved and there would be less likelihood of confusion of dispatchers of emergency services. Also, after annexation, the city would be able to

zone the territory properly, guaranteeing consistent land use in the territory.

The appeals court ruling noted that the territory, being a doughnut hole surrounded by the city, was already a de facto part of the city. It benefited from some city services already and would benefit from others after annexation. The court held, "If the Territory and City will materially benefit from annexation, then

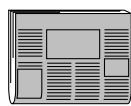
it follows that the failure to annex the Territory would materially retard the health, safety, and welfare of the citizens and property owners of the City and Territory." (Slip op., p 9). Since the plaintiffs failed to carry their chosen burden of proof, the appeals court upheld the annexation. The Supreme Court denied permission to appeal.

To read the entire appeals court decision, go to www.tmaa.us .

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CITY ADMINISTRATOR

LAWRENCEBURG. The city of Lawrenceburg is accepting resumes for the position of city administrator who reports to the mayor and board of commissioners. The city administrator is responsible for administering the day-to-day affairs of the city. The city employs 140 persons and provides police, fire, refuse collection, codes enforcement, park maintenance, street maintenance and park recreation with a combined operating budget of \$9 million. The city owns and operates the utility systems through a board of directors. The ideal candidate will have a bachelor's degree in business administration, or related field, with three to five years supervisory or management experience in overseeing all phases of municipal government. Emphasis is on professional team leadership, effective communication, public relations, financial management, and planning/development. The ability to carry out policies and strategies, and work with department managers and staff along with the ability to related positively to business and citizens is necessary. Salary: negotiable DOQ plus excellent benefits. Send resume and five work-related references to: Ken Hinson, HR Director, City of Lawrenceburg, 233 West Gaines Street, NBU # 4, Lawrenceburg, TN 38464. Deadline: Oct. 18. EOE.

CITY ENGINEER

DYERSBURG. The city of Dyersburg is accepting resumes for the position of city engineer whose duties and responsibilities will include managing construction and engineering contracts, communicating with federal regulatory officials, responding to citizen inquiries, developing strategic plans for municipal operations, and providing technical support to regional planning committees. The qualified candidate will have a bachelor's degree in engineering or related field with six to nine years of engineering experience, preferably within a local government (or related), or any equivalent combination of education, training and experience which provides the requisite knowledge, skills, and abilities for this job. The person hired must be registered professional engineer and possess a valid Tennessee driver's license. Salary: negotiable, DOE, plus standard benefits. Send resume to: James Baltimore, HR Director, Human Resources Department, Dyersburg City Hall, 425 West Court Street, P.O. Box 1358, Dyersburg, TN 38025. Fax: 731-286-7603. Deadline: Oct. 31. EOE.

CITY ENGINEER, ASSISTANT

JACKSON. The city of Jackson is accepting applications/resumes for the position of assistant city engineer who will assist the city engineer and other departments in matters concerning traffic, construction and zoning. Responsibilities will include reviewing site plan compliance; subdivision plat for compliance with established codes and ordinances; managing, supervising and coordinating the activities of the traffic sign division staff; and coordinating work with consulting engineering firms on traffic signal and road improvements. The person hired must have knowledge of subdivision planning, construction, standards and ordinances of the city of Jackson, and municipal or county government engineering with a bachelor's degree in civil engineering or a related field. Salary: \$48,290 to start with generous benefit package. A job description is available at www.cityofjackson.net. Send resume to: City of Jackson, Personnel Department, 127 E. Main Street, Suite 303, Jackson, TN 38301. Phone: 731-425-8252; Fax: 731-425-8673. EOE/MFVD. Minorities are encouraged to apply.

CONSTRUCTION ENGINEER

JACKSON. The city of Jackson is accepting applications for the position of construction engineer who will assist the city engineer and other departments in matters concerning traffic, construction, development, erosion control, and drainage. The successful candidate will have a bachelor's degree in civil engineering or related field; be a professional engineer in Tennessee, or be eligible for certification; have good oral and written communications skills; knowledge of

subdivision planning, construction standards and regulations; and have experience with applying the Manual on Uniform Traffic Control Devices. Salary: beginning at \$45,226 plus excellent benefit package. A full job description is available at www.cityofjackson.net. Send resume to: City of Jackson, Personnel Department, 127 E. Main Street, Suite 303, Jackson, TN 38301. Phone: 731-425-8252; Fax: 731-425-8673. Minorities are encouraged to apply. EOE/M/F.V.

SENIOR DRAFTSMAN

JACKSON. The city of Jackson is accepting applications for the position of senior draftsman who will be responsible for providing and maintaining updated maps of Madison County for all departments and the public at large, and providing and maintaining all graphics for all boards and commissions assigned to the planning department. The person hired must have knowledge of basic drafting tools; Geographic Information Systems (GIS); computer software and graphics with specialized vocational or college graphics/drafting. Salary: \$32,415 starting with generous benefits package. A job description is available at www.cityofjackson.net. Send resume to: City of Jackson, Personnel Department, 127 E. Main Street, Suite 303, Jackson, TN 38301. Phone: 731-425-8252; Fax: 731-425-8673. EOE/MFVD. Minorities are encouraged to apply.

FIREFIGHTER

SMYRNA. The town of Smyrna is seeking a full time firefighter who will be responsible for work performed in combating, extinguishing, and preventing fires and protection of life and property through fire fighting activities. Duties will include other support services under close supervision of shift captain. Independent judgment is used according to the situation and sometimes different courses of action must be considered to complete the task. A large part of duty time is taken up in town-wide inspections, performing supervised training, and maintaining equipment, quarters and grounds. The person hired must be at least 18 years old, have a high school diploma or the equivalent, possess a valid Tennessee driver's license, pass a written firefighter examination, complete department's physical agility test, complete and pass a psychological exam, pass a medical examination by a licensed physician and maintain physical requirements. Live with 10 road miles of town limit or relocate within 180 days of hire, complete basic fire fighting course at State Fire School. Be able to pass yearly SCBA fit test and medical questionnaire, be able to respond to emergency situations during unscheduled work times, and pass or meet the Volunteer Fireman's Insurance Service Motor Vehicle Evaluation requirements. A job description is available at www.townofsmyrna.org/employment. Salary range: \$33,819.29-\$46,620.26. Send application to: Smyrna Town Hall, Attn: HR Department, 315 South Lowry Street, Smyrna, TN 37167. Deadline: Oct. 20. EOE.

MAIN STREET EXECUTIVE DIRECTOR

DANDRIDGE. The Dandridge Community Trust, Corp., Dandridge's Main Street Program, is accepting applications for the part-time position of executive director. The position, averaging 20 hours/week, will be under the direction of the DCT board of directors and will be responsible for implementing the organization, promotion, design and economic restructuring tasks and activities outlined in the city's Main Street Plan. The person hired will have a bachelor's degree and prior work experience in economic development, planning, marketing, or historic preservation as well as having excellent written and oral communication skills, including public speaking, and the ability to work with interested citizens, volunteer, community groups, property owners, and developers. Experience in plan and budget development and management are also necessary skills. Prior Main Street experience will be considered a plus. Salary: DOE. Send letter of interest, detailed resume, and three references to: Barbara Garow, President, Dandridge Community Trust, Corp., P.O. box 1328, Dandridge, TN 37725. Deadline: Nov. 1. EOE.

PLANS EXAMINER

LEBANON. The city of Lebanon has an opening for a plans examiner whose duties will include reviewing plans for code compliance, recording and maintaining plans review information necessary to continue a state plans review exemption, and assisting with inspection and fire safety codes and requirements. Other duties include communicating with architects, engineers, contractors and other interested parties for information concerning proposed construction; preparing policies and procedures to maintain an effective program for plans review; notifying contractor or building owner of violations and giving guidelines for correcting the deficiency; and attending board meetings as directed by chief building official or city engineer. The person hired must have a high school diploma or equivalent, be certified with the International code Council as a Building Inspector, Fire Inspector I, and building Plans Examiner, and acquire additional appropriate certifications as required by the state of Tennessee. The successful candidate must also be able to read, analyze, and interpret the plans and documents as well as be able to express oneself clearly and concisely both orally and in writing, and have the ability to calculate figures and amounts as necessary to assure codes compliance. Interested people must apply at the City of Lebanon Personnel Department, 200 Castle Heights Avenue North, Room 209, Lebanon, TN. Phone: 615-443-2809. Deadline: Oct. 16.

PUBLIC SERVICES MANAGER

BRISTOL. The city of Bristol is seeking a public services manager. The successful candidate should hold a bachelor's degree in civil engineering, public administration, or related field with five years experience in public services including solid waste management, street maintenance, fleet management, and progressive management experience, preferably within local government. A PE or graduate degree is highly desired. The person hired must possess knowledge and proficiency in the operation of personal computers along with having a valid Tennessee driver's license. Salary range: \$1,911.54-\$2,373.08 biweekly. To review summary of benefits or to download an employment application, visit www.bristoltn.org. Send application along with a cover letter and resume to: City of Bristol, H.R. Department, P.O. Box 1189, Bristol, TN 37621-1189. Fax: 423-968-7197. Open until filled. EOE.

STREET SUPERINTENDENT

BRISTOL. The city of Bristol is seeking a street superintendent. The position supervises daily operation of street maintenance activities. The city prefers that the successful candidate hold a bachelor's degree in civil engineering, public administration, or related field with a minimum of three years of experience in roadway maintenance or construction in either the public or private sector. The person hired must possess knowledge and proficiency in the operation of personal computers along with having a valid Tennessee driver's license. Salary range: \$1,588.46-\$2,492.31 biweekly. To review summary of benefits or to download an employment application, visit www.bristoltn.org. Send application along with a cover letter and resume to: City of Bristol, H.R. Department, P.O. Box 1189, Bristol, TN 37621-1189. Fax: 423-968-7197. Open until filled. EOE.

CITY ADMINISTRATOR

McMINNVILLE. The city of McMinnville, population 12,783+, is seeking qualified applicants for the position of city administrator. The position is responsible to the mayor and board of aldermen for administration of all city services and departments. The person hired will also be responsible for supervising the general fund and water/wastewater budgets of \$21,348,321, and a full-time staff of 160. A bachelor's degree in public administration or closely related field, a master's degree preferred, and eight or more years of increasingly responsible supervisory, managerial experience is required. The person must reside within the city limits during tenure and have a valid Tennessee driver's license or be able to obtain one. Salary range: \$54,870.40-\$75,108.80. Send resume to: City of McMinnville, Attn: Mayor Royce Davenport, 211 West Colville Street, P.O. Box 7088, McMinnville, TN 37111. Mark envelope Resume-City Administrator. Deadline: Nov. 3. Contact Personnel at 931-473-1209 for more information. EOE.

Bredesen, GM launch state's first hybrid car - Saturn VUE



Governor Phil Bredesen visited the General Motors complex to help launch the auto maker's Saturn VUE Green Line, the first hybrid vehicle to be produced in the state. Bredesen praised General Motors for creating more than 5,000 jobs in Tennessee, expanding the market for hybrid technologies and creating a greater demand for E85 ethanol that will benefit Tennessee farmers and ethanol producers.

ACEC accepting entries for annual Engineering Excellence competition

The American Council of Engineering Companies of Tennessee (ACEC of Tennessee), a statewide organization of more than 100 engineering firms, is accepting entries from all Tennessee engineering firms - member and non-member firms alike - for its annual *Engineering Excellence Awards* program. A one-page entry form must be received by Friday, November 3.

Official entry forms are available at www.acectn.org or by contacting Judy Logue at 615-242-2486 or at jlogue@trec.org.

Winners of the prestigious awards will be announced at a banquet on March 6, 2007, at the Hilton Nashville Downtown Hotel. Joe Chester, P.E., Chair of the awards program and Senior Department Head for Infrastructure Services at engineering firm URS, encourages all Tennessee engineering firms engaged in private practice to enter.

"Projects of any size and budget are eligible. The project can be located anywhere in the world, but must have been managed out of a Tennessee office with a major portion of the work being performed in the state," said Chester.

An Honor Award will be presented in each entry category and an overall Grand Award will be presented.

David Harrell, P.E., awards program Co-Chair and Vice President at engineering firm Vaughn and

Melton, announced that there are ten (10) entry categories for the 2007 competition. They are: A) Studies, Research and Consulting; B) Building/Technology Systems; C) Structural Systems; D) Survey & Mapping Technology; E) Environmental; F) Water and Wastewater; G) Water Resources; H) Transportation; I) Special Projects; and J) Small Projects.

Winner of the 2006 Grand Award for engineering excellence was Nashville engineering firm Ross Bryan Associates, Inc. Honor Awards were presented in 2006 to I. C. Thomasson Associates, Inc., Nashville (*building/technology systems*); EnSafe Inc., Memphis (*environmental engineering*); Askew Hargraves Harcourt & Associates, Inc., Memphis (*structural systems*); Bowlby & Associates, Inc., Franklin (*studies, research & consulting engineering services*); Vaughn & Melton, Knoxville (*surveying & mapping technology*); PBS&J, Nashville (*transportation*); and Barge Waggoner Sumner and Cannon, Inc., Nashville (*water, wastewater & water resources*).

Founded in 1968, ACEC of Tennessee is a statewide organization with chapters in Nashville, East Tennessee, Chattanooga and Memphis. The organization works to improve business practices of engineering firms and enhance public awareness of engineering services.

Residents to vote on seniors tax break

PROPERTY TAX from Page 1 assembly and pass another by a two-thirds super majority in the subsequent General Assembly. Both chambers overwhelmingly passed the resolution in 2004 and again in 2006.

Constitutional amendments can

only appear on ballots in a gubernatorial election. For the amendment to pass, more than 50 percent of the voters who cast a vote for governor must also vote "yes" to the amendment.

For more details on Amendment Two go to www.tennesseers.com

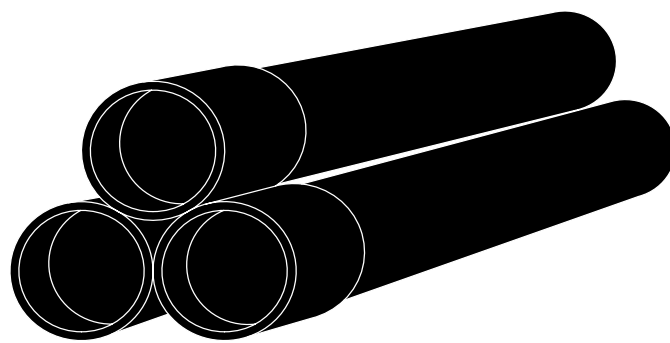
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Skateparks, jumping the hurdles in Tennessee

By VICTORIA SOUTH
TML Communications Coordinator

Saturday morning, three teenage boys play with a wooden ramp in a store parking lot. They all wear jeans, t-shirts with logos and tennis shoes and share an aversion to team sports. A policeman arrives and orders them off the property. They move on to the city park where they're intercepted by park personnel.

Such has been the state of affairs for young skateboarders in Tennessee. An activity associated with a dark subculture of punk rock music and rebellious expression as reflected in magazines such as *Thrasher*, has become counterbalanced through the years by a mainstream following skating purely for exercise and sport prompting some cities to relax their stance on skateboard parks.

"It is a sport and we want to keep up with the current trends in the athletic profession," said Lisa Clayton, Franklin director of Parks and Recreation. The city recently cut the ribbon on a second skatepark at Jim Warren Park.

"We saw how the skateboarders were chased off in neighborhoods and how police ordinances banned skate boarding in public and along stairs," said Clayton. "Then, one night we suffered several thousand dollars of damage to our bleachers from grinding. (Grinding is a gravity defying maneuver where the skater

needed and the target age that would frequent the facility.

"We wanted to do something for the two types of skaters that would be utilizing the facility, transitional and street skaters," Clayton said.

The city decided on a plaza design with stairs, walls and metal railings for the street skaters and a 16 ft. kidney shaped bowl with a 7 ft. to 11 ft. drop primarily used by a group of 20 to 30 year olds dubbed "Team Geritol."

"We average about 100 people a day here," said Clayton. "The Williamson County Fire Department and Rescue Unit received a full week's training on how to remove a skater with neck or back injuries from the bowl, and they documented the process."

"Since building a municipal skatepark is a local decision, information gathering is of the utmost importance," said Michael Fann, ARM-P director of Loss Control with the TML Risk Management Pool. "Just like a swimming pool or playground, the risks of having a skatepark must be weighed out."

Approximately 95 percent of municipalities across Tennessee are insured by the TML Pool. And according to Fann, those who are not should consult the guidelines established by their own municipal insurance providers when considering skateboard parks.

"Maintenance costs could be worse than risk costs," cautions Fann. A number of parks have been



Skaters perform tricks at Franklin Skatepark. The act of "ollieing" onto a rail or pole and sliding along it on the trucks of the skateboard is known as *grinding*, a basic maneuver in modern street skating.

lected a professional skatepark designer, Site Design Group Inc., from Arizona. Attempts to cut corners by

hiring generic playground designers could leave cities with parks that are unskatable. Appearing smooth to the naked eye, kinks, bumps, gaps and poor design elements may cause accidents or prevent skaters from mastering the tricks of the sport.

"This will be run just like any other program," said Ricky Honey, Fayetteville Parks and Recreation Director. After applying for and receiving a

\$42,000 matching grant as announced by Gov. Phil Bredesen in August, Fayetteville is in the process of developing a skatepark at the Recreational/Kiwanis Park on Winchester Highway.

"It's been very much a problem throughout town with kids skating around businesses," said Honey. "We've had one public meeting to get the views of the community. I am in negotiations with three design companies and we hope to have this done by the time school is out in May."

The first skateboard originated around 1950 coinciding with the California surfing

craze. Rising significantly in popularity throughout the '60s, a skateboard magazine was launched and international championships were broadcast nationally on TV.

The popularity of skateboarding waned after 1966 remaining low until the early '70s when polyurethane boards were developed providing greater speed and liability concerns for skatepark owners. Many parks were closed or went out of business and the popularity of skateboarding died again throughout the '80s.

"Skateboard Parks, like a number of sports, are cyclic in nature," Fann surmised. "Up and down in usage, a large city like Franklin can absorb that where smaller cities should consider the cyclic nature of the sport."

"We expect that," agreed Honey. "Just like tennis, activity

falls off and then comes back again. We plan to follow through with everything that's expected of us."

Today, the skateboarding industry is big business selling everything from kneepads and helmets to custom clothing and boards. With its own fashions and trick terminology, skateboarding has been described as an art form. Websites announce the opening of new parks as far away as Japan as skaters travel greater distances to try out different courses.

"The skating community in Franklin has been neglected far too long," said Mayor Tom Miller. "With this skatepark, the city is very pleased to recognize and support these athletes."

Municipalities should contact the TML Risk Management Pool or their own insurance providers before deciding to develop a public skatepark.



Safety equipment such as helmets, knee, and elbow pads should be worn at municipal skateparks as recommended by the TML Risk Management Pool guidelines.

builds speed, then jumps up onto stair rails, bleachers, curbs, etc. skirting the board along the edge of the surface.) "That's when we decided we needed to provide a place for them to skate," Clayton said.

After applying for a grant in 2004 offered through the Tennessee Department of Environment & Conservation (TDEC), Franklin received an offer from the Local Parks and Recreation Fund (LTRF) for a 50/50 match of \$100,000 providing the seed money to begin the \$375,907 project, according to Clayton.

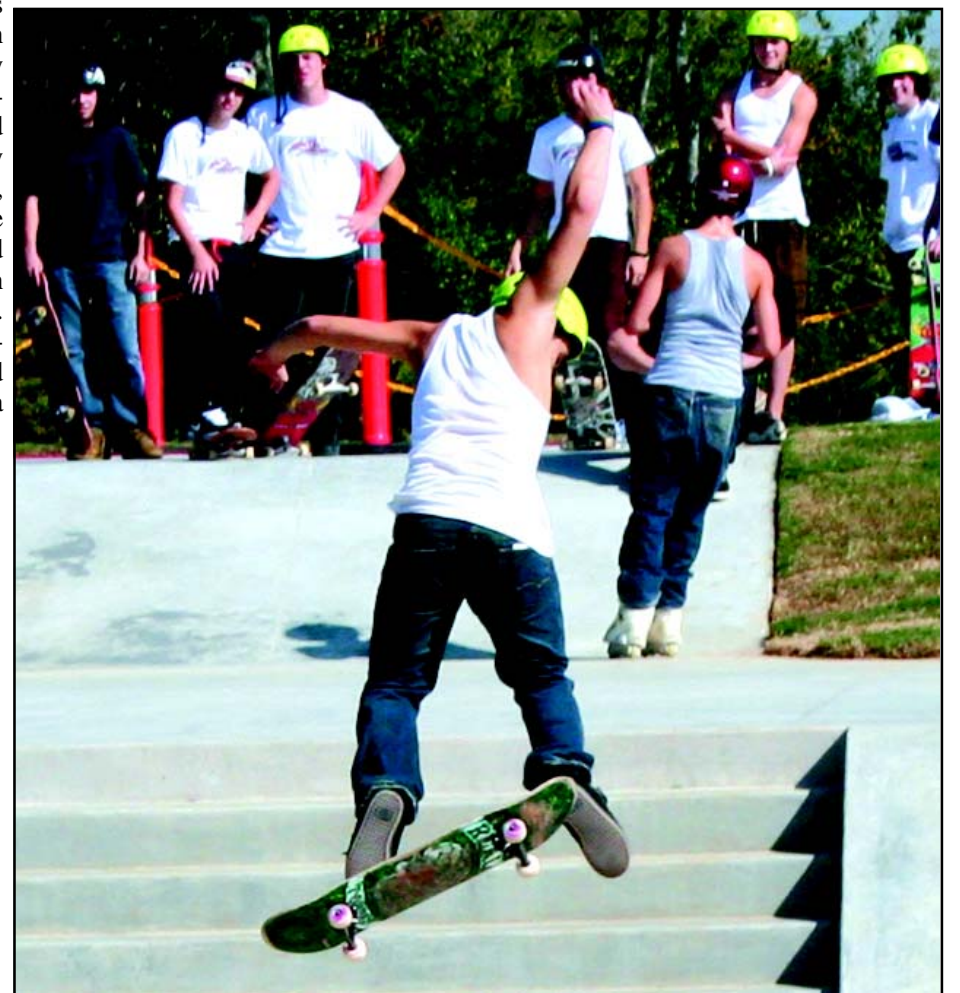
The city hosted two public forums and six public meetings to determine what type of park would be

taken out because they were not built properly and presented a bigger liability exposure, or they were abused and placed the city in a bind trying to take care of things."

According to TML Risk Management guidelines:

Skateboard parks, ramps, and/or "areas" must be designed and constructed with a priority commitment to reduce the risk of injury to participants and users, and to reduce the liability exposure to both the municipality and the users. The purpose of the skateboard park is to give skaters a safer alternative to skating on streets, sidewalks, and in parking lots.

Franklin city officials wisely se-



Photos by Victoria South

Consult the TML Risk Management Pool for skatepark loss control guidelines

While there may be a considerable risk exposure associated with the operation of a city's skateboard park or area, much of the risk can be reduced through proper supervision and maintenance. The following is a general overview of guidelines recommended by the TML Risk Management Pool:

1. The skateboard parks, ramps, and/or areas must be designed and constructed with a priority commitment to reduce the risk of injury to participants and users.
2. The area should be designed per appropriate safety standards. All design specifications, assembly instructions, and maintenance/operations recommendations from the developer, engineer, and/or manufacturer must be retained on file.
3. The skateboard area must be completely enclosed by a fence at least 8 ft. in height and preferably 8 ft. from

the edge of the skating surface to allow for a hazard-free "fall zone." The fence should provide adequate protection for spectators from falling boards and skaters and protect the skaters from interference and distractions by spectators. Appropriate impact material such as pea gravel, loose sand, mulch etc should be maintained in the hazard-free "fall zone" at depths of 6-9 inches.

4. The skateboard parks/ramps should be supervised by trained personnel. Skateboard areas providing a relatively flat skating surface within a secured fenced area do not necessarily have to be supervised full time. Supervisory employees must be trained regarding safety rules and procedures.

5. Skateboard parks, ramps or other graded areas: There must be a documented visual check for visible hazards or repair needs.

6. Flat skateboard areas: A docu-

mented complete inspection performed by the maintenance supervisor at least once a month.

7. All maintenance and repair work should be documented as to type performed.

8. All users of a skateboard park must complete a facility registration card. The user and both legal guardians (minors) must read and complete warning and waiver provided by the city.

9. Safety equipment must be worn at all times while using the facility.

10. Supervisors or employees must be stationed as such that the entire area may be viewed and monitored for rules violations.

11. The number of people allowed in the area should be limited to minimize injuries. The patron limit may be determined by the Recreation Di-

rector.

12. The rules governing the use of the skateboard park must be prominently posted. The park should retain the right to revoke skating privileges of rowdy participants or those not abiding by the rules.

13. Skateboard supervisors and employees should be certified in Red Cross First Aid and an appropriate aid kit should be readily available on site. Appropriate police and ambulance phone numbers, as well as ready access to a phone, should be maintained. An adequate emergency plan must be developed for the skateboard operation.

14. A complete accident report should be filed following any accident or injury at the skateboard area and retained on file.

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BY GAEL STAHL
Editor

Dale Sims, born and raised in Charlotte, NC, went through Mecklenburg County public schools, then chose Western Carolina University at Cullowhee, NC, to play baseball. He was a reserve and part-time catcher for four years, and, wisely, after graduating with a BS degree in 1978, decided to do graduate work in public administration at Murray State University in Kentucky.

In 1980, after a year and a half, he was nearing the end of his master's degree work, when a career opportunity opened up. A Murray State-Tennessee Comptroller's Office cooperative education, work-study experience gave him the opportunity to serve as a Tennessee Comptroller of the Treasury intern. He worked as a program auditor for the likes of Jeff Reynolds, now with the Federal Home Loan Bank in Cincinnati and Mark Funkhouser now performance auditor at Kansas City.

The internship led to a job as program evaluator in the performance and Sunset Law audit area where he was mentored by the memorable Jeanne Bodfish. Having preceded Bill Snodgrass as comptroller in 1953-55, she continued as a senior evaluator. Sims says that any ability he has to put thoughts together logically in a sentence is probably "due to that wonderful lady" who reviewed, questioned, and critiqued all his work.

Another door opened when the Comptroller's Office sent Sims to work with the Senate Finance Committee as a staff research analyst summarizing legislation for committee members. Sims worked with the three officers of Finance, Sens. Douglas Henry, Leonard Dunavant, and Lowell Thomas for two years. That led to a new opportunity in the Department of Treasury in 1982 where he served as staff assistant to Treasurer Harlan Mathews.

When Steve Adams became state treasurer in 1987, he promoted Sims to executive assistant to the treasurer. When Adams retired in October 2003, Gov. Phil Bredesen appointed Sims acting state treasurer. The 103rd General Assembly elected him to serve the remainder of the term on March 1, 2004, and the 104th General Assembly elected him to serve his first full two-year term in January 2005.

In November 1986, Sims married Nashvillean Debbie Davis, who had a daughter age four. With Jessica's biological father living in town, raising Jessica has been a group effort and "many people take a lot of pride in her," he says. She's a graduate cum laude from UT with a degree in fine arts and a minor in dance. Having finished her master's in special education, she teaches special education at Hunter's Bend, Elementary in Franklin. The Sims have lived in Franklin for the last 19 years, and Jessica's pending marriage on Oct. 14 has been the biggest happening around the Sims home-stead in a long time.

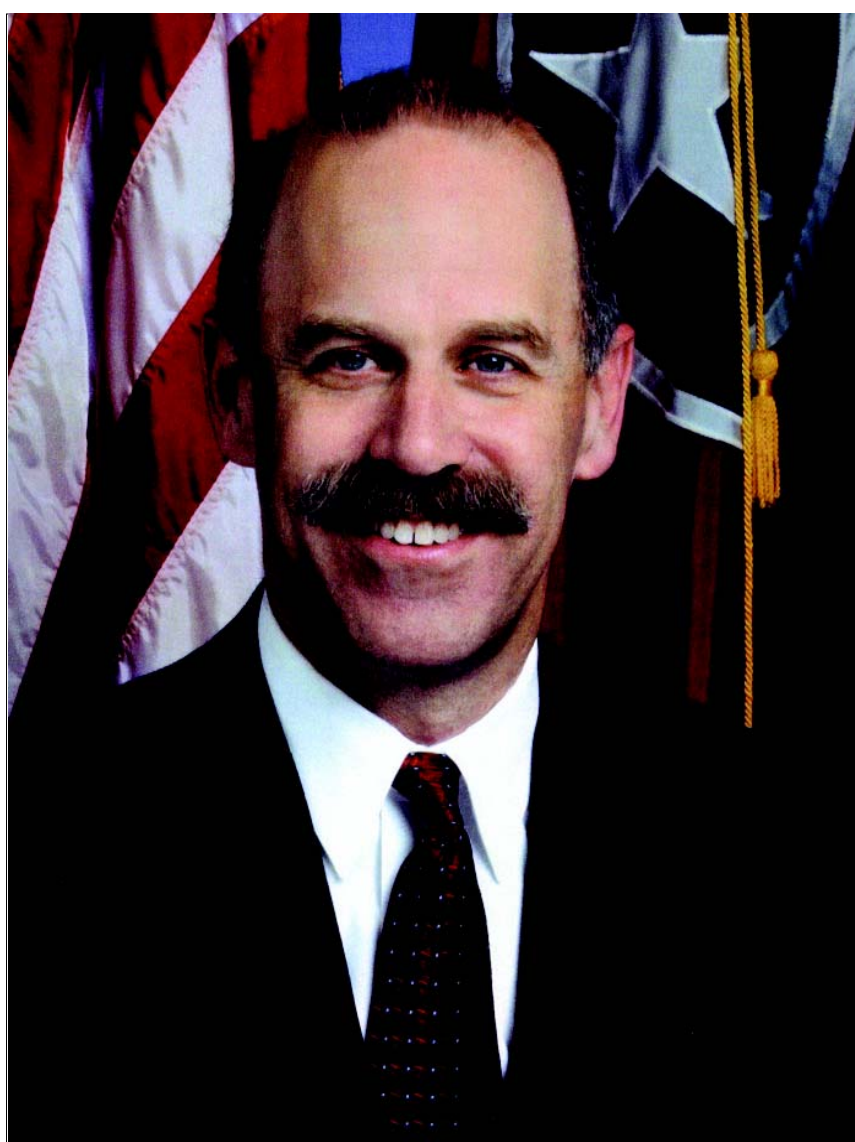
Debbie Sims is a major account executive for Blue Cross Blue Shield of Tennessee. Her clients include Nissan, Metro Nashville Government, and Metro Teachers, among others.

Sims, whose love for baseball started at age six, has played slow pitch softball with a group of friends every Thursday for decades. Most mornings find him working out at the Downtown YMCA before heading over to the state Capitol for work.

TT&C: How'd you move up so quickly at the Treasury?

DS: After working with Harlan Mathews and David Manning for four years, Speaker McWherter was elected governor in 1986, and 45 days later my bosses were named deputy governor and commissioner of Finance. When Steve Adams, director of the Retirement Division, whom I'd worked with for some time, was elected Treasurer, he asked me to step into the role of executive assistant to the Treasurer.

I worked as Steve's executive assistant during his 17 years as Treasurer. I'm grateful to have worked with such high-class people in those offices, including Steve, Secretary of State Riley Darnell, John Morgan and his predecessors, Tom Samuels and Jeff Reynolds – former executive assistants to the comptroller. It was my good fortune that Gov. Bredesen named me interim treasurer when Steve moved to a new opportunity after 17 years in Treasury, and that the Legislature elected me to serve a full term in 2005.



Dale Sims

TT&C: How does the Treasurer's Office invest the state's cash balance and retirement funds?

DS: The state's idle cash is invested as part of the state pooled investment fund. That money comes into possession of the state on a daily basis and is held to meet short-term obligations. It's like the overnight balance in your personal checking account except that the state's checking account is bigger than most folks have – in the neighborhood of \$2 billion.

Local governments may also deposit money with us if they like. While separate accounts are maintained, we commingle that money with the state funds for investment purposes. Local governments receive the same credit or interest that the state government gets. It's cyclical, but at any given time between \$2 billion and \$3 billion of local government money is part of the state pooled investment fund which runs between \$3 billion and \$5 billion depending on the time of the year.

TT&C: Is the local or state money at risk when invested short-term?

DS: We take no credit risks with this operating money. The primary investment vehicles are U.S. Treasury and agency securities and certificates of deposit with Tennessee banks. Since Tennessee law requires collateralization of that money, a bank that accepts our money has to post securities exceeding the value of the deposits. That ensures our ability to access those securities if something goes wrong. Taxpayers are not at risk. The portfolio also includes high-grade commercial paper and repurchase agreements. We believe it's a sound investment portfolio.

The State Funding Board has oversight responsibility with the state pooled investment fund. They set the investment policy and, annually, there is report that we formally present to the Funding Board on how performance has been compared to overnight investment rates, treasury short-term rates, and mutual fund-type offerings.

TT&C: How much bigger is the retirement fund you manage?

DS: The Tennessee Consolidated Retirement System Fund, currently owns assets with a value exceeding \$28 billion, making it the 24th largest public pension fund in the U.S., the 46th largest pension plan in the U.S., public or private, and 60th largest in the world. As you might imagine, it is a major responsibility for the department.

TT&C: How are those \$28 billion invested?

DS: The lion's share of assets are invested in the U.S. financial markets, both the domestic stock and bond markets. We also invest in developed markets in Europe, the Far East and Asia, but not in places such as South America or China, which are still considered emerging markets. We also invest in income-producing real estate. Currently, about 29 percent of the portfolio is in U.S. stock, 15 percent in international stock, 46 percent is in the U.S. fixed income market and 4 percent is in

international fixed income markets. We also have about 4 percent of the portfolio in real estate and 2 – 3 percent in cash.

Tennessee is one of the few large pension plans that invests most of its assets with in-house staff. We have a professional staff of 21, 10 of whom are either Chartered Financial Analysts (CFA's) or are working toward that designation. This staff is responsible for management of all assets of the system and make the daily "buy sell" decisions for all assets except the international equity portfolio. For those assets that are externally managed, we still maintain a role in overseeing the work of our outside managers.

TT&C: How do you decide where to invest?

DS: The pension fund has a 17-member Board of Trustees including the three state constitutional officers, the commissioner of F&A, the director of the courts, representatives of local government (James Crumley for TML and David Seivers for TCSA, and Bill Kemp for County Officials), and various state employee groups. That group meets at least four times a year to review many matters, including investment performance. They, like the Funding Board, adopt investment policies that the state treasurer is charged with following when investing the TCRS funds. The Legislative Council on Pensions and Insurance, which has two representatives on the Board of Trustees, also reviews and approves our investment policy with regard to international markets and expanding markets to go into.

TT&C: In past years, Tennessee's bond rating was enhanced by the fact that our pension fund was fully funded. Is that a rarity in other states?

DS: The Tennessee General Assembly, unlike many states, has always acted prudently and responsibly in funding the state pension system. They have never failed to make the required contribution on behalf of state employees and teachers pension plan. It's engrained in their DNA, I think.

While the Treasury Department is the focus of a lot of that activity in terms of how the actual pension fund decisions are made on buying and selling and allocating assets on a day to day basis, from a strategic level, it's really a shared responsibility between this department, the Board of Trustees, and between the legislative Council on Pensions and Insurance, and the broader General Assembly.

TT&C: Not being a rich state, how were we able to be so prudent?

DS: Tennessee's pension funding status is due to the foresight of folks like former Rep. John Bragg and Sen. Leonard Dunavant along with Sen. Doug Henry, who was and still is, Finance chairman. In the vanguard when the pension system was formed in the early 1970s, they were adamant about putting in the dollars we needed to put in during the last three decades. As a result, we benefit from a funding ratio in excess of 99.8 percent, meaning we have virtually

all the assets on hand that we need to pay benefits on up to now.

We are unlike other systems that have a funding ratio of 70 to 80 percent or lower and have to be more aggressive with their investment program. They are trying to make up ground. We don't have that ground to make up and can afford to play it safe and be conservative with the people's money. The pension is well funded. It's not that we have any excess money that can be used for anything else. We're just right where we ought to be in terms of our funding status.

TT&C: How badly did the state miss its earnings assumption during that devilish economic downturn of 2000-2003 when a lot of portfolios lost 25 to 35 percent?

DS: The importance of meeting our earnings assumption is its impact on contribution rates. Our earnings assumption is 7.5 percent, so when we earn less than 7.5 percent, it places upward pressure on contribution rates. On the other hand, when we earn more than 7.5 percent that places downward pressure on contribution rates. During the period of 2000-2002, markets were extremely poor. As you mentioned, many people saw losses of 25 percent or more in their investment portfolios. Due to the fact that we invest conservatively reflecting the General Assembly's investment philosophy, between 35 and 45 percent of our assets will be stock, the remainder of it primarily in fixed income investments. In other state pension funds, you might see 60 percent or more invested in stock.

The Tennessee pension fund performance during the period was down by 1.6 percent in 2001 and 1.9 percent in 2002. When the markets turned around in 2003 and 2004, our returns were good, even in excess of 9 percent for 2004 for the fund in total.

TT&C: The state/local TCRS pension guarantees people a certain percent when they retire, like an annuity?

DS: That's exactly what it is; an annuity type product where instead of being based on the dollars you put in, it is a defined benefit plan based upon your salary and service. It is a plan geared toward someone working a career, historically 30 years in state government. With very few exceptions, the members of the system are all also participants in social security. What we attempt to do is have a benefit formula so that when you draw retirement benefits and social security you are replacing somewhere around 70 to 75 percent of your preretirement income. The pension plan replaces between 40 and 50 percent of your preretirement income. Social security picks up the rest.

The benefit provided is well in the mainstream of what similar plans provide. At each quarterly meeting of the Board of Trustees for the retirement system, we always have some number of political subdivisions petitioning to join the TCRS system – an E-911 district, utility district, or local government.

TT&C: Why did the state use a 30-years model when most people have to work 40 years to get to social security age? You have it timed for retirement at 55?

DS: The pressure that we receive from plan members is not about the benefit being a 30-year benefit that should be geared toward 40 years. It's been people wanting the benefit geared toward a 25 or 20 year full service retirement.

First, I believe our plan design is in keeping with similar plans offered by governments. Secondly, many times our plan is compared to plans in other jurisdictions that offer richer benefits; however, when you look closer you usually find one of two things. Several of our sister states don't offer social security coverage to employees, meaning that their pension benefit must be greater in order to make up the difference. Once you adjust for this, our benefit is comparable. I feel you also have to consider funding status of the plan. Promising a benefit is one thing, delivering a benefit may be another. Many of these plans with richer benefits are not as well funded as TCRS.

TT&C: How does the state tuition savings program work?

DS: The Baccalaureate Education System Trust (BEST) is Tennessee's Section 529 College Savings Plan. Two different plans are offered: one is the prepaid tuition plan;

the other is a savings plan.

Since 2000, people can participate in the savings plan by contributing into a BEST savings account where contributions build income over the years and when it's withdrawn for a bona fide educational purpose, the increased value or income of the account is exempt from federal and state income tax. The savings option has around 4,000 accounts with about \$30 million in assets and is administered by TIAA-CREF, a premiere provider of retirement plans in the nonprofit and education sector.

Tennessee's plan is one of the smallest plans in the nation on both an absolute and per capita basis. This really has been a surprise to us. An extensive survey on education attitudes conducted last year by the Comptroller's Office in conjunction with Bill Fox at UT showed more than 82 percent of Tennessee's population, across all income levels and racial groups, said they aspired to have their children attain a college degree. But, based on use of Tennessee's BEST programs, it appears few Tennesseans are taking action to make those aspirations a reality.

TT&C: Is the prepaid tuition BEST plan more popular?

DS: First, the prepaid plan was implemented earlier than the savings plan, so you would expect the level of participation to be somewhat higher in the prepaid plan. I really think the answer is that people select the plan option which best fits their individual situation. With the prepaid plan, you buy tuition for a person today that is redeemable in the future. At its simplest, if you purchase 100 tuition units today, these same units will pay tuition and mandatory fees at the "average" Tennessee public higher education institution in the future. I use the term average because the cost of attending public institutions vary. For UT Knoxville, it takes 111 units, while for Austin Peay, it takes 97 units. These units can also be used for private schools and out of state institutions. Just remember, unit values are based on the weighted average tuition for Tennessee public institutions. The other option, the savings plan, is just that. You make contributions to the plan, select an investment option and then watch you account value grow.

We believe these tuition plans should be an integral part of someone's strategy to accumulate assets to fund their children's college education. We've tried to gear it toward participation by small accounts – \$25 will create an account and allow you to make contributions toward the cost of a higher education. Over 18 years, if you contribute \$25 a month to the savings plan and earn 8 percent annually, you'll end up with a nest egg of over \$12,000. That may not cover all the cost of higher education, but it will make a substantial dent in it.

TT&C: What are your other responsibilities as treasurer?

DS: While the high profile jobs are investing the state's funds, and administering the state's retirement program and the tuition savings program, the Treasury Department also carries out other important duties. We are the state's risk manager and administer the property insurance program that covers property with an aggregate value of more than \$10 billion – everything from Neyland Stadium and the Tennessee Capitol to a cabin in a state park. We're also the state's insurance adjusting bureau serving workers compensation claims of 70,000 state employees including higher education.

We are the third party liability adjusting firm involving state employees involved in an automobile accident where they are at fault, or someone falling in a state office building, and medical malpractice matters at correctional facilities or our teaching hospitals.

We also administer the unclaimed property program. Unclaimed property can be an unclaimed payroll check, a dividends check, a utility deposit, life insurance purchases or stock issues you just lost track of. Since that's your property, not theirs, holders of your property must turn that property over to Treasury along with any identifying information they have. We try to identify the owners of the property and return it to them. Last year, more than \$60 million in unclaimed property was turned in, and we paid out about \$20 million. If we can get a person's name, it may take us seven, eight, nine years, but we return about 56 percent of that property.