

## Religious Freedom Act stifles local police powers

BY JOSH JONES  
MTAS Legal Consultant

This year the General Assembly passed Public Chapter No. 573 which purports to preserve religious freedom. With such a stated objective, it is not surprising that the legislation passed with little opposition. That is, of course, because the people of the United States cherish religious freedom and provide constitutional protections for those freedoms surpassing any in history. Upon closer examination, however, Public Chapter No. 573 is less about protecting religious freedom than it is about excusing otherwise unlawful practices when done pursuant to professed piety.

When two Oregon drug counselors tested positive for peyote were fired and subsequently denied unemployment benefits, no one imagined these events would strike fear in religious organizations nationwide and set the stage for decades of legislative and judicial frenzy. The case was *Employment Division v. Smith*, where the U.S. Supreme Court ruled that despite the users' claim that the psychedelic cacti were taken as part of a religious rite, the state nonetheless was justified in denying the benefits based upon a state law of general application, *Em-*

*ployment Division v. Smith*, 494 U.S. 872 (1990).

The court in *Smith* also recognized that the state is never justified in passing legislation that directly inhibits the free exercise of religion. However, a believer cannot gain exemption from neutral laws of general applicability based on an indirect curtailment of free exercise. To rule otherwise, the court wisely states, places "the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself." *Id.*

The backlash from *Smith* resulted in the Religious Freedom Restoration Act (RFRA) of 1993. This federal law applied a strict scrutiny test on federal, state and local governmental entities when a petitioner claims a violation of the Free Exercise Clause of the First Amendment. Commonly referred to as the *Sherbert* Test, strict scrutiny requires a court to determine whether the petitioner's claim involves a sincere religious belief and whether the government action is a substantial burden on the person's ability to act on that belief. If those prongs are met, the government must then prove that it is acting in furtherance of a compelling state interest and *See RELIGIOUS on Page 6*

## Deadline to verify dependent eligibility fast approaching

BY KEVIN KRUSHENSKI  
TML Research Analyst

The state of Tennessee is currently in the process of verifying dependent eligibility for all state and local government employees who are enrolled in the state medical and dental insurance plans. This also includes employees of the University of Tennessee, Tennessee Board of Regents and local education systems.

Employees have until Sept. 4 to complete the verification process under an amnesty grace period where no disciplinary action or additional premium costs will occur for enrolled ineligible dependents. Those who fail to meet the Sept. 4 deadline will be contacted by the state and their dependents risk losing coverage.

*Tennessee Town and City* interviewed Laurie Lee, executive director of Benefits Administration in the Department of Finance and Administration, in order to answer some of the most frequently asked questions.

**TT&C: Why is the state conducting this verification process?**

**Lee:** We cover about 140,750 dependents in all of our plans. We want to keep our premiums as affordable as possible and we should not be paying medical and dental claims for people who don't belong on our plans. The majority of healthcare costs are for dependents. As a result, many businesses and governmental agencies throughout

the country are doing this same type of dependent verification. Other companies that have verified dependents in their medical plans have reported between 5% and 15% of dependents were not eligible for coverage at all. We recognize that some employees may not realize their covered dependents do not meet eligibility requirements. There are others who have been covering an ineligible dependent out of love and concern, but shifting the cost for this coverage to our medical plan is not the right thing to do because it increases the costs for all of us.

**TT&C: How will the state benefit from this undertaking?**

**Lee:** This initiative is going to save the state money. The average yearly cost per dependent is \$3,200. When 250 dependents were dropped from coverage, we paid for the cost of this verification project. Secova, the company selected through our competitive bid process that is verifying eligibility for us, is charging us \$800,000. As of Monday, Aug. 24, 2,808 dependents had been voluntarily dropped by employees because they are not eligible for coverage. That's a savings of more than \$8.1 million already.

**TT&C: What happens if people have enrolled ineligible dependents on their medical or dental plans?**

**Lee:** If you remove the ineligible dependent before Sept. 4, no question *See INSURANCE on Page 7*

## State Comptroller proposes new reporting requirements

"Local governments need to go into interest rate swaps and other exotic financial agreements with their eyes wide open," Comptroller Justin P. Wilson said earlier this month in announcing a new set of proposed guidelines to regulate such transactions.

On May 1, Wilson presented numerous proposed guideline changes dealing with interest rate swaps and forward purchase agreements to the State Funding Board. Wilson then called for public comment on those proposals.

The latest set of guidelines presented to the Funding Board reflect changes made based on the comments made following the May 1 meeting.

Perhaps the biggest change is a requirement that local governments wishing to enter into such transactions must send representatives to personally appear before the Com-

troller to demonstrate they fully understand the risks involved.

That requirement could be waived if a local government can satisfy certain other conditions, including meeting minimum debt requirements, having an adopted capital improvement plan, an audit committee, or an accountant and chief financial officer on staff.

"It's not my intent to prevent cities and counties from entering into these types of transactions if they choose to do so," Wilson said. "It is my intent to be certain that local governments have the training and expertise to understand what they're getting into with these deals. We don't guarantee that some of these transactions won't carry financial costs for the cities and counties. We do insist that cities and counties understand those costs and risks on the front end." *See COMPTROLLER on Page 7*



The Tennessee General Assembly passed a new law that establishes a minimum of 16 hours of training in firefighting procedures and techniques for all full-time, part-time and volunteer firefighters.

## Minimum training required for firefighters

BY RAY CROUCH  
MTAS Fire Consultant

The 2009 General Assembly passed a new law that establishes minimum training requirements for Tennessee firefighters.

The law went into effect July 1, 2009, and amends T.C.A. Title 4, Chapter 24, Part 1, by adding a new section, Section 4-24-112.

The law does three things:

- (1) establishes a 16-hour class that must be taken by anyone who enters the fire service before they can respond to any emergency;
- (2) requires that every firefighter complete a basic firefighter class, as defined by the Tennessee Fire and Codes Academy, within three years of joining a fire department; and
- (3) provides exceptions for firefighters who already have five years of experience.

This law affects all full-time,

part-time and volunteer firefighters in Tennessee.

Any firefighter who is certified by a medical doctor as medically or physically unable to complete the training requirements is exempt; however, the fire department may not allow such firefighters to engage in active firefighting operations. Any firefighter who is certified by the fire department's chief officer not to operate within an environment determined to be immediately dangerous to life and health (IDLH) is exempt from the "live firefighting" portion of the training referenced in subsection (a)(2).

**What are the minimum training standards required by this law?**

(1) The firefighter must previously have completed or must complete after joining the fire department a minimum of 16 hours of initial training developed by the Tennessee Fire Service and Codes Enforcement Academy in firefighting procedures

and techniques or complete equivalent training approved by the Tennessee Commission on Firefighting Personnel Standards and Education before being allowed to actively fight a fire.

(2) Within 36 months after hire or acceptance date as a firefighter, the firefighter must have completed or must complete after joining the fire department, the "basic and live firefighting" course offered by the Tennessee Fire Service and Codes Enforcement Academy or an equivalent course.

**Possible legal implications for fire departments in exempted counties**

Fire departments in counties that are exempt from the training requirements of this law should not rest on their exemption too easily. For an exemption from a general law to be valid, there must be a rational basis for the exemption. *Nolichuckey Sand Co. v. Hudson* *See FIREFIGHTERS on Page 7*

## Metro Animal Control barking up the right tree with high technology

BY VICTORIA SOUTH  
TML Communications Coordinator

Revolutionizing the way it handles service calls for wayward, abandoned, or neglected animals, Metro Nashville's Animal Control has dramatically improved its performance rate and has gained a fresh new perspective. High technology, including vehicle computers, global positioning systems (GPS), staff training, and route planning software, helps animal control officers and dispatchers coordinate service routes while keeping accurate records of the numerous calls the agency receives each day.

Also, improved air conditioning systems and four new trucks, have helped reduce the number of trips officers make to transport animals to the cheerful Harding Place headquarters in South Nashville.

"Everything was once done by hand," said Billy Biggs, field operations supervisor. An employee since 1999, Biggs recalls the dreary, disorganized place many animal lovers might prefer to forget—the former Metro "dog pound," located in the suburb of Bourdeaux.

"There would be a hand written complaint, then the dispatcher would call the officer, who would pull the truck over and try to locate the area on a map," recalls Biggs. How the call was resolved or records about the complainant were rarely recorded—that is, if the call was ever processed to begin with. "It was rough," said Biggs.

Now, the Animal Control dispatcher gets the details of the call on the computer screen, drops the com-



Photo by Victoria South

While on a call, Metro Animal Control Officer J.D. White utilizes the agency's new computers, handheld devices and GPS technology to perform his job more quickly and efficiently.

plaint into the officer's on-line folder and radios the officer to let him or her know it's there. Urgent calls are always highlighted in green.

The computer also provides a history of any prior calls, according to Biggs, which could protect the officer from stumbling into volatile or hazardous situations, such as a neighborhood dispute. "In a way, it's becoming similar to law enforcement," said Biggs.

After completing the call, officers document the results on a computer noting how the call was resolved, such as written warnings or routine follow up schedules. Also, rather than mapping out routes by hand, a time consuming task, new software allows officers to plug in

several addresses at once establishing the most efficient routes.

"This is the way animal control programs in cities need to work," said Brent Hager, Metro's director of Environmental Health, who is credited as the driving force in helping the agency acquire the new equipment.

"Everyone here has a true love for animals and is frustrated if they can't do their job effectively," adds Metro Animal Control Director, Judy Ladebauche. "The morale of our employees is much better now that they've been provided the effective tools in which to do the job."

The new equipment has afforded the agency a 90 to 100 percent response rate," said Biggs, *See TECHNOLOGY on Page 6*



NEWS  
ACROSS  
TENNESSEE



BY TML STAFF REPORTS

CHATTANOOGA

Chattanooga’s new resource for all things “outdoor” has been recognized with an Award of Merit for design at American Institute of Architects Tennessee’s annual awards gala. A jury composed of four nationally recognized architects evaluated more than 80 submittals in three categories: new construction, renovation/restoration, and architectural interior design. The Outdoor Chattanooga Center was a vacant block building located along the Tennessee River, adjacent to Coolidge Park and the Walnut Street Bridge. The 6,000 square foot facility was designed with the goal of LEED Silver Certification.

COLUMBIA

A new program could provide people in Columbia a big break at the pharmacy. The city is joining a half dozen other Tennessee cities in a national prescription discount card program. City residents can get up to 20 percent off prescription drugs not covered by health insurance. CVS/Caremark runs the program, but most major pharmacies participate. Columbia will become the seventh city in Tennessee to participate in the program and the only city in Middle Tennessee. Officials hope to start the program in just a couple of months.

COVINGTON

Tipton County could soon make an appearance on the silver screen. Memphis writer and director John Holiday was inside Covington’s Ruffin Theater shooting for his new movie called *Angel of Mercy*. Local actors have enjoyed the shoot. Munford, Atoka and Memphis have also been used as locations for the movie. Once shooting is complete, Holiday will take his film to Los Angeles for screening, where it could take six months to a year before he hears whether or not it will be released on the big screen.

FRANKLIN

Simplex Healthcare, a diabetic supplies company, will move its headquarters and operations center to Franklin — a development the firm says aids its plan to hire roughly 300 people and double in size over the next two years. Beginning in November, the company plans to move into a 91,253 square feet of space it has leased in Highwoods Properties’ Cool Springs IV office building. Founded two years ago, Simplex currently occupies 66,085 square feet in Highwoods’ Westwood South office building in Brentwood’s Maryland Farms. The company already employs 300 people, including at a warehouse in Franklin.

FRANKLIN

The city has named nine volunteers to serve as commissioners on the city’s first Sustainability Commission. Seventeen people submitted letters to be on the commission, many who were involved in the Sustainability Task Force created in 2008 and made up of 250 community volunteers. The commission will serve as a policy advisory board to the Board of Mayor and Aldermen

in the development and initiation of programs that will enhance and promote economic development, environmental health and social equity within our community for present and future generations. To view Franklin’s Sustainable Community Action Plan go to [www.franklintn.gov/livegreen](http://www.franklintn.gov/livegreen).

GERMANTOWN

The city has been awarded for outstanding achievement in Popular Annual Financial Reporting (PAFR) for the fiscal year which ended June 30, 2008. The award is given by The Government Finance Officers Association of the United States and Canada (GFOA). To qualify for the award, a government must publish a Popular Annual Financial Report, with contents that conform to program standards of creativity, presentation, understandability and reader appeal.

GOODLETTSVILLE

Goodlettsville has received a \$12.5 million low-interest loan to fund a wastewater construction project. Because the money is provided through federal stimulus funds and the state’s revolving fund loan program, 40 percent of the loan will not have to be repaid. The city, which straddles both Davidson and Sumner counties, will use the money to update approximately 27,000 linear feet of sewer line and build an 8.5 million-gallon equalization basin next to its Mansker Creek pumping station. The improvements will reduce sewage overflow, keeping water cleaner and safer.

GREENEVILLE

Six Civil War Trail markers were unveiled at Greene County sites; connecting Greeneville with a multi-state system that provides information about sites associated with Civil War battles and related events. The Greene County markers commemorate the role of Tusculum College in the war; the Pottertown Bridge Burners burial site on Pottertown Road, the two Battles of Blue Springs (1863 and a much smaller battle in 1864); the hanging of two bridge burners near the Greeneville railroad depot; the Dickson-Williams Mansion; and the death of Confederate General John Hunt Morgan. Information about the markers is available at [www.civilwartrails.org](http://www.civilwartrails.org).

HUMBOLDT

Employees of ACH Food Companies’ have received a reprieve from layoffs. The food processing plant that makes non-dairy cheese products was scheduled to close on Aug. 30 but is being purchased by Humboldt Food Products. The co-owner of Humboldt Foods said his company intends to rehire as many of ACH’s 60 employees as possible once the deal is completed hiring as many as 120 people within the next year or two.

KNOXVILLE

A unit of Panasonic Corp. will move production of audio speakers and electronic capacitors from Tennessee to Mexico and Asia and relocate division headquarters to Texas. Company spokespersons say remaining speaker production will move by year’s end to Reynosa, Mexico, and snap-in capacitor production will shift to Asian factories by February.

MARYVILLE

DENSO Manufacturing Tennessee (DMTN) has received the Commissioner’s Award of Excellence for Workplace Safety from the Tennessee Department of Labor and Workforce Development.

DMTN was one of only six Tennessee companies to receive the honor this year. Presented at Tennessee’s Annual Safety Congress, the award honors DMTN for its achievement in obtaining a required number of hours worked without experiencing a lost workday case and maintaining total injury and illness incidence rates below the national average. DMTN, which employs nearly 2,500 people, had 1.4 million hours without a lost-time injury and its total injury and illness incidence rates were four times below the national average.

MEMPHIS

First Student, the school bus contractor for Memphis City Schools, has laid off 170 part-time hourly drivers due to route reductions. MCS is reducing school bus routes by 40 percent this year, combining some general student and special-education routes, eliminating dozens of bus stops to speed up pickups, and mandating that all students be picked up and dropped off at their home bus stops.

MORRISTOWN

A footwear manufacturer will bring more than 100 jobs when it opens a new plant in the Morristown Airport Industrial District. Wellco Enter-



Goodlettsville City Manager Jim Thomas, stands on his head on the front porch of the Goodlettsville City Hall as part of a challenge he made to city employee Jan Lanius who was in a weight reduction program. Thomas vowed to perform the stunt if Lanius reached her goal weight.

MURFREESBORO

Harley-Davidson USA, the legendary motorcycle maker, is considering Murfreesboro along with three other cities outside Tennessee as a

forms that paper machines fashion into products ranging from toilet tissue to heavy containerboard. The paper industry has been consolidating, which has cut the demand for the fabric.



At the dedication ceremony of former City Administrator Douglas P. Bishop Bridge in Sevierville are Bishop’s wife Johanna (center) and his two daughters Jane (l) and Sarah.

possible manufacturing site to build its popular Touring and Softail models. Representatives of the Milwaukee-based Harley-Davidson visited a potential plant site in Murfreesboro earlier this week. The new plant would replace Harley’s largest production facility, a sprawling million-square-foot complex in York, Pa., that the company has decided isn’t efficient or competitive enough to remain open in its present configuration.

NASHVILLE

Some 60 health insurance servicing employees are losing their jobs after Cigna’s government services affiliate lost one of its federal Medicare contracts. Cigna’s Nashville office employs about 1,000.

PORTLAND

Albany International Corp. said it plans to close its fabric plant in Portland putting 156 employees out of work. The plant, which opened in 1980, makes “forming” fabric used in the manufacture of paper products. But the work now being performed by the Tennessee facility will be transferred to Wisconsin and Canada “beginning immediately,” with a final shutdown expected by June 30, 2010. The fabric from the Portland plant is used to create the

ROGERSVILLE

An \$820 million natural gas power plant planned for upper East Tennessee could tap the state’s substantial and underdeveloped gas potential, which would bring more jobs and more revenue. According to Scott Gilbert, president of the Tennessee Oil and Gas Association and lead geologist for Vinland Energy in Oak Ridge, the proposed TVA plant in Rogersville will create more development across the state. The plant reportedly will need 160 million cubic feet of natural gas a day 10 times more than what’s produced in the state now. Three gas turbines could be online by the end of 2011.

SEVIERVILLE

A dedication ceremony was held recently for the Douglas P. Bishop Memorial Bridge. Bishop, who served as the city administrator for Sevierville from 2002 until his untimely passing last year, carried a vision for the city’s future prosperity that was centered on development of the Central Business Improvement District, stretching from downtown to Interstate 40. He spent countless hours on seeing this vision become reality with the building of the Sevierville Events Center, planned road construction and many other projects.

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Tel: 480.368.0900 ext. 246  
email: [dan.foglton@atsol.com](mailto:dan.foglton@atsol.com)  
Fax: 480.607.0901  
Online: [www.atsol.com](http://www.atsol.com)



# MTAS: Where yesterday is the future and tomorrow’s today

BY VICTORIA SOUTH  
TML Communications Coordinator

Birtherd amidst a swirl of social, economic, and industrial changes, the post World War II period, the Municipal Technical Advisory Service (MTAS) has remained a source of stability for Tennessee’s municipalities since April 15, 1949. Anticipating the needs of towns and cities for the past 60 years, the agency has illuminated the path of local governments well into the 21<sup>st</sup> century with a tradition of consulting services and training opportunities unsurpassed by any other state agency in the nation.

“MTAS is a jewel a lot of other states do not have,” said former MTAS consultant Randy Williams, director of Client Services at TML’s Risk Management Pool. Williams, who once served as interim MTAS Executive Director in the 1980s, marvels how the agency’s efforts on behalf of cities throughout the years are never static.

“There are some seeds planted years ago by MTAS that are just now coming into fruition,” Williams said. “A lot of times, MTAS would produce an earlier study that would be shelved, and then later dusted off to become part of a city’s charter. MTAS is a mechanism for municipal staff to work better with elected officials, a mutual third party that strives to enhance changes and a great informational resource for new administrators or other government officials, particularly those who might move here from out of state.”

By its 15<sup>th</sup> anniversary, MTAS had flexed its muscles, establishing branch offices all across the state. Gone were the days of the two-day commute from the Knoxville office to reach and serve cities. Rapid advances in technology and the information highway loomed large and the scope of local government needs would be expanding. Education and training of employees and city officials would become a necessity and the services provided by the original four consultants would branch out and diversify from areas of law, accounting, management, and public relations into municipal arenas in wastewater, fire and police departments, human resources and computer technology.

Support staff member Anne Lowe, who served more than four decades with MTAS before her 1998 retirement, recalls this challenging period. “Technology changed how we assimilated and distributed information to cities,” said Lowe. “As a clerk typist in 1956, I originally took my typing test on an old Royal manual typewriter. Then came electric, and copy machines, word processors and the CPT computer where we typed a lot of codes and reports. Different computers came along and as quickly as I learned one program; it would be time to learn another all over again.” Cities were struggling with technology as well, some more than others, said MTAS finance and accounting specialist Ken Joines, who came on board in 1970.

“People were afraid of computers,” Joines explains. “Only five cities had computers when I began. The cost simply was not within reach for some cities. Most, if they had computers, didn’t need my expertise. Some people were more adaptable to learning than others. Then, there were cities where people had no experience in bookkeeping. I’d say debit or credit and they’d look at you like you had spoken a foreign language.” Joines retired in 1997, after serving 27-years including a period as MTAS assistant executive director in 1982.

As career fields became less gender oriented, more women were becoming interested in serving in the field as MTAS consultants.

“I was hired in 1984 to work in the areas of water and waste water,” said Sharon Rollins, consulting program manager, recalling her early years at the Nashville office as an engineering consultant. “My first call was to the city of Lakewood. I advised them about stormwater control and infrastructure issues. My first day at the office, I arrived to find my computer still in the box and a group of older male consultants. I was the only woman. I had interviewed in East Tennessee and thought I had made a mistake. But, they were kind to me and took me under their wings. We would have lunch together at the same cafeteria every day at 11:30.”

In the coming years, the MTAS library would undergo radical changes as well. Under the direction of Elizabeth McNutt and then Elizabeth Sodemann, who retired in 1980, the broad collection of reference materials was primarily geared toward the education of consultants, “a wealth of knowledge on operational trends in municipal government that would deepen the effectiveness and authority of the consultant’s advice.”

Following Sodemann’s 1980 retirement, the goal of applying the MTAS library at the state level fell into the capable hands of Carol Hewlett, who earned her masters degree in library science from the University of Tennessee. “I worked as a Career Planning officer at U.T. when Dr. Hobday called and asked for librarian applicants,” said Hewlett. “They recommended me. I was the first full time librarian. Elizabeth Sodemann had told Dr. Hobday that they needed one. At the time, there was not a lot of outreach to city officials and staff. Elizabeth Sodemann had the vision, and I carried it on.”

Hewlett and a small staff of volunteers began conducting telephone and Internet surveys as a way to find out about general issues affecting cities.

“They were very popular,” Hewlett recalls. “We’d call 10 or more libraries about



small issues relevant to municipalities or city officials; it was a short exchange, about 10 items about gas rates, fire, personnel, police. We shared the results with city officials, putting it on a data base and also writing up reports to give to consultants.” Hewlett also assisted Tennessee’s cities with managing their materials and information resources.

“We were unique in that very few users ever walked in the door, yet we were able to share a great deal of information,” said Hewlett.

Leaving MTAS in 1999 for a job as head of the Moss Point Library in her home state of Mississippi, Hewlett is now Director of the Jackson George Regional Library in Pascagoula, Miss. She credits MTAS for her good foundation in local government.

“I am proud of MTAS. I would not have been as prepared for my work without them. Now, whenever I visit a local government, it’s like meeting old friends,” she said.

Ten years have passed since the torch was passed to Frances Adams-O’Brien. With a Masters in Library Science from the University of North Carolina in Chapel Hill, overseeing the transference of the library’s hard copy materials to data base fell under her leadership and is a crowning achievement in bringing municipal information and resources instantly to consultants and cities.

In addition to consultant requests, the MTAS library now receives a substantial number of requests directly from cities and other entities across the state as well.

“Between January and July 2008, I had the chance to help 152 different cities. That’s a lot of cities!” O’Brien said. O’Brien notes that compared with information requests of the 50s, dealing with rabies control, delinquent taxes or annexation of “fringe areas,” today’s requests have more to do with what other cities are doing about matters of importance, policies, job descriptions and salary information.

“Last winter, when there was a shortage of road salt, one city asked us to research the use of whey products for road deicing,” she said. “That was interesting...”

Designing a single database, called Knowledgebase, that would provide access to legal opinions, RFP’s, job descriptions, sample forms, ordinances/resolutions, reports, surveys and publications as well as MTAS studies, has been challenging, according to O’Brien. “Our goal was to create a “one stop data base for customers. Knowledgebase is the most used database on the MTAS website,” she added.

A pilot project in the following three months will provide live chat on the MTAS website where library staff will be available to field questions and requests through a free application called Meebo. Additionally, the library with the aid of consultants, plans to conduct a complete review of its 3,000 electronic documents as well as the other 10,000 print materials on hand to ensure that they are current and the best information available.

“We will continue to look at new technologies like Facebook, Twitter, and podcasting to see if any of those will help us to achieve our goals,” O’Brien said. “I try to remember that the latest technologies are only a means to an end, not the end itself. We look at what we are trying to do and then for a tool that will help us do that. In the long run, the library will continue to be responsive to customer needs to work to anticipate customer’s needs and to find new more efficient and innovative ways to provide municipal information resources.”

In 2009, serving a state of more than six million people, MTAS annually completes more than 1,000 major municipal management projects and provides an average of 6,000 other services. Among these services, the delivery of municipal training by MTAS consultants is paving the highway of success for hundreds of city officials every year.

The Elected Official Academy (ELO), Municipal Administration Program courses (MAP), Municipal Management Academy (MMA), and the agency’s latest addition, the Certified Municipal Finance Officers Program (CMFO) helps to ensure that city officials and staff possess the necessary tools to perform day to day tasks.

While MTAS had nothing to do with the political lobbying that defined its founding father, Herb Bingham and the Tennessee Municipal League, in the 21<sup>st</sup> century the agency serves as a bridge for cities striving to stay abreast of legislative mandates.

“We have got to stay ahead, to keep cities progressive,” said Kurt Frederick, municipal training consultant. Frederick coordinates and develops training classes with MTAS consultants and serves as institute director for the Tennessee Association of Municipal Clerks & Records. “We offer comprehensive training to cities free of charge with a time honored tradition of meeting city officials one on one,” said Frederick. “The Elected Officials Academy has received more training requests this year than ever before. Every time there is a

change in legislation, classes can be developed in areas such as planning and zoning requirements, codes and business tax changes. I’d say one of our biggest training challenges today is helping cities learn how to retain their original sense of character while in the middle of extensive development.”

“Over the years, the city administration profession has grown as life becomes more complex,” said Gary Jaeckel, Nashville municipal management consultant. “Most were at one time, engineers. Now, city officials have to be certified to do what they do. You can’t do

the job unless you’re certified. We always are trying to make sure that the content of our classes is current and offer the timeliest information for Tennessee’s cities.

Our biggest challenge is to stay on top of various legislation that applies to how organizations function, how to deliver water and sewer as changes are handed down by the federal government. We not only function as a bridge, but a bridge for cities and the federal and state government.”

“Government financial matters have changed significantly over the last 25 years,” agrees Dick Phebus, Finance and Accounting Consultant in Martin. “The most significant change was with the issue of GASB Statement 34 which re-designed the format in

which government financial reports are presented. The new statements focus on a government-wide perspective not just the individual funds as had been reported in the past. The CMFO program was established as a way to improve the financial competency in Tennessee municipalities. Many areas such as police, fire, water and sanitation, and sewer treatment; already require certified managers or employees, however, there was no such certification for the finance and accounting function. The program will enhance the finance officer’s ability to properly account for and report municipal activities in accordance with generally accepted accounting principles as required by the state. The ability to record and report financial data in the most accurate and timely manner will assist management and elected officials in making important decisions in the future.”

“I’m happy to be providing day to day help with municipal problems,” said Rex Barton police management consultant in Knoxville. “We provide an important contact between law enforcement and cities. We also have a lot of calls from cities wanting technical assistance with the courts. The Law Enforcement Training Academy and the Municipal Court Clerks training have stayed busy.”

“Cities have a lot more hoops to jump through,” said Ray Crouch, MTAS Fire Consultant. “Our biggest issue has been to explain that a volunteer fire department does not mean less training. We pushed hard for a Tennessee Fire and Codes Academy.”

Ironically, Crouch was busy writing an upcoming MTAS Hot Topic article concerning the new firefighter minimum training law passed by the 2009 General Assembly. The law establishes a 16-hour class that must be taken by anyone who enters the fire service before responding to an emergency, requires that every firefighter take a basic firefighter class, as defined by the Tennessee Fire and Codes Academy, and provides exceptions for firefighters who already have five years experience.

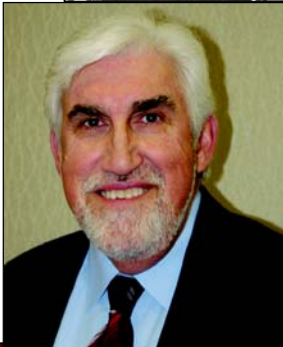
“In the last 18 years, technology has gone from being an unnecessary gadget to an essential job-related tool,” Crouch continued. With a gleam in his eye and pausing for dramatic effect, Crouch revealed a new MTAS project that will work in conjunction with the Tennessee Emergency Management Association (TEMA) combining technology with fire equipment resources. A geo-coded database will contain all the fire departments in the state and list the number of pumps and all other equipment each unit has on hand.

“If a city has an incident that is bigger than they can handle, TEMA will punch in a code and in a matter of seconds find out which city has the equipment that is needed,” Crouch said. “We have already started training people in all nine development districts. Each county will designate a contact person. TEMA has a server, and MTAS has a server. In the event of a disaster, we’ll still have all the data.”

Today, the agency established at the University of Tennessee and charged in all matters related to municipal government,” has provided more than 41,272 training hours to 10,818 participants in 2008.

“As Tennessee cities face increasing citizen demands and the need to provide more services to residents, we will ensure that MTAS is fully equipped to help municipal officials as they lead their communities,” said Mike Tallent, MTAS executive director.

Today’s MTAS can be described as a



complex tapestry, a web of brilliant minds, information bearers, teachers, leaders, shoulders to lean on, helping hands, listening ears. The relationship forged between the agency and the state’s municipalities is more than unique; it’s a convoluted mix of consultants and mayors, support staff and city managers, citizens and people from all walks of life who are involved with and care about cities. Its a 60-year bond between an agency and the entities it pledged to serve since its creation in 1949. On its 60<sup>th</sup> anniversary and beyond, towns and cities will always have a friend in MTAS.

**Photos from top left to right:**

Ann Lowe, retired support staff; Rex Barton, police management consultant; Sharon Rollins, consulting program manager; Ken Joines, retired finance and accounting specialist; Ray Crouch, fire management consultant; Frances Adams-O’Brien, MTAS librarian; Vic Hobday, former MTAS executive director, presents an award to former MTAS librarian, Carol Hewlett; Mike Tallent, MTAS executive director; Randy Williams, director of Client Services TML Risk Management Pool; Kurt Frederick, municipal training consultant; Dick Phebus, finance & accounting consultant; Gary Jaeckel, municipal management consultant; Herb Bingham, former TML executive director; Sue Dixon, former TML secretary; Jennie Moscovitz, former MTAS secretary; and Bob Lovelace, former MTAS fringe area consultant outside the Nashville office in the early 1950s.



STATE BRIEFS



BY TML STAFF REPORTS

Tennessee state revenues saw 12 straight months of decline in fiscal year 2009, the first time since the state began keeping records. The drop leaves year-to-date collections \$1.2 billion under budgeted estimates. In other words, the state actually collected \$1 billion less in fiscal year 2009 than in fiscal year 2008, according to state Finance Commissioner Dave Goetz. “This is going to be hard to recover from, because we don’t see any real sign of upturn in the sales tax,” Goetz said, noting that sales tax collections in July came in 10.88 percent below a year ago. The sales tax is Tennessee’s main source of revenue, accounting for 58 cents out of every total state tax dollar. The state’s main business taxes, the franchise and excise taxes, were \$27.1 million over budget, but Goetz attributed that to several unexpected settlements, not economic growth.

Tennessee is one of five states that will take part in a \$100 million experimental electric vehicle program sponsored by the U.S. Department of Energy distributing electric vehicles charged with Nissan batteries, to be used by government and commercial fleets and individuals, as well as charging stations for the cars. In Tennessee, some 2,500 stations and 1,000 vehicles will be deployed in Nashville, Chattanooga and Knoxville. The project is being funded by a \$99.8 million energy department grant to eTec, a Phoenix, Ariz.-based company that is developing zero-emission electric transportation with Nissan, maker of the new Leaf electric vehicle. Tennessee is also kicking in \$5 million for electric vehicle infrastructure which is included in the current fiscal year budget.

Gov. Bredesen signed legislation creating a “Silver Alert System” that would work like the “Amber Alert System” to help locate missing individuals who have Alzheimer’s disease or related dementias. The new law calls for local law enforcement agencies to coordinate with non-profit organizations such as A Child is Missing or the Alzheimer’s Association to aid in their efforts to put the program in place. The bill defines “missing senior citizen” as a person 60 years old or older who’s “whereabouts are unknown” and who has “an impaired mental condition as determined by a local law enforcement agency.” The Silver Alert would be triggered if that missing person is believed to be in danger because of environmental or weather conditions, or is thought to be unable to return to safety without assistance.

The state says more than 2 million people have called Tennessee 511 for information on roadways and weather since the program launch in August 2006. In addition to real-time traffic information on Tennessee’s interstates and state highways, callers can access weather conditions, Amber Alerts and the 511 systems in neighboring states. Callers can dial 511 from any cell phone or land line phone and use either the phone’s keypad or the voice recognition feature to access information. There is also a Web site

at [www.tn511.com](http://www.tn511.com). Information is also at [www.twitter.com/TN511](http://www.twitter.com/TN511).

A special investigation into overbillings by a vendor of the Tennessee Department of Education has resulted in the recovery of \$425,725. Appalachian Education Laboratories (AEL), an education research and development corporation now named Edvantia, Inc., repaid the Tennessee Department of Education (TDOE) \$244,815 for over-billed costs and \$180,930 for interest, investigative and legal costs associated with the administering of Exemplary Educators (EE) program grant contracts. The EE program provides support to schools by assigning exemplary educators and administrators to schools in greatest need of improved performance. The grants in question covered the period from November 2000 to June 2005. In February 2005, AEL voluntarily disclosed initial contract overbillings of at least \$198,196 and requested that the State perform its own review of the matter. The Comptroller of the Treasury’s Division of State Audit investigative staff completed the investigation in conjunction with TDOE’s internal auditors. The Tennessee Attorney General’s Office negotiated the settlement on behalf of the Comptroller and TDOE. The overbillings by AEL were accomplished by inflating the actual labor costs associated with certain EE contracts.

Crime lab offices scattered across town are a thing of the past for the Tennessee Bureau of Investigation as forensic scientists are now housed in a new \$17 million facility that consolidates criminal investigators and the testing lab. The TBI’s criminal investigation division, drug division and crime lab were located throughout Knoxville in different buildings, while Memphis and Nashville already have consolidated facilities. The Knoxville facility, named the TBI Regional Consolidated Facility, employs 62 people from TBI’s Upper East criminal investigation division, drug investigation division, Medicaid fraud control unit and East Tennessee regional crime lab.

With \$6.5 million already spent amid decades of haggling about a highway project that was halted by the state, there is new talk about Corridor K in southeast Tennessee. Options include upgrading and expanding U.S. 64 along the Ocoee River, doing nothing, or building a new link on the route between Chattanooga-Cleveland and Asheville, N.C. A Tennessee Department of Transportation Chattanooga region spokeswoman said two meetings in Polk County attracted residents, agency representatives, and advocates for the environment, outdoor recreation and economic development. A February 2008 report shows likely economic benefits from a better connector and a citizen resource team has been organized.

The Tennessee Department of Correction will reduce the state’s prison population by 3,000 over the next two years, focusing on keeping low-risk offenders from going back to jail, as a way to cope with an ongoing budget crunch. Already, 2,000 inmates who have

been released are under supervision and they expect 1,000 more to be released by 2011 under the normal parole system. The move is designed to save the state \$64 million within the next two budget years. The state’s corrections system is trying to prevent technical violators —the term used for those who violate probation for not reporting their address or failing a drug test, for instance — from taking up bed space. The department also is leaving 450 positions vacant, and scaling back on inmate work crews that clean up roadside areas and cemeteries. Tennessee has a 42 percent recidivism rate among the 19,400 state prison inmates and an additional 7,800 people in local jails.

This year’s flu season is shaping up to be a very different one. Most people will need one shot for the regular seasonal flu and probably two others to protect against the new swine flu. Experts suggest getting the first shot now, if you can find it. The five vaccine manufacturers that supply the United States are finishing up production of seasonal flu vaccine earlier than usual. Health officials say they expect about half of the more than 120 million doses of seasonal vaccine to be available by the end of the month.

A new study of crime statistics found that 21 percent of people arrested in Tennessee for driving under the influence were arrested again for the same crime within a five-year span. The study released by the Tennessee Bureau of Investigation analyzed recidivism rates for DUI, rape and robbery between 2002 and 2007. During the five-year span, there were more than 137,000 arrests for DUI. The study found that 34 percent of the repeat offenses occurred within six months of the original arrest and over time the recidivism rates declined.

Three Tennessee school systems have received top honors from the U.S. Department of Agriculture for best practices in school nutrition. The state Department of Education said Knox County (specifically Powell High), Montgomery County (Burt Elementary) and Unicoi County schools were recognized by the Southeast Regional Office of the USDA in various categories. Among the criteria was increasing participation in school breakfast and lunch, and customer service. State education officials nominated the three as well as several others.

A measure signed into law will help keep Tennesseans struggling with debt from playing into the hands of frauds. Because of the recession, many Tennesseans are wrestling with financial problems. Commerce and Insurance Commissioner Leslie Newman says not everyone offering to help is legitimate. The new law requires debt managers to register with the state, and tell potential customers up front about their costs and potential risks.

The U.S. Food and Drug Administration has warned that electronic cigarettes are untested and possibly dangerous, but that hasn’t stopped mall kiosks and truck stops across Tennessee and Georgia from peddling the newest product targeted to smokers. Electronic cigarettes, also known as e-cigarettes, are battery operated and contain cartridges filled with nicotine. Smokers get a nicotine kick



The TBI Regional Consolidated Facility in Knoxville will process crime information from 21 counties in Upper East Tennessee.

without tobacco tar and exhale a “smoke” that is water vapor. The FDA released results of a laboratory analysis that showed some electronic cigarettes contain carcinogens and diethylene glycol, a toxic chemical used to make antifreeze. Officials said there needs to be further tests to determine the levels of nicotine and other chemicals in the product, yet believe e-cigarettes should be classified as a drug that needs government regulation. They have been examining and detaining overseas shipments of e-cigarettes, most of which are coming from China.

The American Recovery and Reinvestment Act will provide \$200,000 to help Tennessee drinking water systems hire and train the next generation of drinking water professionals in the state. The Drinking Water Mentoring Initiative will provide up to 10 one-year grants to drinking water systems serving fewer than 10,000 people in counties with an unemployment rate of more than 10 percent. The funding for the Drinking Water Mentoring Initiative comes from the Fleming Training Center, which receives two percent of the federal funding granted to the Drinking Water State Revolving Fund. Under

the Mentoring Initiative, the state will use a portion of the Fleming Training Center Recovery Act funding to offer free training, materials and \$15,100 in salary support for small water systems across Tennessee. The remaining funds will be utilized for other Fleming Training Center programs.

A sputtering economy and a desire to rethink educational options spurred more adults in Tennessee and across the nation — to take the GED test last year. An ACE study shows in Tennessee, 15,923 out of the 988,235 eligible adults took the tests last year. The passage rate was 77.6 percent. Nationwide, 737,233 adults took the GED in 2008, a six percent increase over the previous year.

Tennessee motor carriers can apply for grant rebates to help pay for clean diesel technology for their long-haul trucks. The U.S. Environmental Protection Agency is providing Tennessee with \$1.73 million stimulus funding to supplement the state’s Idle Smart Clean Diesel Grant program. Tennessee’s trucking businesses can apply on Environment and Conservation’s Recovery Act web page at [www.tn.gov/environment/recovery](http://www.tn.gov/environment/recovery).

NATIONAL BRIEFS



BY TML STAFF REPORTS

Eight sites in the U.S. are conducting government-sponsored clinical trials aimed at warding off the rapidly spreading H1N1 virus that popped up in the spring. The Vanderbilt Vaccine and Treatment Evaluation Unit in Nashville is one of eight sites across the country that will participate in government-sponsored clinical trials to find a vaccine against the swine flu. Health officials hope to have a vaccine available as early as October, when they said the virus could start gaining a stronghold as children get settled in for the school year and share germs in close quarters.

The Internal Revenue Source is adding 35 people to its call center in Nashville. This is the second wave of hiring for the IRS, when it announced hiring of 48 people for compliance jobs in May. The positions are full time with an annual salary of \$30,000 to \$40,000.

The U.S. Mint will honor James K. Polk by issuing a special \$1 coin during a ceremony at his home in Columbia, Tenn. The U.S. Mint launched its presidential dollar series in 2007 and has issued four coins per year saluting the presi-

dents in chronological order. The James K. Polk home is the only surviving residence of the 11th president other than the White House.

For the first time in 15 months, there is a decline in the National Unemployment rate. It fell to 9.4 percent, down a tenth of a point from June. Many economic advisors say it is a sign the recession is ending. Payrolls dropped by only 247,000 people in July versus 443,000 in June.

It was a race to the finish for dealers and customers alike as the government’s Cash for Clunkers program headed into its final lap. Car dealers across the country and locally watched their lots grow empty as crowds rushed to trade in gas guzzlers after the government said that the \$3 billion rebate program would end two weeks earlier than expected. Transportation Secretary Ray LaHood called the program an unprecedented success and a boon for car dealers, automakers, scrap yards and financial institutions. Nearly half a million cars had been sold through the program. But the new sales left many dealers worried about not being reimbursed by the government.

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# PEOPLE

BY TML STAFF REPORTS

Former State Representative Park M. "Parky" Strader, who represented the 14th district of Knox County in the Tennessee House of Representatives from 2004-2008 in the 104th and 105th General Assemblies, passed away Aug. 19 from complications associated with liver cancer. He was 64. Strader was elected in 1972 as the Knox County Assessor, where he served for 28 years until 2000. In 2004, Strader decided to try his hand at State politics, and was elected to the Tennessee House.



Strader

Newly appointed Tennessee Regulatory Authority (TRA) director Kenneth C. Hill has been appointed to two national committees of the National Association of Regulatory Utility Commissioners (NARUC), the International Relations and Water Committees. The International Relations Committee manages NARUC's outreach activities across the globe, including partnerships to assist numerous countries with American best practices as the trend of energy market development expands overseas. The Water Committee aims to increase awareness and understanding about the issues surrounding uses and reuses of water and wastewater.



Hill

Nashville attorney Jane Branstetter Stranch has been nominated by President Barack Obama to become a federal judge on the 6th U.S. Circuit Court of Appeals. Stranch, 55, has practiced primarily in the federal courts for 30 years. She is a partner at Branstetter Stranch and Jennings, a Nashville law firm founded by her father, Cecil Branstetter.



Stranch

Attorney and Assistant Public Defender Jeffery C. Kelly has been appointed to the First Judicial District's Office of Public Defender

post. Kelly will fill a vacancy created by the death of Bob Oaks in June.

State Senator and Majority Leader Mark Norris has been appointed chairman elect of the Southern Legislative Conference.



Norris

Victor Lay, longtime city manager of Waynesboro, has been appointed as Spring Hill's new administrator. Lay, an engineer, has 14 years of city and utility management experience and has held positions as Tennessee City Manager Association president; chairman of the Wayne County Joint Economic and Community Development Board; chairman of the Workforce Employer Outreach Committee; and secretary of the board of directors of the Tennessee Energy Acquisition Corporation.

Smyrna Mayor Bob Spivey has resigned due to health reasons. Vice Mayor Tony Dover has replaced him.



Dover

Debra Butler, city recorder with the city of Friendship, celebrated her 25th anniversary as Friendship's city recorder. Debra was presented with a proclamation by Friendship Mayor Casey Burnett, a wristwatch and a plaque to commemorate her years of service.



Butler

Alamo Mayor Tommy Green has been appointed by Gov. Phil Bredesen to the state Air Pollution Control Board.



Green

Paris Mayor Sam Tharpe has been appointed by Bredesen to the Land Between the Lakes Advisory Board.



Tharpe

# Green Expo makes 2009 Tennessee State Fair an affair to remember

VICTORIA SOUTH  
TML Communications Coordinator

You could say Chrsty Fortner stepped right into her first project for this year's Tennessee State Fair. Working desperately to save the struggling venue, Fortner, fair marketing director, had been looking for items to cut from the fair's 2009 budget to make way for more advertising. She was amazed to discover that the fairgrounds, owned by Metro Government, had been paying \$29,000 a year just to have the manure from the 12,500 animals on exhibit hauled to the landfill.

In her research, she uncovered a unique machine, only two are in existence, that would convert all that "poop into power," a mobile bio oil processor that would convert the cow patties, hay, straw, bedding, corn stover and switch grass into 30,000 gallons of bio-diesel oil. The oil would be mixed with methanol to fuel all the midway's generators.

After announcing the invention to the public as the main attraction of the fair's upcoming Greenway Energy Expo, the project had to be scrapped, however, Fortner and fair officials were undaunted. Hooked on promoting best practices in sustainable living and green technology, the Expo is still on.

"It's not easy being green," Fortner concedes, "but this year's Tennessee State Fair will be 100 percent green. We will also be composting 100 percent of the manure with an organization that will haul the animal waste to a local farmer in the Belle's Bend area where it will be used for farming compost."

The fair's green initiative will highlight green jobs and technology and will walk attendees through the process of recycling cardboard, plastic, and paper. And, the cooking oil used to make all those irresistible fried Goo-Goo clusters and funnel cakes along the mid-way will be recycled into bio-diesel. Fair goers can learn about composting while seeing wind technology and solar power on display.

"We are encouraged by the emphasis on sustainability at this year's Tennessee State Fair," said Jim Fyke, Tennessee Department of Environment and Conservation (TDEC) commissioner. "Fair goers will benefit from being able to experience a variety of innovative technologies that support great energy efficiency and the use of clean, renewable power on the farm and in their neighborhood."



This year, 100 percent of the cow patties and other animal waste from the Tennessee State Fair will be used for farm composting.

"The Department of Environment and Conservation strongly encourages and supports sustainable practices," adds Lori Munkeboe, TDEC Office of Environmental Assistance. "Taking the green message to such a unique venue offers new opportunities to teach a diverse audience. We applaud efforts such as these and are excited that the 2009 Tennessee State Fair will play an important part in educating its participants about recycling, uses of biodiesel, and green technology."

In addition to returning to its agrarian roots, the Tennessee State Fair, which runs from Sept. 11-20, will offer all the modern conveniences by becoming more high-tech. The fair has launched a completely revitalized website which is a virtual representation of all the exciting activities it will offer this year. Be sure and visit the website at [www.tennesseestatefair.org](http://www.tennesseestatefair.org).

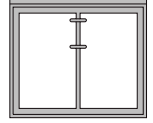
Visitors to the website can sign up for e-mail updates on the new entertainment options, attractions and rides. Updates will include news about special discount days and advanced tickets at discounted prices. Other website features include an interactive newsroom complete with

fair images, videos of rides and attractions and the latest news on the fair as well as a sign-up page for those interested in participating in any of the fair's competitions. Tickets will also be available this year on the website, which has never been an option before. There will even be a Clearwire wireless hotspot at the fair.

"This year's fair is going to be bigger, better and a brighter version of fairs past," said Fortner, who said increased security measures should add to attendees' safety and enjoyment. "Families can look forward to rides and games, family friendly shows and attractions and exciting competitions," Fortner added.

"While the future or location of the Tennessee State Fair may be uncertain, I intend to make this year's fair an affair to remember," said Fortner.

## COMING UP



**Sept. 20-24: Tennessee Recreation & Parks Association 58th Annual Conference** Kingsport Meadowview Resort and Marriott Convention Center. To register or for more information, visit the TRPA website <http://www.trpa.net/index.cfm> or call Candi at 615-790-0041.

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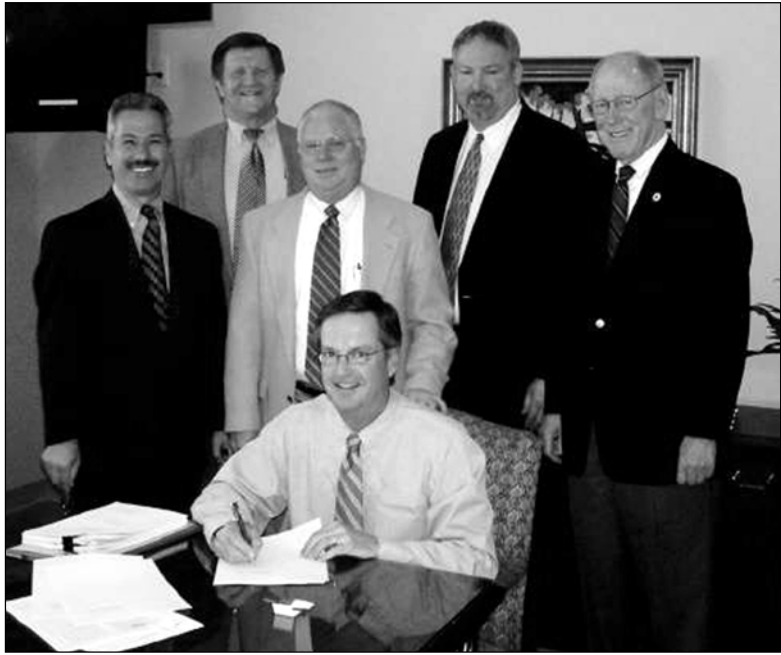
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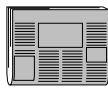
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ASSISTANT TRANSPORTATION DIRECTOR

MURFREESBORO. The city is seeking qualified applicants for the position of Assistant Transportation Director. Bachelor's degree required; major course work in public administration, engineering, transportation, or related field is preferred. College requirement may be waived with ten (10) or more years of relevant experience. Minimum of three (3) years of progressively responsible work experience in public transportation or public transit management is required. Excellent human relation skills, with the ability to communicate effectively with the public, elected officials, department heads, employees and the media. Salary is \$4,833.75 to \$6,006.00 monthly DOQ&E with excellent benefits. Required application form and job description available at: [www.murfreesborotn.gov](http://www.murfreesborotn.gov) or Personnel Department, 111 West Vine Street, Murfreesboro, TN 37130. Phone 615-848-2553, TDD 615-849-2689, Fax 615-904-6506. Applications accepted until the position is filled. EOE.

FINANCE DIRECTOR/CITY RECORDER

FAIRVIEW. The city is seeking applicants for the position of Finance Director/City Recorder. This position is the city's authority on all aspects of financial management and requires a comprehensive understanding of city government finance. Director manages the budgeting, accounting, accounts payable, debt service management functions of government and participates in the cash management, pension, investments and certain aspects of the payroll process and purchasing. Position serves as city recorder working closely with the Board of Commissioners. A bachelor's degree in Accounting, Finance, Public Administration, or closely related field supplemented by three (3) years previous experience and/or training that includes progressive management experience involving governmental accounting and budgeting is required. Preference will be given to candidates with professional certification such as Certified Municipal Finance Officer (CMFO); Certified Governmental Financial Manager (CGFM); or Certified Public Accountant (CPA). Salary: DOQ; comprehensive benefit package including TCRS Pension. Applications will be accepted until position is filled. Submit a letter of interest, current resume, salary history and a list of three professional references to: City Manager, City of Fairview, 7100 City Center Circle, P O Box 69, Fairview, TN 37062. Email: [cm@fairview-tn.org](mailto:cm@fairview-tn.org).

MTAS LEGAL CONSULTANT

The University of Tennessee, Knoxville seeks applicants for the position of Legal Consultant for the Municipal Technical Advisory Service (MTAS), Knoxville. MTAS serves Tennessee cities by providing municipal officials one-on-one technical assistance. Position provides advice and technical assistance in municipal law to various municipal and state entities. Position develops and maintains technical reports and publications on critical issues. Develops and teaches municipal training courses, and assists others at MTAS. Independent judgment is a must, and minimal travel is required. Requires a JD degree and admission to the Tennessee Bar – prefer up to two years experience in government law or related private law experience. Experience in municipal or state government with Tennessee relevant experience is preferred. Legal Consultant Search, UT-MTAS, 120 Conference Center, 37996-4105; e-mail, [teresa.davis@tennessee.edu](mailto:teresa.davis@tennessee.edu). The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution in the provision of its education and employment programs and services. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

MTAS TRAINING CONSULTANT

The University of Tennessee, Knoxville is seeking applicants for the position of Training Consultant for the Municipal Technical Advisory Service (MTAS). This organization is one of a kind in the nation serving Tennessee cities by providing elected and appointed officials one-on-one assistance with all facets of local government. The training consultant conducts needs assessments, develops courses, and determines delivery methodology for municipal training programs. No two days are the same, independent judgment is a must, and travel is required. For more information about MTAS and the position, visit the website: [www.mtas.tennessee.edu](http://www.mtas.tennessee.edu). Position requires a master's degree in adult education, human resource development, organizational development or a related field & at least 5 years in developing curricula, needs assessment, evaluating training programs, performing logistical development, and delivering training programs - prefer three years experience in a local government environment. Position is located in Knoxville. Letter & resume to Training Consultant Search, UT-MTAS, 120 Conference Center, 37996-4105; e-mail, [teresa.davis@tennessee.edu](mailto:teresa.davis@tennessee.edu). Open until filled. The University of Tennessee

is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution in the provision of its education and employment programs and services. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

MUNICIPAL MANAGEMENT CONSULTANT

The University of Tennessee, Knoxville is seeking applicants for the position of Municipal Management Consultant for the Municipal Technical Advisory Service (MTAS). This organization is one of a kind in the nation serving Tennessee cities by providing elected and appointed officials one-on-one help with all facets of local government. The municipal management consultant serves as key contact for 30-40 cities, the job involves answering questions from city officials, frequently traveling to cities in the consultant's territory, performing research, conducting training sessions, writing publications, attending occasional council meetings, and requires some overnight trips. No two days are the same and independent judgment is a must. For more about MTAS and the position, visit the website: [www.mtas.tennessee.edu](http://www.mtas.tennessee.edu). Job requires a master's degree in public administration/ equivalent degree & at least 5 years local government employment, including 3 years as city manager or 6 years as assistant city manager - prefer experience as city manager/assistant city manager in city with minimum 10,000 population. Position is located in Knoxville. Letter & resume to Municipal Management Consultant Search, UT-MTAS, 120 Conference Center, 37996-4105; e-mail, [teresa.davis@tennessee.edu](mailto:teresa.davis@tennessee.edu). Open until filled. The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution in the provision of its education and employment programs and services. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

TOWN ADMINISTRATOR

FARRAGUT. The Board of Mayor and Aldermen for the town of Farragut, is seeking a Town Administrator to lead the administrative and service operations of the Town. The town of Farragut, incorporated in 1980, has 19,717 in population, covers 16.1 square miles, employs 43 full-time staff, and has a \$10 million total budget. The ideal candidate should demonstrate leadership experience in economic development, commercial recruitment and retention, and in planning, building and zoning. The Town Administrator is responsible for community and organizational strategic planning, implementing and sustaining positive organizational development, and executing sound financial management. The Board of Mayor and Aldermen expects a leader that exercises ethical leadership and judgment, implements a leadership style that demonstrates empowerment of staff and citizens, promotes two-way communication, and has a flexible approach to problem solving. A graduate degree is required with at least five years progressive senior level public sector experience; practical experience in a community similar to Farragut is preferred. Excellent written and oral communication skills should be evidenced and significant skills in strategic planning are also preferred. This position serves under the jurisdiction of the Board of Mayor and Aldermen and shall be bound by the ICMA Code of Ethics as well as all federal, state and local laws. [www.townoffarragut.org](http://www.townoffarragut.org) Salary: DOQ. Send resume and cover letter to: Melanie Purcell, UT-MTAS, 120 Conference Center Building, Knoxville, TN 37921, [melanie.purcell@tennessee.edu](mailto:melanie.purcell@tennessee.edu), FAX # 865/974-0423 by September 18, 2009. The Town of Farragut is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution in its employment. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

TOWN ENGINEER

COLLIERVILLE. The town is seeking applications for an experienced town engineer. The town engineer performs administrative, managerial and supervisory work in directing the town's entire engineering program, covering both design and construction of public works and public utilities projects to enhance and update the town's infrastructure. This position requires that the candidate have a Bachelors Degree in Civil Engineering or related; supplemented by 10 years of professional experience that includes public sector municipal engineering, project design, and contract administration, with at least 7 years at a supervisory level, or any equivalent combination of education, training and experience. Must possess Professional Engineering (PE) license at time of hire and obtain State of Tennessee licensure within 6 months of hire. Salary range of \$64,529 - \$102,195 (DOQ) with excellent benefits. This position will remain open until filled. To apply, send letter of interest, cover letter with resume, salary history and professional references to: The Centre Group, 3725 Campion Hills Drive, Suite #2300 Memphis, Tn. 38125, Attention: Joel Myers.

September Is National Preparedness Month

BY MITCHEL HERCKIS  
Nation's Cities Weekly

September marks the nation's sixth National Preparedness Month. To raise awareness, the Federal Emergency Management Agency (FEMA) is urging local governments, private sector partners and not-for-profit organizations to hold events that promote emergency preparedness in homes, schools, businesses and communities.

National Preparedness Month is an opportunity to teach community members how to be self-reliant when a disaster strikes through creating family emergency plans and emergency supply kits. Local government participation helps citizens get informed about the types of emergencies that may occur in their community, appropriate responses and how they can get involved in helping others get prepared for or respond to disaster.

Stressing personal preparedness for individuals and their families allows emergency workers to focus on those who are most in need during a disaster. FEMA has put together materials on how individuals can get prepared, as well as information specific to seniors, businesses, young audiences, pet owners, and various special needs populations.

National Preparedness Slipping

FEMA's tracking polls show that emergency preparedness is "leveling off." Only 12 percent of



Gov. Phil Bredesen surveys the damage in the aftermath of the April 10, 2009, "Good Friday" Tornado in Murfreesboro.

Americans say their household is "very prepared" for a catastrophic disaster such as an earthquake, hurricane or terrorist attack (15 percent in 2006), and 48 percent say they are "somewhat prepared" (46 percent in 2006).

Looking further into the numbers, FEMA found many believe they have taken appropriate steps toward emergency preparedness, but emergency supplies are often scattered throughout the house, not planned out or otherwise not ready to go. FEMA's polling also showed increasing "low concern and desensitization" to preparedness.

Local Government Activities

In an effort to raise awareness, local communities can join the thousands of FEMA coalition members across the country through the

[www.Ready.gov](http://www.Ready.gov) website.

Local governments, often in coordination with not-for-profits or private sector sponsors, have held events to help their communities become more prepared for the possibility of an emergency. Communities have been known to hold emergency preparedness fairs that teach citizens about family emergency plans, creating disaster kits and how preparedness helps emergency responders get to those most in need during an emergency.

To hear about how other communities have marked National Preparedness Month and learn more about what you can do, visit [www.ready.gov](http://www.ready.gov) or visit NLC's [City Practice Database](#) and search emergency preparedness.

Metro Animal Control barking up the right tree with high technology



Photo by Victoria South

High tech equipment has dramatically improved productivity at Metro's Animal Control as the agency takes in 1,300 animals a month.

"I am so proud of this facility," Ladebauche continues. "We would be happy to serve as a point of reference for other cities across the state that would like to know more about this program."

The Metro Nashville's Animal Care and Control headquarters is located at 5125 Harding Place. For hours of operation, visit the website at <http://health.nashville.gov/ENV/AnimalControl.htm>

Religious Freedom Act stifles police powers

RELIGIOUS from Page 1  
that it has used the least restrictive means to achieve that interest. *Sherbert v. Verner*, 374 U.S. 398 (1963).

This standard caused difficulties for state and local governments until the law was challenged in *Boerne v. Flores*. 521 U.S. 507 (1997). In this case, a church was denied a building permit to expand on the basis that the 1923 mission style church building was regulated under a local historic preservation ordinance. The archbishop of the church sued, alleging that his free exercise of religion was burdened by the denial. The court wisely found the RFRA unconstitutional in its application to state and local governments and temporarily things returned to normal. That, however, was not to last.

Religious activists worked nationwide after *Borne* to enact state RFRA's, legislatively imposing strict scrutiny. This year, Tennessee became the sixteenth state to adopt a RFRA. Tennessee state and local governments will now face an uphill battle in upholding laws of general applicability when someone claiming religious offense cries foul. Other states with RFRA's have seen the unintended consequences of these laws in zoning, public safety and other areas of regulation. Here are a few examples.

This July, the U.S. Court of Appeals for the Fifth Circuit ruled that a Euless, Texas, ordinance prohibiting the sacrifice of animals within the city limits was unconstitutional under the state RFRA. When the Santeria priest brought suit, the city

was unable to show that they used the least restrictive means of implementing a compelling state interest. *Merced v. City Kasson, et al.*, WL 2343172 (C.A.5 Tex., 2009).

Last year in the District of Columbia a regulation prohibiting facial hair for firefighters was declared unconstitutional under an RFRA, despite ample evidence showing the danger it can cause. *Potter v. Dis. Of Columbia*, No. WL 2892685 (D.C. Cir. Sept. 28, 2007). Justice Robertson noted the difficulty in reaching this conclusion as it places courts in the position of having to balance religious liberty against governmental interest, which "is precisely the sort of police power matter that is best entrusted to the politically accountable branches." Nonetheless that is what an RFRA requires.

Finally, in *Barr v. Sinton*, also applying the Texas RFRA, the court found a zoning ordinance prohibiting two-halfway houses for ex-convicts was unconstitutional because the facility was proposed by a preacher. *Barr v. City of Sinton*, No. 06-0074 (Tex. Jun. 19, 2009). Not only did the court find that the city failed to expend all possible alternatives, shockingly the court ruled that zoning enforcement was not a compelling state interest. Had the proprietor of the halfway houses not been a man of the cloth, the city's ordinance would not have been judged by strict scrutiny. This shows the fundamental unfairness of RFRA's. They judge persons unequally under the law. As Justice Stevens states in his concurrence in *Bourne*, RFRA's

provide "the Church with a legal weapon that no atheist or agnostic can obtain. This governmental preference for religion, as opposed to irreligion, is forbidden by the First Amendment..." *Bourne*.

The new standard created by the RFRA will undoubtedly create liability for municipal governments. It will also diminish the authority of local governments to regulate land within their jurisdiction through zoning, direct the behavior of on-duty employees and protect the health and safety of its citizens. The full scope of the ramifications is limitless as any action that someone can claim is religious can be used to challenge even the most neutral and prudent law.

Tennessee's RFRA should worry all local government officials and employees and anyone in the state who values law and order, equal protection and *both* religious prongs of the First Amendment. If the ability of local governments to regulate dissipates at even the most tenuous claim of religious offense, small sects will be able to hamper rational, safe and publicly-beneficial policy. The beauty of true religious devotion and the good works it inspires is sacred, hence its protection in the First Amendment. However, the assumption that every ecclesiastical entity is always well intentioned is not only unwise, it is unsafe. That, however, is our current lot. So as cities pass new policy, they must be mindful of the heavy burden and possible liability looming over every ordinance they may pass.





Kingston closed a \$1 million loan with the Tennessee Municipal Bond Fund to be used for street paving and road work. Pictured left to right are: Carolyn Brewer, finance director; Joe Muscatello, TMBF representative; Eleanor Neal, city recorder; and Mayor Troy Beets.

# Dependent eligibility verification underway

**INSURANCE** *from Page 1*  
tions will be asked and no further actions will be taken. We will not require repayment of employer contributed premiums, repayment of paid medical bills or seek further disciplinary action. This is basically a one-time grace period.

**TT&C: Is the state going to just drop dependents who don't turn in their forms?**

**Lee:** The Sept. 4 deadline for completing the Dependent Eligibility Verification is fast approaching. So far, about half of the Local Government Plan members have completed the process which, in most cases, is as easy as sending in two pieces of paper by fax, email or mailing them in the postage paid envelop provided by Secova. We won't drop anyone until we have made a number of attempts to reach them by phone, letter or contact with their human resources staff. If someone needs more time to gather and submit information, they can get an extension of time if they will just call the Secova Call Center before Sept. 4.

**TT&C: Some cities do not use the state-administered insurance plan. Will the dependent eligibility verification efforts impact them?**

**Lee:** No, if your city, county, utility districts or not-for-profit agency does

not participate in the Local Government Plan, you would not be required to participate or to provide any documentation. If you have any questions about whether or not your agency is currently enrolled in the Local Government Plan please contact [Teresa.Liles@tn.gov](mailto:Teresa.Liles@tn.gov) or call 615-532-2227.

**TT&C: Is there anything else local government should know?**

**Lee:** I would just say that if they have Any questions, I encourage them to call the Secova Hotline at 1-877-793-3589. The staff is well-trained. They are helpful to our members. The call center is open seven days a week, 24 hours a day so participants can call at midnight on a Thursday or 5 a.m. on a Tuesday morning. It doesn't matter. And the calls are confidential. It is very important that Secova hears from you by phone, FAX or mail by the Sept. 4th deadline. Their FAX is electronic so you won't get a busy signal or have to wait to be connected. There are also two websites that have good information. Go to <http://tennessee.gov/finance/ins/ins.html> for FAQs, a project overview and a list of required documents. Or go to <https://verify.secova.com/TN> if you want to verify your dependents online. And finally, our thanks to everybody for taking the time to help us with this important initiative.

# Comptroller proposes new reporting requirements

**COMPTROLLER** *from Page 1*  
Wilson is calling for another 30-day public comment period on the revised guidelines. After that point, Wilson said he expects to present a final draft to the Funding Board for consideration.

"I know this may seem like a slow process, but we're actually moving very quickly," Wilson said. "And it's important to get this right." Wilson has also requested pub-

lic comment on model debt and derivative management policies for local governments, with particular emphasis on variable rate debt. While Wilson set no time limit on receiving public comment, he expects to propose some new guidelines for local government debt management later this year.

The draft guidelines may be viewed at: [www.tn.gov/comptroller/lf/lfsfundbd.htm](http://www.tn.gov/comptroller/lf/lfsfundbd.htm)

# Minimum training required for firefighters

**FIREFIGHTERS** *from Page 1*  
leston, 896 S.W.2d 782 (Tenn. App. 1994). In other words, there must be a reason or a common thread linking the exempted counties that justifies treating them differently from all the other counties of the state. No such reason, common thread or rational basis is evident here. If an exemption is challenged, therefore, there is a good likelihood that it would be ruled invalid. There is a severability clause in the new law saying that if a part of the law is ruled invalid, that part will be removed and the rest of the law will remain in effect. If a county's exemption is ruled invalid and removed, the training requirements in the law would then apply in that county. Thus, there is a possibility that the law will be interpreted by the courts as applying statewide anyway, even with the attempted exemptions.

Another reason the training standards established in the new law could apply even in the exempt counties is that they might be interpreted in a tort liability suit as setting the standard against which conduct is measured even in those counties. Thus, even if the training requirement does not apply in those counties, the conduct of the firefighters in the county could be measured in a lawsuit using the presumed conduct, based upon expert testimony, of firefighters who had received the training. In many cases the conduct of the untrained firefighter would not measure up. Lack of training also could be used in a federal lawsuit based on deliberate indifference or failure to train when firefighter actions result in injuries to or death of a member of the public or other firefighters. Liability under federal law is not limited. Governing bodies and fire departments in the exempt counties should not ignore this law.

## Additional information

This training can be completed at the Tennessee Fire Service and Codes Enforcement Academy or through any equivalent course elsewhere. The Academy offers the curriculum for both the 16-hour class and the basic class on a DVD that is free from any staff member of the



Training in compliance with the new Tennessee Firefighters law can be completed at the Tennessee Fire Service and Codes Enforcement Academy or through any equivalent course elsewhere.

Academy.

The final version of the legislation also authorizes the local government to decide who will be responsible for the cost: the local government or the firefighter.

Several counties exempted themselves out of the legislation.

This section does not apply to the following counties unless the county legislative body adopts a resolution to apply such requirements: Bradley, Campbell, Cannon, Cocke, Clay, Dickson, Fentress, Giles, Greene, Hamblen, Hickman, Houston, Humphreys, Jackson, Johnson, Lawrence\*, Lewis\*, Loudon, McMinn\*, Meigs, Morgan, Overton, Perry\*, Pickett, Polk,

Roane, Scott, Trousdale, Union, Unicoi, Washington.

This section does not apply to the following counties unless the county legislative body adopts by a two-thirds vote a resolution to apply such requirements: McMinn\*.

This section does not apply to the following counties unless the county legislative body adopts by a two-thirds vote a resolution to opt into the statutory requirements: Bledsoe, Cumberland, Lawrence\*, Lewis\*, Rhea.

This act does not apply to the following counties: Benton, Decatur, Hancock, Hawkins, Henderson, Henry, Jefferson, Lake, Obion, Perry\*, Stewart, Weakley\*.

# Municipal Administration Program September Schedule

## Fire Departments: What Everyone Should Know

MTAS Fire Consultants provide information to city officials concerning fire department's policies, operations, procedures and needs. Fire chiefs, senior fire officers, city recorders, clerks, purchasing and human resource employees of cities need to know what current information and trends are available to fire departments. This will enable department heads and employees to coordinate their efforts with fire departments and elected officials. The class covers management, vehicles, staffing, and operations of a fire department and alternative methods of service delivery.

### Instructor

MTAS Training Consultants

### Time

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

### Dates and locations

Sept. 1	Jackson
Sept. 2	Lakeland
Sept. 3	Franklin
Sept. 8	Johnson City
Sept. 9	Knoxville
Sept. 10	Collegedale

### Training Facilities

**Collegedale** *Collegedale City Hall, 4910 Swinyar Drive*  
**Franklin** *Williamson County Extension Office, Agriculture Expo Park*  
**Jackson** *West Tennessee Center for Agricultural Research, Extension, and Public Service, 605 Airways Boulevard*  
**Johnson City** *Johnson City Public Library, 100 West Millard St.*  
**Knoxville** *University of Tennessee Conference Center, 600 Henley Street*  
**Lakeland** *Lakeland City Hall*

THE UNIVERSITY of  
**TENNESSEE** *UT*  
MUNICIPAL TECHNICAL  
ADVISORY SERVICE

To register for this municipal administration program class, visit the MTAS web site at [www.mtas.tennessee.edu](http://www.mtas.tennessee.edu) or contact Elaine Morrissey at [Elaine.morrissey@tennessee.edu](mailto:Elaine.morrissey@tennessee.edu). or call 865.974-0411. For program information, contact Kurt Frederick, MTAS training consultant, at 615.253-6385 or e-mail [Kurt.Frederick@tennessee.edu](mailto:Kurt.Frederick@tennessee.edu).

Fees are \$25 per person per class for municipal employees and \$55 per person per class for all other participants.

# Good Risk Management is just Good Management



The TML Risk Management Pool is one of the largest providers of workers' compensation coverage in Tennessee. The Pool insures more than 40,500 Tennessee municipal employees, including those who perform some of the most dangerous jobs like utility line workers, firefighters and law enforcement officers.

Controlling accidents through an effective loss control program is a vital foundation of the Pool's program. By each member taking responsibility to continuously reduce risk exposures through good risk management practices, municipal governments are helping taxpaying citizens get the very best for their tax dollars.



RISK · MANAGEMENT · POOL



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# 2009 Public Acts of Interest

**BY JOSH JONES**  
*MTAS Legal Consultant*

**City Courts**  
**Chapter No. 505 (SB0386/HB0730). Certain recorder judges allowed.** Amends T.C.A. Title 16, Chapter 18, Part 3 by allowing a person to concurrently hold the offices of city recorder and city judge if their charter has a provision allowing such. Also allows municipal judges who are authorized to practice law in Tennessee to substitute three hours of continuing legal education (CLE) for the three hours of required municipal judge training. Effective June 25, 2009.

**Code Enforcement**  
**Chapter No. 424 (SB1830/HB1847). Certificates of public nuisance.** Amends T.C.A. Title 13, Chapter 6, by allowing a court to award reasonable attorney fees to a prevailing party bringing a suit against the owner of an unoccupied residence who fails to maintain the exterior of the property and the lot to community standards.Allows for a hearing if a code enforcement entity denies the issuance of a certificate of public nuisance. Action will be dismissed if the court opts not to issue a certificate of public nuisance. If the court finds that the issuance of a certificate of public nuisance is warranted, the court may issue an order or injunction barring transfer of the property at issue without a prior abatement of the nuisance, and award reasonable attorney’s fees and costs.*Effective July 1, 2009.*

**Public Chapter No. 529 (SB2300/HB2318). Statewide energy codes.** Amends T.C.A. Titles 4, 12, 67, 68, and 71 by enacting the Tennessee Clean Energy Future Act of 2009.Expands the rulemaking authority of the state fire marshal to include standards for energy efficiency. Explicitly excludes state mandated sprinklers for one and two-family dwellings, however, allows local governments to adopt more stringent standards. Establishes that the state standards apply to municipal, county, state and private buildings, including one and two-family dwellings, unless otherwise provided by statute. Local governments may pass a resolution by a two-thirds (2/3) vote of the governing body, exempting one and two-family dwellings in their jurisdiction from the application of the statewide standards. A county’s resolution cannot exempt a municipality within its borders.The initial resolution may be adopted after July 1, 2009, to take effect on or later than July 1, 2010. Any such resolution expires 180 days following the date of the election next occurring after the adoption of the resolution. Earlier expiration date may be stated in the resolution. Hence, each new governing body must pass a resolution to continue the exemption.Resolutions must be forwarded to the state fire marshal. If a local government chooses to adopt and enforce codes for only one and two-family dwellings or for all buildings other than one and two-family dwellings or for no buildings at all, then the state fire marshal must enforce the statewide codes where the local government has not adopted and is not enforcing codes. State standards do not apply to any building, other than state

buildings, educational occupancies or any other occupancy requiring inspection for initial licensure, if the local government has chosen to adopt and enforce building codes of all buildings other than one and two-family dwellings or for one and two-family dwellings; and,

1)For one and two-family dwellings, it has adopted the International Residential Code;

2)For construction other than one and two-family dwellings it has adopted a building code consisting of the International Building Code and either the International Fire Code or the Uniform Fire Code.

It is adequately enforcing its code and performing reviews of any construction plans and specifications and inspections required by the state fire marshal.Statewide building standards apply if the local government’s building code publications are not current within seven years, unless, otherwise approved by the state fire marshal. However, no publication can require a local government to adopt more stringent standards than required by the state or to adopt sprinkler requirements for one and two-family dwellings. Statewide standards do not apply to renovations of existing one and two-family dwellings.State fire marshal may appoint a local government employee or other qualified person as a commissioned deputy building inspector. These inspectors have the authority to enter any one or two-family dwellings to make inspections and report the inspections in writing to the commissioner. When municipal employees are appointed, contracts between the commissioner and the city are required.

Deputy building inspectors must be state certified as:

1)Licensed building inspector; or

2)Licensed plumbing inspector,

3)Licensed mechanical inspector.

State must provide a program to ensure that one and two-family dwelling inspection services are available statewide. State inspections must be performed within three days of the request. Footers must be inspected within one day of request.Inspectors may inspect one and two-family dwelling construction upon a request from the owner, a licensed contractor, or from the local government body. Inspectors may charge a fee for each inspection. State fire marshal to develop a schedule of fees. Effective July 1, 2010.

**Contracts**  
**Chapter No. 518 (SB1577/HB1705). Construction management contracts.** Amends T.C.A. § 12-4-106 by considering construction management as a professional service that can be procured without competitive bidding. Construction management includes preconstruction and construction administrative and management services. Anyone licensed as a general contractor, architect or engineer can serve as a construction management professional. Although a construction manager cannot provide actual construction work on a project where he or she serves as construction manager, unless bids have been solicited twice and no bids have been submitted. *Effective June 25, 2009.*

**Crimes and Criminal Procedure**  
**Chapter No. 83 (SB0437/SB0748).**

**Retail merchandise theft.** Amends T.C.A., Title 39, Chapter 14, Part 7 by creating the new misdemeanor offense of possessing any tool, device, machine or implement with the intent to unlawfully circumvent, deactivate, interfere with or remove a retail merchandise security device. *Effective July 1, 2009.*

**Chapter No. 155 (SB0294/HB0302). Offense of using false identification for employment.** Amends T.C.A. Title 39, Chapters 14, 17 and 50, by creating a new misdemeanor offense of knowingly manufacturing, providing, transferring or submitting false identification for the purposes of obtaining or maintaining employment. For purposes of this offense, false identification is defined as a document that was issued by a governmental entity and was subsequently altered or appears to have been issued by a governmental entity but in fact was not. *Effective July 1, 2009.*

**Chapter No. 194 (SB0474/HB0070). Use of deadly force.** Amends T.C.A., Title 39, Chapter 11, Part 6, relative to defenses to criminal responsibility. Prior to the effective date of this bill, a person is not justified in using deadly force to prevent another’s trespass on real estate or unlawful interference on property. This bill states that this provision does not apply if a person is justified in using deadly force for defense of oneself or another person. This bill also justifies the use of deadly force against a person who is prohibited by court order from entering a business. *Effective July 1, 2009.*

**Chapter No. 195 (SB0383/HB0411). Coach Willard Ross Act.** Amends T.C.A. Title 39, Chapter 17, Part 13, by enacting the Coach Willard Ross Act of 2009. Creates a misdemeanor offense of purchasing or attempting to purchase a firearm knowing that such person is prohibited by state or federal law from owning, possessing or purchasing a firearm. Also creates a misdemeanor offense of selling or attempting to sell a firearm to a person knowing such person is prohibited by state or federal law from owning, possessing or purchasing a firearm. Effective July 1, 2009.

**Chapter No. 241 (SB0388/HB0522). Offense of escape broadened.** Amends T.C.A. § 39-16-605 by expanding the definition of the offense of escape to include escaping the lawful custody of a law enforcement officer. Effective July 1, 2009.

**Chapter No. 267 (SB1587/HB1519). Gambling devices legal for out-of-state-use.** Amends T.C.A. Title 39, Chapter 17, Part 5 by making it legal to own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device so long as it is solely intended for use out of this state and meets federal standards. Requires registration with U.S. Attorney General. Removes provision from definition of gambling device excluding computer software that cannot be used for gambling until the software is incorporated into a gambling device, at which time possession is illegal.

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*Actor, Environmental Activist*  
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# TML vice president Mayor Ken Wilber, dance partner of energized Portland

BY GAEL STAHL

*Kenneth Wilber was born in 1954 in Portland, Tenn., a city 45 minutes north of Nashville, where he has lived all his life.*

*His mother's side of the family, the Caudills, moved to the area from the Appalachia hills of east Kentucky 100 years ago, long before there was a town. They came seeking inexpensive land and found good rich soil that became famous for its strawberries. Sarah Elizabeth Caudill left Portland in the early 1940s seeking work. In North Vernon, Ind., a small town southeast of Indianapolis, she found work, and a husband, John Henry Wilber whom she married and took back to Portland where they raised three children. John Henry went to a Tennessee trade school, learned brick laying, and became a mason. Wilber's mother became a career household manager and mother. Wilber's older brother is deceased; his younger sister lives in Hermitage in east Metro Nashville.*

*When Wilber was growing up, Portland was a city of 3,000 (now 11,000). He walked everywhere with his friends and played, but he worked hard too – helping his father and working for farmers hauling and stacking bundled hay and, in town, mowing grass and doing yard work. During high school, he worked at a local television, radio, appliance repair store. Learning to repair appliances and install them in homes gave him a lifelong fondness for electrical work and all things electrical. It paid off in his careers in the private sector and while working for city government.*

*After graduating high school in 1972, Wilber worked a year at the radio and TV shop and at a company that fabricated sewer pump stations. He did the electrical work and helped ready them for shipmen. He started a plumbing and electrical supply business with a colleague, and in 1985, went to work for Electric Supply in Gallatin.*

*At that time he was elected to serve on the Portland City Council and served two terms. In 1995, he declined to run for a third term because the drive to and from Gallatin too often conflicted with council meetings. In 1996, he was hired to work in the city's sewer department. When he left after seven years, in 2003, he was the superintendent of Public Works. He worked for a utility contractor until 2005 when was elected Portland's full-time mayor. This year, he ran unopposed for a second term.*

*He has been active in Tennessee Municipal League activities ever since he was elected to the council in 1987 and, says White House City Administrator Angie Carrier, he thinks regionally. Because Portland and nearby White House have the Sumner/Robertson counties running through both their cities, Wilber and Carrier confer over lunch occasionally to discuss state, county, and municipal intergovernmental issues. At least 95 percent of Portland's citizens are in Sumner County. Sen. Diane Black and Rep. Mike McDonald represent both cities in the state legislature.*

*Carrier echoes what many who deal with Wilber say: he is a team player, great to work with, "a good guy for Portland."*

*At the annual TML meeting in 2007, Wilber was elected by municipal colleagues to represent their district on the TML Board of Directors. In June, he was elected TML third vice president and Carrier, who had been elected alternate director last year, replaced Wilber as district director.*

*In 1975, Wilber married classmate Jackie Bunch Wilber. Her family moved to Portland when she and Wilber were in fifth grade. They didn't date while in school but three years after graduation, they married. Jackie Wilber, who enjoys nothing more than "being around kids," is a librarian at a Portland elementary school. They have two sons and a daughter.*

**TT&C: Did you have any interesting extracurricular activities in high school?**

**KW:** Football. Since my classmates and I played football together through middle school and high school, we've been close-knit ever since. For the last 37 years, the post-Christmas season finds our senior year players going out to eat. We take our football coach with us and mostly talk about the same good *plays*, *bad plays*, and stuff like that. That's an advantage of growing up in a small town. You can get close to your friends and keep those friendships.

**TT&C: Any hobbies now?**

**KW:** I suppose the hobby that surprises folks the most is ballroom dancing. In recent years, I've done a lot of it. I'm one of the owners of a dancing school we opened up last November in a beautifully renovated older building on Main Street. It's taking off nicely. We have party nights and dance lesson nights, and hold competition events. It's pretty active all year long. There aren't many days that I'm not involved in it some way or another.

**TT&C: In the mid-1990s, Portland ECD Director Fred White was asked to share Portland's industry recruiting strategies with municipal officials at a TML conference. Has that success continued?**

**KW:** Fred was here part of the time I was serving as superintendent of Public Works. He was a visionary. When we first looked at an economic development project for the city, he said getting utilities for that plant wasn't enough to prepare for more companies coming down the road. You had to be thinking with Fred. He deserves a lot of the credit for attracting industry. We've tried to keep most of the plants we brought in then and to keep a lot of his recruiting strategies going. Fred died before I became mayor. Our current economic coordinator worked with him.

**TT&C: He told TML the city was attracting more industry and jobs than Portland had workers to fill them; the city population doubled on work days; and the city mostly needed housing for workers wanting to live here.**

**KW:** I remember Fred making that statement. It's not as true now as it was then. From the 1980s on through the mid 1990s, our industrial growth grew faster than our residential base. We lacked sufficient starter homes. During the 1990s our population began to grow rapidly as we supplied more housing. At one point, before recent layoffs, we employed 5,200 to 5,400 people in the daytime here. We have been successful getting new plants. A new industrial park is now being developed off I-65 at the western edge of our city limits.

**TT&C: What attracts perspective industry to Portland?**

**KW:** Our location is good. We have I-65 on the edge of town, and we're not that far from I-40 via Hwy. 109. We also have a rail system, our own airport, and, nationally, we are located in the population center of the United States. Plus, our work force is good. Plant officials compliment our employees. They know what work is, and they have a lot to do with keeping industry here.

**TT&C: There are a lot of 18-wheelers and other trucks on Highway 109 coming from I-40 to the south; and 109 runs through Portland, in fact, along part of your main street?**

**KW:** We need a bypass for the safety of our citizens. The state is saying we'll never see the I-840 northern corridor around Nashville, so 109 will be a busier and busier connection between I-40 and I-65. The planned widening of 109 to four lanes between I-40 and I-65 will make 109 the major corridor and give the state a way to divert traffic around Nashville to keep up with the metropolitan traffic load. A new interchange at I-65 north is scheduled for 2012. It will make I-65 four-lane northbound. They are also working on the bridge in Gallatin to provide a shortcut to and from Nashville.

**TT&C: After roads, what's your next most important ECD goal?**

**KW:** More retail establishments. Of course, we can always use more industry: we'll never quit on that. We've been working on retail for the last two or three years. The problem is that while we're far enough from Nashville to remain a small town in a rural setting and just minutes from the amenities of Gallatin, Nashville, and Bowling Green, if we have insufficient retail, our local consumers take their retail buying to other cities. Another geographical disadvantage is Tennessee's high sales tax. Being close to the state line means folks can avoid our 9.25 percent sales tax by driving 10 minutes to Franklin, Ky. and pay a 6 percent tax on food and other items. Knowing they'd get a lot of Tennessee traffic, Wal-Mart and other stores built just across the state line, even before you get to Franklin.

**TT&C: Why did you run for council in 1987?**

**KW:** It was 15 years after graduation. I'd become involved in various activities such as the Lions Club and Quarterback Club and deeply involved in church work, especially in the youth group. I was curious to see what was going on in city government about the time a council election came along. I ran for a seat and was elected and served two terms. Going in I didn't know what to expect or what impact I could have. One of the first shocking things I learned was how limited you are in what you can do as a city council member. You go in with dreams to change the world. In reality, you can only do certain things within the state and federal context.

During those eight years on the coun-



Photo by Carole Graves

Portland Mayor Kenneth Wilber

cil, we made improvements in our water and sewer systems that made me proud and gave me a sense of accomplishment. Actually, some of that happened later when I was Public Works superintendent.

We now have two new or fairly new water and sewer plants and made a lot of infrastructure improvements. Our gas system serves large areas not in the city as does our water utility. I was proud of those things.

When I was first elected, we had two computers. I was involved in improving computer services for the city. It seems like a fairy tale how big a deal our \$15,000 new system was. Today we will pay twice that for a software package and not consider it a bad price. It was exciting going through those information and communications changes and up-grade systems to better serve citizens.

**TT&C: In your 20 years of elected and appointive municipal service, what other quality of life amenities happened since 1987?**

**KW:** The parks system has seen a lot of improvement. One park has several ball fields, soccer fields, walking trails, an amphitheater, and other amenities.

In my first four years as mayor, we've focused on getting the Portland Planning Commission up to speed. I'm proud to say we now have a full-time planner on staff and we're doing a better job with planning and in our Codes Department.

It's tough for citizens to make the conversion from not having very strict codes to where we try to get things more in order and do a better job of planning. That transition has been something of a challenge. I've always said that the hardest thing you do as a mayor or as an elected council person or department head is helping the community to work through transitions.

This year we will celebrate our sesquicentennial year. When your city is 150 years old, you naturally have an older population, a younger population, and a middle population. Finding the balance between those communities is one of the hardest things for elected officials. Your senior people have made their living and are satisfied with the way things are. They don't want anything to change. In fact, they'd rather go back to what it was like a few years before, when they were growing up. Then, there are your younger people needing to make their living and their lives and needing different kinds of services. Finding that balance can be challenging at times. We're here to see that government is serving our citizens by trying to fulfill their variety of needs.

**TT&C: Needs that are evolving?**

**KW:** Now that we have the subdivisions of starter housing, we need to step up to larger homes. We already have some nice, expensive homes, but we need to develop more of that type of home to meet the needs of people who have worked hard, gotten their lives going a little bit and are able to step up to another level.



*"I suppose the hobby that surprises folks the most is ballroom dancing. In recent years, I've done a lot of it."*

**TT&C: What was the main reason you left your job to run for the mayor's office five years ago? What did you hope to improve?**

**KW:** I'm usually a kind of positive person but we were undergoing some negative feeling within the council and beyond the council about a lot of things. That wasn't a good thing. It became important that we project a more forward-looking, positive feeling. I wanted to try to bring Portland back on track and growing again by being more positive to give people a better feeling about government. I think we've accomplished that to a certain extent.

We still need to improve our transportation system and find another dependable source of drinking water. We've been working on the lake but have had issues with the state. Our water has come from a small city lake and Drake's Creek. Most of the time, we'd be OK, but during a drought two years ago we struggled.

**TT&C: Portland's 150 year anniversary lapel pin has strawberries, but more compelling is the train on the railroad track going to the depot. Trains run by city hall as we speak. What's the story?**

**KW:** Most of the trains don't stop but we have some plants with spurs giving them access to rail. Portland, then called Richland Station, was started in 1859 as a railroad town. The station was the first stop for steam engines leaving Gallatin to refill water supplies. When it was discovered there were two Richlands in Tennessee, the railroad changed Richland to Portland, the name of a station in Louisville they were closing.

When I was growing up, the depot was still here. My mother told of how they would take a train to Nashville in the morning and return the same day. Trains were a major part of our history ever since 1859.

**TT&C: How do strawberries feature in so much of your history?**

**KW:** The soil was so favorable for growing strawberries that in the 1940s and 50s there were more than 1,200 acres in strawberries. For several days, train loads of strawberries were shipped out and trucks lined both sides of Hwy. 109 to transport them to markets. A Portland canning plant canned the berries and got them ready to ship in crates that were manufactured here. An ice cream company on the east coast would fly strawberries out every night from that plant. Strawberries have long played a role in our economy as the major cash crop in the area.

In early May, we celebrated our 68<sup>th</sup> Strawberry Festival. When I was growing up, the festival was *the* big event of the year. Somewhere along in the 1970s or 80s and early 90s, interest began to fade. We have recently tried to revive interest and have held really successful festivals.

Main Street is shut down for folks to mill around and greet each other. There are a lot of vendors, a parade, a carnival, golf tournaments, church choir nights. We end up with concerts in the park and a fireworks show.

**TT&C: How did you get involved in the Tennessee Municipal League?**

**KW:** Fred White had a hand in that. I'll never forget my first TML conference in 1987. The council elections were in May. First thing I knew, we were going to Gatlinburg for the annual TML conference in June. Fred took me and another newly elected council member aside and clued us in about city government and TML. I have always been grateful for Fred's help early on, and later too. If you needed help, he was ready.

Portland has always tried to support TML. I attended conferences as a councilman, as an employee in public works, and as mayor. The Municipal League is a great organization. I was fortunate to be a district director for two years and I'm looking forward to playing a role as third vice president. I hope I can make some kind of contribution to the League.

I've learned a lot from the conferences. Comparisons are odious as the saying goes, but the conference this year was outstanding. Chattanooga did an excellent job and the exhibitors and their booths were handy, and there were a lot of informative study groups that help us fulfill our municipal responsibilities. Everybody I talked to felt it was a good conference.

I have to confess that there is one thing I kind of miss at the TML conferences – those Tuesday night banquets. That was the big night. You had special entertainment and everybody had a chance to dress up.

**TT&C: What are your main interests for TML as a current vice president and on track to be its president in three years?**

**KW:** The Tennessee Municipal League has been our voice with state and federal legislation and revenue sharing for the last 70 years. And for the last three decades it has provided towns and cities specific needs such as the TML Risk Management Pool and the Tennessee Municipal Bond Fund. I've been on the board of the TML Risk Management Pool since last fall. I'm enjoying that and am learning quite a bit.