

PUBLIC LIBRARY LAWS OF TENNESSEE

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TITLE 10
CHAPTER 3
LIBRARIES IN COUNTIES, CITIES AND TOWNS

SECTION

10-3-101.	Establishment, maintenance and joint operation.
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10-3-101. Establishment, maintenance and joint operation.

The legislative body of any county and/or the governing body of any incorporated city or town has the power to establish and maintain a free public library, or give support to any free public library already established therein, or contract with another library for library service for the use of the inhabitants of such county, city or town, or enter into contractual agreements with one (1) or more counties or cities for joint operation of a free public library.

[Acts 1963, ch. 370, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-301.]

10-3-102. Taxes - Levy.

(a) Upon the decision of such county legislative body and/or city governing body to establish, maintain or support a free public library, or to contract with another library for library service, or to contract with one (1) or more counties or cities for joint operation of a free public library, it shall levy for the purpose a property tax, or shall use therefor funds raised by taxes for county or municipal purposes, such a library service being declared to be a county or municipal service.

(b) If a portion of a county is already taxed for maintenance of a free public library, the county legislative body is empowered to levy a tax for a free library on all the property in the county, or the county legislative body may levy a tax on only the property of such portion of the county as is not already taxed for maintenance of a free public library. If a general county-wide tax levy is made for this purpose, the county trustee shall keep the funds raised thereby separate and apart from all other tax funds coming into such county trustee's hands, and shall make quarterly distribution of the same between the county library board and the governing body of the free public library of the city or cities within the limits of the county on the basis of the population enumerated by the most recent federal census. Subject to the preceding sentence, funds raised under §§ 10-3-101 - 10-3-108 may be contributed toward the maintenance of any free public library maintained by a municipality in such county as provided in § 10-3-101.

[Acts 1963, ch. 370, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-302.]

10-3-103. Library board - Appointment - Terms.

(a) (1) Except as provided in subdivision (a)(2), where a county legislative body and/or the governing body of a city or town, in lieu of giving support to a free public library already established, or of contracting with another library for library service, or of contracting with other counties and/or cities for joint operation of a free public library establishes an independent free library of its own, it shall appoint a board of seven (7) members. Not more than one (1) official each of the county and of the city governing bodies shall serve on this board. The members shall serve without salary, three (3) for one (1) year, two (2) for two (2) years, and two (2) for three (3) years, and their successors for terms of three (3) years. Not more than five (5) of the members shall be of the same sex.

(2) In counties having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) according to the 1980 federal census or any subsequent federal census, where a county legislative body and/or the governing body of a city or town, in lieu of giving support to a free public library already established, or of contracting with another library for library service, or of contracting with other counties and/or cities for joint operation of a free public library, establishes an independent free library of its own, it shall appoint a board of not less than seven (7) members nor more than nine (9) members. Not more than one (1) official each of the county and of the city governing bodies shall serve on this board. The members shall serve without salary, three (3) for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and, if the board is expanded to more than seven (7) members as authorized in this subdivision, those members shall be appointed for and serve terms of three (3) years. Their successors shall serve for terms of three (3) years. Not more than five (5) of the members on a board of seven (7) members, six (6) of the members on a board of eight (8) members, or seven (7) of the members on a board of nine (9) members shall be of the same sex.

(b) Where a county legislative body or city governing body elects to participate in joint operation of a public library maintained by the county and one (1) or more cities within the county, the library board responsible for administering such joint library shall be appointed by one (1) of the following methods:

(1) (A) Except as provided in subdivisions (b)(1)(B) and (b)(1)(C), a library board of seven (7) members may be appointed by the county legislative body and city governing bodies which are parties to the agreement, the number appointed by each to be determined according to the ratio of population in each participating city and in the county outside the city or cities, based on the most recent federal census; provided, that each shall appoint at least one (1) member. Terms of office, qualifications of members and powers and duties of the board shall be in accordance with the provisions of §§ 10-3-101 - 10-3-108;

(B) In counties having a population of not less than three hundred nineteen thousand six hundred twenty-five (319,625) nor more than three hundred nineteen thousand seven hundred twenty-five (319,725) according to the 1980 federal census or any subsequent federal census, a library board of not less than seven (7) members nor more than nine (9) members may be appointed by the county legislative body and city governing bodies which are parties to the agreement, the number appointed by each to be determined according to the ratio of population in each participating city and in the county outside the city or cities, based on the most recent federal census; provided, that each shall appoint at least one (1) member. Terms of office, qualifications of members and powers and duties of the board shall be in accordance with the provisions of §§ 10-3-101 - 10-3-108;

(C) If the public library is a joint operation, then the legislative body of the county or city that provides the funding for the operational costs of such public library, exclusive of funding for any capital costs, shall appoint the board of seven (7) members. The provisions of this subdivision (b)(1)(C) shall apply to any county having a charter form of government and having a population of more than six hundred thousand (600,000) according to the 1990 federal census or subsequent federal census;

(2) A library board may be appointed in accordance with a contract as provided in § 5-1-113; and

(3) In accordance with a private act.

[Acts 1963, ch. 370, § 3; 1974, ch. 700, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-303; Acts 1990, ch. 972, §§ 1-5; 1998, ch. 711, § 1.]

10-3-104. Powers and duties of library board.

The members of the library board shall organize by electing officers and adopting bylaws and regulations. The board has the power to direct all the affairs of the library, including appointment of a librarian who shall direct the internal affairs of the library, and such assistants or employees as may be necessary. It may make and enforce rules and regulations and establish branches of travel service at its discretion. It may expend funds for the special training and formal education of library personnel; provided, that such personnel shall agree to work in the library for at least two (2) years after completion of such training and education. It may receive donations, devises and bequests to be used by it directly for library purposes. It may hold and convey realty and personal property and negotiate leases for and on behalf of such library. The library board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the county legislative body and/or city governing body.

[Acts 1963, ch. 370, § 4; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-304.]

10-3-105. Borrowing money to acquire library buildings and equipment.

A county legislative body and/or city governing body has power to borrow money for the purchase of realty and the erection or purchase of suitable buildings for the library and its branches, and for their equipment. The title to such property may be vested in trust in the library board and its successors, which shall be responsible for disbursing bond proceeds as provided in § 10-3-106.

[Acts 1963, ch. 370, § 5; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-305.]

10-3-106. Tax funds held by county or city treasurer - Disbursement - Audit of accounts.

(a) All county and/or city tax funds for library purposes, raised by bonds or taxation, shall be held by the county or city treasurer separate from other funds.

(b) Such funds may be disbursed when drawn upon by vouchers or orders authenticated by two (2) officers of the library board.

(c) All library accounts of every character shall be audited annually by or under the county legislative body and/or city governing body.

[Acts 1963, ch. 370, § 6; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-306.]

10-3-107. Libraries free to inhabitants - Extension of privileges to nonresidents.

Libraries so established or supported shall be free to the inhabitants. The board may extend the privileges and facilities of the library to persons residing outside the county or city upon such terms as it may deem proper.

[Acts 1963, ch. 370, § 7; T.C.A., § 10-307.]

10-3-108. Penalties for loss of or injury to library property.

The library board has the power to make and enforce rules providing penalties for loss of or injury to library property. Nothing in this chapter shall be construed to prohibit a library board from charging library users a reasonable fine for late-returned library materials and charging for special services including, but not limited to, the loan of equipment and the use of photocopiers.

[Acts 1963, ch. 370, § 8; T.C.A., § 10-308; Acts 1995, ch. 438, § 1.]

10-3-109. Recreational facilities - County library board in counties of less than 3,500 population.

A county library board, appointed and functioning in accordance with the provisions of §§ 10-3-101 - 10-3-108, in all counties of Tennessee having a population of less than three thousand five hundred (3,500) according to the federal census of 1960 or any subsequent federal census, has, in addition to all other authority given to it, the authority to conduct such recreational facilities, in conjunction with the public library, as it deems necessary and beneficial, either with or without charge to patrons thereof; provided, that any net proceeds from such recreational facilities be used solely for the capital improvement and operational expenses of the library and recreational facilities.

[Acts 1961, ch. 222, § 1; T.C.A., § 10-309.]

10-3-110. Title to property acquired - Use of proceeds from activities.

The title to all property acquired by a library board operating under the provisions of this chapter shall be taken in the name of the county for the use and benefit of the public library, and the proceeds from all activities conducted by the library board or from any disposition of its assets shall be taken in the name of the county for the use and benefit of the public library.

[Acts 1961, ch. 222, § 2; T.C.A., § 10-310.]

10-3-111. Financial report of operations.

Such library board shall furnish a report to the county legislative body, at its first meeting of each fiscal year, setting forth its capital and operational receipts and expenditures for the preceding fiscal year.

[Acts 1961, ch. 222, § 3; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-311.]

TITLE 10
CHAPTER 5
REGIONAL LIBRARY BOARDS

Part 1
General provisions.

SECTION

- 10-5-101. Agreements to create regional boards - Participation by municipalities.
- 10-5-102. Members of regional board.
- 10-5-103. Duties and functions - Execution of contracts.
- 10-5-104. County and city appropriations - Accounting - Reports by regional board.
- 10-5-105. Personnel - Applicable policies and regulations.
- 10-5-106. Donations - Accounts - Acquisition of books and equipment - Lease of realty - Discontinuance.
- 10-5-107. Representation on boards not mandatory.

10-5-101. Agreements to create regional boards - Participation by municipalities.

Two (2) or more counties which have qualified for participation in the state's multi-county regional library program and which have been recognized as a region by the state library and archives management board, and have made the minimum local appropriation of funds as may now or hereafter be required by such management board, are hereby empowered and authorized to execute contracts with each other to create a regional library board to assist the secretary of state, acting through the division of public libraries and archives, in administering and controlling the regional library services within the region. Each county shall be represented by two (2) members of the regional library board. The contract shall be authorized by a resolution of the legislative body of the county desiring to participate and the county executive shall execute the contract as authorized in the resolution, and such contract shall be attested by the county clerk. After the governing body of a county authorizes participation, municipalities within the county may participate in the regional library service so long as the county participates. Counties and municipalities may appropriate funds for this purpose. A single county, which is large enough to constitute a region and has been so recognized by the state library and archives management board, may also create a regional library board by executing a contract between the county and one (1) or more cities within the county. There shall be at least seven (7) board members apportioned among county and municipalities according to the ratio of population in each participating municipality and in the county outside the municipalities, based on the most recent federal census.

[Acts 1955, ch. 88, § 1; 1961, ch. 73, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 16, 22, 36; T.C.A., § 10-601; Acts 1982, ch. 689, § 14; 1999, ch. 205, § 1.]

10-5-102. Members of regional board.

(a) At least one (1) member shall be elected by the legislative body of each county in a multi-county region for a term of three (3) years in accordance with the contract between the counties and as provided in § 10-5-101. In accordance with the contract between the counties and as provided in § 10-5-101, the governing body of any municipality which contributes as much as one fourth (1/4) of the public funds available for the operation of a joint city-county system may elect one (1) of the two (2) members representing that county for a term of three (3) years. If more than one (1) municipality is entitled to elect a member, these municipalities shall alternate in electing one (1) member for a three-year term.

(b) A member shall represent and reside in the county or municipality from which the member was elected. In the event that a member removes such member's residence from the county or municipality from which the member was elected, the member shall thereby vacate such member's office. In the event of any vacancy in office, a successor shall be elected for the unexpired term at the next meeting of the governing body of the county or city in which the vacancy occurred. Members shall be elected for no more than two (2) successive terms except

upon prior approval of the state librarian and archivist. Every member of the regional library board who is not an active member of a county library board is hereby designated an ex officio member of such county board. A member of the regional library board may be an active member of a county library board.

[Acts 1955, ch. 88, § 2; 1961, ch. 73, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-602; Acts 1989, ch. 123, § 2.]

10-5-103. Duties and functions - Execution of contracts.

Each regional library board has the following duties and functions:

- (1) Formulate recommendations and concur with the secretary of state in the appointment and/or removal of the chief administrative officer and the deputy chief administrative officer of the regional library program within its region;
- (2) Formulate and submit to the secretary of state recommendations concerning the annual budget for the public library service within its region;
- (3) Formulate and submit to the secretary of state recommendations on the long range plan and annual program for administering the public library service within its region; and
- (4) Review the activities performed in carrying out the annual program and submit comments and recommendations to the secretary of state regarding such activities.

[Acts 1955, ch. 88, § 3; impl. am. Acts 1959, ch. 9, § 12; T.C.A., § 10-603; Acts 1982, ch. 689, § 15; 1999, ch. 205, § 2.]

10-5-104. County and city appropriations - Accounting - Reports by regional board.

(a) The county legislative bodies and municipal governing bodies of counties and cities which have signed agreements for regional library services are authorized to make available to the secretary of state, acting through the division of public libraries and archives, such funds as may be deemed necessary to supplement the funds received by the regional library through state and federal resources. Such funds shall be expended only for the library service for which the county or city agreed in writing and for no other purpose.

(b) The regional library board, acting through the chief administrative officer of its regional library program, shall make a detailed report of receipts and disbursements of all funds at the first regular meeting of the legislative body of every participating county and the governing body of every participating city after the close of the state's fiscal year.

[Acts 1955, ch. 88, § 4; impl. am. Acts 1959, ch. 9, § 12; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-604; Acts 1982, ch. 689, § 16; 1999, ch. 205, § 3.]

10-5-105. Personnel - Applicable policies and regulations.

The chief administrative officer of each library program, acting under the direction of the secretary of state and within the limitation of funds available, may employ such personnel as may be necessary for administering the public library service within the region. Any individuals so employed shall be subject to personnel policies and regulations applicable to employees of the department of state, such as leave, compensation, classification and travel requests.

[Acts 1955, ch. 88, § 5; impl. am. Acts 1959, ch. 9, § 12; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 10-605; Acts 1982, ch. 689, § 17; 1999, ch. 205, § 4.]

10-5-106. Donations - Accounts - Acquisition of books and equipment - Lease of realty - Discontinuance.

(a) The secretary of state, acting through the state librarian and archivist and the division of public libraries and archives, is authorized to accept donations and bequests on behalf of the regional library system. The department of state has the authority to establish or maintain regional library accounts with financial institutions for the deposit of funds from local government sources and other donated funds for the purpose of the acquisition of library books, materials, equipment and services upon request of the chief administrative officer of the respective regional library program subject to the provisions of title 9, chapter 4, part 3, relative to departmental accounts.

(b) The secretary of state, acting through the division of public libraries and archives, may lease such real estate as may be necessary for library purposes. Any new lease entered into after July 1, 1999, shall be between the state of Tennessee and the lessor and shall contain a clause that its continuance shall be subject to necessary allotments from the state library and archives management board and the availability of other funds. The state of Tennessee shall honor the remaining terms of any lease for regional library space which is in effect on July 1, 1999.

[Acts 1955, ch. 88, § 6; impl. am. Acts 1959, ch. 9, § 12; T.C.A., § 10-606; Acts 1982, ch. 689, § 18; 1999, ch. 205, § 5.]

10-5-107. Representation on boards not mandatory.

Representation on a regional library board shall not be considered or construed in any manner as mandatory upon the county by virtue of this chapter. The formation and creation of such boards shall not be construed as having any impact on the provisions of chapter 3, part 1 of this title, relative to local library boards created by the governing body of a county, city or town.

[Acts 1955, ch. 88, § 7; T.C.A., § 10-607; 1999, ch. 205, § 6.]

TITLE 10
CHAPTER 8
CONFIDENTIALITY OF LIBRARY RECORDS

SECTION

- 10-8-101. Definitions.
10-8-102. Disclosure prohibited - Exceptions.
10-8-103. Applicability.
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10-8-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Library" means:

(A) A library that is open to the public and established or operated by:

(i) The state, a county, city, town, school district or any other political subdivision of the state;

(ii) A combination of governmental units or authorities;

(iii) A university or community college; or

(B) Any private library that is open to the public; and

(2) "Library record" means a document, record, or other method of storing information retained by a library that identifies a person as having requested or obtained specific information or materials from such library. "Library record" does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general.

[Acts 1988, ch. 889, § 1.]

10-8-102. Disclosure prohibited - Exceptions.

(a) Except as provided in subsection (b), no employee of a library shall disclose any library record that identifies a person as having requested or obtained specific materials, information, or services or as having otherwise used such library. Such library records shall be considered an exception to the provisions of § 10-7-503.

(b) Library records may be disclosed under the following circumstances:

(1) Upon the written consent of the library user;

(2) Pursuant to the order of a court of competent jurisdiction; or

(3) When used to seek reimbursement for or the return of lost, stolen, misplaced or otherwise overdue library materials.

[Acts 1988, ch. 889, § 1.]

10-8-103. Applicability.

The provisions of this chapter shall apply to libraries included within the provisions of chapters 1 and 3-5 of this title.

[Acts 1988, ch. 889, § 1.]

**TITLE 8
CHAPTER 44
PUBLIC MEETINGS**

**Part 1
General Provisions.**

SECTION

- 8-44-101. Policy - Construction.
- 8-44-102. Open meetings - "Governing body" defined - "Meeting" defined.
- 8-44-103. Notice of public meetings.
- 8-44-104. Minutes recorded and open to public - Secret votes prohibited.
- 8-44-105. Action nullified - Exception.
- 8-44-106. Enforcement - Jurisdiction.
- 8-44-107. Board of directors of Performing Arts Center Management Corporation.
- 8-44-108. Participation by electronic or other means.

**Part 2
Labor Negotiations.**

SECTION

- 8-44-201. Labor negotiations between public employee union and state or local government.

8-44-101. Policy - Construction.

- (a) The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.
- (b) This part shall not be construed to limit any of the rights and privileges contained in article I, § 19 of the Constitution of Tennessee.

[Acts 1974, ch. 442, §§ 1, 8; T.C.A., § 8-4401.]

8-44-102. Open meetings - "Governing body" defined - "Meeting" defined.

- (a) All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.

- (b) (1) "Governing body" means:

(A) The members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration and also means a community action agency which administers community action programs under the provisions of 42 U.S.C. § 2790 [repealed]. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times;

(B) The board of directors of any nonprofit corporation which contracts with a state agency to receive community grant funds in consideration for rendering specified services to the public; provided, that community grant funds comprise at least thirty percent (30%) of the total annual income of such corporation. Except such meetings of the board of directors of such nonprofit corporation that are called solely to discuss matters involving confidential doctor-patient relationships, personnel matters or matters required to be kept confidential by federal or state law or by federal or state regulation shall not be covered under the provisions of this chapter, and no other matter shall be discussed at such meetings;

(C) The board of directors of any not-for-profit corporation authorized by the laws of Tennessee to act for the benefit or on behalf of any one (1) or more of counties, cities, towns and local governments pursuant to the provisions of title 7, chapter 54 or 58. The provisions of this subdivision (b)(1)(C) shall not apply to any county with a metropolitan form of government and having a population of four hundred thousand (400,000) or more according to the 1980 federal census or any subsequent federal census;

(D) The board of directors of any nonprofit corporation which through contract or otherwise provides a metropolitan form of government having a population in excess of five hundred thousand (500,000) according to the 1990 federal census or any subsequent federal census with heat, steam or incineration of refuse;

(E) (i) The board of directors of any association or nonprofit corporation authorized by the laws of Tennessee that:

(a) Was established for the benefit of local government officials or counties, cities, towns or other local governments or as a municipal bond financing pool;

(b) Receives dues, service fees or any other income from local government officials or such local governments that constitute at least thirty percent (30%) of its total annual income; and

(c) Was authorized as of January 1, 1998, under state law to obtain coverage for its employees in the Tennessee consolidated retirement system.

(ii) The provisions of this subdivision (b)(1)(E) shall not be construed to require the disclosure of a trade secret or proprietary information held or used by an association or nonprofit corporation to which this chapter applies. In the event a trade secret or proprietary information is required to be discussed in an open meeting, the association or nonprofit corporation may conduct an executive session to discuss such trade secret or proprietary information; provided, that a notice of the executive session is included in the agenda for such meeting.

(iii) As used in this subdivision (b)(1)(E):

(a) "Proprietary information" means rating information, plans, or proposals; actuarial information; specifications for specific services provided; and any other similar commercial or financial information used in making or deliberating toward a decision by employees, agents or the board of directors of such association or corporation; and which if known to a person or entity outside the association or corporation would give such person or entity an advantage or an opportunity to gain an advantage over the association or corporation when providing or bidding to provide the same or similar services to local governments; and

(b) "Trade secret" means the whole or any portion or phrase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value. The trier of fact may infer a trade secret to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes;

(2) "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program.

(c) Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.

[Acts 1974, ch. 442, § 2; 1979, ch. 411, §§ 1, 2; T.C.A., § 8-4402; Acts 1985, ch. 290, § 1, 2; 1986, ch. 594, § 1; 1988, ch. 908, §§ 3, 5; 1997, ch. 346, § 1; 1998, ch. 1102, §§ 1, 3.]

8-44-103. Notice of public meetings.

(a) *Notice of Regular Meetings.* Any such governmental body which holds a meeting previously scheduled by statute, ordinance, or resolution shall give adequate public notice of such meeting.

(b) *Notice of Special Meetings.* Any such governmental body which holds a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law, shall give adequate public notice of such meeting.

(c) The notice requirements of this part are in addition to, and not in substitution of, any other notice required by law.

[Acts 1974, ch. 442, § 3; T.C.A., § 8-4403.]

8-44-104. Minutes recorded and open to public - Secret votes prohibited.

(a) The minutes of a meeting of any such governmental body shall be promptly and fully recorded, shall be open to public inspection, and shall include, but not be limited to, a record of persons present, all motions, proposals and resolutions offered, the results of any votes taken, and a record of individual votes in the event of roll call.

(b) All votes of any such governmental body shall be by public vote or public ballot or public roll call. No secret votes, or secret ballots, or secret roll calls shall be allowed. As used in this chapter, "public vote" means a vote in which the "aye" faction vocally expresses its will in unison and in which the "nay" faction, subsequently, vocally expresses its will in unison.

[Acts 1974, ch. 442, § 4; T.C.A., § 8-4404; Acts 1980, ch. 800, § 1.]

8-44-105. Action nullified - Exception.

Any action taken at a meeting in violation of this part shall be void and of no effect; provided, that this nullification of actions taken at such meetings shall not apply to any commitment, otherwise legal, affecting the public debt of the entity concerned.

[Acts 1974, ch. 442, § 5; T.C.A., § 8-4405.]

8-44-106. Enforcement - Jurisdiction.

(a) The circuit courts, chancery courts, and other courts which have equity jurisdiction, have jurisdiction to issue injunctions, impose penalties, and otherwise enforce the purposes of this part upon application of any citizen of this state.

(b) In each suit brought under this part, the court shall file written findings of fact and conclusions of law and final judgments, which shall also be recorded in the minutes of the body involved.

(c) The court shall permanently enjoin any person adjudged by it in violation of this part from further violation of this part. Each separate occurrence of such meetings not held in accordance with this part constitutes a separate violation.

(d) The final judgment or decree in each suit shall state that the court retains jurisdiction over the parties and subject matter for a period of one (1) year from date of entry, and the court shall order the defendants to report in writing semiannually to the court of their compliance with this part.

[Acts 1974, ch. 442, § 6; T.C.A., § 8-4406.]

8-44-107. Board of directors of Performing Arts Center Management Corporation.

The board of directors of the Tennessee Performing Arts Center Management Corporation shall be subject to, and shall in all respects comply with, all of the provisions made applicable to governing bodies by this chapter.

[Acts 1981, ch. 375, § 1.]

8-44-108. Participation by electronic or other means.

(a) As used in this section, unless the context otherwise requires:

(1) "Governing body" refers only to boards, agencies and commissions of state government, including state debt issuers as defined in this section;

(2) "Meeting" has the same definition as defined in § 8-44-102;

(3) "Necessity" means that the matters to be considered by the governing body at that meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary; and

(4) "State debt issuers" means the Tennessee state funding board, Tennessee local development authority, Tennessee housing development agency, and Tennessee state school bond authority, and any of their committees.

(b) (1) A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law; provided, that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting.

(2) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.

(3) If a physical quorum is not present at the location of a meeting of a governing body other than a state debt issuer, the governing body other than a state debt issuer must file such determination of necessity, including the recitation of the facts and circumstances on which it was based, with the office of secretary of state no later than two (2) working days after the meeting. The secretary of state shall report, no less than annually, to the general assembly as to the filings of the determinations of necessity.

(c) (1) Any meeting held pursuant to the terms of this section shall comply with the requirements of the Open Meetings Law, codified in this part, and shall not circumvent the spirit or requirements of that law.

(2) Notices required by the Open Meetings Law, or any other notice required by law, shall state that the meeting will be conducted permitting participation by electronic or other means of communication.

(3) Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

(4) Any member of a governing body not physically present at a meeting shall be provided, before the meeting, with any documents that will be discussed at the meeting, with substantially the same content as those documents actually presented.

(5) All votes taken during a meeting held pursuant to the terms of this section shall be by roll call vote.

(6) A member participating in a meeting by this means is deemed to be present in person at the meeting for purposes of voting, but not for purposes of determining per diem eligibility.

However, a member may be reimbursed expenses of such electronic communication or other means of participation.

[Acts 1990, ch. 815, § 1; 1999, ch. 490, § 1.]

8-44-201 Labor negotiations between public employee union and state or local government.

(a) Notwithstanding any other provision of Tennessee law to the contrary, labor negotiations between representatives of public employee unions or associations and representatives of a state or local governmental entity shall be open to the public, whether or not the negotiations by the state or local governmental entity are under the direction of the legislative, executive or judicial branch of government.

(b) Nothing contained in this section shall be construed to require that planning or strategy sessions of either the union committee or the governmental entity committee, meeting separately, be open to the public.

(c) Nothing contained in this section shall be construed to grant recognition rights of any sort.

(d) Both sides shall decide jointly and announce in advance of any such labor negotiations where such meetings shall be held.

[Acts 1979, ch. 41, § 1; T.C.A., § 8-4421.]

TITLE 39
CHAPTER 14
OFFENSES AGAINST PROPERTY

Part 1 - Theft

SECTION

- 39-14-101. Consolidation of theft offenses.
- 39-14-102. Definitions.
- 39-14-103. Theft of property.
- 39-14-104. Theft of services.

- 39-14-130. Destruction of valuable papers with intent to defraud.

Part 6 - Computer Offenses

- 39-14-601. Definitions.
- 39-14-602. Violations - Penalties.
- 39-14-603. Venue.

39-14-101. Consolidation of theft offenses.

Conduct denominated as theft in this part constitutes a single offense embracing the separate offenses heretofore known as: embezzlement, false pretense, fraudulent conversion, larceny, receiving/concealing stolen property, and other similar offenses.

[Acts 1989, ch. 591, § 1.]

39-14-102. Definitions.

The following definitions apply in this part unless the context otherwise requires:

- (1) "Cable television company" means any franchise or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one (1) or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution to members of the public who subscribe to such service, or distributing through such company's antennae, poles, wires, cables, conduits or other property used in providing service to its subscribers and customers any television signals whether broadcast or not;
- (2) "Credit card" means any real or forged instrument, writing or other evidence, whether known as a credit card, credit plate, charge plate or by any other name, which purports to evidence an understanding to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;
- (3) "Debit card" means any real or forged instrument, writing or other evidence known by any name issued with or without a fee by an issuer for the use of a depositor in obtaining money, goods, services or anything else of value, payment of which is made against funds previously deposited in an account with the issuer;
- (4) "Expired" credit or debit card means a card which is no longer valid because the term shown on it has expired;
- (5) "Issuer" means the business organization or financial institution or its duly authorized agent which issues a credit or debit card;
- (6) "Library" means any:
 - (A) Public library;
 - (B) Library of educational, historical or eleemosynary institution, organization or society;
 - (C) Archives; or
 - (D) Museum;
- (7) "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter,

public record, microfilm, sound recording, audio-visual materials in any format, magnetic or other tapes, electronic data, processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to or on loan to or otherwise in the custody of a library;

(8) "Microwave multi-point distribution system station" or "MDS" means any franchise or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one (1) or more television stations, and redistributing such signals by microwave transmissions to members of the public who subscribe to such service, or distributing through such company's antennae, conduits, or other property used in providing service to its subscribers and customers any television signals whether broadcast or not;

(9) "Receiving" includes, but is not limited to, acquiring possession, control, title or taking a security interest in the property; and

(10) "Revoked" credit or debit card means a card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

[Acts 1989, ch. 591, § 1.]

39-14-103. Theft of property.

A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.

[Acts 1989, ch. 591, § 1.]

39-14-104. Theft of services.

A person commits theft of services who:

(1) Intentionally obtains services by deception, fraud, coercion, false pretense or any other means to avoid payment for the services;

(2) Having control over the disposition of services to others, knowingly diverts those services to the person's own benefit or to the benefit of another not entitled thereto; or

(3) Knowingly absconds from establishments where compensation for services is ordinarily paid immediately upon the rendering of them, including, but not limited to, hotels, motels and restaurants, without payment or a bona fide offer to pay.

[Acts 1989, ch. 591, § 1.]

39-14-105. Grading of theft.

Theft of property or services is:

(1) A Class A misdemeanor if the value of the property or services obtained is five hundred dollars (\$500) or less;

(2) A Class E felony if the value of the property or services obtained is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000);

(3) A Class D felony if the value of the property or services obtained is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000); and

(5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more.

[Acts 1989, ch. 591, § 1.]

39-14-130. Destruction of valuable papers with intent to defraud.

(a) Any person who takes or destroys any valuable papers with intent to injure or defraud shall be punished as if for theft. If the value of the papers is not ascertainable, the offense is a Class A misdemeanor.

(b) For the purposes of this section, "valuable papers" includes:

- (1) Any bond, promissory note, bill of exchange, order, or certificate;
- (2) Any book of accounts respecting goods, money or other things;
- (3) Any deed or contract in force;
- (4) Any receipt, release, or defeasant;
- (5) Any instrument of writing whereby any demand, right or obligation is created, ascertained, increased, extinguished or diminished; or
- (6) Any other valuable paper writing.

[Acts 1989, ch. 591, § 1.]

39-14-601. Definitions.

As used in this part, unless the context otherwise requires:

(1) "Access" means to approach, instruct, communicate or connect with, store data in, retrieve or intercept data from, or otherwise make use of any resources of a computer, computer system or computer network, or information exchanged from any communication between computers or authorized computer users and electronic, electromagnetic, electrochemical, acoustic, mechanical or other means;

(2) "Computer" means a device or collection of devices, including its support devices or peripheral equipment or facilities, and the communication systems connected to it which can perform functions including, but not limited to, substantial computation, arithmetic or logical operations, information storage or retrieval operations, capable of being used with external files, one (1) or more operations which contain computer programs, electronic instructions, allows for the input of data, and output data (such operations or communications can occur with or without intervention by a human operator during the processing of a job);

(3) "Computer contaminants" means any set of computer instructions that are designed to modify or in any way alter, damage, destroy, or disrupt the proper operation of a computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, which are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network. Such contaminants may include:

(A) "Virus," meaning a migrating program which, at least, attaches itself to the operating system of any computer it enters and can infect any other computer that has access to an "infected" computer; and

(B) "Worm," meaning a computer program or virus that spreads and multiplies, eventually causing a computer to "crash" or cease functioning, but does not attach itself to the operating system of the computer it "infects";

(4) "Computer network" means a set of two (2) or more computer systems that transmit data over communication circuits connecting them, and input/output devices including, but not limited to, display terminals and printers, which may also be connected to telecommunication facilities;

(5) "Computer program" means an ordered set of data that are coded instructions or statements that, when executed by a computer, cause the computer to process data;

(6) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer, computer system or computer

network whether imprinted or embodied in the computer in any manner or separate from it, including the supporting materials for the software and accompanying documentation;

(7) "Computer system" means a set of connected devices including a computer and other devices including, but not limited to, one (1) or more of the following: data input, output, or storage devices, data communication circuits, and operating system computer programs that make the system capable of performing data processing tasks;

(8) "Data" means a representation of information, knowledge, facts, concepts, or instructions which is being prepared or has been prepared in a formalized manner, and is intended to be stored or processed, or is being stored or processed, or has been stored or processed, in a computer, computer system or computer network;

(9) "Financial instrument" includes, but is not limited to, any check, cashier's check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit card, debit card, marketable security, or any computer system representation thereof;

(10) "Input" means data, facts, concepts or instructions in a form appropriate for delivery to, or interpretation or processing by, a computer;

(11) "Intellectual property" includes data, which may be in any form including, but not limited to, computer printouts, magnetic storage media, punched cards, or may be stored internally in the memory of a computer;

(12) "Output" means data, facts, concepts or instructions produced or retrieved by computers from computers or computer memory storage devices;

(13) "To process" means to use a computer to put data through a systematic sequence of operations for the purpose of producing a specified result;

(14) "Property" means, but is not limited to, intellectual property, financial instruments, data, computer systems and computer programs, all in machine-readable or human-readable form, and any tangible or intangible item of value;

(15) "Services" includes, but is not limited to, the use of a computer, a computer system, a computer network, computer software, computer program or data to perform tasks; and

(16) "System hacker" means any person who knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network.

[Acts 1989, ch. 591, § 1; 1993, ch. 445, § 1.]

39-14-602. Violations - Penalties.

(a) Whoever knowingly, directly or indirectly, accesses, causes to be accessed, or attempts to access any telephone system, telecommunications facility, computer software, computer program, data, computer, computer system, computer network, or any part thereof, for the purpose of:

(1) Obtaining money, property, or services for oneself or another by means of false or fraudulent pretenses, representations, or promises violates this subsection and is subject to the penalties of § 39-14-105;

(2) Causing computer output to purposely be false, for, but not limited to, the purpose of obtaining money, property, or services for oneself or another by means of false or fraudulent pretenses, representations, or promises violates this subsection and is subject to the penalties of § 39-14-105.

(b) Whoever intentionally and without authorization, directly or indirectly:

(1) Accesses any computer, computer system, or computer network commits a Class C misdemeanor;

(2) Alters, damages, destroys, or attempts to damage or destroy, or causes the disruption to the proper operation of any computer, or who performs an act which is responsible for the

disruption of any computer, computer system, computer network, computer software, program or data which resides or exists internal or external to a computer, computer system or computer network is punishable as in § 39-14-105;

(3) Introduces or is responsible for the input of any computer contaminant into any computer, computer system, or computer network commits a Class B misdemeanor; or

(4) Accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, for the purpose of gaining access to computer material or to tamper with computer security devices, including, but not limited to, system hackers, commits a Class A misdemeanor.

(c) Whoever receives, conceals, uses, or aids another in receiving, concealing or using any proceeds resulting from a violation of either subsection (a) or subdivision (b)(2), knowing the same to be proceeds of such violation, or whoever receives, conceals, uses, or aids another in receiving, concealing or using, any books, records, documents, property, financial instrument, computer software, program, or other material, property, or objects, knowing the same to have been used in violating either subsection (a) or subdivision (b)(2) is subject to the penalties of § 39-14-105.

[Acts 1989, ch. 591, § 1; 1993, ch. 445, § 1.]

39-14-603. Venue.

For the purposes of venue under the provisions of this part, any violation of this part shall be considered to have been committed:

(1) In any county in which any act was performed in furtherance of any transaction violating this part;

(2) In any county in which any violator had control or possession of any proceeds of the violation or of any books, records, documents, property, financial instrument, computer software, computer program or other material, objects or items which were used in furtherance of the violation; and

(3) In any county from which, to which or through which any access to a computer, computer system, or computer network was made, whether by wire, electromagnetic waves, microwaves or any other means of communication.

[Acts 1989, ch. 591, § 1.]