State of Tennessee

PRIVATE CHAPTER NO. 3

HOUSE BILL NO. 75

By Representative Forgety

Substituted for: Senate Bill No. 540

By Senator Bell

AN Act to amend Chapter 536 of the Private Acts of 1911; as amended by Chapter 676 of the Private Acts of 1915; Chapter 223 of the Private Acts of 1917; Chapter 473 of the Private Acts of 1921; Chapter 515 of the Private Acts of 1921; Chapter 794 of the Private Acts of 1925; Chapter 410 of the Private Acts of 1927; Chapter 184 of the Private Acts of 1927; Chapter 643 of the Private Acts of 1931; Chapter 56 of the Private Acts of 1931; Chapter 70 of the Private Acts of 1931; Chapter 465 of the Private Acts of 1933; Chapter 249 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1939; Chapter 147 of the Private Acts of 1943; Chapter 471 of the Private Acts of 1943; Chapter 198 of the Private Acts of 1963 and Chapter 173 of the Private Acts of 1975; and any other acts amendatory thereto, relative to the town of Tellico Plains.

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

SECTION 1. Chapter 536 of the Private Acts of 1911; as amended by Chapter 676 of the Private Acts of 1915; Chapter 223 of the Private Acts of 1917; Chapter 473 of the Private Acts of 1921; Chapter 515 of the Private Acts of 1921; Chapter 794 of the Private Acts of 1925; Chapter 410 of the Private Acts of 1927; Chapter 184 of the Private Acts of 1927; Chapter 643 of the Private Acts of 1931; Chapter 56 of the Private Acts of 1931; Chapter 70 of the Private Acts of 1931; Chapter 465 of the Private Acts of 1933; Chapter 249 of the Private Acts of 1939; Chapter 223 of the Private Acts of 1939; Chapter 147 of the Private Acts of 1943; Chapter 471 of the Private Acts of 1943; Chapter 198 of the Private Acts of 1963 and Chapter 173 of the Private Acts of 1975; and any other acts amendatory thereto, relative to the town of Tellico Plains are amended by deleting the charter in its entirety and by substituting instead the following:

CHARTER OF THE TOWN OF TELLICO PLAINS, TENNESSEE

ARTICLE I

INCORPORATION AND BOUNDARIES

Section 1. Body Politic. The town of Tellico Plains, in the county of Monroe, and the inhabitants thereof, be, and are, hereby constituted a body politic and corporate, under the style and name of the "town of Tellico Plains", and under that name may have perpetual succession; may sue and be sued; plead and be impleaded in all the courts; may purchase, receive, and hold real, personal, and mixed property within or without such town, for municipal purposes and may sell, lease, or dispose of the same for the benefit of the town; and may do all other acts touching the same as a natural person; and may have and use a common seal, which may be changed at its pleasure.

Section 2. Boundaries. The boundaries of the town of Tellico Plains, shall be as fixed by Article II, Section 1 of Chapter 536 of the Acts of Tennessee of 1911, as amended, and any annexations or detachments of territory made pursuant to law.

ARTICLE II

POWERS

Section 1. Powers. All the corporate powers of said corporation shall be exercised by the town council or under their authority, except where otherwise provided. They shall have full power and authority to:

(1) Assess, levy, and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to the general law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner provided for in this section;

(6) Issue and give, sell, pledge, or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes, or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated Title 29, Chapter 16, or in any other manner provided by the general law;

(10) Take and hold property within or without the municipality or state upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the municipality, its inhabitants, or any part of the municipality, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in Tennessee Code Annotated Title 9, Chapter 21;

(12) Grant to any person, firm, association, or municipality, franchises for public utilities and public services to be furnished to the municipality and those in the municipality. The power to grant franchises embraces the power to grant exclusive franchises. When an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The council may prescribe, in each grant of a franchise, the rates, fares, charges, and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys, and thoroughfares that may be opened after the grant of the franchise;

(13) Make contracts with any person, firm, association, or corporation for public utilities and public services to be furnished the municipality and those in the municipality. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association, or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The council may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys, and thoroughfares and to any other streets, alleys, and other thoroughfares that may be opened after the grant of the contract;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation, and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing in this subdivision (14) shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefore under Tennessee Code Annotated §§ 7-31-107 -- 7-31-111 and 29-16-114, or any other manner provided by general law;

(16) Construct, improve, reconstruct, and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys, or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways, or alleys under and as provided by Tennessee Code Annotated Title 7, Chapters 32 and 33;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the council;

(18) Acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse, or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees, or other charges;

(20) License and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted, or maintained;

(24) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures in accordance with general law, and inspect all buildings, lands, and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean, or safe;

(25) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services;

(26) (A) Enforce any ordinance, rule, or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction;

(B) Provide by ordinance for court costs as provided in the Municipal Court Reform Act, compiled in Tennessee Code Annotated Title 16, Chapter 18, Part 3;

(27) Regulate, tax, license, or suppress the keeping or going at large of domestic animals within the municipality, impound them, and in default of redemption, sell or kill them;

(28) Call elections as provided in this charter;

(29) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated; and

(30) Create a design review commission, which shall have the authority to develop general guidelines and to develop procedures for the approval of the guidelines for the exterior appearance of all nonresidential property, multiple family residential property, and any entrance to nonresidential developments within the municipality; provided, that the authority is subordinate to and in no way exceeds the authority delegated to a municipal planning commission pursuant to Tennessee Code Annotated Title 13, Chapter 4. Any property owner affected by the guidelines may appeal a decision by the design review commission to the municipality's planning commission or, if there is no planning commission, to the entire municipal legislative body.

ARTICLE III

ELECTIONS

Section 1. Date of general town election. A general town election shall be held on the first Tuesday after the first Monday in November in every even-numbered year. The terms of office of the officials elected on the first Tuesday in September of 2011 shall be extended from September, 2013 until the first Tuesday after the first Monday in November, 2014. This will result in an increase of approximately fourteen (14) months in the terms of the council members elected in 2011.

Section 2. General election laws apply. All elections shall be conducted by the commissioners of elections of Monroe County in accordance with the general election laws of the state and this charter.

Section. 3. Council Election and Terms. To be eligible to run for office, a person must be a legal voter and resident of the town for fifteen (15) months prior to the date of the election. The following officers shall be elected by the qualified voters within the limits of the town who are qualified to vote at state elections: a mayor, a recorder, and four (4) councilmembers. Their term of office shall be for two (2) years and until the election and qualification of their

successors. Newly elected officials take office at the next regularly scheduled council meeting after the election results have been certified.

ARTICLE IV

TOWN COUNCIL

Section 1. Governing Body. All corporate, legislative, and other powers of the town of Tellico Plains shall be vested in the town council except as otherwise provided in this charter. The town council shall be composed of the mayor, a recorder, and four (4) councilmembers.

Section 2. Oath of Office. Any officer elected shall, before entering upon his duties, take an oath of office before any officer authorized to administer oaths to support the United States Constitution; to obey the laws of the state, the charter, and ordinances of the town; and faithfully discharge the duties of his the office.

Section 3. Quorum. Four (4) out of six (6) members of the town council shall be a quorum for transacting business at meetings.

Section 4. Vacancy in Office. In the case of a vacancy in office caused by death, resignation, an official moving outside town limits, or removal of any official, the vacancy shall be filled by the town council by appointing someone who is eligible to run for town council to fill the unexpired term.

Section 5. Duties of the Mayor . The Mayor:

(1) Shall by written communication lay before the council any information needed and recommend such measures as he may deem expedient;

(2) Shall see that all laws and ordinances are enforced;

(3) Has a vote only in case where there is a tie, but he shall have the right to veto in writing any ordinance or resolution passed by the council, and it shall require the vote of four (4) of the five (5) members of the council at a subsequent meeting to pass any ordinance or resolution over the mayor's veto;

(4) May make interim appointments, by and with consent of the council to replace department heads in case of sickness, absence, or other temporary disability under such restrictions as the council may direct;

(5) May call special meetings of the council and when called he shall state the reason for convening them in writing and the action of the council shall be limited to the matter submitted;

(6) Shall lay before the council statements of the financial condition of the municipality and special statements when required by the council;

(7) Shall execute all hiring, firing, promotions, and demotions for employees; however, for termination of department heads, the mayor makes recommendations to the town council (see Article V, Section 2);

(8) Shall countersign all warrants drawn upon the treasury by the finance director, and signs all contracts to which the municipality is a party;

(9) In the absence of the recorder, perform his duty to take minutes or appoint a recorder pro tem, and the mayor shall retain the recorder's right to vote; and

(10) Shall sign all ordinances and resolutions.

Section 6. Recorder. The recorder is popularly elected and shall, in the temporary absence from the town or sickness of the mayor, perform the duties of the mayor and be invested with all the powers of the mayor, except for veto. Upon the resignation, removal of residency or death of the mayor, the recorder shall become mayor. Additionally, the recorder

shall keep a full and accurate journal of the proceedings of the council and have charge of and preserve the records of the town. The recorder shall by his signature and the town seal, attest all instruments signed in the name of the town including ordinances and resolutions. When the recorder serves temporarily as mayor he may appoint a recorder pro tem and the recorder shall retain his right to vote.

Section 7. Meetings of town council. The town council shall set a regular meeting time and place by ordinance. Meetings shall be held no less frequently than once in every month.

Section 8. Compensation of the town council. The town council may set the annual salary of the town council in the budget ordinance, but no ordinance increasing such salary shall become effective until the expiration of the current terms of the mayor, recorder and all council members. The mayor, recorder and all council members may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties pursuant to a travel policy established for all employees.

Section 9. Ordinances. Any action of the town council having a regulatory or penal effect shall be taken only by ordinance. Each ordinance shall be in written form before being introduced. Each ordinance shall have a title, and upon passage, shall be further identified by a number. The enacting clause of all ordinances shall be "Be it ordained by the town council of the town of Tellico Plains, Tennessee." Each ordinance shall require four (4) voting council members to be present and voting for each of the required two (2) readings at two (2) separate meetings on two (2) separate days. Ordinance passage requires the affirmative vote of a majority of the members present and voting. Every ordinance so adopted shall take effect from and after its passage unless otherwise specified in the ordinance. Other actions may be taken or authorized by resolutions or by motions. Abstentions shall be counted neither as a yes nor a no vote.

ARTICLE V

ADMINISTRATION

Section 1. Departments, offices and agencies generally. The town council may establish town departments, offices or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Departments, offices and agencies created by the town council may be abolished or combined by the council. The town council shall also fix the compensation of employees.

Section 2. Direction and supervision of departments, offices, or agencies. The mayor (or a town administrator if one is appointed) shall oversee all departments, offices and agencies. The mayor (or town administrator if one is appointed) shall execute all hiring, firing, promotions and demotions for employees; however, for department heads, the town council shall execute these duties with recommendations from the mayor (or town administrator if one is appointed). The hiring, firing, promotion, and demotion of department heads shall require a town council vote with four (4) voting council members to be present, and a majority vote of those present and voting. All employees and department heads shall serve at the will and pleasure of their appointing authority.

Section 3. Surety bonds. Every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the state, as surety, in such amount as shall be prescribed by ordinance or this charter. All such bonds and sureties shall be subject to the approval of the town council, and the town council may provide for blanket bonds. The cost of all bonds shall be an expense of the town.

Section 4. Town administrator. The council may appoint a town administrator who shall be under the control and direction of the council. The town administrator shall report and be responsible to the council.

The council may assign to the town administrator the following mayoral duties as detailed in Article IV, Section 5, including the following:

(1) See that all laws and ordinances are enforced;

(2) Make interim appointments, by and with consent of the council to replace department heads in case of sickness, absence, or other temporary disability under such restrictions as the council may direct;

(3) Lay before the council statements of the financial condition of the municipality and special statements when required by the council; and

(4) Execute all hiring, firing, promotions and demotions for employees; however, for termination of department heads, the town administrator makes recommendations to the town council (see Article V, Section 2).

In addition the council may, by ordinance, require the town administrator to perform any or all of the following duties:

(1) Administer the business of the town;

(2) Make recommendations to the council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the town;

(3) Keep the council fully advised as to the conditions and needs of the town;

(4) Report to the council the condition of all property, real and personal, owned by the town and recommend repairs or replacements as needed;

(5) Recommend to the council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the town;

(6) Supervise and control the work of the departments created by this charter or which hereafter may be created by the town council;

(7) Attend all meetings of the town council, with the right to take part in the discussion, but not to vote;

(8) Recommend specific personnel positions, as may be required for the needs and operations of the town, and may propose personnel policies and procedures for approval of the council; and

(9) Perform such other duties as may from time to time be designated or required by the council.

Section. 5. Town judge. The council shall appoint a town judge who shall have jurisdiction in and over all cases for the violation of, and offenses against, and in all cases arising under, the laws and ordinances of the town of Tellico Plains.

(1) The town judge shall have power and authority to impose fines, costs and forfeitures for violation of town ordinances; to preserve and enforce order in his court; and to enforce the collection of all such fines, costs and forfeitures imposed by him. The town judge may remit, with or without condition, fines and costs imposed for violation of any ordinance or charter provision.

(2) Any person dissatisfied with the judgment of the municipal court may appeal to the county circuit court as specified in Tennessee Code Annotated, §§ 16-18-302 and 16-18-307.

(3) All fines imposed by the town judge for violations of town ordinances shall belong to and be paid into the treasury of the town of Tellico Plains.

(4) The town council, by ordinance, shall set court costs.

(5) The town judge shall certify to the court clerk for collection of all fines, costs and forfeitures imposed for offenses against the laws and ordinances of the town.

(6) It shall be the duty of the town judge or the court clerk, to collect and receipt for all fines imposed by the judge, who shall render a monthly report to the council of all costs and fines collected and of all assessed and uncollected.

(7) It shall be unlawful for any person or officer to collect or receipt for such fines, costs and recoveries, however the town judge may authorize the court clerk to collect and receipt for fines and costs.

(8) The town judge, or the court clerk, shall keep or cause to be kept a court docket or dockets embodying complete detailed records of all cases handled by the town judge.

(9) The town council may appoint a town judge pro tempore to serve in the absence, disability or conflict of interest of the town judge.

ARTICLE VI

FINANCES

Section 1. Assessment and levy. All property within the town not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation. Assessments made by the county tax assessor may be adopted by the town.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after the first day in October of each year, and shall become delinquent on the first day of March following. The town council by ordinance shall fix penalties and interest on delinquent taxes.

Section 3. Collection of delinquent taxes. The town council may provide, by ordinance, for the collection of delinquent real property taxes by the finance director as provided by general law; or by the town attorney acting in accordance with the general law providing for the collection of delinquent municipal or county taxes; or by the use of any other available legal process and remedies. If not otherwise collected, the town attorney, or other attorney designated by the town council, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following the date of delinquency. Delinquent personal property taxes may be collected by distress warrants issued by the finance director and placed in the hands of the police chief for collection, or by any other means as provided for in Tennessee Code Annotated, § 67-5-2003.

Section 4. County may collect taxes. The town may contract with the county for the collection of town taxes. The contract may provide for reasonable fees to be paid to the county for this service.

Section 5. Taxes not to be excused. No officer or employee of the town shall have the authority to excuse taxes, penalties, interest, special assessments or other charges due the town, but errors may be corrected when authorized by the town council.

ARTICLE VII

MISCELLANEOUS

Section 1. Gender. Whenever, in this Charter, "man, men, him, his, he," or their related pronouns may appear either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense "i.e., to include all human kind, both female and male genders."

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the town of Tellico Plains. Its approval or nonapproval shall be proclaimed by the presiding officer of the town of Tellico Plains and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.

HOUSE BILL NO. 75

PASSED: FEBRUARY 25, 2013

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 7th day of March 2013

BILL HASLAM, GOVERNOR