

SENATE BILL 3191
By Graves

AN ACT to create the Financial Management System of the
County of Sumner, Tennessee, of 2002.

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

SECTION 1. This act shall be known and may be cited as the "Financial Management System of the County of Sumner, Tennessee of 2002".

SECTION 2. **Definitions.** As used in this act, unless the context otherwise requires:

- (1) "Committee" means the county financial management committee;
- (2) "Department" means the finance department;
- (3) "Director" means the director of the finance department; and
- (4) "Local education agency," "LEA", "school system," "public school system,"

"local school system," "school district," or "local school district" means the Sumner County school system created or authorized by the general assembly of the State of Tennessee.

SECTION 3. **Finance department – General provisions [Exclusion from coverage of Act].**

(a)

(1) There is hereby created a finance department to administer the finances of the county for all funds of the various departments, agencies and boards which are handled by the county trustee.

(2) The accounting, bank accounts, personnel and salary policies, and other policies of the funds and offices of the clerks of courts, county clerk, register of deeds, sheriff and trustee, which were not subject to the budgeting authority of the county legislative body prior to application of this act, are not subject to the provisions of this act. This act shall not be construed as authority over the fee and commission accounts of other accounts that are not handled by the trustee for offices other than the trustee nor for the trustee's fee and commission account. This act shall not be construed as authority over personnel policies or procedures or salaries of the various county offices or departments, except with respect to requiring necessary recordkeeping and reporting needed for performing the payroll functions as prescribed by the finance committee.

(b) The finance department shall be responsible for purchasing, accounting, budgeting, payroll, cash management and other such financial matters of the county as herein provided.

(c) All employees, except employees of the LEA, performing the functions of purchasing, payroll, accounting and budgeting in the various operating departments shall be under the supervision of the director of finance, and such salaries, benefits and expenses relating to such personnel shall be budgeted under the finance department, notwithstanding any other law to the contrary. LEA employees performing such functions shall remain under the supervision of the director of schools.

(d)

(1) The department shall establish a system of fiscal management, control, accounting, budgeting, purchasing and cash management as herein provided.

(2) Such system shall conform to generally accepted principles of governmental accounting and shall be in substantial agreement with the recommendations of the national council of governmental accounting, and the rules and regulations established by the comptroller of the treasury, commissioner of education and state law.

(e)

(1) Notwithstanding any provision of this act to the contrary, to the extent not prohibited by Tennessee Code Annotated, Title 49, Chapter 2 and Section 5-9-407 or any other provision of general law, the county legislative body may authorize, by two thirds (2/3) majority vote, the LEA or county highway department to perform any of the functions or provisions required under the provisions of this act affecting or related to the LEA or county highway department, respectively. In the event the LEA or county highway department is authorized to perform such functions, the county legislative body shall designate in writing the office of the LEA or county highway department, respectively, that is responsible for compliance with the provisions of this act relative to the functions assigned and in addition may establish, after allowing the financial management committee to submit recommendations, financial procedures and reporting requirements to include, but not to be limited to, the following:

(A) Monthly financial reports;

(B) Approval of the required annual audit contract with a licensed Tennessee certified public accountant and the reports presented in such audit;

(C) Inspection of records, bank statements and other financial records;
and

(D) Approval of the annual budget by the county legislative body prior to the beginning of the fiscal year.

(2) If the LEA or highway department is authorized to perform the functions of this act in accordance with subdivision (1), the county legislative body may by two-thirds

(2/3) majority vote withdraw such authorization from the LEA or highway department.

Upon voting to withdraw such authority granted to such LEA or highway department as provided under subdivision (2), implementation of the provisions of this act with respect to the LEA or highway department shall begin no later than the beginning of the next fiscal year.

SECTION 4. Financial management committee – General provisions.

(a) A financial management committee is hereby created.

(b)

(1) The committee shall consist of the county executive, supervisor of highways, director of schools, and four (4) members elected by the county legislative body at its regular September session of each year or at any subsequent session.

(2) The four (4) members shall be members of the county legislative body.

However, if either the highway department or education department are opted out of this act, then the supervisor of highways superintendent or director of schools, respectively, shall not be a member of the committee and the sheriff shall then be named a member of the committee.

(c) Such committee shall elect its own chair and shall meet from time to time as it may deem necessary for the discharge of its duties as provided herein.

(d) The director shall be the ex officio secretary of such committee.

(e)

(1) The committee shall establish and approve policies, procedures and regulations in addition to the specific provisions of this act, for implementing a sound and efficient financial system for administering the funds of the county.

(2) Such system shall include budgeting, accounting, purchasing, payroll, cash management and such other financial matters necessary to an efficient system.

SECTION 5. Special committees – General provisions.

(a) The county legislative body may authorize the committee to assume the functions of any or all of the following special committees or the county legislative body may by resolution create:

- (1) A budget committee;
- (2) An investment committee; or
- (3) A purchasing committee.

(b) The special committees shall be composed of a minimum of five (5) members appointed by the county legislative body. The members of such committees shall be members of the county legislative body.

(c) The director shall be the ex officio secretary of each such committee.

(d) The budget committee shall establish and approve policies, forms and documents, procedures, and regulations necessary for the preparation of the annual operating and capital improvement budgets.

(e) The investment committee shall establish and approve policies and procedures for cash management and investing idle cash funds in various investments as prescribed by law.

(f) The purchasing committee shall establish and approve policies and procedures for the purchasing of all supplies, equipment or goods for the county.

SECTION 6. Director – Appointment and compensation.

(a)

(1) The committee shall recommend the appointment of the director subject to ratification by the county legislative body.

(2) The committee may dismiss the director, subject to the approval of the county legislative body.

(3) The director shall for all purposes be an employee of the county.

(b)

(1) The director shall have a minimum of a bachelor of science degree from an accredited college or university. Such person shall have had at least eighteen (18) quarter hours or equivalent semester hours in accounting.

(2) The committee may select a person not having a bachelor of science degree or having a sufficient number of hours in accounting; provided, that such person has at least two (2) years of acceptable experience in a related position or an equivalent number of other related courses.

(c) The establishment of the compensation of the director shall be recommended by the committee and approved by the county legislative body.

SECTION 7. Director – Duties.

(a) The director shall oversee the operation of the department in the functions established by this act, and shall be responsible for the implementation of the policies of the committee or such special committees established by the county legislative body.

(b) The director shall, among the director's duties, install and maintain a purchasing, payroll, budgeting, accounting and cash financial management system for the county.

(c) The director shall assist other county officials and employees in achieving an efficient financial management system for the county.

(d) The director has the authority to hire personnel for the finance department; provided, that the positions are funded in the annual budget and the personnel so hired meet the written job requirements as recommended by the director and approved by the committee.

(e) The director shall be responsible for ensuring all applicable federal, state and county laws that apply to the finance department are complied with and shall immediately notify the county attorney and the financial management committee of any discrepancies noted.

SECTION 8. Director – Deputy.

(a) A person employed by the finance department shall be recommended by the director and approved by the committee to serve as deputy director of finance.

(b)

(1) The person employed for this position shall perform such duties and responsibilities as assigned by the director.

(2) In the absence of the director, the deputy director shall perform the duties of the director necessary to the continued operation of the department, including, but not limited to, the cosigning of warrants, payroll checks and purchase orders.

SECTION 9. Director – Bond.

(a) The director shall execute a blanket bond in an amount of not less than fifty thousand dollars (\$50,000) for the faithful performance of the director's duties as director and of the department employees in accordance with the general law for such bonds.

(b) The cost of such bond shall be paid from funds appropriated to the department for such purpose.

(c) The amount of such bond may be increased subject to the approval of the committee, and additional appropriations by the county legislative body.

(d) The bond shall be prepared in accordance with the provisions of Tennessee Code Annotated, Title 8, Part 19, approved by the county legislative body, recorded in the office of the county register of deeds and transmitted to the comptroller of the treasury for safekeeping.

SECTION 10. Budget – Preparation and committee review.

(a) The budget committee, in conjunction with the director shall, on or before February 1 of each year, prescribe the budgetary procedures, forms, calendar and other information as may be necessary to implement the budgetary procedures contained in this act.

(b) Each department or office of county government shall submit on request of the budget committee a proposed budget for the succeeding fiscal year and such other budgetary information requested by the director of the budget committee.

(c)

(1) The director shall prepare from the information submitted to such director a consolidated budget document.

(2) Such document shall show by item the amounts estimated by the various departments and officials to be required for the efficient operation of the county government from the county general fund, the debt service funds, highway funds, school funds and all other funds.

(3) Such document shall show an estimate of the revenues to be received by each of the funds during the next fiscal year and an estimate of the unencumbered fund balance of each of such funds at the beginning of the fiscal year.

(d)

(1) The director shall file the consolidated budget with the budget committee.

(2) The budget committee shall review and present the recommended budget to the members of the county legislative body at least ten (10) days prior to the July meeting.

(3) Such budget shall contain an itemized and classified plan of all proposed expenditures and estimated receipts for the ensuing fiscal year as submitted by each department, office or agency and recommended by the budget committee, and shall conform to the uniform classification of accounts established by the director in accordance with the prescribed state uniform accounting system.

(4) It is expressly provided that the classification of expenditures and receipts of any and all county school funds for any purpose, administered by the county board of education and county superintendent of schools, shall conform to the classification of accounts as prescribed by the commissioner of education.

(5) The budget committee shall fully provide in the budget for all requirements for debt service, interest and bond maturities and for any cash deficit in any fund at the

beginning of the fiscal year, and shall propose a tentative tax rate to fund such budget. The budget committee shall fully provide for any court-ordered expenses, including, but not limited to, deputies' and assistants' salaries authorized by court order pursuant to Tennessee Code Annotated, Title 8, Part 20. The budget, when adopted, shall appropriate funds to fully comply with such court order. The county legislative body shall adopt any budget amendment necessary to implement the provisions of such court order.

SECTION 11. Budget – Hearings – Supporting documents – County action.

(a)

(1)

(A) At least ten (10) days before the proposed budget is to be presented to the governing body, the budget committee shall cause to be published in a newspaper of general circulation the proposed annual operating budget.

(B) This budget shall contain a budgetary comparison for the following governmental funds:

- (i) General;
- (ii) Highway/public works;
- (iii) General purpose school fund; and
- (iv) Debt service

that shall include comparisons of the proposed budget with the current year and the prior year.

(C) The budgetary comparisons shall be by individual fund and shall summarize revenues by local taxes, state of Tennessee, federal government and other sources. Expenditures shall be summarized by salaries and other costs. The budgetary comparison shall also present beginning and ending fund balances and the number of employee positions.

(2) Such publication shall also contain a notice of a public hearing to be conducted by the budget committee at which any citizen of the county shall have the right to appear and state such citizen's views on the budget.

(b) The budget committee shall present the budget to the county legislative body at the regular July meeting each year or at a special session called for this purpose prior to the regular July meeting.

(c) The proposed budget shall be accompanied by a budget message explaining the financial program and outlining the services, work and activities to be financed by the proposed budget and a brief discussion of the means proposed for financing the expenditure program set forth in the budget.

(d) With the proposed budget, the budget committee shall deliver to the county legislative body a budget appropriation resolution and a tax levy resolution.

(e)

(1) The county legislative body may alter or revise the proposed budget except as to provision for debt service requirements and for other expenditures required by law.

(2) The county legislative body shall finally adopt a budget in July.

(f)

(1) After the adoption of the budget, any county department, agency or official shall be entitled to a hearing before the county legislative body to justify any proposed additional requests or budget estimates.

(2) The director may make quarterly allotments to any department, agency or official seeking a budget hearing in an amount not in excess of that approved in the budget for such quarter.

(3) Upon amendment of the budget, the director shall make a supplemental allotment or impound the funds of any department, agency or official to bring such appropriations in line with the amended budget.

(g) The budget, the appropriation resolution, and the tax levy resolution, as adopted, shall be spread upon the minutes of the county clerk.

SECTION 12. Appropriations – Later modifications – Impounding.

(a) The appropriations made in the appropriation resolution, or any amendment thereto, shall constitute the limit to expenditures for the various purposes and from the several funds of such county for the fiscal year covered by the resolution, and no expenditure shall be made or obligation created in excess of such limitation.

(b) Any resolution presented to the county legislative body in any fiscal year, after the original appropriation resolution has been adopted and the tax rate for the year fixed by the county legislative body, which provides for an appropriation in addition to those made in the original budget appropriation, shall specifically provide by tax levy sufficient revenues, or designate the source of funds to meet expenditures to be made in consequence of such additional appropriation.

(c)

(1) If at any time during the fiscal year it shall become apparent that the revenues of any of the county's funds, together with its unencumbered cash balance at the beginning of such year, will not be sufficient to equal the amount of the original appropriations, it shall be the duty of the director to impound the appropriations from such fund in such amount as shall be necessary to balance such account. Nevertheless, the impoundment power provided by this section shall not apply to the funds appropriated to the offices of trustee, county clerk, assessor of property, clerks of courts, register of deeds or sheriff.

(2) Upon the written approval of the committee, such impounded funds shall be released.

SECTION 13. Expenditures – Minor adjustments.

(a) The appropriations made by the county legislative body shall constitute authorization for the expenditures contained therein unless otherwise limited by the county legislative body.

(b) Expenditures may be made and obligations created against any appropriation to an aggregate total of the amount appropriated by line item.

(c) The expenditures and encumbrances against the amounts appropriated shall be made only upon an order or authorization issued by the department.

(d) No expenditures made or obligations created in any manner shall be valid or binding against the county except as provided by the provisions of this act.

(e)

(1) The budget committee, with the consent of any official or head of any department or division which may be affected, may make transfers and adjustments within the smallest budgetary itemization of any subdivision.

(2) Any other transfers or adjustments shall be submitted to the budget committee for its recommendation to the county legislative body.

SECTION 14. Monthly reports.

(a)

(1) The director shall make a report at the end of each month showing the condition of the budget.

(2) Such report shall show for each item of appropriation, or allotment thereof, the total expenditures for the month and the year to date, the amount of outstanding encumbrances and the amount of the unencumbered balance.

(3) Such report shall also show for each fund an itemized statement of the revenues and receipts estimated for the year, the amount of the collections of each item for the month and the year to date and the unrealized portion of the estimate.

(b) Each department head, elected official and board member shall be furnished copies of monthly reports for their respective departments as soon as the same are available.

(c)

(1) The most recent of such reports shall be presented by the director at each regular session of the county legislative body.

(2) At such time, the director shall advise the county legislative body of the condition of the budget, and of any adjustment or reduction of appropriations which should be made, and shall recommend any other action which, in the director's opinion, the county legislative body should take in order that the financial condition of the county is not impaired.

SECTION 15. Accounting system – Preaudit of invoices, etc.

(a) There shall be set up and maintained in the department a system of fiscal procedure, control and centralized accounting which shall be under the administrative control and direction of the director except as provided for in subsection (e) of Section 3. The procedures and records shall be maintained in accordance with provisions of Tennessee Code Annotated, Section 5-21-103(c).

(b)

(1) Before any obligation against the county shall be paid or any disbursement warrant or voucher issued, a detailed invoice, receivable copy of the purchase order, or such document indicating receipt of merchandise or service should be approved by the head of an office, department or agency for which the obligation was made and be filed with the director.

(2) The director shall establish a system for making a careful preaudit of such invoice, purchase order, or other documents, including a comparison with any encumbrance document previously posted or filed authorizing such obligation, and shall approve for payment only such items as appear to be correct, properly authorized, and not exceeding the otherwise unencumbered balance of the allotments or appropriations against which they are chargeable.

(3) Disbursement warrants shall be promptly prepared for all such approved obligations by the director, signed in accordance with Tennessee Code Annotated, Section 5-21-116 and mailed or delivered to the payees thereof.

SECTION 16. Disbursement warrants.

(a) All disbursement warrants drawn on the county trustee for the obligations of all county departments, agencies, and officials, including the county executive, shall be signed as provided herein.

(b)

(1) Except as provided for in subsection (e) of Section 3, the disbursement warrants shall be prepared in the finance department, and provided to each department for signing.

(2) Upon the signing of such warrant by the finance department, the department head signing the disbursement warrant shall keep one (1) copy for filing in such department.

(3) The original and all other copies of such warrant shall be returned to the director for such director's signature as a cosigner and for filing and mailing from the finance department.

(4) A duplicate copy of all disbursement warrants, with all original invoices and other supporting documents attached thereto, shall be kept on file in the office of the director.

(c)

(1) In lieu of each department agency or official signing disbursement warrants, the departments may authorize the director to use a signature plate in accordance with the general law and approval by the comptroller of the treasury.

(2) If such signature plate is used, it shall be locked in a safe place when not in use and supervised by the person responsible for its safekeeping when in use.

(3) A record shall be maintained indicating when the signature plate is used, numbers of the warrants signed, and the person using such plate.

SECTION 17. Payroll account.

(a) The committee shall maintain a special county payroll account at a bank, in which disbursement warrants for the total of each payroll shall be deposited and against which individual net earning checks may be issued to each of the county employees.

(b) The committee may authorize the issuance of such payroll checks on the signature of the director and, in such event, the depository bank shall be so instructed.

SECTION 18. Director as purchasing agent.

(a) The director or a deputy appointed by the director shall serve as the county purchasing agent and shall assist the committee in developing policies and procedures for implementing an economical and efficient purchasing system.

(b)

(1) Upon the recommendation of the committee and approval of the county legislative body or as authorized by the county legislative body, a separate purchasing department may be established with a person hired as purchasing agent for the county.

(2) In the event a separate purchasing department is established and a purchasing agent is hired, all duties and responsibilities relative to purchasing shall be removed from the director.

SECTION 19. Purchasing system.

(a) The committee, with the assistance of the purchasing agent, shall establish a purchasing system for the county.

(b) Such system shall provide, among other procedures, the following:

(1) Review of all contracts or purchases for biddable supplies, materials, equipment, and other needs of the county, shall be made by the purchasing agent;

(2) No purchase or contract shall be made when the bid prices exceed the current market price for the same merchandise or service;

(3) Purchases and contracts shall be awarded based on the lowest and best bid;

(4) Specifications development shall be made by the department, agency or official to receive the merchandise, construction or service;

(5) The purchasing agent shall:

(A) Review specifications and changes to allow for maximum competition of prospective bidders;

(B) Prepare formal and informal bids;

(C) Collect sealed bids;

(D) Open bids through a procedure open to the public;

(E) Evaluate, compare and submit bids for approval by the committee, if so deemed by the committee;

(F) Issue purchase orders and contracts; and

(G) Verify receiving the merchandise or service;

(6) The director shall:

(A) Accept requisitions by the department, agency or official, and, if such supplies are not currently on hand, transmit such requisition to the purchasing agent;

(B) Verify budget appropriations before authorizing a purchase;

(C) Approve invoices for payment; and

(D) Pay invoices and obligations of the county as provided herein; and

(7) Emergency purchases, total cost bidding, blanket purchases for small orders, grouping of purchases of the various departments, and other methods for receiving the most competitive price and best bid. Emergency purchases shall be limited to needs arising which are not normally foreseeable. Emergency purchases shall not be permissible if a department or agency fails to properly plan for the need, proper purchasing procedures, and delivery time.

SECTION 20. Bidding.

(a) The committee shall authorize the dollar limitation when formal competitive bids are required but not to exceed the amount as authorized by state law for the highway and education departments or other such amounts as established by law.

(b) Subject to the policies and regulations of the committee, "biddable items" means any need of the county where more than one (1) bidder or contractor in the county's trade area can provide the material or service. Specifications shall not be written to exclude vendors and contractors or limit the bidding to a specific vendor or contractor.

(c) The county shall be liable for the payment of all purchases of supplies, materials, equipment and contractual service made in accordance with the provisions of this act, but shall not be liable for the payment of such purchases made contrary to its provisions unless such item is specifically approved by the committee.

SECTION 21. Conflicts of interest.

(a) The director, purchasing agent, members of the committee, members of the county legislative body, or other officials, employees, or members of the board of education or highway commission shall not be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of any supplies, materials or equipment for the county.

(b) No firm, corporation, partnership, association or individual furnishing any such supplies, materials or equipment, shall give or offer nor shall the director or purchasing agent or any assistant or employee accept or receive directly or indirectly from any person, firm, corporation, partnership or association to whom any contract may be awarded, by rebate, gift or otherwise, any money or other things of value whatsoever, or any promise, obligation or contract for future reward or compensation.

SECTION 22. Committee members – Compensation. The county legislative body shall set the compensation based on the service and time rendered in implementing the provisions of this act for members of the various committees created herein.

SECTION 23. County employees unaffected.

(a) Notwithstanding any provision of this act, each department, agency or official shall have the authority to hire personnel and set salaries and to determine the needs for its use, all subject to budget limitations and the availability of funds.

(b) The authority of the committee, director or purchasing agent shall be limited to the provisions of this act and such policies necessary to implement the provisions of this act. They shall not have the authority to veto the hiring and dismissal of personnel of the various county departments, agencies, or officials or set salaries nor determine the needs of such departments.

SECTION 24. Education department – Withdrawal from system.

(a) In the event the director or purchasing agent established under this act does not maintain records, follow accounting and budgetary procedures, and submit timely reports and information as prescribed by state law and the commissioner of education, the commissioner of education, after a hearing on the issue of such neglect, shall remove the education department of the county involved from the county financial management system established by this act by notifying in writing the presiding officer of the county legislative body.

(b) Upon notice from the commissioner of education, the county legislative body shall transfer sufficient funds from the control of the department to provide financial services in the

county education department under the supervision of the county director of schools as provided by general law.

(c) State funds may be withheld for failure to provide adequate funds to transfer the responsibilities to the education department.

SECTION 25. Violations – Penalties. Any official or employee of the county, or of any institution or agency thereof, who fails or refuses to perform the duties required by this act or who fails or refuses otherwise to conform to the provisions of this act is subject to removal from office or position in accordance with the provisions of Tennessee Code Annotated, Title 8, Chapter 47, if applicable to such official or employee, and if not applicable to such official or employee in such manner as provided by the county legislative body.

SECTION 26. Implementation of system.

(a) Upon this act becoming law as provided in Sections 31 and 32, the county legislative body shall appoint members of the committee at the next meeting of such body.

(b) Within thirty (30) days after such appointment, the committee shall meet, elect a chair, and start the process for hiring a director.

(c) The committee shall also develop plans for implementing the financial management system beginning July 1 of the next fiscal year.

(d) In implementing the system, the committee and director shall seek recommendations from the state county audit division, the state department of education, the University of Tennessee's county technical assistance service, and other such organizations.

(e) After an implementation plan has been developed and approved by the committee, a report shall be submitted to the county legislative body by July 1 of the fiscal year in which the system is to be implemented.

(f) The committee shall publish in a local newspaper of county-wide circulation a notice specifying that:

(1) The county has adopted a private act relating to a financial management system and all employees, vendors and contractors must abide by its provisions beginning on a date specified in the notice; and

(2) The act or policies to implement the act will be available on a date specified in the notice and copies may be obtained at that time.

SECTION 27. Suspension of private or local acts. Upon ratification by the county legislative body and implementation of this act's provisions, the operation of all private or local acts relative to county finances, budgeting, and purchasing in conflict with this act are suspended until such time as the provisions of this act are revoked as provided in Section 28.

SECTION 28. Audits.

(a) All audits whether by the controller's office, division of county audit, or by private firm as authorized by law shall include a review of, and report on, the state of the finance department's compliance with all applicable federal, state and county laws that apply to the operation of the finance department.

(b) Any adverse findings shall be subject to a ninety (90) day review in which the adverse finding shall be corrected. No controversy arising from the audit shall be considered a Section 25 violation if corrected.

SECTION 29. Applicability of General Law. If any provision of this act conflicts with the general law, then general law shall control.

SECTION 30. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 31. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of County Commissioners of the County of Sumner, Tennessee. Its approval

or nonapproval shall be proclaimed by the presiding officer of the Board of County Commissioners and certified to the secretary of state.

SECTION 32. 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 31.