

SENATE BILL 2566

By Overbey

AN ACT to amend Chapter 555 of the Private Acts of 1953; as amended by Chapter 15 of the Private Acts of 1961, Chapter 206 of the Private Acts of 1984, Chapter 38 of the Private Acts of 2001, and any other acts amendatory thereto, relative to the corporate charter of the City of Friendsville.

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

SECTION 1. Chapter 555 of the Private Acts of 1953, as amended by Chapter 15 of the Private Acts of 1961, Chapter 206 of the Private Acts of 1984, Chapter 38 of the Private Acts of 2001, and any other acts amendatory thereto, is amended by deleting all language in its entirety, except for Section 1 of Chapter 555 of the Private Acts of 1953, and substituting instead the following language which shall constitute the charter to read as follows:

ARTICLE I: CORPORATE NAME AND BOUNDARIES

Section 1.01 Incorporation

The inhabitants within the corporate limits and boundaries hereinafter described in Section 1.02 in Blount County, Tennessee, are a body politic and corporate by the name of the city of Friendsville.

Section 1.02 Corporate Limits

The corporate limits of the city of Friendsville, Tennessee, are those fixed, defined, and established by Section 1 of Chapter No. 555 of the Private Acts of 1953, and all amendatory acts, and all annexations made pursuant to general law and all boundaries as now existing or as the corporate limits may hereafter be enlarged.

ARTICLE II: CORPORATE AUTHORITY AND POWER

Section 2.01 Corporate Authority

The corporate body of the city of Friendsville has perpetual succession, may sue and be sued, contract and be contracted with, grant, receive, purchase and hold real estate, mixed and personal property, and dispose of the same for the use and benefit of the city, and may have and use a common seal and change the same at its pleasure.

Section 2.02 General Legislative Powers

The city of Friendsville may:

(1) Levy, assess and collect taxes for all general and special purposes on all property, subjects, objects or privileges of taxation authorized by law for city purposes; and said city shall not exempt from taxation any property not exempt from state taxes except as herein provided.

(2) Adopt such classification of the subjects and objects of taxation as may not be contrary to 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.

(6) Issue and give, sell, pledge or in any manner of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the city, upon the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, 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 city 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 city or state.

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

(10) Take and hold property within or without the city or state upon trust; and to 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 of service to the city, its inhabitants, or any part thereof.

(12) Grant to any person, firm, association or corporation franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchise shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each grant of a franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other 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 service to be furnished the city and those in the city. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts; and when an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association, or corporation,

but also as against the city itself. Such contracts maybe entered into for the period of twenty-five (25) years or less, but not longer. The board of commissioners 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 city at the date of the contract, and as the corporate limits thereafter 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 and compel, from time to time, reasonable extensions of facilities for such services, but nothing herein 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) of this section.

(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, and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits and to regulate the use thereof within the corporate limits, and property may be taken and appropriated therefore under the provisions of Tennessee Code Annotated, §§ 7-31-107—7-31-111 and § 29-16-114, or in such other manner as may be 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 to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to

such 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 removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board of commissioners.

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

(19) To collect and dispose of drainage, sewages, offal, ashes, garbage, and refuse or other waste, or to license and regulate such collection and disposal, and the cost of such collection regulation or disposal may be funded by taxation or special assessment to the property owner.

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

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

(22) Define, prohibit, prevent, abate, suppress and regulate all acts, practices, conduct, business, 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 city, and to exercise general police powers.

(23) Prescribe limits within which such 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, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof 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) Enforce any ordinance, rule or regulation by fines, forfeitures, penalties, and by other actions or proceedings in any court of competent jurisdiction.

(27) Regulate, tax, license or suppress the keeping or going at large of animals within the city; to impound the same and in default of redemption to sell or kill the same.

(28) Call elections as provided in this charter.

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

Section 2.02. Ordinance requirements

In accordance with Tennessee Code Annotated, Section 6-54-512, the following actions shall be by ordinance unless otherwise allowed by general law to be done by resolution:

(1) Any action required by general law or this charter to be by ordinance; or

(2) Any action that:

(A) Levies a tax;

(B) Makes a special assessment;

(C) Is permanent in nature; or

(D) Has a regulatory or penal effect.

ARTICLE III: LEGISLATIVE BODY

Section 3.01 Board of Commissioners

The corporate power and authority is vested in the legislative body to be known as the board of commissioners, and such other offices as maybe elected or appointed in pursuance of law.

The legislative power and all other powers, except as otherwise provided in this charter and by general laws, are delegated to and vested in the board of commissioners. The board of commissioners may, by ordinance not inconsistent with this charter, prescribe the manner in which any powers of the city are exercised, provide all means necessary or proper therefor, and do all things necessary within or without the city or state to protect the rights of the city. The board of commissioners exercises its powers in session duly assembled. No commission member or members can exercise or attempt to exercise the powers listed in this charter except through proceedings adopted at some regular or specially called session.

Section 3.02 Board Composition

The legislative body or board of commissioners is composed of five (5) members who are elected by the qualified voters at a regular election as hereinafter provided.

Section 3.03 Elections

Elections are held on the first Thursday in August every two (2) years. In 1990, three (3) commissioners were elected for terms of four (4) years and in 1992, two (2) commissioners were elected for terms of four (4) years. It is the intention of this charter that the commissioners have terms of four (4) years and that the terms are staggered or alternated with elections every two (2) years. In the event of a tie among the commissioner candidates, the tie is decided by a

vote of the members of the certified elected board members at the first regularly scheduled meeting following the election.

The board of commissioners, by resolution, may call upon the election commissioners for Blount County to call and hold all general and special elections when authorized by law.

Section 3.04 Voter Qualification

Persons living within the corporation and non-residents owning a taxable freehold within the corporation and who are qualified to vote for members of the legislature of Tennessee are qualified voters to vote in any general or special election of the city.

Section 3.05 Term of Office

The terms of the commissioners begin on the first day of September following the election at which the commissioners are elected, The term is for a period of four (4) years or until their successors are elected and qualified. All members are elected from the city at large.

Section 3.06 Commissioner Eligibility

No person is eligible to the office of commissioner unless he has been a citizen of the city for at least one (1) year next preceding his election.

Section 3.07 Board Vacancy

A vacancy in the board of commissioners is filled by majority vote of the remaining members of the board of commissioners and the person selected to fill the vacancy serves for the remainder of the unexpired term.

Section 3.08 Mayor

At the first meeting of the board of commissioners, after a regular election, the board elects from its membership a mayor who serves for a period of two (2) years.

The mayor presides at all meetings of the board of commissioners and performs such other duties consistent with his office as may be imposed by it. He has a seat, a voice, and a vote upon all questions coming before the board. He

signs the minutes of the board and all ordinances on their final passage, executes all deeds, bonds and contracts made in the name of the city and along with the other commissioners introduces ordinances in the board.

The mayor has the power and duty to perform all acts that may be required of him by any ordinance or resolution enacted or adopted by the board of commissioners not in conflict with the provisions of this charter.

All legal process against the city is served upon the mayor and it is his duty to transmit the process to the city attorney after writing thereon the time, place and manner of service.

Section 3.09 Compensation

The salary of the board of commissioners is set by ordinance in conjunction with the annual budget; provided, however, if salaries are adjusted, they are not effective until after each commissioner's current term of office.

Section 3.10 Meetings

The board of commissioners, by ordinance or resolution, fixes the time and place of the regular meetings of the board. Whenever the welfare of the city demands it, the mayor or two (2) city commissioners may call a special meeting of the board of commissioners. A regular meeting at which a quorum is present may be adjourned, by a majority vote of the commissioners present, either from day to day or time to time, but not longer than the day before the next regular meeting, and the meeting continues as a regular meeting throughout the adjournment.

Section 3.11 Quorum

Three (3) commissioners or the mayor and two (2) commissioners constitute a quorum.

Section 3.12 Vice Mayor

At the same meeting where the mayor is appointed, the board of commissioners chooses from its membership a member to act in the absence, inability or failure to act of the mayor. The vice mayor acts as mayor during any

temporary absence, inability or failure to act of the mayor and signs all papers as vice mayor. The vice mayor retains his right to vote when serving as mayor.

Section 3.13 Rules of Procedure

The board of commissioners may determine the rules of its proceedings. It keeps a record of all the proceedings and the yeas and nays on all questions. Sessions of the board of commissioners are public with the exceptions of private meetings permitted by state law and subject to a change of place in case of emergency.

Section 3.14 Ordinances

The affirmative vote of a majority consisting of three (3) members is necessary to adopt any ordinance or resolution and to pass all other measures. Each and every ordinance or resolution passed by the board of commissioners is signed by the presiding officer and filed with the recorder. All ordinances begin with the clause, "Be it ordained by the board of commissioners of the city of Friendsville, Tennessee." Every proposed ordinance is introduced in writing in the form required for final adoption. Any member of the commission may introduce an ordinance. Prior to introduction, a copy shall be distributed to each member of the board of commissioners, the recorder and city attorney. The body of ordinances may be omitted from the minutes, but reference is made to the ordinance by title and/or subject matter. Every ordinance enacted by the board of commissioners requires passage by a majority of the members of the board of commissioners. Ordinances are heard on two (2) separate days, the second presentation not less than fourteen (14) days following the first presentation unless a majority of the entire board of commissioners, by recorded vote, waives this time requirement. Upon each presentation, the caption of the ordinance is read or its substance stated. Every ordinance is effective upon final passage unless by its terms the effective date is deferred. Every ordinance after final passage and upon receiving the signature of the mayor is immediately taken charge of by the recorder, numbered by the recorder, copied into an ordinance

book and there authenticated by the signature of the mayor and the recorder, and then filed and preserved in the recorder's office.

Section 3.15 Oath

Before entering upon their duties, members of the board of commissioners take and subscribe and file with the recorder an oath of affirmation that he will support the Constitutions of the United States and of the state of Tennessee and the charter and ordinances of the city, and that he will faithfully discharge the duties of his office.

ARTICLE IV: EMPLOYEES

Section 4.01 Appointment and Compensation

The board of commissioners fixes the salaries of all employees of the city. The board of commissioners establishes and makes provisions in the annual budget for such other officers, agents and employees as may be necessary and proper. The mayor is responsible for all supervision, hiring, firing, suspension, promotion, and demotion of employees.

Section 4.02 Surety Bond

Every officer, agent and employee having duties embracing the receipt, disbursement, custody or handling of money, shall before entering his duties execute a surety bond in the amount to be fixed and determined by the board of commissioners. If at anytime, it appears to the board of commissioners that the surety on any official bond is insufficient, the officer or employee will be required to give an additional bond. If such officer or employee fails to give additional bond within twenty (20) days of receiving notice, he will lose his position.

ARTICLE V: CITY ATTORNEY

Section 5.01 Qualifications, Appointment, Compensation and Duties

The city attorney is an attorney at law entitled to practice in the courts of Tennessee. The board of commissioners appoints the city attorney and sets his compensation. He directs the management of all litigation to which the city is a party and represents the city in legal matters. He advises the board of

commissioners upon all matters referred to him and approves all contracts, ordinances, deeds and resolutions submitted to him for approval.

ARTICLE VI: RECORDER

Section 6.01 Appointment, Compensation and Duties

The board of commissioners appoints a recorder who serves as the clerk of the board of commissioners. He keeps the records and minutes of the board of commissioners and performs such other duties as may be required of him by the board of commissioners. He has a seat and voice on the board of commissioners but no vote. He receives such salary or compensation as is determined and fixed by the board of commissioners. He, by his signature and city seal, attests all instruments signed in the name of the city. He has the power to administer oaths. He has custody of and preserves in his office the city seal, the public records, ordinances, resolutions, minutes of the board of commissioners, contracts, bonds, deeds, certificates and all other papers except his own bond, which is in the possession of the mayor.

The recorder also serves as the treasurer of the city and it is his duty to collect, receive and receipt for all taxes and all other revenues and proceeds of all moneys belonging to the city, and disburses the same under the direction of the board of commissioners. He pays all bills and accounts against the city when the board of commissioners has duly appropriated money.

The recorder does all other acts and performs all other duties that may be placed upon him by the board of commissioners.

ARTICLE VII: MUNICIPAL COURT

Section 7.01 City Judge

The board of commissioners may appoint a city judge who has jurisdiction in and over cases for violation of the laws and ordinances of the city; or arising under the laws and ordinances of the city; and city ordinances that mirror, substantially duplicate or incorporate by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or

cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by the ordinance is a civil fine not in excess of fifty dollars (\$50.00).

Section 7.02 Duties of the Judge

The judge has the power and authority to impose fines, costs and forfeitures and to punish by fine for violation of city ordinances in accordance with Section 7.05; to preserve and enforce order in his court; to enforce the collection of all such fines, costs and forfeitures imposed by him and in default of the payment of any such fines, costs or forfeitures imposed by him and in default of the payment or good sufficient security given for the payment of any such fines, costs or forfeiture imposed by him.

The judge may remit, with or without condition, fines and costs imposed for violation of any ordinance or charter provision.

Section 7.03 Appeal

Any person dissatisfied with the judgment of the judge in any case or cases heard and determined by the judge may within ten (10) days thereafter, Sunday exclusive, appeal to the next term of the circuit court of Blount County, upon giving bond in the amount of two hundred fifty dollars (\$250.00) for such person's appearance and faithful prosecution.

Section 7.04 Warrants

Warrants are issued in compliance with state law.

Section 7.05 Fines and Court Costs

All fines imposed by the judge for violation of city ordinances belong to and are paid into the treasury of the city of Friendsville.

The judge, in all cases heard and determined by him for violations of the corporate laws and ordinances, imposes court costs in an amount set by the board of mayor and commissioners by ordinance.

The judge certifies to the chief of police for collection all fines, costs and forfeitures imposed by him for violations of the laws and ordinances of the city.

It is the duty of the judge to collect and receipt for all fines imposed by him and he renders a monthly report to the board of commissioners of all costs and fines collected and of all assessed costs and fines that are uncollected.

It is a violation of this charter for any other person or officer to collect or receipt for fines, costs and recoveries, but the judge may authorize the chief of police to collect and receipt for fines and costs.

Section 7.06 Docket

The judge keeps or causes to be kept a court docket or dockets embodying complete detailed records of all cases handled by him.

ARTICLE VIII: CITY DEPARTMENTS

Section 8.01 Creation and Staffing

The board of commissioners may create departments and staff positions as they deem proper and necessary. Duties and responsibilities may be established by ordinance.

ARTICLE IX: FISCAL YEAR AND ANNUAL BUDGET

Section 9.01 Fiscal Year

The fiscal year of the city begins with the first day of July each year and ends with the last day of June, until otherwise fixed by ordinance.

Section 9.02 Budget

The board of commissioners shall comply with the provisions of the Municipal Budget Law of 1982, as amended, compiled in Tennessee Code Annotated, Title 6, Chapter 56, Part 2.

Section 9.03 Purchasing

The board of commissioners shall comply with the provisions of the Municipal Purchasing Law of 1983, as amended, compiled in Tennessee Code Annotated, Title 6, Chapter 56, Part 3.

Section 9.04 Audit

The board of commissioners has audits performed as required by the laws of the state of Tennessee.

ARTICLE X: TAXATION AND REVENUE

Section 10.01 Property Taxes

The board of commissioners may levy a property tax in compliance with state laws and generally accepted accounting principles. Likewise, the city may collect taxes and delinquent taxes in compliance with state laws and generally accepted accounting principle.

Section 10.02 Privilege and Excise Taxes

The board of commissioners may by ordinance impose license tax on any and all privileges, business, occupations, vocations, pursuits, trades or callings to such taxation under the laws of the state of Tennessee; and a separate license tax may be imposed for each place of business conducted by any individual, association or corporation.

ARTICLE XI: GENERAL PROVISIONS

Section 11.01 Validity

If any section or part of section of this charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of section of this charter, unless it already appears that such other section or part of section is wholly or necessarily dependent for its operation upon this section or part of section held to be constitutional or valid.

Section 11.02 Public Act

This charter is declared to be a public act and may be read in evidence in all courts of equity and law; and all ordinances and resolutions and proceedings of said board of commissioners created by this act may be proven by the seal of said corporation, attested by the recorder; and when printed and published by the authority of said corporation, the same shall be received in evidence in all courts and places without further proof when certified by the recorder.

Section 11.03 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 sexes."

Section 11.04 Conflict

All acts and parts of acts in conflict with this charter are hereby repealed.

Section 11.05 Effective Date

This charter takes effect from and after its passage, the public welfare requiring it.

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 city of Friendsville. Its approval or nonapproval shall be proclaimed by the presiding officer of the city of Friendsville 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.