



State of Tennessee

PRIVATE CHAPTER NO. 46

SENATE BILL NO. 2937

By Lundberg, Crowe

Substituted for: House Bill No. 2933

By Hulsey

AN ACT relative to the Sullivan County Financial Management System of 2020.

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

SECTION 1. SCFMS --

This act shall be known and may be cited as the "Sullivan County Financial Management System of 2020" (SCFMS).

SECTION 2. Purpose --

It is the purpose of this act to provide Sullivan County with a modern and efficient system for the management of county finances, including, but not limited to, accounting, budgeting, purchasing, investment oversight, debt management, grant coordination, payroll, and cash management oversight.

SECTION 3. Definitions --

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

(a) "Agency" means any entity of the county government, including, but not limited to, boards, commissions, departments and offices headed by employees or officers of the county whose funds are maintained by the county trustee;

(b) "Capital asset" means land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, works of art and historical treasures, infrastructure, and all tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period;

(c) "Chief administrative officer" has the same meaning as defined in Tennessee Code Annotated § 54-7-103;

(d) "County mayor" means county executive or county mayor;

(e) "Purchase" means the purchase, lease, lease-purchase, or contract for procurement of real and personal property or services or any combination thereof; and

(f) "Special committee" means a committee established for the following reasons: budget, administrative, executive, investment, debt management, or purchasing.

SECTION 4. Creation of finance department --

(a) There is created a finance department to administer the finances for all funds of the county maintained by the county trustee.

(b) The finance department shall be responsible for accounting; budgeting; debt management; grant coordination; payroll; and cash management oversight for all agencies of the county as provided in this act. The finance director, with the approval of the mayor, shall develop a system in conformity with generally accepted governmental accounting principles and practices prescribed by the comptroller of the treasury.

(c) A central purchasing department shall be created as provided in Section 9. This department shall be responsible to the Sullivan County financial management committee (SCFMC).

(d) The funding for the finance department shall be allocated between the county general fund and county general purpose school fund. Each fund's allocation shall be based upon the expenditures budgeted from the respective funds in the 2020 FY adopted operating budget.

(e) The county legislative body shall provide adequate office space and shall appropriate adequate funds for equipment and supplies necessary for the efficient operation of the finance department and central purchasing department.

(f) All employees performing the functions of accounting, budgeting, debt management, grant coordination, payroll, and cash management oversight for the various agencies of the county shall be transferred to the finance department and shall function under the supervision of the finance director, except for the following: any employees the finance director does not require and the head of the agency agrees to retain, and employees of any county officer enumerated in Tennessee Code Annotated § 8-22-101 needed to perform the duties of such county officer. Notwithstanding any other law to the contrary, all positions transferred that are enumerated in Tennessee Code Annotated § 8-22-101 needed to perform the duties of such office as determined by the finance department and the salaries, benefits, travel and training and other expenses relating to such personnel shall be budgeted under the finance department. Officers enumerated in Tennessee Code Annotated § 8-22-101 may continue to have employees to perform duties regarding receipt and disbursement of funds, and accounting for same, which are directly related to the duties of their respective offices; provided, that all other accounting, budgeting, debt management, grant coordination, payroll and cash management oversight functions shall be performed by the finance department except as otherwise specified in this act.

(g) All fees and commissions allowed, collected or in any manner received by any county officer enumerated in Tennessee Code Annotated § 8-22-101 as a fee or commission of the office shall be transferred to the county trustee monthly and deposited in the county general fund. The county legislative body shall make the necessary appropriations from the county general fund and pay to any officer enumerated in Tennessee Code Annotated § 8-22-101 the salary as fixed by Tennessee Code Annotated § 8-24-102 and the authorized expenses fixed by law for the operation of the office including the salaries and related expenses of all deputies and assistants as authorized by Tennessee Code Annotated title 8, chapter 20, irrespective of the fees earned or collected by the officers. The number and salary of deputies and assistants of the officers listed in Tennessee Code Annotated § 8-22-101 shall continue to be set pursuant to Tennessee Code Annotated title 8, chapter 20.

SECTION 5. Finance Committee --

(a) The SCFMC is created.

(b) The SCFMC shall consist of seven (7) members as follows: the county mayor; chief administrative officer of the county highway department; director of schools; finance director during the implementation period, as a non-voting member except in case of a tie; and three (3) other members of the Commission elected by the county legislative body. After the completion of the implementation period the mayor shall appoint an additional member from the county legislative body, or a member of the county school board approved by the legislative body to take the position previously filled by the finance director during implementation.

(c) The SCFMC at its first meeting after September 1 of each year shall elect a chairperson for a term of one (1) year and shall annually elect a vice-chairperson who shall serve as chair of the SCFMC during the absence of the chairperson.

(d) The SCFMC shall meet quarterly and from time to time at the call of the chairperson or majority of the members as necessary and prudent for the discharge of its duties.

(e) The finance director shall appoint a secretary to the SCFMC who shall be responsible for keeping records of the actions of the SCFMC. The finance director or finance director's designated representative may speak at meetings of the SCFMC as the SCFMC may deem proper; provided, that the finance director shall not vote on any matter before the SCFMC except to break a tie vote during the implementation period.

(f) The SCFMC 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.

(g) The SCFMC may promulgate personnel policies for the finance department not in conflict with Tennessee Code Annotated title 5, chapter 23, after receiving the recommendations of the finance director.

(h) The SCFMC shall prohibit nepotism within its operations. Nepotism shall not be allowed involving any member of the SCFMC, county legislative body, and board of education member, the finance director or the purchasing agent. This policy shall address spouses, children, parents and siblings (including stepchildren, stepsiblings, and parents' in-laws).

SECTION 6. Committees --

(a) The mayor shall, with approval of the county legislative body, establish an audit committee in accordance with Tennessee Code Annotated § 9-3-405(b), unless a county legislative body has previously established an audit committee pursuant to Tennessee Code Annotated § 9-3-405(a). All meetings of the audit committee shall be governed by Tennessee Code Annotated § 9-3-405(c) - (i).

(b) The county legislative body may by resolution create and constitute one (1) or more separate special committees as provided in subsections (g) – (j) of this section.

(c) If a special committee is not created, the SCFMC shall assume the duties of the special committee; the SCFMC shall assume or designate to the budget committee the duties of the debt management and investment committees that will also consult with or advise the county trustee on all investment decisions. The SCFMC may, as the need arises, assign subcommittees to report back to the committee on the various needs.

(d) One of the special commissions is the budget committee, which shall consist of seven (7) members as follows: one (1) county mayor serving as chairperson or his designee and six (6) members of the county legislative body nominated and selected by the county mayor and approved by the county legislative body.

(e) The SCFMC shall serve as the advisory committee to the purchasing agent or it may designate a subcommittee to serve in that capacity.

(f) The administrative and executive committees have historically acted as a hearing body to review and make recommendations to the budget committee over the assigned department's budget request. These two (2) committees shall be comprised of commission members not sitting on the budget committee.

(g) Appointed or elected members of any special committee created pursuant to this act shall be appointed or elected annually to serve for a term of one (1) year and shall be appointed so as to be confirmed by simple majority vote of the county legislative body.

(h) The county mayor or the mayor's designee shall serve as chairperson of each special committee created pursuant to this act until the special committee shall annually elect a chairperson at its first meeting. Each special committee shall annually elect a vice-chairperson to serve in the absence of the chairperson.

(i) The finance director shall appoint a secretary to each special committee established pursuant to this act and the appointee shall be responsible for keeping records of the actions of the special committee. The secretary may speak at meetings of the special committee as the special committee may deem proper; provided, that the secretary shall not vote on any matter before the special committee.

(j) The county legislative body shall by resolution set the compensation, if any, for the members of the various committees required or authorized by this act.

SECTION 7. Finance Director Position --

(a) If or when the finance director's position is to be filled the county mayor shall appoint the finance director with the approval of the county legislative body.

(b) The county mayor may dismiss the finance director upon the recommendation of the SCFMC and the approval of the county legislative body. The county mayor shall be responsible for ensuring the finance director complies with the various provisions of this act.

(c) The finance director shall for all purposes be an employee of the county, function as a department head, and shall be supervised by and report administratively to the county mayor.

(d) The finance director shall have as a minimum qualification a bachelor's degree from an accredited college or university with at least twelve (12) semester hours of accounting or finance, or both, plus at least five (5) years of experience in a governmental accounting or finance position. During the selection process, the county mayor shall consider not only the candidate's education and experience, but also professional certifications from nationally recognized professional organizations in the field of accounting and finance, and other criteria as established by the county legislative body. The finance director shall annually obtain at least twenty-four (24) hours of continuing professional education (CPE) in the field of governmental accounting and finance. Notwithstanding any of the provisions of this section, any person serving as a director of finance pursuant to the County Financial Management System of 1981, compiled in Tennessee Code Annotated title 5, chapter 21, director of accounts and budgets pursuant to the County Fiscal Procedure Law of 1957, compiled in Tennessee Code Annotated title 5, chapter 13, or any similar private act on the date this act becomes effective in any county, shall be eligible for appointment as the finance director and shall be required to fulfill the twenty-four (24) minimum hours of CPE annually.

(e) The compensation of the finance director shall be determined by the SCFMC within the limitations of the budget; provided, that the compensation shall not be less than the salary paid to the county trustee, and in addition to the salary, the county shall appropriate sufficient funds to pay for applicable professional organization dues, professional certifications, the costs of obtaining the required twenty-four (24) hours of CPE credit, and the costs of obtaining CPE credit to maintain any professional certifications.

SECTION 8. Finance Director's Duties --

(a) The finance director shall be the head of the finance department and oversee its operations. The finance director has authority to hire, promote, demote, discipline, and dismiss employees of the finance department consistent with the personnel policies applicable to the finance department. The finance director shall determine compensation of employees of the finance department within the budget.

(b) The finance director shall be responsible for implementation of the policies of the SCFMC and the decisions of any special committee established pursuant to this act.

(c) The finance director shall implement and maintain an accounting, budgeting, and debt management, grant coordination, payroll and cash management system for the county and may assist other county officers and department heads as requested to achieve an efficient financial management system for the county. The finance director shall establish and maintain records of capital assets of the county in accordance with generally accepted governmental accounting principles. The finance director shall annually develop long-range plans for addressing any long-term liabilities and present these plans to the SCFMC for its consideration.

(d) The finance director shall appoint an assistant finance director subject to the majority approval of the SCFMC. The assistant finance director shall be an employee of the finance department and shall perform those duties and responsibilities as are assigned by the finance director. In the absence of the finance director, other than a vacancy in the position, the assistant finance director shall perform the duties of the finance director necessary for the continued operation of the finance department. In the event of a vacancy in the position of finance director, the deputy finance director shall perform the duties of the finance director necessary for the continued operation of the finance department until a finance director is appointed by the county mayor.

SECTION 9. Purchasing Agent --

(a) The county mayor shall appoint the purchasing agent with a simple majority approval of the county legislative body.

(b) The central purchasing department separate and apart from the central finance department is established under the SCFMC. The purchasing agent's compensation shall be determined by the SCFMC within the limitations of the budget; provided, that the compensation shall not be less than the salary paid to the county trustee.

(c) The county mayor may dismiss the purchasing agent with a recommendation of the financial management committee and approval of the county legislative body. The county mayor shall be responsible for ensuring the purchasing agent complies with the purchasing policies and procedures adopted by the SCFMC.

(d) The purchasing agent shall have at least five (5) years of experience in governmental or private sector procurement. During the selection process, the county mayor shall consider not only the candidate's experience, but also professional certifications from nationally recognized professional organizations in the field of public procurement. The purchasing agent shall for all purposes be an employee of the county, function as a department head, and shall be supervised by and report administratively to the county mayor. The purchasing agent shall be the head of the purchasing department and oversee its operations. The purchasing agent has authority to hire, promote, demote, discipline, and dismiss employees of the purchasing department consistent with the personnel policies applicable to the purchasing department. The purchasing agent shall determine compensation of employees of the purchasing department within the budget. The purchasing agent shall be responsible for implementation of the policies and procedures established by the SCFMC.

(e) The purchasing agent shall appoint the assistant purchasing agent subject to the approval of the SCFMC. The assistant purchasing agent shall be an employee of the purchasing department and shall perform those duties and responsibilities as are assigned by the purchasing agent. In the absence of the purchasing agent, the assistant purchasing agent shall perform the duties of the purchasing agent necessary to the continued operation of the purchasing department. Any person serving as a purchasing agent pursuant to county legislative action on the day this act becomes effective in the county shall be eligible for appointment as the purchasing agent.

SECTION 10. Official Bond --

(a) The finance director shall execute a surety bond or acquire appropriate insurance coverage in an amount not less than one hundred thousand dollars (\$100,000), for the faithful performance of the finance director's duties in accordance with the general law on county officials' bonds. The bond shall be prepared in accordance with the provisions of Tennessee Code Annotated title 8, chapter 19, approved by the county legislative body, filed with the county clerk for safekeeping, and recorded in the office of the register of deeds.

(b) The cost of the bond shall be paid from funds appropriated to the finance department for this purpose unless otherwise funded.

(c) The amount of the bond may be increased by the SCFMC subject to additional appropriations for the cost of such additional bond amount.

(d) The purchasing agent shall execute a surety bond or liability insurance policy in the same amount and manner as the finance director.

SECTION 11. Developing of the annual budget --

(a) The finance director, in coordination with the budget committee shall establish a calendar for the development and approval of the fiscal year's budget. The calendar shall be approved by the SCFMC and reported to the county legislative body at the December monthly meeting.

(b) The forms for receiving the upcoming fiscal year's budget request are to be developed by the finance director under the guidance of the budget committee and delivered to the departments, commissions, and agencies no later than January 15th.

(c) No later than February 8th, the new fiscal year's budget request along with projected revenues and funding sources for the respective office/department will be received and organized into spreadsheets to be presented for review by the responsible committees. Currently, those committees are the budget, administrative, and executive committees, but may be redirected to another committee as decided by the county legislative body. These committees will report their recommendations to the budget committee by March 15th.

(d) No later than May 1, the local education agency (LEA) shall submit a proposed budget including projected revenues to the finance director for presentation to the budget committee provided that, the LEA may amend the proposed budget after May 31st.

(e) No later than May 15th, the county budget committee shall vote upon the proposed budget and the finance director shall notify the LEA whether the county budget committee approves or rejects the LEA's proposed budget.

(1) If approved, the finance director shall immediately forward the proposed budget to the county legislative body for consideration; or

(2) If rejected, the LEA shall submit a revised budget proposal to the finance director within ten (10) business days after receipt of notice that the budget proposal was rejected.

(f) If the county legislative body fails to adopt a budget, property tax resolution, and appropriation resolution by July 31st of any year, then by operation of law, the operating budget for the ensuing fiscal year, other than the portion for the county department of education, shall be the consolidated budget with proposed amendments submitted by the county mayor or the budget committee. The property tax levy resolution must be enough to fund the consolidated budgets enacted by resolution and by operation of law.

(g) If the county legislative body and the county school board fail to agree upon a budget for the county department of education by June 30th of any year, then, by operation of law, the budget for the county department of education shall be equal to the minimum budget required to comply with the local match and maintenance of effort provisions of the BEP or any subsequent statutory provisions establishing local funding to be generated. However, if for three (3) consecutive years, the county legislative body and school board fail to agree upon a budget and the department of education receives the minimum required funding for that fiscal year by operation of law, then, the budget in the third year shall include a mandatory increase that is equivalent to three percent (3%) of the required funding from local sources for schools; provided however, this increase shall not be required if during any of those three (3) years the school board failed to submit its budget proposals in accordance with the budget calendar provided for in this act. Local revenues projected for the schools shall be projected consistently with the other county funds by the finance director.

(h) The proposed budget shall not decrease personnel for the sheriff's office without the agreement of the sheriff pursuant to Tennessee Code Annotated § 8-20-120.

(i) The budget for the county election commission shall conform to the requirements of Tennessee Code Annotated § 2-12-109 and Tennessee Code Annotated § 2-12-209.

(j) The budget committee's proposals shall conform to the requirements of Tennessee Code Annotated title 8, chapter 20.

(k) At the time of the submission of the proposed operating budget by the budget committee to the county legislative body, the finance director shall report to the county legislative body as to whether any portion of the proposed operating budget would likely cause either a reduction of state funds or the county receiving an amount less than what the county could otherwise be eligible to receive.

(l) Any commissioner may propose amendments to any appropriation except to an LEA in the budget and it be voted upon by the county legislative body and if approved, becomes part of the budget if the amendment does not create a conflict with governing statutes or a deficit budget.

(m) The budget committee shall present to the county legislative body a proposed budget appropriation resolution and proposed tax levy resolution when the proposed operating budget is presented.

(n) The local revenues for the school funds shall be recommended by the budget committee and accepted by the county board of education if they cannot reach an agreement otherwise.

SECTION 12. Appropriations --

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

(b) Any resolution presented to the county legislative body in any fiscal year, after the original appropriation resolution has been adopted and the property tax rate for the year has been set, which provides for an expenditure in addition to those made in the original budget appropriation, shall specifically provide the source of revenue or designate the source of funds necessary to meet expenditures to be made as a consequence of the additional appropriation.

(c) The appropriations made by the county legislative body shall constitute authorization for the expenditures contained therein unless otherwise limited by the county legislative body, subject to the impoundment authority granted to the SCFMC, county legislative body, and county board of education pursuant to Section 15 of this act.

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

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

SECTION 13. Amendment of Operating Budget --

(a) Amendments to the LEA final adopted operating budget of the county shall be made as follows:

(1) Board of education amendments to line items within the major categories are developed by the director of schools and submitted to the board of education for approval. The director of schools shall report the proposed amendments to the finance director five (5) days prior to proposing the amendments and report on the action taken within five (5) days. The finance director may offer his opinion on the amendment or comment if requested.

(2) Board of education amendments to the major categories which do not increase the grand total of appropriations in the original adopted budget of the county department of education shall be proposed by the director of schools and approved by the county board of education, then shall be submitted to the budget committee for approval. The finance director may offer his opinion on the amendment or comment if requested. The budget committee must act within thirty (30) days of submission by the director of schools or the director of schools may submit the request to the county legislative body.

(3) Board of education amendments to line items and major categories that increase the total revenues or appropriations, or both, of the original adopted budget shall be approved by the county board of education and submitted by the director of schools to the budget committee for its recommendation and to the county legislative body for their approval, except as provided by Tennessee Code Annotated § 49-2-203(b)(15). The budget committee must act within thirty (30) days of submission by the director of schools or the director of schools may submit the request to the county legislative body. The finance director shall provide his opinion on the requested amendment.

(b) Amendments to the county's final adopted operating budget, other than the LEA, are to be submitted by the county mayor, chief administrative officer of the county highway department head or any other agency of the county whose budget is to be approved by the county shall be made as follows:

(1) Amendments within major categories of the budget shall be submitted to the budget committee for approval. If the budget committee declines to approve the request, then the requesting department may submit the request to the county legislative body at the next scheduled meeting.

(2) Amendments to major categories of the budget that increase the total revenues or appropriations, or both, may be proposed by the county mayor, chief administrative officer of the county highway department or any other agency of the county whose budget is to be amended shall be submitted to the budget committee for recommendation and to the county legislative body for their approval. The budget committee must act within thirty (30) days of submission or the requesting party may submit the request to the county legislative body. The finance director shall provide his opinion on the requested amendment.

(c) Notwithstanding subsections (a) and (b) of this section, amendments shall comply with any court order entered pursuant to Tennessee Code Annotated title 8, chapter 20.

SECTION 14. Impoundment of Funds --

If at any time the finance director determines that the revenues or other resources are, with respect to any fund, less than what was anticipated in the adopted operating budget, or if unanticipated expenditures arise which will likely create a budget deficit, the finance director may certify to each member of the county legislative body for non-school funds, and to the county board of education for school funds, the finance director may impound the appropriations as may be necessary to prevent deficit operation. The impoundment may be overridden by a simple majority vote of the county legislative body for non-school funds or the county board of education for school funds. If the county legislative body or county board of education overrides an impoundment, the county legislative body or the county board of education shall make those amendments to the operating budget as may be necessary to prevent deficit operation. The necessary amendments require a majority vote of the county legislative body or the county board of education. However, no impoundment of funds shall affect expenditures mandated by state statute or court order that have been appropriated to the offices as enumerated in Tennessee Code Annotated § 8-22-101.

SECTION 15. Capital Budget --

(a) Annually, the county mayor, director of schools, and chief administrative officer of the county highway department shall submit to the finance director, on forms developed by the finance director and approved by the SCFMC, a five-year plan for capital outlays to be revised annually. The proposed capital outlays shall include estimated expenditures, a schedule for project completion or purchase of real and personal property, or both. Capital outlay for purposes of this section shall include any single purchase of a capital asset as defined in Section 3 when the total purchase price inclusive of all related expenses is expected to equal or exceed the county's capitalization threshold policy as set by the SCFMC.

(b) The finance director shall consolidate the details of all proposals for capital outlays noted in subsection (a) for the next fiscal year, including capital projects to be initiated during the next fiscal year and purchases requiring capital outlays during the next fiscal year. The SCFMC shall recommend to the budget committee a funding source and the amount of capital outlay expenditures to include in the operating budget.

(c) The SCFMC shall propose a revised consolidated capital outlay plan for the ensuing fiscal year at the same time the proposed operating budget is presented to the county legislative body. This document shall be known as the "proposed capital project plan".

(d) The county legislative body shall review the proposed capital project plan presented by the SCFMC. The county legislative body may alter the plan and shall annually adopt a capital projects plan. Prior to the adoption of a capital projects plan, the county board of education's director of schools, the chief administrative officer of the county highway department, and the county mayor have the right to address the county legislative body in regard to their respective agencies' capital project needs.

SECTION 16. Debt --

(a) Issuance of Debt. The finance director shall receive from the county mayor, director of schools, chief administrative officer of the county highway department, and all other county agencies, offices, and departments all proposals for the issuance of debt, and shall present such proposals, along with the recommendation of the finance director, to the budget committee, with the following exceptions:

(1) Tax anticipation notes; and

(2) Contracts, leases, and lease-purchase agreements that extend beyond one (1) year, which shall be considered long-term debt.

(b) Debt Management Role

(1) The budget committee shall review proposals for the issuance of debt for conformity with the adopted capital projects plan, the operating budget for the current fiscal year, and any proposed operating budget for the next fiscal year that may have been submitted by the budget committee.

(2) Additionally, the budget committee shall review proposals for the issuance of debt to determine whether the proposal optimizes the county's financial resources,

impacts negatively upon the credit rating of the county, and whether better financing or funding proposals exist.

(3) Each year, the budget committee shall report its recommendation on all proposals for the issuance of debt to the county legislative body. If the proposals for the issuance of debt are not received during the annual budget process, then the SCFMC shall submit its recommendation to the budget committee within one (1) month from receipt of the proposal for the budget committee's recommendation to the county legislative body.

(4) The county legislative body shall not approve the issuance of any debt for which its approval is required by law until it has received the recommendation of the budget committee, unless the budget committee is requested by the county legislative body to make a recommendation and it fails to do so within thirty (30) days of making the request.

(5) On or before May 1 of each year, the finance director shall prepare and submit to the budget committee a report on the current debt structure of the county, showing the amounts borrowed and date of borrowing, purpose of the borrowing, principal outstanding, interest paid, interest to be paid each year until retirement of the debt, interest rate, and source of funds for payment of principal and interest. The finance director shall make recommendations for improvements in debt management, financial soundness of the county, and whether any change in the debt structure is needed, including, but not limited to, early retirement of debt or refunding of debt. The budget committee shall review this report of the finance director and shall report its recommendations regarding any proposed changes in debt structure to the county legislative body on or before July 1 of each year.

(6) The budget committee shall prepare a debt management policy in compliance with statutory requirements and state funding board recommendations to be submitted to the county legislative body for approval.

(7) The budget committee shall ensure the finance director prepares and files all necessary reports required by the Securities and Exchange Commission, the municipal securities rulemaking board, and all other regulatory authorities related to the county's debt.

SECTION 17. Budgetary Report --

(a) The finance director shall prepare a budgetary report each month showing the condition of the budget. This budgetary report shall be posted on the county's website by the fifteenth (15th) day of the following month or as soon thereafter as the necessary information is available.

(b) The budgetary report shall show for each line item appropriation the total expenditures for the month and the year to date, the number of outstanding encumbrances, and the amount of the unencumbered balance.

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

(d) The head of each agency of the county shall be notified of the posting of the monthly budgetary reports for their respective agency.

(e) Upon notifying the members of the county legislative body of posting of such report, additional information shall be provided regarding areas such as departments or accounts that should be highlighted for their attention if action should be forthcoming of the issues noted.

(f) Any member of the county legislative body or constitutional officer may request in writing to the finance director a printed copy and it shall be provided.

SECTION 18. Investing Idle County Funds --

The SCFMC shall establish and approve policies and procedures for investing idle cash funds in various investments in accordance with Tennessee Code Annotated § 5-8-301. The SCFMC or budget committee, if created, may authorize the county trustee to perform the daily investment function.

SECTION 19. Checking System --

(a) The county may elect to use a checking system for the disbursement of funds. The checking system shall be installed and maintained by the trustee, in concurrence with the finance director, in accordance with the provisions of Tennessee Code Annotated § 5-8-210.

(b) All checks on county funds held by the county trustee shall be signed by the finance director and the following applicable person:

(1) The director of schools for disbursements of school funds; or

(2) The county mayor for disbursements of county funds other than school funds.

(c) All signatures required on county checks may be executed by methods other than personal signature if such methods are approved by the person authorized to sign, the SCFMC, and the comptroller of the treasury.

(d) Checks shall be prepared by the finance department and the appropriate signature affixed representing the finance director and either the county mayor or director of schools upon their authorization. The finance department shall mail or cause to be delivered all checks drawn upon county funds held by the county trustee. The finance director may authorize and cause funds to be electronically transferred from county bank accounts, upon approval of the SCFMC and the comptroller of the treasury.

(e) The finance department shall maintain a copy of all checks issued, invoices correlated to the checks or electronic transfers carrying out the requisition or paying for the goods or services received as described on the invoice.

(f) The purchasing agent shall maintain a record of all requisitions for disbursements.

(g) The copies of checks and other records of the finance department shall be retained in accordance with retention schedules authorized by Tennessee Code Annotated § 10-7-404.

(h) Checks to disburse funds shall not be written and transfers of funds shall not be made by electronic means until the finance director or his or her designated employee has reviewed the requisition, invoice, receiving documentation, or other document indicating a disbursement of county funds should be made. This review function shall be known as pre-audit. A pre-audit approval for disbursement of funds shall not be made unless the documentation supporting a disbursement of funds appears to be correct, properly authorized, and not exceeding the unencumbered balance of the appropriations against which they are chargeable. Pre-audit approval for disbursement of funds shall be made by signature of the finance director or designated employee(s) of the finance department in a timely manner to prevent work stoppage or postponement of services and in a format developed by the finance director and approved by the SCFMC.

(i) Disbursements of county funds shall be made as follows:

(1) Payroll disbursements shall be based upon documentation furnished to the finance department and certified by all heads of all agencies of the county for themselves and their employees establishing the employment relationship and all relevant information required by the finance director to determine proper payment, withholding of income for taxes and other purposes, benefits, leave status, or other information relevant to the county's financial relationship to the employee.

(2) Disbursements for personal property received by the county shall be based upon invoices showing receipt of personal property properly requisitioned and purchased pursuant to a properly issued purchase order or report of an emergency purchase approved by the purchasing agent.

(3) Disbursements for services rendered to the county shall be based on services performed and approved by the head of the agency of the county receiving the service.

(4) Disbursements pursuant to a contract or agreement shall be based upon documentation from the head of the county agency responsible for the county's obligation.

(5) Disbursements based upon a court order or settlement of a lawsuit shall be based upon the written directive of the county attorney or the attorney representing the county board of education.

(6) Disbursements for the purchase or condemnation of real property shall be based upon the written directive of the director of schools for school property, the chief administrative officer of the county highway department for highway property obtained with highway funds, and the county mayor for all other real property.

(7) Disbursements of appropriations to nonprofit organizations approved through the budgetary process shall be based upon the written directive of the county mayor.

(8) Heads of all agencies of the county and employees of the county shall furnish to the finance director or the finance director's designated employee all requested information in a timely manner to insure the proper and timely disbursement of county funds.

SECTION 20. Purchasing Policies & Procedures --

(a) Policies and procedures for purchasing for the county shall be established by the SCFMC, upon receiving the recommendations of the purchasing agent. The policies and procedures for purchasing shall be made available for the use of all officers and employees of the county involved with purchasing. The SCFMC shall establish a system whereby heads of all agencies of the county or their designees requisition real and personal property or services and provide estimates of cost. Such requisitions shall be reviewed by the purchasing agent or the purchasing agent's designee and if the requisition appears to be correct, properly authorized, and the cost will not exceed the unencumbered balance of the appropriation against which the cost of the requisition is chargeable as approved by the finance department, then the purchasing agent shall determine the proper method of obtaining the property or services, and issue purchase orders as appropriate according to this act and the policies and procedures of the SCFMC. Heads of all agencies of the county may specify employees who are authorized to make requisitions, and any limitations upon their authority to act, upon written notification to the purchasing agent. Requisitions for a contract, lease, or lease-purchase extending beyond the current fiscal year that would constitute an obligation in excess of an amount to be determined by the purchasing agent shall be forwarded to the budget committee for approval prior to any further approval of the requisition.

(b) The policies and procedures for purchasing for the county established by the purchasing agent shall include the use of any type of purchasing or credit card and an approval process for purchases of real property, personal property, and services, including those by lease, lease-purchase, or contract that extend beyond one (1) year or commit the county to expenditures in excess of an amount as determined by the budget committee. The purchasing agent shall establish policies requiring approval of such purchases by either the purchasing agent, county legislative body, or any combination thereof. The policies and procedures approved by the SCFMC pursuant to this subdivision to determine the approval process for any type or amount of purchase shall be subject to approval by the county legislative body.

(c) Requisitions shall include specifications when necessary as determined by the purchasing agent. Specification development and stipulation shall be made by the county purchasing agent to receive the personal property or services requisitioned. However, the purchasing agent may reject any specification that the purchasing agent deems inadequate. The purchasing agent shall assist the agency of the county as needed to develop proper specifications for requisitions. Specifications shall not be written to exclude specific vendors, contractors or service providers, or to limit the bidding to a specific vendor, contractor, or service provider.

(d) Except as otherwise provided in this act or by other applicable general law, purchases shall be based upon competitive bidding. The SCFMC, after receiving the recommendations of the purchasing agent, shall establish the dollar amounts and types of purchases for which a formal competitive bidding process is required, the dollar amounts and types of purchases for which an informal bidding process is required or not required, and the exceptions to competitive bidding requirements, but the dollar amounts established for formal competitive bidding shall not exceed the amounts otherwise applicable in general law. In addition to competitive bidding, the SCFMC may establish the types of purchases and other circumstances under which requests for proposals (RFP), requests for qualification (RFQ), and other procurement methods are appropriate and allowable. The SCFMC may also

establish guidelines not in conflict with applicable general law for purchases at public auction and using the Internet. Exceptions to competitive bidding may include, but are not limited to, sole source purchases, perishable commodities, and emergency purchases. If Sullivan County operates under the County Uniform Highway Law, compiled in title 54, chapter 7, then Tennessee Code Annotated § 54-7-113(c) regarding exceptions to public advertisement and competitive bidding requirements shall apply to purchases for the county highway department.

(e) All purchases competitively bid shall be awarded to the lowest responsible and responsive bidder, taking into consideration the quality of the personal property or services to be supplied, their conformity with specifications, their suitability to the requirements of the county and the delivery terms, and such other considerations as the purchasing agent deems appropriate and in conformity with any guidelines established by the SCFMC. All bids may be rejected for reasonable cause by the purchasing agent.

(f) The purchasing agent may authorize any agency of the county to purchase in the open market, without filing a requisition, any personal property necessary for immediate delivery or services for immediate employment, in actual emergencies. Such direct emergency purchases may only be made by heads of agencies of the county within the authorization granted by the purchasing agent and when the purchasing agent is not available to make the purchase. At all other times, only the purchasing agent or the purchasing agent's designee shall make purchases. A report of an emergency purchase shall be made by the head of an agency of the county or the agency head's designee describing the circumstances of the emergency, the personal property or services purchased, and the amounts to be charged against the operating budget of the agency. Such emergency purchase report shall be submitted to the purchasing agent as soon as is reasonably possible following the date of such purchase by the head of the county agency concerned and such report shall be provided by the purchasing agent to the SCFMC.

(g) The purchasing agent, in authorizing deviations from the competitive bidding requirements in emergencies, shall not include conditions arising from neglect or indifference in anticipating normal needs. Emergency purchases shall be limited to needs arising which are not normally foreseeable.

(h) The county shall not be liable for the payment of any purchase not made according to the provisions of this act unless specifically approved by the SCFMC.

(i) The SCFMC may:

(1) Require periodic and special reports by county agencies of inventories, stocks of surplus, unusable or obsolete personal property, and prescribe the form of such reports;

(2) Determine whether a deposit or bond is to be submitted with a bid on a purchase or sale, and if required, prescribe the amount and form of the deposit or bond, and provide for the forfeiture of the deposit or bond if the successful bidder refuses to enter into the contract and to determine the time for such forfeiture after the award of the bid. Such determination shall not conflict with existing state statutes for construction contracts;

(3) Prescribe the way invoices for personal property and contractual services delivered to any of the agencies of the county shall be submitted, examined, and approved by the purchasing agent; and

(4) Provide for all other matters as may be necessary to give effect to the duties of the SCFMC and purchasing agent.

(j) The SCFMC shall establish policies, subject to the approval of the county legislative body, for the disposal or transfer of surplus, obsolete, or unusable personal property. These policies may provide for the transfer to or between county agencies of personal property on hand which are surplus with one county agency, but which may be needed by others. However, a head of a county agency shall not be required to transfer any item of personal property in his or her custody without his or her consent except in an actual emergency or disaster.

(k) The county mayor or any department head or officer of the county having custody of real property may request that the real property over which the mayor, department head, or officer has custody be declared surplus and be sold or transferred from the ownership or possession of the county or the custody of the mayor, department head, or officer. Any such request shall be made to the SCFMC. The SCFMC shall make recommendations to the

county legislative body regarding whether the real property requested to be declared surplus should be kept, its use changed, sold, or otherwise disposed of, and shall make a recommendation as to the proper use or disposition of the property to the county legislative body, which shall make the final determination as to the use and disposition of all county real property not titled to or leased by the county board of education. The county legislative body shall make the final determination as to the disposition of all real property titled, including property assigned to the board of education.

(l) The purchasing agent shall:

(1) Develop requisition forms to be used by the various agencies of the county, subject to approval by the SCFMC;

(2) Review requisitions, including specifications in accordance with Section 23 of this act;

(3) Conduct formal and informal bid solicitations in accordance with the provisions of this act;

(4) Make a record of all informal bids solicited, all informal bids received, and the successful bid and bidder, including the time of each such action;

(5) Open formal sealed bids in public according to a procedure established by the purchasing committee;

(6) Evaluate and compare bids and award purchases designated by the SCFMC to be awarded by the purchasing agent;

(7) Issue purchase orders when appropriate based upon completed requisitions;

(8) Prepare contracts, leases, and lease-purchase agreements. The purchasing agent shall prepare contracts, leases, and lease-purchase agreements with the aid of the legal counsel if such office or position is established, or with the aid of an attorney employed or retained by the county mayor or board of education;

(9) Sign all contracts with the signature of agreeing respective department for all major contracts as the SCFMC determines;

(10) Perform duties regarding the transfer or disposition of surplus, obsolete, and unusable personal property as directed by the purchasing committee;

(11) Ensure that capital projects that have been approved in the capital projects budget and operating budget and funded according to law shall be competitively bid by the purchasing agent according to the requirements approved in the capital projects budget and operating budget; and

(12) Perform such other duties as may be prescribed by the SCFMC.

(m) The finance 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, including spouses, 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.

(n) Any official or employee under the employment of the SCFMC that is found to be in violation of this act or failure to conform to the provisions of this act commits a Class C misdemeanor and is subject to removal from office or position.

SECTION 21. Approval of Contracts & Leases --

(a) In addition to the approval process established by the SCFMC, contracts, leases, and lease-purchase agreements shall be approved by the county attorney or such other legal counsel as appropriate, if such office or position is established, or by an attorney employed or retained by the county mayor or board of education, prior to execution when the dollar amounts involved exceed an amount determined by the SCFMC to assure compliance with law and proper form.

(b) Contracts, leases, and lease-purchase agreements shall be executed by the purchasing agent and one (1) or more of the following: the director of schools for all

obligations against school funds, by the chief administrative officer of the county highway department for all obligations against highway funds, and the county mayor in all other circumstances, and additionally by other county officers when required by law, and by the finance director for approval of expenditure of funds.

(c) This subsection (c) shall not apply to agreements between the county highway department and the department of transportation pursuant to Tennessee Code Annotated § 54-7-116.

SECTION 22. Notice of Plan of Implementation --

No later than six (6) months following the date a resolution is adopted to implement this act, the county clerk shall file a copy of the resolution, together with an implementation plan developed by the finance director and approved by the SCFMC, with the comptroller of the treasury. This county financial management plan implementation shall begin July 1 of the next fiscal year and shall be fully implemented within such county no later than two (2) years from the date the implementation of the plan began.

SECTION 23. Receipt of Funds --

Excepting taxes, such as the county trustee is authorized to collect, the payment of all moneys to the county trustee by any collector authorized by statute or by anyone on account due the county, shall be made only by issuance of a receivable warrant signed by the finance director or finance designated representative. The office of the finance director shall issue a receipt for the amount named, for which the trustee shall acknowledge and accept upon confirmation of amount and description, a duplicate of which shall be retained by the finance director to be used by the finance department in posting the accounting records.

SECTION 24. Modification of Dates --

The deadline dates as set forth in this act may be necessary to update due to law changes and certain emergencies recognized by the state of Tennessee. When these events occur within the county, the legislative body shall approve the changed date on a temporary basis and report the amended dates.

SECTION 25. Supersede other Statutes --

Upon this act becoming effective in Sullivan County, this act shall supersede the provisions of any private act in conflict with this act in this county, including any private acts, or amendments thereto, adopted by the county legislative body of such county before or after the date this act becomes effective in such county.

SECTION 26. Validity of Statute --

If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that 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 27. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Sullivan County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 28. 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 27.

SENATE BILL NO. 2937

PASSED: June 16, 2020


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 22nd day of JUNE 2020


BILL LEE, GOVERNOR



NOTICE TO SECRETARY OF STATE OF RATIFICATION OF PRIVATE ACT

SECRETARY OF STATE
Division of Publications
312 Rosa L. Parks Avenue
Eighth Floor
William R. Snodgrass Tennessee Tower
Nashville, TN 37243

Private Chapter No. 46, which is Senate (Senate or House)

Bill No. 2937 of the 111th General Assembly, (please choose one):

[X] Passed [] Failed [] No Action Taken

The vote took place on 08/20/2020, and the results were as follows: Date (mm/dd/yyyy)

24 Votes For
0 Votes Against
0 Abstention

(please list number of votes)

Richard S. Venable
Presiding Officer of the Local Legislative Body

SECRETARY OF STATE
PUBLICATIONS

2020 SEP 10 AM 11:20

RECEIVED

Embossed Seal: (if applicable)

Sullivan County
County or City

9/1/2020
Date (mm/dd/yyyy)