

CHARTER FOR THE CITY OF BOLIVAR, TENNESSEE¹

CHAPTER NO. 142

House Bill No. 431

(By A. K. Foster)

AN ACT to provide a new charter for the City of Bolivar, and repealing Chapter 278 of the Private Acts of 1901 and subsequent amendments thereto. The caption of said Chapter 278 of the Private Acts of 1901, being as follows: "AN ACT to incorporate the Town of Bolivar, in the County of Hardeman, State of Tennessee, and to define the rights, powers, and liabilities of the same."

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¹Priv. Acts 1953, ch. 142, is the current basic charter act for the City of Bolivar, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2017 session of the Tennessee General Assembly. No changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the private acts including the basic charter appears at the end of the charter.

Acts which did not expressly or in effect amend any particular section or part of the basic charter, but which supplemented it, have been placed after the basic charter act as "Related Acts."

Acts of a temporary nature with no general or continuing application, such as bond authorization and validation acts have not been included in this compilation.

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ARTICLE 1

CHARTER, DEFINITIONS, CITY LIMITS AND CORPORATE POWERS

Section 1.01. This Act is a Charter. Be it enacted by the General Assembly of the State of Tennessee, That this Act shall constitute the whole charter of the city of Bolivar, repealing and replacing the charter provided by Chapter 278 of the Private Acts of 1901, and subsequent amendments. The city of Bolivar, in the county of Hardeman, and the inhabitants thereof, are hereby constituted and declared a body politic and corporate by the name and style of Bolivar, Tennessee, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

Section 1.02. Definitions. Be it further enacted, That as used in this Act the following words and terms shall have the following meanings:

(a) "City" shall mean the city of Bolivar.

(b) "Councilman" shall mean a person elected to the city council as provided in this Act. "Member of the council" shall mean the mayor and each councilman.

(c) "Non-partisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization.

(d) "At large" shall mean the entire city, as distinguished from representation by wards or other districts.

(e) "Public way" shall mean any land used by the public as a passage way, including but not limited to streets, roads, highways, expressways, freeways, boulevards, avenues, parkways, alleys, lanes, sidewalks, walks, bridges, viaducts, subways, underpasses, tunnels, and other thoroughfares, and including the rights-of-ways of such public ways.

(f) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the Federal or State government, or by a municipality, or by a trade association or other organization generally recognized as an authority in its field of activity.

(g) "Agency" shall mean any office, court, utility, board, commission, institution or other organization in charge of or administering any public function or municipal affair of the city of Bolivar.

(h) "Officer" shall mean and include the mayor, councilmen, city judge, members of boards and commissions and any other persons classified as public

officers by the laws or judicial decisions of this state. "An officer" as herein defined shall fill an "office," and an "employee" shall fill "position of employment."

(i) "Elector" shall mean a person residing within the city who is qualified to vote therein.

(j) The masculine shall include the feminine, and the singular shall include the plural and vice versa.

(k) Voters shall include all persons who reside within the corporation and who are qualified voters of the state of Tennessee and entitled to vote for members of the General Assembly, and nonresidents who are qualified voters of the state of Tennessee and who are owners of taxable fee simple real property within the corporate limits. However, in the case of nonresidents, pursuant to Tennessee Code Annotated, Section 2-2-107(a)(3), no more than two (2) persons shall be entitled to vote based upon the ownership of an individual tract of property regardless of the number of property owners. [As amended by Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, § 1; Priv. Acts 1996, ch. 186, § 1; and Priv. Acts 2005, ch. 35, § 4]

Section 1.03. City Limits.¹ Be it further enacted, That the boundaries of the city shall be as follows:

Beginning at large iron pipe, 91 links east of a small iron stake, 4 cedar pointers, on the north side of a fence, on the S.B.L. of Paul B. Keller's Bills land, being the N.E. corner of the 91 links strip of land deeded by Mitchells to Hardeman County Board of Education and runs south (V. = Magnetic Angle 3½ degrees, 1948) with same to and across the land of Mitchell 136.7 poles to a point on the N.B.L. of a certain lot in Mitchell's Subdivision 17 feet east of its N.W. corner; thence east (V. 3½ degrees) 43.09 poles to a stake, the N.E. corner of said Subdivision; thence S. 16 degrees W. (V. 3½ degrees) 51.46 poles to a large osage post, being the N.E. corner of the lot whereon is the garage of Bryant and Green; thence S. 16½ degrees E. (V. 3½ degrees) with the E.B.L. of same, passing S.E. corner of same at 250 feet, center of Highway No. 64 at 280 feet, in all, 74.1 poles to a stake in a field on land of heirs of Emerson, north of a hedge and fence; thence N. 82½ degrees W., passing S.E. corner of colored cemetery at 19½ poles, in all, 37¼ poles to the S.W. corner of same; thence N. 81½ degrees W., crossing Emerson land 10.8 poles to a stake, the S.E. corner of a strip under conveyance to Trustees of Union Cemetery, 7 links south of the S.E. corner of 2 acres conveyed by I.M. Emerson to said Trustees; thence west (V. 4¼ degrees with S.B.L. of said strip to and with the cemetery fence, 615 5/9 feet plus 18 feet or 38.39 poles to the iron fence corner post set in concrete in 1926, the S.W. corner

¹Annexation ordinances are of record in the city administrators office.

of Union Cemetery, 1948; thence N. $86\frac{1}{4}$ degrees W. (V. $4\frac{1}{4}$ degrees) 3.04 poles to iron stake 10 feet north of a red oak center stump, the farthest north N.W. corner of a tract conveyed by I.M. Emerson to Mrs. Lillie McKinnie, now owned by Austin Baker; thence south 2 degrees E. (V. $3\frac{3}{4}$ degrees) with same 13.46 poles to a large cedar to which fence is anchored, a corner with Emerson Heirs and said Baker; thence S. $31\frac{1}{2}$ degrees W, (V. $3\frac{1}{2}$ degrees) across land of Baker, 3136 poles to an iron stake beneath surface $11\frac{1}{2}$ links north of fence, all on the south side of Bolivar and Middleton old road, a corner with Baker, the heirs of Emerson, Arnold's 40-acre Entry and Major Joseph McAnulty; thence S. (V. 3 degrees) with the latter 23.85 poles to a stake by fence, in hedge row on Jones' line, a corner with McAnulty and Bills; thence west (V. $4\frac{1}{4}$ degrees) with both along plainly marked line $62\frac{1}{2}$ poles to iron pipe, red oak center tree stands N. 46 degrees W. 2 poles, a corner with McAnulty and Bills; thence N. $84\frac{3}{4}$ degrees W. (V. $4\frac{1}{4}$ degrees) across lands of Bills, 21.3 poles to a red oak with a red oak pointer as found, where fence extends N. and W., a corner with McNeal's mansion house tract owned by Smith; thence west (V. 4 degrees) along north side of a road, 64.3 poles to a point in N.E. corner of road junction, the Spring Hill road leading north into Union Street, Chancery Court Chambers Minutes No. 2, page 72; thence N. $85\frac{1}{4}$ degrees W. (V. $4\frac{1}{4}$ degrees) across the land of Bills 29 $\frac{1}{2}$ poles to a stake on west side of road exit into street from "Bolivar Truck Farm", a corner with Sain, Patrick and Bolivar Lumber Company; thence west (V. $4\frac{1}{4}$ degrees) with same and several lots to the north 63.76 poles to a stake by fence 50 feet S.E. of center of I.C.R.R. tracks; thence N. $38\frac{3}{4}$ degrees W. (V. $3\frac{1}{2}$ degrees) crossing center of R.R. at $78\frac{1}{2}$ links and across the land of Prewitt, falling N.E. of lake, 23 $\frac{1}{2}$ poles to a stake, catalpa stands S. 86 degrees E., 9 links, the S.W. corner of 5 acres on which stands colored school; thence north (V. $3\frac{1}{2}$ degrees) with same and a fence 36.2 poles to a stake on the north side of a 20-foot road created in Bishop's Subdivision, 1919; thence west (V. nearly $2\frac{2}{3}$ degrees) with N. side same 99.9 poles to a point in the center of Highway No. 18; thence N. $8\frac{1}{4}$ degrees E. (V. $3\frac{1}{4}$ degrees) 23.6 poles to a point in the old road leading from Bolivar to Middleburg; thence W. (V. $3\frac{1}{4}$ degrees) at 6.6 poles, striking sycamore center tree on the line dividing lots of Lucile Moore, in all 27.4 to 27.8 poles to an iron stake, the corner of her lots; thence N. $25\frac{1}{4}$ degrees W., 5.04 poles to an iron stake, small oak pointer, south and west of ravine, the S.E. corner of Pattie Polk Bennett's 12 acres, now owned by Foster; thence west (V. $3\frac{1}{4}$ degrees) crossing said ravine and striking cedar center tree at 263 links, in all, 34.4 poles to an iron stake, in a depression, poplar pointers, a corner of the same; thence north (V. $3\frac{1}{2}$ degrees) crossing a wide ravine, in all 55.6 poles to a point in center of gravel road leading from Bolivar to Somerville, N.W. corner of same at Jacobs' N.E. corner; thence north $9\frac{1}{2}$ degrees E. (V. $3\frac{1}{2}$ degrees) 32.94

poles to a fence corner post, S.W. corner of lot conveyed by Henry to Cox; thence north $13\frac{1}{2}$ degrees E. 29.96 poles to a stake just south of fence corner post in the South R.W.L. of said Highway No. 64, 30 feet S.W. of its center; thence S. 50 degrees 20 minutes East, Magnetic, 1924, 5.88 poles to point in said R.W.L.; thence north (V. $2\frac{1}{4}$ degrees to $2\frac{1}{2}$ degrees) by a fence, with Jackson's line, 24.76 poles to Jackson's N.W. corner, on the south side of old road which led from Bolivar to Brownsville, 1835, a corner with Jackson, thence east (V. $3\frac{1}{2}$ degrees) with south side of said road which is 2 poles wide, passing N.E. corner of Jackson's Subdivision at 80.45 poles, in all, 108.88 poles to a stake on south side of said road and in line with the east side of road going north which is 2 poles wide; thence north (V. 4 degrees) with said east side of road $87\frac{1}{2}$ poles to a stake at S.E. corner of junction of this road and one going east, at the N.W. corner of land owned by Dr. R.A. Butler; thence east (V. $3\frac{1}{4}$ degrees for 99 poles and $3\frac{5}{6}$ degrees for 120 poles) in all 219 poles to a stake on south side of old road which extends east, new road to north; thence along south side of said new road (1) N. $60\frac{1}{4}$ degrees E. (V. for rest of lines $3\frac{1}{4}$ degrees) 19.04 poles to a stake against the north side of and center of chimney to north end of a vacant house, on the land of Ted Young; (2) N. 82 degrees E., 11.64 poles to a stake 15 feet S.E. of center of said road and 50 feet N.W. of center of I.C.R.R. track in its N.W.R.W.L.; thence with the latter (1) N. 49 degrees E., 14.88 poles and (2) N. 52 degrees E., 29.6 poles to a stake by R.R. fence 50 feet N.W. of center of track; thence S. $75\frac{1}{4}$ degrees East (V. $3\frac{1}{4}$ degrees) crossing center of R.R. track at $94\frac{1}{2}$ links or 62.4 feet or 3.78 poles, crossing center of Highway No. 18 at 20.6 poles center of crooked ditch at 28.4 poles and again at $48\frac{3}{4}$ poles, across said Keller's Bills land, in all 109 poles to the beginning.

Section 1.04. Corporate Powers. Be it further enacted, That the corporate powers of the city, to be exercised by the city council, shall include the following:

(a) To levy and to provide for the assessment and collection of taxes on all real property on all property subject to taxation.

(b) To levy and to provide for the collection of license taxes on privileges, occupations, trades and professions.

(c) To levy and to provide for the collection of registration fees on automobiles and trucks owned by residents of city.

(d) To appropriate and borrow money to provide for payment of debts of the city, and to authorize the expenditure of money for any municipal purpose or matter of national or state interest.

(e) To acquire, dispose of, and hold in trust or otherwise any real, personal or mixed property, inside or outside the city.

(f) To condemn property, inside or outside the city, for present or future use.

(g) To acquire, operate and dispose of public utilities, subject to the provisions of applicable general laws.

(h) To grant franchises or make contracts for public utilities and public services. The council may prescribe the rates, fares, charges, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor.

(i) To regulate the rates and services of public utilities through appointed boards insofar as not in conflict with such regulation by the public service commission or other similar state or federal agencies having jurisdiction in such matters.

(j) To provide for the acquisition, construction, building, operation and maintenance of public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospitals and charitable, educational, recreational, sport, curative, corrective, detentive, penal and medical institutions, agencies and facilities and any other public improvements, inside or outside the city, and to regulate the use thereof, and for such purposes property may be taken.

(k) To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands. A real estate owner shall be liable for any injury or damage sustained by reason of a defective sidewalk adjoining his lot or land.

(l) To prescribe standards of health and sanitation and to provide for the enforcement of such standards.

(m) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such services which, if unpaid, shall constitute a lien against any property of persons served, which lien shall be second in priority only to liens for county and city property taxes and shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

(n) To define, regulate and prohibit any act, practice, conduct or use of property, detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, convenience or general welfare of inhabitants of the city.

(o) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installations and equipment, plumbing and housing, for the health, sanitation, cleanliness and safety of inhabitants of the city, and to provide for the enforcement of such standards.

(p) To regulate and license weights and measures.

(q) Deleted.

(r) To regulate and license or prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order and for their disposition, by sale, gift or humane killing, when not redeemed as provided by ordinance.

(s) To order any railroad operating within the city to construct viaducts or underpasses to eliminate grade crossings or to pave and maintain grade crossings in a smooth and safe condition. The city shall pay the costs of constructing approaches to the railroad's right-of-way line. Each day's failure of the railroad to comply with such an order after a reasonable time has elapsed shall be a misdemeanor and a separate offense, and shall be punished by a fine not to exceed fifty dollars (\$50.00) in the city court for each offense. If the railroad refuses to do such work the city may have the work done and may collect the cost thereof from the railroad by the use of all legal and equitable remedies available under the law.

(t) To regulate and license vehicles operated for hire in the city, to limit the number of such vehicles, to require the operators thereof to be licensed, to require public liability insurance on such vehicles in amounts prescribed by ordinance, and to regulate and rent parking spaces in public ways for the use of such vehicles.

(u) To levy and provide for the collection of special assessments of public improvements.

(v) To provide that the violation of any ordinance, rule, regulation or order shall be punishable as a misdemeanor.

(w) To exercise and enjoy all other powers, functions, rights, privileges and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this Act as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this Act shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities under the constitution or applicable Public Acts of the state. [As amended by Priv. Acts 1985, ch. 12; and Priv. Acts 2005, ch. 35, § 1]

ARTICLE II

CITY COUNCIL

Section 2.01. Election of Mayor and Council Members. The city of Bolivar shall elect a mayor and eight (8) council members as provided in this section.

On the third Tuesday in May of odd-numbered years, a nonpartisan election shall be conducted by the county election commissioners, at the same hours and places for holding general elections and under the general election laws of the state to elect a mayor and council.

The city shall be divided into two (2) districts of substantially equal population which shall be designated as District A and District B. The council

shall by ordinance establish the district boundaries, and shall adjust the boundaries within ninety (90) days following the receipt of the federal decennial census data and any annexation by the city so as to maintain substantially equal population in the two (2) districts.

Each district herein established shall have four (4) council members elected from such district. Candidates for the council shall run by numbered posts in staggered years and shall be elected by a plurality of votes cast. In Districts A and B, the numbered positions shall be identified as 1, 2, 3, and 4. The council members shall have maintained their principal residence in the district from which they are elected for six (6) months preceding the election in which they run. If a council member moves from the district from which such council member was elected, the member shall resign his position on the city council, and a successor residing in that district shall be appointed by the city council to fill the unexpired term. Should a change in the district division line be required following analysis of census data or an annexation, and such change places a district council member outside the district from which the member was elected, that council member shall continue to serve until the next regular election. If the term of the disqualified council member has not expired at the time of such election, a council member shall be elected to fill the unexpired term of the disqualified council member. Candidates for the district positions shall be required to run for either the full term seat which is being regularly filled at such election or the unexpired term.

The Mayor shall be elected on an at-large basis for a four-year term, and must receive a majority of the votes cast in the mayor election. A runoff election between the candidates receiving the two (2) highest number of votes will be held, if necessary.

Polling places shall be established in each district. Voters are not required to vote for each contested position. A voter may vote for fewer than all positions.

Council members shall initially be elected as the terms of the present council members expire. In the May 2005 election the two (2) candidates with the highest vote totals in District A shall be elected to four-year terms; the other two (2) candidates in District A shall be elected to two-year terms. Also, in the May 2005 election, the two (2) candidates with the highest vote totals in District B shall be elected to four-year terms; the other two (2) candidates in District B shall be elected to two-year terms. At all elections following the May 2005 election all city council members shall be elected to four-year terms in staggered years.

The terms of office of the mayor and council members shall begin at 12:01 p.m. on the first day of July next following their election, except when the first falls on Sunday; in that event, the second of July. The mayor and council members shall serve until their successors have been elected and qualified. [As amended by Priv. Acts 1965, ch. 143; replaced by Priv. Acts 1981, ch. 122; amended by Priv. Acts 1983, ch. 35; replaced by Priv. Acts 1983, ch. 57, and

Priv. Acts 1987, ch. 104; amended by Priv. Acts 1988, ch. 178; and replaced by Priv. Acts 2005, ch. 35, § 2]

Section 2.02. Restrictions on Candidates and Their Supporters. Be it further enacted, That if a candidate or any person on his behalf directly or indirectly gives or promises to any person or persons any office, employment, money, benefit or anything of value in connection with his candidacy, upon conviction thereof shall be punished by a fine of not more than fifty dollars (\$50.00) or by imprisonment for not to exceed one year, or by both such fine and imprisonment, and shall thereafter be ineligible to hold any office or position of employment in the city government for a period of five years.

Section 2.03. City Council. Be it further enacted, That the mayor and councilmen shall compose the city council, in which is vested all corporate legislative and other powers of the city, except as otherwise provided in this Act. The council shall be the final judge of the election and qualifications of its members. The council shall levy all taxes, apportion and appropriate all funds and it shall make all assessments for the cost of street improvements or repairs which may be specially assessed. It shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the council, or reduced to writing and approved by the council, or expressly authorized by ordinance or resolution adopted by the council. The mayor shall be paid a salary as fixed by the city council at the beginning of each term of office thereof, not to exceed ten thousand dollars (\$10,000.00) per annum, and each member of the council shall be paid a salary, as fixed by the city council at the commencement of each term of office thereof at an amount not to exceed three thousand three hundred dollars (\$3,300) per annum. The salaries of the mayor and councilmen shall be paid in monthly installments from the city treasury. A council member serving on a utility board, planning commission, or any other board, commission, or committee, shall be compensated the same as any other member of the utility board, planning commission or committee. The council shall hold regular public meetings at a stated time and place as provided by ordinance, but must meet at least once each month. The council shall meet in special session on written call of the mayor or any two councilmen and served on the other members personally or left at their residences at least twelve hours in advance of the meeting but such notice of a special meeting shall not be required if the mayor and all councilmen are present when the special meeting is called. Only the business stated in the written call may be transacted at a special meeting. The council shall exercise the powers only in public meetings. A majority of the council shall constitute a quorum. The council may by ordinance adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The council shall have the authority to subpoena and examine witnesses, to order the production of books

and paper, and shall have the same powers as a circuit court to punish for refusal to obey such an order or subpoena or for disorderly or contemptuous behavior in the presence of the council. Fewer numbers than a majority may adjourn a meeting from day to day. [As amended by Priv. Acts 1965, ch. 143; Priv. Acts 1981, ch. 122; Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, §§ 2 and 3; Priv. Acts 1996, ch. 186, §§ 2, 3, and 4; and Priv. Acts 2005, ch. 35, § 5]

Section 2.04. Mayor as Presiding Officer. Be it further enacted, That the mayor shall preside at meeting of the council, shall have a vote only in case of a tie, shall be the ceremonial head of the city, shall sign ordinances and resolutions on their final passage, shall sign deeds, bonds and contracts when authorized by the council to do so, shall be the officer to accept process against the city, and shall perform other duties imposed by this Act and ordinances not inconsistent with this Act. [As amended by Priv. Acts 1985, ch. 12]

Section 2.05. Vice-Mayor. Be it further enacted, Beginning in July, 1997, there shall be a Vice-Mayor who shall be elected at the first regular meeting after each general election by the council from among their number. The term of office of the Vice-Mayor shall be for a period of two (2) years. The Vice-Mayor shall perform the duties of the Mayor during his absence or inability to act. In case of a vacancy in the office of Mayor, the Vice-Mayor shall fill out the unexpired term, or until the next regular city election, whichever shall occur first. If the Vice-Mayor is filling out a term in the office of Mayor, his position as a Councilman shall become vacant and the Council shall fill the vacancy as provided in Section 2.06. The Council shall select another of their number to fill out the unexpired term of the Vice-Mayor. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 4; and Priv. Acts 1996, ch. 186, § 5]

Section 2.06. Vacancy in Office of Mayor or Councilman. Be it further enacted, That a vacancy shall exist if the Mayor or a Councilman resigns, dies, moves his residence from the city, moves from the district from which he was elected as provided in Section 2.01, has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, accepts any city office or position of employment or is elected to any office in the Federal, State, or County Government or is convicted of malfeasance or misfeasance in office, a felony, a violation of this Act, or a violation of the election laws of the State. Except as provided in Section 2.01 for a vacancy resulting by a Council member moving from the district from which he was elected, the Council shall appoint within sixty (60) days a qualified person to fill such a vacancy in the office of Councilman for the remainder of the unexpired term. If a tie vote by the Council to fill a vacancy is unbroken for fifteen (15) days, the Mayor shall appoint a qualified person to fill the vacancy. At no time shall there be more than two members so appointed on the Council, a special election shall be held by the County Election Commissioners on the eighth

Thursday following the occurrence of the vacancy and a Councilman shall be elected to serve the remainder of the unexpired term of the vacant office; provided that no such election shall be held if a regular biennial election will occur within six (6) months. Candidates in such a special election shall be nominated by petitions as provided in Section 2.01 of this Act. [As amended by Priv. Acts 1987, ch. 103, and Priv. Acts 1987, ch. 104; replaced by Priv. Acts 1995, ch. 68, § 5; and Priv. Acts 1996, ch. 186, § 6]

Section 2.07. Restrictions on Councilmen. Be it further enacted, That the council shall act in all matters as a body, and no member shall seek individually to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The council shall deal with the various agencies, officers and employees of the city, except boards or commissions authorized by this Act, solely through the mayor, and shall not give orders to any subordinates of the Mayor, either publicly or privately. Nothing herein contained shall prevent the council from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any councilman violating any provisions of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction.

Section 2.08. City Administrator. Be it further enacted, That the council shall appoint a city administrator who shall serve at the pleasure of the Council as city recorder and finance officer. He shall perform all administrative duties for the board of mayor and councilmen as imposed upon him by the ordinances and resolutions and for the city which are not assigned by the charter or code to another corporate officer or employee. He shall be responsible for keeping and preserving the city seal and all records of the council; attending meetings of the council and keeping minutes of its proceedings including each motion considered and all resolutions and ordinances. He shall have the custody of the city public records and of all contracts, deeds, and certificates relative to the title of any corporate property, all bonds, papers and documents of value as are not required to be deposited with any other person. He shall be further enacted to collect, receive, and account for the revenues of the corporation and keep a full and accurate system of accounts with each fiscal department of the corporate government. He shall countersign all contracts, bonds and other documents requiring dual signatures. [As amended by Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, § 6; and Priv. Acts 1996, ch. 186, § 7]

Section 2.09. Official City Newspaper. Be it further enacted, That the council by resolution shall designate a newspaper of general circulation in the city as the official city newspaper.

Section 2.10. City Legislation. Be it further enacted, That any action of the council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Act, shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Each motion, resolution and ordinance shall be in written form before being introduced. The affirmative vote of the majority present of the council shall be required to pass any motion, resolution or ordinance including two readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least five members of the council on two readings on successive days. No ordinance relating to a franchise, exclusive contract or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsections or subsections in their amended form. All ordinances shall be signed by the Mayor before they shall become effective. The Mayor shall affix his approval or disapproval within ten (10) days after final adoption by the Council. If the Mayor withholds his signature for ten (10) days, the ordinance shall become effective for failure to veto. The Mayor shall state his reasons for vetoing an ordinance in writing and shall transmit his reasons and the ordinance back to the Council before the next regular meeting for its action. At the first regular meeting after receiving the veto message, the Council may pass the ordinance over the veto by the affirmative vote of two-thirds (2/3) of the entire Council. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization and the city administrator shall file a copy of the code in his office. The city shall furnish a copy of any such code to any person for a reasonable fee. After adoption of a code of ordinances, as provided in Section 2.10 of this Article, the city administrator shall number ordinances consecutively in the order of their final adoption. The original copies of all ordinances, resolutions and motions shall be filed and preserved by the city administrator. [As amended by Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, § 7; and Priv. Acts 1996, ch. 186, § 8]

Section 2.11. Codification of Ordinances. Be it further enacted, That after this Act becomes effective there shall be prepared, under the direction of the mayor and with the advice of the city attorney, a codification of all ordinances and resolutions having a regulatory effect or of general application which are to be continued in force. Existing ordinances and resolutions may be revised, amended and consolidated in making the codification, which shall then be adopted as a single ordinance to be known and cited as the Official Code of the city of Bolivar, and thereupon all ordinances and resolutions in conflict therewith shall be repealed. The ordinance containing the code need not be

published in a newspaper, either in full or in abstracted form. The code shall be reproduced in loose-leaf form and shall be made available to any person desiring a copy, for which a reasonable fee may be charged. An additional fee may be charged for furnishing revisions currently. After adoption of the code each ordinance of a general or regulatory nature shall be adopted as a numbered section or sections of the code, as amending existing sections or adding new sections. Such new ordinances shall be integrated into the code, and at least once a year if ordinances have become effective new pages shall be reproduced to replace existing pages (with instructions to destroy existing pages) or to be added to the code, and shall be distributed to city officers and employees having copies of the code and to other persons who have paid the fee for current revisions. [As amended by Priv. Acts 1985, ch. 12]

Section 2.12. Rules and Regulations. Be it further enacted, That the council may by ordinance authorize officers and agencies of the city to promulgate formal rules and regulations within their respective jurisdictions, subject to such restrictions and standards of guidance as the council may prescribe. No such formal rule or regulation shall take effect until it is filed with the city administrator, who shall file and preserve the original copy in his office. Such rules and regulations shall be included as a separate section of the Official Code and shall be reproduced and distributed in loose-leaf form as required by Section 2.10. Amendments of such rules and regulations shall be accomplished only by setting forth complete sections or subsections in their amended form. [As amended by Priv. Acts 1985, ch. 12]

ARTICLE III

ORGANIZATION AND PERSONNEL

Section 3.01. Organization. Be it further enacted, That the City Government shall be organized into such departments and offices as shall be provided by ordinance, but no such ordinance shall be adopted until the Council has received and considered the written recommendations of the Mayor. The Mayor shall provide written recommendations to the Council at or before the next Council meeting. The Council shall determine by ordinance the functions and duties of all departments and offices. The Council may establish; abolish, merge, or consolidate offices, positions of employment and departments; may provide that the same person fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment and departments. [As amended by Priv. Acts 1985, ch. 12, and Priv. Acts 1987, ch. 103; replaced by Priv. Acts 1995, ch. 68, § 8; and Priv. Acts 1996, ch. 186, § 9]

Section 3.02. Administrative Duties of Mayor. Be it further enacted, That the mayor shall be executive head of the city government, responsible for the efficient and orderly administration of the city's affairs. He shall be responsible for the enforcement of laws, rules and regulations, ordinances and franchises in the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes. He shall have authority to appoint, promote, demote, transfer, suspend and remove all officers and employees and to direct and control their work, except as otherwise provided in this Act. He shall submit to the council annual budgets, reports and such other information as he may deem necessary or the council may require. He shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without his approval. If no other employee is designated as purchasing agent he shall act as purchasing agent for the city. He may conduct inquiries and investigations into the conduct of the city's affairs and shall have such other powers and duties as may be provided by ordinances not inconsistent with this Act.

Section 3.03. City Attorney. Be it further enacted, That at the beginning of each mayoral term, the Mayor shall appoint a City Attorney, subject to the approval of the City Council. The City Attorney shall serve at the pleasure of the Mayor. The Mayor shall also appoint, with approval of the Council, any Assistant City Attorneys authorized by ordinance who shall serve at the pleasure of the Mayor. The City Attorney shall be responsible for advising the Mayor and Council and officers and employees concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions and other official documents; and performing other duties as may be prescribed by the Council. The City Attorney may receive such compensation as shall be set by the Council. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 9; and Priv. Acts 1996, ch. 186, § 10]

Section 3.04. City Court and City Judge. Be it further enacted, That:

(a) City Judge-appointment, term. A City Judge, who shall be a licensed attorney, shall constitute the city court and shall be appointed by the Mayor with the consent of the Council to serve at the will of the Mayor or for a term to be fixed by ordinance. He shall not be less than 25 years of age. The Mayor may appoint a licensed attorney to serve in the absence or incapacity of the City Judge.

(b) Jurisdiction, power, compensation. The jurisdiction of the City Judge shall extend to the trial of all offenses against the ordinances of the city, and costs in such trials shall be fixed by ordinance. The City Judge shall have power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order including the power which justices of the peace have to fine for contempt.

The sole compensation for serving as City Judge shall be a salary fixed by the Council, and all fees for actions or cases in his court shall belong to the city and shall be paid into the City Treasury.

(c) Deleted.

(d) Deleted.

(e) Docket. The City Judge shall keep a docket of all cases handled by him.

(f) Separation of powers. The City Judge shall be exclusive judge of the law and the facts in every case before him, and no officer or employee of the city shall attempt to influence his decision except through pertinent facts presented in open court. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 10; and Priv. Acts 1996, ch. 186, § 11; and amended by Priv. Acts 2005, ch. 35, § 3]

Section 3.05. [As amended by Priv. Acts 1985, ch. 12; deleted in its entirety by Priv. Acts 1995, ch. 68, § 11; and Priv. Acts 1996, ch. 186, § 12]

Section 3.06. Other Officers and Employees. Be it further enacted, That the Council by ordinance, may establish offices and positions of employment but no such ordinance shall be adopted until the Council has received and considered the written recommendations of the Mayor. The Mayor shall provide written recommendations to the Council at or before the next regular Council meeting. The powers and duties of such offices and positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the Mayor as provided in Section 2.12 of this Act, but in any event, the Mayor may require officers and employees of the City, except those appointed by and accountable to the Council, to perform such additional duties as may be considered necessary by him for the proper and efficient conduct of the City's affairs. The Council may by ordinance establish boards or commissions to operate the public utilities owned by the City, or may perform such duties themselves. The salaries of all employees of the City shall be fixed by the Council under a pay plan applying uniformly to all employees having similar responsibilities and doing like work. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 12; and Priv. Acts 1996, ch. 186, § 13]

Section 3.07. Appointment, Suspension and Removal of Employees. Be it further enacted, That all employees of the City, except as otherwise provided in this Act, shall be appointed, promoted, demoted, transferred, suspended and removed by the Mayor or boards, commissions, officers, and department heads given this authority by the Mayor. During a suspension, an employee's salary may be reduced or eliminated, as determined by the Mayor. Before suspending or removing an employee, the Mayor shall serve the employee with a written notice of intention to suspend or remove him, containing a clear statement of the

grounds for such proposed action. Any suspension for more than ten (10) days or termination may be appealed to the personnel board by filing, within ten (10) days, with the City Administrator written notice of intention to do so. The personnel board shall be composed of three (3) members of the Council appointed by the Council. The personnel board shall elect a chairman from its membership and shall adopt rules governing conduct of its business. The decisions of the personnel board may be appealed to the full Council. The decision of the Council shall be final. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 13; and Priv. Acts 1996, ch. 186, § 14]

Section 3.08. Oath of Office. Be it further enacted. That before a person takes any office in the city government, he shall take, subscribe to, and file with city administrator an oath of office. [As amended by Priv. Acts 1985, ch. 12]

Section 3.09. Official Bond. Be it further enacted. That every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees as may be required by ordinance, shall give a fidelity bond or faithful performance bond, as provided by ordinance, with some surety company authorized to do business in the State of Tennessee as surety in such amount as shall be prescribed by ordinance. All such bonds and sureties thereto shall be subject to approval by the Council. The cost of such bonds shall be paid by the city. All such bonds shall be kept in the custody of the city administrator, except that the city administrator's bond shall be in the custody of the mayor. [As amended by Priv. Acts 1985, ch. 12]

Section 3.10. Political Activity Prohibited. Be it further enacted. That no officer or employee of the City, other than the Mayor and Councilmen, shall continue in the employment of the City after becoming a candidate for nomination or election to any city office. Any member of the Council of the City of Bolivar, that desires to run for the office of Mayor shall resign their position on said Council prior to qualifying for the Mayor's office unless such Council member's term expires on the first day of July following the election. No person shall directly or indirectly give, render or pay any money, service or other valuable consideration to any person for or on account of or in connection with any test, appointment, proposed appointment, promotion or proposed promotion to any office or position of the city government. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose from any officer or employee of the city. An officer or employee of the city, other than the mayor and councilmen, shall not make any contribution to the campaign funds of any candidate in any city election, and shall not take any part in the management, affairs or political campaign of any city election, other than in the exercise of his rights as a citizen to express his opinions and to cast his vote.

Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than fifty dollars (\$50.00) or by imprisonment for not more than one year, or by both such fine and imprisonment. Any person who is convicted under this section shall be ineligible to hold any office or position of employment in the city government for a period of five years thereafter, and if he be an officer or employee at the time of conviction shall immediately forfeit and vacate the office of position he holds. [As amended by Priv. Acts 1995, ch. 68, § 14, and Priv. Acts 1996, ch. 186, § 15]

Section 3.11. Restriction on interest of officers. No officer in a municipality shall be directly interested in any contract to which the city is a party. "Directly interested" means any contract with the official himself or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

No officer in a municipality shall be indirectly interested in any contract to which the municipality is a party unless the officer publicly acknowledges his interest and recuses himself from any of his duties which include the consideration of, voting on, or overseeing the particular contract. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.

No municipal officer shall speculate in the municipality's bonds or warrants or other evidence of indebtedness; nor shall extra pay be granted to any officer, agent, or servant of a municipality, or allowances made for discharge of extra duties. [As amended by Priv. Acts 1985, ch. 12]

ARTICLE IV

FISCAL ADMINISTRATION

Section 4.01. Fiscal Year. Be it further enacted, That the fiscal year of the city government shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year, but another fiscal year may be fixed by ordinance for the entire city government or for any utility. [As amended by Priv. Acts 1985, ch. 12]

Section 4.02. Mayor to Submit Annual Budget. Be it further enacted, That prior to the beginning of each fiscal year, the mayor shall submit to the council a proposed budget for the next fiscal year, showing separately for the general fund, each utility and each other fund the following: (a) revenue and expenditures during the preceding fiscal year, (b) appropriations and estimated

revenue and expenditures for the current fiscal year, (c) estimated revenue and recommended expenditures for the next fiscal year, (d) a comparative statement of the assets, liabilities, reserves and surplus at the end of the preceding year and estimated assets, liabilities, reserves and surplus at the end of the current fiscal year, and (e) such other information and data, such as work programs and unit costs, in justification of recommended expenditures, as may be considered necessary by the mayor or requested by the council. The mayor may recommend and estimate additional revenue measures, providing such estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year as compared with the current fiscal year, a general summary of the budget and such other comments and information as he may deem pertinent. A sufficient number of copies of the budget in full shall be filed with the council and furnished to each councilman. [As amended by Priv. Acts 1985, ch. 12]

Section 4.03. Public Hearing. Be it further enacted, That after receiving the budget from the mayor, the council shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be published once in the official city newspaper at least ten (10) days in advance of the date of the hearing. The public hearing shall be held before the council at the stated time and place, and all persons present shall be given an opportunity to be heard. [As amended by Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, § 15; and Priv. Acts 1996, ch. 186, § 16]

Section 4.04. Action by Council on Budget. Be it further enacted, That after the public hearing and before the beginning of the ensuing fiscal year the council shall adopt an appropriate ordinance, based on the mayor's budget with such modifications as the council considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department and agency. The council shall not make appropriations in excess of estimated revenues, and unencumbered funds on hand except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city; providing the council unanimously agrees there is such an emergency. If conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. Amendments may be made to the original appropriate ordinance at any time during a current fiscal year after a public hearing before the Council. [As amended by Priv. Acts 1985, ch. 12; Priv. Acts 1995, ch. 68, § 16; and Priv. Acts 1996, ch. 186, § 17]

Section 4.05. [Deleted by Priv. Acts 1985, ch. 12]

Section 4.06. Centralized Purchasing. Be it further enacted, That all contracts and purchases, except those that may be reserved to the council by ordinance, shall be made by the city purchasing agent, who shall be the mayor or an employee appointed by him, subject to the approval of the council. Any expenditure or contract for more than two thousand five hundred dollars (\$2,500.00) shall be made only after publication, advertisement and competition by bids, as prescribed by ordinance and an award shall be made to the lowest and best bidder; provided that bids need not be required for professional services or for services for which the rates or prices are regulated by public authority. All purchases, leases, or lease-purchase arrangements with expenditures of less than two thousand five hundred dollars (\$2,500.00) but more than one thousand dollars (\$1,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, wherever possible, be based upon at least three (3) competitive bids. Purchases, leases, or lease purchases of one thousand dollars (\$1,000.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. Competition by bids shall not be required for the purchase of equipment, materials or supplies from any other governmental agency. [As amended by Priv. Acts 1985, ch. 12]

Section 4.07. Sale of City Property. Be it further enacted, That the Mayor may sell any city property which is obsolete, surplus or unusable, if the proceeds do not exceed five hundred dollars (\$500.00), without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale producing more than five hundred dollars (\$500.00). Any sale for more than one thousand dollars (\$1,000.00) or any sale of real estate shall be subject to approval by the Council. [As amended by Priv. Acts 1985, ch. 12; replaced by Priv. Acts 1995, ch. 68, § 17; and Priv. Acts 1996, ch. 186, § 18]

Section 4.08. Audit. Be it further enacted, That the council shall employ a certified public accountant to make an annual audit at the close of the fiscal year of all financial books and records of the city. The accountant shall file his report with the council at a time agreed to between him and the council, and shall prepare a summary of the report. [As amended by Priv. Acts 1985, ch. 12]

Section 4.09. Property Taxes. Be it further enacted, That all real and personal property, including the capital stock of merchants and public service companies, assessed as of January 1 in each year, shall be subject to the property tax levied by the city. The council by ordinance may elect to use the county assessment or may provide for an independent city assessment by a city assessor appointed by the mayor, subject to approval of city council. If an independent city assessment is made, a board of equalization, consisting of three persons appointed by the council, with compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten days after the city assessor has sent a notice by ordinary mail of a new or increased assessment; provided that such

notice shall not be required nor may appeals be taken in the case of initial city assessments that are the same as county assessments. Except as otherwise provided in this section, appeals involving city property assessments may be taken as provided by general law. The board of equalization may increase or decrease the assessment of all property of the same class by a uniform percentage, in which case individual notices shall not be mailed but a notice of such action shall be published once in the official city newspaper: such a blanket increase or decrease shall not be subject to appeal. The authority and duties of such city assessing personnel shall be the same as those provided by general law for county assessing personnel. The city assessor shall meet with and assist the board of equalization. The board of equalization, upon completion of its work, shall submit a written report to the council, including total increases and decreases made by it and the final total assessment of each class of property. [As amended by Priv. Acts 1985, ch. 12]

Section 4.10. Tax Levy. Be it further enacted, That the council shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100.00) of assessed valuation, and if no tax levy is made, the property tax rate in effect the last fiscal year shall continue in effect as the tax rate for the new fiscal year. [As amended by Priv. Acts 1985, ch. 12]

Section 4.11. Tax Due Dates and Tax Bills. Be it further enacted, That the due dates of property taxes shall be fixed by ordinance. The city shall send tax bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax. Property taxes shall become delinquent March 1 of each year, at which time a penalty of five per cent (5%) shall be added and thereafter such taxes shall be subject to interest at the rate of one per cent (1%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record. [As amended by Priv. Acts 1985, ch. 12]

Section 4.12. Collection of Delinquent Taxes. Be it further enacted, That the council may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor, or the city administrator, or the city judge, for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a justice of the peace, or by the county trustee as provided by general law, or by the city attorney acting in accordance with general laws providing for the collection of delinquent city and/or county taxes, or by any two or more of the foregoing methods, and by the use of any available legal processes and remedies. A lien shall exist against all property on which city property taxes are levied, as of the assessment date of January 1 of each year, which shall be superior to all other

liens except that it shall have equal dignity with those for Federal, state or county taxes. [As amended by Priv. Acts 1985, ch. 12]

Section 4.13. Special Assessments. Be it further enacted, That the city may assess all or part of the cost of constructing, reconstruction, widening or improving any public way, sewers or other utility mains and appurtenances, against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent thirty days after their due dates (after the due date of each installment if paid on an installment basis), shall thereupon be subject to a penalty of five per cent (5%), and shall thereafter be subject to interest at the rate of one per cent (1%) for each month or fraction thereof until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for county and city property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided in this article for city property. [As amended by Priv. Acts 1985, ch. 12]

Section 4.14. Disbursements by Checks. Be it further enacted, That all disbursements from the general fund shall be made by checks signed by the city administrator and/or treasurer and countersigned by the mayor. [As amended by Priv. Acts 1985, ch. 12]

Section 4.15. Official Depository. Be it further enacted, That the council shall designate an official depository or depositories for deposit and safe-keeping of the funds of the city, and may require such collateral security as its deems necessary.

ARTICLE V

MISCELLANEOUS

Section 5.01. Restrictions on Actions for Damages Against City. Be it further enacted, That no action shall be maintained against the city for damages unless a written statement by the claimant or by his agent, attorney or representative, setting forth the basis for his claim, shall have been filed with the mayor within ninety days after such cause of action shall have occurred, except that when the claimant is an infant or non compos mentis, or an injured person dies within such ninety days, the time limit for filing a claim shall be one hundred and eighty days. No officer or employee of the city may waive this requirement.

Section 5.02. General Laws May Be Used. Be it further enacted, That the council in its discretion may elect to use the provisions of any general laws of the state in addition to or instead of the provisions of this Act.

Section 5.03. Penalties. Be it further enacted, That the violation of any provision of this Act, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor and shall be punished by a fine of not more than fifty dollars (\$50.00).

Section 5.04. Severability. Be it further enacted, That if any article, section, sub-section, paragraph, sentence or part thereof, of this Act shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this Act unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the legislative intent in enacting this Act that each article, section, sub-section, paragraph, sentence, or part thereof, be enacted separately and independently of each other.

Section 5.05. Effective Date. Be it further enacted, That this Act shall be effective on and after May 8, 1953.

Passed: March 13, 1953.

James L. Bomar,
Speaker of the House of Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: March 7, 1953.

Frank G. Clement,
Governor

RELATED ACTS

Priv. Acts 2006. ch 130,
"Create and empower the Bolivar Energy Authority" C-25

PRIVATE ACTS, 2006 1

CHAPTER NO. 130

HOUSE BILL NO. 4085

By Representative Shaw

Substituted for: Senate Bill No. 4022

By Mr. Speaker Wilder

AN ACT to create and empower the Bolivar Energy Authority, and to amend Chapter 142 of the Private Acts of 1953; as amended by Chapter 12 of the Private Acts of 1985; and any other acts amendatory thereto.

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 "Bolivar Energy Authority Act".

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

(1) "Acquire" means to construct or to acquire by purchase, lease, lease-purchase, devise, gift, exercise of the power of eminent domain, or exercise of any other mode of acquisition;

(2) "Authority" means the Bolivar Energy Authority created by this act;

(3) "Board" means the board of directors of the authority;

(4) "Bonds" means bonds, interim certificates, notes, debentures, lease-purchase agreements, and all other evidences of indebtedness either issued by or the payment of which has been assumed by the authority;

(5) "City" or "City of Bolivar" means the city of Bolivar, Tennessee;

(6) "City bonds" means bonds of the City of Bolivar issued to finance or refinance any of the systems, as more fully described in Section 11(c) hereof;

(7) "City council" means the legislative body of the City of Bolivar;

(8) "Dispose" means to sell, lease, convey, or otherwise transfer any property or any interest in property of the authority;

(9) "Electric service" means the furnishing of electric power and energy for lighting, heating, power, or any other purpose for which electric power and energy can be used;

(10) "Energy" means any and all forms of energy no matter how or where generated or produced;

(11) "Federal agency" means the United States of America, the president of the United States of America, the Tennessee Valley Authority, and any other authority, agency, instrumentality, or corporation of the United States of America heretofore or hereafter created by or pursuant to any act or acts of the Congress of the United States;

(12) "Improve" means to construct, reconstruct, improve, repair, extend, enlarge, or alter;

(13) "Improvement" means any improvement, extension, betterment, or addition to any System;

(14) "Municipality" means any county or incorporated city or town within or outside the State;

(15) "Person" means any natural person, firm, association, corporation, limited liability company, business trust or partnership;

(16) "Refunding bonds" means bonds of the authority issued to refund all or any part of bonds of the authority or the city bonds, as more fully described in Section 11(b) and (c) hereof;

(17) "State" means the state of Tennessee;

(18) "System" means any plant, works, system, facility, property, or parts thereof, together with all appurtenances thereto, used or useful

in connection with the furnishing of any of the services and commodities authorized to be provided herein, including generation or production facilities, transmission facilities, and distribution, and all real and personal property of every nature comprising part of or used or useful in connection with the foregoing, and all appurtenances, contracts, leases, franchises and other intangibles relating to the foregoing; and

(19) "Telecommunications service" means the offering of telecommunications and similar and component services regardless of the facilities used, and shall include, but not be limited to, telephone, cable television, voice, data, and video transmissions, video programming, Internet access and related services, load control, meter reading, appliance monitoring, power exchange, and billing, or any other telecommunications service(s) or similar or component service that may be provided, as allowed by law, including servicing and repairing related equipment.

SECTION 3. A governmental authority, to be known as the Bolivar Energy Authority, is hereby created and constituted. The authority shall be a public corporation in perpetuity under the corporate name of the Bolivar Energy Authority, and shall under that name be a political subdivision of the state and a body politic and corporate. The authority is created for the purpose of planning, acquiring, constructing, improving, furnishing, equipping, financing, owning, operating, and maintaining electric utility and telecommunications systems within or outside the corporate limits of the City of Bolivar and within or outside the state.

SECTION 4. The authority shall have the power and is authorized, effective immediately upon the effective date of this act, either singly or jointly with one or more persons, municipalities, or federal agencies, or with the state, or with one or more agencies or instrumentalities of the state or any municipality:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, construct, improve, furnish, equip, finance, own, operate and maintain within or outside the corporate limits of the City of Bolivar, a system for the furnishing of electrical service and to provide electric service to any person, governmental entity, or other user or consumer of electric services within or outside the City of Bolivar and within or outside the state; provided, the system shall be operated as a financially separate system independent of, and financially separate

from, the other utility systems of the authority and managed by the electric division of the authority; and provided, further, except to the extent the authority succeeds to the rights and powers of the Bolivar Electric Utility Board of the City of Bolivar, the authority shall not exercise any of the powers granted in this subsection wholly or partly within the legal boundaries of an incorporated city or town or electric cooperative, except as allowed by law;

(4) To acquire, construct, improve, furnish, equip, finance, own, operate and maintain within and outside the corporate limits of the City of Bolivar and within and outside the state, a system for the furnishing of telecommunications service and to provide telecommunications service to any person, governmental entity, or other user or consumer of telecommunications services within or outside the City of Bolivar; provided, the system shall be operated as a financially separate system independent of, and financially separate from, the other utility systems of the authority; and provided, further, but without limitation of the foregoing powers:

(i) To the extent that the authority, or any joint venture, partnership or cooperative arrangement of which the authority is a party, or any limited liability company or not-for-profit corporation of which the authority is a member provides telephone or telegraph services, the authority, or such other entity, shall be subject to regulation by the Tennessee regulatory authority in the same manner and to the same extent as other certified providers of such services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in Section 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the authority's provision of telephone and telegraph services;

(ii) The authority shall have all the powers and authority conferred upon municipalities by Sections 7-52-401, 7-52-402(1), 7-52-402(2), 7-52-403, 7-52-405, 7-52-406, 7-52-601, 7-52-602, 7-52-603 (except Section 7-52-603(a)(1)(A)), 7-52-604, 7-52-605, and 7-52-609, and in the exercise of said powers and authority shall be subject to all the obligations, restrictions and limitations imposed upon municipalities by said sections and imposed upon providers of the services described therein by federal law; provided, that all actions authorized by said sections to be taken by the board or supervisory body having responsibility for a municipal electric plant or authorized to be taken by the chief legislative body of the

municipality shall be authorized to be taken by the board of directors of the authority and all powers granted to a municipal electric system under said sections shall be exercised by the electric division of the authority; and

(iii) Nothing herein shall operate to restrict or impair in any way the ability of the authority to acquire, construct, improve, furnish, equip, finance, own, operate and maintain a telecommunications system or to offer or provide certain telecommunications services through its electric system, provided that such system and services are related to the provision of electric service or the operation of the electric system including, without limitation, load control, meter reading, appliance monitoring, power exchange, and billing, or any other similar or component service;

(5) To fix, levy, charge and collect such fees, rents, tolls or other charges for the use of, or in connection with, any system of the authority as shall be consistent with the provision of the services or sale or other disposition of the commodities provided by the various utilities authorized herein at cost based on sound economy, public good, and prudent business operations, which fees, rents, tolls or charges shall be established by the board without the necessity of review or approval by any other municipality, the state, or any commission or authority thereof or any federal agency other than as provided in appropriate federal statutes or contracts and other than as provided in subparagraph (4) above. Whenever any fees, rents, tolls or other charges for telephone or telegraph services regulated pursuant to subparagraph (4) are to change, such fees, rents, tolls or charges shall be established by the board and be subject to such review and approval by the Tennessee regulatory authority in the same manner and to the same extent as other certified providers of such services;

(6) To acquire, hold, own and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit through installment payments, and to secure the payment of all or any part of any installment obligations in connection with any acquisition;

(7) To have complete control and supervision of any system of the authority and to make such rules and regulations governing the rendering of service thereby as may be just and reasonable;

(8) To contract debts, borrow money, issue bonds, and enter into lease-purchase agreements to acquire, construct, improve, furnish, equip, extend, operate or maintain any system or systems, or any part thereof, or to provide the authority's share of the funding for any joint undertaking or project, and to assume and agree to pay any indebtedness incurred for any of the foregoing purposes;

(9) To accept gifts or grants of money or property, real or personal, and voluntary and uncompensated services or other financial assistance from any person, federal agency, or municipality, for, or in aid of, the acquisition or improvement of any system;

(10) To accept and distribute voluntary contributions for bona fide economic development purposes pursuant to programs approved by the board, which programs may include, but shall not be limited to, programs in which bills to customers are rounded up to the next dollar when such contribution is shown as a separate line on the bill, and contributions accepted pursuant to such programs shall not be considered revenue to the authority and such contributions shall be used only for economic development;

(11) To condemn either the fee or such right, title, interest, or easement in property as the board may deem necessary for any of the purposes mentioned in this act, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by corporations, associations, or persons having the power of eminent domain, or otherwise held or used for public purposes, and such power of condemnation may be exercised in the mode or method of procedure prescribed by Tennessee Code Annotated, Title 29, Chapter 16, as amended or changed, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain; provided, however, that where title to any property sought to be condemned is defective, it shall be passed by decree of court; provided, further, that where condemnation proceedings become necessary the court in which such proceedings are filed shall, upon application by the authority and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just;

(12) To make and execute any and all contracts and instruments necessary or convenient for the full exercise of the powers herein granted, and in connection therewith to stipulate and agree to such covenants,

terms and conditions and such term or duration as shall be appropriate, including, but without limitation, contracts for the purchase or sale of any of the commodities or services authorized herein to be provided by the authority, and carry out and perform the covenants, terms and conditions of all such contracts and instruments. In connection with any contract to acquire or sell any of the commodities or services authorized herein, the authority may enter into commodity price exchange or swap agreements, agreements establishing price floors or ceilings, or both, or other price hedging contracts with any person or entity under such terms and conditions as the authority may determine, including, without limitation, provisions permitting the authority to indemnify or otherwise pay any person or entity for any loss of benefits under such agreement upon early termination thereof or default thereunder. When entering into any such contract or arrangement or any such swap, exchange or hedging agreement evidencing a transaction bearing a reasonable relationship to this state and also to another state or nation, the authority may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this state or the laws of such other state or nation; provided, that jurisdiction over the authority shall lie solely in the courts sitting in Hardeman County, Tennessee;

(13) To sell, exchange or interchange any of the commodities or services authorized to be provided herein either within or outside the state and to establish prices to be paid for such commodities or services and establish pricing structures with respect thereto, including provision for price rebates, discounts, and dividends; and, in connection with any such sales, exchanges or interchanges, to act as agent for such consumers, to secure contracts and arrangements with other entities or persons, to make contracts for the sale, exchange, interchange, pooling, transmission, or distribution of any of the commodities or services authorized to be provided herein, inside or outside this state, and to transmit, transport and distribute any such commodities or services both for itself and on behalf of others;

(14) To make contracts and execute instruments containing such covenants, terms, and conditions as may be necessary, proper or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from the state or any federal agency, and to carry out and perform the covenants and terms and conditions of all such contracts and instruments;

(15) To enter on any lands, waters, and premises for the purpose of making surveys, soundings, and examinations in connection with the

acquisition, improvement, operation, or maintenance of any system and the furnishing of any of the services herein;

(16) To use any right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of one or more systems, held by the state, the City of Bolivar or any other municipality; provided that such other municipality shall consent to such use;

(17) To provide to any municipality, person, federal agency, the state or any agency or instrumentality thereof, transmission or transportation capacity for any of the commodities or services authorized herein, and management and purchasing services associated therewith;

(18) To employ, engage, retain and pay compensation to such officers, agents, consultants, professionals and employees of the authority as shall be necessary to operate the systems, manage the affairs of the authority and otherwise further the purposes of the authority and the exercise of the powers thereof, and to fix their compensation and to establish a program of employee benefits, including a retirement system;

(19) To establish a retirement system for all employees of the authority and to maintain all rights and benefits of employees as they existed under the retirement system of the Bolivar Electric Utility Board of the City of Bolivar without diminution;

(20) To enter into joint ventures and cooperative arrangements with one or more persons, including the formation of a partnership, limited liability company or not-for-profit corporation to accomplish any of the purposes set forth herein or to exercise any of the powers set forth herein;

(21) Upon proper action by the city, to commence operating the systems and to exercise exclusive control and direction of the systems and, upon proper action by the city, to accept title to the assets and assume the liabilities of the systems, and upon such action to hold all the rights as existed with the Bolivar Electric Utility Board of the City of Bolivar without diminution; and

(22) To do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this act under, through or by means of its own officers, agents, and employees, or by contracts with any person, federal agency, or municipality.

SECTION 5. Each system of the authority shall operate independently of the others and shall be self-sustaining except as otherwise provided herein.

SECTION 6.

(a) The affairs of the authority and the exercise of the powers of the authority shall be vested in the board of directors. The following powers shall be exercised directly by the board by resolution of the board:

(1) Selection and employment of the president who shall serve as the chief executive officer of the authority, who shall serve at the pleasure of the board and whose compensation shall be set by the board; provided that nothing herein shall prevent or preclude the board from entering into an employment contract with the chief executive officer. All other officers and employees of the authority shall be selected, employed and discharged pursuant to procedures approved by the chief executive officer, which procedures may include, without limitation, procedures included in employment contracts with such officers and employees, and the chief executive officer shall establish the compensation and applicable policies and procedures for such employees, as provided in Section 9;

(2) Issuance of bonds of the authority and the encumbering of assets of the authority, to the extent authorized herein, to secure any such bonds;

(3) Approval of rates of each of the systems;

(4) Approval of the annual budget of each of the systems;

(5) Adoption of by-laws for the conduct of the business of the board;

(6) Selection of a certified public accountant or accountants to perform audits of the books and affairs of the authority; and

(7) Adoption of a purchasing policy for the authority as hereinafter provided and the approval of purchases and disposition of property in accordance with the terms thereof.

(b) All other powers of the authority shall be exercised by the chief executive officer of the authority and the officers, agents and employees of the authority.

SECTION 7.

(a) The board of directors of the authority shall consist of five (5) directors who shall be appointed by the mayor of the City of Bolivar, subject to approval by the city council of the City of Bolivar. The initial board of directors shall be composed of the members of the board of utility commissioners of the Bolivar Electric Utility Board of the City of Bolivar, who shall serve as directors for the unexpired terms of their appointment to the Bolivar Electric Utility Board, and who shall take office and begin exercising the powers herein granted immediately upon the effective date hereof. All subsequent appointments shall be for five (5) year terms. Each term of office shall commence on July 1 and end on June 30 of the fifth full year of the term. The mayor of the City of Bolivar shall fill each vacancy created by an expiring term and gain approval of the city council not later than June 10 prior to the expiration of the term of office of any director; the appointment to be effective immediately following June 30. The mayor of the City of Bolivar shall promptly fill each vacancy created by the death, resignation or removal of any director and gain approval of the city council, and such director shall serve for the remaining unexpired term of the former director. Except as provided in Section 8 hereof, each director shall hold office until his successor is appointed, approved and qualified and each director shall be eligible for reappointment.

(b) Immediately upon their qualification as a board, and in July of each subsequent year, the board of directors shall select from the board's membership a chairman and a vice-chairman. No additional compensation shall be paid to a director for serving as chairman or vice-chairman. The board shall have a recording secretary, who need not be a member of the board and who shall be appointed by the chief executive officer, subject to the approval by the board. The recording secretary shall record all minutes of the board, keep and maintain all books and records of the board and perform such other duties as the chief executive officer shall determine.

(c) The board shall hold regular monthly meetings and special meetings as may be necessary for the transaction of the business of the Authority. Special meetings of the board may be called by the chairman or, in the absence or disability of the chairman, by any two (2) board members. No meeting of the board shall be held unless a majority of the directors are present. All acts of the board shall be by a vote of three (3)

or more directors. Resolutions of the board shall be effective upon adoption after one (1) reading and may be adopted at the same meeting at which they are introduced. The time and place of all meetings will be set by the board. The board of directors shall be allowed necessary traveling and other expenses while engaged in the business of the board plus an allowance for attendance at meetings in the same manner and to the same extent as is provided for directors of municipal electric systems under Section 7-52-110(e), as amended from time to time and health insurance coverage in the same manner and to the same extent as is provided for directors of municipal electric systems under Section 7-52-110(g); provided, however, that the directors may approve the discontinuation of such health insurance and, in such event, receive a supplemental allowance in the amount of two hundred dollars per month in lieu of such health insurance coverage. Such expenses shall constitute a cost of operation and maintenance of the authority.

(d) Each director shall be a customer of the authority and shall be at least twenty-five (25) years of age. Each director shall take and subscribe an oath or make affirmation to uphold the Constitution and laws of the state of Tennessee, and faithfully to discharge the duties of his office. No more than one director at any time may be a councilman of the City of Bolivar, and except for the foregoing director, no person holding office or having full-time employment with the city government shall be eligible to serve as a director.

SECTION 8. Any director may be removed from office for cause upon a vote of two thirds (2/3) of the members of the city council of the City of Bolivar, but only after preferment of formal charges by resolution of a majority of the members of the city council.

SECTION 9.

(a) The board shall appoint a president, as provided in Section 6, who shall be chief executive officer of the authority and who shall be qualified by at least five (5) years' training, experience or combination thereof for the general management of the business and affairs of an electric utility, but such training, experience, or combination thereof is not required to be with the authority and such training may be satisfied by, but is not limited to, five (5) years' senior management level experience in utility engineering, operations or finance. Membership on the board alone shall not qualify. The salary of the chief executive officer shall be fixed by the board. The chief executive officer shall serve at the pleasure of the board; provided that nothing herein shall prevent or

preclude the board from entering into an employment contract with the chief executive officer.

(b) Within the limits of the funds available therefor and subject to exercise by the board of the powers reserved to it pursuant to Section 6 hereof, all powers of the authority granted herein shall be exercised by the chief executive officer and the various officers and employees of the authority.

(c) The chief executive officer shall have charge of the management and operation of the systems and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board.

(d) The chief executive officer shall appoint each system division head and all officers of the authority, and the chief executive officer or his designee shall hire all employees of the authority. All officers and employees of the authority shall serve at the pleasure of the chief executive officer, and the chief executive officer shall be responsible for maintaining an adequate work force for the authority and establishing a compensation structure and policies and procedures for the work force.

(e) Subject to the terms of Section 10 hereof, the chief executive officer is authorized to acquire and dispose of all property, real and personal, necessary to effectuate the purposes of this part. The title of such property shall be taken in the name of the authority.

(f) All contracts, agreements, indentures, trust agreements and other instruments necessary or proper in carrying out the purposes and powers of the authority or in conducting the affairs of the authority or in operating the systems of the authority shall be executed by the chief executive officer, or his designee or designees, the signature thereof to be binding upon the authority; provided, however, the execution by the chief executive officer of any such contract, agreement, indenture, trust agreement or instrument implementing or evidencing the exercise of powers reserved to the board pursuant to Section 6 hereof shall first be approved by resolution of the board.

(g) The chief executive officer shall cause to be kept full and proper books and records of all operations and affairs of the authority and shall cause to be kept separate books and accounts for each system, so that these books and accounts will reflect the financial condition of each division separately, and may require that the moneys and securities of each division be placed in separate funds to the end that each division

shall be self-sustaining. All divisions will be audited annually by an independent certified public accountant selected by the board of directors.

SECTION 10.

(a) The board shall adopt a policy governing all purchases of services or property, whether real or personal, all leases and lease-purchases and the disposition of all property of the authority. The policy shall authorize the chief executive officer, or his designee or designees, to enter into contracts and agreements for the purchase of services or property, real or personal, leases and lease-purchases, disposition of property of the authority with a value not exceeding an amount from time to time established by the board but not less than \$50,000, and providing for board approval for such purchases, leases, lease-purchases and dispositions in excess of such amount. Subject to the terms of the purchasing policy relating to board approval, the chief executive officer, or his designee or designees, on behalf of the authority, shall be authorized to execute all contracts, purchase orders and other documents necessary or proper in connection with the purchase of property or services and the disposition of property of the authority, including deeds of conveyance of real property. The policy authorized by this section shall provide for competitive bidding in appropriate circumstances, exceptions to any competitive bidding requirements when competitive bidding is not practical, procedures for the purchase of commodities such as electricity and other energy sources traded in public markets, procedures for documentation of compliance with purchasing procedures and such other provisions and terms as the board deems necessary or desirable.

(b) Notwithstanding anything to the contrary in this act, the authority shall not have any power to dispose of all or substantially all of the assets of the authority or all or substantially all of the electric plant of the authority, except upon the concurrence and consent of the city council of the City of Bolivar and upon approval of a majority of those voting in a referendum called by the city council of the City of Bolivar to the extent required under Section 7-52-132. For purposes of establishing compliance with Section 7-52-132, the board of directors of the authority shall be deemed the "supervisory body," the electric plant of the authority shall be deemed "electric plant," and such compliance shall be determined in the same manner and to the same extent as if the authority were operated as the Bolivar Electric Utility Board of the City of Bolivar.

SECTION 11.

(a) The authority shall have power and is authorized to issue its bonds for the construction, acquisition, reconstruction, improvement, betterment or extension of any system of the authority or to assume and to agree to pay any indebtedness incurred for any of the foregoing purposes. The proceeds of the sale of any bonds may be applied to:

(1) The payment of the costs of such construction, acquisition, reconstruction, improvement, betterment or extension;

(2) The payment of the costs associated with any such construction, acquisition, reconstruction, improvement, betterment or extension, including engineering, architectural, inspection, legal and accounting expenses;

(3) The payment of the costs of issuance of such bonds, including underwriter's discount, financial advisory fee, preparation of the definitive bonds, preparation of all public offering and marketing materials, advertising, credit enhancement, and legal, accounting, fiscal and other similar expenses;

(4) The payment of interest during the period of construction and for six (6) months thereafter on any money borrowed or estimated to be borrowed;

(5) Reimbursement of the authority for moneys previously spent by the authority for any of the foregoing purposes;

(6) The establishment of reasonable reserves for the payment of debt service on such bonds, or for repair and replacement to the system of the authority for whose benefit the financing is being undertaken, or for such other purposes as the board shall deem necessary and proper in connection with the issuance of any bonds and operation of the system for whose benefit the financing is being undertaken;

(7) The contribution of the authority's share of the funding for any joint undertaking for the purposes hereinabove set forth; and

(8) The contribution by the authority to any subsidiary or separate entity controlled by the authority for the purposes hereinabove set forth.

(b) The authority shall have the power and is hereby authorized to issue its bonds to refund and refinance outstanding bonds of the authority heretofore or hereafter issued or lawfully assumed by the authority. The proceeds of the sale of the bonds may be applied to:

(1) The payment of the principal amount of the bonds being refunded and refinanced;

(2) The payment of the redemption premium thereon, if any;

(3) The payment of unpaid interest on the bonds being refunded, including interest in arrears, for the payment of which sufficient funds are not available, to the date of delivery or exchange of the refunding bonds;

(4) The payment of interest on the bonds being refunded and refinanced from the date of delivery of the refunding bonds to maturity or to, and including, the first or any subsequent available redemption date or dates on which the bonds being refunded may be called for redemption;

(5) The payment of the costs of issuance of the refunding bonds, including underwriter's discount, financial advisory fee, preparation of the definitive bonds, preparation of all public offering and marketing materials, advertising, credit enhancement, and legal, accounting, fiscal and other similar expenses, and the costs of refunding the outstanding bonds, including the costs of establishing an escrow for the retirement of the outstanding bonds, trustee and escrow agent fees in connection with any escrow, and accounting, legal and other professional fees in connection therewith; and

(6) The establishment of reasonable reserves for the payment of debt service on the refunding bonds, or for repair and replacement to the system of the authority for whose benefit the financing is being undertaken, or for such other purposes as shall be deemed necessary and proper in connection with the issuance of the refunding bonds and operation of the system for whose benefit the financing is being undertaken. Refunding bonds may

be issued to refinance and refund more than one issue of outstanding bonds, notwithstanding that such outstanding bonds may have been issued at different times. Refunding bonds may be issued jointly with other refunding bonds or other bonds of the authority. The principal proceeds from the sale of refunding bonds may be applied either to the immediate payment and retirement of the bonds being refunded or, to the extent not required for the immediate payment of the bonds being refunded, to the deposit in escrow with a bank or trust company to provide for the payment and retirement at a later date of the bonds being refunded.

(c) The authority shall have the power and is authorized to issue its bonds to retire all bonds of the City of Bolivar issued to finance or refinance any of the systems, and, to the extent permitted by contracts with any of the owners of the city bonds, to assume and agree to pay when due the city bonds, retire the city bonds, or deposit in escrow funds sufficient, together with earnings thereon, to retire the city bonds at maturity or upon redemption. The proceeds of such bonds may be used in the same manner and to the same extent as permitted under subsection (b) of this section.

(d) The authority shall have the power and is hereby authorized to issue notes in anticipation of the collection of revenues from the system for whose benefit the financing is undertaken for the purpose of financing electrical power purchases, including transmission costs. Any such notes shall be secured solely by a pledge of, and lien on, the revenues of the electric system. The principal amount of notes which may be issued during any twelve (12) month period shall not exceed sixty percent (60%) of total electrical power purchases for the same period, and all notes issued during such period shall be retired and paid in full on, or before, the end of such period. The notes shall be sold in such manner, at such price and upon such terms and conditions as may be determined by the board. No notes shall be issued under this subsection unless the electric system has positive retained earnings as shown in the most recent audited financial statements of the system, and the system has produced positive net income in at least one (1) fiscal year out of the three (3) fiscal years next preceding the issuance of the notes as shown on the audited financial statements of the system. No notes issued under this subsection shall be issued without first being approved by the state director of local finance. If revenues of such system are insufficient to pay all such notes at maturity, any unpaid notes may be renewed one (1) time for a period not to exceed one (1) year or otherwise liquidated as approved by the comptroller of the treasury or the director of the division of local finance.

(e) The authority shall have the power and is hereby authorized to issue its bonds to finance in whole or in part the cost of the acquisition of electrical power purchased from the Tennessee Valley Authority on a current or long-term prepaid purchase basis and pledge to the punctual payment of any such bonds and interest thereon its rights in such contracts and an amount of the revenues from its electric system, or of any part of such system, sufficient to pay the bonds and interest as the same shall become due and create and maintain reasonable reserves therefor. Such amount shall consist of all or any part or portion of such revenue; and the board in determining the cost of the acquisition of electrical power under this subsection may include all costs and estimated costs of the issuance of the bonds, all engineering, inspection, fiscal and legal expenses.

(f) Bonds issued hereunder as a part of an issue the last maturity of which is not later than five (5) years following the date of issue shall be issued, and referred to, as notes.

SECTION 12.

(a) No bonds shall be issued or assumed hereunder unless authorized to be issued or assumed by resolution of the board, which resolution may be adopted at the same meeting at which it is introduced by a majority of all members thereof then in office, and shall take effect immediately upon adoption. Bonds authorized to be issued hereunder may be issued in one (1) or more series, may bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds may be issued for money or property at competitive or negotiated sale for such price or prices as the board, or its designee, shall determine.

(b) Bonds may be repurchased by the authority out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled or held as an investment of the authority as the board may determine.

(c) Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchasers of bonds.

(d)

(1) With respect to all or any portion of any issue of bonds issued hereunder, at any time during the term of the bonds, and upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the contracts and agreements authorized in this subsection are in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board, as set forth in Section 7-34-109(h), the authority, by resolution of the board, may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the board may determine, including, without limitation, provisions permitting the authority to pay to, or receive from, any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

(2) The authority may enter into an agreement to sell bonds (other than its refunding bonds) under this act providing for delivery of its bonds on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the comptroller of the treasury or the comptroller's designee), from the date of execution of such agreement or to sell its refunding bonds providing for delivery thereof on a date greater than ninety (90) days from the date of execution of the agreement and not greater than the first optional redemption date on which the bonds being refunded can be optionally redeemed resulting in cost savings or at par, whichever is earlier, only upon receipt of a report of the comptroller of the treasury or the comptroller's designee finding that the agreement or contract of the authority to sell its bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the state funding board in accordance with the provisions of Section 7-34-109(h). Agreements to sell bonds and refunding bonds for delivery ninety (90) days or less from the date of execution of the agreement do not require a report of the comptroller of the treasury or the comptroller's designee.

(3) Prior to the adoption by the board of a resolution authorizing a contract or agreement described in subdivision (1) or (2), a request shall be submitted to the comptroller of the treasury or the comptroller's designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or

regulations of the state funding board. Within fifteen (15) days of receipt of the request, the comptroller of the treasury or the comptroller's designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the authority. If the report of the comptroller of the treasury or the comptroller's designee finds that the contract or agreement complies with the guidelines, rules or regulations of the state funding board or the comptroller of the treasury shall fail to report within the fifteen (15) day period, then the authority may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the state funding board. If the report of the comptroller of the treasury or the comptroller's designee finds that such contract or agreement is not in compliance with the guidelines, rules or regulations, then the authority is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for an appeal process upon a determination of noncompliance.

(4) When entering into any contracts or agreements facilitating the issuance and sale of bonds, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, and agreements with the purchaser of the bonds, evidencing a transaction bearing a reasonable relationship to this state and also to another state or nation, the authority may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this state or the laws of such other state or nation; provided, that jurisdiction over the authority shall lie solely in the courts sitting in Hardeman County, Tennessee.

(5) Prior to the adoption or promulgation by the state funding board of guidelines, rules or regulations with respect to the contracts and agreements authorized in subsections (1) and (2), the authority may enter into such contracts or agreements to the extent otherwise authorized by the general laws of the state.

SECTION 13. In order to secure the payment of the principal and interest on the bonds issued hereunder, or in connection with such bonds, the authority has the power to secure such bonds and to covenant as to the bonds

as set forth in Section-21-306 and Section 7-34-110 as such provisions shall from time-to-time be amended.

SECTION 14. No owner or owners of any bonds issued hereunder shall ever have the right to compel any exercise of the taxing powers of the state, the City of Bolivar, or any other municipality or political subdivision of the state to pay such bonds or the interest thereon. Each bond issued under this act shall recite in substance that such bond, including the interest thereon, is payable solely from the revenues pledged to the payment thereof, and that the bond does not constitute a debt of the state, any municipality or any other political subdivision therein.

SECTION 15. Bonds issued hereunder bearing the signature of the chief executive officer in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers. The validity of any bonds shall not be dependent on, or affected by, the validity or regularity of any proceedings relating to the acquisition or improvement of the system or systems for which such bonds are issued. The resolution or resolutions authorizing bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

SECTION 16. In connection with the issuance of bonds and in order to secure the payment of its bonds, the authority shall have power:

(1) To pledge all or any part of its revenues;

(2) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to its bonds, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any amount or proportion of them may enforce any such covenant; and

(3) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or which, in the absolute discretion of the board, tend to make the bonds more marketable notwithstanding that such covenants, acts and things may restrict or interfere with the exercise of the powers herein granted; it being the intention hereof to give the authority power to do all things in the issuance of bonds, and for their security, that a private business corporation can do under the general laws of the state.

SECTION 17. In addition to all other rights and remedies, any holders of bonds of the authority, including a trustee for bondholders, shall have the right:

(1) By mandamus or other suit, action or proceeding at law or in equity, to enforce the bondholder's rights against the authority and the board of the authority, including the right to require the authority and such board to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require the authority and such board to carry out any other covenants and agreements with such bondholders and to perform their duties under this act.

(2) By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such holder or holders of bonds.

(3) By suit, action or proceeding in the Chancery Court sitting in Hardeman County, Tennessee to obtain an appointment of a receiver of any system or systems of the authority or any part or parts thereof. If such receiver be appointed, such receiver may enter and take possession of such system or systems or part or parts thereof and operate and maintain same, and collect and receive all fees, rents, tolls or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall dispose of such money in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct.

(4) By suit, action or proceeding in the Chancery Court sitting in Hardeman County, Tennessee to require the board of the authority to account as if it were the trustee of an express trust.

SECTION 18.

(a) The authority shall not be operated for gain or profit or primarily as a source of revenue to the City of Bolivar or any other person or entity. The authority shall, however, prescribe and collect rates, fees or charges for the services, facilities and commodities made available by it, and shall revise such rates, fees or charges from time-to-time whenever necessary so that each system, shall be and always remain self-supporting, and shall not require appropriations by the City of Bolivar or any other municipality, the state or any political subdivision to carry out its purpose. Any one system of the authority shall not subsidize any other system, and the authority shall keep such books and records as may be

required to properly account for the reasonable distribution of joint or common expenses between the systems of the authority.

(b) The rates, fees, or charges prescribed for each system shall be such as will produce revenue at least sufficient:

(1) To provide for the payment of all expenses of operation and maintenance of such system;

(2) To pay when due principal of, and interest on, all bonds of the authority payable from the revenues of such system;

(3) To pay any payments in lieu of taxes authorized to be paid pursuant to the terms hereof; and

(4) To establish proper reserves for the system.

SECTION 19. Any pledge of, or lien on, revenues, fees, rents, tolls or other charges received or receivable by the authority to secure the payment of any bonds of the authority, and the interest thereon, shall be valid and binding from the time that the pledge or lien is created or granted and shall inure to the benefit of the owner or owners of any such bonds until the payment in full of the principal thereof and premium and interest thereon. The priority of any pledge or lien with respect to competing pledges or liens shall be determined by the date such pledge or lien is created or granted. Neither the resolution nor any other instrument granting, creating, or giving notice of the pledge or lien need be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

SECTION 20. So long as the authority owns any of the systems, the property and revenue of such system shall be exempt from all state, county and municipal taxation. Any bonds issued by the authority pursuant to the provisions hereof, and the income therefrom, shall be exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes, and except as otherwise provided by the general laws of the state.

SECTION 21. The authority is authorized to pay or cause to be paid from the revenues of each of the systems for each fiscal year payments in lieu of taxes to the City of Bolivar or such other municipality as shall properly receive said payments; provided, that payments from the electric system revenues shall be made and computed in accordance with the provisions of the Municipal Electric Plant Law of 1935, codified at Title 7, Chapter 52, and payments made from revenues of the telecommunication system shall be made in accordance with Section 7-52-404 and Section 7-52-606. The authority shall make payments in

lieu of taxes to the City of Bolivar, accruing from and after the effective date of the transfer of the electric system from the City of Bolivar, from the electric system revenues on the same basis as payments are currently being made by the Bolivar Electric Utility Board of the City of Bolivar.

SECTION 22. All moneys of the authority, from whatever source derived, shall be deposited in one (1) or more banks or trust companies and, if the authority shall so require, such accounts shall be continuously insured by an agency of the federal government or secured by a pledge of direct obligations of the United States of America or of the state of Tennessee having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account or accounts. Such securities shall either be deposited with the authority or held by a trustee or agent satisfactory to the authority. In lieu of any pledge of such securities, said deposits may be secured by a surety bond or bonds which shall be in form, sufficiency and substance satisfactory to the authority.

SECTION 23. All funds of the authority are authorized to be invested as follows:

- (1) Direct obligations of the United States government or any of its agencies;
- (2) Obligations guaranteed as to principal and interest by the United States government or any of its agencies;
- (3) Certificates of deposit and other evidences of deposit at state- and federally chartered banks, savings and loan institutions or savings banks deposited and collateralized as described in subsection (a);
- (4) Repurchase agreements entered into with the United States or its agencies or with any bank, broker-dealer or other such entity so long as the obligation of the obligated party is secured by a perfected pledge of full faith and credit obligations of the United States or its agencies;
- (5) Guaranteed investment contracts or similar agreements providing for a specified rate of return over a specified time period with entities rated in one (1) of the two (2) highest rating categories of a nationally recognized rating agency;
- (6) The local government investment pool created by Title 9, Chapter 4, Part 7;

(7) Direct general obligations of a state of the United States, or a political subdivision or instrumentality thereof, having general taxing powers and rated in either of the two (2) highest rating categories by a nationally recognized rating agency of such obligations; or

(8) Obligations of any state of the United States or a political subdivision or instrumentality thereof, secured solely by revenues received by, or on behalf of, the state or political subdivision or instrumentality thereof irrevocably pledged to the payment of the principal and interest on such obligations, rated in the two (2) highest rating categories by a nationally recognized rating agency of such obligations.

(9) The authority's own bonds or notes.

SECTION 24. In the event that the authority shall cease to exist, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to, and become the property of, the City of Bolivar.

SECTION 25. The authority is and shall be considered a political subdivision for purposes of Title 65, Chapter 4.

SECTION 26. The board shall be considered a governing body for purposes of the Open Meetings Act, codified at Title 8, Chapter 44.

SECTION 27. The authority shall be considered a governmental entity for purposes of the Tennessee Governmental Tort Liability Act, codified at Title 29, Chapter 20.

SECTION 28. The authority shall be considered a public agency for purposes of the Interlocal Cooperation Act, codified at Title 12, Chapter 9.

SECTION 29. The authority shall be considered a municipality for the purposes of the Energy Acquisition Corporation Act, codified at Title 7, Chapter 39, and may be an associated municipality of an energy acquisition corporation under Title 7, Chapter 39 and the board shall be a governing body for purposes of Title 7, Chapter 39.

SECTION 30. The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law.

SECTION 31. This act shall not affect rights and duties that matured, penalties that were incurred or proceedings that were begun before its effective date.

SECTION 32. Chapter 142 of the Private Acts of 1953, and all acts amendatory thereto, are hereby amended to add the following as a new appropriately designated Article:

ARTICLE VI. Bolivar Energy Authority

Section 6.01. Upon adoption of the Bolivar Energy Authority Act and ratification by the City of Bolivar, all right, title and interest in and all the assets currently owned and operated for the city by the Bolivar Electric Utility Board of the City of Bolivar, including all real and personal property, tangible or intangible, and any right or interest in any such property, whether or not subject to mortgages, liens, charges or other encumbrances, and all appurtenances, contracts, leases, franchises and other intangibles are transferred to the Bolivar Energy Authority. A transfer to the Bolivar Energy Authority in accordance with the terms hereof shall not be deemed a disposition of assets for purposes of Section 7-52-132.

Section 6.02. Upon adoption of the Bolivar Energy Authority Act and ratification by the City of Bolivar a franchise is granted to the Bolivar Energy Authority to provide within the corporate limits of the City of Bolivar any and all of the services that the City is currently authorized to provide under applicable law.

Section 6.03. Upon transfer of the electric system from the City of Bolivar to the Bolivar Energy Authority, the jurisdiction and control of the City of Bolivar and the Bolivar Electric Utility Board of the City of Bolivar over such system shall be transferred to the Bolivar Energy Authority, and the board of utility commissioners for the Bolivar Electric Utility Board of the City of Bolivar shall cease to exist.

SECTION 33. It shall be a condition of the transfer of a system from the City of Bolivar to the Bolivar Energy Authority that upon such transfer the Bolivar Energy Authority shall either retire the city bonds associated with such system by the payment thereof in full upon transfer, defease such city bonds by depositing funds in irrevocable escrow for the payment of these bonds, or assume and agree to pay in full principal of and interest on such city bonds. Upon the assumption by the Bolivar Energy Authority of the city bonds and its agreement to pay those bonds when due, the Bolivar Energy Authority shall be fully obligated to pay when due, principal, premium and interest with respect to those bonds with the same force and effect as if those bonds were issued by the Bolivar Energy Authority. Bonds issued pursuant to this section shall be secured by, and payable from, the revenues of the respective system in the same way as other bonds of the Bolivar Energy Authority issued pursuant to this act.

The transfer of each of the systems shall be accomplished in such a manner as not to impair the obligations of contract with reference to the city bonds and other legal obligations of the City of Bolivar and to preserve and protect the contract rights vested in the owners of such bonds and other obligations.

SECTION 34. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provisions or application, and to that end the provisions of this act are declared to be severable.

SECTION 35. 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 Bolivar. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 36. For purposes 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 35.

ACTS COMPRISING THE CHARTER OF
BOLIVAR, TENNESSEE

YEAR	CHAPTER	SUBJECT
1953	142	Basic charter act. Repealed Priv. Act 1901, ch. 278.
1965	143	Amended Article II, §§ 2.01 and 2.03 of Priv. Acts 1953, ch. 142.
1981	122	Amended Article II, §§ 2.01 and 2.03 of Priv. Acts 1953, ch. 142.
1983	35	Amended Article II, § 2.01 of Priv. Acts 1953, ch. 142.
1983	57	Amended Article II, § 2.01 of Priv. Acts 1953, ch. 142.
1985	12	Amended sections of Priv. Acts 1953, ch. 142.
1988	178	Amended Article II, § 2.01 of Priv. Acts 1953, ch. 142.
1995	68	Amended Article I, § 1.02(k) and Article II, § 2.03; replaced Article II, §§ 2.05 and 2.06; amended Article II, §§ 2.08 and 2.10; replaced Article III, §§ 3.01, 3.03, and 3.04; deleted Article III, § 3.05; replaced Article III, §§ 3.06 and 3.07; amended Article III, § 3.10 and Article IV, §§ 4.03 and 4.04; and replaced Article IV, § 4.07.
1996	186	Amended Article I, § 1.02(k) and Article II, § 2.03; replaced Article II, §§ 2.05 and 2.06; amended Article II, §§ 2.08 and 2.10; replaced Article III, §§ 3.01, 3.03, and 3.04; deleted Article III, § 3.05; replaced Article III, §§ 3.06 and 3.07; amended Article III, § 3.10 and Article IV, §§ 4.03 and 4.04; replaced Article IV, § 4.07.
2005	35	Deleted Article I, § 1.04(q); replaced Article II, § 2.01; deleted Article III, § 3.04(c) and (d); replaced Article I, § 1.02(k); and amended Article II, § 2.03.
2006	130	A related act to create and empower the Bolivar energy authority.