

HOUSE BILL 1519

By Holt

AN ACT to amend Chapter 128 of the Private Acts of 1990; as amended by Chapter 126 of the Private Acts of 1994 and Chapter 55 of the Private Acts of 2018; and any other acts amendatory thereto, relative to the charter of the city of McKenzie.

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

SECTION 1. Section 5 of Chapter 128 of the Private Acts of 1990, as amended by Chapter 126 of the Private Acts of 1994, and any other acts amendatory thereto, is amended by deleting subsection (p) and substituting instead the following:

(p) To provide that the violation of any ordinance, rule, regulation or order shall be punishable by a fine levied by the Municipal Court not to exceed fifty dollars (\$50.00), and any costs. Higher fines may be imposed by the City only if authorized by general law.

SECTION 2. Section 6 of Chapter 128 of the Private Acts of 1990, as amended by Chapter 126 of the Private Acts of 1994, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 6. There shall be a Mayor, who may reside in any portion of the city and who shall be elected for a term of office of four (4) years. This election shall be held on the first Tuesday after the first Monday in November, 1994, and every four (4) years thereafter.

There shall be six (6) Councilmen, each who will reside in a separate ward as defined by the map adopted by the city council; such Councilmen shall be elected for a term of four (4) years. The present Councilmen shall serve until the end of their respective terms and they or their replacements shall be elected to serve a four (4) year term. Councilmen to represent wards 2, 3 and 5 shall be elected on the first Tuesday

after the first Monday in November, 1994, for four (4) year terms. Councilmen to represent wards 4 and 6 shall be elected on the first Tuesday after the first Monday in November, 1996, for four (4) year terms. The Councilman from ward 1 shall be elected for a two (2) year term at the election on the first Tuesday after the first Monday in November, 1994, and again will be elected at the election on the first Tuesday after the first Monday in November, 1996, for a period of four (4) years. Thereafter all Councilmen will be elected for four (4) year terms. The mayor and six (6) Councilmen shall be designated as the "Board of Mayor and Councilmen".

To be eligible for the office of Councilman, a person must be twenty-one (21) years of age or older and have been a resident of the City of McKenzie for at least one (1) year immediately preceding an election and reside in the ward for which such person seeks election.

To be eligible for the office of Mayor, a person must be twenty-one (21) years of age or older and have been a resident of the City of McKenzie for at least one (1) year immediately preceding the election in which the Mayor is elected.

The Mayor and Councilmen shall take the following oath before entering into the duties of their respective offices:

"I do solemnly swear (or affirm) that I will support the Constitution and laws of the United States and of the State of Tennessee, and the ordinances and resolutions of this municipality, and will faithfully discharge the duties of my office without favor or fear, along for the public good, so help me God."

The compensation of the Mayor and each Councilman is to be set and changed only by ordinance; provided, however, that if compensation is changed, the change in compensation shall not become effective during the current term of the Mayor or during the current term of a Councilman.

SECTION 3. Section 7 of Chapter 128 of the Private Acts of 1990, as amended by Chapter 126 of the Private Acts of 1994, Chapter 55 of the Private Acts of 2018, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 7. The first Tuesday after the first Monday in November in each even-numbered year shall be the day fixed for the nonpartisan election of the Councilmen. Every qualified voter who resides within the City or who owns real property located within the City is entitled to vote in the election. If a nonresident owns property in more than one (1) ward, then the non-resident shall declare, upon registration, which ward the person's vote will be cast. This shall not change unless the non-resident disposes of the property in the ward that the resident chose.

The candidate for Mayor and the candidate for each ward Councilman position who receive the highest number of votes of all candidates for each position shall be declared elected. Their terms of office shall begin at ten o'clock (10:00 a.m.) on the next Tuesday after the election results have been certified by the election commission and shall continue for their term or until their successors are elected and qualified. In case of a tie vote for any candidate to such offices, a special election between the tied candidates will be held within the period of time necessary for the election commission to call the election.

A vacancy shall exist if the Mayor or a Councilman resigns, dies, is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter, the election laws of the state or a crime involving moral turpitude, or for failure to attend any meetings of the Council for a period of ninety (90) days with no extenuating circumstances. A vacancy shall also exist if a Councilman moves his or her residence from the ward in which they were elected or if the Mayor moves his or her residence from the City.

If a vacancy in the office of Mayor occurs, the Vice-Mayor shall fill the vacancy for the remainder of the unexpired term or until the next regular biennial City election, whichever shall occur first. If the Vice-Mayor fills a vacancy in the office of Mayor, the Vice-Mayor's position on the Council shall become vacant and the Board shall fill the vacancy as hereinafter provided and shall select another of their number to serve as Vice-Mayor. If a vacancy in the office of Councilman occurs, the Board of Mayor and Councilmen shall, within a period of ninety (90) days from the date of the occurrence of a

vacancy, elect a qualified person to fill the vacancy for the remainder of the unexpired term or until the next regular biennial City election, whichever shall occur first. If the next regular biennial City election occurs prior to the expiration of a term, an election shall be held to fill the remainder of the unexpired term.

No candidate for office under this act shall directly or indirectly give or promise any person or persons anything of value, or any office, employment, benefit or money for the purpose of influencing or obtaining political support, aid, or vote for any candidate in any municipal election. A violation of this provision shall be a bar to such person holding office for a period of six (6) years.

SECTION 4. Section 8 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 8. The Board of Mayor and Councilmen shall have authority in public assembled session with a quorum present, either regular, special, or called, to exercise all expressly granted and implied powers. The Mayor does not have a right to vote except to break a tie vote. Four (4) Councilmen constitute a quorum; however, a smaller number may adjourn from time to time and compel the attendance of absent members.

The City Council shall have authority:

- (1) To determine its rules of procedure and to provide for their enforcement;
- (2) To select, after each regular biennial election, a Vice-Mayor from its membership, who shall have the powers and duties of Mayor during the absence, disability, or vacancy in the office of Mayor;
- (3) To determine the place, date, and hour of its meetings;
- (4) To adjourn or call meetings and prescribe how "called" meetings shall be called;
- (5) To confirm the appointment of the City Clerk, the City Judge, the City Attorney, and all department heads; to fix wages, salaries and hours of work for all employees; and to approve bonds and contracts;

(6) To provide and keep all necessary books, accounts, statements, and minutes of its own proceedings;

(7) To take proof, either oral or by deposition, and administer oaths or affirmances in cases of trials or hearings held before it;

(8) To levy taxes and declare privileges, and make assessments;

(9) To do, carry on, execute, perform, create positions or offices, approve or reject, elect and confirm such measures and persons as may be necessary for the general welfare; and

(10) The Council may, by two-thirds (2/3) majority vote, appoint a City Administrator who shall be under the control and direction of the Council. The City Administrator shall report and be responsible to the Council. The Council may, by ordinance, require the City Administrator to perform any or all of the following duties:

(a) Make recommendations to the Council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;

(b) Keep the Council fully advised as to the conditions and needs of the municipality;

(c) Report to the Council on the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;

(d) Recommend to the Council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;

(e) Recommend to the Council specific personnel positions as may be required for the needs and operations of the municipality, and propose personnel policies and procedures for the approval of the Council; and

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

SECTION 5. Section 9 of Chapter 128 of the Private Acts of 1990, as amended by Chapter 126 of the Private Acts of 1994, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 9. No ordinance shall be adopted without having first been passed on two (2) separate readings, and no more than one (1) reading shall be had on any one (1) day. All ordinances must be in written form upon introduction. An ordinance may pass first reading on the day on which it is introduced. An ordinance may be amended prior to second reading. Upon final passage of an ordinance, the vote shall be taken by ayes and nays, and the names of the Council persons voting for and against the ordinance shall be entered in the minutes.

Within five (5) days, exclusive of Sundays and holidays, after final passage of an ordinance, the Mayor shall indicate his or her approval by signing (or his or her disapproval by vetoing) the ordinance. If the Mayor neither signs nor vetoes the ordinance during the five (5) day period, the ordinance becomes effective without his or her signature.

If the Mayor vetoes an ordinance, his or her reasons for doing so shall be stated in writing and the ordinance and the veto shall be presented to the City Council for its action. The City Council may pass the ordinance over the Mayor's veto by an affirmative vote of four (4) of its members.

SECTION 6. Section 10 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the Section and substituting instead the following:

SECTION 10. The Mayor shall have the duties and powers of a business manager, supervision and control of all administrative affairs of the municipality, and be the chief executive. The Mayor shall have access to all of the books, records, offices, and papers of every kind pertaining to the City's business, and require their proper and safe keeping. The Mayor shall present, in writing or verbally to the City Council,

recommendations of the needs of the municipality at any time the Mayor deems advisable.

Unless otherwise provided by this Charter, the Mayor shall have authority to make appointments, promotions, and transfers, and to make demotions, suspensions and removals of officers and employees.

The Mayor shall take all proper measures for the preservation of public order, suppression of riots, and the preservation of peace, and he or she may call upon the Governor for military aid. The Mayor shall see that all agreements with the City are carried out. The Mayor shall have authority to call special meetings of the City Council to consider any matter for the welfare of the municipality. Such special meetings shall be called by notifying the individual Council members of the meeting time and providing public notice of such meeting as required by state law.

The Mayor shall have control over all municipal improvements, municipal property, agents, works, services, and enterprises for the public welfare. The Mayor shall have exclusive power to make all expenditures within the budget after the same have been appropriated by the City Council, subject to such restrictions as may be established by ordinance.

SECTION 7. Section 11 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 11. The City government shall be organized into departments of finance and general government, police, fire, streets and sanitation, parks, and water and sewer, unless otherwise provided by ordinance. The City Council shall determine, by ordinance, the functions and duties of all departments and offices. The City Council, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the City, 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, departments, and agencies of the City subject to state law.

The City Council may, from time to time, as it may deem advisable, employ experts for assistance, aid, or advice in the undertaking of any municipal purpose or improvement, and the compensation of such experts shall be fixed by the City Council.

SECTION 8. Section 12 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 12. The City Clerk shall faithfully perform his or her duties to keep all records and books safely, and to handle and account for all moneys belonging to the municipality that may come into the City Clerk's hands, or for which he or she may be responsible.

The City Clerk's duties shall be to act as Clerk of the Board of Mayor and Councilmen, to keep its records and minutes, and to look after the publication of its ordinances and advertisements, and to do such other duties pertaining and incident to the office, as may be directed by the Mayor and the City Council. The City Clerk shall: be accessible to the taxpayers and citizens during the business hours of the day; keep the records of the City, its papers, and its contracts; receive and transmit the necessary information for the operation of the City's enterprises, improvements and works, to the proper officers and agents of the City; and preserve its archives, insurance policies, prepare its advertisements, and keep such statistics and statements of the affairs and property of the City as may be required incident to the office of City Clerk.

The City Clerk shall: be Comptroller of the City, and see that its collections are properly entered, warrants issued, receipts delivered to taxpayers, and the funds of the City honestly, faithfully, and economically distributed; sign all warrants for any expense of the municipality, and such warrants shall likewise be signed by the Mayor or other designated officer of the municipality before they shall be paid; and sign and attest such papers as required and directed to do by ordinance or law. The City Clerk shall give the information pertaining to the City's finances to the Mayor and City Council if the Mayor or City Council requests such information. The City Clerk shall deposit the moneys and revenues received by the City Clerk on behalf of and belonging to the municipality in such depository as the Board shall direct.



The City Clerk shall act as Tax Collector and issue tax receipts for taxes collected, and receipt for the tax book, and enter on the tax books the payment of taxes on the date in which they are collected, unless the City Council decides to use the County Trustee for tax collection.

SECTION 9. Section 13 of Chapter 128 of the Private Acts of 1990, as amended by Chapter 126 of the Private Acts of 1994, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 13. There shall be a City Judge who shall be appointed by the Mayor and confirmed by the City Council.

The judge of the City court shall have the exclusive power to impose fines for the breach of any City ordinance, and shall have such authority as provided for City court judges under state law. All process issued by the judge for the violation of a City ordinance shall be issued in the name of the City of McKenzie. The City Judge shall keep a record of the cases made and tried in the City Judge's court and the disposition of such case.

The City Judge shall have the power to punish any person for any contempt committed in the presence of the court, and shall have power to impose a fine not to exceed fifty dollars (\$50.00).

SECTION 10. Section 18 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 18. An annual budget shall be prepared and adopted in accordance with the requirements of the general laws governing municipal budgets.

Neither the Mayor, nor any other officer, official, agent, nor servant of the City, shall divert any special tax levy from the purpose for which it was levied.

SECTION 11. Section 19 of Chapter 128 of the Private Acts of 1990, and any other acts amendatory thereto, is amended by deleting the section and substituting instead the following:

SECTION 19. All property subject to taxation shall be subject to the property tax levied by the City.

The Council shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation not later than ninety (90) days prior to the tax due date. If the Council fails to do so within that time frame the prior year's tax rate will continue in effect.

The due dates for the payment 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, penalty, or interest thereon. Property taxes shall become delinquent March 1, at which time penalties and interest will be assessed as permitted by general law.

No officer or employee of the City shall have the authority to excuse taxes, penalties, interest, special assessments, or other charges due the City, but errors may be corrected when authorized by majority vote of the Council.

SECTION 12. 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 McKenzie. Its approval or non-approval shall be proclaimed by the presiding officer of the City of McKenzie and certified to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 12.