

NOTICE OF PUBLIC HEARING

In accordance with Tennessee Code Annotated § 40-1-111 (2) (A), a public hearing will be held by the Blount County Board of Commissioners to examine and evaluate the program of judicial commissioners and to determine if the program is being conducted in accordance with law and is contributing to the orderly, effective and fair administration of justice. The public hearing will be held Thursday, June 9, 2011, 6:30 p.m. at the Blount County Courthouse, Maryville, Tennessee.

Blount County does not discriminate based on race, color, or national origin in federal or state sponsored programs, pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

May 4, 2011

Ed Mitchell
County Mayor

Kenneth Melton
County Commission Chairman

Roy Crawford, Jr.
County Clerk

40-1-111. Appointment of judicial commissioners or magistrates — Duties — Terms — Compensation — Continuing education.

(a) (1) (A) The chief legislative body of any county having a population of less than two hundred thousand (200,000) or a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census may appoint, and the chief legislative body of any county having a population of over seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, may initially appoint one (1) or more judicial commissioners whose duty or duties shall include, but not be limited to, the following:

(i) Issuance of search warrants and felony arrest warrants upon a finding of probable cause and pursuant to requests from on-duty law enforcement officers and in accordance with the procedures outlined in chapters 5 and 6 of this title;

(ii) Issuance of mittimus following compliance with the procedures prescribed by § [40-5-103](#);

(iii) The appointing of attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;

(iv) The setting and approving of bonds and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county; and

(v) Issuance of injunctions and other appropriate orders as designated by the general sessions judges in cases of alleged domestic violence.

(B) (i) This subdivision (a)(1)(B)(i) applies to any county having a population of less than two hundred thousand (200,000) or a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census. The term or terms of the officers shall be established by the chief legislative body of the county to which this subdivision (a)(1)(B)(i) applies but shall not exceed a four-year term. No member of the county legislative body of any county to which this subdivision (a)(1)(B)(i) applies shall be eligible for appointment as a judicial commissioner. Notwithstanding the provisions of this subdivision (a)(1)(B)(i) to the contrary, the presiding general sessions criminal judge of a county to which this subdivision (a)(1)(B)(i) applies may appoint a temporary or part-time judicial commissioner to serve at the pleasure of the presiding judge in case of absence, emergency or other need. The legislative body of any county to which this subdivision (a)(1)(B)(i) applies, in appointing, evaluating and making decisions relative to retention and reappointment, shall take into consideration views, comments and suggestions of the judges of the courts in which the judicial commissioners are appointed to serve.

(ii) Any subsequent term of a judicial commissioner initially appointed by the chief legislative body of any county having a population of over seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, shall be by the general sessions judges of that county. The term or terms of the officers shall be established by the general sessions criminal court judges of the county but shall not exceed a four-year term. No member of the county legislative body of the county shall be eligible for appointment as a judicial commissioner. Notwithstanding the provisions of this subdivision (a)(1)(B)(ii) to the contrary, the presiding general sessions criminal court judge of the

county may appoint a temporary, or part-time, judicial commissioner to serve at the pleasure of the presiding judge in case of absence, emergency or other need. The general sessions judges of the county in appointing, evaluating and making decisions relative to retention and reappointment shall take into consideration views, comments and suggestions of the judges of the courts in which the judicial commissioners are appointed to serve.

(C) In any county having a population greater than seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, to be eligible for appointment and service as a judicial commissioner a person must be licensed to practice law in the state of Tennessee.

(D) Any county, having a population greater than seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, which appoints and makes use of judicial commissioners shall maintain records sufficient to allow an annual determination of whether the use of judicial commissioners is accomplishing the purposes intended.

(2) (A) On an annual basis the county legislative body shall conduct a public hearing to examine and evaluate the program of judicial commissioners and to determine if the program is being conducted in accordance with law and is contributing to the orderly, effective and fair administration of justice. As a part of the public hearing the county legislative body shall examine the effectiveness of the system of judicial commissioners and hear the opinions of the public concerning the system. The county legislative body shall give notice of the public hearing at least thirty (30) days prior to the meeting.

(B) Following the hearing and not later than April 1 of each year, the county legislative body shall cause to be submitted to the judges of the general sessions criminal court of the county, the chair of the judiciary committee of the senate and the chair of the judiciary committee of the house of representatives a written report setting forth findings and the overall evaluation of the use of judicial commissioners.

(3) The judicial commissioner or commissioners shall be compensated from the general fund of the county in an amount to be determined by the chief legislative body. Fees established and authorized by § [8-21-401](#) shall be paid to the county general fund upon the services detailed in § [8-21-401](#) being performed by a judicial commissioner.

(b) (1) Notwithstanding any provision of this section to the contrary, a judge of a court of general sessions in a county having a population of not less than fourteen thousand seven hundred (14,700) nor more than fourteen thousand eight hundred (14,800), according to the 1970 federal census or any subsequent federal census, may appoint one (1) or more judicial commissioners whose duties shall be the same as those prescribed for judicial commissioners in subsection (a). The judge may appoint a commissioner if the county legislative body of the counties noted in subsection (a) does not appoint a judicial commissioner before May 1, 1980. The term of the judicial officer shall be for one (1) year or until the county legislative body appoints a judicial commissioner as provided by subsection (a).

(2) A judicial commissioner who is appointed by a general sessions judge as outlined in subdivision (b)(1) shall serve without compensation unless an amount of compensation is specifically established by the county legislative body.

(c) Notwithstanding any provision of this section to the contrary, in any county having a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census, any appointment of a judicial commissioner pursuant to subsection (a) shall be subject to the approval of a majority of the general sessions judges in the county.

(d) (1) Notwithstanding the provisions of subsections (a)-(c), the legislative body of any county having a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand six hundred (41,600), according to the 1990 federal census or any subsequent federal census, may, by resolution, create the position of one (1) or more judicial commissioners.

(2) The duties of a commissioner shall include, but are not limited to, the following:

(A) The issuance of arrest warrants upon a finding of probable cause;

(B) The setting of bonds and recognizance in accordance with the procedures outlined in chapters 5 and 6 of this title;

(C) The issuance of search warrants where authorized by the general sessions judge or a judge of a court of record; and

(D) The issuance of mittimus following compliance with the procedures prescribed by § [40-5-103](#).

(3) The term of a judicial commissioner shall be established by the general sessions judge of the county, but in no event shall the term exceed four (4) years.

(4) A judicial commissioner shall be compensated from the general fund of the county in an amount to be determined by the general sessions judge of the county and subject to the approval of the county legislative body. Fees established and authorized by § [8-21-401](#) shall be paid to the general fund upon the services detailed in § [8-21-401](#) being performed by a judicial commissioner.

(5) A judicial commissioner shall be selected and appointed by the general sessions judge in the county, and shall serve at the pleasure of such general sessions judge, but not longer than the term specified in subdivision (d)(3).

(e) (1) Notwithstanding the provisions of subsections (a)-(d), any county having a population of not less than three hundred seven thousand (307,000) nor more than three hundred eight thousand (308,000), according to the 2000 federal census or any subsequent federal census, may elect to establish judicial commissioners to assist the general sessions court in accordance with this subdivision (e)(1). The county legislative body may appoint one (1) or more attorneys to serve as judicial commissioners. The duties of a judicial commissioner shall include, but not be limited to the following:

(A) Issuance of arrest and search warrants upon a finding of probable cause in accordance with the procedures outlined in chapters 5 and 6 of this title;

(B) Issuance of mittimus following compliance with the procedures prescribed by § [40-5-103](#);

(C) Appointing attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;

(D) Setting and approving bonds and the release on recognizance of defendants in accordance with chapter 11 of this title; and

(E) Setting bond for the circuit court judges and chancellors in cases involving violations of orders of protection between the hours of nine o'clock p.m. (9:00 p.m.) and seven o'clock a.m. (7:00 a.m.) on weekdays, and on weekends, holidays and at any other time when the judge or chancellor is unavailable to set bond.

(2) The term of office for a judicial commissioner shall be established by the county legislative body, but such term shall not exceed four (4) years. A member of the county legislative body is not eligible for appointment as a judicial commissioner.

(3) A judicial commissioner shall be compensated from the general fund of the county in an amount to be determined by the county legislative body. Fees established and authorized by § 8-21-401 shall be paid to the county general fund upon the services detailed therein being performed by a judicial commissioner.

(f) (1) Beginning January 1, 2010, each judicial commissioner who is appointed to serve pursuant to this section must complete twelve (12) hours of continuing education each calendar year, ten (10) hours of which must be completed by attendance at conferences or courses sponsored or approved by the Judicial Commissioners Association of Tennessee. The remaining two (2) hours may be completed by attendance at classes sponsored by either the Judicial Commissioners Association of Tennessee or the Tennessee Court Clerks Association, or by local in-service education. At least six (6) hours of the total twelve (12) hours must be taught by a person who is licensed to practice law in this state.

(2) Any judicial commissioner who is licensed to practice law in this state is authorized to use continuing legal education credits toward completion of the ten (10) hours, which otherwise must be completed by attendance at conferences or courses sponsored or approved by the Judicial Commissioners Association of Tennessee.

(3) All judicial commissioners must complete, as part of the twelve (12) required hours, the following classes:

- (A) At least two (2) hours concerning domestic violence or child abuse;
- (B) At least one (1) hour concerning bail and bonds; and
- (C) At least one (1) hour concerning ethics.

(4) All counties for which judicial commissioners are appointed to serve pursuant to this section shall provide all necessary funding for their respective judicial commissioners to complete the continuing education required by this subsection (f).

(5) All records indicating satisfaction of the continuing education requirements for judicial commissioners shall be maintained by each county and kept on the file for at least seven (7) years.

(6) Notwithstanding the provisions of this subsection (f), in any county in which the judicial commissioner is selected by the general sessions judge or judges, the county legislative body of such county may elect, by a two-thirds (2/3) majority, to allow each judicial commissioner to receive twelve (12) hours of appropriate continuing education each calendar year under the supervision of the appointing general sessions judge or judges rather than the Judicial Commissioners Association of Tennessee or the Tennessee Court Clerks Association.

(g) Judicial commissioners duly appointed pursuant to this section in any county with a population not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census, shall be known as "magistrates."

Acts 1978, ch. 933, § 4; 1979, ch. 15, § 1; 1980, ch. 781, § 1; 1981, ch. 209, §§ 1, 2; T.C.A., § 40-120; Acts 1991, ch. 444, § 1; 1993, ch. 241, § 57; 1998, ch. 984, § 1; 2001, ch. 316, §§ 1, 2; 2004, ch. 685, § 1; 2009, ch. 503, § 1; 2010, ch. 989, §§ 1, 2.

NOTICE OF PUBLIC HEARING. In accordance with Tennessee Code Annotated Sections 5-5-105 and 13-7-105, the Board of County Commissioners of Blount County, Tennessee, will hold public hearing on June 9, 2011 at 6:30 P.M., at the Blount County Courthouse Commission Meeting Room for the following proposed amendment to the Zoning Resolution of Blount County, Tennessee, being Resolution 00-06-010.

A RESOLUTION TO AMEND THE ZONING RESOLUTION OF BLOUNT COUNTY, TENNESSEE, SECTION 9.10.J TO PROVIDE FOR OBJECTIVE NOISE STANDARDS AND DESIGN REQUIREMENTS IN THE RURAL ARTERIAL COMMERCIAL (RAC) ZONE.

That the last sentence in Section 9.10.J reading “Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed” be deleted, and that the following be placed therein - summary of amendment as follows: Introductory paragraph specifying applicability; Subsection 1 specifying purpose; Subsection 2 providing definitions; Subsection 3 setting noise standards for various situations and times of day; Subsection 4 requiring a noise study a part of an applicable site plan; Subsection 5 requiring incorporation of design controls and mitigation measures; Subsection 6 specifying compliance with noise study and site plan and specifying means of measurement; Subsection 7 specifying that compliance with noise study and site plan shall be a continuing requirement; Subsection 8 specifying situations where standards shall not apply; Subsection 9 specifying limitation of applicability for nonconforming uses.

Copy of the Resolutions may be obtained at the office of the Secretary to the County Commission at the Blount County Courthouse, Court Street, Maryville, Tennessee during regular office hours. Blount County does not discriminate based on race, color or national origin in federal or state sponsored programs, pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

APPROVED:

ATTEST:

Kenneth Melton
Commission Chairman

Roy Crawford, Jr.
County Clerk

Ed Mitchell
County Mayor

RESOLUTION No. 11-06-013

Sponsored by Commissioners and

A RESOLUTION TO AMEND THE ZONING RESOLUTION OF BLOUNT COUNTY, TENNESSEE, SECTION 9.10.J TO PROVIDE FOR OBJECTIVE NOISE STANDARDS AND DESIGN REQUIREMENTS IN THE RURAL ARTERIAL COMMERCIAL (RAC) ZONE.

BE IT RESOLVED, by the Board of Commissioners of Blount County, Tennessee, in session assembled this 16th day of June, 2011:

WHEREAS, the Legislature of the State of Tennessee has enabled Blount County to adopt and amend zoning regulations in Tennessee Code Annotated Sections 13-7-101, *et seq.*, and

WHEREAS, the Board of Commissioners of Blount County, Tennessee adopted zoning regulations in Resolution 00-06-010 **A RESOLUTION ADOPTING ZONING IN BLOUNT COUNTY PURSUANT TO SECTIONS 13-7-101, *et seq.*, OF THE TENNESSEE CODE ANNOTATED**, and

WHEREAS, it is desired to amend such Resolution to address noise standards as part of design requirements for developments in the RAC zone.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF BLOUNT COUNTY, TENNESSEE, to adopt the following:

That the last sentence in Section 9.10.J reading “Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed” be deleted, and that the following be placed therein:

The following requirements shall be met to address noise for any use requiring a site plan where, a) the use includes design elements not fully enclosed within a principal structure and which would be expected to produce substantial noise, specifically compressor, HVAC unit, loading area for more than two axel trucks, or b) the use includes external venting of exhaust from combustion engines contained within buildings that are part of the design of the use, and c) the site abuts any parcel zoned S-Suburbanizing, R-1-Rural District 1, or R-2-Rural District 2, or where the site abuts property containing any sensitive use listed in subsection 3 table below:

1. The purpose of noise standards, noise study and mitigation requirements is to ensure that future development minimizes the impact of noise on adjacent properties, by establishing maximum noise levels and standards for evaluating noise impacts.

2. Definitions.

a. dBA – the A-weighted scale for measuring sound level in decibels (dB) as a unit used to express the relative intensity of a sound as it is heard by the human ear.

b. Leq – the energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound which, in a

given situation and time period, has the same sound energy as does a time varying sound.

c. Lmax – the maximum sound pressure level for a given period of time.

3. Noise standards. The site plan shall be designed to meet the following exterior noise limit standards at site property line in relation to abutting land zoned S, R-1, and R-2 and specific sensitive uses .

Exterior Noise Limits at property line of site

For Abutting Zone or Use	Time Period		Noise Level, dBA	
	Begin	End	L eq	L max
S-Suburbanizing District	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	45	60
R-1-Rural District 1	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
R-2-Rural District 2	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
Sensitive Uses *	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55

* residences, schools, hospitals, nursing homes, churches, and libraries

If the measured ambient noise level prior to project construction and operation exceeds that indicated in the table above at the property line of the site, then the allowable noise limits shall be set at 5 dBA above the ambient level.

4. A noise study shall be part of the site plan and shall be prepared and certified by a qualified professional showing how the site design shall meet the requirements in subsection 3 above. A qualified professional shall be one that is experienced in the field of environmental noise assessment and architectural acoustics.

5. The site design shall incorporate design controls and mitigation measures necessary to meet the requirements in subsection 3 above.

6. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. The compliance measurements shall be conducted by the same qualified professional that produced the noise study, and shall be taken at full operation of the subject use for the site plan.

7. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be a continuing requirement after site plan approval, construction of project and operation of project, and shall be subject to continued enforcement through compliance inspections and/or response to complaints.

8. The above standards shall not apply to those activities associated with actual construction of a subject site plan project or to those projects associated with provision of emergency, law enforcement or necessary governmental or utility services or functions.

9. A legal nonconforming use meeting requirements in other sections of this resolution shall not be subject to the above standards, provided that if the nonconforming use loses its nonconforming status by any means, then future operation and/or modification of the site requiring a site plan shall meet all requirements of this section.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION SHALL BE IN FORCE AND BECOME EFFECTIVE UPON ITS ADOPTION, THE PUBLIC WELFARE REQUIRING IT.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____
County Mayor

Date

Think Quality - Think Future

Blount County Planning Department

Blount County Courthouse - 327 Court Street
Maryville, TN 37804-5906
Tel (865) 273-5750 - FAX (865) 273-5759
e-mail - planning@blounttn.org
on-line - www.blounttn.org/planning/

TO: County Commission

FROM: John Lamb

DATE: April 4, 2011

SUBJECT: Planning Commission recommendation regarding noise standards in the RAC zoning site plan process.

The Blount County Planning Commission voted at their March 24, 2011 regular meeting to recommend the following amendment to the zoning regulations applying to the RAC-Rural Arterial Commercial zone:

That the last sentence in Section 9.10 reading “Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed” be deleted, and that the following be placed therein:

The following requirements shall be met to address noise for any use requiring a site plan where, a) the use includes design elements not fully enclosed within a principal structure and which would be expected to produce substantial noise, specifically compressor, HVAC unit, loading area for more than two axel trucks, or b) the use includes external venting of exhaust from combustion engines contained within buildings that are part of the design of the use, and c) the site abuts any parcel zoned S-Suburbanizing, R-1-Rural District 1, or R-2-Rural District 2, or where the site abuts property containing any sensitive use listed in subsection 3 table below:

1. The purpose of noise standards, noise study and mitigation requirements is to ensure that future development minimizes the impact of noise on adjacent properties, by establishing maximum noise levels and standards for evaluating noise impacts.

2. Definitions.

- a. dBA – the A-weighted scale for measuring sound level in decibels (dB) as a unit used to express the relative intensity of a sound as it is heard by the human ear.
 - b. Leq – the energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound which, in a given situation and time period, has the same sound energy as does a time varying sound.
 - c. Lmax – the maximum sound pressure level for a given period of time.
3. Noise standards. The site plan shall be designed to meet the following exterior noise limit standards at site property line in relation to abutting land zoned S, R-1, and R-2 and specific sensitive uses .

Exterior Noise Limits at property line of site

For Abutting Zone or Use	Time Period		Noise Level, dBA	
	Begin	End	L eq	L max
S-Suburbanizing District	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	45	60
R-1-Rural District 1	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
R-2-Rural District 2	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
Sensitive Uses *	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55

* residences, schools, hospitals, nursing homes, churches, and libraries

If the measured ambient noise level prior to project construction and operation exceeds that indicated in the table above at the property line of the site, then the allowable noise limits shall be set at 5 dBA above the ambient level.

- 4. A noise study shall be part of the site plan and shall be prepared and certified by a qualified professional showing how the site design shall meet the requirements in subsection 3 above. A qualified professional shall be one that is experienced in the field of environmental noise assessment and architectural acoustics.
- 5. The site design shall incorporate design controls and mitigation measures necessary to meet the requirements in subsection 3 above.
- 6. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. The compliance measurements shall be conducted by the same qualified professional that

produced the noise study, and shall be taken at full operation of the subject use for the site plan.

7. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be a continuing requirement after site plan approval, construction of project and operation of project, and shall be subject to continued enforcement through compliance inspections and/or response to complaints.

8. The above standards shall not apply to those activities associated with actual construction of a subject site plan project or to those projects associated with provision of emergency, law enforcement or necessary governmental or utility services or functions.

9. A legal nonconforming use meeting requirements in other sections of this resolution shall not be subject to the above standards, provided that if the nonconforming use loses its nonconforming status by any means, then future operation and/or modification of the site requiring a site plan shall meet all requirements of this section.

As background, the review of the Attorney for the County Mayor starts on following page, and is then followed by staff analysis presented for consideration of the Planning Commission.

M E M O

TO: JOHN LAMB

FROM: ATTORNEY CRAIG GARRETT

DATE: MARCH 16, 2011

RE: REFERRAL BY PLANNING COMMISSION FOR LEGAL REVIEW OF
DRAFT NOISE REGULATION FOR INCLUSION IN ZONING
REGULATION SECTION 9.10.J

From my conversations with you, as well as the Mayor, it is my understanding that there is legitimate concern regarding the regulation of noise levels attributable to commercial projects lying in the rural areas of the County.

I do agree that the current language in Section J has no objective criteria for determining when noise would be determined to have an off-site impact on surrounding property. As a result thereof, the present restriction could easily be classified as arbitrary.

Your two memos to me set forth two alternatives. The first being to do nothing except eliminate the language in the present ordinance. This can certainly be done, but would not address the noise issue.

I have evaluated your second alternative as modified in your second memo to me and I feel that this second alternative applies with the applicable law.

The zoning regulations or amendments thereto are subject to challenge in court when they violate certain provisions of U.S. or Tennessee Constitutions. Causes of action are generally classified as follows:

1. A procedural due process claim challenging the procedures by which the regulation was adopted;
2. A substantive due process claim based on the arbitrary and capricious action of the government in adopting the regulation;
3. A Takings Cause claim which may seek not only compensation, if the regulation amounts to a taking, but may seek invalidation and injunctive relief if the regulation exceeds what the government body may do under the Takings Clause of the Constitution;
4. Claims under some other constitutional provision that give a landowner a protectable right, not specifically involved with the real property itself, [e.g.] a claim alleging a violation of the Equal Protection Clause of the Constitution.

The suggested amendment to the regulation would only involve an evaluation of Items 2 and 4 listed above.

There will be no procedural due process claim provided the regulation is properly adopted. The regulation as worded would not amount to a taking of the property and analysis under that body of law is not required.

In essence, the regulation must be evaluated under the substantive due process and equal protection clause in the Constitution.

A substantive due process claim is based on the exercise of government power without a reasonable justification. The Courts have determined that citizens have a substantive due process right not to be subjected to arbitrary or irrational zoning decisions. A local zoning regulation will survive a substantive due process challenge if there exists a rational relationship between the terms of the ordinance and a legitimate government purpose. The Courts in reviewing a substantive due process claim, apply what is known as a rational basis test. This test is whether the ordinance or regulation bears a reasonable relationship to the public health, safety or welfare. If it does, it is a valid exercise of the government's powers.

In essence, the Courts have held that a legislative body through zoning legislation may impose a limitation on the use of property which it may deem necessary or expedient to promote and protect the safety, health, morals, comfort and welfare of the people, provided that this power is not exercised arbitrarily which means that there must be a reasonable connection or relation between the limitation imposed and the public safety, health or welfare.

The equal protection clause of the Constitution guarantees that all persons who are similarly situated will be treated alike by the government and the law. Equal protection challenges are based upon governmental classifications. In matters of zoning, the Courts have applied the reduced scrutiny standard. This standard states that there must exist a rational basis for the classification placed by the government or that the classification must have a reasonable relationship to a legitimate state interest. Thus, as in the substantive due process challenge, the zoning regulation must be reviewed under the rational basis test.

The Courts have determined that the rational basis analysis used in an equal protection challenge does not differ in substantial regard from the rational basis test used when considering a substantive due process claim. Equal protection requires only that the legislative classification be rationally related to the objective it seeks to achieve. If a reasonable basis can be found for the classification, the zoning regulation will not be subject to challenge.

Based upon my understanding of the objective of the regulation to be amended, the County seeks to control noise associated with commercial development in rural areas that may impact adjoining property owners. This seems to me to be a legitimate government interest. The wording of the amended regulation is not arbitrary and gives objective standards and specific noise levels for specific times.

The same noise concerns are not applicable in areas that are designated as commercial or industrial zones. It appears the concern is this noise as it relates to commercial endeavors in a rural area.

Based on all of the above, it is my opinion that the proposed amendment under “Alternative 2” would be a legally valid amendment to our zoning regulation and would pass legal scrutiny.

cc: Mayor Ed Mitchell

The following is excerpt from staff memo dated October 20, 2010 for the October regular meeting of the Planning Commission and is presented here as background information.

At the request of the County Mayor, staff prepared an analysis of issues related to addressing noise in the zoning site plan process. The present criteria of considering noise may be viewed as too subjective, and in need of more objective standards.

Present Zoning Regulations. Our zoning regulations include the following as part of site plan design requirements in the RAC (Rural Arterial Commercial) zone Section 9.10 (noise provisions highlighted):

J. Additional design requirements: All site plans shall be accompanied by a stormwater drainage plan prepared by a qualified engineer, and shall address the need for detention, if necessary, and pollution control. All uses permitted under this Section shall provide a vegetative landscape buffer, to be determined by the Planning Commission during site plan review, between the use/buildings on the commercial site, and any parcel or lot zoned other than RAC or C. Such buffering shall apply to rear lot lines of the commercial site, and also to side lot lines behind the minimum front building setback lines, except where there is an immediately adjacent residential use that would require screening within the minimum front building setback line. All uses permitted under this Section shall have a front building elevation, along all fronting roads, constructed of at least 50 percent nonmetal building materials. All external lighting shall be directed away from or screened from land zoned other than RAC or C, and away from any public right-of-way. **Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed.**

Note that this requirement is not present in the C-Commercial or the IND-Industrial zone, and is not considered in general site plans requirements that address other zones. This may be then criticized as discriminatory and an added burden on commercial projects in the rural areas of the county, but was purposefully placed there in recognition that noise may be of greater impact in the rural areas of the county. The present wording does not provide objective criteria for consideration in the site plan process, and should be considered for amendment.

Note also that other sections in the zoning regulations have requirements for addressing noise as follows by section:

7.10 Family Commercial Enterprises, Section F

F. No equipment or process shall be used in such enterprise or occupation which creates ***noise***, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or parcel housing the proposed use.

Note that this section poses several criteria that may be impossible to meet and therefore may not be defensible. This section too may need to be amended to add objective criteria.

7.13 Sport Shooting Ranges, Section B

B. Sport shooting range shall be designed to ***minimize noise*** to surrounding properties. Mitigation shall include soundproofing for indoor shooting ranges. For outdoor shooting range, mitigation shall include minimum distance from active firing lines or stations of 1000 feet from adjacent property lines to front (direction of line of fire) and sides of such firing lines or stations, and 500 feet from the rear (diametrically away from the line of fire) of such firing lines or stations, and shall include a combination of vegetative buffer, earthen buffer and constructed buffer as appropriate.

Note that though “minimize noise” standing alone may be seen as subjective, the mitigation criteria that follow provide objective content.

9.8 AHO Airport Hazard Overlay, Section B

B. Within the Airport Hazard Overlay and within the 65 DNL Contour, prior to the issuance of any building permit or approval of any special exception or variance, any application for permit or special exception or variance shall be forwarded to the McGhee Tyson Airport Authority for review and recommendation on compatibility with the ***Noise Compatibility Program of the Airport Authority***, and any other requirements for airport operations. The Airport Authority shall have 45 days in which to review and make recommendation. Lack of recommendation from the Airport Authority within such 45 days shall be interpreted as a recommendation of no effect in relation to the proposed permit. Any such recommendation finding incompatibility with the Noise Compatibility Program or interference with airport operations shall be grounds for denying a building permit or denying a special exception or variance.

Note that the Airport Hazard Overlay zone already sets an objective standard of average day/night noise level of 65 DNL within a plan adopted by the Airport Authority and is governed by FAA regulations.

Other county regulations adopted under animal control and the general county powers act also address noise without setting objective noise level. See last section of this item for those regulations.

Review of Possible Regulations. Review of internet sources reveals a range of objective requirements for noise based on decibel (dB) levels for different land use situations. Almost all seem to be related to a general noise ordinance and not to specific provisions in zoning regulations. The probable reason for this is that objective noise level requirements in zoning presuppose a method of predicting noise level prior to actual permit and use.

The question would be: How can you determine the objective noise level of a potential use at a specific site through the zoning permit process? This answer assumes a modeling methodology that could address a wide range of potential uses and site characteristics. Such methodologies exist, given evidence that commercial and industrial impact studies address noise issues projectively in some jurisdictions. However, such studies would probably be an added expense in the permit process and require expertise outside the present capabilities of county government.

The following is an example of how noise levels were integrated into a zoning ordinance in Nevada County, California, and may be used as a template for designing a noise element in our zoning regulations. Note that one of the features of this set of regulations is inclusion of rural zones which would be an important consideration for Blount County regulations.

Section L-II 4.1.7 Noise

A. Purpose. The purpose of these regulations is to ensure that future development minimizes unnecessary and annoying noise, by establishing maximum noise levels and standards for evaluating potential noise impacts.

B. Applicability. Noise standards shall apply to all discretionary projects, including Development Permits and Use Permits, unless otherwise excepted in this Section.

C. Definitions.

1. dBA - The "A-weighted" scale for measuring sound in decibels (a unit used to express the relative intensity of a sound as it is heard by the human ear). This logarithmic scale reduces the effects of low and high frequencies in order to simulate human hearing.

2. Leq - The energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound

which, in a given situation and time period, has the same sound energy as does a time varying sound.

3. Lmax - The maximum sound pressure level for a given period of time.

D. Noise Standards. All land use projects requiring a Development Permit or a Use Permit shall comply with the noise standards provided herein. Permitted residential land uses, including parcel and tentative maps, are not subject to these standards.

Table L-II 4.1.7					
Exterior Noise Limits					
Land Use Category	Zoning Districts	Time Period		Noise Level, dBA	
		Start	End	L eq	L max
Rural	AG, TPZ, AE, OS, FR, IDR	7 am	7 pm	55	75
		7 pm	10 pm	50	65
		10 pm	7 am	40	55
Residential and Public	RA, R1, R2, R3, P	7 am	7 pm	55	75
		7 pm	10 pm	50	65
		10 pm	7 am	45	60
Commercial and Recreation	C1, CH, CS, C2, C3, OP, REC	7 am	7 pm	70	90
		7 pm	7 am	65	75
Business Park	BP	7 am	7 pm	65	85
		7 pm	7 am	60	70
Industrial	M1, M2	any time		80	90

1. A comprehensive noise study shall be prepared for all projects requiring a Development Permit or a Use Permit and which have a potential to create noise levels inconsistent with the standards contained herein. The study shall be prepared in accordance with the methodology identified in the Noise Element Manual contained in General Plan, Volume 2, Section 3 – Noise Analysis Appendix A, Table A-1.

2. Projects with the potential for generating noise impacts shall incorporate design controls that assist in minimizing the impacts through the use of increased setbacks, landscaped earthen berms, solid fencing, placement of structures or other effective means.

3. Compliance with the above standards shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. Additional noise measurements may be necessary to ensure that the ambient noise level is adequately determined. All measurements shall be conducted by a qualified person experienced in the field of environmental noise assessment and architectural acoustics.

4. Where 2 different zoning districts abut, the standard applicable to the lower, or more restrictive, district plus 5 dBA shall apply.

5. The above standards shall be measured only on property containing a noise sensitive land use, including residences, schools, hospitals, nursing homes, churches, and libraries, and may be measured anywhere on the property containing said land use. However, this measurement standard may be amended to provide for measurement at the boundary of a recorded noise easement or as determined in a recorded letter of agreement between all affected property owners and approved by the County.

6. If the measured ambient level exceeds that permitted, then the allowable noise exposure standard shall be set at 5 dBA above the ambient.

7. Because of the unique nature of sound, the County reserves the right to provide for a more restrictive standard than shown in the Exterior Noise Limits Table. The maximum adjustment shall be limited to be not less than the current ambient noise level and shall not exceed the standards of this Section. Imposition of a noise level adjustment shall only be considered if one or more of the following conditions are found to exist:

a. Unique characteristics of the noise source:

1) The noise contains a very high or low frequency, is of a pure tone (a steady, audible tone such as a whine, screech, or hum), or contains a wide divergence in frequency spectra between the noise source and ambient level;

2) The noise is impulsive in nature (such as hammering, riveting, or explosions), or contains music or speech;

3) The noise source is of a long duration, defined as a cumulative period of more than thirty minutes in any hour.

b. Unique characteristics of the noise receptor when the ambient noise level is determined to be 5 dBA or more below the standard of the Exterior Noise Limits Table for those projects requiring a General Plan amendment, rezoning, and/or Use Permit. In such instances, the new standard shall not exceed 10 dBA above the ambient or the Exterior Noise Limits Table standard, whichever is more restrictive.

8. The above standards shall not apply to those activities associated with the actual construction of a project or to those projects associated with the provision of emergency services or functions.

9. The standards of this Section shall be enforced through compliance inspections and/or complaints.

10. A legal nonconforming use inconsistent with the noise standards of this Section shall be required to comply with said standards in the event it upgrades, enlarges, intensifies, extends, moves, or recommences after abandonment or discontinuance of a period of 180 days or more. In the event such a use is changed or modified through the permit process, the noise standards in this Section shall be applied only to that portion of the land use requiring approval, provided, however, that in no event shall the noise cumulatively generated from the entire use on the site after the change or modification exceed the pre-permit ambient noise level. All such projects that have a potential to create noise levels inconsistent with the standards in this Section will require a noise study consistent with this Section.

Note that the above regulations would not address specific noise complaints after site plan approval permit, such as with operation of an approved business. Such noise complaints would be better addressed by a separate noise ordinance not related to zoning site plan requirements. A site plan approval process can address design issues related to noise, but is not well suited to address operation issues on an on-going basis after permit is issued.

Background on Noise Standards. Noise can be viewed as a health hazard, a safety hazard, and a nuisance or annoyance. In this context, noise is characterized by a level of intensity or other quality above that normally accepted or tolerated by individuals and the community.

Noise, or sound in general, can be measured in decibels or dB of intensity. The scale is logarithmic, meaning that increments of number are not in simple additive relationship, but reflect progressively greater intensity for each numerical increment. Thus a 20 dB sound is ten times greater than a 10 dB sound, and a 30 dB sound is 10 times greater than a 20 dB sound and 10x10 or 100 times greater than a 10 dB sound.

For comparison, sound at 0 to 20 dB is considered very faint, up to the level of a whisper. Up to 40 dB includes low volume radio in an otherwise quiet room. Up to 60 dB includes freeway traffic sound. Normal speech is in the range of 50 to 70 dB. Up to 80 dB includes a noisy school cafeteria. From 80 to 105 dB includes noisy factory, noisy urban street, and a loud car horn at close range. Levels above 105 dB reach into deafening sound and threshold of pain.

Sound can be a health hazard at levels above 70 dB for extended periods of time, and can lead to cardiovascular, digestive, stress, and behavioral and psychological problems (some would peg the level at less than 70 dB). At about 85 dB, prolonged exposure greater than eight hours can result in permanent damage to hearing, and at levels above 105 dB even short exposure can lead to hearing damage.

Noise is unwanted or harmful sound. When sound becomes so intense or prolonged that it causes unwanted health effects, it may be classed as noise. Noise can also pose safety problems if it interferes with receiving necessary signals from the environment such as sirens, alarms, and verbal instructions.

Noise can be a nuisance. The nuisance characteristic of noise is different for different people, and different in different contexts and time of day. Noise can disrupt concentration at work. Noise can interfere with education of children in schools. Noise can interrupt and disturb sleep. Noise can reduce the enjoyment of residential living. Often, it is not only the intensity of the sound, but also the frequency or pulsing of the sound that causes noise to be a nuisance or annoyance. In addition, a sound that is slightly perceived within daytime background sounds, may become a nuisance or annoyance at night when people are more sensitive to sounds.

Increments of sound from various sources are perceived differently in a city with high level of background sound, compared to a quiet rural setting. An increase in sound can be lost to perception in a city context, but be very noticeable and objectionable in a rural context.

Most people expect to enjoy their residences free from unnecessary and unwanted sound. In general, acceptable sound intensity at night in a bedroom would be around 30 to 40 dB, or up to 45 dB with open window. Outside sound levels for regular enjoyment in a quiet neighborhood would be around 45 to 55 dB.

The reception of sound from a source is dependent on distance and intervening barriers. When distance from a point source is doubled, the intensity is reduced approximately 6 dB. Thus, sound measured 10 feet from source at 80 dB, would be 74 dB if 20 feet away, and would be 68 dB if 40 feet away. If there is a barrier such as a solid fence, dense vegetation or an earth berm between sound source and receptor, noise may be attenuated substantially by absorption or reflection.

Perception of noise, or loudness, is not in simple relation to the intensity of the sound. Generally, a reduction of noise by 10 dB would be perceived as a reduction by 1/2 in loudness. For example, a reduction in noise from 60 dB to 50 dB would normally be perceived as reduction in loudness by 1/2. Conversely, an increase of noise by 10 dB would be perceived as a doubling of loudness.

Multiple sources of sound are not linearly additive, and a doubling of equal intensity sound sources would increase overall sound by about 3 dB. As example, two sources of 45 dB each would result in a total sound intensity of 48 dB

combined, and four such sources combined would result in total sound intensity of 51 dB.

Other County Regulations (for reference only). Blount County has adopted two other sets of regulations that also address noise, one is animal control regulations (Resolution 99-03-001 that contains the following:

SECTION 6. Noisy dogs prohibited. No person shall own, keep, harbor, possess or maintain any dog which disturbs the peace and quiet of others by loud and frequent barking, whining or howling. A dog shall be deemed in violation of this section if it barks, whines or howls continuously for a period in excess of one (1) hour and fifteen (15) minutes. This section shall not apply to a dog on a hunt or chase, or a dog guarding or driving livestock, or a dog participating in an organized animal show, or to veterinary clinics or boarding facilities.

The second set of regulations (Resolution 02-02-004) were adopted under the county powers act as indicated in the following preamble and specific regulations:

WHEREAS, upon the adoption of such resolution and pursuant to the provisions of said subsection (22) of Tennessee Code Annotated section 6-2-201, Blount County is authorized to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the unincorporated areas of the county, and to exercise general police powers.

Regulation No. 1. Motor vehicle requirements. No person shall operate a motor vehicle unless such vehicle (1) is equipped with a properly operating muffler, ...

Regulation No. 30. Causing unnecessary noise. No person operating a motor vehicle shall cause unnecessary noise by sounding the horn, "racing" the motor or causing the "screeching" or "squealing" of the tires thereof.

Regulations No. 45. Antinoise regulations. No person shall create or cause any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare.

(1) The following noises are declared to be in violation of this regulation, but this enumeration shall not be deemed to be exclusive, to wit:

(a) Blowing horns. The sounding of any horn or audible signal device on any motor vehicle while such motor vehicle is not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of such motor vehicle is intended; the creation by means of any horn or audible signal device on any motor vehicle of any unreasonably loud or harsh sound; and the sounding of any horn or audible signal device on any motor vehicle for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, tape recorder or player or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently or in connection with motion pictures, radio or television, in such a manner or with such volume, particularly during the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any office or hospital, or of any person in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling or singing or any highway, street, road or public way, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any office or hospital, or of any person in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the quiet, comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any motor vehicle so out of repair, so loaded or in any manner as to cause loud and unnecessary grating, grinding, rattling or other noise.

(f) Exhaust discharge. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) Noises near schools, hospitals, churches, etc. The creation of any loud and excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church or court while the same is in session.

(h) Noises to attract attention. The use of any drum(s), loudspeaker or other instrument or device emitting noise for the purpose of attracting attention to any performance, show or sale or display of merchandise.

(i) Loudspeakers or amplifiers on vehicles. The use of loudspeakers or amplifiers on motor vehicles, either moving or standing, for advertising or other purposes.

(2) None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Government vehicles and authorized emergency vehicles. Any vehicle of any government while engaged in necessary public business and any authorized emergency vehicle.

(b) Repair of streets, etc. Excavations or repairs of bridges, highways, streets, roads or public ways by or on behalf of any government.

Noncommercial and nonprofit use of loudspeakers of amplifiers. The reasonable use of loudspeakers or amplifiers in the course of noncommercial public addresses and in the course of noncommercial functions of nonprofit organizations

AGENDA
BOARD OF COMMISSIONERS AGENDA COMMITTEE MEETING
Thursday, June 9, 2011, 6:30 p.m.
Room 430, Blount County Courthouse

A. ROLL CALL.

B. PUBLIC INPUT ON ITEMS ON THE AGENDA.

C. APPROVAL OF AGENDA COMMITTEE MINUTES

1. May 10, 2011 meeting.

D. SETTING OF AGENDA.

E. ITEMS FOR CONSENT AGENDA.

1. Resolutions for special recognitions.
 - a. Resolution honoring Dr. Allen Edwards, Retiring President Pellissippi State Community College.
2. Appointments/reappointments.

F. UNFINISHED BUSINESS:

1. Resolution to amend General County Fund Budget - \$450,000.00. (Agenda Committee)
2. Resolution to amend Highway Department Fund Budget - \$90,000.00. (Agenda Committee)
3. Resolution to amend General Purpose School Fund Budget - \$360,000.00 (Agenda Committee)

G. NEW BUSINESS:

1. Budget Transfers.
2. Budget Increases.
3. Other Budget Items.
 - a. Budget Resolutions for the year 2011-2012.
 - i.) Resolution setting tax rate for the year beginning July 1, 2011, and ending June 30, 2012.
 - ii.) Resolution making appropriations for the various funds, departments, institutions, offices and agencies of Blount County, Tennessee, for the year beginning July 1, 2011, and ending June 30, 2012.
 - iii.) Resolution making appropriations to non-profit charitable organizations of Blount County, Tennessee, for the fiscal year beginning July 1, 2011, and ending June 30, 2012.
4. Resolution authorizing the lease under Tennessee Code Annotated 7-51-904 of an office copier for the Development Services Office of Blount County. (Kenneth Melton)
5. A resolution to amend the zoning resolution of Blount County, Tennessee, Section 9.10-J to provide for objective noise standards and design requirements in the rural arterial commercial (RAC) zone. (Planning Commission)
6. Discussion of comparable lost tax revenues. (Gordon Wright)

H. PUBLIC INPUT ON ITEMS NOT ON AGENDA.

I. ADJOURNMENT.

**STATE OF TENNESSEE
COUNTY OF BLOUNT**

BE IT REMEMBERED, that an Agenda Committee of the Blount County Board of County Commissioners meeting was held on Tuesday, May 10, 2011, at 6:30 pm at the courthouse in Maryville, Tennessee.

Roll call was taken by Roy Crawford, Jr., County Clerk:

Tonya Burchfield – absent	Roy Gamble – present	Peggy Lambert – present
Ted Burkhalter - present	Tom Greene – present	Mike Lewis– present
Richard Carver – present	Brad Harrison – present	Kenneth Melton – present
Mike Caylor – present	Mark Hasty– present	Jerome Moon – absent
Gary Farmer – present	Scott Helton – present	Monika Murrell – present
Jim Folts – present	Gerald Kirby – present	Steve Samples – present
Ron French - present	Holden Lail – present	Gordon Wright, Sr. – present

There were 19 present and 2 absent. Tonya Burchfield arrived after the roll was taken. Chairman Pro Tem Farmer declared a quorum to exist. The following proceedings were held to-wit:

IN RE: APPROVAL OF MINUTES OF APRIL 12, 2011 AGENDA COMMITTEE MEETING.

Commissioner Lambert made a motion to approve the minutes of the meeting. Commissioner Helton seconded the motion.

A roll call vote was taken:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: SETTING OF AGENDA.

Commissioner Helton made a motion to remove the resolution adopting rules regulating the procedures of the Board of County Commissioners of Blount County, Tennessee and to set the agenda. Commissioner Carver seconded the motion.

A roll call vote was taken:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: APPOINTMENT TO BLOUNT COUNTY LIBRARY BOARD – MICHELLE HANKES AND MARY BETH WEST.

Commissioner Lambert made a motion to add the item to the consent agenda of the May County Commission meeting. Commissioner Lewis seconded the motion.

A roll call vote was taken:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION TO AMEND GENERAL COUNTY FUND BUDGET - \$850.00.

Commissioner Lail made a motion to send the appointment to the agenda of the May County Commission meeting. Commissioner Lewis seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION TO AMEND GENERAL COUNTY FUND BUDGET - \$85,200.00.

Commissioner Lewis made a motion to send the item to the agenda of the May County Commission meeting. Commissioner Lambert seconded the motion.

A roll call vote was taken:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION TO AMEND GENERAL COUNTY FUND BUDGET - \$ 350,000.00.

Commissioner Lambert made a motion to send the item to the agenda of the May County Commission meeting. Commissioner Samples seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – no	Moon – absent	

There were 19 voting yes, 1 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION TO AMEND OTHER CAPITAL PROJECTS FUND BUDGET - \$ 350,000.00.

Commissioner Lambert made a motion to send the items to the agenda of the May County Commission meeting. Commissioner Samples seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – no	Moon – absent	

There were 19 voting yes, 1 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION AUTHORIZING THE LEASE UNDER TENNESSEE CODE ANNOTATED 7-51-904 OF AN OFFICE COPIER FOR THE JUVENILE YSO OFFICE OF BLOUNT COUNTY.

Commissioner Hasty made a motion to send the item to the May County Commission meeting. Commissioner Lewis seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – no	Helton – yes	Moon – absent	

There were 19 voting yes, 1 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: RESOLUTION AUTHORIZING THE LEASE UNDER TENNESSEE CODE ANNOTATED 5-14-108 (M) (1) OF PREMISES LOCATED AT 290 FOX HOLLOW RD., TOWNSEND, TN. HOUSING A COMMUNICATION TOWER STRUCTURE.

Commissioner Wright made a motion to send the item to the agenda of the May County Commission meeting. Commissioner Caylor seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – no	Kirby – yes	Murrell – no
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – no	Helton – yes	Moon – absent	

There were 17 voting yes, 3 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: HARMONY FAMILY CENTER AT MONTVALE.

Commissioner Lambert made a motion to put a 3 minute information only presentation by the Harmony Family Center at Montvale under Elections, Appointments, and Confirmations on the agenda of the May County Commission meeting. Commissioner Helton seconded the motion.

A roll call vote was taken on the motion:

Burchfield – yes	French – yes	Kirby – yes	Murrell – yes
Burkhalter - yes	Gamble – yes	Lail – yes	Samples – yes
Carver – yes	Greene – yes	Lambert – yes	Wright – yes
Caylor – yes	Harrison – yes	Lewis – yes	
Farmer – yes	Hasty – yes	Melton – yes	
Folts – yes	Helton – yes	Moon – absent	

There were 20 voting yes and 1 absent. Chairman Pro Tem Farmer declared the motion to have passed.

IN RE: FISCAL YEAR 2011-12 BUDGET.

Commissioner Folts made a motion to put the Fiscal Year 2011-12 budget on the agenda of the May County Commission meeting. Commissioner Murrell seconded the motion.

A roll call vote was taken on the motion:

Burchfield – no	French – yes	Kirby – no	Murrell – yes
Burkhalter - no	Gamble – no	Lail – no	Samples – no
Carver – yes	Greene – no	Lambert – no	Wright – no
Caylor – no	Harrison – no	Lewis – yes	
Farmer – no	Hasty – yes	Melton – no	
Folts – yes	Helton – no	Moon – absent	

There were 6 voting yes, 14 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have failed.

IN RE: PRESENTATION BY INSURANCE CONSULTANT.

Commissioner Folts made a motion to add a presentation by Insurance Consultant Drew Mann regarding possible changes to insurance benefits to the agenda of the May County Commission meeting. Commissioner Murrell seconded the motion.

A roll call vote was taken on the motion:

Burchfield – no	French – no	Kirby – no	Murrell – yes
Burkhalter - no	Gamble – yes	Lail – no	Samples – no
Carver – yes	Greene – no	Lambert – no	Wright – no
Caylor – no	Harrison – no	Lewis – no	
Farmer – no	Hasty – yes	Melton – no	
Folts – yes	Helton – no	Moon – absent	

There were 5 voting yes, 15 voting no, and 1 absent. Chairman Pro Tem Farmer declared the motion to have failed.

IN RE: ADJOURNMENT.

Chairman Pro Tem Farmer declared the meeting to be adjourned.

**A GUIDE TO LOCAL
REDISTRICTING IN TENNESSEE**
2011 Edition



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF LOCAL GOVERNMENT**

**James K. Polk Building
505 Deaderick St., Suite 1700
Nashville, TN 37243-1402
Phone: (615) 401-7773**

<http://www.comptroller1.state.tn.us/lg/>

2011

A GUIDE TO LOCAL REDISTRICTING IN TENNESSEE 2011 Edition

Justin P. Wilson
Comptroller of the Treasury

Tom Fleming, Director
Office of Local Government
(615) 741-7777
tom.fleming@tn.gov

David Tirpak
GIS Manager
(615) 401-7820
david.tirpak@tn.gov

Matthew Hill
GIS Technician
(615) 401-7828
matthew.hill@tn.gov

This manual can also be found on the Office of Local Government's Web page.

<http://www.comptroller1.state.tn.us/lg/pdf/redist.pdf>



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Introduction

Both federal and state law mandate reapportionment and redistricting. In the most technical sense, reapportionment refers to the allocation of political seats among units and is most commonly used in reference to the distribution of congressional seats among the fifty states. Redistricting refers to the delineation of boundaries for political units, such as state legislative and county commission districts.

According to Tennessee Code Annotated 5-1-111, county governments in Tennessee are required to redistrict by January 1, 2012. In order to complete this task, local officials must be equipped with the knowledge of the relevant legal, technical, and procedural aspects of redistricting. This manual attempts to provide a summary of this information.

The manual is divided into three chapters plus a glossary and a redistricting quick reference. The first chapter details the state and federal laws that govern redistricting at the local level. Since litigation sometimes follows redistricting, this chapter is important, especially as it relates to equal population (pp. 7-9) and minority representation (pp. 9-11). The second chapter highlights the data requirements and provides a technical overview of redistricting. Included is an example of an existing county district plan and precinct map with associated population statistics. Chapter 3 provides basic suggestions for local officials to develop new district plans and relates the process to the legal and technical concepts in the first two chapters.

Appendix 1: Glossary defines many of the terms used in the redistricting process and may be consulted during the reading of any of the chapters.

Appendix 2: Local Redistricting Quick Reference provides an at-a-glance overview of what you need to know about local redistricting.

Note: Before starting the redistricting process, local officials should review state laws for any changes or new requirements. We also suggest that you seek legal advice when matters of law are in question.

Chapter 1: Local Redistricting And the Law

For the year 2011 Tennessee will use geographic information systems (GIS) technology to accomplish redistricting at federal, state and local levels. But while GIS is a powerful mapping tool, it does not do all the work. Local officials must have a strong understanding of the state and federal redistricting laws, and recent attorney general opinions. Also, redistricting standards of equal population and minority representation are addressed that provide direction and guidelines for drawing district lines. Understanding these concepts and applying them effectively is the ultimate key to a successful redistricting effort.

A. Tennessee Constitution and Statutes

The 1978 Constitutional Convention amended the Tennessee Constitution, Article VII, Section 1, changing the reapportionment and redistricting requirements for county governments:

“The legislative body shall be composed of representatives from districts in the county as drawn by the county legislative body pursuant to statutes enacted by the General Assembly. Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed twenty-five members, and no more than three representatives shall be elected from a district.”

Here, the constitution provides some general parameters for county apportionment/redistricting. The number of representatives within a county is set at a maximum of 25 and allows for up to three representatives within a single district. This task must be completed at least once every ten years.

Additional membership requirements are provided by Tennessee statute (T.C.A. 5-5-102). Here, the county legislative body is limited to a minimum of nine members and reiterates the constitutional maximum of twenty-five members. Metropolitan government counties are not bound by this requirement. In these counties the metropolitan government charter establishes the size of the legislative body.

The Tennessee Code Annotated 5-1-111(a) through (g) provides more specific guidelines and standards on how reapportionment and redistricting is conducted at the local level. The subsections are provided as a foundation which counties should use in the process of drawing political lines.

“(a) Prior to January 1, 1982, and at least every ten (10) years thereafter, county legislative bodies of the different counties shall

meet and, a majority of the members being present and concurring, shall change the boundaries of districts or redistrict a county entirely if necessary to apportion the county legislative body so that the members represent substantially equal populations.”

This section identifies a few key points that county officials must be aware of. **First, the deadline to complete local redistricting is January 1, 2012.** Based on the Census Bureau’s data delivery schedule and the time required to develop new district plans, county officials must be prepared and plan accordingly.

The other point identifies a goal in redistricting, equal population. Throughout the decade, population shifts within a county may result in unequal population among the various districts. Using the most recent census data, district boundaries can be adjusted or redrawn to equalize population among districts. This concept, known as “one person-one vote” was born out of many 1960’s court cases, most notably *Baker v. Carr* 1962.

The 1968 Supreme Court ruling in *Avery v. Midland County, Texas*¹ is important to local governments. The decision extended the equal population principle of apportionment to the more than 80,000 units of local government.² The court found that “the Constitution permits no substantial variation from equal population in drawing districts for units of local government having general governmental powers.”³ With this ruling, the Court extended to county and city governments the one person, one vote standard that was being applied to congressional and state legislative districts.

County school boards and highway commissions are also subjected to the federal requirement of one person – one vote. Historically, these districts coincide or share the same boundaries as the county commission districts.

In addition to county government, municipalities in Tennessee are subject to the equal population principle of one person – one vote. In many cases, city charters provide specific details of how local officials are elected.

Equal population is discussed in greater detail on pages 7-9.

“(b)The county legislative body may increase or decrease the number of districts when the reapportionments are made.”

Here, the statute allows some flexibility to determine the appropriate number of districts within a county. Based on significant population changes or other factors, the county may decide to increase or decrease the number of districts and size of the commission accordingly. This decision is usually completed prior to drawing new district boundaries.

“(c)A county legislative body may reapportion at any time if the county legislative body deems such action necessary to maintain substantially equal representation based on population.”

To aid in the interpretation of this section, the attorney general opined in 1996 (No. U96-005) that State law does not authorize a county commission to reapportion its commissioner districts prior to the next decennial census so as to make them more compact where the existing districts are **already** substantially

equal in population. The attorney general continues, “Although this section authorizes a county legislative body to reapportion more than once every ten years, this authority may be exercised only when the county legislative body finds that reapportionment is necessary to **maintain** districts that are substantially equal in population. There is no express or implied authority in Section 5-1-111 to reapportion at any time merely to create more compact districts.”

This means that once a new, substantially equal in population district plan based on 2010 census totals is approved, the county commission does not have the authority to change it or create a new one. The county commission can reapportion more than once every ten years only when a district plan does not meet equal population standards.

“(d) The county legislative body must use the latest federal census data whenever a reapportionment is made.”

While in the past, courts have accepted other population bases, this statute carries out the constitutional requirement that the latest federal census data be used when reapportioning and redistricting the county legislative body.

The census taken in 2010 continues the practice which began in 1790, the purpose being to apportion the congressional representatives among the “several states according to their respective numbers... counting the whole of persons in each State.” [Constitution of the United States, Article 1, Section 2] It is census data that state legislatures use to draw the Congressional district lines and the state legislative district lines. The same population data must be used to develop new district plans at the county level.

Although the use of the federal census data is an accepted practice, some have questioned the use of including military, inmate, and university population in redistricting plans. In 1991, the state attorney general opined (No. 91-21) that with regard to county legislative bodies, “**military personnel stationed at military installations in Tennessee, inmates at state correctional facilities and students attending colleges in Tennessee cannot be excluded from the population base in such reapportionment plans.**”

Chapter 2 provides more detail regarding census data and its use in redistricting.

“(e) Districts shall be reasonably compact and contiguous and shall not overlap.”

The concepts of drawing districts that are compact and contiguous are not new and can be defined in a larger context of “traditional districting principles”. In fact, these principles are required in developing state legislative and congressional districts⁴. In the congressional case of *Shaw v. Reno*, 1992, the court said, “Reapportionment is one area in which appearances do matter.”

Compactness can be most easily understood in terms of a district’s shape. Violation of this principle results in districts with “irregular shapes”, better known as gerrymandering. Although statistical methods have even been developed to measure compactness, a 1994 partisan gerrymandering case⁵ took a different view of this principle. It viewed compactness not as a geometric shape that could be measured, but rather “the ability of citizens to relate to each other and their representatives and to the ability of representatives to relate effectively to their constituency.”

While the redistricting principle of “reasonably compact” may be somewhat obscure in its definition, contiguity is more easily understood. Simply put, a district must be one homogeneous piece of land, not split into two discrete areas. In addition to districts being contiguous, they shall not overlap or share the same land area.

- “(f) (1) Except as provided in subdivision (f)(2), in the establishment of boundaries for districts, no precinct shall be split.
- (2) Upon written certification by the coordinator of elections, a county election commission may establish a precinct that encompasses two (2) or more districts in any county that has twenty (20) or more county legislative districts. In making this determination the coordinator of elections shall consider, among other things, the type of voting equipment used in the county, as well as racial makeup of the districts and the cost savings to the county.”

Tennessee Code Annotated 2-3-101 through 106 contains the regulations for polling places that are generally designed to make voting accessible and simple. The law authorizes county election commissions to determine where elections are held. The maximum size of a precinct should be 5,000 registered voters. If there is only one voting machine for a precinct, the number of registered voters should not exceed 1,000. **The law requires written descriptions or maps of sufficient detail of precinct boundaries to be filed and recorded in the office of the clerk of the county legislative body and at the state level in the Office of Local Government and the Coordinator of Elections office.** They should also be available for public inspection.

- “(g) Upon application of any citizen of the county affected, the chancery court of such county shall have original jurisdiction to review the county legislative body’s apportionment, and shall have jurisdiction to make such orders and decrees amending the apportionment to comply with this section, or if the county legislative body fails to make apportionment, shall make a decree ordering an apportionment.”

Any citizen of the county may apply to the chancery court within that county to review the county legislative body’s apportionment. The court can issue a decree ordering an apportionment to comply with the law’s requirements. A citizen may also apply for a review if the county legislative body has failed to apportion itself.

It is important that the county officials involved with reapportionment/redistricting follow these statutes as carefully as possible. With easy access to the 2010 census data via the internet, the proliferation of personal computers, and software development, more persons and special interest groups will be able to draw district lines that may challenge those drawn by county legislative bodies. Chapter 3 provides additional suggestions for county officials that may reduce potential redistricting litigation.

It is also important to note the following: **Minutes and records should be collected and maintained for all redistricting meetings. Public notice should be given every time the redistricting committee meets. All records generated from these meetings are considered public records.**

B. Equal Population

While avoiding redistricting litigation may be impossible, the Supreme Court ruling in *Avery v. Midland County, Texas* set a precedent that local officials should use the equal population standard when drawing new district boundaries. In order to use this standard it is important to provide an overview of the relevant case law history and have an understanding of the statistical terms used in this standard.

One Person, One Vote

In the first half of the twentieth century, various courts, including the Supreme Court, questioned whether reapportionment, basically a political process, was a justiciable issue.⁶ This changed in 1962, when the Supreme Court ruled in *Baker v. Carr* that the apportionment system in Tennessee violated the equal protection of the laws guaranteed by the Fourteenth Amendment. The majority opinion written by Justice William J. Brennan, Jr., held that, under the 14th Amendment equal protection clause, the court did possess jurisdiction of the subject matter. Justice Brennan stated “that a justiciable cause of action had been stated upon which appellants would be entitled to appropriate relief”⁷ and that the Tennessee apportionment statutes could be challenged.

After ruling in *Baker v. Carr* 396 U.S. 186 (1962) that state-legislative apportionments are justiciable, the U.S. Supreme Court enunciated the “one person, one vote” rule for congressional districts in *Wesberry v. Sanders* (376 US 1, 1964). This ruling required districts to be equal in population: ‘as nearly as practicable one man’s vote in a congressional election is to be worth as much as another’s.’⁸

The concept of “one person, one vote” actually had been described the year before *Wesberry* in *Grey v. Sanders*, 372 U.S. 368 (1963), by Justice William O. Douglas. The court ruled “once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be in that geographic unit. This is required by the Equal Protection clause of the fourteenth amendment.”⁹

Measuring Population Equality

In order to determine whether district plans are “substantially equal in population”, there must be a statistical method to measure this standard. The following terms are used to measure population equality.

Ideal population – or optimum population represents the target population total for each district within a county. This is calculated by dividing the total county population by the number of districts.

For example, the 2010 census reveals that XYZ County has a total of 100,000 people with 10 commissioners, one for each district. The ideal population for each district is calculated:

$$100,000 / 10 = 10,000 \text{ people per commission district}$$

When dealing with multi-member districts where representation varies among the districts an additional step is required. In this example, XYZ County has a total of 100,000 people with 12 commissioners among 10 districts. District 1 has 3 commissioners and the remaining nine districts have only one commissioner.

First, the ideal population per commissioner is calculated by dividing the total county population by the total number of members:

$$100,000 / 12 = 8,333 \text{ people per commissioner}$$

Next, each district's ideal population is calculated multiplying this total with the number of members in the district:

$$\text{District 1 Ideal Population: } 8,333 \times 3 = 24,999$$

or

$$\text{District 2-10 Ideal Population: } 8,333 \times 1 = 8,333$$

While the ideal population is a target that redistricters should aim for it is almost impossible to exactly hit this mark. When the ideal population is not reached, a **deviation** is calculated for individual districts.

Deviation – this term represents the difference between the ideal population and a district's actual population, and can be expressed in two ways, absolute and relative.

Absolute deviation is the positive or negative population total from the ideal population. For example, if a District has an actual population of 10,500 and an ideal population of 10,000, the absolute deviation is calculated:

$$10,500 - 10,000 = 500$$

Relative deviation is calculated by dividing the absolute deviation by the ideal population and expressed in terms of a percentage. Using the same population totals, relative deviation is calculated:

$$500 / 10,000 = .05 \text{ or } 5\%$$

For practical purposes, relative (percent) deviation is the generally accepted statistic used in redistricting.

Overall Range – once the relative deviation is calculated for each individual district, the overall range is determined. This statistic is calculated by determining the difference between districts with highest and lowest relative deviation. For example, if the highest and lowest deviations are +5% and -4% respectively, the overall range is 9%.

Overall range is most commonly used in evaluating whether a district plan meets the one-person one-vote equal population standard. Page 17 shows an example of these statistics and a county district map.

Although state and federal statutes provide specific guidelines for redistricting, Congress and the Tennessee General Assembly have not gone so far as to pass a law that defines an acceptable overall range. In reference to state legislative districts, the Supreme Court has also steered clear of "mathematical exactness" but rather insisted only on a "good faith effort to set up districts on an equal population basis."¹⁰

The Ten-Percent Standard

In spite of these comments, further Supreme Court rulings in *Gaffney v. Cummings* and *White v. Regester* have established a 10 percent (overall range) *de minimis* standard for state legislative districting, with states "not required even to try to justify overall ranges of that or a lesser degree."¹¹ Although this standard was formulated based on state legislative cases, it is generally accepted that local governments are subjected to this standard¹² but may be given greater latitude than state plans.

This ten percent standard was challenged in Tennessee, in *Langsdon v. Millsaps*. The 1992 House of

Representatives apportionment plan had an overall range of 13.9 percent and was drawn to minimize splitting of counties. However, the plaintiff's plan had an overall range of only 9.8 percent and split fewer counties. The district court held, and the Supreme Court affirmed, that, although the "constitutional provision against splitting counties is a rational state policy to be considered in apportionment legislation," in this case it was "patently unreasonable to justify a 14% variance on the basis of not splitting counties" because, as plaintiffs had shown, fewer counties may be split while decreasing the variance below the goal of 10 percent.¹³

A Supreme Court ruling in 1971 dealt with an overall range for local governments. "In *Abate v. Mundt*, 18 members of county government were apportioned among five cities resulting in an overall range of 11.9 percent. The Court noted that:

"The facts that local legislative bodies frequently have fewer representatives than do their state and national counterparts and that some local legislative districts may have a much smaller population than do congressional and state legislative districts, lend support to the argument that slightly greater percentage deviations may be tolerable for local government apportionment schemes. Of course, this Court has never suggested that certain geographic areas or political interests are entitled to disproportionate representation. Rather, our statements have reflected the view that the particular circumstances and needs of a local community as a whole may sometimes justify departures from strict equality."¹⁴

While a prima facie constitutional violation is not established by an overall range below 10 percent, a redistricting plan with an overall range below 10 percent may still be deemed to be unconstitutional if the county legislative body does not make an honest good faith effort to set up districts on an equal population basis. In *Hulme v. Madison County*, 188 F. Supp. 2d 1041 (S.D. Ill. 2001), the court held that a county redistricting plan with an overall range of 9.3 percent was unconstitutional because the actions of the county legislative body demonstrated a "complete disregard for the Constitutional mandate that a legislative body make an honest good faith effort to construct districts ... as nearly of equal population as practicable" since the plan divided political subdivisions, placed minority party incumbents in the same district, and technology easily enabled a more equitable plan.

In summary, local officials should keep the 10 percent standard in mind when developing district plans but should not consider the standard a safe harbor in light of the Constitutional mandate that they make an honest good faith effort to construct districts based on the "one person, one vote" standard. Additionally, if district plans exceed the 10 percent standard, local officials should be prepared to justify the excess with "consistently applied, nondiscriminatory redistricting policies."¹⁵

C. Minority Representation

In addition to the "one person, one vote" or equal population standard, county legislative bodies must consider minority representation when developing new district plans. The past 45 years have provided local officials with a general set of parameters when considering the need to draw majority-minority districts. Specifically, the federal Voting Rights Act and racial gerrymandering provide a framework when trying to balance this delicate issue.

Voting Rights Act

The original purpose of the Voting Rights Act passed in 1965 was to protect minority voters against discriminatory voting tests and to equalize electoral opportunity. The Act was amended in 1982. Two of the sections, Sections 2 and 5, directly affect redistricting efforts.

Section 2 of the Voting Rights Act can apply to any jurisdiction in any state. It provides that any voting practice which results in discrimination on the basis of race, color or membership in a language minority

is unlawful. It enables a person filing suit to prove a violation of Section 2 if, as a result of the challenged practice or structure, plaintiffs did not have an equal opportunity to participate in the political process and to elect representatives of their choice.

The 1982 amendment to Section 2 specifies that courts must look at the “totality of circumstances” in determining whether a voting rights violation of Section 2 has occurred. Factors to be considered include, but are not limited to, bloc voting, a history of discrimination, depressed levels of minority employment, income, and few minorities elected to office. (See “Voting Rights Act Extension Cleared for President Reagan”, in the *Congressional Quarterly Weekly Report*, Vol. 40, No. 26, June 26, 1982.)

The 1982 amendment also provides that the results standard does not create a right of proportional representation, i.e. a right to have members of a protected class elected in numbers equal to their proportion in the population. The ultimate question to be answered under a Section 2 challenge is whether the minority has been denied an equal opportunity to participate and elect candidates of its choice.

In a Supreme Court case, *Thornburg v. Gingles*, 478 U.S. 30,44 (1986), a three-part test was developed that “a minority group must meet in order to establish a vote dilution claim under Section 2 of the Voting Rights Act. The test requires that a minority group prove that (1) it is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) it is politically cohesive; and (3) in the absence of special circumstances, bloc voting by the white majority usually defeats the minority’s preferred candidate.” (*Reapportionment Law: The 1990s*, NCSL Reapportionment Task Force, NCSL, October, 1989, pp. 63-64.)

In a summary of the *Thornburg v. Gingles* ruling, Peter Wattson, counsel for the Minnesota Senate writes, “If you have a minority population that could elect a representative if given an ideal district, but bloc voting by whites has prevented members of the minority from being elected in the past, you will have to create a district that the minority has a fair chance to win. To do that, the minority will need an effective voting majority in the district.”¹⁶

The results test of Section 2 is also being applied to vote dilution cases targeting at-large or multimember districts. Under an at-large plan, the majority can vote as a bloc, choosing all officeholders and denying the minority an effective opportunity to elect candidates of its choice. While these districts are not considered unconstitutional per se, courts are scrutinizing them closely. Any plan drawn by a federal court, absent special circumstances, must use single-member districts. Even though at times at-large or multimember districts may be judged to provide equal opportunity to the electoral process, they should be used with care as attacks against them are increasing. The Supreme Court has repeatedly held in disfavor of local multimember district plans that dilute minority voting strength.¹⁷

Unlike Section 2 of the Voting Rights Act, Section 5 does not apply to all jurisdictions. It applies only to those subject to preclearance as a result of certain criteria in Section 5. Preclearance jurisdictions are required to submit to the Department of Justice or to the U.S. District Court for the District of Columbia *all* of their election law changes, not just district changes. Tennessee is not a preclearance state.

Racial Gerrymandering

While the Voting Rights Act protects minorities against discrimination and attempts to equalize electoral opportunity, Supreme Court decisions, most notably *Shaw v. Reno* 1992, have provided some guidance on the extent that race can be used in redistricting. Known as racial gerrymandering, many states (North Carolina, Georgia, Louisiana, et al.) during the 1990’s excessively used race as criteria to develop district plans. Ignoring “traditional districting principles”, the Supreme Court ruled that these districts violate the Equal Protection Clause of the Fourteenth Amendment. However, these rulings were not unanimous and in some circumstances the court has stated that a State may intentionally create majority minority districts.

The courts consider a variety of factors to determine whether a district is considered a racial gerrymander. One of the principle characteristics in this process is district shape. The 12th congressional district in North Carolina was most symbolic in relating shape to racial gerrymandering. The district was approximately 160 miles long and wound its way across the state in an attempt to include predominantly black neighborhoods. The Supreme Court, in *Shaw v. Reno*, addressed this irregular shape by stating that, “reapportionment is one area in which appearances do matter.”¹⁸

Viewing a district’s shape on a map is obviously the most visible way to evaluate a racial gerrymander but doesn’t necessarily reveal the intent for creating such a district. Statements and other correspondence from legislators and legislative staff can also determine whether race was used as the predominant factor when drawing district boundaries.

When applying and documenting the use of traditional districting principles throughout the redistricting process, a state or local government is more likely to defeat a claim of racial gerrymandering. These principles vary among jurisdictions, but in the *Shaw* case, the Supreme Court listed these principles as compactness, contiguity, respect for political subdivisions, respect for communities of interest, and protection of incumbents. While the Supreme Court, in *Shaw v. Reno*, has limited the use, or abuse, of race in redistricting, it recognizes that race should not be excluded all together. Rather, race should have equal standing with traditional districting principles when legislators or other government officials develop district plans.

In summary, local officials must be aware of minority representation issues. They should respect the Voting Rights Act that protects against discrimination and dilution of minority voting strength, but also avoid racial gerrymandering by factoring race in conjunction with traditional redistricting principles.

¹390 U.S. 474 (1968).

²Cortner, op cit, p. 256.

³*Avery v. Midland County*, 390 U.S.

⁴*Redistricting Law 2000*, NCSL Redistricting Task Force, Denver, Colorado, February 1999, pp.72-73.

⁵*The Realists’ Guide to Redistricting*, “Avoiding the Legal Pitfalls”, Hebert, et al, Jenner &Block, 1998, p. 46.

⁶*The Apportionment Cases*, Richard C. Cortner, The University of Tennessee Press: Knoxville, 1970. Chapter 1, “Courts, Politics and Reapportionment”, pp. 3-27, gives a brief history of the cases ruled on in state courts and the apportionment of state legislatures before *Colegrove v. Green* in 1946.

⁷*Reapportionment Revolution*, Gordon E. Baker, Random House, New York, 1967, p. 157.

⁸Mathew D. McCubbins and Thomas Schwartz, “Consequences of One Man, One Vote Rule”, *American Journal of Political*, 1988, Vol. 32.

⁹*Gray v. Sanders*, 372 U.S. (March 18, 1963) at 379 as quoted in *The Apportionment Cases*, Richard C. Cortner, The University of Tennessee, Knoxville, 1970 pp. 193-194. 77 U.S. 533 at 565.

¹⁰*Political Studies*, “Representation, Reapportionment and the Supreme Court,” Charles M. Redenius, Pennsylvania State University, p. 518.

¹¹*Redistricting Law 2000*, NCSL Redistricting Task Force, Denver, Colorado, February 1999, p. 32.

¹²*Redistricting Law 2000*, NCSL Redistricting Task Force, Denver, Colorado, February 1999, p. 132.

¹³*Redistricting Law 2000*, NCSL Redistricting Task Force, Denver, Colorado, February 1999, p. 38.

¹⁴*Abate v. Mundt*, 403 U.S., 182, 185.

¹⁵*The Realists’ Guide to Redistricting*, “Avoiding the Legal Pitfalls”, Hebert, et al, Jenner &Block, 1998, p. 9.

¹⁶*State Legislatures*, “Maps That Will Stand Up in Court,” Peter S. Wattson, September, 1990, p. 17

¹⁷*Redistricting Law 2000*, NCSL Redistricting Task Force, Denver, Colorado, February 1999, p. 133.

¹⁸*The Realists' Guide to Redistricting*, "Avoiding the Legal Pitfalls", Hebert, et al, Jenner &Block, 1998, p. 42.

Chapter 2:

Redistricting Data

Requirements

While court decisions, state and federal law, and other redistricting guidelines provide a legal and conceptual framework for redistricting, local officials will need specific data to develop new district plans. The Census Bureau provides states and local governments with two types of redistricting data: **maps and population figures**. The census bureau also identifies the Office of Local Government as one of the official recipients of this information. **This office will distribute census data and other map related information to county officials charged with redistricting through two organizations, the County Technical Assistance Service (CTAS) and the Department of Economic And Community Development, Local Planning Assistance Offices (LPO)**. Chapter 3 discusses the role of these organizations in greater detail.

A. 2010 U.S. Census Data

Tennessee law mandates the use of census data (maps and population totals) and refers to its use in local redistricting and in the establishment of voting precincts. The first, TCA 5-1-111(d), states that, “the county legislative body must use the latest federal census data whenever a reapportionment is made.” Map references are found in this section and TCA 2-3-102, where precincts and districts must follow census block boundaries.

Census Maps (T.I.G.E.R.)

To support a variety of mapping functions within the Census Bureau, a digital map product has emerged that will be critical for redistricting officials. This digital database, known as T.I.G.E.R. (Topologically Integrated Geographic Encoding and Referencing) was initially developed for the 1990 census and marked the first time that the Census Bureau had a “computerized map” for the entire United States. Other programs or projects within the Census Bureau rely on specific map products, but local redistricting in Tennessee will rely on TIGER and maps produced from this database.

TIGER consists of a number of files containing geographic information that can be viewed on a computer using GIS software. The geographic data is divided into either areas or lines. Linear data are defined as roads, railroads, utilities, hydrography (streams and rivers), landmarks, and other non-visible features. More significant to the redistricting process are area features.

Area features are structured within a hierarchy of geographic units and are divided into political and statistical subdivisions. The following units will be used in the local redistricting process.

Political Areas

1. **County** – defines the geographic extent of redistricting and reapportioning commission seats.
2. **Voting Tabulation District (VTD) or Precinct** – a portion of a county that uniquely identifies where citizens cast their vote in elections. In 2008-2009 during Phase II of the Census Bureau’s Redistricting Data Program, the Office of Local Government submitted digital versions of all

county precinct maps. The Census Bureau used these precinct maps to tabulate 2010 population totals. **Due to city annexations and changes in block boundaries however, some of these maps do not reflect actual precinct boundaries.** Precincts with modified boundaries are identified as pseudo precincts.

3. Place.

- a. **Incorporated place.** A governmental unit incorporated under state law as a city, town, village or borough having legally prescribed limits, powers and functions.
- b. **Census designated place.** An area designated by the census bureau comprising a densely settled concentration of population that is not incorporated but which resembles an incorporated place.

Statistical Areas

1. **Block** - An area bounded on all sides by visible features such as streets, roads, streams and railroad tracks (see page 15). In size, they resemble city blocks but can be quite large in rural areas. In 2005-2007 during Phase I of the Census Redistricting Data Program, county officials were able to help define new block boundaries that more closely resemble precinct boundaries and will provide redistricting officials with more choices when drawing new districts.

**Note: Only geographic areas used in the redistricting process are defined here. Other political and statistical area features found in TIGER and other census map products (e.g. tracts, block groups, census county divisions, etc.) are detailed on the Census Bureau's web site. <http://www.census.gov>*

The 2010 TIGER area and line features are significantly improved from the 2000 census. Highly detailed GIS data from the Tennessee Base Mapping Program was leveraged by the Census Bureau to create TIGER for our state. This data's high spatial fidelity, in combination with TIGER's ability to link geographic features to census population figures, will allow local redistricting to take place with confidence and accuracy.

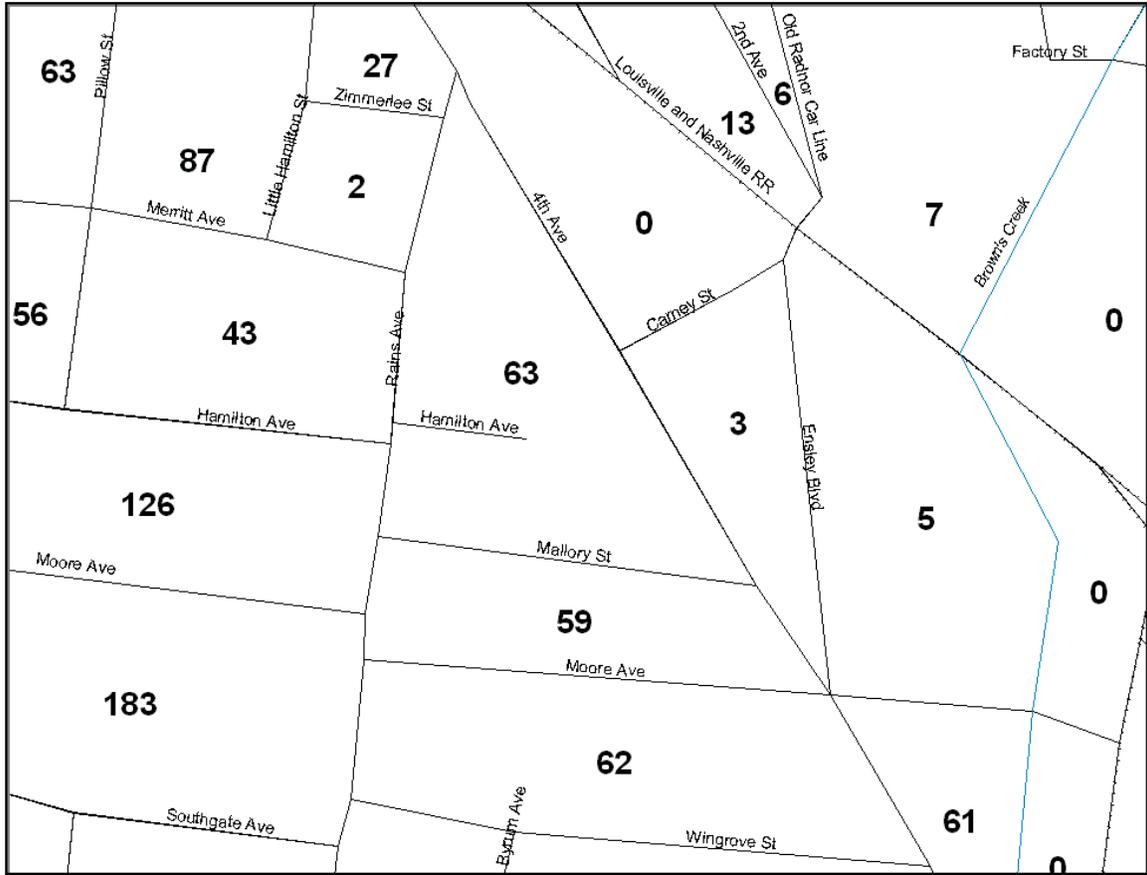
Population Data (PL 94-171)

The 2010 Census will provide population data for a variety of political and statistical geographic areas. The redistricting effort will utilize population data at the block, VTD (precinct), and county levels, as it did in both the 1990 and 2000 rounds of redistricting.

On December 31, 2010, in accordance with federal law, the President received the first figures from the 2010 census. The total U.S. population, 308,745,538 and the fifty state totals are used to apportion the seats in congress. Throughout 2011, the Census Bureau will release additional population totals, including block, VTD, and county population data required for redistricting. Population data for these three levels of geography will include total population, voting age population, and population by race.

1. **Block level** – is the smallest geographic area that the Census Bureau collects and tabulates population data and is the foundation for constructing or modifying county commission districts (see example on page 15).
2. **VTD or precinct level** – this feature resembles or approximates county voting precincts. Population data collected and tabulated at this level is also applied to local redistricting.
3. **County** – population tabulated at this level is used to help define measures of equal population, such as ideal population, deviation, and overall range.

While Tennessee law indicates that the 2010 census population figures are the official data set used for



Example of Census blocks with labeled population.

redistricting, (U.S.) Public Law 94-171 also requires the Census Bureau to report these population totals to all organizations charged with redistricting by April 1, 2011. In 2000 these population totals included racial categories for the first time (White, African American or Black, American Indian or Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, Other Race.) In 2010 the racial categories listed on the Census Questionnaire were expanded to 15 racial categories. Places were provided as well to write in races not listed on the form. The 2010 Census also continues the option, first introduced in the Census 2000, for respondents to choose more than one race.

B. Existing County Maps

While census maps and 2010 population totals are essential data sources for local redistricting, existing county commission district and precinct maps can provide a starting point for local officials. The Office of Local Government is the steward of these maps and has worked with county officials throughout the decade to keep these current and well maintained. District boundaries have remained constant in most counties, but precinct lines may have changed in others. Population increases, shifts and voting trends may result in precinct consolidation, creation, and boundary modification. As previously mentioned, city annexations present the biggest challenge for election administrators to keep precinct lines on census block boundaries.

County Commission District Maps

The Census Bureau will tabulate 2010 population data for VTDs or precincts, as well as for existing commission districts. The Office of Local Government will produce maps and data of the new 2010 census blocks and the existing commission districts and precincts, showing population totals for each. Although some district or precinct adjustments to new census blocks are required, the results are more accurate than the estimates produced for the 2001 redistricting when the 2000 population tabulations for existing commission districts were not available from the Census Bureau. These district totals are an excellent starting point to begin the redistricting process. An example of a district map is found on page 17. Districts are color coded from the highest to lowest relative (percent) deviation, while the statistical table shows overall population ranges. These statistics are used to determine if the existing districts comply with the ten-percent standard and will identify districts that may need significant boundary adjustments.

An assumption is made that county officials will start redistricting with the existing districts as a foundation. Based on an increase or decrease in the number of commissioners and/or districts, and the increase/decrease or shift in population, local officials may elect to start with a clean slate and disregard existing districts. More details are provided in Chapter 3.

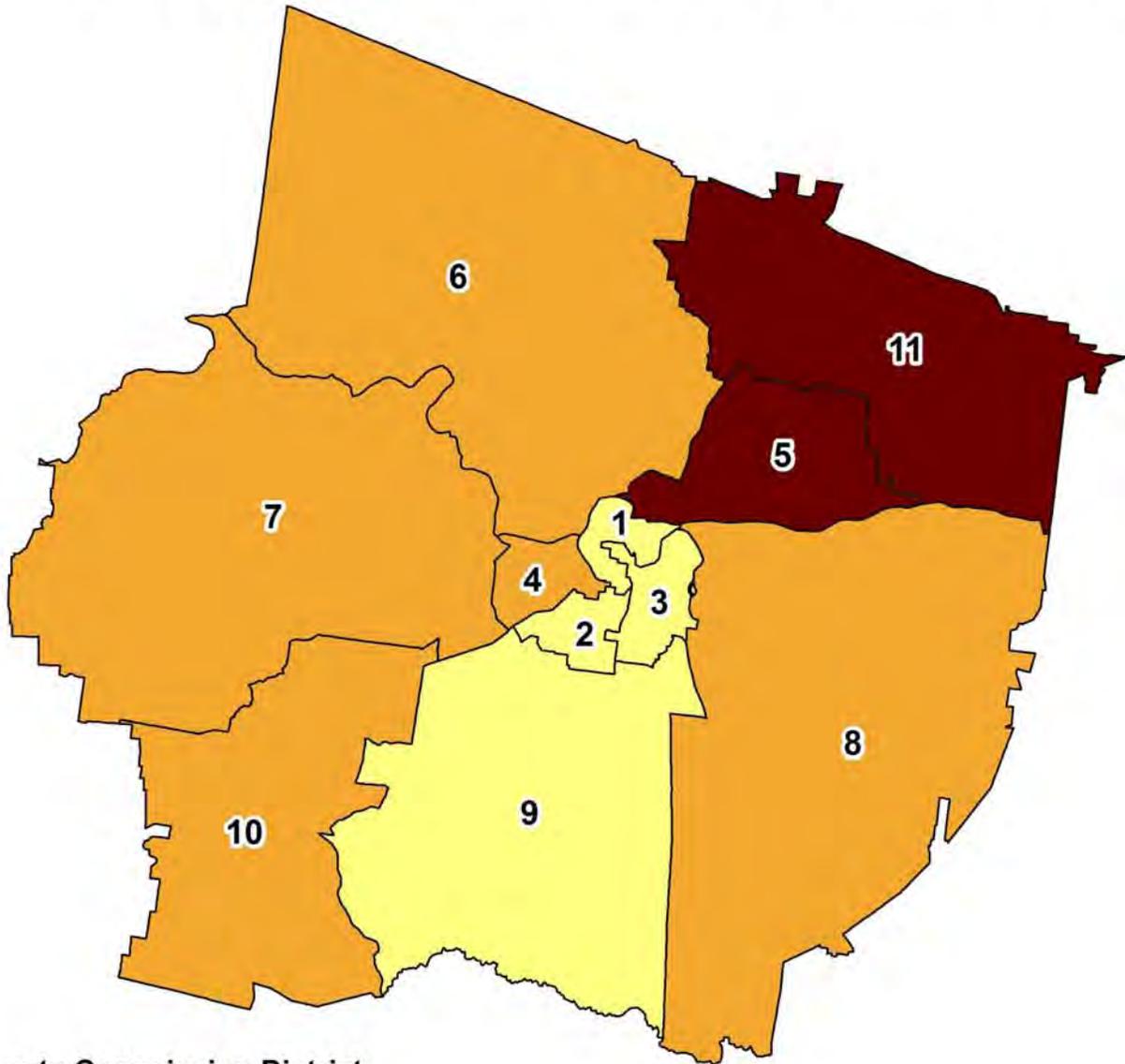
Voting Precinct Maps

Another option for county officials is to use voting precincts as the foundation for creating county commission districts. **Rather than using existing districts or new 2010 census blocks as a starting point, local officials may choose to create districts by aggregating voting precincts or VTDs.** While these VTDs may not precisely define true voting precincts as administered by election officials due to block boundary changes and city annexations, population summaries by precinct are available and the Office of Local Government can provide maps that define these areas. An example of a county precinct map is provided on page 18.

Through the use of geographic information system (GIS) software, county maps detailing 2010 census blocks with existing districts and precincts will be available from the Office of Local Government. Flexibility exists to produce maps of varying size, scale, and geographic features (city boundaries, census blocks, roads, districts, precincts, etc.) for each county. These map and data products will meet local redistricting requirements.

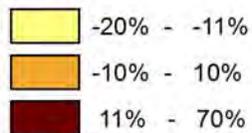
It is highly recommended that the county commission include the Administrator of Elections in the redistricting process.

Example of County Commission Districts and Population Summary



County Commission District

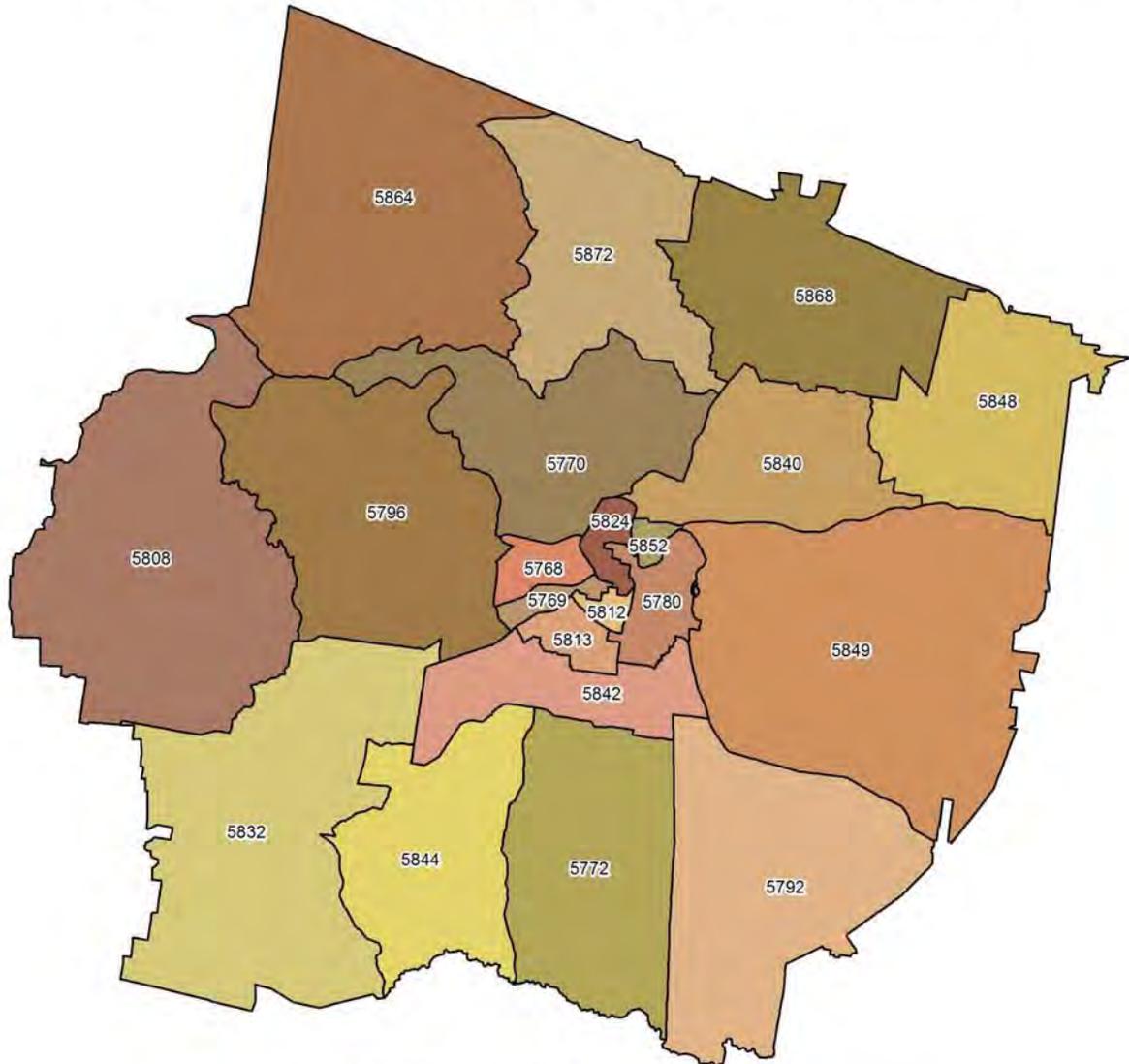
% DEV



Total Population 80,956 based on 2010 Census
Overall Range [70- (-20)] = 90

CCD	NUMCOMS	TOTALPOP	DEVIATION	% DEV	WHPOP	BLPOP	OTHERPOP	HISPOP	TOTALPOP18	WHPOP18	BLPOP18	OTHERPOP18	HISPOP18
1	2	5938	-1422	-19%	4338	1135	465	447	4361	3385	733	243	266
2	2	6104	-1256	-17%	5009	613	482	449	4691	3982	430	279	269
3	2	5862	-1498	-20%	2315	3081	466	388	4292	1771	2269	252	227
4	2	6964	-396	-5%	5668	974	322	386	5451	4584	692	175	226
5	2	8210	850	12%	6758	871	581	610	6237	5282	609	346	391
6	2	7177	-183	-2%	6500	349	328	337	5411	4982	261	168	200
7	2	7397	37	1%	6238	883	276	249	5550	4736	665	149	137
8	2	7333	-27	0%	6933	187	213	150	5617	5337	152	128	92
9	2	6578	-782	-11%	6260	173	145	111	5110	4868	141	101	74
10	2	6913	-447	-6%	5591	1119	203	114	5244	4296	848	100	59
11	2	12480	5120	70%	11067	769	644	668	9335	8418	556	361	415

Example of Voting Precincts and Population Summary



Total Population 80,956 based on 2010 Census

VTD #	&	PRECINCT NAME	TOTAL POP	TOTAL POP18
5768	-	Baker	3760	2850
5769	-	Tradewinds	3204	2601
5770	-	Armory	2026	1462
5772	-	Bigbyville	2409	1837
5780	-	College Hill	5862	4292
5792	-	Culleoka	2911	2218
5796	-	St. Catherine	5265	3960
5808	-	Hampshire	2132	1590
5812	-	Highland	3623	2691
5813	-	First Family	2481	2000
5824	-	West End	4184	3053
5832	-	Mt. Pleasant	6913	5244
5840	-	CP Church	8210	6237
5842	-	Pleasant Heights	2677	2145
5844	-	Porters Chapel	1492	1128
5848	-	Rally Hill	2637	1977
5849	-	Bear Creek	4422	3399
5852	-	Riverside	1754	1308
5864	-	Santa Fe	2294	1777
5868	-	Spring Hill	9843	7358
5872	-	Theta	2857	2172

Disclaimer: TotalPop18 does not represent registered voters

Chapter 3:

A Guide to Local

Redistricting

The legal and data requirements of redistricting covered in the first two chapters can be summarized procedurally by simply aggregating census blocks to create commission districts. However, reaching that point requires some appropriate planning and organization within each county and among various State agencies involved with local redistricting. The following chapter identifies a series of recommended steps or suggestions to complete this task.

Step 1) Appoint a redistricting committee to draw plans

County legislative bodies must decide who will be responsible for drawing the district lines. The whole legislative body itself can work in this capacity, but it may be more appropriate to select a redistricting committee. There are no specific regulations for the composition of the redistricting committee, but it does not have to be limited to members of the county commission. **Due to the impact of redistricting on voting precincts, it is highly recommended that the committee include the Administrator of Elections.**

Alternatively, the entire legislative body could be involved in the drawing of plans. Generally, however, smaller groups can work better on suggested plans that are then presented to and voted on by the entire legislative body.

One member should serve as chairman of the redistricting committee. This person is identified as the main point of contact and **will be responsible for communicating with state officials from the Office of Local Government, and either the County Technical Advisory Service (CTAS) or the Department of Economic and Community Development, Local Planning Assistance Offices (LPO).**

Step 2) Acquire or collect redistricting data.

As indicated in Chapter 2, the Census Bureau is the primary data provider for local redistricting. The Office of Local Government will receive census maps (TIGER files) and population data for each county in Tennessee. This information will then be distributed to most redistricting committees or county commissions through CTAS or Local Planning Assistance Offices staff. Some counties will work directly with the Office of Local Government.

Using 2010 census data with existing districts and precincts, the Office of Local Government can produce a variety of maps. Standard map products include:

1. Current districts showing 2010 census blocks and population per block
2. Current precincts with 2010 census blocks and population per block
3. Current districts and precincts with 2010 census blocks and population per block
4. Census blocks with population per block

All of these maps will include roads, rivers/creeks, railroads, power lines, and city boundaries.

The map legend will indicate the population totals for districts and precincts. **Due to changes in 2010 block boundaries and city annexations, precinct and district population may not reflect actual totals.**

Conventional use of paper maps is no longer the preferred method used in redistricting. Improvements in hardware and software have made it possible for local officials to develop district plans using Geographic Information Systems (GIS) and digital maps. Through the support of CTAS, Local Planning Assistance Offices and existing county staff, district plans can be developed “on the fly”, making the redistricting process much more efficient and timely. Population totals are automatically calculated as census blocks are assigned to various districts. While this process may not be error proof, GIS can provide local officials with an improved redistricting tool.

Step 3) Evaluate current districts with 2010 population to determine what changes, if any, must be made.

First: Decide if the number of districts and commissioners will remain the same.

If the committee or county commission decides to change the number of districts and/or size of the commission (reapportion, see glossary), skip to Step 4.

Second: Examine the population of each commission district as presently drawn.

Use the map provided by the Office of Local Government to examine 2010 population totals for each district.

**Remember: Some district boundaries will be adjusted due to changes in census block boundaries from 2000 to 2010. New population totals for existing districts reflect these adjustments.*

Third: Determine if the current district plan adheres to the “Ten-Percent Standard”.

Based on the population totals and percent deviations per district determine if the overall range (see Chapter 1 and page 17) is acceptable. Also, identify which districts have exceedingly high or low deviations. The redistricting effort will probably begin in these areas.

Fourth: Examine any existing majority minority districts.

First, determine if majority minority districts exist in the old district plan. If they do, to avoid a claim of retrogression and a potential lawsuit, the new district plan should probably include these districts or a modified version of these districts. However, based on significant population changes, adding new or modifying old minority districts may or may not be justified.

Step 4) If necessary, draw one or more new district plans.

After receiving maps with population data, and evaluating the existing districts, the actual redistricting work will begin. CTAS and Local Planning Assistance Offices can provide counties with technical assistance during this step.

First: Determine if the committee wants to adopt guidelines under which the district lines will be drawn.

The redistricting committee should keep complete records and minutes of meetings and district plans. Tennessee’s Open Records law requires that complete minutes be taken and retained.

Public notice must also be given whenever the committee is meeting. Specific guidelines such as keeping districts compact and contiguous, adhering to the ten-percent standard and the need to consider majority minority districts can be written into the record. Documentation is also critical when, on the rare occasion, district plans exceed an overall range of ten percent. Based on disproportionate population distribution between urban and rural areas and county physiography problems (e.g. ridge and valley in East Tennessee) it may be difficult to create plans that have an overall range of less than ten percent. **Keeping a record of why the committee developed a district plan that exceeds this standard may prove beneficial if challenged in court. All records, minutes and district plans are subject to the Tennessee Open Records Act.**

Second: Determine if the committee intends to draw more than one plan to present to the entire legislative body.

There may be minimal change to current districts if population increases, decreases or shifts are insignificant. In other words, existing districts with 2010 population totals may already have an overall range of less than ten percent. This does not prevent the committee from creating alternative or new district plans. New districts can be drawn to separate urban from rural areas, or to keep homogeneity within a district. Other factors that may be considered include incumbents' residences, preserving communities of interest, and other factors important within the county.

Third: Determine the method for drawing new districts.

There are three basic choices on how to start redistricting:

1. **Use census blocks with current districts.** When the number of districts and commissioners remain the same, the existing districts can be used as a starting point. Balancing the population is accomplished by simply swapping census blocks between districts.
2. **Use census blocks only.** If the number of districts and/or commissioners increase or decrease it may be more appropriate to disregard the existing districts and begin a new plan from scratch, using census blocks as the foundation. In this scenario, every census block in the county will be assigned a new district. Once this is completed, balancing the population or fine-tuning the district plan is accomplished the same way as the first option.
3. **Use Precinct boundaries.** In addition to census blocks, voting precincts or VTD's can be used as the means of drawing new districts. Individual or multiple precincts can be aggregated to create new commission districts. **Attempting to preserve existing precincts is an idea that redistricting committees should consider** but may not be able to achieve. If the committee does redistrict based on precincts, election officials will still have some work to do. In some cases, based on city annexations and census block changes, precinct boundaries have been adjusted. So, even if the committee decides to keep the existing districts or redistrict based on existing precincts, some county residents may be moved to an adjacent precinct, and new polling place.

Fourth: Consider other variables when drawing new plans.

Technically speaking, redistricting is assigning census blocks and/or precincts to county commission districts. The sum of census blocks within a district will generate a population total for each district. While this appears to be a straightforward process, other factors need to be considered when drawing new districts.

City or Incorporated boundaries – During the 2000's round of local redistricting, many plans were drawn to create commission districts which coincide with city boundaries. As a result, city residents were able to elect county commissioners that represented and

protected their political interests. While there are benefits to this practice, some potential problems can arise when city boundaries, coincident with commission districts, move due to annexations or deannexations.

While election officials prefer to move precinct boundaries with annexations, this should not affect commission districts. In other words, **annexations should not result in moving county commission district boundaries or should not result in registered voters being moved into a new county commission district.** When this occurs, voters may cast ballots for individuals that are not in their district.

Redistricting committees should be aware of this situation and can help minimize this problem from happening. This may be accomplished with the following two suggestions:

1. Include a few unincorporated census blocks in these “city” districts so that the new commission districts do not exactly coincide with city boundaries. Then, as annexations occur, commission districts may not be affected.
2. Instead of creating one commission district for an entire city, divide the city into two or more commission districts in such a way that annexations will not affect commission districts.

Although it is very difficult, if not impossible to predict when and where annexations will occur after finalizing the district and precinct plan, redistricting officials should take this into consideration when drawing new districts.

Inevitably, some new commission districts will coincide with city boundaries. When annexations occur in these areas, election officials must be prepared to preserve existing commission districts.

Step 5) Complete final district plan.

When the committee agrees on a final district plan, it should be reviewed with the following legal guidelines in mind:

Equal Population. State and federal law requires districts to represent substantially equal populations. The “Ten-Percent” standard provides some guidelines for what constitutes equal population. **District plans should attempt to have an overall range of less than ten percent deviation.**

Minority Representation. The final plan should include a balance between the Voting Rights Act, which protects against discrimination and dilution of minority voting strength, and racial gerrymandering, by using race consistent with the traditional redistricting principles.

Making districts both compact and contiguous. State law (TCA 5-1-111(e)) details the requirements of these two traditional redistricting principles. New commission districts should be one undivided parcel of land that is not irregular in shape.

Step 6) Adopt final plan by resolution.

After the legislative body reaches consensus on a final district plan, it should be adopted by resolution of the county legislative body. **The resolution should contain either descriptions or a map of sufficient detail of each district and copies submitted to the Office of Local Government.**

Step 7) Complete final precinct map.

Based on district changes, the election commission may have to adjust precinct boundaries and/or create new precincts to coincide with new commission district boundaries.

The following excerpts are from Tennessee Code Annotated concerning revisions of precinct boundaries by the county election commission.

“...any precinct boundary in such county which is altered in accordance with the provisions of this subdivision (a)(2) shall coincide with a census block ... as designated on United States bureau of the census maps prepared for the 2010 federal decennial census.” (T.C.A. 2-3-102 (a)(2)(B))¹

“Immediately after any alteration of precinct boundaries or change of district, the county election commission shall publish the changed boundaries in a newspaper of general circulation in the county. The county election commission shall mail to each active voter whose polling place is changed a notice of the voter’s new polling place and precinct number. Furthermore, immediately after any alteration of precinct boundaries, the county election commission shall give written notification of such changes to the office of local government, comptroller of the treasury.” (T.C.A. 2-3-105)

Descriptions of voting precincts or maps of sufficient detail should also be created and submitted to the Office of the State Coordinator of Elections, and filed and recorded in the office of the Clerk of the county legislative body.

Step 8) Certification of final District and Precinct plans.

The Office of Local Government will prepare three copies of final district and precinct maps requiring district certification signatures from any two of the following county officials: the county mayor /county executive, the chairman of the county commission, a member of the county commission, or the county clerk. Likewise, precinct certification signatures are required from any two of the following county officials: the administrator of elections, a member of the county election commission, or the county clerk.

After the maps are signed, one copy should be sent to the Director of the Office of Local Government and one copy should be sent to the State Election Coordinator. The third copy is retained for local use.

¹At present (March 2011) T.C.A. 2-3-102 (a)(2)(B) uses the date 2000. It is expected this date will be changed to 2010 by the 107th Legislature of the State of Tennessee.

***Final Note: Before starting the redistricting process, local officials should review state laws for any changes or new requirements. We also suggest that you seek legal advice when matters of law are in question.**

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Appendix 1

Glossary

Apportionment or Reapportionment—Often confused with or used interchangeably with redistricting, these terms refer to the allocation of political seats among districts and are most often used in reference to the allocation of seats for the U.S. House of Representatives among the states. At the local level, this refers to changing the size of the commission or redistributing commission seats among districts. Commonly referred to as “drawing the district lines.”

Bloc Voting— a combination of persons or groups with a common interest or purpose who vote as a bloc or unified group.

Block (Census Block)—An area bounded on all sides by visible features, such as streets, roads, streams and railroad tracks, or by other limited non-visible boundaries such as city, town or county limits, and extensions of streets. A block is the smallest statistical area for which the census bureau collects and tabulates population data (see page 15).

Block Number—A four-digit number identifying a census block. 1990 blocks were three digit numbers. This change will allow the Census Bureau to create additional blocks, providing more flexibility when drawing new districts. Block numbers are unique within block groups and tracts.

Census Tract—A small, relatively permanent division of metropolitan statistical areas and selected non-metropolitan counties, delineated for the purpose of presenting census data. When census tracts are established, they are designed to be relatively homogeneous with respect to population characteristics, economic status and living conditions, and to contain between 2,500 and 8,000 inhabitants. Census tract boundaries are established cooperatively by local census statistical areas committees and the Census Bureau in accordance with Bureau-defined guidelines that impose limitations on population size and specify the need for visible and stable boundaries. Census tracts do not cross county boundaries.

Census Tract Number—A four-digit number between 0001 and 9999, possibly with a two-digit suffix, for example 9999.01 used to identify a census tract uniquely within a county and usually with a metropolitan area. Leading zeroes are not shown on census maps.

Corporate Limit—The legally defined boundary of an incorporated place. This boundary is subject to change through the process of locally initiated annexation, detachment and/or disincorporation.

Deviation – see relative deviation.

Fracturing—This term is used when a minority population is divided into multiple districts, diluting the strength of racial bloc voting and resulting in the inability to elect candidates of their choice.

GIS—(Geographic Information System)-Computer mapping system used by the State of Tennessee to create and maintain districts and precincts. GIS establishes a link between the PL 94-171 (population) data and the TIGER (map) data for easier and faster calculations in the redistricting process and allows for map customization and analysis.

Ideal District Population—In single-member district plans, the ideal district population is equal to the total population divided by the total number of districts. In multimember districts, the ideal population is instead expressed as the ideal population per representative.

Incorporated Place—A political unit, incorporated as a city or town having legally prescribed limits, powers and functions. Also known as “incorporated municipality.”

Majority-minority districts—Districts where an ethnic or language minority group(s) has the largest percentage of the total population in that district.

Map—A printed or digital visual representation of an area; a symbolic depiction showing elements of that space such as regions, objects and themes.

Multimember Districts—Districts where citizens vote for and are represented by more than one member or commissioner. County commissions in Tennessee may have up to three members per district.

One person, one vote—An often cited phrase written by former Supreme Court Justice William O. Douglas in the 1963 *Grey v. Sanders* decision in which the Court held that unit voting (at-large) systems are unconstitutional per se. (“The conception of political equality from the Declaration of Independence, to Lincoln’s Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one [person], one vote.”)

Overall Range—A simple statistical measure of variability, overall range measures the difference between the highest and lowest values in a distribution. For example, if a county had 5 districts, the highest with a relative deviation of 5.4% and the lowest with a relative deviation of -3.8%, the overall range would be 9.2%.

Packing—This term is used when a minority group is concentrated into one or more districts so that the group constitutes an overwhelming majority in those districts, thereby wasting a percentage of the vote.

PL 94-171—Law passed by Congress in 1975, requiring the U.S. Census Bureau to furnish state governments population data by April 1 of the year following the census count for use in redistricting. The law requires that the bureau allow the states to define the boundaries of the areas for which the population data is collected.

Precinct (see also Voting Tabulation District, VTD)—A subdivision of a county commission district that contains a polling place where registered voters cast ballots in elections. **County commission districts can not split precincts.**

Preclearance—A term applied to specific jurisdictions or parts of jurisdictions, including states, counties or cities, which fall under the provisions of Section 5 of the Voting Rights Act. These jurisdictions are required to “preclear” all revisions to their election laws or practices prior to their implementation through review by either the U.S. Department of Justice or the U.S. Court of Appeals for the District of Columbia. (Tennessee, at present, is not a preclearance state.)

Reapportionment – see apportionment

Redistricting—This term refers to the redrawing of political boundaries, such as county commission or city council districts to achieve equal population among the various districts.

Relative Deviation—A percentage, indicating the difference in the ideal population from a districts actual population.

Results Test—In 1982 Congress amended Section 2 of the Voting Rights Act to provide that any voting practice which “results” in discrimination on the basis of race, color or membership in a language minority is unlawful. Before the 1982 amendment, plaintiffs were required to prove discriminatory *intent* rather than *effect*.

Retrogression -- Term usually applied to redistricting where a new district plan reduces or eliminates old majority minority districts by packing or fracturing minority population resulting in the inability of minorities to elect candidates of their choice.

Single-Member Districts—These are districts represented by one person.

T.I.G.E.R.—(Topologically Integrated Geographic Encoding and Referencing) Digital map created from the Census Bureau containing selected geographic and cartographic information used to support its mapping requirements. It is the base map that is used for redistricting in the State of Tennessee.

Undercount—The estimated number of people who are not counted by the census.

Vote Dilution—“A process whereby election laws or practices, either singly or in concert, combine with systematic bloc voting among an identifiable group to diminish the voting strength of at least one other group.” (From “The Quiet Revolution in Minority Voting Rights” by Laughlin McDonald, *Vanderbilt Law Review*, Vol.42:1249)

Voting Rights Act—Originally passed by Congress in 1965, the Act was designed to protect the right to vote as guaranteed by the 15th Amendment, and to enforce the 14th Amendment and Article 1, Section 4 of the Constitution. Since 1965, Congress has amended it in 1970, 1975 and 1982. Sections 2 and 5 of the Voting Rights Act directly affect redistricting efforts. Section 2, which applies to all jurisdictions, prohibits imposing any voting practice that results in the denial of the right to vote. It mandates that all citizens must have an equal opportunity “to participate in the political process and to elect representatives of their choice.” Section 5 applies only to jurisdictions subject to preclearance by the U.S. Justice Department as a result of meeting certain criteria established in Section 5. Both sections create legal causes of action against violating jurisdictions.

Voting Tabulation District—(VTD) a term used by the census bureau to define local voting districts, or precincts in Tennessee.

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Appendix 2

Local Redistricting

Quick Reference

What Is Redistricting?

The delineation of County Commission District lines.

What Is Reapportionment?

The apportionment of the county legislative body so that its members represent substantially equal populations.

When Was The Last Time Counties Were Required To Redistrict/Reapportion?

The Year 2001.

How Often Does Redistricting Occur?

Every ten (10) years, following the publication of the new U.S. Census population summary tables that result from the decennial census.

By When Does Redistricting Need To Be Completed?

January 01, 2012.

Will Legislative Redistricting Be Complete Before Counties Begin?

Probably not. In any event, you still have the January 2012 deadline.

What Is The Maximum Number Of County Commission Districts Per County?

Twenty five (25).

What Is the Minimum Number Of County Commission Districts Per County?

Three (3).

Special rules apply to Hamilton and Knox Counties; they must each have nine (9) districts minimum.

What Is The Maximum Number Of Commissioners Per County?

Twenty five (25).

What Is The Minimum Number Of Commissioners Per County?

Nine (9).

What Is The Maximum Number Of Commissioners Per District?

Three (3).

What Is The Minimum Number Of Commissioners Per District?

One (1).

Can A County Have One Commissioner In Some Districts And Multiple Commissioners In Other Districts?

Yes, as long as the county's total of twenty five commissioners is not exceeded and as long as any one district does not have more than three commissioners.

Can One Commissioner Represent More Than One District?

No. Every commissioner must reside in the district he or she is elected to.

What Data Is Used In the Local Redistricting Process?

The most recent decennial census data.

Who Will Do Redistricting?

Tennessee law requires each county's legislative body to do its own redistricting via committee.

Who Should Be On The Redistricting Committee?

County commissioners, the County Administrator of Elections, and anyone else whose assistance is desired. Legal counsel is also advisable.

Will The State Assist Counties With Redistricting?

Yes. The State Comptroller of the Treasury - Office of Local Government, the State Office of Economic and Community Development – Local Planning Assistance Offices, and the University of Tennessee Institute for Public Service - County Technical Assistance Service are available to help counties with redistricting.

How Are Districts Drawn?

All districts must be based on 2010 census blocks.

Do Voter Precincts Have To Be Redrawn As Well?

Precincts should be redrawn as necessary so as to nest within districts, to be reasonably compact, and to be of a single piece (contiguous.)

Who Redraws Voter Precincts?

The county election commission.

Can A Voter Precinct Split A County Commission District?

No. One precinct must not exist in two or more county commission districts.

Can A Precinct Split A State House District?

Yes.

Can A Precinct Split A State Senate District?

No.

When Is A County's Redistricting Plan Complete?

A final district plan will be adopted by resolution of the county legislative body. The resolution must contain descriptions of each district or a map of sufficient detail. The county will send the resolution along with the revised voter precincts to the State Office of Local Government where three (3) maps of the county's final districts and precincts will be prepared. The three maps will be sent back to the county for district certification signatures and precinct certification signatures. One signed copy of the map will then be sent to the Director of The Office of Local Government, another signed copy sent to the State Coordinator of Elections, and the remaining copy retained by the county.

Are Local Redistricting Meetings Subject To The Open Meetings / Public Records Acts?

Yes. Meeting minutes and records should be collected and maintained for all redistricting meetings. Public notice should be given every time the redistricting committee meets. All records generated from these meetings are considered public records.

Credits

1991 edition LOCAL GOVERNMENTS AND REDISTRICTING

LaVonne B. Griffin, Research Specialist – Office of Local Government

Kimberley Potts, Legislative Research Analyst – Office of Local Government

Tom Fleming, Director – Office of Local Government

William R. Snodgrass, Comptroller of the Treasury

2001 edition A GUIDE TO LOCAL REDISTRICTING IN TENNESSEE

Dennis T. Pedersen, GIS Resource Specialist – Office of Local Government

Bryan Mitchell, GIS Resource Specialist – Office of Local Government

Greg Spradley, Senior Legislative Research Analyst – Research Education and Accountability

Tom Fleming, Director – Office of Local Government

John G. Morgan, Comptroller of the Treasury

2011 edition A GUIDE TO LOCAL REDISTRICTING IN TENNESSEE

David Tirpak, GIS Manager – Office of Local Government

Matthew Hill, GIS Technician – Office of Local Government

Jeffrey M. Metzger, Legal Consultant – County Technical Assistance Service

Tom Fleming, Director – Office of Local Government

Justin P. Wilson, Comptroller of the Treasury

Errata Sheet
For the document titled:

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and/or

Local Planning Assistance Offices

are removed from the publication.

Justin P. Wilson
Comptroller



Tom Fleming, CAE
Director of the Office of Local
Government
(615) 401-7777

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF LOCAL GOVERNMENT
GIS/MAPPING

James K. Polk State Office Building
505 Deaderick Street, Suite 1700
Nashville, Tennessee 37243-1402
Phone (615) 401-7828
Fax (615) 532-5279

February 17, 2011

MEMORANDUM

TO: County Mayors/County Executives
Administrator of Elections
Chairman of the County Commission

FROM: Tom Fleming, CAE *J.F.*
Director

SUBJECT: Redistricting and Reapportionment

It's redistricting time in Tennessee!

Once every ten years in conjunction with the decennial census, local governments are required to redistrict and reapportion their legislative bodies according to state law. That time is almost here. This memo is designed to discuss some of the issues associated with redistricting and share with you our role in this process.

The Office of Local Government currently maintains all county commission district and voting precinct maps. Serving as the redistricting data repository, we will also receive and distribute 2010 census related information (maps and population figures) to local officials responsible for redistricting. Assisting us in this process are two organizations, the County Technical Assistance Service (CTAS) and the Department of Economic and Community Development, Office of Local Planning. Not only will these organizations assist with distribution of redistricting materials but more importantly will be available to provide technical assistance in developing new district plans. Counties that need or ask for assistance will be distributed among these two organizations and the Office of Local Government. Someone from CTAS or Local Planning will be contacting you to inquire about the level of assistance you may need.

Our office will not receive the 2010 census population data until April, therefore, the actual work involved with redistricting will not begin until June or July. The statutory deadline to complete redistricting is January 1, 2012. Depending on when the census maps and population data are available, you will only have between five and six months to develop and finalize a new county commission district plan. As a result, we recommend that local officials

- Establish a redistricting committee
- Review your current districts
- Review private acts in your county
- Read the manual that will be sent out
- Appoint a technical lead or point of contact person in your county to avoid confusion

Being proactive in the redistricting process can help assure that you have a smoother transition when it's time to redistrict. Due to a potential backlog of final map requests from our office in November and December, it may be a good idea to set your own deadline much sooner than January 1.

In the near future, you should expect to receive an updated version of a redistricting manual. Many of you may be familiar with this document from the 2001 round of redistricting. We have spent the last month revising it with current information. The manual provides an in-depth review of the legal, technical and data requirements of local redistricting. Whether this is your first, second, or third time involved with redistricting, the manual is a good place to start.

As soon as the redistricting manual is complete, distribution will be made to all involved parties. We look forward to working with you throughout this process. If you have any questions about this memorandum or the redistricting process, please feel free to contact David Tirpak at 615-401-7820 or email at david.tirpak@tn.gov.

TF

cc: TN Comptroller of the Treasury
TN Coordinator of Elections
CTAS
ECD, LPO
TCSA

RESOLUTION TO ESTABLISH A REDISTRICTING COMMITTEE

WHEREAS, *Tennessee Code Annotated* (T.C.A.) Section 5-1-111 requires that, at least every ten (10) years, county legislative bodies shall change the boundaries of county legislative districts so that members represent substantially equal populations; and

WHEREAS, the _____ County Legislative Body finds it to be in the best interest of _____ County to establish a Redistricting Committee to assist the _____ County Legislative Body with the necessary boundaries changes to county legislative districts so that members represent substantially equal populations;

NOW THEREFORE BE IT RESOLVED by the _____ County Legislative Body, meeting this ____ day of _____, 2011, that:

SECTION 1. The _____ County Legislative Body does hereby establish a Redistricting Committee to prepare suggested redistricting plans to be presented to and voted on by the entire _____ County Legislative Body.

SECTION 2. The Redistricting Committee shall consist of the following members:

- (1)
- (2)
- (3)

[The committee may consist of as many members as the commission desires. Due to the impact of redistricting on voting precincts, it is recommended that the committee include the Administrator of Elections].

SECTION 3. At its first meeting, the Redistricting Committee shall elect a chairman, vice-chairman, and secretary.

SECTION 4. Meetings of the Redistricting Committee shall be subject to the open meetings provisions of T.C.A. Title 8, Chapter 44. The secretary of the Redistricting Committee shall prepare the minutes of each meeting.

SECTION 5. The Redistricting Committee shall meet from time to time as necessary in order to prepare suggested redistricting plans. The chair of the Redistricting Committee shall report to the _____ County Legislative Body at each regular meeting of the _____ County Legislative Body on the status of suggested redistricting plans.

Adopted this ____ day of _____, 2011.

APPROVED:

ATTEST:

County Mayor

County Clerk

RESOLUTION NO. _____

TO ADOPT A REAPPORTIONMENT/REDISTRICTING PLAN
FOR _____ COUNTY

WHEREAS, *Tennessee Code Annotated*, Section 5-1-111, requires that, at least every ten (10) years, county legislative bodies shall change the boundaries of districts or redistrict a county entirely if necessary to apportion the county legislative body so that the members represent substantially equal populations; and

WHEREAS, _____ County has prepared a plan consistent with the provisions of *Tennessee Code Annotated*, Section 5-1-111, which provides for a county legislative body composed of # members and which creates # districts as depicted on the official redistricting map for _____ County prepared pursuant to *Tennessee Code Annotated*, Section 5-1-110.

NOW, THEREFORE, BE IT RESOLVED by the _____ County Legislative Body meeting in _____ session at _____, Tennessee, on this ____ day of _____, 2011, that:

SECTION 1. There is hereby adopted a reapportionment plan for _____ County which provides for # commissioner(s) in each of the # districts for a total county legislative body of # members. The districts for members of the county legislative body are depicted on the official redistricting map for _____ County prepared pursuant to *Tennessee Code Annotated*, Section 5-1-110. A copy of the redistricting map is attached as Exhibit A to this resolution and is incorporated herein by reference.

SECTION 2. All members of the county legislative body shall be elected at large within the district wherein the candidate seeks election. [*Multimember districts: Option 1.* The # candidates receiving the greatest number of votes in each district shall be elected; *or Option 2.* All members of the county legislative body shall be elected from designated seats in each district, namely seat A and B. Candidates shall qualify for only one such seat.]

SECTION 3. This plan shall take effect upon passage, the public welfare requiring it, provided that vacancies shall be filed in accordance with *Tennessee Code Annotated*, Section 5-1-104.

ADOPTED this ____ day of _____, 2011.

APPROVED:

ATTEST:

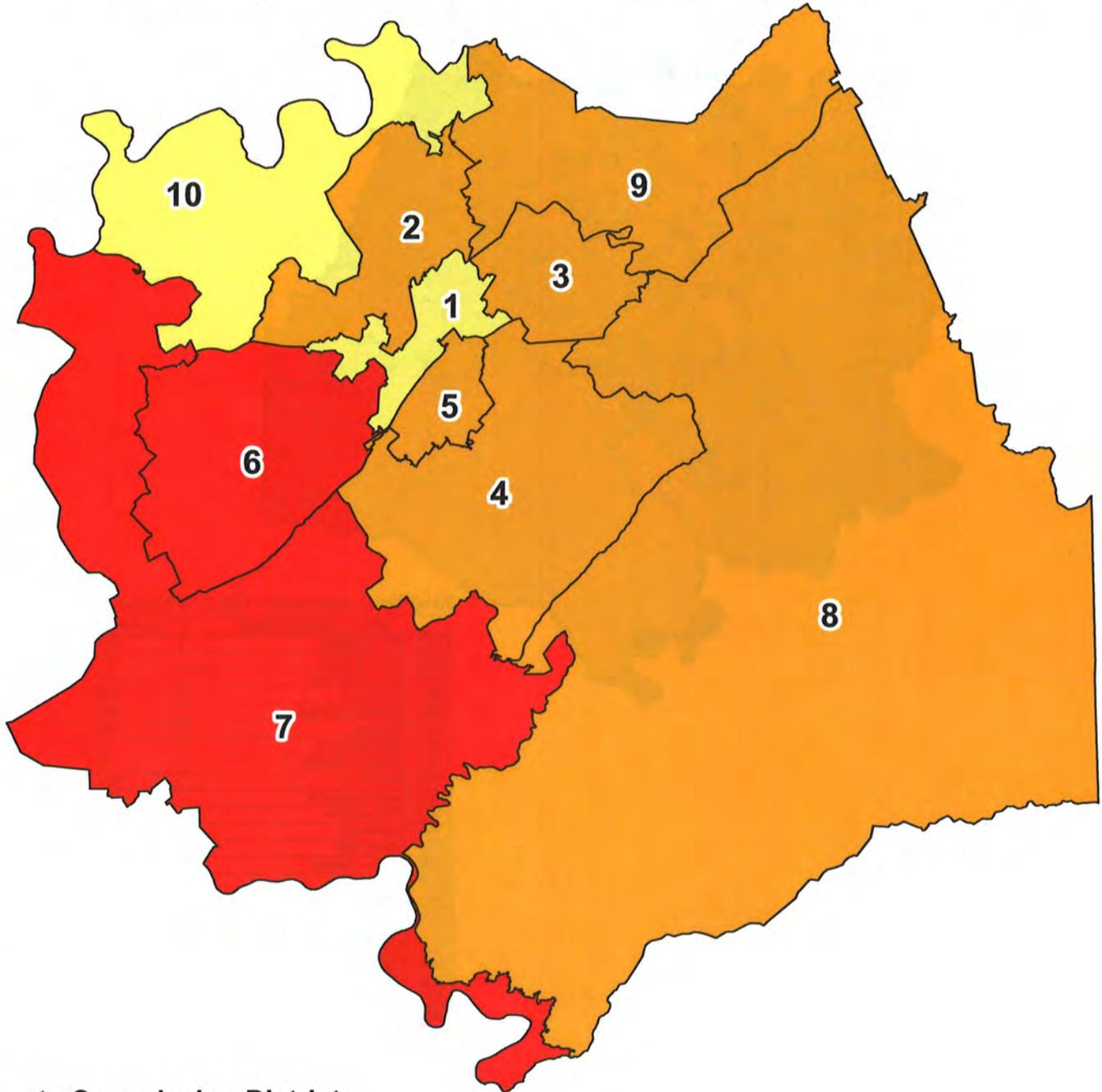
County Mayor

County Clerk

EXHIBIT A

[attach redistricting map]

Blount County Commission Districts and Population Summary



County Commission District

% DEVIATION

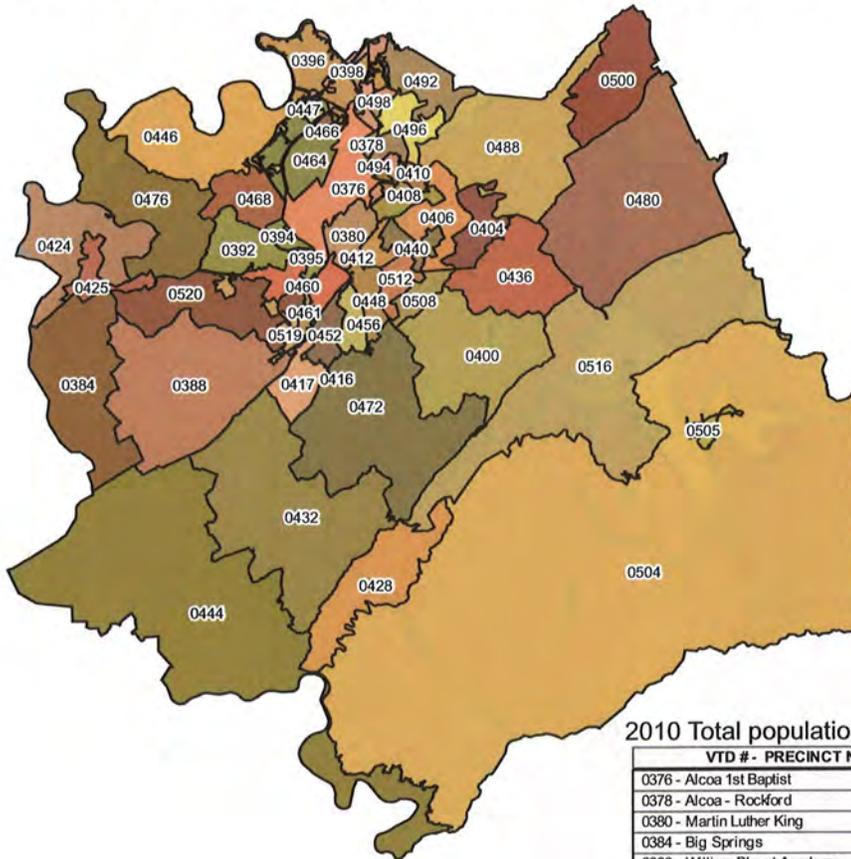
- 11%
- 10% - 10%
- 11% - 24%

2010 Total population 123,010 based on 2010 Census
Overall Range [24- (-11)]=35

CCD	NUMCOMS	TOTALPOP	DEVIATION	% DEVIATION	WHPOP	BLPOP	OTHERPOP	HISPOP	TOTALPOP18	% WHPOP	% BLPOP	% OTHERPOP	% HISPOP
1	2	10476	-1239	-11%	8551	1333	592	586	7855	82%	13%	6%	6%
2	2	10652	-1063	-9%	9803	361	488	390	8337	92%	3%	5%	4%
3	2	11848	133	1%	10924	300	624	503	9085	92%	3%	5%	4%
4	3	18310	737	4%	17670	158	482	251	14264	97%	1%	3%	1%
5	2	10767	-948	-8%	10075	267	425	268	8355	94%	2%	4%	2%
6	2	14548	2833	24%	13810	193	545	320	11117	95%	1%	4%	2%
7	2	13268	1553	13%	12914	47	307	201	10359	97%	0%	2%	2%
8	2	11790	75	1%	11444	41	305	146	9438	97%	0%	3%	1%
9	2	10875	-840	-7%	10344	246	285	272	8447	95%	2%	3%	3%
10	2	10476	-1239	-11%	9458	434	584	504	8377	90%	4%	6%	5%

Table percentages may have been rounded.

Blount Voting Precincts and Population Summary



2010 Total population 123,010 based on 2010 Census

VTD # - PRECINCT NAME	TOTALPOP	TOTALPOP18
0376 - Alcoa 1st Baptist	4279	3382
0378 - Alcoa - Rockford	241	173
0380 - Martin Luther King	2642	2013
0384 - Big Springs	2149	1659
0388 - William Blount Academy	7315	5629
0392 - Pellissippi	3883	2992
0394 - Pellissippi-Alcoa	81	68
0395 - Pellissippi-Maryville	69	53
0396 - Beech Grove	4026	3211
0398 - Beech Grove-Alcoa	758	604
0400 - Chilhowee View	3233	2540
0404 - Eagleton 8th	1578	1237
0406 - Eagleton 20th	1772	1410
0408 - Eagleton Cafeteria	4201	3259
0410 - Eagleton-Alcoa	3	3
0412 - Everett	3685	2772
0416 - Fairview-City	200	128
0417 - Fairview-County	2816	2223
0424 - Friendsville-County	1544	1255
0425 - Friendsville-City	894	721
0428 - Happy Valley	225	193
0432 - Carpenters	3710	2878
0436 - Heritage	2828	2279
0440 - John Sevier	4294	3176
0444 - Lanier	4747	3654
0446 - Louisville	2280	1856
0447 - Louisville 8th	230	182
0448 - Maryville College	2996	2567
0452 - Maryville High School	3869	2746
0456 - Maryville Middle School	3911	3047
0460 - Maryville Municipal-City	2948	2157
0461 - Maryville Municipal-County	1206	917
0464 - Mentor	1670	1338
0466 - Mentor-Alcoa	199	149
0468 - Middlesettlements	1047	816
0472 - Montvale	7960	6145
0476 - Miser Station	2362	1887
0480 - Oak View	4557	3481
0488 - Porter	3300	2531
0492 - Rockford-County	2534	2018
0494 - Rockford 20th	376	305
0496 - Rockford-City	757	596
0498 - Rockford-Alcoa	229	185
0500 - Shooks Gap	3679	2812
0504 - Townsend-County	2030	1695
0505 - Townsend-City	271	234
0508 - Blount County Board of Education-County	911	765
0512 - Blount County Board of Education-City	3181	2458
0516 - Walland	2104	1749
0519 - William Blount-City	1675	1237
0520 - William Blount-County	5555	4249

Disclaimer: TotalPop18 does not represent registered voters

RESOLUTION NO. 11-06-002

Sponsored by: Commissioners Mike Lewis and Kenneth Melton

A RESOLUTION TO AMEND GENERAL COUNTY FUND BUDGET.

WHEREAS, Blount County would like to amend the General County Fund Budget to appropriate funds for general liability insurance.

WHEREAS, it is deemed to be in the best interest of Blount County to amend the General County Fund Budget as requested.

NOW THEREFORE, BE IT RESOLVED BY THE Board of Commissioners of Blount County, Tennessee assembled in regular session this 16th day of June, 2011 that the General County Fund Budget shall be amended as follows:

Revenue:

101-0-499998-0 Fund Balance.....\$450,000.00

APPROPRIATION:

101-051900-500506-0 General Liability\$450,000.00

Duly authorized and approved this 16th day of June, 2011.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

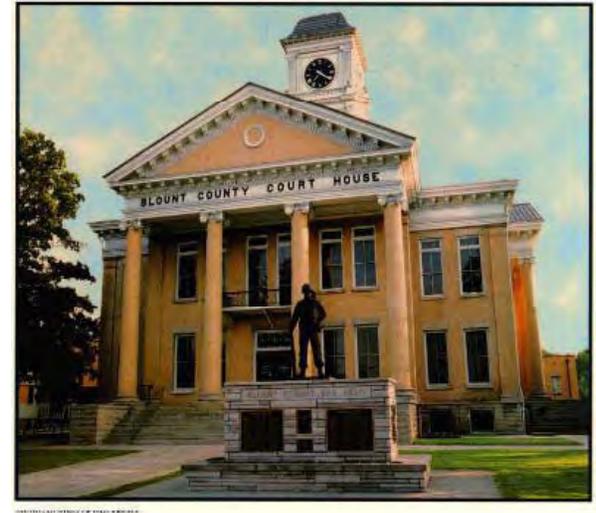
County Clerk

Approved: ____

Vetoed: _____

County Mayor

Date



Blount County Government

Fund 263 – Internal Service Fund for
Health, Dental, Workers Comp and General Liability

Presentation to County Commission

Agenda Meeting

June 09, 2011

Fund 263 – Purpose and Function

- Internal Service Fund for three self insured risk exposures
 - Medical Insurance
 - General Liability Insurance
 - Worker’s Compensation Insurance

 - Also includes a project for Dental Insurance, but this has no risk exposure
- Revenues into the Fund are charges to Major Funds with Employees (Gen County, GP Schools, Highway, etc)
 - Medical charge for each employee (either single or family)
 - Workers Comp charge for each employee
 - General Liability charge into GP Schools, Highway, General County (51900)
- Expenditures from fund include
 - Medical claims paid
 - Cost of Risk management Department
 - Cost of Reinsurance
 - General Liability claims paid
 - Workers Comp claims paid

Fund 263 – Purpose and Function

- For Both Cash Reserves and Net Assets, each project has
 - Beginning Balance
 - Revenues (charges to Major Funds)
 - Expenditures
 - Ending Balance
- For Accounting purposes, Medical Insurance Project stands on its own. General Liability and Workers Compensation are grouped together and the year end Net Assets must be positive
 - Net Assets equals Cash Balance less quantified reserves for known claims

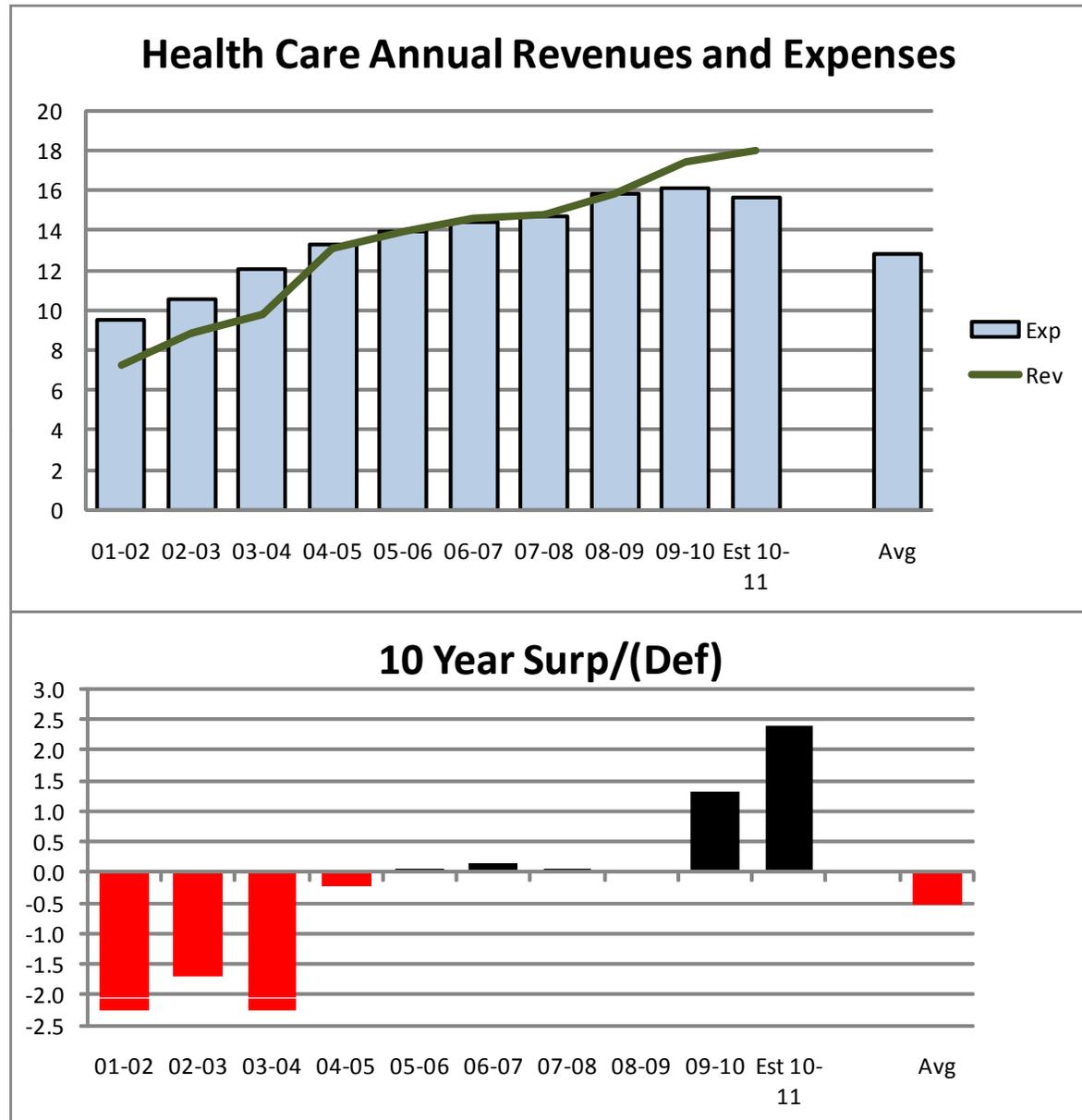
Fund Status – Health Project

Ended FY 09-10 with Cash reserves of \$2.3 . Our target is two and a half months claims...or \$3 million

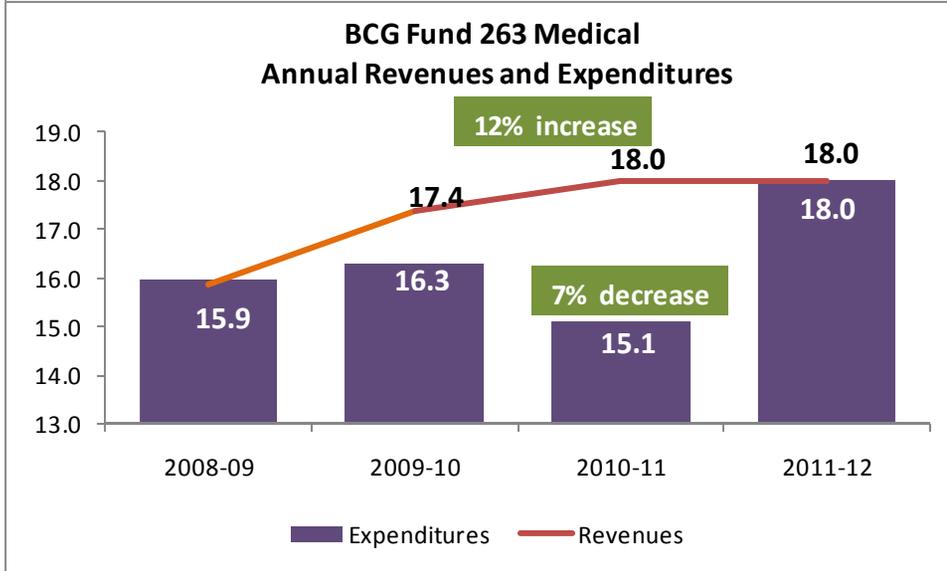
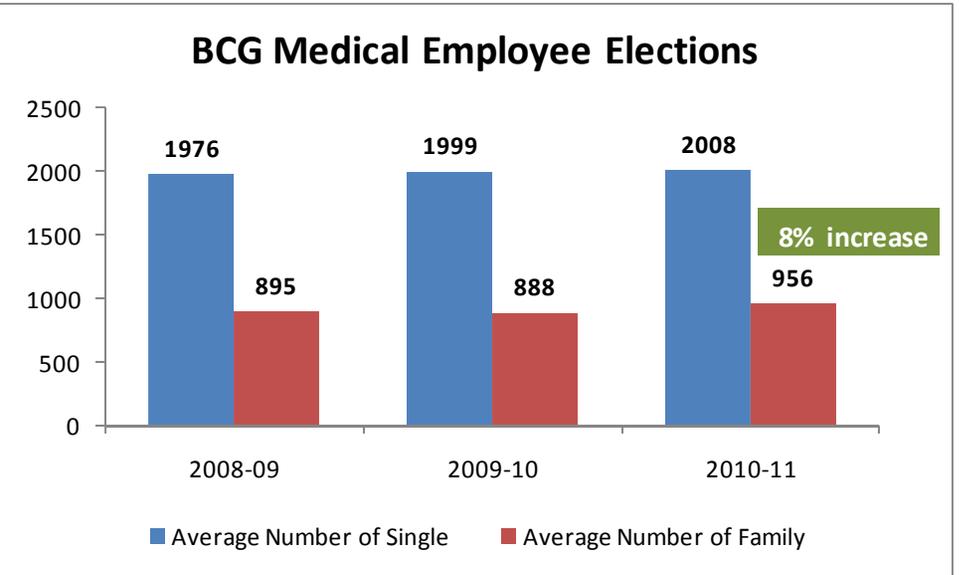
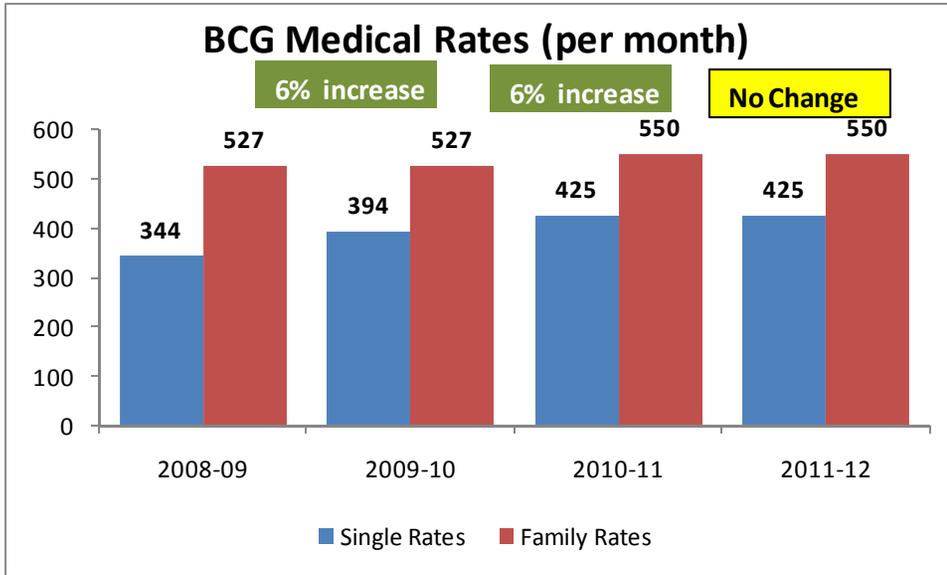
Due to two successive years of 6% increase in accrual rates , coupled with excellent claims experience thru the first 11 months of current FY, we are well above above target at \$4.6 million

However, we cannot bank on this continuing. Statistically speaking, we expect a 5-7% increase in Medical Cost every year

5% is \$900k per year



Three Year trends and Statistically Projected FY 2011-12



	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
Cash Balance	1.1	2.3	4.0
Obligations	<u>1.3</u>	<u>1.5</u>	<u>1.5</u>
Net Assets	-0.2	0.8	2.5

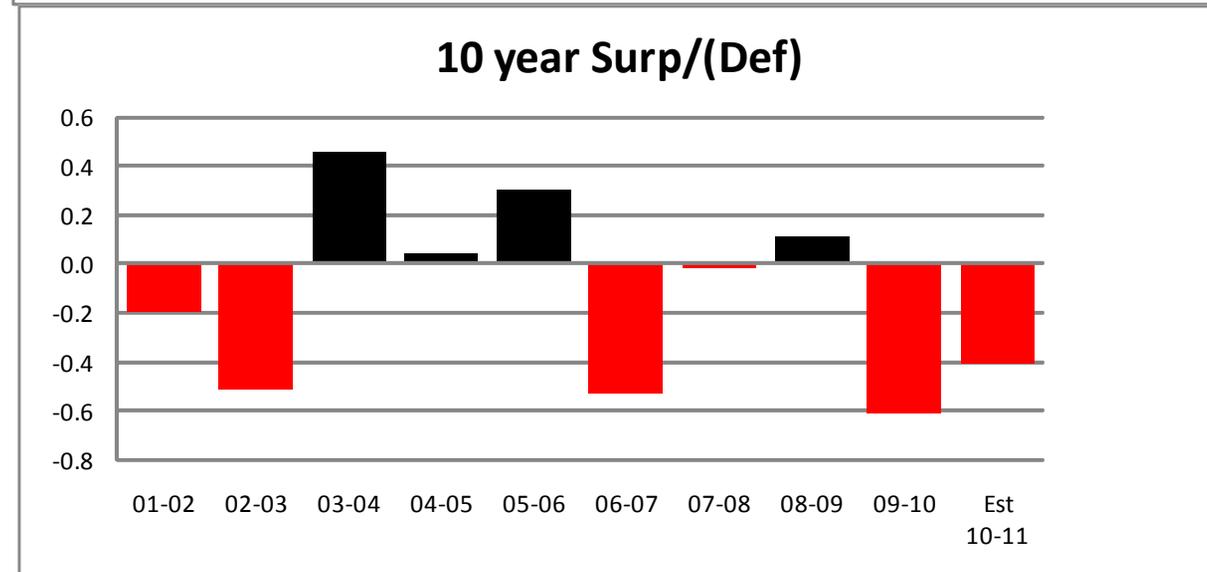
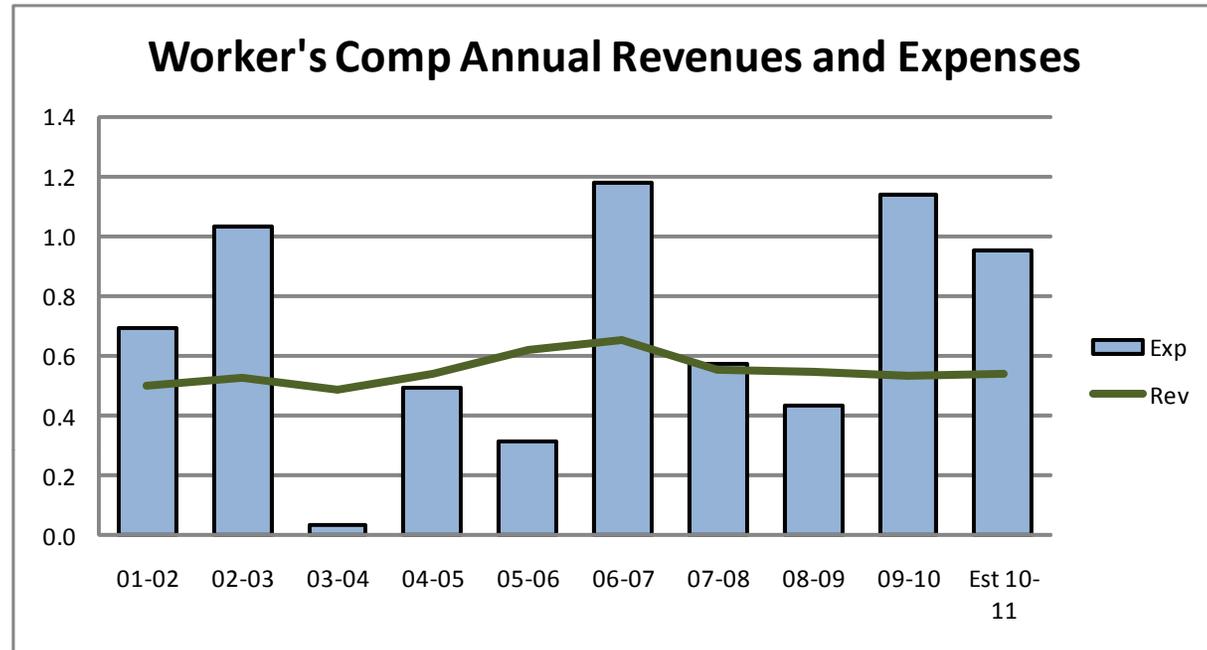
We know of several large claims that will hit our \$150k stop loss Max coverage in next fiscal year. Also, we cannot expect to continue the lower claims cost with the higher number of insured lives.

Fund Status –Workers Compensation Project

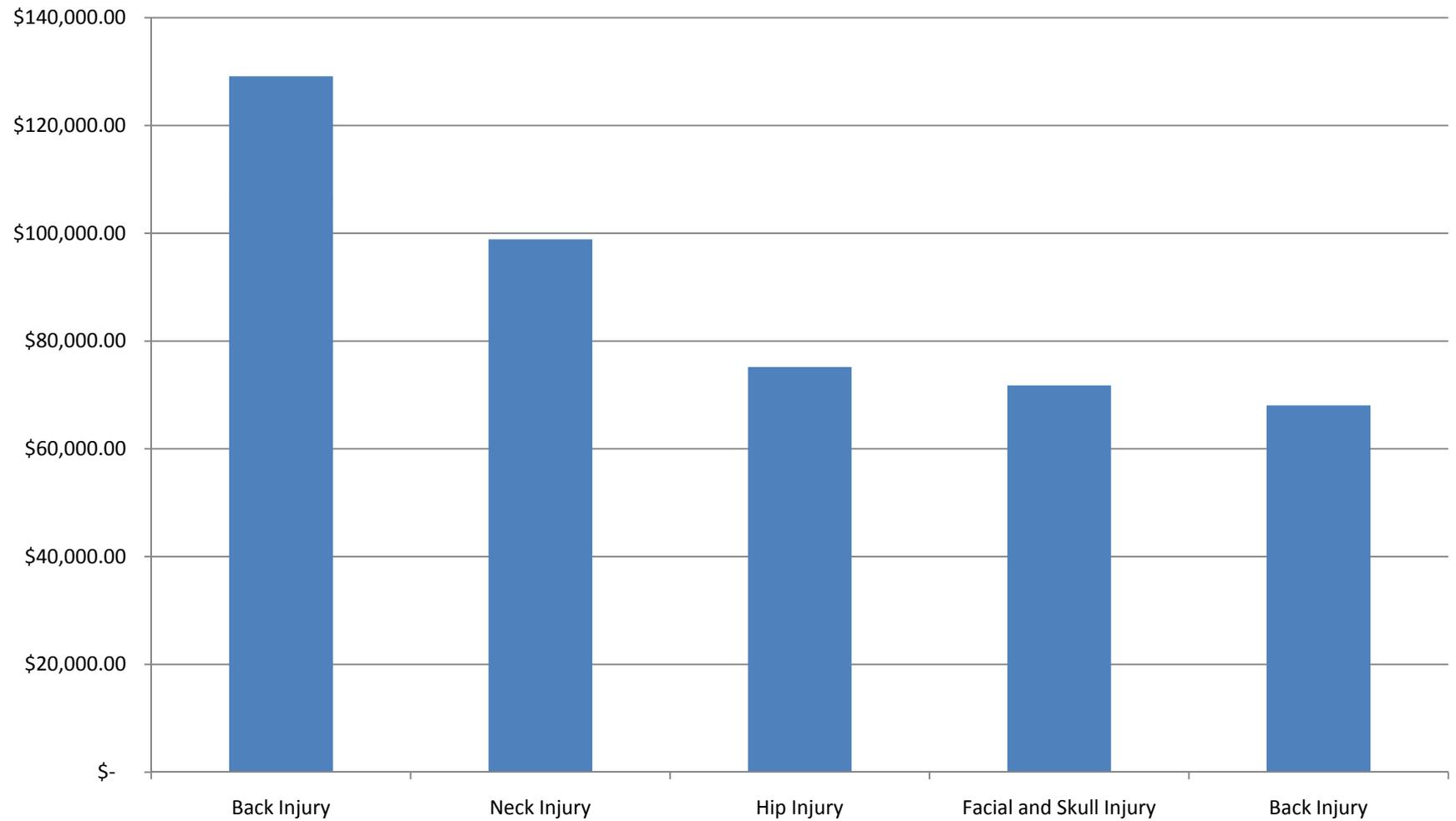
Workers Comp has had three significant deficit years in the past ten (2003,2007, and last FY)

The current year is going to be the fourth with annualized revenue projected to be \$400k lower than expenditures

Current Cash Balance is \$1,231k, with outstanding obligations for known claims totaling \$953k, bringing Net Assets to \$278k.



Top 5 out of 73 Worker's Compensation Claims

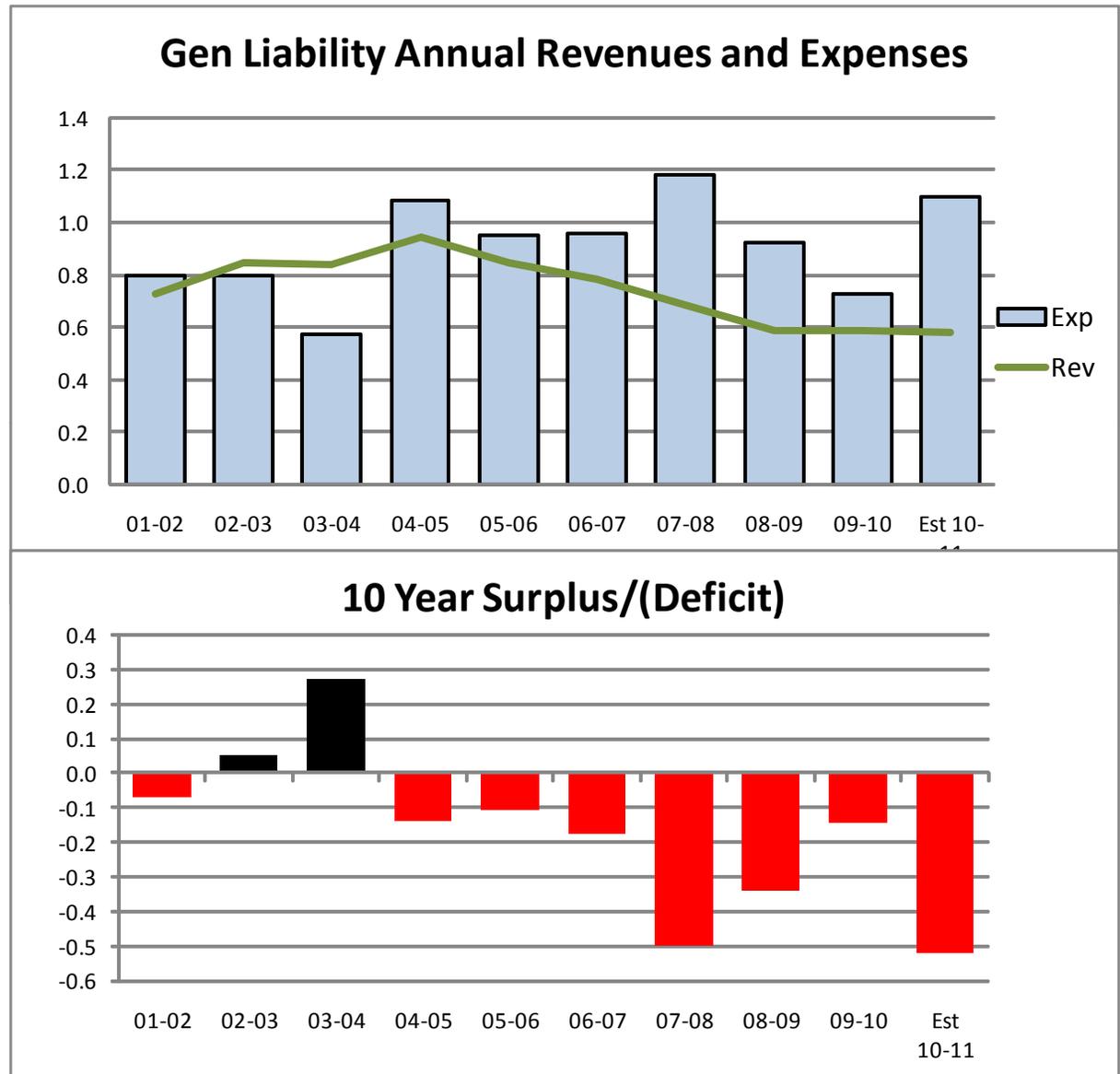


Fund Status –General Liability Project

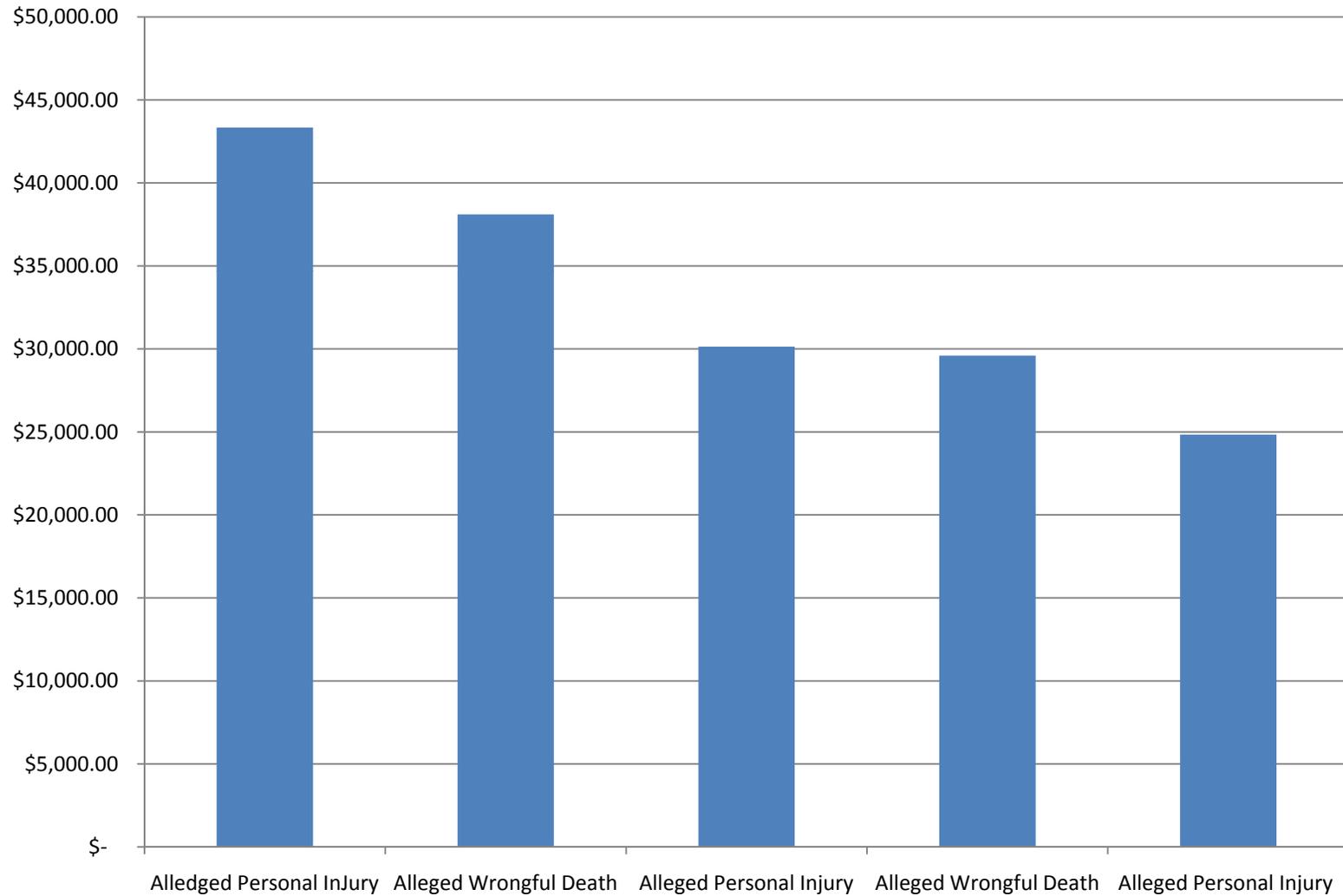
This project is seriously deficient, in both Cash reserves and Net Assets. Revenues (charges to major funds) have been declining for the past five years, without corresponding drop in expenditures.

This project has been in deficit for six consecutive years and the current year thru five months projects to be the highest cost and deficit ever

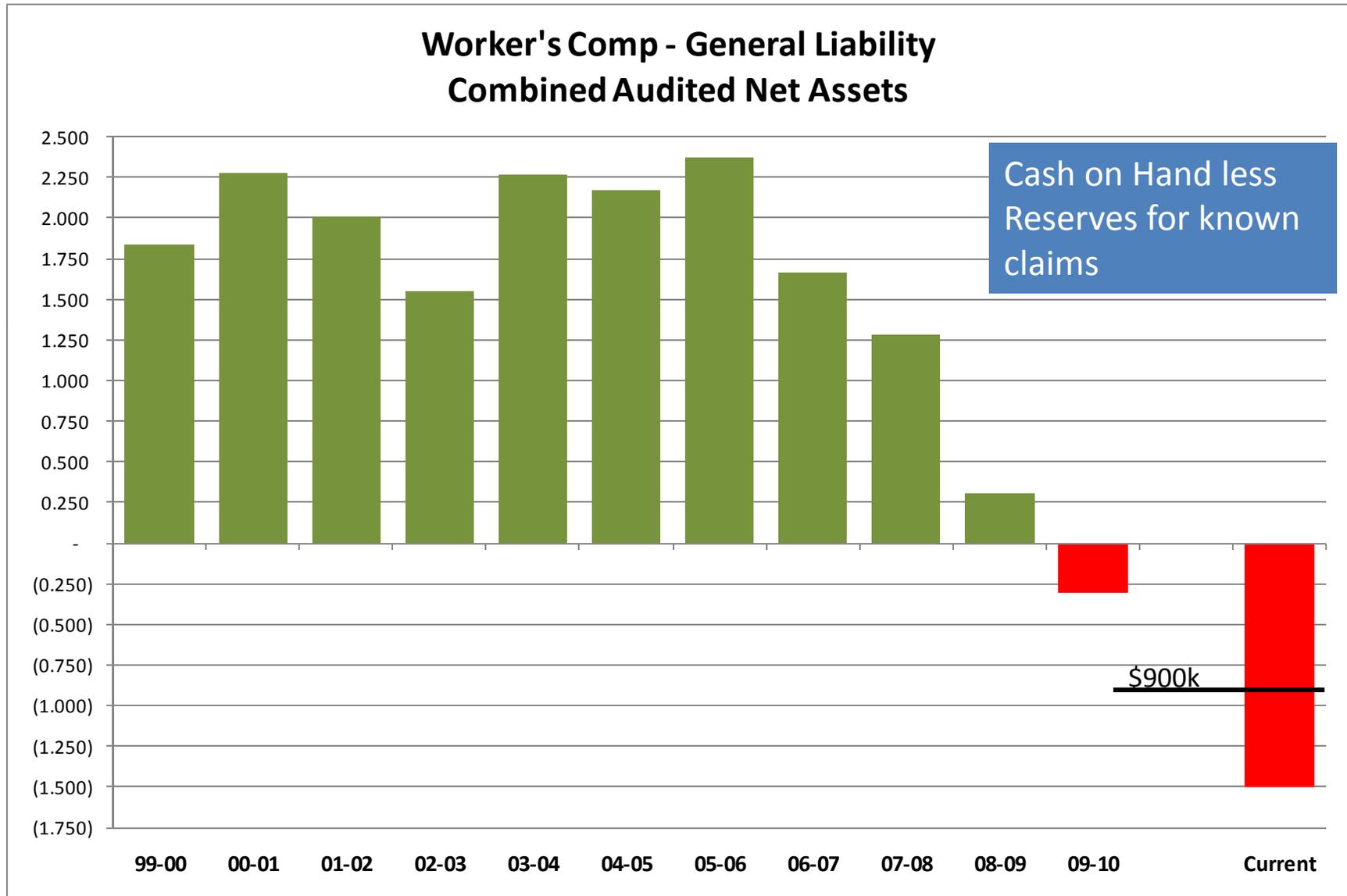
Current Cash Balance is negative \$900k, with outstanding obligations for known claims totaling \$911k, bringing Net Assets to negative \$1.811 million.



Top 5 out of 83 General Liability Claims



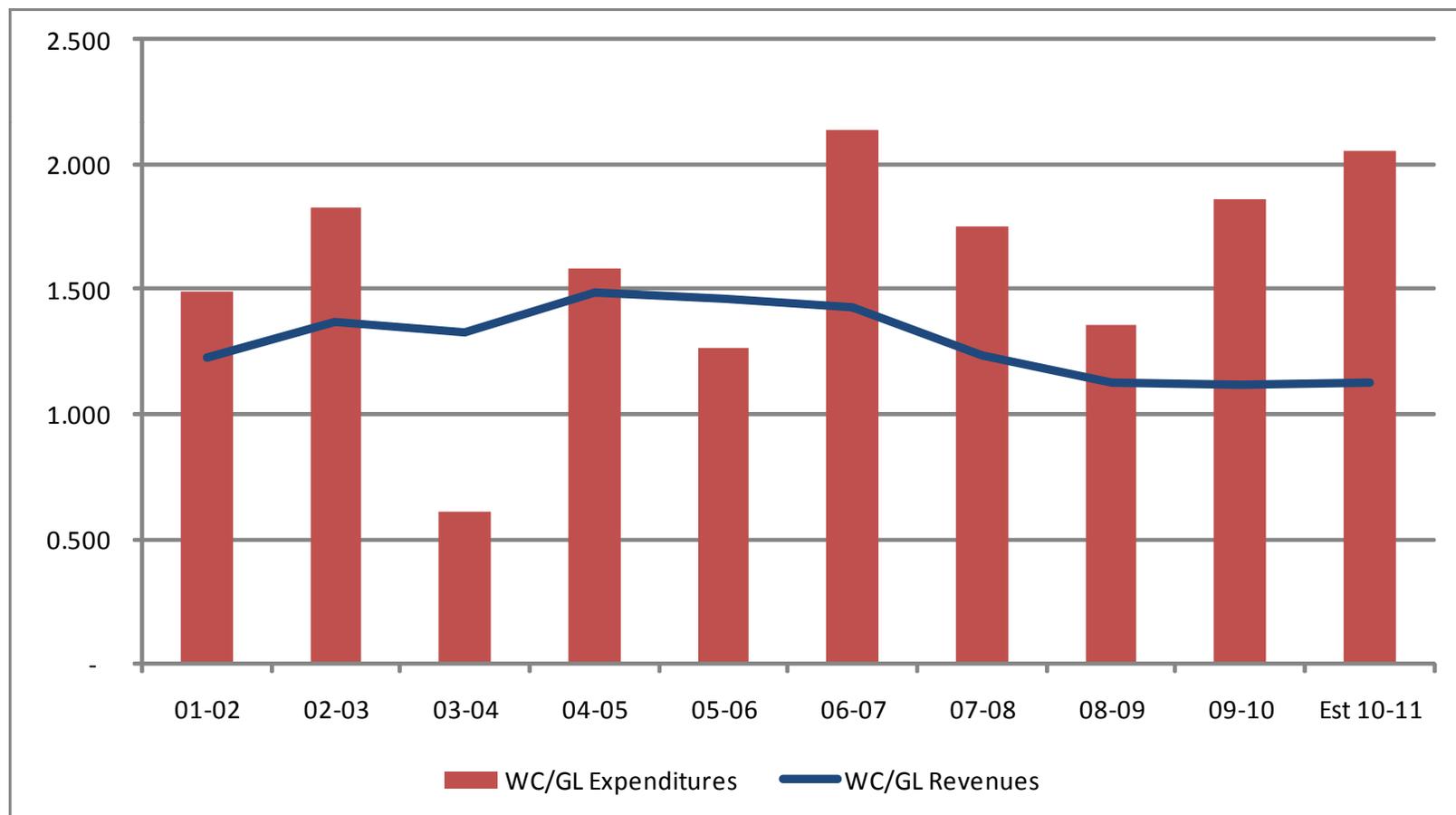
Combined Workers Comp and Gen Liability Fund requires an immediate cash infusion



Combined Net Assets can only be in a deficit position for a temporary period of time

Combined General Liability and Worker's Comp Revenues and Expenditures over 10 years

	<u>01-02</u>	<u>02-03</u>	<u>03-04</u>	<u>04-05</u>	<u>05-06</u>	<u>06-07</u>	<u>07-08</u>	<u>08-09</u>	<u>09-10</u>	<u>Est 10-11</u>
WC/GL Expenditures	1.492	1.828	0.606	1.581	1.268	2.134	1.755	1.357	1.864	2.050
WC/GL Revenues	1.229	1.370	1.326	1.485	1.463	1.432	1.237	1.129	1.116	1.125
	(0.264)	(0.457)	0.720	(0.095)	0.195	(0.702)	(0.518)	(0.228)	(0.748)	(0.925)

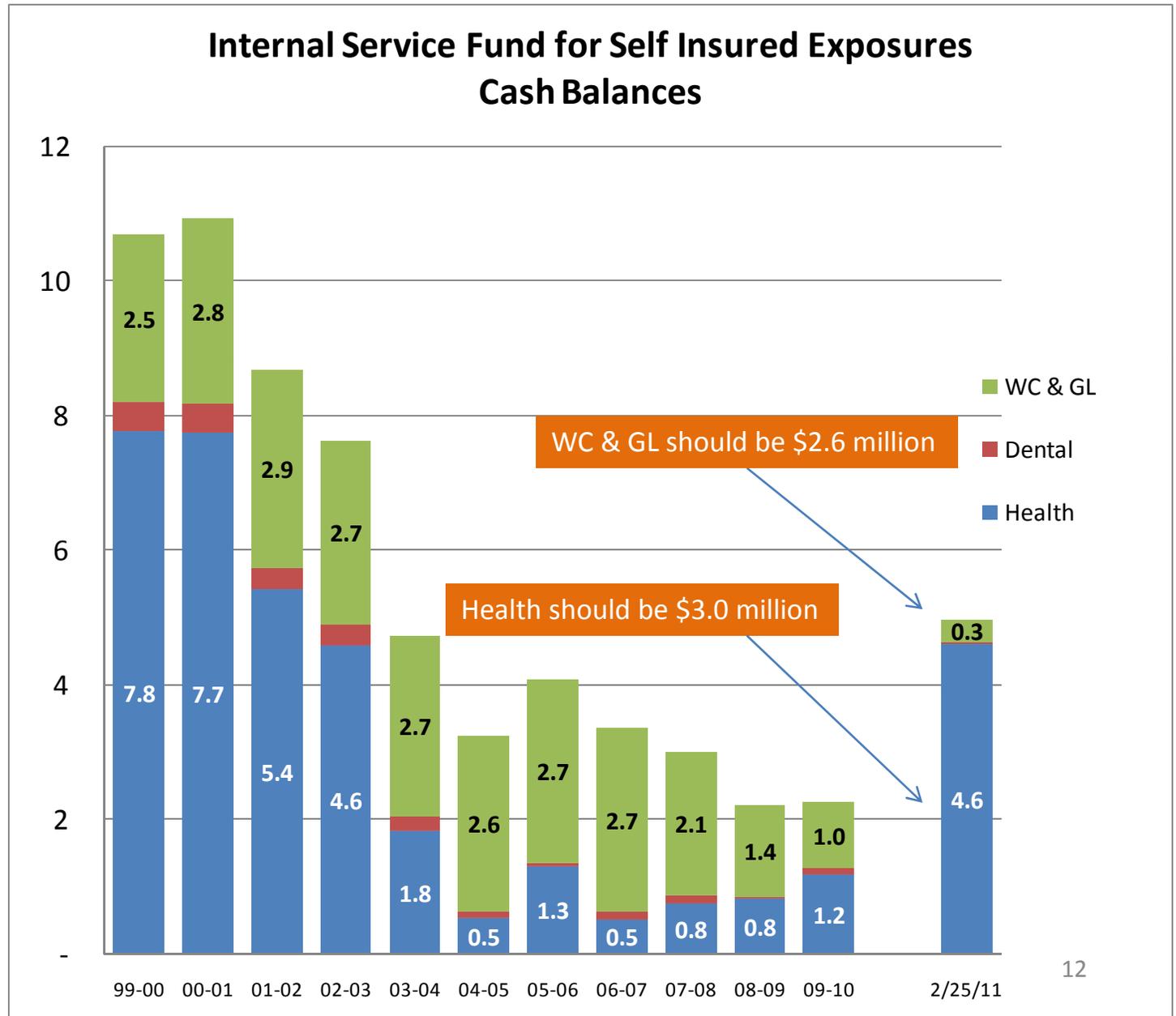


Cash Reserves on Hand to pay Obligations

The Medical project cash reserves are significantly above our target of 2X average monthly claims...due to the very low claims experience thus far in the current FY.

Combined Workers Comp and General Liability Cash reserves are at \$0.9 million. An external Actuarial analysis completed by the Risk Management department in September determined that the Cash reserves to cover our risk exposure should be \$2.6 million.

Cash Reserves at this point in time are \$1.7 million lower than the Actuarial based target.



Recommendation to rectify both the Accounting Net Assets deficit and actuarial shortfall of cash reserves

Budget Amendment in current FY

- Increase to General Liability of \$900k, charged as follows
 - Gen County - \$450k
 - Schools - \$360k (Approved by BOE)
 - Highway- \$90k

Budget Increase beginning FY 2011-12

- Increase to General Liability of \$900k, charged as follows
 - Gen County - \$450k
 - Schools - \$360k
 - Highway- \$90k

Our recommendation is to infuse \$0.9 million to correct current year and prior deficits and \$0.9 million in FY 11-12. Beginning in FY12-13, We will need to increase by another \$0.3 million per year over the next five years to build cash reserves toward actuarial based target of \$2.6 million.

Summary

- In essence, Blount County's Self Insurance Cash Reserves are inadequate to cover our exposure, based on an external actuarial analysis performed in September, 2010 by Select Actuarial Services.
- As a result, our combined Net Assets (Cash reserves less known liabilities) was negative \$300k as of June 30 2010 and is currently negative \$1,5 million, which is out of compliance with state regulations for government self-insured funds.
- We are recommending substantial increases in charges to Major Funds to increase the revenue to fund 263 for Workers Comp and General Liability to bring our cash reserves into line with target.

RESOLUTION NO. 11-06-004

Sponsored by: Commissioners Mike Lewis and Kenneth Melton

A RESOLUTION TO AMEND HIGHWAY DEPARTMENT FUND BUDGET.

WHEREAS, Blount County would like to amend the Highway Department Fund Budget to appropriate funds for general liability insurance.

WHEREAS, it is deemed to be in the best interest of Blount County to amend the Highway Department Fund Budget as requested.

NOW THEREFORE, BE IT RESOLVED BY THE Board of Commissioners of Blount County, Tennessee assembled in regular session this 16th day of June, 2011 that the Highway Department Fund Budget shall be amended as follows:

Revenue:

131-0-499998-0 Fund Balance.....\$90,000.00

APPROPRIATION:

131-061000-500506-0 General Liability Insurance.....\$90,000.00

Duly authorized and approved this 16th day of June, 2011.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: ____

Vetoed: _____

County Mayor

Date

RESOLUTION NO. 11-06-005

Sponsored by: Commissioners Mike Lewis and Kenneth Melton

A RESOLUTION TO AMEND GENERAL PURPOSE SCHOOL FUND BUDGET.

WHEREAS, Blount County would like to amend the GPSF Budget to appropriate funds for general liability insurance.

WHEREAS, it is deemed to be in the best interest of Blount County to amend the GPSF Budget as requested.

NOW THEREFORE, BE IT RESOLVED BY THE Board of Commissioners of Blount County, Tennessee assembled in regular session this 16th day of June, 2011 that the GPSF Budget shall be amended as follows:

Revenue:

141-0-499998-0 Fund Balance.....\$360,000.00

APPROPRIATION:

141-072310-500506-0 General Liability Insurance.....\$360,000.00

Duly authorized and approved this 16th day of June, 2011.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: ____

Vetoed: _____

County Mayor

Date

**OFFICIAL
MINUTES OF THE BLOUNT COUNTY BOARD OF EDUCATION**

The Blount County Board of Education met in Regular Session on Tuesday, May 3, 2011 at 8:00 p.m. in the boardroom at the Central Office, 831 Grandview Drive, Maryville, TN.

Mr. Steve Lafon, principal at William Blount High School, opened the meeting with prayer. The Pledge of Allegiance was led by Morgan Kessler, a 4th grade student at Montvale Elementary School.

Roll Call of the Board is as follows:

Mr. Chris Cantrell	Present
Mr. John Davis	Present
Mr. Charlie Finley	Present
Mr. Brad Long	Present
Dr. Don McNelly	Present
Mr. Mike Treadway	Present
Mr. Rob Webb	Present

The clerk declared a quorum and Chairman Davis called the meeting to order.

There were no **Comments from the Community on Agenda Items**.

RECOGNITIONS, REPORTS, and PRESENTATIONS

Alvin Hord Making A Difference Award:

- Elementary Winner: Veronica York, 4th grade student at Porter Elementary School
- Middle School Winner: Mindy Reagan, 8th grade student at Carpenters Middle School
- High School Winner: Brittney Harris, 12th grade student at William Blount High School

Mrs. Becky Stone recognized the Royal Treasury Credit Union at Eagleton Middle School. She stated this service is sponsored by Y-12 Federal Credit Union.

SYSTEM HIGHLIGHTS

Art Gallery – Students from Porter and Townsend Elementary Schools – Rachelle Peck, teacher
Art Showcase – Students from Mary Blount and Fairview Elementary Schools – Heather Woods, teacher
Boardroom – Students from Heritage Middle School – Karen Miller, teacher

REPORTS

1. Report from the Director of Schools

Mr. Britt stated this was National Teacher Appreciation Week. He expressed his appreciation to Blount County teachers for their effort, care, and commitment to help meet and exceed expectations. Mr. Britt also recognized Dr. Bell and stated it had been a pleasure working with him. He wished Dr. Bell well during his transition from Blount County School to director for Alcoa City Schools. Mr. Davis and Mr. Finley also expressed their appreciation to Dr. Bell for the service he has provided to Blount County.

2. Personnel – Mr. David Murrell

There were no questions regarding the personnel report.

3. Construction Report – Dr. Brian Bell

Dr. Bell informed the Board of the following items:

- Mowing contracted services at Eagleton Elementary School
- Asbestos tiles had been removed from Porter Elementary School
- Water damage at Carpenters Elementary School during the recent storms – Merit Construction is correcting the problem

4. Report from the Executive Committee

- a) Approval of Special Education bus #102 to meet OCR standards
- b) Approval of Eric Loy as assistant baseball coach at William Blount
- c) A request from Mike Brewer, athletic director at William Blount High School, to host an in-school soccer game against Heritage High School on Tuesday, April 12, 2011

Mr. Finley made a motion to approve. Dr. McNelly seconded the motion. Motion carried.

CONSENT AGENDA

1. Approval of Agenda for May 3, 2011, Regular Meeting
2. Approval of Minutes for April 5, 2011, Regular Meeting
3. Approval of **CAMPS**
 - a) A request from Chip Fuller, Athletic Director at Heritage High School, to hold a Girls' Basketball Camp on July 18-20, 2011 at a cost of \$60 per camper
 - b) A request from Bret Lindsey, teacher at Heritage High School, to hold a Baseball Camp in June 2011 at a cost of \$100 per camper
4. Approval of Federal Project Budgets with approval to make appropriate changes, amendments, addendums, etc. for the duration of the projects:

Dr. Alisa Teffeteller

 - Title I
 - Title II A
 - Title II D
 - Title III
5. Approval of **TRIPS**
 - a) A request from Col. Tom Shaughnessy, teacher at William Blount High School, to take 9th-11th grade students to George Mason University and Washington D.C. to compete in the JROTC Academic Bowl Championship on June 24-28, 2011

6. Approval of BUDGET TRANSFER

(a)

<u>Account Number</u>	<u>Account Name</u>	<u>Increase</u>	<u>Decrease</u>
143-073100-500336	Maintenance of Equipment	20,000	
143-073100-500422	Food		20,000

(b)

<u>Account Number</u>	<u>Account Name</u>	<u>Increase</u>	<u>Decrease</u>
141-072710-500338	Maintenance & Repair Vehicles	630	
141-072710-500450	Tires & Tubes		630

(c)

<u>Account Number</u>	<u>Account Name</u>	<u>Increase</u>	<u>Decrease</u>
141-072620-500706	Building Construction	5,900	
141-072620-500399	Other Contracted Services		4,000
141-072620-500499	Other Supplies & Materials		1,900

(d)

<u>Account Number</u>	<u>Account Name</u>	<u>Increase</u>	<u>Decrease</u>
141-072810-500709	Data Processing Equipment	6,646	
141-072810-500411	Data Processing Supplies		6,646

7. Approval of FRIENDS 2011 SUMMER CAMP transportation bids

Mrs. Kathy Smith

8. A request from Mike Brewer, athletic director at William Blount High School, to host an in-school wrestling match against Seymour High School on Thursday, November 22, 2011

Mr. Long requested Consent Agenda Item #7 be pulled for discussion. Mr. Cantrell made a motion to approve the consent agenda and addendum pulling Item #7 for discussion. Mr. Treadway seconded the motion. Motion carried.

Mr. Long recused himself from discussion on Item #7. Mr. Treadway made a motion to approve Item # 7. Dr. McNelly seconded the motion. Motion carried.

Mr. Davis requested that Addendum Item #2 be moved to the front of the agenda.

**Addendum #2: Discussion and possible action regarding 60 day leave of absence for Board of Education Chairman
Mr. Rob Webb**

Mr. Davis is requesting a 60 day leave of absence as Chairman of the Board for medical reasons.

Mr. Webb made a motion to approve a 60 days leave of absence for Mr. Davis as Chairman, but stated Mr. Davis would still continue to serve on the Board of Education. Mr. Treadway seconded the motion. Motion carried.

Mr. Webb became Chair of the meeting at this point.

AGENDA:

1. (Tabled 4-5-11) Approval of Budget Increase/Decrease

Mr. Troy Logan

<u>Account Number</u>	<u>Account Name</u>	<u>Increase</u>	<u>Decrease</u>
141-072310-500506	Liability Insurance	360,000	
141-000000-499998	Use of Fund Balance		360,000

Mr. Treadway made a motion to remove from the table. Mr. Cantrell seconded the motion. Motion carried.

Mr. Steve Jennings, County Finance Director, and Don Stallions, Risk Management, were present at the meeting. Mr. Jennings stated the county's self-insurance net assets on 6-30-11 will end in the negative balance. County offices have proposed the school department pay \$360,000, Highway Department pay \$90,000, and General County pay \$450,000 to build cash reserves. According to Mr. Jennings Blount County Schools has accounted for 22 percent of the general liability and 49 percent of workers' compensation. Mr. Jennings is requesting fund balance be used to pay this year's portion. Board members expressed numerous times their displeasure at being handed this increase at mid-year. After further discussion Dr. McNelly made a motion to approve contingent on the other departments paying their pro-rated portion. Mr. Davis seconded the motion. Roll Call vote is as follows:

Mr. Finley	Yes
Mr. Long	Yes
Dr. McNelly	Yes
Mr. Treadway	Yes
Mr. Webb	Yes
Mr. Cantrell	Yes
Mr. Davis	Yes

Motion carried.

2. Discussion and possible action regarding 2010-2011 tenure list

Mr. David Murrell

Mr. Finley made a motion to approve the 2010-2011 tenure list. Mr. Long seconded the motion. Roll Call vote is as follows:

Mr. Davis	Yes
Mr. Finley	Yes
Mr. Long	Yes
Dr. McNelly	Yes
Mr. Treadway	Yes
Mr. Webb	Yes
Mr. Cantrell	Yes

Motion carried. Teachers receiving tenure were then recognized.

3. Discussion and possible action regarding Prospect Elementary School

Mr. John Davis

Change order 21B – computer desks at a cost of \$34,908 – recommended by the Joint School Construction Committee.

Mr. Long made a motion to approve. Mr. Davis seconded the motion. Motion carried.

4. Discussion and possible action regarding Carpenters Middle HVAC

Mr. John Davis

Mr. Bill Steverson with Michael Brady, Inc. gave an update on the progress of this item. His recommendation is to rebid it, removing items that are not necessary to bring this project in under bid. Mr. Long made a motion that bids along with alternatives, that had been discussed, be put together and presented to the Board. He stated work needs to begin on this project as soon as possible. Mr. Davis seconded the motion. Motion carried.

5. Discussion and possible action regarding Director of Schools Evaluation and Contract

Mr. John Davis

Dr. McNelly stated Mr. Britt received an excellent evaluation. He ask the Chair to negotiate Mr. Britt's salary for next year.

Mr. Treadway made a motion to renew Mr. Britt's contract beginning July 1, 2011 extending to four years. The rest of the Board seconded the motion. Roll Call vote is as follows:

Mr. Long	Yes
Dr. McNelly	Yes
Mr. Treadway	Yes
Mr. Webb	Yes
Mr. Cantrell	Yes
Mr. Davis	Yes
Mr. Finley	Yes

Motion carried.

6. Discussion and possible action regarding Individual Student Insurance Plan rates for 2011-2012

Mr. Troy Logan

Mr. Logan stated the rates would remain the same as the previous two years.

Dr. McNelly made a motion to approve. Mr. Treadway seconded the motion. Motion carried.

7. Discussion and possible action regarding 2011-2012 Proposed Math Textbook Adoption List

Dr. Brian Bell

Mr. Treadway made a motion to approve. Mr. Finley seconded the motion. Motion carried.

8. Discussion and possible action regarding posting and filling Assistant Director of Schools and Coordinator of Facilities and Maintenance positions

Mr. Rob Britt

Mr. Britt requested permission to divide the job currently held by Dr. Bell into the following two positions:

- Assistant Director of Schools and Technology (certified position)
- Coordinator of Facilities and Maintenance (certified and/or classified position)

Mr. Treadway made a motion to authorize the Director of Schools to divide the job position currently held by Dr. Bell into two positions – an Assistant Director of Schools and a Coordinator of Facilities and Maintenance. These jobs will take effect July 1, 2011. Mr. Davis seconded the motion. Motion carried.

ADDENDUM:

1. Discussion and possible action regarding FY 2011-2012 budget

Mr. Troy Logan

Mr. Logan gave an update of the Budget Committee meeting that was held last night. There was no action taken.

2. Discussion and possible action regarding 60 day leave of absence for Board of Education Chairman

Mr. Rob Webb

Moved to first of the agenda.

COMMENTS FROM THE BLOUNT COUNTY EDUCATION ASSOCIATION

Lynn Eubanks stated this was the last time she would address the Board as BCEA president. She stated Grady Caskey would be serving as president during the upcoming year.

COMMENTS FROM STUDENT REPRESENTATIVES

Carmina deGuia, Heritage High School student representative, and Pete Kenny, William Blount High School student representative, thanked the Board for the privilege of serving as student representatives.

COMMITTEE REPORTS

There were no **Comments from the Community Regarding Items Not on the Agenda**

COMMENTS FROM THE BOARD

Mr. Long stated he supports teachers and the Board has worked hours trying the balance the budget to keep teachers working.

Mr. Cantrell stated he is proud his children attend Blount County Schools. He stated Blount County has outstanding teachers. Mr. Cantrell thanked Dr. Bell for his service to Blount County Schools and he feels Brian has the full confidence of the Alcoa Board of Education.

Mr. Webb stated his daughter will be graduating on May 16th and she has had a great experience attending Blount County Schools.

Mr. Treadway made a motion to adjourn. Mr. Finley seconded motion. Motion carried.

Mr. Rob Webb, Chairman

Mr. Rob Britt, Secretary

BUDGET TRANSFER

(COMMISSION ACTION NEEDED)

<u>FUND</u>	<u>AMOUNT</u>	<u>BUDGET COMMITTEE</u>	<u>VOTE</u>
141 – GPSF SFSF ARRA	\$68,308.52	Recommended	4 – yes 1 - absent
141 – GPSF SSMS SFSF	\$45,058.00	Recommended	4 – yes 1 – absent
131 – Hwy. Oper/Mntce Equip.	\$ 3,259.86	Recommended	4 – yes 1 – absent
131 – Hwy. Oper/Mntce Equip.	\$28,000.00	Recommended	4 – yes 1 absent
101 – Gen. Co. Coroner	\$12,000.00	Recommended	4 – yes 1 – absent
101 – Gen. Co. Other Charges	\$ 6,850.00	Recommended	4 – yes 1 – absent

Between CC / Comm
 * Comm Approval
 Op lines

Blount County, Tennessee
 REQUEST FOR BUDGET TRANSFER
 Fiscal Year 2010-2011

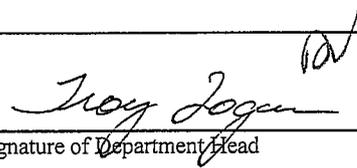
Fund Number 141 Cost Center Number _____
 Fund Name GPSF Cost Center Name _____

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Transfer to:	141-000000-465920 <i>ET</i>	Internet Connectivity ARRA	34,154.26
	141-072812-500399 <i>At</i>	Other Contracted Services Internet SFSF ARRA	34,154.26
	Total Transferred to:		68,308.52

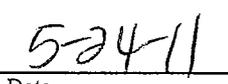
	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Transfer from:	141-000000-466100 <i>E-</i>	Career Ladder Program	34,154.26
	141-072410-500307 <i>A-</i>	Communication	34,154.26
	Total Transferred from:		68,308.52

Reason for Transfer Request:
 Transfer revenues and approp to State mandated account code for Internet Connect SFSF ARRA funds.

Note: Total transferred to must agree with total transferred from.


 Signature of Department Head

5-24-11
 Date


 Signature of County Executive

5-24-11
 Date

Between CC
 * Comm Approval
 Op lines

Blount County, Tennessee
REQUEST FOR BUDGET TRANSFER
Fiscal Year 2010-2011

Fund Number 141 Cost Center Number 72813
 Fund Name GPSF Cost Center Name SSMS SFSF

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Transfer to:	141-000000-465950 <i>E+</i>	Star Student Mgmt System SFSF ARRA	22,529.00
	141-072813-500399 <i>A+</i>	Other Contracted Services SSMS SFSF ARRA	22,529.00
Total Transferred to:			45,058.00

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Transfer from:	141-000000-466100 <i>E-</i>	Career Ladder Program	22,529.00
	141-072810-500399 <i>A-</i>	Other Contracted Services	22,529.00
Total Transferred from:			45,058.00

Reason for Transfer Request:
Transfer revenues and approp to State mandated account code for SSMS SFSF ARRA funds.

Joy Logan *JL* 5-24-11
 Signature of Department Head Date

Note: Total transferred to must agree with total transferred from.
 Signature of County Executive 5-24-11 Date

Between CC's / Comm.
Sal & Ben lines

Blount County, Tennessee
REQUEST FOR BUDGET TRANSFER
201011



Fund Number: 131 Cost Center Number: 63100
Fund Name: Highway / Public Works Cost Center Name: Operation and Maintenance of Equipment

TRANSFER TO :

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
131 - 63100 - 500187 - 00000	OVERTIME	\$3,259.86
		\$3,259.86

TRANSFER FROM :

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
131 - 62000 - 500211 - 00000	EMPLOYEE BENEFITS RETIREES	\$3,259.86
		\$3,259.86

Reason for Transfer Request :

End out year

Note :
Total transferred to
must agree with total
transferred from.

Bill Duff
Signature of Department Head

Signature of County Executive

5/19/2011

Date

* Between CC's / Com. App.
Operating

Blount County, Tennessee
REQUEST FOR BUDGET TRANSFER
201011

Fund Number: 131

Cost Center Number: 63100

Fund Name: Highway / Public Works

Cost Center Name: Operation and Maintenance of Equipment

TRANSFER TO :

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
131 - 63100 - 500425 - 00000	GASOLINE	\$15,000.00
131 - 63100 - 500412 - 00000	DIESEL FUEL	\$13,000.00
		\$28,000.00

TRANSFER FROM :

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
131 - 62000 - 500444 - 00000	SALT	\$23,000.00
131 - 62000 - 500409 - 00000	CRUSHED STONE	\$5,000.00
		\$28,000.00

Reason for Transfer Request :

Gas and Diesel to end out year

Note :
Total transferred to
must agree with total
transferred from.


Signature of Department Head

Signature of County Executive

5/17/2011

Date

Between CC's
 Operating only
 Budget Com. / Comm

**Blount County, Tennessee
 REQUEST FOR BUDGET TRANSFER
 Fiscal Year 2010-2011**

Fund Number 101 Cost Center Number 054610
 Fund Name Gen Co Cost Center Name Coroner

Transfer to:

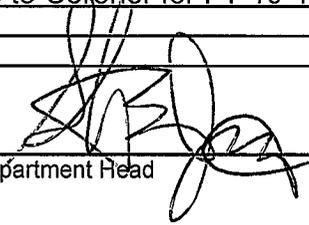
ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
101-054610-500199-0	coroner	12000.00
Total Transferred to:		12,000.00

Transfer from:

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
101-051900-500399-0	other contracted services	12,000.00
Total Transferred from:		12,000.00

Reason for Transfer Request:
higher than budgeted expenses to Coroner for FY 10-11

Note:
 Total transferred to
 must agree with total
 transferred from.


 Signature of Department Head Date 5/26/11

 Signature of County Mayor Date

* Between CC
Comm approval
Ben lines

**Blount County, Tennessee
REQUEST FOR BUDGET TRANSFER
Fiscal Year 2010-2011**

Fund Number 101 Cost Center Number 058400
Fund Name Gen Co Cost Center Name _____ Other Charges _____

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
101-055110-500205-0	Dep Ins	3850.00
101-055110-500207-0	Emp Health Ins	2,550.00
101-055110-500208-0	Emp Dental Ins	450.00
Total Transferred to:		6,850.00

ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
101-058400-500211-0	retiree ins	6,850.00
Total Transferred from:		6,850.00

Reason for Transfer Request:
shortfall in employee insurance at the local health center. CC does not have funds to
cover so transferring from retiree insurance to cover cost rather than taking from
general fund balance.

Note:
Total transferred to
must agree with total
transferred from.

Muchin Roberts 5/31/11
Signature of Department Head Date
[Signature] 5/31/11
Signature of County Mayor Date

BUDGET INCREASES/DECREASES

(COMMISSION ACTION NEEDED)

<u>FUND</u>	<u>AMOUNT</u>	<u>BUDGET COMMITTEE</u>	<u>VOTE</u>
141 - GPSF Transportation	\$75,000.00	Recommended	4 - yes 1 - absent
101 - Gen. County Sheriff	\$ 1,800.00	Recommended	4 - yes 1 - absent

RESOLUTION NO. 11-06-006

Sponsored by: Commissioners Steve Samples and Ken Melton

A RESOLUTION TO AMEND GENERAL PURPOSE SCHOOL FUND BUDGET.

WHEREAS, Blount County would like to amend the General Purpose School Fund Budget to increase funds for estimated total cost of moving two portable classrooms from Porter Elementary School to Heritage Middle School.

WHEREAS, it is deemed to be in the best interest of Blount County to amend the General Purpose School Fund Budget as requested.

NOW THEREFORE, BE IT RESOLVED BY THE Board of Commissioners of Blount County, Tennessee assembled in regular session this 16th day of June, 2011 that the General Purpose School Fund Budget shall be amended as follows:

Revenue:

141-0-499998 Use of Fund Balance.....\$75,000.00

APPROPRIATION:

141-076100-500707 Building Improvements\$75,000.00

Duly authorized and approved this 16th day of June, 2011.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: ____

Vetoed: ____

County Mayor

Date

Blount County, Tennessee
REQUEST FOR BUDGET INCREASE/DECREASE
Fiscal Year 2010-2011

Fund Number 141 Cost Center Number 76100

Fund Name GPSF Cost Center Name Transortation

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Appropriation:	141-076100-500707	Building Improvements	75,000.00
		Total Appropriation:	75,000.00

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Estimated Revenue:	141-000000-499998	Use of Fund Balance	75,000.00
		Total Estimated Revenue:	75,000.00

Reason for requested increase/decrease:

Increase for estimated total cost of moving two (2) portable classrooms from Porter Elementary to Heritage Middle; costs to include move, setup, electric, fire alarm, phone, data, and handicap access. Classrooms are critical need for HMS.

Note:
 Total appropriation
 must agree with total
 estimated revenue.

Troy Logan 5-20-11
 Signature of Department Head Date

"Approved By The Board Of Education" 6-2-11

RESOLUTION NO. 11-06-012

Sponsored by: Commissioners Steve Samples and Mike Lewis

A RESOLUTION TO AMEND GENERAL COUNTY FUND BUDGET.

WHEREAS, Blount County would like to amend the General County Fund Budget to appropriate funds in order to place monies in needed account to pay State.

WHEREAS, it is deemed to be in the best interest of Blount County to amend the General County Fund Budget as requested.

NOW THEREFORE, BE IT RESOLVED BY THE Board of Commissioners of Blount County, Tennessee assembled in regular session this 16th day of June, 2011 that the General County Fund Budget shall be amended as follows:

Revenue:

101-054160-431909 Sex Offender Registry Fee.....\$1,800.00

APPROPRIATION:

101-051460-500599 Other Charges\$1,800.00

Duly authorized and approved this 16th day of June, 2011.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: ____

Vetoed: _____

County Mayor

Date

**Blount County, Tennessee
REQUEST FOR BUDGET INCREASE/DECREASE
Fiscal Year 2010-2011**

Fund Number 101 Cost Center Number 054160
 Fund Name GENERAL Cost Center Name SHERIFF

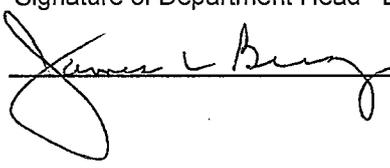
	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Appropriation:	<i>101-</i> 500599	OTHER CHARGES	1,800.00
		Total Appropriation:	1,800.00

	ACCOUNT NUMBER	ACCOUNT NAME	AMOUNT
Estimated Revenue:	<i>101-</i> 431909	SEX OFFENDER REGISTRY FEE	1,800.00
		Total Estimated Revenue:	1,800.00

Reason for requested increase/decrease:

TO PLACE MONIES IN NEEDED ACCOUNT TO PAY STATE

Note:
Total appropriation
must agree with total
estimated revenue.

Signature of Department Head Date
 5/19/2011

Resolution No. 11-06-007

Resolution Sponsors:

Mike Lewis
Commissioner

Kenneth Melton
Commissioner

Be it resolved, by the Legislative Body of Blount County, Tennessee, in regular session assembled at the Courthouse in Maryville on this 16th day of June, 2011, that the tax levy or tax rate for the fiscal year beginning July 1, 2011 through June 30, 2012, be and the same is hereby fixed for the year as follows:

County Tax for General Purposes..... \$ 0.73

School Tax to operate Elementary, Middle, and High Schools..... \$ 0.99

Fund Debt Service, or for the purpose of paying interest on and for the purpose of creating a fund to liquidate the principal and interest on all Bonds, Notes, and Warrants or other evidences of indebtedness that require the levy of a Debt Service..... \$ 0.43

Making a total levy of \$ **2.15**
on all assessable property of Blount County on the \$100.00 worth of said taxable property in the County.

It is further ordered that all business and occupations that are taxable privileges by the State of Tennessee, as provided by existing State Law or laws, be, and the same are hereby declared taxable privileges for County purposes at the same rate and amounts provided by Statutes of the State for State purposes.

There is also levied a special tax of 17% upon the wholesale price of beer as provided by Chapter 96 of the Public Acts of Tennessee.

In accordance with the Private Acts of 2009 there is levied a privilege tax of five (5%) percent on the occupancy of any rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist court, tourist cabin, campground, motel or any place in which rooms, lodgings or accommodations are furnished transients for a consideration in Blount County.

Be it further resolved, that the Trustee may accept property taxes at any time after July 10th as prescribed in Tennessee code annotated in section 67-1-702.

Duly passed and approved on this 16th day of June, 2011.

Certification of Action

Attest

Commission Chairman

County Clerk

Approved:_____

Vetoed:_____

County Mayor

Date



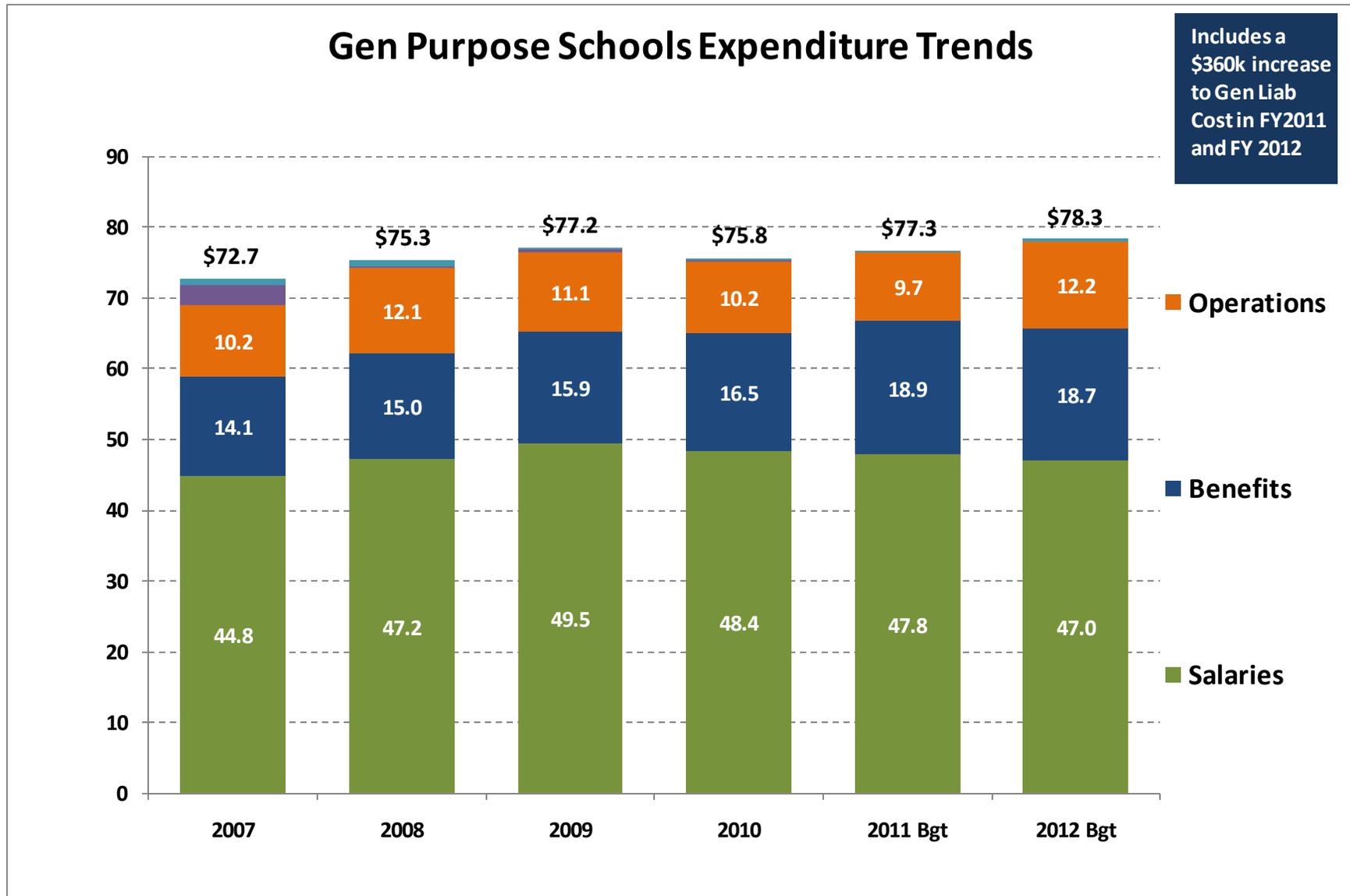
Blount County Government

FY2011-12 Budget

Presentation to Budget Committee

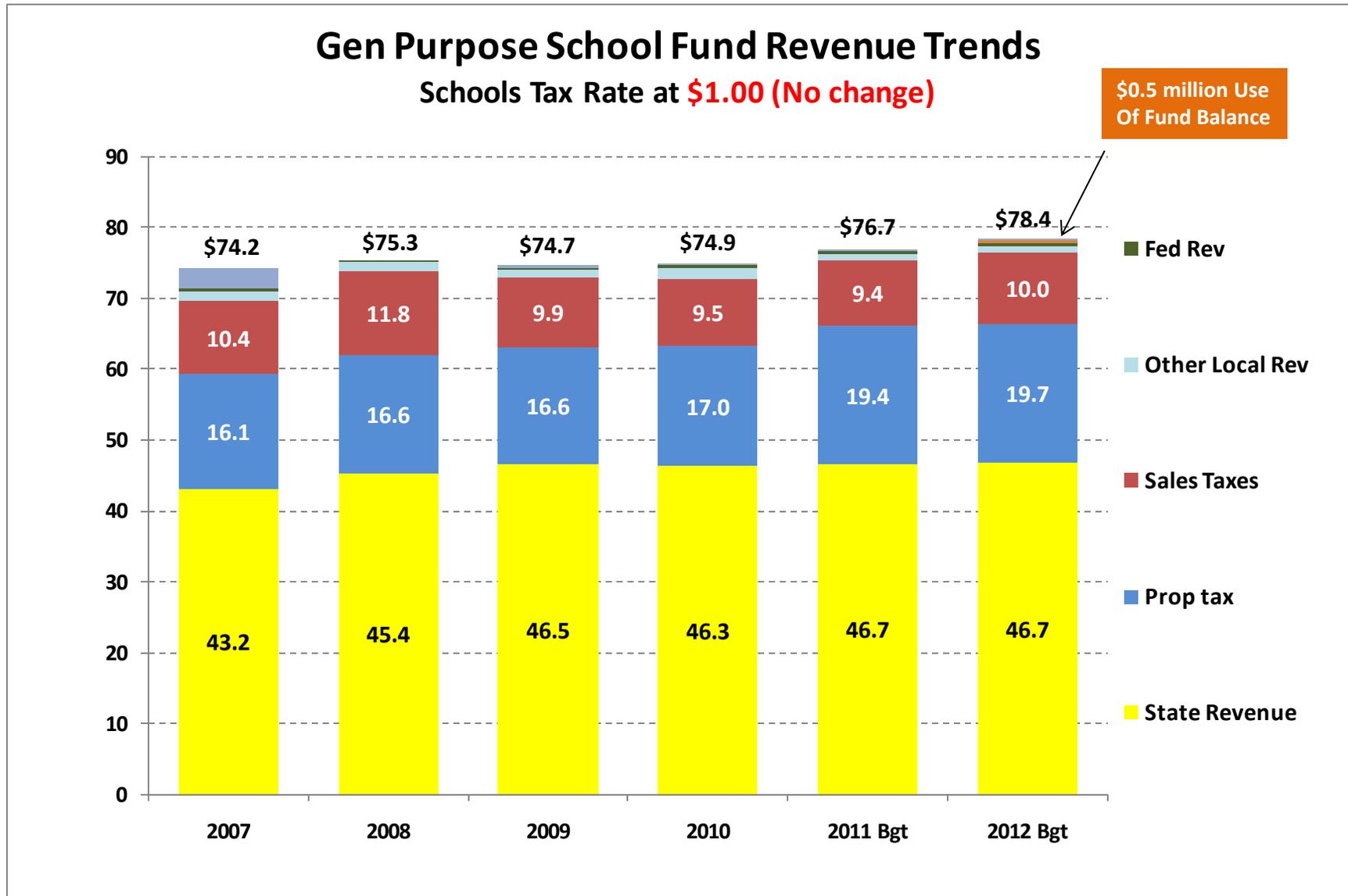
May 02, 2011

General Purpose School Fund (141)

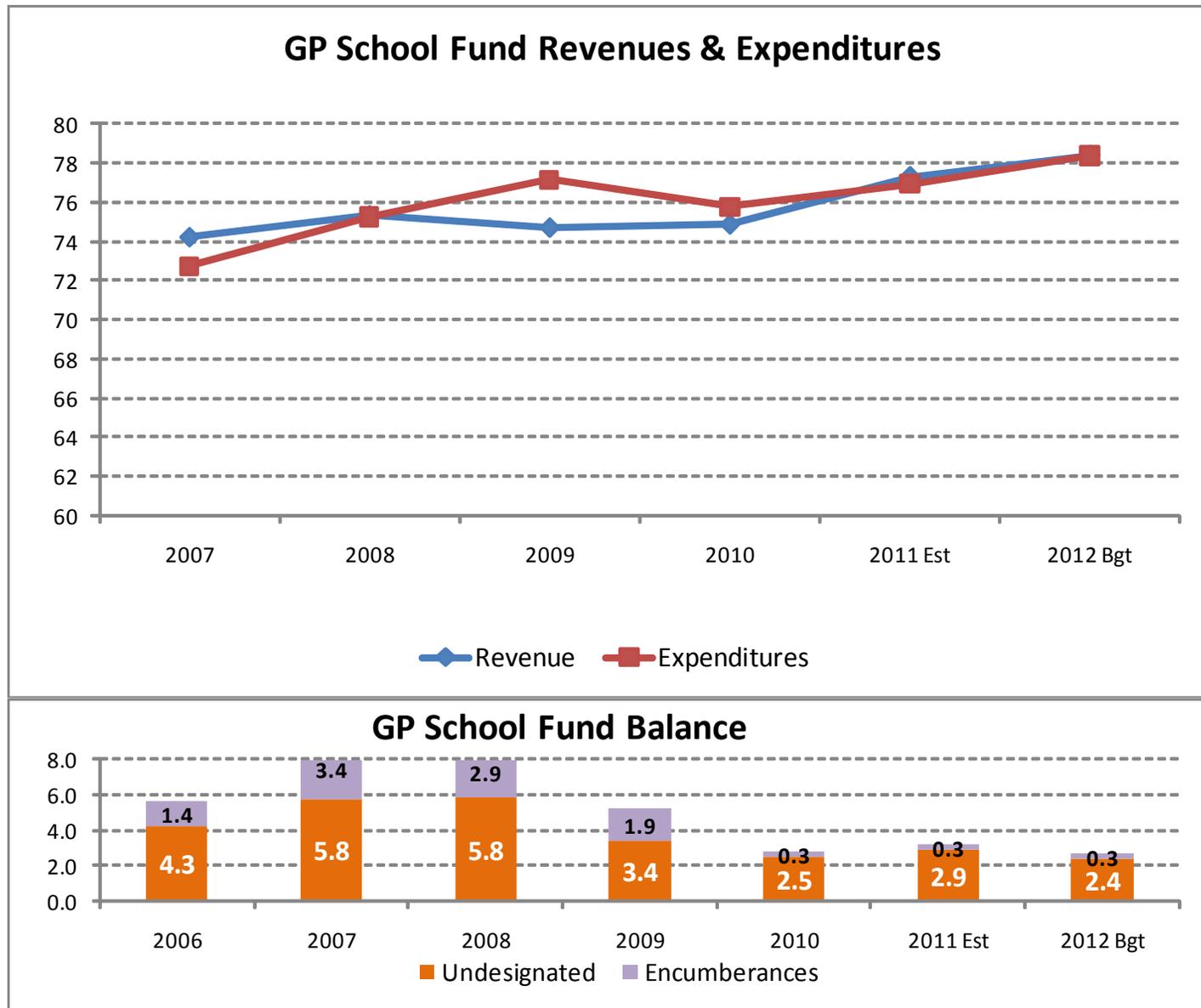


Note: \$2.3 million recurring compensation expense moved to Fund 142 for FY 2011-12 to make use of Jobs Bill finding, thereby deferring the impact of local funding requirement by one year

General Purpose School Fund (141)



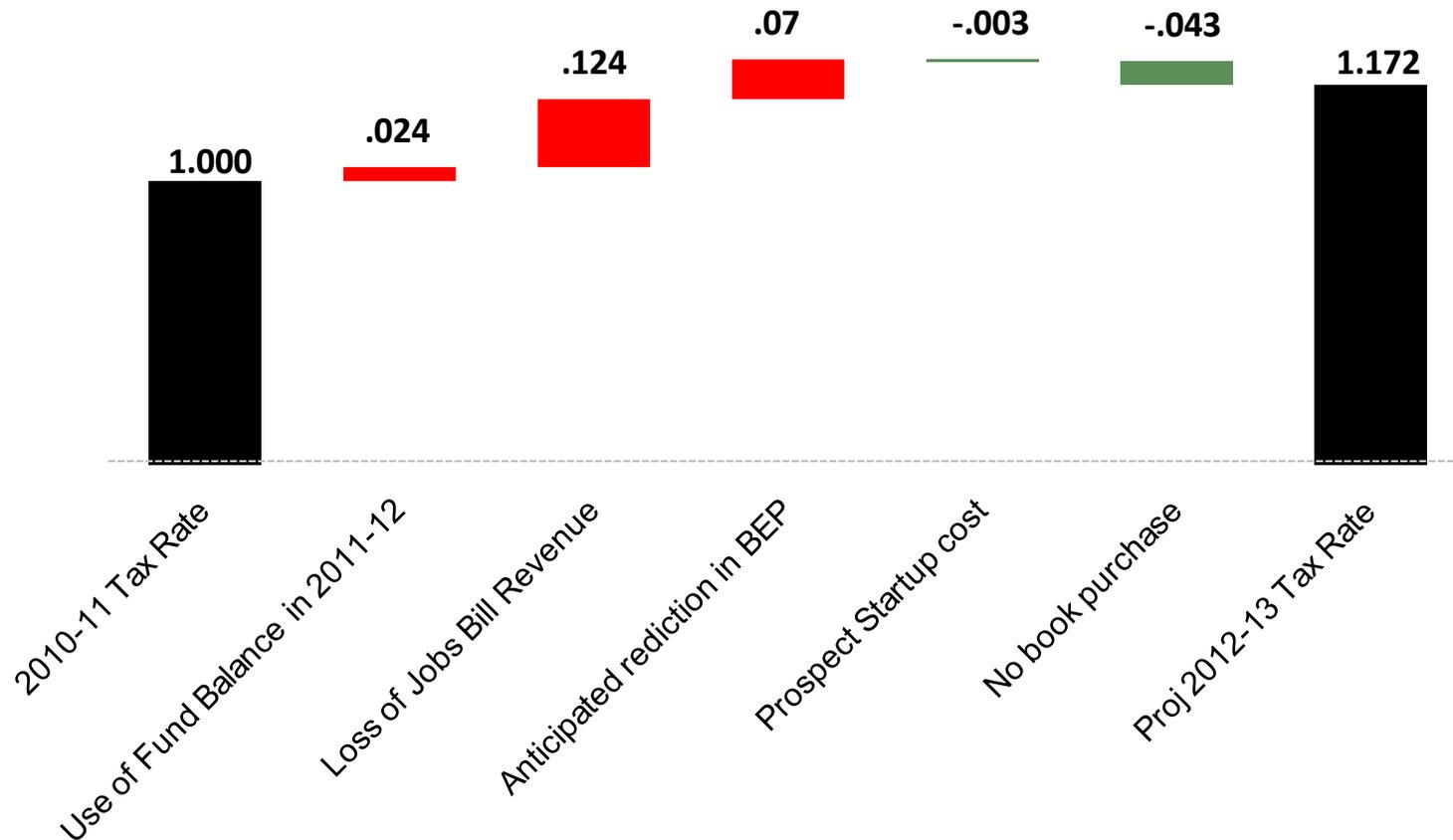
General Purpose School Fund (141)



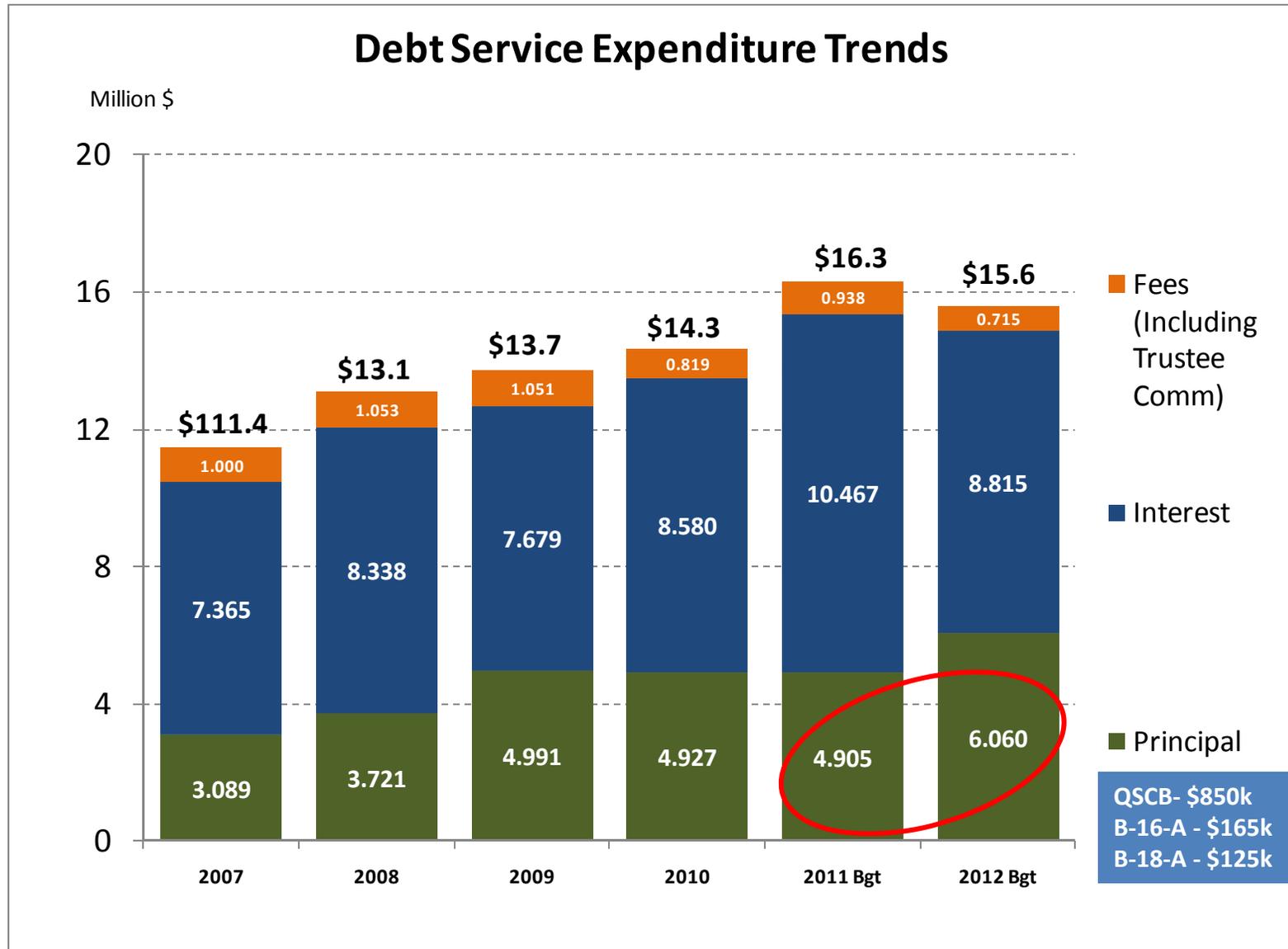
**3% of Expenditures
Equals \$2.349 M**

General Purpose School Fund (141)

Two Year GP Schools Tax Rate Progression



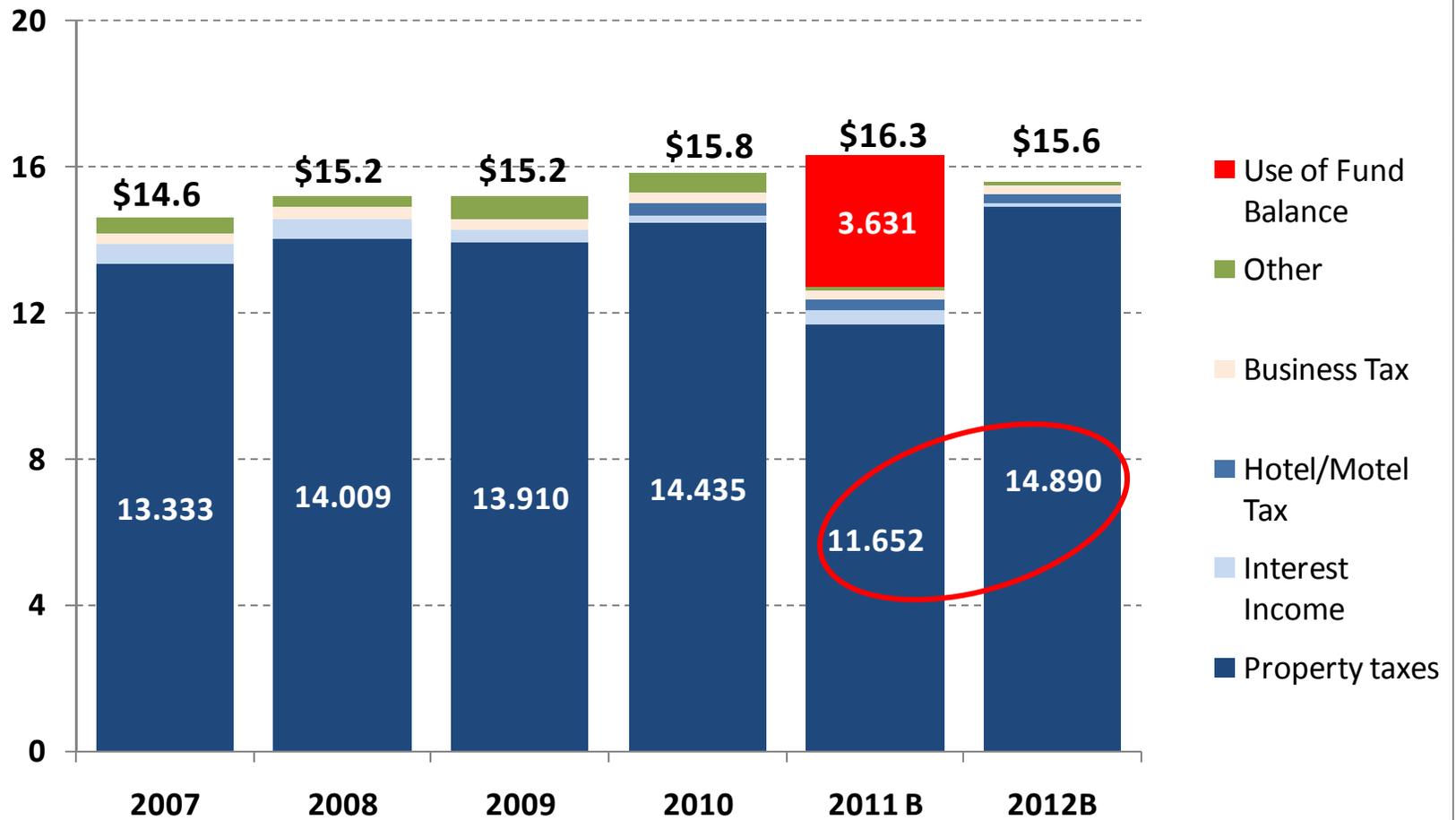
Debt Service Fund (151)



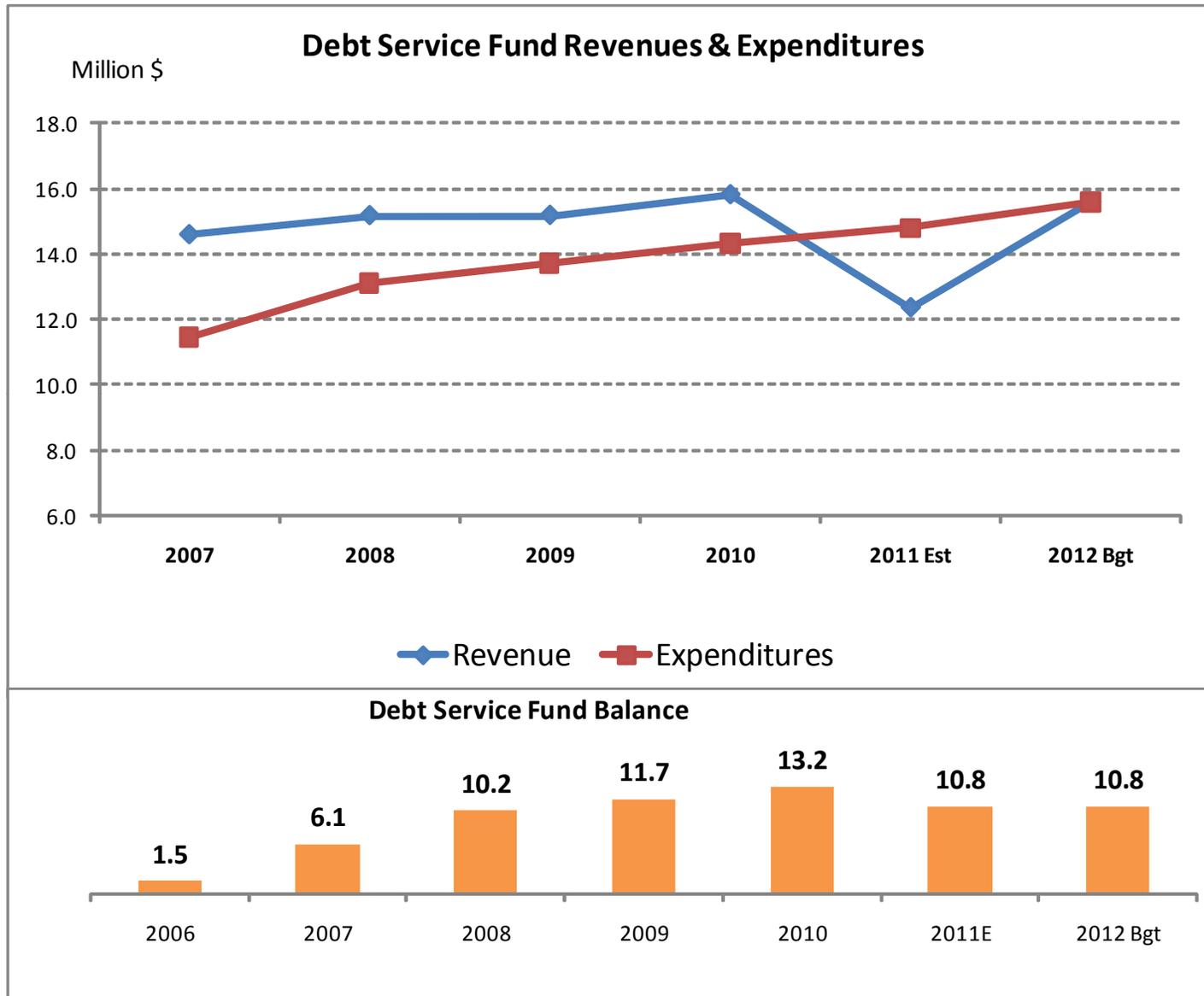
Debt Service Fund (151)

Debt Service Fund Revenue Trends

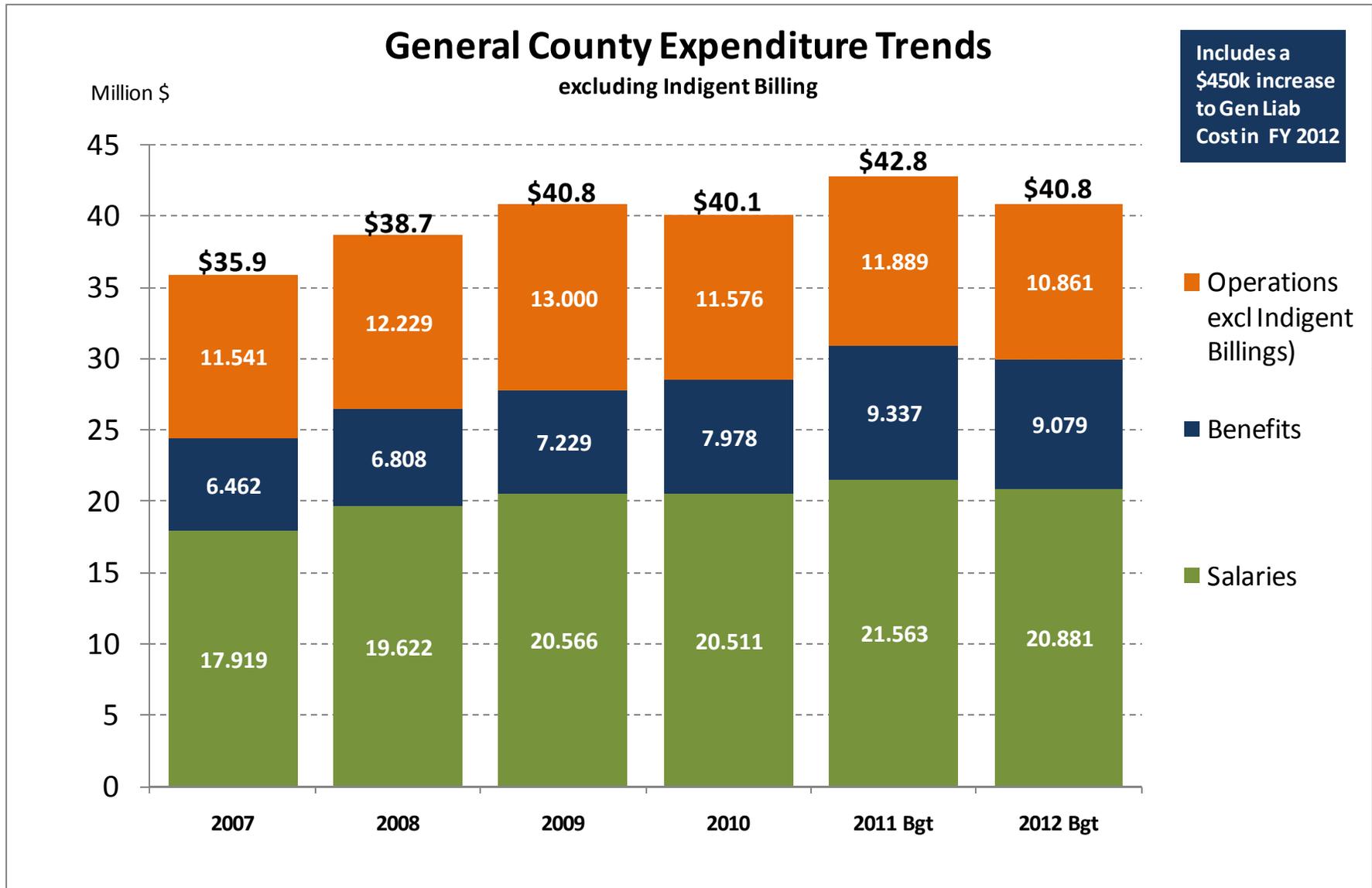
Property Tax at **48c (10c Increase)**



Debt Service Fund (151)

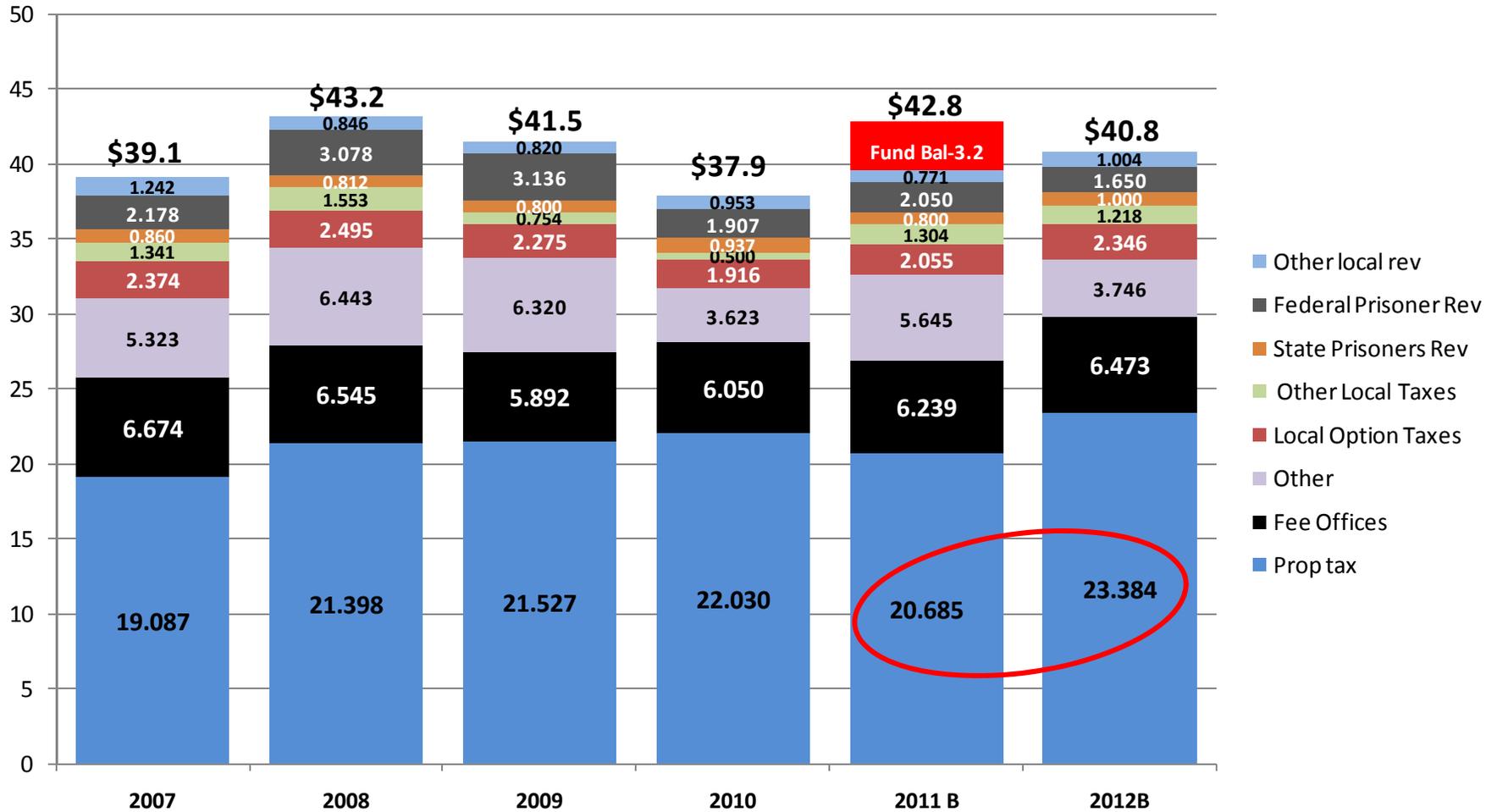


General County Fund (101)

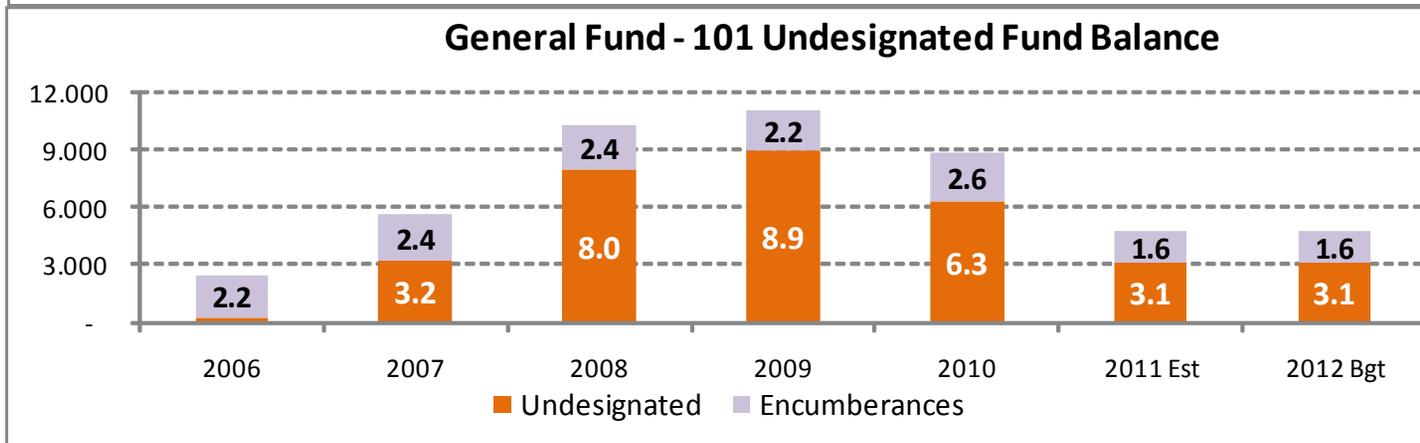
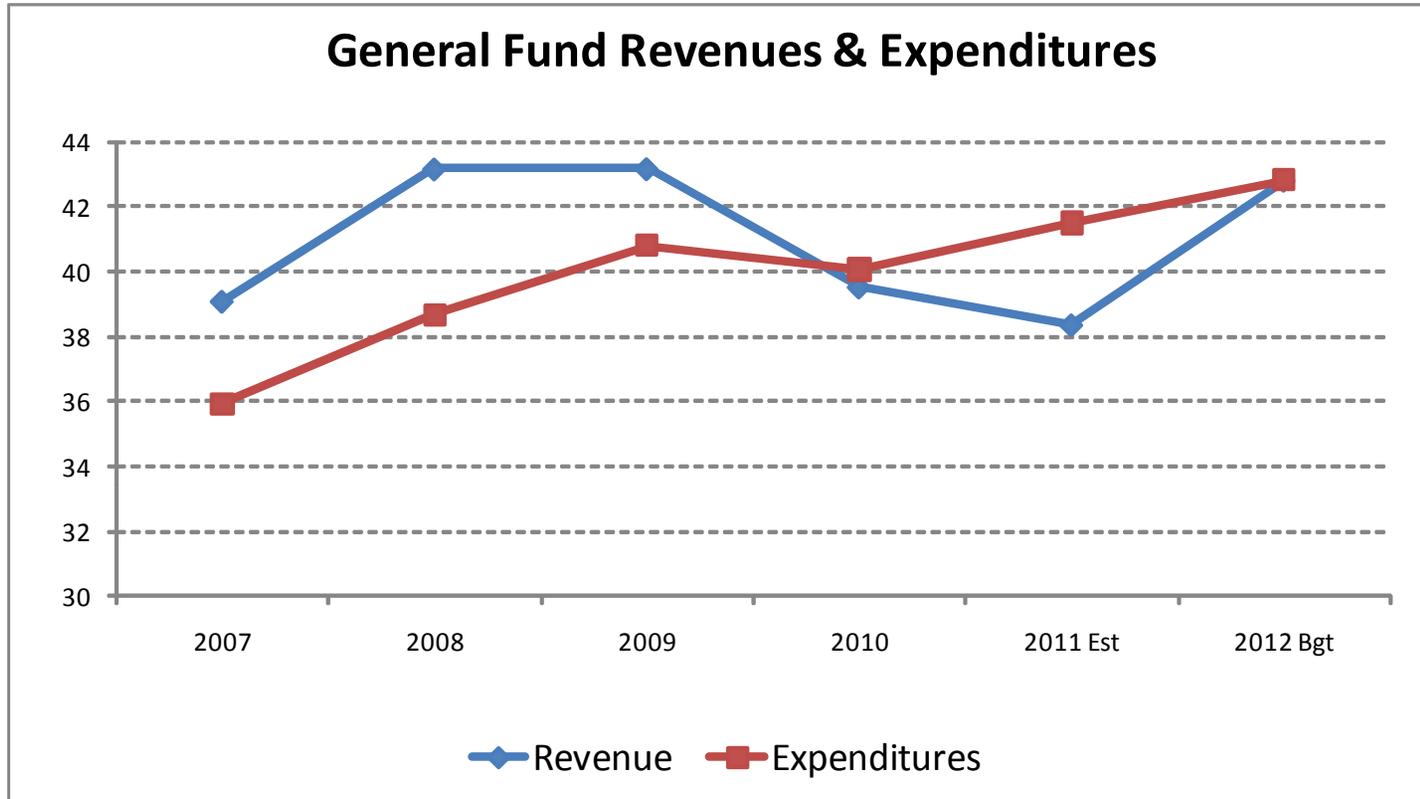


General County Fund (101)

General County Fund (101) Revenue Trends (excluding Indigent Billing)
Tax Rate at 73c (7c increase)



General County Fund (101)



101 Gen County Fund Appropriations Reduction Summary

Reflects adding back HR Director

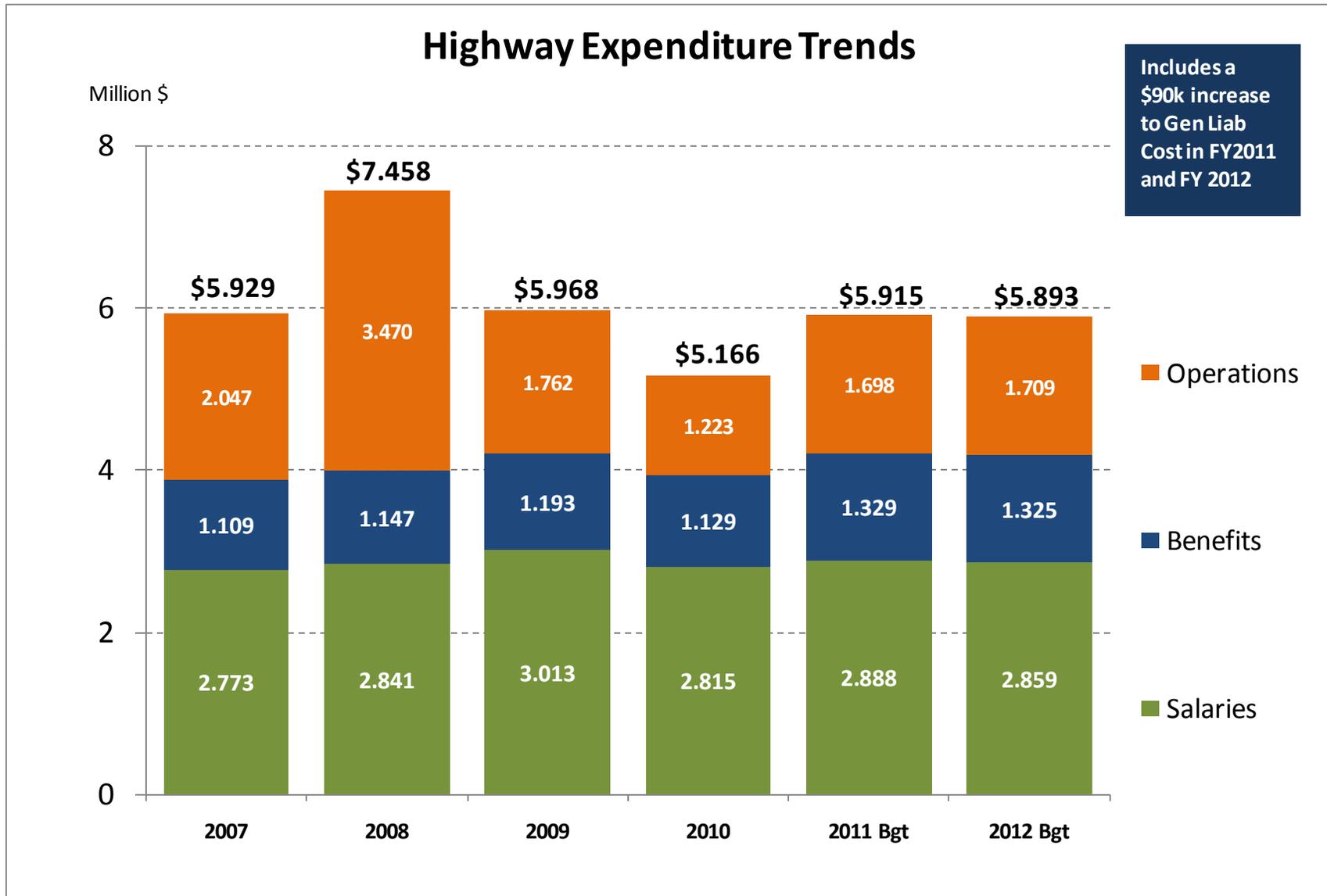
Includes \$450k increase to General Liability portion of Fund 263

Net of Special Cause items
General County has reduced the budget by \$2.219 million or 5.2%

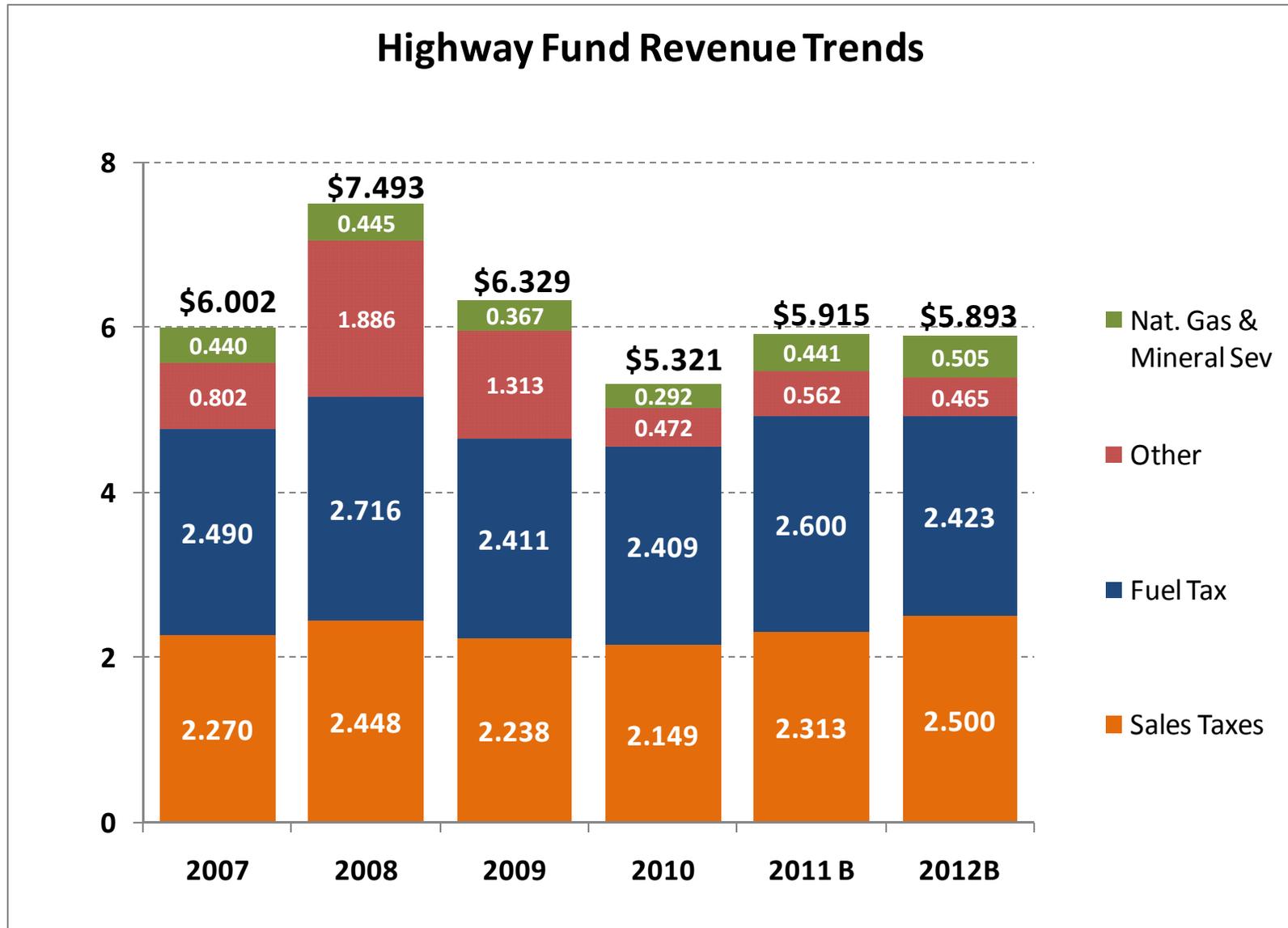
Adding Indigent Billing Budget to both Gen County Revenue and Expenditures – no affect on Fund Balance

By Office Holder & Independent Departments	FY10-11 Adopted Budget	May 02 reduction from FY10-11 Adopted Budget () indicates reduction	Percentage Change - indicates reduction
Commission	\$ 200,139	\$ (15,110)	-7.5%
Mayor	\$ 5,317,802	\$ (615,583)	-11.6%
General Fund Fixed Costs	\$ 3,088,230	\$ 296,536	9.6%
Sheriff	\$ 20,392,050	\$ (772,386)	-3.8%
Circuit Court Clerk (main CC only)	\$ 1,995,482	\$ (57,784)	-2.9%
Clerk & Master	\$ 524,656	\$ (15,787)	-3.0%
County Court Clerk	\$ 1,165,181	\$ (94,701)	-8.1%
Trustee	\$ 453,085	\$ (11,953)	-2.6%
Register	\$ 618,811	\$ (54,277)	-8.8%
Property Assessor	\$ 1,366,762	\$ (177,724)	-13.0%
Elections	\$ 584,114	\$ 2,275	0.4%
Library	\$ 899,520	\$ -	0.0%
IDB	\$ 786,173	\$ (100,631)	-12.8%
Parks & Rec	\$ 653,583	\$ (83,659)	-12.8%
Tourism & Visitors Center	\$ 825,133	\$ 48,900	5.9%
Heritage Center	\$ 45,000	\$ (5,760)	-12.8%
Veterans	\$ 174,275	\$ (19,035)	-10.9%
Judges, Juvenile Ct, and Public Def	\$ 1,557,374	\$ (36,560)	-2.3%
Subtotal	\$ 40,647,370	\$ (1,713,239)	-4.2%
Blount Co 911 Center	\$ 302,133	\$ -	0.0%
Indigent Billing Flow Thru	\$ -	\$ 2,000,000	
ARRA grants-Sheriff	\$ 339,585	\$ (339,585)	-100.0%
Civil Defense grants	\$ 586,579	\$ (262,578)	-44.8%
DGA Health Dept grant	\$ 761,114	\$ (56,214)	-7.4%
Commissary Flow Thru	\$ -	\$ 185,322	
Misc	\$ 152,704	\$ 218,047	142.8%
Subtotal - Total Miscellaneous & Grants	\$ 2,142,115	\$ 1,744,992	81.5%
Total General County	\$ 42,789,485	\$ 31,753	0.1%
		\$ 2,000,000	Ind Billing
		\$ 48,900	Vis & Tour
		\$ 450,000	Gen Liab
		\$ (2,212,139)	-5.2%

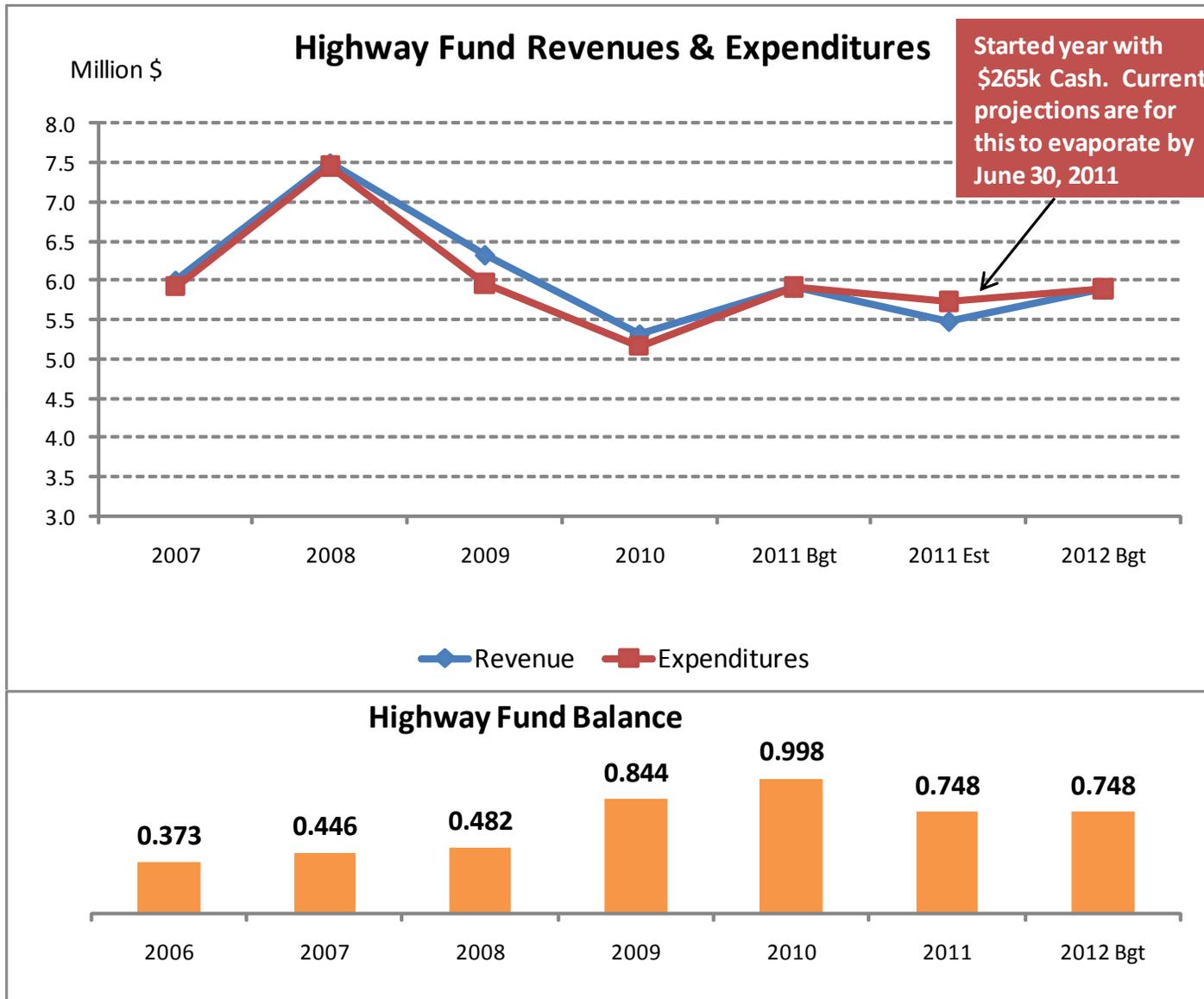
Highway Dept Fund (131)



Highway Dept Fund (131)

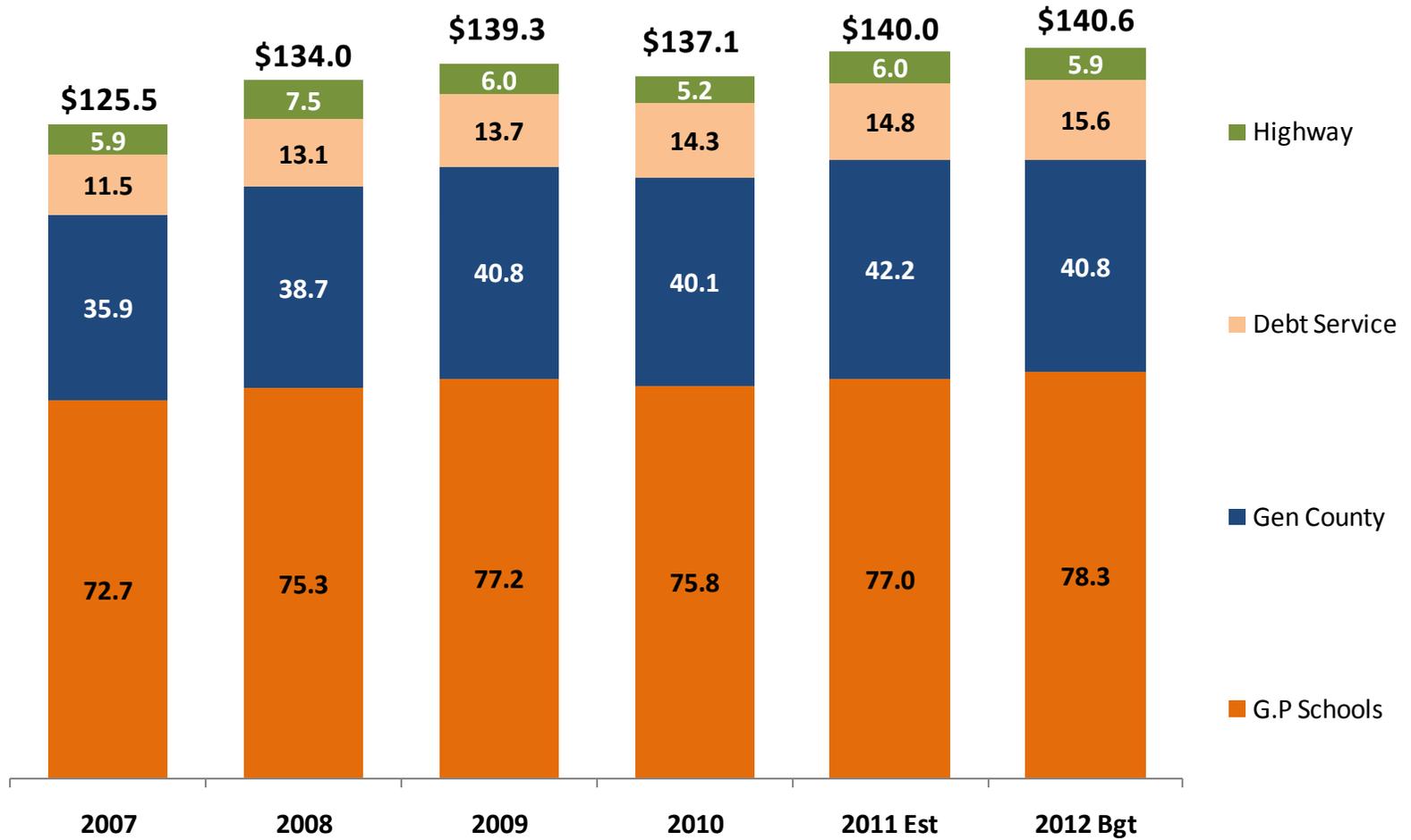


Highway Dept Fund (131)

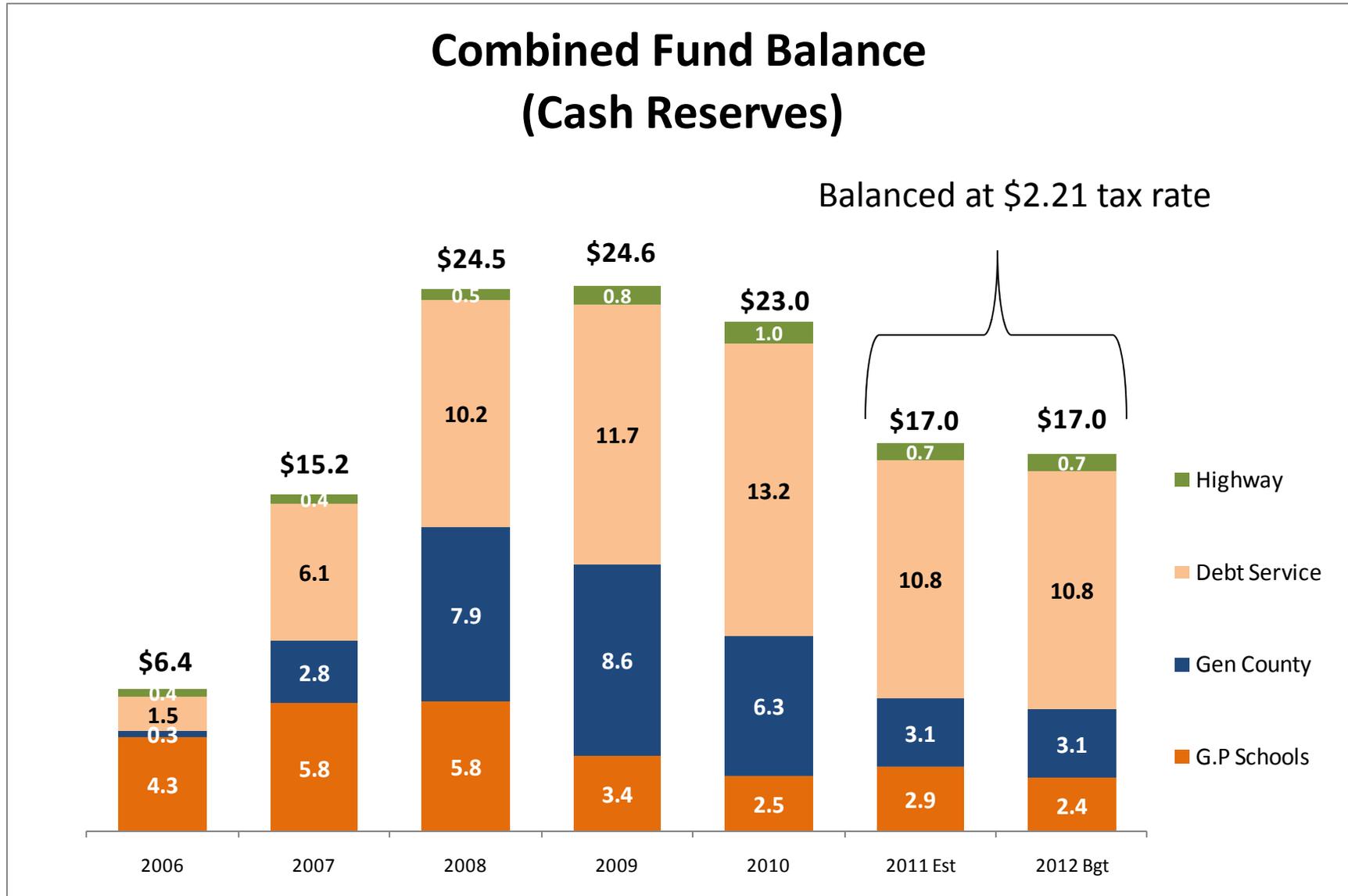


Spending Trends

Combined Major Fund Appropriations



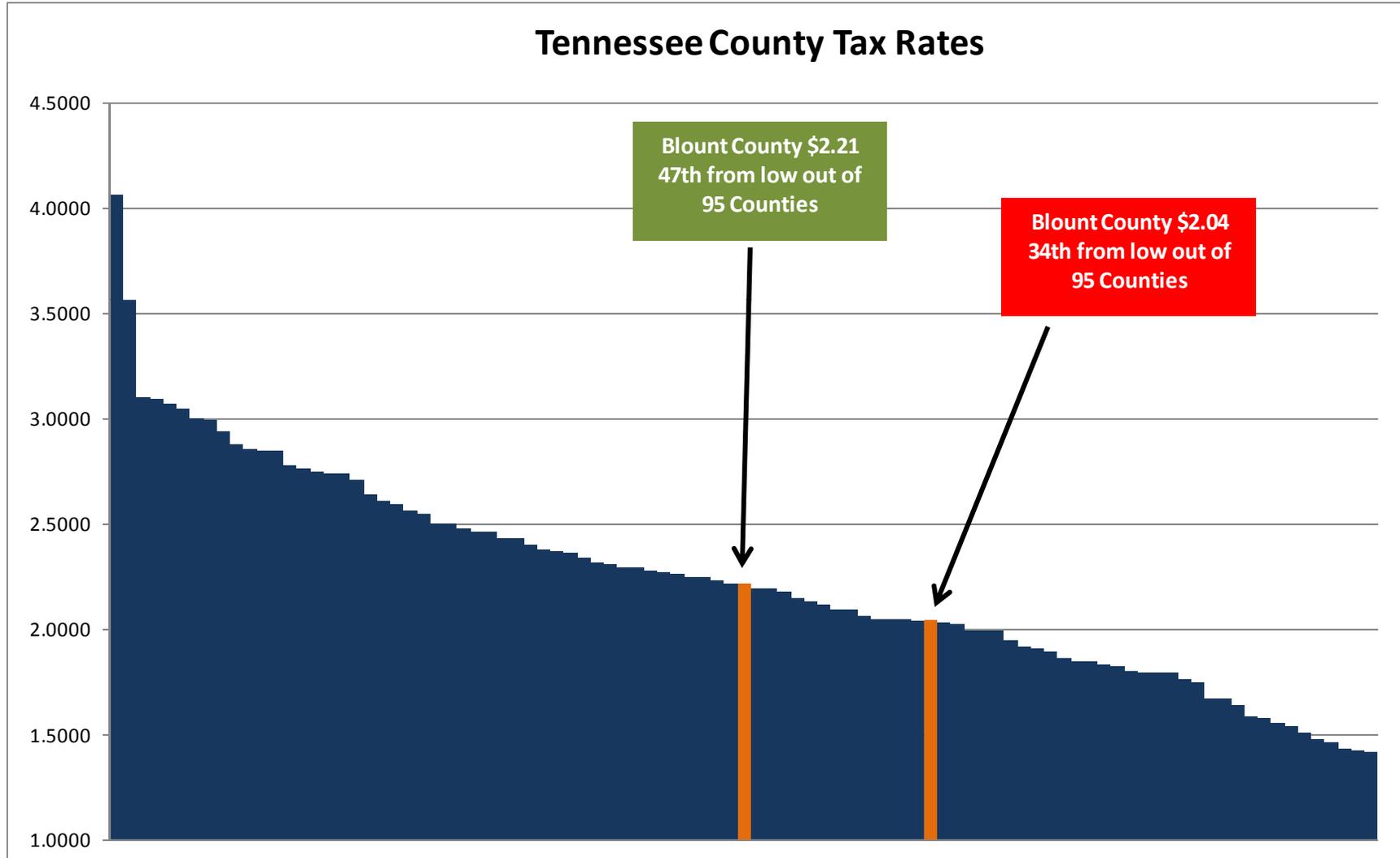
Unassigned Fund Balance Trends



Tax Increase required to balance budget

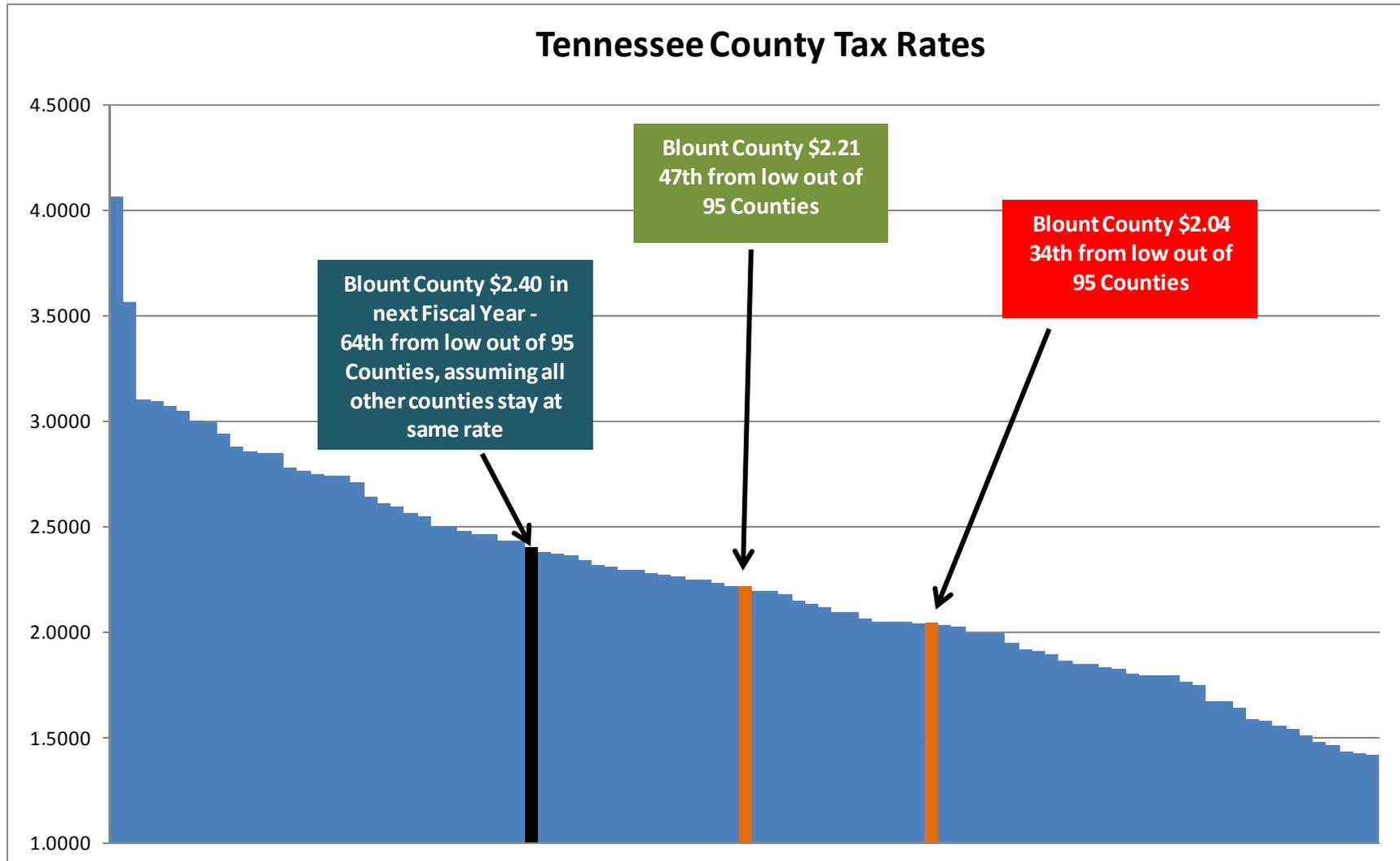
	Current	FY11-12	Increase	
Gen County	66	73	7	11%
G.P Schools	100	100	0	0%
Debt Service	38	48	10	26%
	204	221	17	8%

Blount County would move from 34th to 47th out of 95 Counties with \$2.21

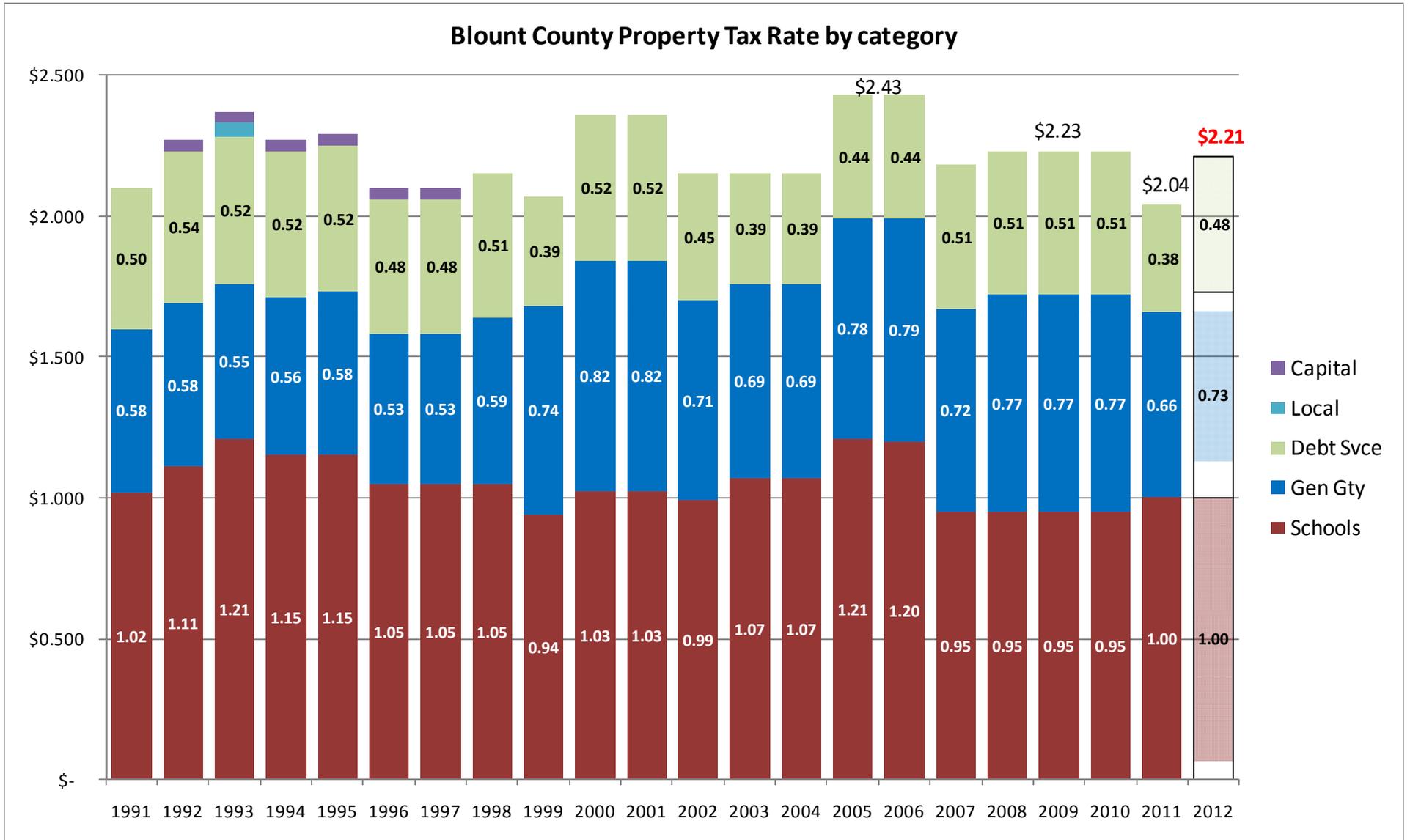


Blount County would move from 47th to 64th out of 95 Counties with \$2.40 in the next fiscal year

(17c for schools and 2c for Gen County)

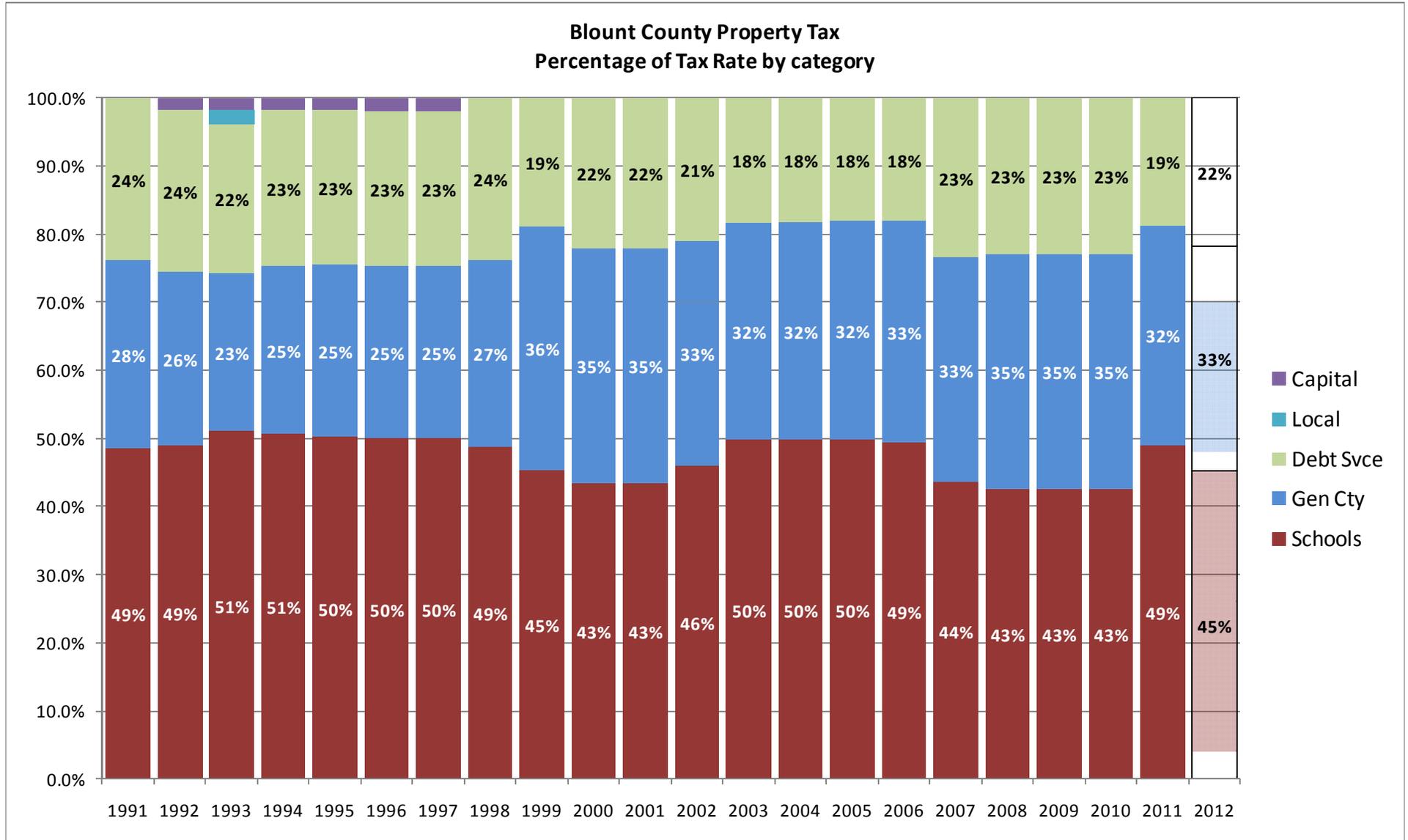


Blount County Property Tax Rate History



Blount County Property Tax Rate History

Percentage by Service Provided



Cost to the Blount County Taxpayer

Property Market Value	1,000,000	750,000	500,000	250,000	150,000	75,000
Assessed Value @25%	250,000	187,500	125,000	62,500	37,500	18,750
Monthly Cost of 17c increase	\$ 35	\$ 27	\$ 18	\$ 9	\$ 5	\$ 3
Monthly Cost of 36c increase	\$ 75	\$ 56	\$ 38	\$ 19	\$ 11	\$ 6



 Average Blount County
 Family Home Value

Resolution No.11-06-008

Resolution Sponsors:

Mike Lewis
Commissioner

Kenneth Melton
Commissioner

A resolution making appropriations for the various funds, departments, institutions, offices, and agencies of Blount County, Tennessee, for the year beginning July 1, 2011, and ending June 30, 2012.

Section 1. **Be it resolved** by the Board of County Commissioners of Blount County, Tennessee, assembled in regular session on the 16th day of June, 2011, that the amounts hereafter set out are hereby appropriated for the purpose of meeting the expenses of the various funds, departments, institutions, offices, and agencies of Blount County, Tennessee, for the capital outlay, and for meeting the payment of principal and interest on the County's debt maturing during the year beginning July 1, 2011 and ending June 30, 2012, according to the following schedule:

General Fund

County Commission	\$	185,029
Board of Equalization		5,837
Beer Board		200
Budget Committee		436
County Mayor		201,687
Personnel		169,626
Election Commission		586,389
Register of Deeds		564,687
Development		694,140
Planning		205,817
County Building Maintenance		1,495,421
Other General Administration		1,199,845
Preservation of Records		113,418
Risk Management		215,482
Accounting and Budgeting		647,498
Purchasing		278,223
Property Assessor		832,967
Reappraisal		350,234
County Trustee		441,132
County Clerk		1,070,480
Data Processing		568,544
Circuit Court Judge		84,793
Circuit Court Clerk		1,937,698

General Sessions Judge	945,061
Juvenile Court	435,931
Public Defender	55,029
Other Administration of Justice	481,291
Probation	356,811
Sheriff's Department	10,175,710
Sex Offender Registry	5,000
Jail	7,104,730
Workhouse	10,414
Juvenile Services	1,430,144
Commissary	350,000
Fire Prevention	23,250
Civil Defense	151,923
Communications Center	302,133
Coroner/Medical Examiner	62,000
Local Health Center	440,484
Animal Control	361,710
General Welfare Assistance	24,064
Other Local Welfare	98,668
Parks and Fair Boards	569,924
Agriculture Extension Service	163,496
Soil Conservation	115,407
Tourism	699,233
Industrial Development	685,542
Other Economic & Community Development	174,800
Veteran Services	155,240
Other Charges	129,000
Contributions to Other Agencies	39,240
Miscellaneous	500,000
Litter & Trash Grant	82,192
Transfers Out--Library	899,520
Motorola Radio Contract	205,678
Chancery Court- Equity Division	31,596
Chancery Court-Clerk and Master	426,386
Indigent Billing	2,000,000
Other General Government Projects-Info Tech Capital	17,953
Other General Government Projects-Sheriff's Capital	165,505
Civil Defense-Performance grant	15,175
Civil Defense-Other Government Projects	17,244
Civil Defense-EMPG carryover grant	13,795
Civil Defense-Homeland Security grant	14,275
Civil Defense-Local Emergency Planning grant	255,387
Civil Defense-Dept of Military grant	8,125
Local Health Center-DGA grant	721,855
Total General Fund	\$ 42,770,504

Total Law Library **\$ 7,888**

Public Library

County Buildings \$ 189,929

Libraries 1,740,071

Other Social Cultural-Recreation 80,000

Total Public Library **\$ 2,010,000**

Total Drug Control Fund **\$ 209,900**

Total Drug Court Fund **\$ 208,769**

Highway/Public Works Fund

Administration \$ 804,667

Highway and Bridge Maintenance 3,958,952

Operation and Maintenance of Equipment 1,129,381

Total Highway/Public Works Fund **\$ 5,893,000**

General Purpose School Fund

Regular Education \$ 38,081,300

Special Education 7,765,000

Vocational Education 3,383,600

Adult Education 212,000

Other-Retiree Insurance 1,410,000

Attendance 150,300

Health Services-Clinic Personnel 623,300

Regular Instruction-Chapter II 87-01 125,000

Other Student Support-Guidance 1,784,500

State Grant-Family Resource Center 33,300

Regular Instruction 1,982,700

Special Education 380,500

Vocational Education 71,000

Adult Program 116,600

Other Programs 54,600

Board of Education 1,538,300

Director of Schools 383,800

Office of the Principal 5,329,100

Fiscal Services 176,300

Operation of Plant 7,781,800

Maintenance of Plant 1,772,900

Transportation 3,656,400

Central and Other 620,890

Early Childhood Education 592,000

Schools-Capital Outlay 60,000

Transfers Out-Capital Leases 281,810

Total General Purpose School Fund **\$ 78,367,000**

Federal School Projects Fund

Regular Instruction-Title I	\$ 2,534,971
Regular Instruction Program-Title I	179,719
Regular Education Program-JOBS	2,329,080
Special Education Program-IDEA PART B	821,600
Special Education Program-IDEA PART B ARRA	128,215
Special Education Program-IDEA Part B	2,516,097
Special Education Program-Assistive Tech SE Grant	40,000
Special Education Program-IDEA Preschool	51,650
Special Education Program-IDEA Preschool	92,511
Race to the Top	809,000
Vocational Education Program-Carl Perkins	173,005
Regular Instruction Program-Title IIA Training	449,029
Regular Instruction Program-Title II Part D	6,651
Vocational Education Prgram-Transition to Work	30,500
Regular Instruction Program-Title III ESL	20,264

Total Federal School Projects Fund \$ 10,182,292

Total Central Cafeteria Fund \$ 5,387,000

Total Extended Day Care Program Fund \$ 1,650,000

General Debt Service Fund

General Government-Principal	6,065,252
General Government-Interest on Debt	9,000,000
General Government-Other Debt Service	651,290

Total General Debt Service Fund \$ 15,716,542

Total Budget \$ 162,402,895

Section 1 Be it further resolved, that the budget for the School Federal Projects Fund shall be the budget approved for separate projects within the fund by the Tennessee Department of Education.

Section 2 Be it further resolved, that there are also hereby appropriated certain portions of the commissions and fees for collecting taxes and licenses and for administering other funds which the Trustee, County Clerk, Circuit Court Clerk, Clerk and Master, Register, and the Sheriff and their officially authorized deputies and assistants may severally be entitled to receive under State laws heretofore or hereafter enacted, expenditures out of commissions, and/or fees collected by the Trustee, County Clerk, Circuit Court Clerk, Clerk and Master, Register, and the Sheriff may be made for such purposes and in such amounts as may be authorized by existing laws or by valid order of any court having power to make such appropriations. Any excess commissions and/or fees collected over and above the expenditures duly and conclusively authorized shall be paid over to the Trustee and converted into the General Fund as provided by law.

Section 3 Be it further resolved, that if any fee officials, as enumerated in Section 8-22-101, T.C.A., operate under provisions of Section 8-22-104, T.C.A., provisions of the preceding paragraph shall not apply to those particular officials.

Section 4 Be it further resolved, that any amendment to the budget shall be approved as provided in Section 5-12-110, T.C.A.

One copy of each amendment shall be filed with the County Clerk, one copy with the Chairman of the Budget Committee, and one copy with each divisional or departmental head concerned. The reason(s) for each transfer shall be clearly stated; however, this section shall in no case whatsoever be construed as authorizing transfer from one fund to another, but shall apply solely to transfers within a certain fund.

Section 5 Be it further resolved, that any appropriations made by this resolution which cover the same purpose for which a specific appropriation is made by statute is made in lieu of but not in addition to said statutory appropriation. The salary, wages, or remuneration of each officer, employee, or agent of the County shall not be in excess of the amounts authorized by existing law or as set forth in the estimate of expenditures which accompanies this resolution. Provided, however, that appropriations for such salaries, wages, or other remuneration hereby authorized shall in no case be construed as permitting expenditures for an office, agency, institution, division or department of the County in excess of the appropriation made herein for such office, agency, institution, division or department of the County. Such appropriation shall constitute the limit to the expenditures of any office, agency, institution, division or department for the year ending June 30, 2012. The aggregate expenditures for any item of appropriation shall in no instance be more than the amount herein appropriated for such item.

Section 6 Be it further resolved, that the County Mayor and County Clerk are hereby authorized to borrow money on revenue anticipation notes, provided such notes are first approved by the Director of Local Finance, to pay for the expenses herein authorized until the taxes and other revenue for the year 2011-12 have been collected. The proceeds of loans for each individual fund shall not exceed 60% of the appropriations of each individual fund and shall be used only to pay the expenses and other requirements of the fund for which the loan is made.

The loan shall be paid out of revenue from the fund for which money is borrowed. The notes evidencing the loans authorized under this section shall be issued under the applicable sections of Title 9, Chapter 21, Tennessee Code Annotated. Said notes shall be signed by the County Mayor and countersigned by the County Clerk and shall mature and be paid in full without renewal not later than June 30, 2012.

Section 7 Be it further resolved, that the delinquent County property taxes for the year 2010 and prior years and the interest and penalty hereon collected during the year ending June 30, 2012 shall be apportioned to the various County funds according to the subdivision of the tax levy for the year 2011. The Clerk and Master and the Trustee are hereby authorized and directed to make such apportionment accordingly.

Section 8 Be it further resolved, that all unencumbered balances of appropriations remaining at the end of the year shall lapse, and be of no further effect at the end of the year at June 30, 2012.

Section 9 Be it further resolved, that any resolution or part of a resolution which has heretofore been passed by the Board of County Commissioners which is in conflict with any provision in this resolution be and the same is hereby repealed.

Section 10 Be it further resolved, that this resolution shall take effect from and after its passage and its provisions shall be in force from and after July 1, 2011. This resolution shall be spread upon the minutes of the Board of County Commissioners.

Section 11 Be it further resolved, that the interest earned on funds held temporarily idle for the Blount County Library and Library fines collected be designated toward the Blount County Library Capital uses.

Section 12 Be it further resolved, that the property tax discounts as authorized by T.C.A. 67-5-1804 (a) for early payment for real property payments. The discount shall be 2% of the ad valorem real property taxes currently due if such taxes are paid within thirty (30) days and 1% if paid after more than thirty (30) but less than sixty (60) under the guidelines of T.C.A. 67-5-1804 (a).

Section 13 Be it further resolved, the Blount County Commission is committed to long-term solutions for the County's needs including the orderly and systematic financing and acquisition of public improvements. To achieve that goal, the Commission recognizes the value of a long-term capital plan and reaffirms its commitment to the six-year capital improvements concept to address those issues.

Section 14 Be it further resolved, should there be a shortfall in received revenues for the Contracted Prisoner Board in the General County Fund; the Debt Service Fund would forego their revenue allocation.

Section 15 Be it further resolved, Interest Earnings would be credited to the General, Library, Highway, General Schools, Worker's Compensation, Employee Health and Employee Dental Funds, and Metro Narcotics based on the average month-end balances per the Trustee's Report, and the interest rate earned by the Trustee for all funds. Interest Earnings not credited as above will be credited to the Debt Service Fund.

Section 16 Be it further resolved, that included in this budget is a supplement for the sheriff as approved in prior years for the workhouse and the juvenile detention center equal to 10% of his base salary, each.

Section 17 Be it further resolved, that amounts approved and hereby appropriated for County Official salaries exceed the minimum required by state statute and are hereby approved above that minimum.

Passed this 16th day of June, 2011.

Certification of Action

Attest

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____

County Mayor

Date

Resolution No. 11-06-009

Resolution Sponsors:

Mike Lewis
Commissioner

Kenneth Melton
Commissioner

A resolution making appropriations to non-profit charitable organizations of Blount County, Tennessee for the Fiscal Year beginning July 1, 2011 and ending June 30, 2012.

Whereas, Section 5-9-109, Tennessee Code Annotated, authorizes the County Legislative Body to make appropriations to non-profit charitable organizations; and

Whereas, the Blount County Legislative Body recognizes the various non-profit charitable organizations located in Blount County have great need of funds to carry on their non-profit charitable work.

Now therefore, be it resolved by the Board of County Commissioners of Blount County in regular session assembled on this 16th day of June, 2011 as follows:

Section 1. That Three Thousand Two Hundred Thirty Four Dollars (\$3,234) be appropriated to the A Secret Safe Place for Newborns of Tennessee, Inc. to promote health and welfare of the newborns of Blount County;

Section 2. That Four Thousand Eight Hundred Fifty Eight Dollars (\$4,858) be appropriated to Douglas Cooperative to promote independent job training for mentally challenged citizens in Blount County;

Section 3. That Nine Thousand Nine Hundred Seventy Two Dollars (\$9,972) be appropriated to the Blount County Community Action Agency to provide health and welfare protection and assistance to the citizens of Blount County;

Now therefore be it further resolved, that the appropriations in Sections 1 through 3 are made subject to the following conditions:

1 That the non-profit charitable organization to which funds are appropriated shall file with the County Clerk and the disbursing official a copy of an annual report of its business affairs and transactions and the proposed use of the County's funds in accordance with rules promulgated by the Comptroller of the Treasury. Such annual report shall be prepared and certified by the Chief Financial Officer of such non-profit organization in accordance with Section 5-9-109 c T.C.A.

2 That said funds must only be used by the named non-profit charitable organization in furtherance of their non-profit charitable purposes benefiting the general welfare of the residents of the county.

3 That it is the expressed interest of the County Commission of Blount County in providing these funds to the above named non-profit charitable organization to be fully in compliance with the rules of the Comptroller of the Treasury, and Section 5-9-109 of Tennessee Code Annotated and any and all other laws which may apply to county appropriations to non-profit organizations and so this appropriation is made subject to compliance with any and all of these laws and regulations.

Duly passed and approved this 16th day of June, 2011.

Certification of Action

Attest

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____

County Mayor

Date

RESOLUTION No. 11-06-011

Sponsored By Commissioners Kenneth Melton and Mike Lewis

A RESOLUTION AUTHORIZING THE LEASE UNDER TENNESSEE CODE ANNOTATED 7-51-904 OF AN OFFICE COPIER FOR THE DEVELOPMENT SERVICES OFFICE OF BLOUNT COUNTY.

WHEREAS, Tennessee Code Annotated 7-51-904 (a) states that "Whenever the period or term, including any renewal term or extension period, of any contract, lease, or lease-purchase agreement for any real property is to be for less than five (5) years, under the authority of 7-51-902 or 7-51-903, or for tangible personal property, regardless of the period or term, such contract, lease or lease-purchase agreement shall first be approved by resolution or ordinance duly adopted by the governing body of the municipality, and no such contract, lease, or lease-purchase agreement shall be entered into by a municipality without such approval."; and

WHEREAS, Tennessee Code Annotated 7-51-901 (4) defines a municipality as any county or incorporated city or town of the state of Tennessee; and

WHEREAS, the Development Services Office, of Blount County wishes to lease an office copier to meet the duplicating needs of the Development Services office; and

WHEREAS, the following copier is available under the terms and conditions of the State Contract No. SWC404:

<u>Office</u>	<u>Vendor</u>	<u>Cost per Mo.</u>
Development Services	Oce Imagistics	\$115.09

WHEREAS, there is sufficient money available within the department budget to fund the lease of the copier.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Blount County, Tennessee, meeting in session assembled this 16th day of June, 2011 that the lease of a copy machine for the Development Services Office, under terms and conditions of the State Contract No. SWC404 is hereby authorized.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKES EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT; AND THAT ANY PRIOR RESOLUTION TO THE CONTRARY IS HEREBY DECLARED VOID.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____
County Mayor

Date

RESOLUTION No. 11-06-013

Sponsored by Commissioners and

A RESOLUTION TO AMEND THE ZONING RESOLUTION OF BLOUNT COUNTY, TENNESSEE, SECTION 9.10.J TO PROVIDE FOR OBJECTIVE NOISE STANDARDS AND DESIGN REQUIREMENTS IN THE RURAL ARTERIAL COMMERCIAL (RAC) ZONE.

BE IT RESOLVED, by the Board of Commissioners of Blount County, Tennessee, in session assembled this 16th day of June, 2011:

WHEREAS, the Legislature of the State of Tennessee has enabled Blount County to adopt and amend zoning regulations in Tennessee Code Annotated Sections 13-7-101, *et seq.*, and

WHEREAS, the Board of Commissioners of Blount County, Tennessee adopted zoning regulations in Resolution 00-06-010 **A RESOLUTION ADOPTING ZONING IN BLOUNT COUNTY PURSUANT TO SECTIONS 13-7-101, *et seq.*, OF THE TENNESSEE CODE ANNOTATED**, and

WHEREAS, it is desired to amend such Resolution to address noise standards as part of design requirements for developments in the RAC zone.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF BLOUNT COUNTY, TENNESSEE, to adopt the following:

That the last sentence in Section 9.10.J reading “Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed” be deleted, and that the following be placed therein:

The following requirements shall be met to address noise for any use requiring a site plan where, a) the use includes design elements not fully enclosed within a principal structure and which would be expected to produce substantial noise, specifically compressor, HVAC unit, loading area for more than two axel trucks, or b) the use includes external venting of exhaust from combustion engines contained within buildings that are part of the design of the use, and c) the site abuts any parcel zoned S-Suburbanizing, R-1-Rural District 1, or R-2-Rural District 2, or where the site abuts property containing any sensitive use listed in subsection 3 table below:

1. The purpose of noise standards, noise study and mitigation requirements is to ensure that future development minimizes the impact of noise on adjacent properties, by establishing maximum noise levels and standards for evaluating noise impacts.

2. Definitions.

a. dBA – the A-weighted scale for measuring sound level in decibels (dB) as a unit used to express the relative intensity of a sound as it is heard by the human ear.

b. Leq – the energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound which, in a

given situation and time period, has the same sound energy as does a time varying sound.

c. Lmax – the maximum sound pressure level for a given period of time.

3. Noise standards. The site plan shall be designed to meet the following exterior noise limit standards at site property line in relation to abutting land zoned S, R-1, and R-2 and specific sensitive uses .

Exterior Noise Limits at property line of site

For Abutting Zone or Use	Time Period		Noise Level, dBA	
	Begin	End	L eq	L max
S-Suburbanizing District	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	45	60
R-1-Rural District 1	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
R-2-Rural District 2	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
Sensitive Uses *	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55

* residences, schools, hospitals, nursing homes, churches, and libraries

If the measured ambient noise level prior to project construction and operation exceeds that indicated in the table above at the property line of the site, then the allowable noise limits shall be set at 5 dBA above the ambient level.

4. A noise study shall be part of the site plan and shall be prepared and certified by a qualified professional showing how the site design shall meet the requirements in subsection 3 above. A qualified professional shall be one that is experienced in the field of environmental noise assessment and architectural acoustics.

5. The site design shall incorporate design controls and mitigation measures necessary to meet the requirements in subsection 3 above.

6. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. The compliance measurements shall be conducted by the same qualified professional that produced the noise study, and shall be taken at full operation of the subject use for the site plan.

7. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be a continuing requirement after site plan approval, construction of project and operation of project, and shall be subject to continued enforcement through compliance inspections and/or response to complaints.

8. The above standards shall not apply to those activities associated with actual construction of a subject site plan project or to those projects associated with provision of emergency, law enforcement or necessary governmental or utility services or functions.

9. A legal nonconforming use meeting requirements in other sections of this resolution shall not be subject to the above standards, provided that if the nonconforming use loses its nonconforming status by any means, then future operation and/or modification of the site requiring a site plan shall meet all requirements of this section.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION SHALL BE IN FORCE AND BECOME EFFECTIVE UPON ITS ADOPTION, THE PUBLIC WELFARE REQUIRING IT.

CERTIFICATION OF ACTION

ATTEST

Commission Chairman

County Clerk

Approved: _____

Vetoed: _____
County Mayor

Date

Think Quality - Think Future

Blount County Planning Department

Blount County Courthouse - 327 Court Street
Maryville, TN 37804-5906
Tel (865) 273-5750 - FAX (865) 273-5759
e-mail - planning@blounttn.org
on-line - www.blounttn.org/planning/

TO: County Commission

FROM: John Lamb

DATE: April 4, 2011

SUBJECT: Planning Commission recommendation regarding noise standards in the RAC zoning site plan process.

The Blount County Planning Commission voted at their March 24, 2011 regular meeting to recommend the following amendment to the zoning regulations applying to the RAC-Rural Arterial Commercial zone:

That the last sentence in Section 9.10 reading “Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed” be deleted, and that the following be placed therein:

The following requirements shall be met to address noise for any use requiring a site plan where, a) the use includes design elements not fully enclosed within a principal structure and which would be expected to produce substantial noise, specifically compressor, HVAC unit, loading area for more than two axel trucks, or b) the use includes external venting of exhaust from combustion engines contained within buildings that are part of the design of the use, and c) the site abuts any parcel zoned S-Suburbanizing, R-1-Rural District 1, or R-2-Rural District 2, or where the site abuts property containing any sensitive use listed in subsection 3 table below:

1. The purpose of noise standards, noise study and mitigation requirements is to ensure that future development minimizes the impact of noise on adjacent properties, by establishing maximum noise levels and standards for evaluating noise impacts.

2. Definitions.

- a. dBA – the A-weighted scale for measuring sound level in decibels (dB) as a unit used to express the relative intensity of a sound as it is heard by the human ear.
 - b. Leq – the energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound which, in a given situation and time period, has the same sound energy as does a time varying sound.
 - c. Lmax – the maximum sound pressure level for a given period of time.
3. Noise standards. The site plan shall be designed to meet the following exterior noise limit standards at site property line in relation to abutting land zoned S, R-1, and R-2 and specific sensitive uses .

Exterior Noise Limits at property line of site

For Abutting Zone or Use	Time Period		Noise Level, dBA	
	Begin	End	L eq	L max
S-Suburbanizing District	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	45	60
R-1-Rural District 1	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
R-2-Rural District 2	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55
Sensitive Uses *	7:00 AM	7:00 PM	55	75
	7:00 PM	7:00 AM	40	55

* residences, schools, hospitals, nursing homes, churches, and libraries

If the measured ambient noise level prior to project construction and operation exceeds that indicated in the table above at the property line of the site, then the allowable noise limits shall be set at 5 dBA above the ambient level.

- 4. A noise study shall be part of the site plan and shall be prepared and certified by a qualified professional showing how the site design shall meet the requirements in subsection 3 above. A qualified professional shall be one that is experienced in the field of environmental noise assessment and architectural acoustics.
- 5. The site design shall incorporate design controls and mitigation measures necessary to meet the requirements in subsection 3 above.
- 6. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. The compliance measurements shall be conducted by the same qualified professional that

produced the noise study, and shall be taken at full operation of the subject use for the site plan.

7. Compliance with the noise study, site plan design, and requirements in subsection 3 above shall be a continuing requirement after site plan approval, construction of project and operation of project, and shall be subject to continued enforcement through compliance inspections and/or response to complaints.

8. The above standards shall not apply to those activities associated with actual construction of a subject site plan project or to those projects associated with provision of emergency, law enforcement or necessary governmental or utility services or functions.

9. A legal nonconforming use meeting requirements in other sections of this resolution shall not be subject to the above standards, provided that if the nonconforming use loses its nonconforming status by any means, then future operation and/or modification of the site requiring a site plan shall meet all requirements of this section.

As background, the review of the Attorney for the County Mayor starts on following page, and is then followed by staff analysis presented for consideration of the Planning Commission.

M E M O

TO: JOHN LAMB

FROM: ATTORNEY CRAIG GARRETT

DATE: MARCH 16, 2011

RE: REFERRAL BY PLANNING COMMISSION FOR LEGAL REVIEW OF
DRAFT NOISE REGULATION FOR INCLUSION IN ZONING
REGULATION SECTION 9.10.J

From my conversations with you, as well as the Mayor, it is my understanding that there is legitimate concern regarding the regulation of noise levels attributable to commercial projects lying in the rural areas of the County.

I do agree that the current language in Section J has no objective criteria for determining when noise would be determined to have an off-site impact on surrounding property. As a result thereof, the present restriction could easily be classified as arbitrary.

Your two memos to me set forth two alternatives. The first being to do nothing except eliminate the language in the present ordinance. This can certainly be done, but would not address the noise issue.

I have evaluated your second alternative as modified in your second memo to me and I feel that this second alternative applies with the applicable law.

The zoning regulations or amendments thereto are subject to challenge in court when they violate certain provisions of U.S. or Tennessee Constitutions. Causes of action are generally classified as follows:

1. A procedural due process claim challenging the procedures by which the regulation was adopted;
2. A substantive due process claim based on the arbitrary and capricious action of the government in adopting the regulation;
3. A Takings Cause claim which may seek not only compensation, if the regulation amounts to a taking, but may seek invalidation and injunctive relief if the regulation exceeds what the government body may do under the Takings Clause of the Constitution;
4. Claims under some other constitutional provision that give a landowner a protectable right, not specifically involved with the real property itself, [e.g.] a claim alleging a violation of the Equal Protection Clause of the Constitution.

The suggested amendment to the regulation would only involve an evaluation of Items 2 and 4 listed above.

There will be no procedural due process claim provided the regulation is properly adopted. The regulation as worded would not amount to a taking of the property and analysis under that body of law is not required.

In essence, the regulation must be evaluated under the substantive due process and equal protection clause in the Constitution.

A substantive due process claim is based on the exercise of government power without a reasonable justification. The Courts have determined that citizens have a substantive due process right not to be subjected to arbitrary or irrational zoning decisions. A local zoning regulation will survive a substantive due process challenge if there exists a rational relationship between the terms of the ordinance and a legitimate government purpose. The Courts in reviewing a substantive due process claim, apply what is known as a rational basis test. This test is whether the ordinance or regulation bears a reasonable relationship to the public health, safety or welfare. If it does, it is a valid exercise of the government's powers.

In essence, the Courts have held that a legislative body through zoning legislation may impose a limitation on the use of property which it may deem necessary or expedient to promote and protect the safety, health, morals, comfort and welfare of the people, provided that this power is not exercised arbitrarily which means that there must be a reasonable connection or relation between the limitation imposed and the public safety, health or welfare.

The equal protection clause of the Constitution guarantees that all persons who are similarly situated will be treated alike by the government and the law. Equal protection challenges are based upon governmental classifications. In matters of zoning, the Courts have applied the reduced scrutiny standard. This standard states that there must exist a rational basis for the classification placed by the government or that the classification must have a reasonable relationship to a legitimate state interest. Thus, as in the substantive due process challenge, the zoning regulation must be reviewed under the rational basis test.

The Courts have determined that the rational basis analysis used in an equal protection challenge does not differ in substantial regard from the rational basis test used when considering a substantive due process claim. Equal protection requires only that the legislative classification be rationally related to the objective it seeks to achieve. If a reasonable basis can be found for the classification, the zoning regulation will not be subject to challenge.

Based upon my understanding of the objective of the regulation to be amended, the County seeks to control noise associated with commercial development in rural areas that may impact adjoining property owners. This seems to me to be a legitimate government interest. The wording of the amended regulation is not arbitrary and gives objective standards and specific noise levels for specific times.

The same noise concerns are not applicable in areas that are designated as commercial or industrial zones. It appears the concern is this noise as it relates to commercial endeavors in a rural area.

Based on all of the above, it is my opinion that the proposed amendment under “Alternative 2” would be a legally valid amendment to our zoning regulation and would pass legal scrutiny.

cc: Mayor Ed Mitchell

The following is excerpt from staff memo dated October 20, 2010 for the October regular meeting of the Planning Commission and is presented here as background information.

At the request of the County Mayor, staff prepared an analysis of issues related to addressing noise in the zoning site plan process. The present criteria of considering noise may be viewed as too subjective, and in need of more objective standards.

Present Zoning Regulations. Our zoning regulations include the following as part of site plan design requirements in the RAC (Rural Arterial Commercial) zone Section 9.10 (noise provisions highlighted):

J. Additional design requirements: All site plans shall be accompanied by a stormwater drainage plan prepared by a qualified engineer, and shall address the need for detention, if necessary, and pollution control. All uses permitted under this Section shall provide a vegetative landscape buffer, to be determined by the Planning Commission during site plan review, between the use/buildings on the commercial site, and any parcel or lot zoned other than RAC or C. Such buffering shall apply to rear lot lines of the commercial site, and also to side lot lines behind the minimum front building setback lines, except where there is an immediately adjacent residential use that would require screening within the minimum front building setback line. All uses permitted under this Section shall have a front building elevation, along all fronting roads, constructed of at least 50 percent nonmetal building materials. All external lighting shall be directed away from or screened from land zoned other than RAC or C, and away from any public right-of-way. **Where noise is determined to be a probable off-site impact of a proposed use, a noise mitigation barrier of solid structure or earth berm, in addition to vegetative buffer, shall be designed as part of the site plan and constructed.**

Note that this requirement is not present in the C-Commercial or the IND-Industrial zone, and is not considered in general site plans requirements that address other zones. This may be then criticized as discriminatory and an added burden on commercial projects in the rural areas of the county, but was purposefully placed there in recognition that noise may be of greater impact in the rural areas of the county. The present wording does not provide objective criteria for consideration in the site plan process, and should be considered for amendment.

Note also that other sections in the zoning regulations have requirements for addressing noise as follows by section:

7.10 Family Commercial Enterprises, Section F

F. No equipment or process shall be used in such enterprise or occupation which creates ***noise***, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or parcel housing the proposed use.

Note that this section poses several criteria that may be impossible to meet and therefore may not be defensible. This section too may need to be amended to add objective criteria.

7.13 Sport Shooting Ranges, Section B

B. Sport shooting range shall be designed to ***minimize noise*** to surrounding properties. Mitigation shall include soundproofing for indoor shooting ranges. For outdoor shooting range, mitigation shall include minimum distance from active firing lines or stations of 1000 feet from adjacent property lines to front (direction of line of fire) and sides of such firing lines or stations, and 500 feet from the rear (diametrically away from the line of fire) of such firing lines or stations, and shall include a combination of vegetative buffer, earthen buffer and constructed buffer as appropriate.

Note that though “minimize noise” standing alone may be seen as subjective, the mitigation criteria that follow provide objective content.

9.8 AHO Airport Hazard Overlay, Section B

B. Within the Airport Hazard Overlay and within the 65 DNL Contour, prior to the issuance of any building permit or approval of any special exception or variance, any application for permit or special exception or variance shall be forwarded to the McGhee Tyson Airport Authority for review and recommendation on compatibility with the ***Noise Compatibility Program of the Airport Authority***, and any other requirements for airport operations. The Airport Authority shall have 45 days in which to review and make recommendation. Lack of recommendation from the Airport Authority within such 45 days shall be interpreted as a recommendation of no effect in relation to the proposed permit. Any such recommendation finding incompatibility with the Noise Compatibility Program or interference with airport operations shall be grounds for denying a building permit or denying a special exception or variance.

Note that the Airport Hazard Overlay zone already sets an objective standard of average day/night noise level of 65 DNL within a plan adopted by the Airport Authority and is governed by FAA regulations.

Other county regulations adopted under animal control and the general county powers act also address noise without setting objective noise level. See last section of this item for those regulations.

Review of Possible Regulations. Review of internet sources reveals a range of objective requirements for noise based on decibel (dB) levels for different land use situations. Almost all seem to be related to a general noise ordinance and not to specific provisions in zoning regulations. The probable reason for this is that objective noise level requirements in zoning presuppose a method of predicting noise level prior to actual permit and use.

The question would be: How can you determine the objective noise level of a potential use at a specific site through the zoning permit process? This answer assumes a modeling methodology that could address a wide range of potential uses and site characteristics. Such methodologies exist, given evidence that commercial and industrial impact studies address noise issues projectively in some jurisdictions. However, such studies would probably be an added expense in the permit process and require expertise outside the present capabilities of county government.

The following is an example of how noise levels were integrated into a zoning ordinance in Nevada County, California, and may be used as a template for designing a noise element in our zoning regulations. Note that one of the features of this set of regulations is inclusion of rural zones which would be an important consideration for Blount County regulations.

Section L-II 4.1.7 Noise

A. Purpose. The purpose of these regulations is to ensure that future development minimizes unnecessary and annoying noise, by establishing maximum noise levels and standards for evaluating potential noise impacts.

B. Applicability. Noise standards shall apply to all discretionary projects, including Development Permits and Use Permits, unless otherwise excepted in this Section.

C. Definitions.

1. dBA - The "A-weighted" scale for measuring sound in decibels (a unit used to express the relative intensity of a sound as it is heard by the human ear). This logarithmic scale reduces the effects of low and high frequencies in order to simulate human hearing.

2. Leq - The energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). It is the level of constant sound

which, in a given situation and time period, has the same sound energy as does a time varying sound.

3. Lmax - The maximum sound pressure level for a given period of time.

D. Noise Standards. All land use projects requiring a Development Permit or a Use Permit shall comply with the noise standards provided herein. Permitted residential land uses, including parcel and tentative maps, are not subject to these standards.

Table L-II 4.1.7					
Exterior Noise Limits					
Land Use Category	Zoning Districts	Time Period		Noise Level, dBA	
		Start	End	L eq	L max
Rural	AG, TPZ, AE, OS, FR, IDR	7 am	7 pm	55	75
		7 pm	10 pm	50	65
		10 pm	7 am	40	55
Residential and Public	RA, R1, R2, R3, P	7 am	7 pm	55	75
		7 pm	10 pm	50	65
		10 pm	7 am	45	60
Commercial and Recreation	C1, CH, CS, C2, C3, OP, REC	7 am	7 pm	70	90
		7 pm	7 am	65	75
Business Park	BP	7 am	7 pm	65	85
		7 pm	7 am	60	70
Industrial	M1, M2	any time		80	90

1. A comprehensive noise study shall be prepared for all projects requiring a Development Permit or a Use Permit and which have a potential to create noise levels inconsistent with the standards contained herein. The study shall be prepared in accordance with the methodology identified in the Noise Element Manual contained in General Plan, Volume 2, Section 3 – Noise Analysis Appendix A, Table A-1.

2. Projects with the potential for generating noise impacts shall incorporate design controls that assist in minimizing the impacts through the use of increased setbacks, landscaped earthen berms, solid fencing, placement of structures or other effective means.

3. Compliance with the above standards shall be determined by measuring the noise level based on the mean average of not less than three 20 minute measurements for any given time period. Additional noise measurements may be necessary to ensure that the ambient noise level is adequately determined. All measurements shall be conducted by a qualified person experienced in the field of environmental noise assessment and architectural acoustics.

4. Where 2 different zoning districts abut, the standard applicable to the lower, or more restrictive, district plus 5 dBA shall apply.

5. The above standards shall be measured only on property containing a noise sensitive land use, including residences, schools, hospitals, nursing homes, churches, and libraries, and may be measured anywhere on the property containing said land use. However, this measurement standard may be amended to provide for measurement at the boundary of a recorded noise easement or as determined in a recorded letter of agreement between all affected property owners and approved by the County.

6. If the measured ambient level exceeds that permitted, then the allowable noise exposure standard shall be set at 5 dBA above the ambient.

7. Because of the unique nature of sound, the County reserves the right to provide for a more restrictive standard than shown in the Exterior Noise Limits Table. The maximum adjustment shall be limited to be not less than the current ambient noise level and shall not exceed the standards of this Section. Imposition of a noise level adjustment shall only be considered if one or more of the following conditions are found to exist:

a. Unique characteristics of the noise source:

1) The noise contains a very high or low frequency, is of a pure tone (a steady, audible tone such as a whine, screech, or hum), or contains a wide divergence in frequency spectra between the noise source and ambient level;

2) The noise is impulsive in nature (such as hammering, riveting, or explosions), or contains music or speech;

3) The noise source is of a long duration, defined as a cumulative period of more than thirty minutes in any hour.

b. Unique characteristics of the noise receptor when the ambient noise level is determined to be 5 dBA or more below the standard of the Exterior Noise Limits Table for those projects requiring a General Plan amendment, rezoning, and/or Use Permit. In such instances, the new standard shall not exceed 10 dBA above the ambient or the Exterior Noise Limits Table standard, whichever is more restrictive.

8. The above standards shall not apply to those activities associated with the actual construction of a project or to those projects associated with the provision of emergency services or functions.

9. The standards of this Section shall be enforced through compliance inspections and/or complaints.

10. A legal nonconforming use inconsistent with the noise standards of this Section shall be required to comply with said standards in the event it upgrades, enlarges, intensifies, extends, moves, or recommences after abandonment or discontinuance of a period of 180 days or more. In the event such a use is changed or modified through the permit process, the noise standards in this Section shall be applied only to that portion of the land use requiring approval, provided, however, that in no event shall the noise cumulatively generated from the entire use on the site after the change or modification exceed the pre-permit ambient noise level. All such projects that have a potential to create noise levels inconsistent with the standards in this Section will require a noise study consistent with this Section.

Note that the above regulations would not address specific noise complaints after site plan approval permit, such as with operation of an approved business. Such noise complaints would be better addressed by a separate noise ordinance not related to zoning site plan requirements. A site plan approval process can address design issues related to noise, but is not well suited to address operation issues on an on-going basis after permit is issued.

Background on Noise Standards. Noise can be viewed as a health hazard, a safety hazard, and a nuisance or annoyance. In this context, noise is characterized by a level of intensity or other quality above that normally accepted or tolerated by individuals and the community.

Noise, or sound in general, can be measured in decibels or dB of intensity. The scale is logarithmic, meaning that increments of number are not in simple additive relationship, but reflect progressively greater intensity for each numerical increment. Thus a 20 dB sound is ten times greater than a 10 dB sound, and a 30 dB sound is 10 times greater than a 20 dB sound and 10x10 or 100 times greater than a 10 dB sound.

For comparison, sound at 0 to 20 dB is considered very faint, up to the level of a whisper. Up to 40 dB includes low volume radio in an otherwise quiet room. Up to 60 dB includes freeway traffic sound. Normal speech is in the range of 50 to 70 dB. Up to 80 dB includes a noisy school cafeteria. From 80 to 105 dB includes noisy factory, noisy urban street, and a loud car horn at close range. Levels above 105 dB reach into deafening sound and threshold of pain.

Sound can be a health hazard at levels above 70 dB for extended periods of time, and can lead to cardiovascular, digestive, stress, and behavioral and psychological problems (some would peg the level at less than 70 dB). At about 85 dB, prolonged exposure greater than eight hours can result in permanent damage to hearing, and at levels above 105 dB even short exposure can lead to hearing damage.

Noise is unwanted or harmful sound. When sound becomes so intense or prolonged that it causes unwanted health effects, it may be classed as noise. Noise can also pose safety problems if it interferes with receiving necessary signals from the environment such as sirens, alarms, and verbal instructions.

Noise can be a nuisance. The nuisance characteristic of noise is different for different people, and different in different contexts and time of day. Noise can disrupt concentration at work. Noise can interfere with education of children in schools. Noise can interrupt and disturb sleep. Noise can reduce the enjoyment of residential living. Often, it is not only the intensity of the sound, but also the frequency or pulsing of the sound that causes noise to be a nuisance or annoyance. In addition, a sound that is slightly perceived within daytime background sounds, may become a nuisance or annoyance at night when people are more sensitive to sounds.

Increments of sound from various sources are perceived differently in a city with high level of background sound, compared to a quiet rural setting. An increase in sound can be lost to perception in a city context, but be very noticeable and objectionable in a rural context.

Most people expect to enjoy their residences free from unnecessary and unwanted sound. In general, acceptable sound intensity at night in a bedroom would be around 30 to 40 dB, or up to 45 dB with open window. Outside sound levels for regular enjoyment in a quiet neighborhood would be around 45 to 55 dB.

The reception of sound from a source is dependent on distance and intervening barriers. When distance from a point source is doubled, the intensity is reduced approximately 6 dB. Thus, sound measured 10 feet from source at 80 dB, would be 74 dB if 20 feet away, and would be 68 dB if 40 feet away. If there is a barrier such as a solid fence, dense vegetation or an earth berm between sound source and receptor, noise may be attenuated substantially by absorption or reflection.

Perception of noise, or loudness, is not in simple relation to the intensity of the sound. Generally, a reduction of noise by 10 dB would be perceived as a reduction by 1/2 in loudness. For example, a reduction in noise from 60 dB to 50 dB would normally be perceived as reduction in loudness by 1/2. Conversely, an increase of noise by 10 dB would be perceived as a doubling of loudness.

Multiple sources of sound are not linearly additive, and a doubling of equal intensity sound sources would increase overall sound by about 3 dB. As example, two sources of 45 dB each would result in a total sound intensity of 48 dB

combined, and four such sources combined would result in total sound intensity of 51 dB.

Other County Regulations (for reference only). Blount County has adopted two other sets of regulations that also address noise, one is animal control regulations (Resolution 99-03-001 that contains the following:

SECTION 6. Noisy dogs prohibited. No person shall own, keep, harbor, possess or maintain any dog which disturbs the peace and quiet of others by loud and frequent barking, whining or howling. A dog shall be deemed in violation of this section if it barks, whines or howls continuously for a period in excess of one (1) hour and fifteen (15) minutes. This section shall not apply to a dog on a hunt or chase, or a dog guarding or driving livestock, or a dog participating in an organized animal show, or to veterinary clinics or boarding facilities.

The second set of regulations (Resolution 02-02-004) were adopted under the county powers act as indicated in the following preamble and specific regulations:

WHEREAS, upon the adoption of such resolution and pursuant to the provisions of said subsection (22) of Tennessee Code Annotated section 6-2-201, Blount County is authorized to define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the unincorporated areas of the county, and to exercise general police powers.

Regulation No. 1. Motor vehicle requirements. No person shall operate a motor vehicle unless such vehicle (1) is equipped with a properly operating muffler, ...

Regulation No. 30. Causing unnecessary noise. No person operating a motor vehicle shall cause unnecessary noise by sounding the horn, "racing" the motor or causing the "screeching" or "squealing" of the tires thereof.

Regulations No. 45. Antinoise regulations. No person shall create or cause any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare.

(1) The following noises are declared to be in violation of this regulation, but this enumeration shall not be deemed to be exclusive, to wit:

(a) Blowing horns. The sounding of any horn or audible signal device on any motor vehicle while such motor vehicle is not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of such motor vehicle is intended; the creation by means of any horn or audible signal device on any motor vehicle of any unreasonably loud or harsh sound; and the sounding of any horn or audible signal device on any motor vehicle for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, tape recorder or player or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently or in connection with motion pictures, radio or television, in such a manner or with such volume, particularly during the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any office or hospital, or of any person in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling or singing or any highway, street, road or public way, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any office or hospital, or of any person in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird or fowl which by causing frequent or long continued noise shall disturb the quiet, comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any motor vehicle so out of repair, so loaded or in any manner as to cause loud and unnecessary grating, grinding, rattling or other noise.

(f) Exhaust discharge. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) Noises near schools, hospitals, churches, etc. The creation of any loud and excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church or court while the same is in session.

(h) Noises to attract attention. The use of any drum(s), loudspeaker or other instrument or device emitting noise for the purpose of attracting attention to any performance, show or sale or display of merchandise.

(i) Loudspeakers or amplifiers on vehicles. The use of loudspeakers or amplifiers on motor vehicles, either moving or standing, for advertising or other purposes.

(2) None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Government vehicles and authorized emergency vehicles. Any vehicle of any government while engaged in necessary public business and any authorized emergency vehicle.

(b) Repair of streets, etc. Excavations or repairs of bridges, highways, streets, roads or public ways by or on behalf of any government.

Noncommercial and nonprofit use of loudspeakers of amplifiers. The reasonable use of loudspeakers or amplifiers in the course of noncommercial public addresses and in the course of noncommercial functions of nonprofit organizations

GORDON E. WRIGHT, SR.
Blount County Commissioner
District 8 - Seat B
6268 E. Lamar Alexander Parkway, Walland, TN 37886
Phone – 865-983-7413

June 9, 2011

Dear Commissioners:

Attached you will find information taken from CTAS 34th Edition of Tennessee County Tax Statistics dated March, 2011. Other information comes from our own computer systems as well as other documented data.

You will notice, the survey uses the counties we were previously compared to with similar populations. (Sullivan, Sumner, Washington) After extensive research, expenditures in our county cannot be compared to other counties because our departments are set up differently than the other counties, depending on the services they provide. I don't think expenditures comparison is relevant because our bottom line is to fund or not fund. Aside from trying to micro-manage, let's compare total taxes collected in these compared counties. In the attachment you will find comparison of tax rates and also what our tax rate would be if we had their tax base. One big reason why their tax base is larger is that they have more taxed property. Continuing research reveals that Blount County has only about 50% of its land mass taxed. The more research I do, the more untaxed property I find. Compared to the other counties, Blount County has a lot more untaxed property than they do. This, along with other things, erodes our tax base. As you can see, Sumner County has about \$100,000.00 more revenue per \$.01 on the tax rate than we do. If we used their revenue and applied it to Blount County, our tax rate would be at \$1.43. Sumner also had a wheel tax that provides \$6,909,072.00 in addition to a tax rate of \$2.0208. Sumner County also has 1% more Hotel-motel tax and an adequate-facilities tax. So, if you roll their total taxes into their tax rate then their tax rate would be \$2.19 +. Sullivan and Washington Counties have a solid waste tax that we don't, and Washington County has \$.25% more optional sales tax than Blount County. Our tax rate at present ranks 25th, which means 70 other counties have a higher tax rate. Presently, Blount County owns 116 parcels of property, of which 40-50% of those parcels can be added back on the tax roll. One other final research item is that up to 75% of commercial materials and services provided to Blount County are supplied by adjoining counties. This means that the sales tax also goes to those other counties.

Some of these problems can be corrected. This is what I propose:

1. Form a surplus property/tax committee to finish the research and bring back recommendations to the County Commission.
2. Seek State legislation thru this county to remedy certain unbalanced revenue.
3. Other suggestions and ideas of this committee to remedy the situation, such as in lieu of taxes.

Sincerely,

Gordon E. Wright, Sr.
Blount County Commissioner
District 8- Seat B

Attachment

TYPE OF TAX	BLOUNT	SUMNER	WASHINGTON	SULLIVAN
Total Tax Rate	2.04	2.0208	1.9139	2.1307
Solid Waste Tax	0	0	0.0391	0.0202
Capital School Projects	0	0	0	0.0674
Local Option Sales Tax	2.25	2.25	2.5	2.25
1 cent on tax rate	284,682	405,932	294,360	360,393
Blount County Rate compared to above	2.04	1.43	1.97	1.61
Motor Vehicle Tax	0	51	0	0
Adequate Facilities Tax	0	.70/s.f. res./ .40s.f.comm.	0	0
Hotel/Motel Tax	4%	5%	0	0
Mineral Severance Tax	0.15	0.15	0	0.15

WILLIAM R. BREWER, JR.

JUDGE GENERAL SESSIONS COURT
BLOUNT COUNTY TENNESSEE
DIVISION III
BLOUNT COUNTY JUSTICE CENTER
934 EAST LAMAR ALEXANDER PARKWAY
MARYVILLE, TENNESSEE 37804
(865) 273-5570

June 1, 2011

Roy Crawford, Jr.
County Clerk
345 Court Street
Maryville, TN 37804-5906

Re: Blount County Emergency Communications District Budget
Fiscal year 2011/12

Dear Mr. Crawford:

I writing to you in my capacity as chairman of the Blount County Emergency Communications District, the 911 Board.

TCA 7-86-120 requires each emergency communications district to adopt and operate under an annual budget.

Subsection (a) of TCA 7-86-120 sets out the information to be contained the budget.

Subsection (b) of TCA 7-86-120 provides "Prior to adoption by the district, a copy of the proposed budget shall be filed with the clerk or recorder of the appropriate county or municipality, who shall then distribute copies to members of the appropriate legislative body and to members of municipal legislative bodies participating in the district, at least thirty (30) days before the next scheduled meeting of the legislative body. A copy of the proposed budget shall also be filed with the chief administrative officer of the appropriate county or municipality at the same time the budget is filed with the clerk or recorder..."

In order to comply with the provisions of TCA 7-86-120, enclosed please find a copy of the Blount County Emergency Communications District's proposed budget for fiscal year 2011/12.

If you or any member of your legislative body has any questions, please contact me immediately.

Sincerely,



William R. Brewer, Jr.

WRBjr:spm
Enclosure
cc: Jeff Caylor

Emergency Communications District

Blount County

Proposed Operating Budget

2011/2012

Operating Revenue	Current Year	2011/2012
3001- Emergency Telephone Service Charge	\$750,000	\$721,000
3002-TECB-Shared Wireless Charge	\$270,000	\$277,000
3003-TECB Operational Funding	\$375,095	\$375,095
Total Operating Revenue	\$1,395,095	\$1,373,095
Operating Expenses		
4000-Salaries and Wages		
4001-Director/Assistant Director	\$123,406	\$123,406
4002-Administrative Personnel	\$124,482	\$124,482
4003-Dispatchers	\$602,473	\$602,473
4005-Data Processing Personnel	\$80,164	\$80,164
4008-Overtime Pay	\$10,000	\$10,000
4099-Dispatch Supervisors	\$147,066	\$147,066
Total Salaries and Wages	\$1,087,591	\$1,087,591
4100-Employee Benefits		
4101-Social Security	\$67,962	\$67,962
4102-Medicare	\$15,894	\$15,894
4103-Life Insurance	\$2,332	\$2,592
4104-Medical Insurance	\$203,146	\$191,000
4105-Dental Insurance	\$20,477	\$17,740
4106-Disability Insurance	\$9,248	\$8,800
4107-Unemployment	\$1,200	\$1,200
4108-Retirement	\$118,000	\$125,000
Total Employee Benefits	\$438,259	\$430,188

4200-Contracted Services

4201-Addressing/Mapping Expense	\$400	\$400
4203-Auditing Services	\$8,500	\$8,000
4204-Accounting Services	\$4,800	\$4,800
4212-Fees Paid to Service Providers	\$6,000	\$6,000
4216-Janitorial Services	\$12,000	\$12,000
4217-Legal Services	\$500	\$500
4218-Maintenance Agreements	\$44,000	\$44,000
4220-NCIC/TBI/TIES	\$2,224	\$2,224
4225-Pest Control	\$600	\$800
4227-Lease/Rental	\$92,268	\$89,688
Maintenance/Repairs		
4232-Communications Equipment	\$11,160	\$11,160
4233-Building/Facilities	\$4,000	\$5,500
4235-Vehicles	\$500	\$500
4236-Internet	\$15,960	\$13,800
4237-Language Line	\$350	\$350
4299-Lawn Maintenance	\$1,200	\$1,800
Total Contracted Services	\$204,462	\$201,522

4300-Supplies and Materials

4301-Operating Supplies	\$20,000	\$17,000
4304-Postage/Printing	\$1,000	\$850
4306-Uniforms	\$3,000	\$1,500
4307-Utilities/Electric	\$30,000	\$38,000
4308-Utilities/Gas	\$5,000	\$3,000
4309-Utilities/Water	\$500	\$1,200
4310-General Telephone	\$19,000	\$19,000
4311-Cell Phones/Pagers	\$6,500	\$6,000
4399-Water Service	\$700	\$700
Total Supplies and Materials	\$85,700	\$87,250

4405-Dues and Memberships	\$3,000	\$3,000
4405-Employee Testing/Exams	\$500	\$350
4407-Workman's Compensation	\$4,200	\$4,000
4408-Liability	\$8,000	\$8,000
4409-Property Insurance	\$7,500	\$8,300
4414-Premiums On Surety Bonds	\$1,500	\$1,500
4417-Service Awards	\$750	\$750
4418-Training Expense	\$5,000	\$4,500
4419-Travel Expense	\$4,500	\$4,000
Total Other Charges	\$34,950	\$34,400
4500-Depreciation	\$148,000	\$120,000
Non-Operating Revenues		
Interest Income	\$20,000	\$15,000
Contributions-Blount County	\$302,133	\$302,133
Contributions-City of Maryville	\$151,066	\$151,066
Contributions-City of Alcoa	\$151,066	\$151,066
Contributions-City of Townsend	\$6,104	\$6,104
Miscellaneous Income	\$6,000	\$6,000
Interest Expense	(\$50,000)	(\$50,000)
Total Non-Operating Revenues	\$586,369	\$581,369
Total Revenues	\$1,981,462	\$1,954,464
Total Expense	\$1,998,962	\$1,960,951
2203-Capital Expense/Notes-Long Term	\$41,000	\$41,000