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Private Acts of 1955 Chapter 238

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Table of Contents

Private Acts of 1955 Chapter 238	3
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Private Acts of 1955 Chapter 238

COMPILER'S NOTE: Part of this act may have been superseded by the County Uniform Highway Law. See Tennessee Code Annotated, Title 54, Chapter 7

SECTION 1. That Chapter No. 337 of the Private Acts of the General Assembly of the State of Tennessee for the year 1953, the caption of which Act is set forth in the caption of this Act, be and the same is hereby repealed.

SECTION 2. That this Act shall apply to Marshall County, Tennessee.

SECTION 3. That for the purpose of providing an efficient system of laying out, building, constructing, re-constructing, maintaining and repairing of public roads in Marshall County, Tennessee, public roads in said county shall be classified as Federal Aid Roads, State Maintained Roads and County Maintained Roads.

SECTION 4. That the Office of County Road Superintendent shall be a person not less than twenty-one (21) years of age and of good moral character and shall be a graduate of an accredited school of engineering or shall have had at least five (5) years of practical experience in a supervisory capacity in the construction or maintenance of public roads, except that the experience and educational requirements set out herein shall not be construed to prevent an incumbent County Road Supervisor from succeeding himself in office without limitation as to the numbers of terms. The County Road Superintendent shall be elected by the qualified voters of Marshall County at the regular election held in August 1974, to take office September 1, 1974. His term and those terms of all succeeding County Road Supervisors shall be four (4) years.

As amended by: Private Acts of 1974, Chapter 347

Before beginning the performance of the duties of the said Office, the County Road Superintendent shall execute a good and solvent bond, to be approved by the County Judge, in the amount of twenty thousand dollars, for the faithful performance of his duties and for a proper accounting of all property of the County coming into his hands. And he shall take an oath to support the Constitution of the United State of America, and the Constitution of the State of Tennessee, and to faithfully and impartially perform the duties of his Office, to the best of his ability.

The County Road Superintendent shall be paid an annual salary equal to that authorized for the compensation of the county assessor of property as set out in Tennessee Code Annotated, Section 8-2405 [§8-24-102], which shall be payable in twelve (12) equal monthly installments, drawn by the County Judge on the general road fund provided for in this Act.

As amended by: Private Acts of 1967, Chapter 254
Private Acts of 1972, Chapter 297
Private Acts of 1974, Chapter 347

In the case of the death, resignation, removal, or vacancy for any cause, in the Office of County Road Superintendent, the Quarterly County Court of said County shall elect another qualified person to fill said vacancy, who shall hold said office for the remainder of their term, and until his successor is duly elected and qualified.

SECTION 5. The County Road Superintendent shall keep on file in his office a statement showing the various road sections in the several civil districts and also such road sections as are partly within one district and partly within another; and said County Road Superintendent shall make report to the Quarterly County Court of said County at the regular quarterly sessions thereof, in which report he shall make an itemized statement of the expenditures or disposition of all road and bridge funds during the preceding quarter, showing in said report to whom such funds have been paid and the amount paid each person, and for what materials or services the same were paid, and on what roads and bridges said services were performed.

As amended by: Private Acts of 1978 Chapter 186

SECTION 6. That it shall be the duty of the County Road Superintendent to determine the roads and bridges to be built, worked or maintained, and the necessary changes if any to be made in any roads or bridges, to supervise the rural road construction and maintenance in said county. Said County Road Superintendent shall have general supervision of all road work, maintenance, repairing, constructing, grading and drainage of county roads, and the building and maintenance of all bridges, not maintained by the State of Tennessee, or the Federal government. Said County Road Superintendent shall determine and recommend to the purchasing agent the machinery, materials, tools, equipment and supplies required for the construction and maintenance of county roads and bridges. It shall be the duty of the County Road Superintendent to employ such laborers, supervisors, mechanics, and other workers as in his judgment may be necessary for the construction and maintenance of all county roads and bridges, and to fix their

compensation. But no person shall be employed by said County Road Superintendent who is related to him by affinity or consanguinity within the third degree according to the civil law.

As amended by: Private Acts of 1959, Chapter 18
Private Acts of 1972, Chapter 297

SECTION 7. That all warrants drawn on any general or special road fund, or gasoline tax fund, or bridge fund of said county, shall be signed by the County Road Superintendent, counter signed by the County Judge or Chairman, otherwise to be void, and it shall be a misdemeanor on the part of the County Trustee to honor or pay out any sum of money on any warrant not so signed and countersigned.

SECTION 8. That it shall be the duty of said County Road Superintendent to negotiate with the Highway Department of the State of Tennessee for the rental or lease of machinery or other equipment if necessary to proceed with road work in said county. The County Road Superintendent shall have the general supervision of the expenditure of the gasoline money received from the State of Tennessee, and all other revenue that may be available for the improvement of county roads and bridges.

However, the County Road Superintendent shall make no contract or agreement to lease, rent, or hire, and he shall not make any purchase or contract or purchase any material, equipment, machinery, tools, gasoline or other fuel, tires, supplies or articles of any nature or description, in any amount; and he shall not exchange any equipment or material, without first obtaining the written approval of the County Judge of said County; and in no event shall any such contract, agreement or purchase be made unless there are at the time thereof sufficient road funds in the hands of the County Trustee available for immediate cash payment thereof; and upon delivery of any such material, equipment, machinery, tools, gasoline or fuel, tires, supplies, or articles of any nature or description, said County Road Superintendent shall immediately and forthwith issue and deliver to the seller, or sellers, or contractors, a warrant or warrants in payment therefor, which warrant or warrants shall be countersigned by the County Judge. Any contract or agreement made contrary to the provisions of this section shall be void.

SECTION 9. That said County Road Superintendent shall not lend himself, his office, nor any of his employees or any county owned equipment, material; nor shall he use the same, for the purpose of working upon, repairing, maintaining or constructing any road, roadway, or driveway, or otherwise making any improvement, upon any privately owned property. Any if any employee of the County shall violate this provision, it shall be the duty of the County Road Superintendent to immediately discharge him, and the duty of the County Judge to refuse to sign any warrant for pay for services rendered after said violation.

SECTION 10. That the Superintendent of the workhouse in said County, shall be the Sheriff of the county, who shall serve ex-officio and without additional compensation, as provided by law in such counties as have declared the county jail to be the workhouse or in counties where the jail is used as a workhouse. And it shall be the duty of the superintendent of the workhouse to turn over or deliver to the County Road Superintendent the custody and control of all workhouse prisoners that have been or may hereafter be committed to the workhouse whenever the said County Road Superintendent shall demand them for the purpose of working said prisoners on the roads of the county. Nothing in this Act shall be construed so as to release the sheriff or jailer from any responsibility for such prisoners which may be now or hereafter imposed by law, except when such prisoners are actually working or going to and returning from work or are under the direction of the County Road Superintendent. It shall be the duty of the County Road Superintendent to work all of the prisoners committed to the workhouse upon the roads of the county, except such prisoners as are physically unfit for hard labor, and excepting female prisoners; but prisoners shall not be required to work during periods rendered unsuitable and unfit by weather conditions.

The County Road Superintendent shall have the power and authority to employ such guards as may be necessary to safely keep said prisoners while working and going and returning from work.

SECTION 11. That it shall be the duty of the County Road Superintendent to file on the first day of each Calendar month with the County court Clerk, an itemized account containing the names of all workhouse prisoners he has worked during the preceding month and the days and parts of days worked by each, together with an itemized account of all expenses incurred in transporting them to and from work, and which account so rendered and filed include a statement of the amount due for board of said workhouse prisoners during the preceding month, which board account shall be according to that rate fixed and prescribed by the Quarterly County Court as provided by law; provided, however, that the board for any prisoner or prisoners of the workhouse shall not be included in this statement, nor paid thereunder, unless said prisoner was committed to said workhouse under a mittimus properly issued by a Court of proper and competent jurisdiction in said county; and said County Court Clerk shall place the same upon the appropriate docket of the county court and the accounts so certified and filed shall be paid out of the general road fund for said county court; and the accounts so certified and filed shall be paid out of the general road fund for said county, by warrant drawn on said fund issued and signed by the County Road

Superintendent and countersigned by the County Judge. Provided, however, that no turnkey fees shall be paid out of said general road fund, and no board shall be paid out of said road fund for any female prisoner or any prisoner physically or mentally unable to perform hard labor.

SECTION 12. That all applications to open, change, close or restore to the public use any and all county public roads, shall be made by written petition to the County Road Superintendent, stating the district or districts in which the road is located, or is to be located, giving a complete description of the present road and the desired change or changes, and shall also state the names of the landowners to be affected thereby. The County Road Superintendent shall, within ten days after the application has been filed with him, notify the owners of land affected by said change, of the date on which he will be present at the beginning point mentioned in said petition, to act on the application. If any landowner affected by the proposed change is a non-resident of Tennessee, then such notice shall be given to his agent or attorney residing in the county, and such notice shall be binding on the landowner. The County Road Superintendent shall attend at the appointed time and place if he has given the proper notice as required herein, and he shall act upon the application, assess the damages, if any, against the county and report his action to the Quarterly County Court, and file with his report the original application or petition and notice to landowners and a full report of his action on the same, stating the new location of the road so opened, changed or closed, and the amount of damages allowed to the parties damaged.

The County Road Superintendent may adjourn the hearing in such cases from time to time and summon witnesses through the sheriff or his deputies and shall have power to administer oaths to witnesses. All findings of the County Road Superintendent shall be in writing and certified to the Quarterly County Court. The County Judge or chairman shall have the petition and the report entered upon the record in the Office of the County Court Clerk and the amount of damages entered upon the appropriation docket; and there shall be appropriated a sufficient amount of money to pay all damages to landowners affected, and warrants issued to the proper parties therefor. Any party or parties dissatisfied with the action of the County Road Superintendent in the premises may appeal to the next term of the Circuit Court of Marshall County, provided the appeal is perfected within ten days from the date of the appropriation for damages.

The County Road Superintendent may of his own motion and upon his own initiative, refuse to consider any petition so filed, or may open, change, close or restore to the public use any and all roads without a petition, by observing all of the essential requirements as set out above in the case of petitions.

The County may condemn said necessary rights of way by the procedure provided by the Statutes of Eminent Domain of the State of Tennessee.

SECTION 13. That the County Road Superintendent shall not contract with himself or with any member of the Quarterly County Court or any other public official of Marshall County, Tennessee, in any manner, either directly or indirectly, for any material or in any manner pertaining to the construction, maintenance and repair of roads or bridges, or with any one related to himself by affinity or consanguinity within the third degree according to the civil law.

SECTION 14. That the Quarterly County Court of Marshall County, Tennessee shall at the January term of said Court, each year, levy for road purposes an ad valorem tax of not less than five cents nor more than twenty cents on each one hundred dollars worth of taxable property in the county, to be collected by the county trustee; provided, that the ad valorem tax on merchants shall be collected by the county court clerk.

In adopting the budget of the county road system for the fiscal year July 1, 1983, through June 30, 1984, and annually thereafter, the legislative body of Marshall County shall make provisions in the budget for local revenues for county road purposes; such provisions shall be in a maximum amount as determined by such legislative body, but such provisions shall not be less than an amount equal to at least ten cents (10¢) on the local county tax rate.

As amended by: Private Acts of 1974 Chapter 347
Private Acts of 1983, Chapter 13

SECTION 15. That all taxes collected from the above tax source or other sources for county road purposes, and other road taxes, except the gasoline tax fund, collected for or received by the county through the State or any of its agencies, shall constitute the general road fund of the county.

SECTION 16. That all contracts between said county for the grading of roads, construction and maintenance thereof, and for construction and repair and maintenance of bridges, and all other forms of improvements on the county roads and bridges shall be signed on behalf of the county by the County Road Superintendent, in triplicate, one copy to be kept on file in the Office of the County Court Clerk, one to be kept by the Purchasing Agent of the County, and the other given to the contractor.

SECTION 17. That if any sections or portions of this Act are declared unconstitutional such section or portion of the Act shall be considered severable, and the remainder of this Act shall remain in full force

and effect, it being the legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void portion or part had not been included herein.

SECTION 18. That all laws and parts of laws applying to Marshall County, Tennessee in conflict with this Act, be and the same are hereby repealed.

SECTION 19. That it shall be the duty of the County Road Supervisor to prepare a five (5) year construction and improvement program which shall be revised and updated at the beginning of each succeeding fiscal year. The priorities for the proposed improvements shall be established based on traffic, functional classifications, and the desirable levels of service and safety necessary for educational, religious, industrial and other institutions and establishments.

As amended by: Private Acts of 1974, Chapter 347

SECTION 20. That this Act shall have no effect unless the same shall be approved by a majority of the voters voting in an election to be held for such purpose. Such election shall be held at every voting place in Marshall County at the same time as the regular election for County officers in August, 1956, and it shall be the duty of the Election Commissioners of Marshall County to cause separate ballots to be printed containing nothing save the title of this Act. Voters shall vote for or against its adoption. The votes cast at such election shall be canvassed by the County Board of Election Commissioners upon the first Monday following the election and the results shall be proclaimed by such Board and certified to the Secretary of State. The qualification of voters shall be that provided by law for participation in general elections and all laws applicable to general elections shall apply to an election held hereunder.

SECTION 21. That Section 19 shall take effect from and after the passage of this Act, the public welfare requiring it. The remaining portions of this Act, if the same is approved in accordance with Section 19, shall take effect on the first Monday following the regular election in November, 1956. In the event this Act is approved by a vote of the people, the present members of the County Highway Commission shall hold over until the next Monday following the general election in November, 1956, and until that date shall function under the Private Acts of 1953, Chapter 337.

Passed: March 8, 1955.

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