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Chapter I - Administration

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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Chapter I - Administration

Codes

Incorporation by Reference

Private Acts of 1967-68 Chapter 436

SECTION 1. Definitions. That as used in this Act, the following terms shall have the meanings indicated;

(a) Governing Body. The Quarterly County Court, Board of Commissioners, County Council, or other body in which the general legislative powers of a county are vested.

(b) Code. Any published compilation of rules which have been prepared by technical trade associations or model code organizations including housing, regulating building construction, electrical wiring, plumbing and gas installation.

SECTION 2. Adoption and Amendment of Code Reference. That the governing body of any County may adopt or repeal a resolution which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of such code in full. At least three copies of such code, portion or amendment which is incorporated by reference shall be filed in the office of the County Court Clerk and there kept for public use, inspection and examination. The filing requirements herein prescribed shall not be deemed to be complied with unless the required copies of such code, portion, or amendment are filed with the Clerk for a period of ninety days before the adoption of the resolution which incorporates such code, portion or amendment by reference. No resolution incorporating a code, portion or amendment by reference shall be effective until published in a newspaper having a general circulation in the County.

SECTION 3. Administration. That the adopting resolution may also incorporate by reference the administrative provisions of any code, or may include in the adopting resolution any suggested administrative provisions found in a code. Should a code not contain administrative provisions, the administrative provisions of another code may be adopted by reference, or may be adapted and included in the adopting resolution. The powers and duties of enforcing the provisions of any code incorporated by reference may be conferred upon such officials within the existing framework of the county government as the governing body may determine, such as, but not limited to, officials administering zoning and planning regulations of the county.

SECTION 4. Enforcement. That the County Attorney or any official vested with the powers of enforcing the provisions of any code incorporated by reference may, in addition to any other remedies provided by law, institute injunction to prevent the violation of any provisions of such code.

SECTION 5. Penalties. That the authority of this Act shall not extend to the incorporation by reference of any penalty clause contained in a code. Any person, firm or corporation or agent who shall violate a provision of any code incorporated by reference or fail to comply therewith or with any of the provisions thereof, or violate a detailed statement or plans submitted and approved thereunder, shall be guilty of a misdemeanor. Each such person, firm or corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of a code is committed or continued, and upon conviction for any such violation shall be punished by a fine of not more than fifty dollars.

SECTION 6. Applicability. That the provisions of this Act shall apply only to the unincorporated area of a county adopting such a code resolution and to those incorporated cities and towns within the county which do not elect, now or hereafter, to adopt their own codes regulating the same subject areas.

SECTION 7. Validity. That if any section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

SECTION 8. That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of DeKalb County within sixty (60) days after the sine die adjournment of the General Assembly of the State of Tennessee for the year, 1968. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve, or disapprove, and shall be certified by him to the Secretary of State.

SECTION 9. Effect. That this Act shall be effective from and after its passage, the public welfare requiring it.

Passed: April 2, 1968.

County Register

Recording of Deeds

Private Acts of 1961 Chapter 356

SECTION 1. That in all counties of this State having a population of not less than 10,770, nor more than 10,800 according to the Federal Census of 1960 or any subsequent Federal Census, any purchaser of real estate located in such County or Counties is hereby required to record in the County Register's Office of such County, the deed conveying such property within one year after receipt thereof. Failure to record such deed as above provided shall constitute a misdemeanor punishable by a fine of not less than \$25.00 nor more than \$50.00.

SECTION 2. That this Act shall have no effect unless the same be approved by a two-thirds vote of the Quarterly County Court of any County to which this Act applies. The presiding officer of such body shall proclaim its approval or non-approval and certify the same to the Secretary of State.

SECTION 3. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 17, 1961.

Purchasing

Private Acts of 1979 Chapter 63

SECTION 1. (a) A Purchasing Committee shall be established for DeKalb County. The Purchasing Committee shall consist of four (4) regular members and two (2) transient members. The County Judge or Executive and three (3) members of the Board of County Commissioners shall be regular members. The superintendent of county schools and the county supervisor of public roads shall be the transient members. A transient member shall serve on the Purchasing Committee only when requisitions, contracts, or other matters concerning the transient member's department are on the agenda of a meeting of the Purchasing Committee. While serving on the Purchasing Committee, the transient members shall be entitled to speak, vote and participate in decision making as fully as a regular member. The Board of County Commissioners shall select three (3) of its members to serve on the Purchasing Committee for terms to be specified by resolution of the Board of County Commissioners, not to exceed the remainder of the members' term on the Board of County Commissioners. The Board of County Commissioners may by resolution, remove any of its members serving on the Purchasing Committee. All other departments of county government shall be represented on the purchasing committee by the County Judge or Executive, and when such judge or executive is acting in this capacity, he shall be considered a regular member rather than a transient member.

(b) Four (4) members of the Purchasing Committee shall constitute a quorum when the superintendent of county schools or the county supervisor of public roads is serving as a transient member on the Purchasing Committee, otherwise three (3) members shall constitute a quorum of the Purchasing Committee. The assent of a majority of the members present, a quorum being present, shall be necessary for valid approval of any requisition, contract, or other matter requiring the approval of the Purchasing Committee. The County Judge or Executive shall serve as chairman of the Purchasing Committee. The Purchasing Committee shall elect from among its regular members a secretary who shall keep minutes of the actions of the committee.

(c) The heads of departments or agencies expending funds appropriated by the Board of County Commissioners of DeKalb County shall submit requisitions to the County Judge or Executive whenever an item or multiples of an item to be purchased or contract of services to be executed exceeds fifteen hundred dollars (\$1,500.00) in any fiscal year, except food items used by the various departments, textbooks and library books used in the county school system and emergency purchases made in accordance with the provisions of Section 8 of this Act.

(d) The term "item" as used in this Act shall mean all materials or services that are identical or nearly identical in nature. The Purchasing Committee may determine, if necessary, whether particular materials or services shall be considered as an identical or nearly identical "item".

As amended by: Private Acts of 1979, Chapter 115

SECTION 2. The DeKalb County Judge or Executive shall serve as purchasing agent for all purchases approved by the Purchasing Committee of DeKalb County, and he is authorized to issue or approve appropriate drafts or checks, provided the provisions of this Act are complied with. The County Judge or Executive shall receive a supplemental salary in the amount of five hundred dollars (\$500.00) annually, to be paid in equal monthly installments, for his services as purchasing agent for the DeKalb County Purchasing Committee.

As amended by: Private Acts of 1979, Chapter 115

SECTION 3. Purchases or contracts for the purchase or rental of supplies, equipment, or materials approved by the Purchasing Committee are to be executed by the County Judge or Executive. When the cost of an item or multiples of an item to be purchased or contract for services executed in any fiscal year is less than ten thousand dollars (\$10,000), competitive bidding shall not be required, nor notice or advertising required; but in making such purchases, the purchasing agent or department head shall be diligent in securing competition among dealers, persons, or manufacturers, who are offering such material, supplies, or equipment for sale, and the purchasing agent or department head shall always secure the lowest price possible with due consideration for the quality of the item or items purchased, and in no instance shall any supplies, materials, or equipment purchased under the authority of this Act be purchased at a price higher than the prevailing market price for such supplies, materials or equipment. All contracts for legal services, auditing services by certified public accountants, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded on the basis of recognized competence and integrity; provided further that bids shall not be required for services for which the rate of price is fixed by a public authority authorized by law to fix such rates or prices. The county may purchase materials, supplies, commodities, and equipment from any federal, state or local governmental units or agency, without conforming to the competitive bidding requirements of this Act.

As amended by: Private Acts of 1979, Chapter 115
Private Acts of 1996, Chapter 157
Private Acts of 2013, Chapter 7

SECTION 4. All purchases of an item or multiples of an item to be purchased in any fiscal year by a particular department or agency expending funds appropriated by the Board of County Commissioners of DeKalb County exceeding ten thousand dollars (\$10,000) shall be made in accordance with the following procedure:

- (a) The purchasing agent (County Judge or Executive) shall solicit sealed bids by public notice inserted in a newspaper of county-wide circulation five (5) days prior to the final date for submitting bids and by posting notices on a public bulletin board in the county courthouse. The purchasing agent shall also, when deemed necessary or desirable, solicit sealed bids by sending requests by mail to prospective suppliers. All such notices shall include a general description of the commodities or contractual services to be purchased or rented and shall state where bid blanks and specifications may be obtained and the time and place for opening bids.
- (b) At the time and place selected by the purchasing agent, and fixed in the advertisement the purchasing agent shall present the sealed bids to the Purchasing Committee.
- (c) The Purchasing Committee shall meet and publicly open the sealed bids at the time and place fixed in the advertisement. Each bid, with the name and address of the bidder, shall be entered on the record, and each bid with the names of the bidders, the amount of their bids, and the name of the successful bidder indicated thereon, shall after the award or contract, or order, be open for public inspection. The Purchasing Committee may accept or reject any bid or any portion of any bid.
- (d) The purchasing agent shall execute the contract or purchase order upon the approval of the Purchasing Committee.

As amended by: Private Acts of 1979, Chapter 115
Private Acts of 1996, Chapter 157
Private Acts of 2013, Chapter 7

SECTION 5. The Purchasing Committee shall prescribe regular purchase order forms. No purchase order shall be issued in an amount exceeding the unexpended balance of the amount appropriated by the Board of County Commissioners for the appropriation year in which the purchase is made, except where the Board of County Commissioners has found and declared an emergency impending or in existence, and has specifically authorized such excess expenditure.

As amended by: Private Acts of 1979, Chapter 115

SECTION 6. Each purchase order or contract issued or executed by the County Judge or Executive as purchasing agent shall be evidenced by a order signed by the County Judge or Executive, which shall give

all significant details respecting such order or contract. The Purchasing Committee shall prescribe the manner by which contracts and purchase orders shall be filed and maintained for each department or agency expending funds appropriated by the Board of County Commissioners of DeKalb County.

As amended by: Private Acts of 1979, Chapter 115

SECTION 7. Upon the approval of a requisition or contract by the Purchasing Committee, the County Judge or Executive, as purchasing agent, and as herein provided, shall forthwith arrange for, and purchase such materials, supplies, or equipment, in conformity with the provisions of this Act, and shall arrange for and purchase such necessary materials, supplies, and equipment when so requested by the proper authorities as this Act provides.

As amended by: Private Acts of 1979, Chapter 115

SECTION 8. The Purchasing Committee may authorize any department or agency of the county government to purchase in the open market, without filing requisition or estimate, any supplies, materials, or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work; but such emergencies shall not include conditions arising from neglect or indifference in anticipating normal needs. Such direct emergency purchases, however, may only be made by department or agency heads at times when the office of the county purchasing agent is closed. At all other times, only the county purchasing agent shall make these purchases. A report of such emergency purchase, when made by a department or agency head, together with a record of the competitive bids secured and upon which it was based, shall be submitted in writing to the county purchasing agent before the close of the next working day following the date of such purchase, by the head of the county department or agency concerned, together with a full and complete account of the circumstances of such emergency. Such report shall be kept on file and shall be open to public inspection.

SECTION 9. The Purchasing Committee shall review each calendar quarter all purchase orders of each county department and any unsound purchasing practices shall be brought to the attention of the department head. If upon subsequent review, the Purchasing Committee finds that the department head continues in such unsound practices, the Purchasing Committee shall list these practices in a detailed report to the Board of County Commissioners.

SECTION 10. Notwithstanding any other provision of this Act, the Purchasing Committee may prescribe rules authorizing the heads of departments or agencies expending funds appropriated by the Board of County Commissioners of DeKalb County to repair equipment without complying with the provisions of Section 4 of this Act.

As amended by: Private Acts of 1979, Chapter 115

SECTION 11. No chief officer or buying agent of any department or agency of the county government shall devise or draft purchase orders for any purchase for the purpose of circumventing the provisions of this Act.

SECTION 12. The County Commissioner is authorized to create and establish by an appropriate resolution a public works committee to be composed of three (3) members from the county commission, the County Judge or Executive, and the chief officer of the appropriate department of county government for the purpose of supervising, overseeing, and negotiating public works' contracts.

SECTION 13. Chapter 161 of the Private Acts of 1971, is hereby repealed.

SECTION 14. In the event any section, sentence, or part of this Act shall be held to be unconstitutional, such invalidity or unconstitutionality shall not be held to affect or invalidate the remainder of the Act and that it is the intent of the General Assembly that every part of this Act be severable.

SECTION 15. This Act shall have no effect unless the same shall have been approved by a two-third (2/3) vote of the Board of County Commissioners of DeKalb County, Tennessee. Its approval or non-approval shall be proclaimed by the presiding officer of the Board of County Commissioners of DeKalb County and certified by him to the Secretary of State.

SECTION 16. This Act shall be effective for purposes of approval by the county legislative body upon becoming a law, the public welfare requiring it. For all other purposes this Act shall take effect upon being approved as provided in Section 15 of this Act.

Passed: April 11, 1979.

Administration - Historical Notes

County Attorney

The following act once affected the appointment, election, or office of the county attorney in DeKalb

County. This act is included for historical reference only. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1931, Chapter 29, created the office of County Attorney, naming P. C. Crowley to serve until September, 1932. At the regular August election of 1932, and every two years thereafter, the office would be filled by popular election. Compensation was set at \$600 per annum, payable monthly, out of the general funds of the county. This Act was repealed by Private Acts of 1935, Chapter 32.

County Clerk

The following act once affected the office of county clerk in DeKalb County. It is included herein for historical purposes. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1919, Chapter 796, made it the duty of the Clerk of the County Court to prepare and publish, twice each year, in a newspaper published in the county, a statement showing the condition of the county's finances as of January 1 and June 1. This Act was repealed by Private Acts of 1921, Chapter 724.

County Executive

The references below are of acts which once applied to the office of county judge, or county executive in DeKalb County. They are included herein for historical purposes only. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1871, Chapter 133, created the office of County Judge for DeKalb County and Carroll County. A person, learned in the law, would be elected by the voters for an eight year term. The Quorum Courts were abolished and their jurisdiction was transferred to the County Judge. They would have the same jurisdiction as the Chairman of the County Court over which they would now preside. The County Judge would be the accounting officer and general agent of the county. The compensation was set at \$5 per day during the sitting of the Monthly and Quarterly Courts. The Quarterly Court was authorized to make additional compensation to the Judges out of the county treasuries.
2. Acts of 1872 (Ex. Sess.), Chapter 1, amended Acts of 1871, Chapter 133, by authorizing the County Court to elect a qualified person as a County Judge on a temporary basis until the regular August election of 1872. The County Judge was given the same authority to maintain order that the Circuit Judge possessed.
3. Acts of 1883, Chapter 15, amended Acts of 1871, Chapter 133, to abolish the office of County Judge for DeKalb County.
4. Acts of 1893, Chapter 49, created the office of County Judge in DeKalb County. He would be popularly elected and would serve an 8 year term. He would possess all the jurisdiction of the Chairman of the County Court whose office was abolished. The act set the compensation at \$350 annually.
5. Acts of 1911, Chapter 599, set the compensation of the County Judge for his services as accounting officer and financial agent of the county at \$250 per annum.
6. Private Acts of 1921, Chapter 301, raised the salary of the County Judge to \$1,000 per year. The County Judge was granted concurrent jurisdiction with Chancellors and Circuit Judges to grant fiats in the Circuit and Chancery Courts.
7. Private Acts of 1933, Chapter 201, allowed the County Judge to grant fiats while stating the Judge was not required to have any greater qualifications than required for the office of County Judge.
8. Private Acts of 1949, Chapter 668, amended Private Acts of 1921, Chapter 301, to increase the compensation of the County Judge to \$2,400 per annum. The County Judge would also serve as fiscal and purchasing agent of the county, but would not receive additional compensation for these duties.
9. Private Acts of 1949, Chapter 669, stated that the compensation of the County Judge, for his services as accounting officer and financial agent of the county, would be \$900 per annum.
10. Private Acts of 1953, Chapter 547, amended Private Acts of 1949, Chapter 669, to raise the compensation from \$900 to \$1,500 per annum.

County Legislative Body

The following acts once applied to the quarterly court or the county legislative body of DeKalb County and are included herein for historical purposes.

1. Acts of 1839-40, Chapter 2, validated the Act passed on December 11, 1837, which was never published, that created DeKalb County. The County Court was established and given the power to nominate locations for the seat of justice. The County Court would appoint five commissioners to purchase the land for the county seat and lay off a town.
2. Acts of 1872 (Ex. Sess.), Chapter 1, ratified all the Acts done by the Quorum Court of DeKalb County. The County Court was empowered to elect a County Judge.
3. Acts of 1875, Chapter 42, authorized \$1.50 per diem for Justices of the Peace attending Quarterly Court.
4. Acts of 1889, Chapter 246, authorized mileage at the rate of five cents a mile to Justices of the Peace attending Quarterly Court. Certain limitations were included.
5. Private Acts of 1917, Chapter 631, amended Acts of 1875, Chapter 42, to increase the per diem to \$2.50, and Acts of 1889, Chapter 246, to allow all Justices to receive the same rate of mileage.
6. Private Acts of 1921, Chapter 341, raised the per diem to \$3, and the mileage to 25 cents per mile for Justices of the Peace.
7. Private Acts of 1923, Chapter 23, amended Private Acts of 1921, Chapter 341, by reducing the per diem to \$2, and the mileage to five cents per mile.
8. Private Acts of 1955, Chapter 245, would have raised the per diem to \$5 and the mileage to ten cents per mile, one way, but this Act was never ratified by the Quarterly County Court.
9. Private Acts of 1961, Chapter 28, would have raised the per diem to \$5 and the mileage to ten cents per mile, one way, but this Act was never ratified by the Quarterly County Court.

County Trustee

The following act once affected the office of county trustee in DeKalb County, but is no longer operative.

1. Private Acts of 1945, Chapter 512, required the County Trustee to enter into a bond in a penalty equal in amount to the County taxes to be collected for the ensuing year. The Trustee shall pay the premiums out of the emoluments of his office.

Purchasing

The following acts once affected the purchasing procedures of DeKalb County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1919, Chapter 526, authorized the appointment by the Quarterly County Court of a three member Purchasing Commission, whose duty was to buy all supplies needed by the County. They would hold office for one year and be paid \$25 per annum. This was repealed by Private Acts of 1921, Chapter 327.
2. Private Acts of 1943, Chapter 156, provided that the DeKalb County Judge would act as Purchasing Agent for the county and would have sole authority to purchase all materials, supplies, and equipment used by the County. This Act was repealed by Private Acts of 1971, Chapter 160.
3. Private Acts of 1971, Chapter 161, provided that the County Judge of DeKalb County would serve as the purchasing agent for the county. The Road Supervisor and the Superintendent of Schools had authority to purchase items of \$500 or less, but for all other county departments the County Judge was the sole purchasing agent. This Act was repealed by Private Acts of 1979, Chapter 63.

General Reference

The following private or local acts constitute part of the administrative and political history of DeKalb County but are today no longer operative because they have either been superseded, repealed, or failed to receive local approval. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Acts of 1843-44, Chapter 10, attached the 141st Regiment of Tennessee Militia, in the county of DeKalb, to the 9th Brigade. This Act was repealed by Acts of 1849-50, Chapter 3, and Acts of 1845-46, Chapter 205.
2. Acts of 1849-50, Chapter 3, attached the 141st Regiment of Tennessee Militia, in DeKalb County, to the 8th Brigade.
3. Acts of 1857-58, Chapter 126, abolished the office of Entrytaker, placing his duties with the office of County Surveyor.
4. Acts of 1903, Chapter 371, authorized DeKalb County to become a stockholder in a railroad from Smithville to Watertown or Lebanon or Brush Creek, up to the amount of \$150,000.

5. Private Acts of 1917, Chapter 574, authorized the Quarterly County Court to extend the time within which the Nashville and Eastern Electric Railway Co. could construct and put into operation a railway from Smithville to Lebanon.
6. Private Acts of 1927, Chapter 620, required county officials to make their bonds with a valid bonding company, and set the amount of those bonds. This Act would not apply to incumbents in office.

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