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Private Acts of 1969 Chapter 133

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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Private Acts of 1969 Chapter 133

SECTION 1. That this Act apply only to counties in the State of Tennessee having a population of not less than 24,250 nor more than 24,265, according to the Federal Census of 1960, or any subsequent Federal Census.

SECTION 2. That for the purpose of this Act, the public roads within the limits of the Counties to which this Act applies shall be classified as: (1) Interstate, or Federal Roads or Highways; (2) State of Inter-County Roads or Highways; (3) County Roads or Highways.

SECTION 3. That there is hereby created the Office of County Road Superintendent for such counties as this Act applies to, and said County Road Superintendent shall be twenty-one years of age, or over, of good moral character, and shall be a resident citizen and a freeholder of said county, and qualified for the duties imposed upon said superintendent. Said County Road Superintendent shall be elected by popular vote at the General August Election of 1970 and shall take office on the first day of September, 1970, and shall serve for a period of four (4) years, and until his successor shall have been elected and qualified.

At every August Election every four years after the August Election of 1970, there shall be elected a County Road Superintendent who shall serve for a period of four years beginning on September 1.

In case of a vacancy in said County Road Superintendent's office, the vacancy shall be filled by the Quarterly County Court until the next General August Election, when his successor shall be elected.

In the election of said County Road Superintendent, the candidates shall qualify in the same manner as candidates for other county offices are required by law to qualify.

SECTION 4. That all municipal corporations in the counties shall have charge of and control of all roads, highways and streets within the boundaries thereof provided; said Road Superintendent shall have power and authority to cooperate with the respective municipal authorities relative to the joint laying out, construction and maintenance of any road or highway intersecting or leading into any municipal corporation, or of any bridges or viaducts on such roads or highways.

SECTION 5. That the County Road Superintendent, before entering upon the discharge of his duties, shall take and do subscribe to an oath before the County Court Clerk that he will faithfully perform the duties of his office, and shall enter into a bond of five thousand (\$5,000.00) dollars for the faithful accounting of all money and property coming into his hands and for the faithful performance of the duties and obligations of said County Road Superintendent.

SECTION 6. That effective September 1, 1970, and thereafter, the compensation shall be fixed by the Quarterly County Court of such county of [sic] counties and at the commencement of any term thereafter at not less than ten thousand (\$10,000.00) dollars and an expense account of one thousand (\$1,000.00) dollars per annum which sum shall be paid in equal monthly installments out of the general highway fund hereinafter created. Provided, further, that said County Road Superintendent shall at the same time he submits his budget to the quarterly county court at its July session, prepare an estimate of his expenses to be incurred in the performance of his duties, itemizing the same and present it to the quarterly county court for their action on the same. And he shall file at the same time he files his quarterly report to the court an itemized account showing the expenses incurred in the performance of his duty, setting out in detail for what paid and to whom paid, which account shall be sworn to and shall state that the expenses incurred were necessarily incurred in the performance of his duties. Provided, further, that said County Road Superintendent shall give his entire time to the duties of his said office.

SECTION 7. That said County Road Superintendent shall make to the quarterly county court at each regular session a written itemized report of all receipts and disbursements during the quarter, showing to whom paid and for what services rendered; and he shall show in said report the total amount of outstanding warrants and indebtedness for machinery, supplies, labor, etc., due by the road department, said reports being subject to the approval of the quarterly county court, and shall be recorded on the minutes of said quarterly county court.

SECTION 8. That there is hereby created a General Highway fund for said counties to which this Act applies, which fund shall be made up of all the highway funds and moneys which come into the hands of the county for road purposes from [sic] whatever source, and all moneys received by said county for road purposes shall go into this one fund. Said County Road Superintendent shall have authority and power to expend all of said money as and where proper and expedient for the best interest of the county, subject to the limitations of the quarterly county court as provided herein, and to the Purchasing Committee as provided for in Section 13 hereof.

SECTION 9. That all persons between the ages of twenty-one and forty-five years, or any other age, shall

not be required to work the public roads of said county or pay money in lieu thereof, and any laws or parts of laws in conflict with this provision in so far as they apply to the counties to which this Act applies are hereby repealed.

SECTION 10. That the County Road Superintendent shall be the county's agent in dealing with the State Department of Highways or Federal Highway officials in all highway matters, and in such matters between the County and State, or County and Federal Government, the County Road Superintendent shall be recognized as the County's representative.

SECTION 11. That it shall be the duty of the quarterly county court of said counties to which this Act applies to levy a public road tax on all the property taxable by law in the county of not less than ten (\$.10) cents nor more than thirty (\$.30) cents on each one hundred (\$100.00) dollars worth of taxable property, which taxes, when collected by the County Trustee, shall be kept in the General Highway Fund.

SECTION 12. That the County Road Superintendent shall have general charge and supervision of all the public roads, highways, bridges, culverts and public ferries, outside of the limits of municipalities, suitable shops for repair of machinery and tools, garages and buildings for the storage and distribution of gasoline, oils and greases as it becomes advisable and proper and to keep same in repair.

SECTION 13. That a Purchasing Committee consisting of the County Road Superintendent and a five (5) man committee to be elected by quarterly county court to become effective September, 1970, and whose duties are to approve by a majority of the Committee all purchases by the County Road Superintendent before authority to purchase same upon recommendation of the County Road Superintendent, such wagons, trucks, automobiles, materials and supplies, tractors, rock crushers, grading machinery and implements as the County Road Superintendent may deem necessary and proper for the use in carrying out his duties, and he shall have full control of all of the property belonging to the County Road Department for his use in performing his duties, and the County Road Superintendent, with the approval of a majority of the Purchasing Committee, shall have the authority to sell and dispose of any and all equipment and/or materials in his hands which is not suitable and/or necessary for highway work. Provided, said County Road Superintendent shall prepare a budget or list of the probable needs of machinery, equipment, materials, tools and supplies to be used for a period of twelve months, and shall submit same to the July term of the quarterly county court, and when authorized by a majority of the Purchasing Committee shall advertise for competitive bids for same in some newspaper circulated in the county to which this Act applies for at least three consecutive weeks and shall post a copy of the said advertisement on the bulletin board at the front of the courthouse at least 15 days before receiving bids for same, for all machinery, equipment and supplies when the article shall cost \$1,000.00 or more, and award the contract to the best and lowest bidder, reserving the right to reject any and all bids. Provided that this requirement for competitive bids shall not apply to the purchase of gasoline, oils and greases which shall be bought in wholesale quantities in the open market upon approval of a majority of the Purchasing Committee. Provided that emergency repairs, regardless of the cost, may be bought without competitive bids or advertising. Members of the Purchasing Committee shall be allowed the same mileage and per diem as a Justice of the Peace when meeting on special business. The Chairman of the Committee shall report to the quarterly county court, at each regular session, the activities of the committee and make such recommendations as they deem advisable. This Section of this Act shall become effective September 1, 1970.

SECTION 14. That any workhouse prisoners of the county shall be used by and placed under the control of the said County Road Commissioner, to be worked on the pikes, roads, culverts, bridges and in and about any quarries that may be operated or leased by said County Road Superintendent. Provided that nothing herein shall be construed to relieve the Sheriff or jailer of the county of any responsibility for such prisoners now or hereafter imposed by law, except when such prisoners are actually at work under the orders of said County Road Superintendent. Provided, further, that all laws or parts of laws, insofar as they apply to counties coming under this Act, providing for a workhouse commission are repealed and the County Judge, the Sheriff and the County Road Superintendent are hereby clothed with the powers, and it is made their duty to perform all the duties now imposed upon workhouse commissioners in such counties.

SECTION 15. That the County Road Superintendent shall have full power to build or repair roads, highways, bridges, culverts or public ferries, etc., by contract; provided, however, that such contracts shall be let on competitive bids by due advertisement at least three consecutive weeks in a newspaper circulated in a county to which this Act applies, and said contracts shall be to the lowest competent responsible bidder or bidders, and the successful bidder or bidders shall give a solvent bond to faithfully perform said contract.

SECTION 16. That the County Road Superintendent shall maintain an office at the county seat of said counties to which this Act applies and his is authorized to employ competent help to conduct said office, to

serve at the will of the County Road Superintendent at a salary he deems sufficient for duties performed. Provided that the County Road Superintendent shall submit to the quarterly county court at its July term, 1970, a list of all other employees he deems necessary to conduct the affairs and duties of the office, classifying them according to the duties he expects them to perform, and make recommendations for the salary or hourly wage scale for each class of employees, and the quarterly county court is authorized to fix the rate of pay for the employees of the County Road Superintendent, and provide further, that the quarterly county court may at any subsequent term, upon the recommendation of the County Road Superintendent, adjust the wage scale accordingly. Provided, further that the provisions of this Section shall take effect July 1, 1970.

SECTION 17. That the County Road Superintendent shall be the custodian of all records, books, contracts, vouchers, maps, etc., and he causes the Clerk to keep a full and current inventory of all machinery, tools, materials and equipment on hand at all times and to submit to the July term of the quarterly county court a copy of said inventory including all machinery and equipment under lease, and provided further, that the County Road Superintendent shall cause all motor equipment belonging to the County Road Department, including any leased equipment, to be marked with the letters "Property of SEVIER COUNTY, Road Department" by painting or decals on the sides of said vehicles, plainly visible with the words "SEVIER COUNTY" with letters not less than three (3) inches in height.

SECTION 18. That if the said County Road Superintendent shall determine that for the proper and efficient conduct of his office he should employ a competent engineer, then he shall bring the same to the attention of the quarterly county court and make recommendation to the court and suggest that they fix his compensation and authorize the County Road Superintendent to employ a competent engineer to serve at the pleasure of the County Road Superintendent and that the salary of the engineer if such be employed, be fixed by the said county court and paid monthly out of the General Highway Funds.

SECTION 19. That the County Road Superintendent shall have power and authority, in the name of the county, to condemn under the laws of eminent domain, all lands necessary for roads, highways, bridges, ferries, rock quarries, gravel pits, borrow pits, chert beds, and other material necessary for building, repairing and maintaining pikes, highways, roads, bridges, and ferries of the county, in the manner provided by law for the taking of private property for roads for ingress and egress to rock quarries, rock crushers, gravel pits, borrow pits or chert beds. Provided, that the County Road Superintendent may contract with and acquire for temporary use and/or acquire the fee to any rock quarry, gravel pit, borrow pit, chert bed or right-of-way to same for and in the name of the county upon the approval of the majority of the Purchasing Committee herein created.

SECTION 20. That all applications to open, change, close or restore to public use any and all roads shall be made by written petition to the County Road Superintendent, stating the district in which the road is located, giving complete description of the present road and the proposed changes, and the names of the land owners to be affected, and within ten days after the filing of the application or petition, the County Road Superintendent, if he believes there is a probable cause to believe that said petition should be allowed, shall notify by written notice the first person names on the petition and the landowners affected by the proposed change, or the date on which said Superintendent will be present at the place designated as the beginning point in the petition to act on said application, which notice shall be served at least five days before the date for acting on the petition. If any landowner affected by the proposed change is a non-resident of the State, or if his place of residence is unknown, publication shall be made for four consecutive weeks in a newspaper published in the county, of the time and place of acting on said petition. Written notice addressed to the parties at their last known address and dispatched to them by registered or certified mail with return receipt requested shall be sufficient if the return receipt is received from residents of the State.

Upon giving the required notice as above, the County Road Superintendent shall attend at the appointed time and place and shall act upon the application, and if he decides the proposed change is for the best interest of the county, assess whatever damages there may be, if any, against the county, and report in writing his action thereon to the Judge of the County Court, and with said report he shall file with the Clerk of the County Court the original petition and copies of all notices to land owners. The Judge of the County Court shall consider the report and the facts connected with the matter and pass such orders as he may deem for the welfare and best interest of the county. Any of the parties or party affected may, within ten days from the date of the entry of the decision or judgement of the Judge of the County Court, appeal to the next term of the Circuit Court upon execution of proper appeal bond. Provided that the County Road Superintendent may of his own motion, on notice as above provided, make an order and report his action as above provided, to open, close, or change any road he may deem proper, which report shall be acted on by the Judge of the County Court as above provided.

SECTION 21. That the County Road Superintendent shall not spend or contract to spend during any one year, funds exceeding the funds received from [sic] all sources for such General Highway purposes for

that year; provided, however, that nothing herein contained shall prohibit any bond issue or special appropriation of the quarterly county court and the funds derived thereunder from being expended in any year in which the funds therefrom are placed to the account of the General Highway Fund.

SECTION 22. That the County Road Superintendent shall draw all warrants on the Trustee of said county for the disbursements from the General Highway Fund under this Act, which warrants shall be signed by the County Road Superintendent and countersigned by the County Judge. A warrant book shall be kept by said Superintendent, which shall show the number and date of each warrant, the person to whom issued, the purpose for which it was issued and to whom delivered.

SECTION 23. That the County Road Superintendent shall have the authority to remove or cause to be removed any obstruction from the pikes, roads, highways or ditches or drains and rights-of-ways of said pikes, roads, and highways and anyone failing or refusing to remove any such obstruction places in said pikes, roads, highways, ditches or drains and on the right-of-way by himself or under his direction, shall be guilty of a misdemeanor; and upon conviction shall be fined not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars for each offense.

It shall be a misdemeanor for any person, firm or corporation to place any post, pole, brush, rock, glass or any other obstruction upon said pikes, roads, highways or bridges, or right-of-way or allow the same to remain upon same; provided that transmission lines, telephone and telegraph poles, conduits for gas, water and sewer lines may be placed along said rights-of-way under authority or permission of the quarterly county court; provided, said poles and conduits are so placed that they will be outside of the macadam or surface of said roads or highways and of the ditches, gutters or drains of any pikes, roads, highways, bridges or culverts of the county.

SECTION 24. That the County Road Superintendent is authorized to cooperate with both State and Federal Highway Departments on all highway matters. But no expenditure of funds of the county is authorized beyond the amount covered by the general taxes and by such other revenues as shall belong to said road fund; unless funds are provided in other legal manner and authorized by the quarterly county court.

SECTION 25. That the County Road Superintendent shall have the authority to designate the maximum tonnage or weight of automobiles, trucks, and other vehicles that are permitted to travel over and on such public roads, highways, ferries and bridges which are maintained by the County Road Department; and in case of a violation of the regulations prescribed in such instances, the person or persons violating same shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$50.00 for each violation.

SECTION 26. That the County Road Superintendent shall prepare and submit at the July term of the quarterly county court a full and detailed estimate or budget showing the cost of work and expenditures necessary for the improvement and maintenance of the highways, roads, bridges and culverts for the ensuing year, upon which the quarterly county court may base the appropriations and levy taxes to meet the expenses of such road construction, improvement and maintenance as said report or budget shows necessary, or may be found by the court to be needed.

SECTION 27. That, in an emergency, the County Road Superintendent is authorized to enter rental contracts for the securing of machinery and equipment for use in his department for a period of one month. Provided that, after a period of one month, machinery and equipment rentals are still necessary, said rental contracts shall be approved by a majority of the Purchasing Committee.

SECTION 28. That the County Road Superintendent shall secure's workmen's compensation insurance and liability insurance with solvent companies for not less than ten thousand (\$10,000.00) dollars and keep the same in force, paying the premiums from the General Highway Fund.

SECTION 29. That the provisions of this Act are hereby declared to be severable. If any of the sections, provisions, exceptions, sentences, clauses, phrases or parts thereof be held unconstitutional, invalid or void, the remainder of this Act shall continue in full force and effect, it being hereby declared to be the legislative intent that this Act would have been adopted even if such unconstitutional, invalid or void section, provision or matter had not been included therein. Nothing in this Act shall be construed as interfering with the term or emoluments of the office of the present County Road Superintendent in the County to which this Act applies and holding office under Chapter 10, Private Acts of 1933, until the end of the term for which he has been elected.

SECTION 30. That Chapter 10, Private Acts of 1933 and all amendments to said Act which in substance is an Act creating the office of County Road Superintendent and setting up a system of county roads which applies to Sevier County, be and the same is repealed and all other Acts in conflict with the provisions of this Act are hereby repealed.

SECTION 31. That this Act shall be of no effect until approved by a two-thirds vote of the Quarterly

County Court of any county affected at a regular session occurring more than thirty (30) days subsequent to the approval hereof by the Chief Executive of the State. The presiding officer of the quarterly county court shall proclaim the approval or disapproval thereof and shall certify the same to the Secretary of State at Nashville.

SECTION 32. That this Act shall take effect for the purpose of validating the same as provided for in Section 29 from and after its passage and for other purposes on the date and dates set out in this Act, and for any purpose, the effective date for which is not otherwise specified, on and after September 1, 1970, the public welfare requiring it.

Passed: May 2, 1969.

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