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Chapter I - Administration

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Chapter I - Administration

Codes

Private Acts of 1974 Chapter 268

SECTION 1. The Governing Body of Fayette County is authorized to adopt, by reference, the provisions of any code or portions of any code as herein defined, to amend the provisions of said codes as it deems necessary, to provide for their administration and enforcement, to establish penalties for the violation of such codes and to define the area within the county where such codes will be applicable.

SECTION 2. As used in this Act, the following terms shall have the meanings hereafter indicated.

(a) The Quarterly Court of Fayette County or any other body in which the general legislative powers of the county may hereinafter be vested.

(b) Any published compilation of published rules or regulations which have been prepared by technical trade associations, model code organizations, or agencies of the State or Federal Governments which regulate building construction, housing quality, electrical wiring, and plumbing and gas installation.

(c) Any document which is printed, lithographed, multigraphed, or otherwise reproduced.

SECTION 3. The governing body 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 thirty (30) 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. Codes, regulations, or amendments to any of the foregoing adopted by the governing body, acting under the authority of this Act shall not take precedence over existing or hereafter enacted state laws or regulations except wherein such codes, regulation, or amendments to any of the foregoing surpass the standards of said state laws or regulations, and county officers charged with enforcement under the authority of this Act are hereby authorized and empowered to enforce all such valid state laws and regulations which are more stringent than said county codes or regulations.

SECTION 4. Any amendment which may be made to any code or regulation incorporated by reference by the governing body hereunder, may be likewise adopted by reference provided that the required number of amended or corrected copies (3) are filed with the County Court Clerk of Fayette County for public inspection, use, and examination at least thirty (30) days prior to adoption. Notice of the adoption of any resolution adopting amendments by reference shall be published in a newspaper of general circulation in the county. No such resolution shall become effective until such notice has been published.

SECTION 5. The governing body 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 adopted 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 and bodies administering zoning and planning regulations within the county.

SECTION 6. 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 provision of such code. Further, that any magistrate or judge who is authorized to issue warrants under general law is authorized to issue to the enforcing officer a warrant authorizing the inspection of specified buildings, structures, or premises when necessary to enforce any codes or regulations adopted hereunder.

SECTION 7. 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 hereof, 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 (\$50.00).

SECTION 8. The provisions of this Act shall apply only to the unincorporated area of Fayette County.

SECTION 9. 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 10. This Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the governing body of Fayette County. Its approval or nonapproval shall be proclaimed by the county chairman of Fayette County and certified by him to the Secretary of State.

SECTION 11. This Act shall be effective from and after its passage, the public welfare requiring it, but the provisions thereof shall not become operative until validated as provided in Section 10 herein.

Passed: March 13, 1974.

County Attorney

Private Acts of 1947 Chapter 55

SECTION 1. That the office of County Attorney is hereby created in all Counties of the State of Tennessee having a population of not less than 30,300 nor more than 30,400, according to the Federal Census of 1940 or any subsequent Federal Census. The County Attorney shall be elected by the Quarterly County Court of such Counties at each regular January session of said Quarterly County Court following the effective date of this Act and shall serve for a term of one (1) year or until his successor is elected and qualified. In the event of a vacancy in said office of County Attorney, the same shall be filled by the Quarterly County Court.

SECTION 2. That such County Attorney shall be a resident citizen of the County for which he is elected and shall be licensed to practice law in the State of Tennessee.

SECTION 3. That it shall be the duty of such County Attorney to advise with the County Chairman and all other County officials upon legal matters pertaining to their respective offices, and shall prepare and render written legal opinions to all County Officials pertaining to the performance of their official duties. He shall give legal advice to the County Chairman and to the Quarterly County Court in regard to the issuance and sale of County bonds and shall execute and prepare all necessary legal papers pertaining thereto when requested to do so by the County Chairman or by the Quarterly County Court.

SECTION 4. That upon an election of the County Attorney by the Quarterly County Court, the said Quarterly County Court shall fix his compensation on an annual basis, but which shall be payable on a monthly basis payable on the first day of each month out of the general funds of the County upon a warrant drawn by the County Chairman upon the County Trustee.

SECTION 5. That in the event the County Attorney is called upon to represent the County in any extra or special matters or litigation not mentioned or referred to in this Act, he shall be entitled to additional compensation, being within the discretion of the Quarterly County Court of such counties.

SECTION 6. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

SECTION 7. That all prior appropriations of the Quarterly County Court of such Counties heretofore made for compensation of County Attorneys are hereby ratified and confirmed and said appropriations are declared to have and possess the same validity and effect as though the said Courts were legally authorized to do so in the first instance.

SECTION 8. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: January 20, 1947.

County Legislative Body

Private Acts of 1967 Chapter 357

SECTION 1. The County Court of Fayette County, under the provisions of Article XI, Section 9 of the Constitution of Tennessee, is vested with powers to pass ordinances with regard to private and local affairs hereinafter expressly set forth, by the affirmative vote of a majority of the members thereof, at any meeting of said County Court; providing notice of intention to present such ordinances or ordinance has been given in the manner hereinafter set forth.

SECTION 2. An ordinance under the powers which it is deemed expedient to vest in said County Court

shall only be considered by the County Court of Fayette County after notice of intention to propose an ordinance, together with a copy of the proposed ordinance under the authority of this Act, shall have been filed in the office of the Clerk of the County Court of Fayette County, at least two weeks prior to the session of the County Court at which such ordinance shall be considered.

SECTION 3. It shall be the duty of the Clerk of the County Court of Fayette County, upon filing of intention to propose an ordinance, together with a copy of said proposed ordinance, to cause to be published in at least one (1) newspaper of general circulation, a copy of said proposed ordinance, together with a copy of the notice of intention to propose said ordinance. Said newspaper publication shall carry the following statement, over the name of the County Court Clerk, "The above is a copy of an ordinance filed in my office on the _____ day of _____, 19____, by Esquire County Court of Fayette County at any time within two weeks after the date said ordinance was filed."

As amended by: Private Acts of 1967, Chapter 484

SECTION 4. Acting as herein set forth said County Court of Fayette County may by ordinance establish speed and/or local limits upon any county secondary roads, outside of incorporated towns, in said County.

SECTION 5. Acting under the provisions of this Act, the County Court of Fayette County may provide that any violation of any ordinance, passed under the provisions of this Act, is a misdemeanor.

SECTION 6. The provisions of this Act are hereby declared to be severable; and that if any section, provision, exception, sentence, clause, phrase, or part of this Act, be held unconstitutional or void, the remainder of this Act shall continue 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 matter had not been included in same.

SECTION 7. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Fayette County before December 1, 1968. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 8. This Act shall take effect on becoming a law, the public welfare requiring it.

Passed: March 11, 1968.

County Mayor

Acts of 1868 Chapter 30

COMPILER'S NOTE:

SECTION 1. That there shall be elected by the qualified voters of the counties of Perry, and Decatur, and Cheatham, and Lauderdale, a person, to be styled County Judge, for each county, who shall hold his office for the term of eight years from the date of his Commission, who shall be elected on the first Saturday in May, 1868.

SECTION 2. That the election for County Judge shall be held at the same places, and by the same officers, by whom the county elections are held, on the first Saturday in March, and under the same regulations prescribed for county elections--except elections to fill vacancies, which may be held at any time, under proper notice.

SECTION 3. That the County Judge shall be commissioned in the same manner as other Judges of this State; and before entering upon the duties of his office, he shall take an oath to support the Constitution of the United States, and the Constitution of the State of Tennessee, with all its amendments; and an oath faithfully to discharge the duties of his office.

SECTION 4. That the Quorum Courts of the aforesaid counties are hereby abolished, and the County Judge shall have and exercise all the jurisdiction and power now belonging to the Quorum Courts. Said Judge shall preside over the County Court, at its quarterly sessions, which shall be held as heretofore; and shall have and exercise the same power, jurisdiction and authority, which now belongs to, or is exercised by the Chairman of the County Court; and shall perform the same duties as are now required of said Chairman, either in or out of said County Court.

SECTION 5. That the County Court, to be held by the County Judge, shall hold its Regular Sessions on the first Monday in each month; provided, that the Mondays of the Quarterly Sessions of the County Court, all business requiring the presence of all, or any of the Justices of the county, shall be disposed of; after which, the County Judge shall dispose of such other business as may properly come before said Court, under the provisions of this Act; and said Court shall sit, from day to day, so long as the business thereof may require.

SECTION 6. That all the jurisdiction and power of the present County Court over Administrations, Executors, Guardians, Wards, Trustees, Wills, Dowers, and Partitions, Sales, or Divisions of Lands, and of

all testamentary and administration, matters, or subjects connected therewith, and questions of lunacy, are abolished; and the same are hereby transferred and given to the County Court, to be held by the County Judge, who shall have all the jurisdiction, power, and authority, over all these subjects which may be necessary and proper in the exercise thereof; provided, that either party may have the right of appeal from any judgement order, decree or action of said County Judge, as is now allowed by the laws of this State in other cases.

SECTION 8. That the County Judge shall be the Accounting Officer and General Agent of the county; and as such, he shall have power, and it shall be his duty:

Firstly. To have the care and custody of all the county papers, except such as are by law placed in the custody of other county officers.

Secondly. To control all books, papers, and instruments, pertaining to his office.

Thirdly. To audit all claims for money against the county.

Fourthly. To draw, and seal with the seal of the County Court, all Warrants upon the County Treasury.

Fifthly. To audit and settle the accounts of the County Trustee, and those of any other Collector, or Receiver of the county revenue, taxes, or incomes, payable into the County Treasury; and to require said officers or persons to render and settle their accounts, as desired by law.

Sixthly. To enter in a book, to be known as "Warrant Book", all warrants issued, in order that he may know the number issued, date and amount, and name of drawee, of each Warrant drawn upon the Treasury.

Seventhly. To keep, in a suitable book, an account of the receipts and expenditures of the county, in such a manner as to show clearly the assets of the county, and the debts payable to and by it--balancing said account semiannually; and to superintend the financial condition of the county.

Eighthly. No money shall be drawn out of the County Treasury only upon a Warrant issued by the County Judge.

SECTION 9. That the County Judge shall receive two hundred dollars per annum, during the sitting of the Monthly and Quarterly Courts; and the several Quarterly Courts are hereby authorized to make additional compensation to the Judge, by appropriation, for his services, if they, in their judgement, think proper and right. Said Judge shall be paid his compensation quarterly, out of the County Treasury, upon the Judge's own Warrant.

SECTION 14. That the County of Fayette be, and is hereby, allowed a County Judge, and he shall have a salary of six hundred dollars, to be paid in quarterly installments, out of the County Treasury; and said County Judge shall have all the powers and privileges conferred upon County Judges, and be subject to the liabilities and restrictions established by law in this State.

SECTION 16. That this Act take effect from and after its passage.

Passed: January 31, 1868.

Private Acts of 1996 Chapter 146

SECTION 1. Pursuant to Tennessee Code Annotated, Section 5-6-101(d), the title of the County Executive in Fayette County shall be "County Mayor".

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Legislative Body of Fayette County. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Legislative Body and certified to the Secretary of State.

SECTION 3. For the purposes of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

Passed: March 21, 1996.

Private Acts of 1965 Chapter 244

SECTION 1. That the Chairman of the County Court of Fayette County, Tennessee, shall, after the effective date of this Act, have concurrent jurisdiction with the Chancery Court for such county in actions to allow guardians and conservators in such county to encroach upon the corpus of their ward's estate for the use and benefit of such ward.

SECTION 2. That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the quarterly county court of any county to which it may apply on or before the next regular meeting

of such quarterly county court occurring more than thirty days after its approval by the Chief Executive of this State, or after its otherwise effective date. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve, and shall be certified by him to the Secretary of State.

SECTION 3. That this Act shall be effective from and after its passage, the public welfare requiring it, but the provisions thereof shall not become operative until validated as provided in Section 2 herein.

Passed: March 11, 1965.

County Register

Private Acts of 1972 Chapter 284

SECTION 1. Before any person in Fayette County presents for registration an instrument conveying the fee title in real estate (as distinguished from mortgages and deeds of trust), such person shall present such conveyance to the County Tax Assessor who shall note and list in a well-bound book the following data:

The name of the Seller; the name of the Purchaser; the consideration paid; the Civil District of the County; and a description of each tract of land so conveyed by reference to the adjoining landowners.

SECTION 2. The Register of Fayette County is expressly forbidden to record deeds conveying the fee title in real estate (as distinguished from mortgages and deeds of trust) until such instruments have been presented to the County Tax Assessor, the above mentioned data noted by him and his certificate placed thereon that he has examined such deed. The data so obtained by the Tax Assessor shall be used as the basis of his assessment of said tract of land and the charges thereon for the next annual or biennial assessment.

SECTION 3. Before any person in Fayette County presents for registration a plat, the person shall present a duplicate of the plat to the County Tax Assessor. The County Tax Assessor shall maintain a file of all duplicate plats. Said plats shall be used by the Tax Assessor in the assessment of the property described.

The Register of Fayette County is expressly forbidden to record a plat until a duplicate of the plat had been filed with the Tax Assessor. Immediately on receipt of the duplicate plat, the Tax Assessor shall certify to the Register that a duplicate plat has been duly filed with him.

SECTION 4. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Fayette County. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 5. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 4.

Passed: March 16, 1972.

Fayette County Water Authority

Private Acts of 2024 Chapter 48

SECTION 1.

(a) A governmental authority to be known as the "Fayette County Water Authority" is hereby created and established for the purpose of planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating, and maintaining a water and wastewater system. Such system shall include distribution, storage, treatment, and collection facilities, properties, and services, as hereinafter provided, the selling, donating, conveying, or otherwise disposing of water and wastewater, and undertaking any project or work related thereto or connected therewith. The authority shall be a public and governmental body acting as an instrumentality and agency of the county and the powers granted are for public and governmental purposes and matters of public necessity.

(b) The purpose of the authority is to plan and develop the water resources of Fayette County and the geographic region and to provide necessary wastewater collection and treatment attendant thereto. The further purpose of the authority is to provide environmental services and to secure economic benefits to the county and geographic region that it encompasses and may serve.

SECTION 2. Whenever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

- (1) "Authority" means the Fayette County Water Authority created by this act;
- (2) "Board" means the board of directors of the authority;
- (3) "Bonds" means bonds, interim certificates, or other obligations of the authority issued pursuant to this act, including joint obligations of the authority and the county or municipalities;
- (4) "County" means Fayette County, Tennessee;
- (5) "County legislative body" means the Fayette County board of commissioners, county commission, or legislative body of Fayette County;
- (6) "Governing body" means the chief legislative body of a county or municipality;
- (7) "Municipality" means any other county, incorporated city or town, board or commission, or other municipal, governmental body, or subdivision in this state, now or hereafter authorized by law to be created, that enters into an agreement with the authority as provided in Section 17 of this act;
- (8) "Note" means notes or interim certificates of the authority issued pursuant to this act, including joint obligations of the authority and the county, and/or municipalities;
- (9) "Person" means any individual, firm, partnership, association, corporation or any combination thereof;
- (10) "Refunding bonds" means refunding bonds, issued pursuant to this act, including joint obligations of the authority and the county issued pursuant to this act and Tennessee Code Annotated, Title 9, Chapter 21, Parts 1 and 9, to refund bonds of the authority or refund bonds or notes issued to the county, or a municipality issued by such county, or municipality; the proceeds of which were used to construct, acquire, extend, improve, or equip all or a portion of a system acquired by the authority or to refund bonds, the proceeds of which were used for such purposes;
- (11) "State" means the state of Tennessee; and
- (12) "System" means a water and/or wastewater system, which shall include, but not be limited to, all rights, devices, buildings, land, easements, right-of-ways, distribution and reception networks and equipments used in the storage, treatment, recycling, and reclamation of sewage, of residential, commercial, and industrial waste of a liquid nature, to restore and maintain the water resources, including the chemical, physical, and biological integrity of the state's water; or any devices and systems used for the treatment and distribution of water, including intercepting sewers, outfall sewers, sewage collection systems, water storage facilities, water transmission lines, pumping, power, filtration, and other equipment and other appurtenances, extensions, improvements, remodeling, distribution and reception networks and all legal rights therein, additions and alterations thereof, elements essential to provide a reliable recycled supply, such as a standby treatment units and clear well facilities, and any works and networks associated therewith, pursuant to board approval.

SECTION 3.

- (a) The authority shall have a board of directors in which all powers of the authority shall be vested. Each director shall have an equal vote in the affairs of the authority.
- (b) The initial membership of the board of directors shall consist of five (5) directors appointed by the Fayette County mayor and confirmed by the county legislative body.
- (c) All vacancies and subsequent appointments to the board of directors shall be filled by the Fayette County mayor, subject to confirmation by the county legislative body.
- (d) A chairman of the board of directors shall be selected from the membership of the board.
- (e) Each director shall be a resident of Fayette County and, once appointed by the county mayor and confirmed by the county legislative body, shall serve for a four (4) year term. Terms of the board of directors shall be staggered. The initial board of directors for the authority may serve terms less than four (4) years. The county mayor shall determine the length of the initial terms. Directors may be removed for cause at any time by majority vote of the board, with such removal being subject to approval by the county mayor and legislative body.
- (f) A majority of the board membership shall constitute a quorum and the board shall act by vote of the majority present at any meeting attended by a quorum. Vacancies among the directors shall not affect their power and authority, so long as a quorum remains. Within thirty (30) days after selection of the board, the board shall hold a meeting to elect a chair, vice-chair, secretary, and treasurer, and such other officers as shall from time-to-time be deemed advisable by the board. The positions of chair and vice-chair shall be selected from the membership of the board of directors. The positions of secretary and treasurer can be selected from the membership of the board of directors, or filled by employees of the authority. If the secretary and/or treasurer position is appointed from the employees of the authority, they shall have

no vote or membership status on the board of directors, but shall receive compensation, as approved by the board, for their services.

(g) The secretary shall keep the minutes of all regular and special meetings of the authority. Such minutes shall be available for public inspection within thirty (30) days of the board's approval of the meeting's minutes, at the main office of the authority. The board shall have the ability to establish standards, rules, and policies, including reasonable hours of inspection and reproduction rates and fees for inspection of public documents possessed by the authority; however, no rule or policy may conflict with Tennessee law.

(h) The treasurer shall monitor and report the financial status of the authority at each board meeting and shall further be responsible for reporting all financial responsibilities and obligations to the board when requested.

(i) The board shall hold meetings at such times and places as the board may determine, but shall meet at least monthly. All meetings shall be open to the public. Notice of such meetings shall be given in a newspaper of general circulation in the county at least ten (10) days prior to such meeting being held. Special meetings may be called and held upon sufficient notice. Except as otherwise expressly provided, the board of directors shall establish its own rules of procedure, personnel policy, standard operations manual, and all other policies governing operation of the authority. Any action taken by the board exercising its powers under the provisions of this act may be exercised by majority vote or resolution at any regular or special meeting of which notice has been properly given to the public.

(j) All directors shall serve with or without compensation as the board may determine by resolution. The board, upon two-thirds (2/3) majority vote, may set compensation for its members up to, but not more than, four hundred dollars (\$400) per director, per meeting, of the authority; provided, however, that directors shall not be compensated for more than twelve (12) meetings in one (1) calendar year. Additional expenses incurred by any member of the board of directors, including training, travel, certifications, and reasonable expenses associated with serving as a board member shall be compensated or reimbursed upon approval by the board of directors and subsequent presentation, as requested, of supporting receipts.

SECTION 4. The authority shall have the following powers in addition to those specified in other sections of this act, together with powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) To sue and be sued and to prosecute and defend at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(2) To have a seal and to alter the same at pleasure; provided, however, the absence thereof shall have no effect on the validity of any document, instrument, or other writing;

(3) To plan, establish, acquire, whether by purchase, exchange, gift, devise, lease, or exercise of the power of eminent domain to the extent authorized pursuant to general law, or otherwise, to construct, equip, furnish, improve, repair, extend, maintain, and operate one or more systems within or without the geographic boundary and service area of the county, and within any other county, municipality, or utility district within the state of Tennessee with the consent of the governing body of that particular county, municipality, or utility district, as such boundaries now or may hereinafter exist, and further including the power to hold in the name of the authority, by deed, title, or other conveyance, all ownership rights in all real and personal property, facilities, and appurtenances thereof which the board of the authority may deem necessary in connection herewith;

(4) To enter into agreements with the county and any other municipality for the orderly transfer of all, or any part of the system of the county, or such municipality, and to the extent permitted by law and contract, to assume, to reimburse, or to otherwise agree to pay outstanding obligations or liabilities of the county or such municipality incurred to acquire, extend, or equip the system;

(5) To enter into agreements with the county and any other municipality to acquire by lease, gift, purchase, or otherwise any system or property related thereto, of the county, or such municipality and operate such system separately, or as a part of its system; or enter into agreements with the county, or any municipality providing for the operation of the authority and this system, or any portion thereof, owned by the county or municipality;

(6) To acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, any and all types of property, franchises, assets, and liabilities, whether real, personal, or mixed, tangible or intangible, or whether or not subject to mortgages, liens, charges, or other encumbrances and to have, hold, sell, lease, exchange, donate, or convey its properties, facilities, and services, but only for the purpose of continuing the operation of any system by the authority, whenever the board of the authority shall find such action to be in furtherance of the purposes for which the authority is hereby created; provided, however, revenues of any system of the authority shall be

accounted for in such manner as not to impair the obligations of contract with reference to bond issues or other legal obligations of the transferor and shall fully protect and preserve the contract rights vested in the owners of outstanding bonds, obligations, or contractual interests; provided, further, any income from the sale of such properties, facilities, and services shall be dedicated to the continued operation of any system by the authority;

(7) To buy, sell, store, treat, and distribute water; to collect and provide treatment for wastewater from, with, or to any municipality or other governmental unit of the state, or the United States, or any agency thereof, or any persons, whether public or private, and to enter into contracts, agreements, or other arrangements with the county, municipalities, or agencies of the state or United States, or other persons in connection therewith;

(8) To make and enter into all contracts, trust instruments, agreements, and other instruments with the county, any municipality, the state or agency thereof, the United States or agency thereof; or any person, including, without limitation, bonds, notes, loan agreements with the Tennessee local development authority or the Tennessee department of environment and conservation, and other forms of indebtedness as if it were a local government, as such term is defined in applicable statutes governing grants and loans to construct, equip, or extend the system and to enter into contracts for the management and operation of the system or any facility or service of the authority for the treatment, processing, collection, distribution, storage, transfer, or disposal of water and wastewater;

(9) To incur debts, to borrow money, to issue bonds and to provide for the rights of the holders thereof;

(10) To apply for, accept and pledge donations, contributions, loans, guarantees, financial assistance, capital grants, and gifts from the county, and any municipality, the state or any agency thereof, the United States government or any agency thereof, or any person whether public or private, for, or in aid of the purposes of the authority, to enter into agreements in connection therewith and to accept the same;

(11) To pledge all or any part of the revenues, receipts, donations, contributions, loans, guarantees, financial assistance, capital grants, or gifts of the authority, to mortgage and pledge one or more of its systems or any parts thereof, whether then owned or thereafter acquired, and to assign and pledge all or any part of its interest in and all rights under contracts and other instruments relating thereto as security for the payments of the principal, premium, if any, and interest on bonds, refunding bonds, loan agreements, or notes issued by the authority;

(12) To have control of its system, facilities, and services with the right and duty to establish, change, and charge rates, fees, rental, tolls, deposits, and other charges and fees for the use of the facilities and services of the authority and the sale of materials or commodities by the authority and to collect revenues and receipts therefrom, not inconsistent with the rights of the holders of the bonds, refunding bonds, and notes;

(13) To enter onto any lands, waters, and premises for the purpose of making surveys, inspections, soundings, and examinations and for the furtherance of the purposes authorized by this act;

(14) To use any right-of-way, easement, or other similar property right necessary or convenient in connection with a system, held by the county, municipality or state, or any political subdivision thereof, provided the governing body of such political subdivision consents to such use;

(15) To employ and pay compensation to such agents and professionals, including attorneys, accountants, engineers, architects, and financial advisors, as the board shall deem necessary for the business of the authority;

(16) To employ, hire, terminate and pay compensation to a system manager and employees thereof, which shall have such authority, duties, and responsibilities as the board deems necessary;

(17) To procure and enter into contracts for any type of insurance, surety or performance bond, or indemnity against loss or damage to property from any cause, including, but not limited to, general errors and omissions, property loss and casualty, loss of use and occupancy, against death or injury of any act by or for, or against, or for the benefit of, any member, officer, or employee of the authority in the performance of the duties of the office or employment, or the authority itself and any other insurable risk, including the payment of bonds, refunding bonds or notes, as the board in its discretion may deem necessary, and to exercise all rights, immunities and protections afforded by Tennessee law and the Governmental Tort Liability Act;

(18) To enter into, by contract or otherwise, a plan for pension, health, disability, hospitalization, death benefits, and any other insurance benefits granted to employees or members of the board of directors, by the board of directors of the authority;

(19) To exercise all powers expressly given to it and necessarily implied therefrom; to make and execute contracts and all other instruments necessary or convenient to do any and all things for the exercise of its

powers hereunder; and to establish and make rules, policies, and regulations not inconsistent with the provisions of this act, deemed expedient for the management of the authority's affairs;

(20) To adopt by majority vote of the board purchasing procedures for utility districts as defined in Tennessee Code Annotated, Title 7, Chapter 82, Part 8, or any other purchasing, accounting, or fiscal management act provided for municipalities by state law; and

(21) To make all necessary investments, at the discretion of the board, consistent with the powers of local governments to make such investments as provided in Tennessee Code Annotated, Section 9-1-107.

SECTION 5. The authority may condemn in its own name any land, rights-in-land, easements, or rights-of-way which in the judgment of the board are necessary for carrying out the purposes for which the authority is created. Such property or interest in the property may be so acquired whether or not the same is owned or held for public use by persons having the power of eminent domain, or otherwise held or used for public purposes; provided, however, such prior public use will not be interfered with by the use to which such property will be put by the authority. The exercise of eminent domain power shall be approved by a majority of the membership of the board of directors for the authority. Such power of condemnation shall be exercised in the manner prescribed by any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain to the extent such authority is authorized by general law to exercise such power.

SECTION 6. The board shall prescribe and collect reasonable rates, fees, tolls, or charges for the services, facilities, maintenance, and commodities of any system operated by the authority and shall prescribe penalties for the non-payment thereof, and shall revise such rates, fees, tolls, or charges from time-to-time whenever necessary to ensure that any system operated by the authority shall be and always remain self-supporting. The rates, fees, tolls, or charges prescribed shall be in such amount as to always produce revenue at least sufficient:

(1) To provide for all expenses of operation and maintenance of the system, including reserves therefrom;

(2) To pay when due all bonds, notes, and interest in premiums thereon for the payment of which such revenues are or shall have been pledged, charged, or otherwise encumbered, including reserves therefore;

(3) To provide for the operation, extension, or improvement of the system; provided, the authority shall have the power to charge equal, or different rates, to the county, and any municipality hereinafter entering into such an agreement with the authority as provided in Section 17 of this act, sufficient to cover, pay or retire all debts attributable and identifiable to any one system of the authority, and proportionally allocated to a particular system of the authority. At any time, or when any debts of systems of the authority have been paid in full, the board, at its discretion may choose to institute or set a uniform rate for the authority. This provision shall apply to the rates charged for the provision of services as outlined in Section 4; and

(4) To provide for all salaries and wages and benefits for the employees and members of the board of directors for the authority.

SECTION 7.

(a) The authority may issue, by resolution adopted by the board, interest-bearing bond anticipation notes for all purposes for which bonds may be legally authorized and issued by the authority. Such notes shall be secured from proceeds received from the sale of the bonds in anticipation of which the notes are issued and additionally secured by a lien upon the revenues of the system based on parity with the bonds in anticipation of which such notes are issued. In no event shall the amount of outstanding bond anticipation notes exceed the principal amount of the bonds to be issued by the authority. The notes shall mature not later than two years from their date of issuance and may be extended or renewed for not more than two additional periods of two years each by resolution of the board and the issuance of renewal or extension notes.

(b) Notes shall be sold at public or private sale for not less than ninety-seven percent (97%) of the par value thereof and accrued interest as the board may direct. Notes may be sold in one or more series, may bear such date or dates, may bear interest at such rate or rates, which may vary from time to time, may be payable at such time or times, may be in such denomination or denominations, may be in such form, either coupon or registered, may be payable at such place or places, may be executed in such manner, may be payable in such medium of payment, may be subject to such terms of redemption, without a premium or for notes sold for not less than the par value thereof and accrued interest without or with a premium, all as may be provided by resolution of the board.

(c) Notes shall be executed in the name of the authority by the proper officials authorized to execute the same, together with the seal of the authority attached thereto.

(d) The proceeds arising from the sale of such notes shall be dispersed as provided by the resolution authorizing the issuance of the notes. The term "bond anticipation notes" includes interim certificates or other temporary obligations, which may be issued by the authority to the purchaser of such notes on the terms and conditions herein provided. When the bonds are issued and sold, a sufficient amount of the proceeds of the bonds shall be applied to the payment of the notes at their maturity or upon their earlier redemption as directed by the board by resolution.

(e) The authority may also issue "bond application notes", which also includes the issuance of "grant anticipation notes", to be secured by the grant in anticipation of which such notes are issued, with all provisions of this section being applicable to such grant anticipation notes.

SECTION 8.

(a) The authority shall have the power to issue bonds from time to time to finance the construction, purchase, acquisition, extension, improvements, and equipping of one or more systems. All bonds issued shall be payable solely out of the revenues and receipts derived from the system for which such bonds are issued or as may be designated in the proceedings under which the bond shall be authorized to be issued. Such bonds may be issued in one or more series, may be executed and delivered at any time, may be in such form and denomination and of such terms and maturities. The bonds may be subject to redemption prior to maturity, either with or without premium, may be in fully registered form, may bear such conversion privileges and may be payable in such installments and at such time or times not exceeding forty years from the date thereof. Such bonds may be payable at such place or places whether within or without the state of Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, as provided in the proceedings where under the bond is authorized to be issued.

(b) Bonds may be sold at public or private sale for such price and in such manner and form, and from time to time as may be determined by the board of directors to be most advantageous, and the authority may pay any and all expenses, premiums, and commissions which the board of directors may deem necessary or advantageous in connection with the issuance thereof.

(c) All bonds and interest applicable thereto are hereby made and shall be construed to be negotiable instruments.

(d) Interim certificates or notes or other temporary obligations pending the issuance of revenue bonds shall be payable out of the proceeds of bonds or other funds of the authority available for such purpose.

(e) Proceeds of bonds may be used for the purpose of construction, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending a system, including the payment of interest on the bonds during the construction of any project for which bonds are issued and for two years after the estimated date of completion, the payment of engineering, physical, architectural, bond insurance, and legal expenses incurred in connection therewith and the issuance of bonds and the establishment of a reasonable reserve fund for the payment of principal of, and interest on, such bonds if a deficiency occurs in the revenues and receipts available for such payment.

SECTION 9.

(a) Any bonds at any time outstanding may at any time and from time to time be funded by the issuance of refunding bonds in such amount as the board may deem necessary, but not exceeding the sum of the following:

- (1) The principal amount of the bond being refinanced;
- (2) Applicable redemption premiums thereon;
- (3) Unpaid interest on such bonds to the date of delivery or exchange of the refunding bonds;
- (4) If the proceeds from the sale of the refunding bonds are to be deposited in trust as hereinafter provided, interest to accrue on such obligations from the date of delivery to the feet or any subsequent available redemption date or dates elected, in its discretion, by the board, or to the date or dates of maturity, whichever shall be determined by the board to be the most necessary or advantageous to the authority;
- (5) A reasonable reserve fund for the payment of principal, interest on, and expenses associated thereto and related to such bonds and/or a renewal and replacement reserve;
- (6) If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charged on the refunding bonds during the construction of such project and for two (2) years after the estimated date of completion (but only to the extent that interest charges have not been capitalized from the proceeds of the obligation being refinanced); and

(7) Expenses, premiums, and commissions of the authority, including bond discounts deemed by the board to be necessary for the issuance of the refunding bond. A determination by the board that any refinancing is necessary or advantageous to the authority, or any of the amounts provided in the preceding sentence, shall be included in such refinancing, or that any of the obligations to be refinanced shall be called for redemption on the first or on any subsequent available redemption date, or permitted to remain outstanding until the respective dates of maturity, shall be conclusive.

(b) Any such refunding may be effected whether the bonds to be refunded have matured or shall thereafter mature, either by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds refunded thereby, and regardless of whether or not the bonds to be refunded were issued in connection with the same projects or separate projects and regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or shall be due serially or otherwise.

(c) At the time of delivery of the refunding bonds, if the bonds to be refunded will not be retired or a valid or timely notice of redemption of the outstanding bonds is not given in accordance with the resolution, indenture, or other instrument governing the redemption of the outstanding bonds, then, prior to the issuance of the refunding bonds, the board shall cause to be given adequate notice of its intention to issue the refunding bonds. The notice shall be given by mail to the owners of all outstanding bonds to be refunded to their addresses shown on the bond registration records for outstanding bonds, given by publication, or given by such other reasonable means intended to give reasonable notice to the owners, pursuant to the laws of this state. The notice shall set forth the estimated date of delivery of the bonds or refunding bonds and identify the bonds, or the individual maturities thereof, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded, the notice shall identify the maturities subject to partial refunding and the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the governing body shall cause notice thereof to be given as provided above. Except as otherwise set forth in this section, the notice required pursuant to this section shall be given whether or not any of the bonds to be refunded are to be called for redemption.

(d) If any obligations to be refunded are to be called for redemption, notice of redemption shall be given in a manner required by the proceedings authorizing such outstanding obligations.

(e) The principal proceeds from the sale of any refunding bonds shall be applied only as follows, either:

(1) To the immediate payment and retirement of the bonds being refunded; or

(2) To the extent not required for immediate payment of the bonds being refunded, such proceeds shall be deposited in trust to provide for the payment and retirement of the bonds being refunded and to pay any expenses incurred in connection with such refunding, but provisions may be made for the pledging and disposition of any surplus, including, without limitation, provisions for the pledging of any such surplus to the payment of the principal of premium, if any, and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested at the discretion of the board.

(f) Nothing herein shall be construed as a limitation on the duration of any deposit trust for the retirement of obligations being refunded, but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, have not been called for redemption.

SECTION 10.

(a) The principal of, or premium, if any, and interest on any bonds, refunding bonds and notes may be secured by pledge of revenues from future or current receipts of the authority, or any one or more systems. The proceedings under which the bonds, refunding bonds, or notes are authorized to be issued may contain any agreements, provisions, and covenants respecting the maintenance of such system or other facilities covered thereby; the fixing and collection of rents, fees, or payments with respect to any system or portion thereof covered by such proceedings; the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, refunding bonds, and notes; and the rights and remedies available in the event of default, all as the board shall deem advisable and not in conflict with the provisions of this act. To the extent provided in the proceedings authorizing any bonds, refunding bonds, or notes, each pledge and agreement made for the benefit of security of any of the bonds, refunding bonds, or notes shall continue in effect until the principal of, and interest on, the bonds, refunding bonds, or notes for the benefit of which the same were made shall have been fully paid or adequate provision for the payment thereof shall have been made by the authority. In the event of a default in such payment or in any agreements of the authority made as part of the proceedings under which the bonds, refunding bonds, or notes were issued, such payment or agreement may be enforced by suit, mandamus, or the appointment of a receiver in equity, or the proceedings under which the bonds,

refunding bonds, or notes are issued.

(b) The board may designate the appropriate officials to execute all documents necessary to guarantee or in any other manner to secure the payments of the bonds or notes of the authority; provided, however, the approval of the county legislative body or other security shall have been obtained before the execution of such documents. Provided, further, prior to any meeting where the county legislative body will consider such authorization, the board shall cause reasonable public notice to be published describing the matter to be considered and containing an estimate of the dollar amount of any contingent liability incurred by the county, if such authorization is given.

(c) Bonds, notes, or refunding bonds may constitute a joint obligation of the authority and the county. Each such bond, note, or refunding bond upon which the county is jointly obligated with the authority may be secured by the full faith and credit and unlimited ad valorem taxing power of the county. Bonds, notes, or refunding bonds issued as a joint obligation of the authority and the county shall be issued in the form of and manner described in Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 2, and 9 where applicable and in the event of a conflict between this act and Tennessee Code Annotated Title 9, Chapter 21, Parts 1, 2, and 9, then the provisions of Tennessee Code Annotated shall prevail. Notes issued as a joint obligation between the authority and the county shall be issued in the form and manner prescribed in Tennessee Code Annotated, Title 9, Chapter 21, Parts 1, 4, and 5, where applicable. In the event of a conflict between this act and Tennessee Code Annotated Title 9, Chapter 21, Parts 1, 4, and 5, then the provisions of Tennessee Code Annotated shall prevail.

(d) Any bond, note, or refunding bond issued under this act may be secured by a mortgage or deed of trust covering any or all parts of the property, real or personal, of the authority. Any pledge, or lien, on revenues, fees, rents, tolls, or other charges received or receivable by any local government to secure the payment of any bonds, notes, or refunding bonds issued pursuant to this act and the interest thereon, shall be valid and binding from the time the pledge or lien is created or granted and shall inure to the benefit to the holder or holders of any such bonds, notes, or refunding bonds until payment in full of the principal and premium and the interest thereon. Neither the resolution, nor any other instrument granting, creating, or giving notice of the pledge or lien, or other such security interest need to be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

SECTION 11.

(a) In accordance with the provisions of general law, the authority, its properties at any time owned by it, and the income and revenues therefrom shall be exempt from state, county and municipal taxation. To the extent authorized by a municipality, a county, or the general law, bonds, notes, and refunding bonds issued by the authority and the income therefrom shall be exempt from all state, county and municipal taxation, except inheritance, transfer, and estate taxes, or except as otherwise provided by state law. For purposes of Tennessee Code Annotated, Title 48, Chapter 2, and any subsequent amendments thereto, bonds issued by the authority shall be deemed to be securities issued by a public instrumentality or political subdivision of the state.

(b) Neither the Tennessee public utility commission nor any other board or commission of like character hereinafter created, shall have jurisdiction over the authority in the management and control of the system or systems of the authority including the regulation of its rates, fees, tolls, or charges, except to the extent provided by Title 7, Chapter 82 or this act. The authority acknowledges that it is subject to regulation by the department of health and the department of environment and conservation as a public water supply and public sewage system.

SECTION 12.

(a) Neither the county, the state, nor any municipality other than the authority shall, except as may otherwise be authorized by the board of directors of the authority and the governing body of the particular governmental entity, in any event be liable for the payment of the principal of, premium, if any, or the interest on any bonds, notes, or refunding bonds of the authority, or for the performance of any pledge, obligation, or agreement of any kind whatsoever which may be undertaken by the authority, and none of the bonds, notes} or refunding bonds or any of its agreements or obligations shall be construed to constitute an indebtedness of the state, the county, or any municipality within the meaning of any constitutional or statutory provisions whatsoever.

(b) Bonds, notes, or refunding bonds of the authority shall not constitute a debt or a pledge of the full faith and credit of the state, the county, or any municipality, except as may otherwise be authorized by the governing body of the county¹ or municipality, and the holders or owners of such bonds shall have no right to have taxes levied by the county, municipality, the state, or any other taxing authority within the state for the payment of principal or premium, if any, and interest on such bonds, but shall be payable solely from revenues and monies pledged for their payment.

(c) Except as may otherwise be authorized by the legislative body of the county as specified in this act, all such bonds shall contain on the face thereof a statement to the effect that the bonds, refunding bonds, or notes are not a debt of the county or any other taxing authority of the county or within the state, but are payable solely from the revenues and monies pledged for the payment thereof.

SECTION 13. No part of the net earnings of the authority remaining after payment of its expenses shall inure to the benefit of any persons except that, at such times as no bonds¹ notes or refunding bonds of the authority are outstanding and unpaid and adequate provision has been made for the full payment of all liabilities, obligations, and contracts of the authority and the authority shall have, by operation of law, been terminated, any assets of the authority, to the extent not necessary for such purposes, shall be paid .. to the county and to any other municipality represented on the board, in proportional amounts equal to their indebtedness and obligation to the authority and its bonds, notes, and refunding bonds. To the extent allowed by this act, nothing herein contained shall, prevent the board from transferring its properties in accordance with the terms of any contract, agreement, or covenant entered into or undertaken by the authority.

SECTION 14.

(a) The board shall annually establish and adopt a budget for the authority commensurate with established policies and procedures authorized by the board and allowable under Tennessee law. The fiscal year for the authority shall run from the first day of July of each year until the last day of June of each annual and subsequent year.

(b) The board shall cause to be prepared each fiscal year an annual audit of the books and records of the authority. The audit shall comply with generally accepted governmental auditing standards as established by the comptroller of the treasury for the state of Tennessee, department of audit, pursuant to Tennessee Code Annotated, Section 4-3-304. A copy of such annual audit shall be filed with the office of county mayor of Fayette County, as well as the county clerk and shall be available for public inspection at reasonable business hours in the main office of the authority.

(c) The board shall establish employment procedures, personnel policies, general directives, compensation levels, retirement plans, insurance plans, and benefits necessary for the operation of the authority, or for the employees of the authority.

(d) Nothing in this act shall prevent the authority and its board from using separate accounts, or separate accounting books to account for the funds, revenues, assets, debts and liabilities for one or more system or systems under the authority's control, pursuant to authorization from the board.

(e) The board may, from time to time, establish other controlling policies, procedures, rules and documents allowable under Tennessee law and necessary for the operation of the authority.

SECTION 15.

(a) The county may take all actions hereunder by resolution of its governing body. The county shall have all powers necessary to further the purposes of this act, including, without limitation, the power to sell, lease, dedicate, donate, or otherwise convey to the authority any of its interest in any existing water and wastewater system, franchises, assets, liabilities, or other related property, whether real or personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances, or grant easements, licenses, or other rights or privileges therein to the authority and to contract with the authority.

(b) The county, through its legislative body, is authorized to issue joint obligations with the authority and to pledge its full faith and credit and unlimited taxing power to such bonds, notes, or refunding bonds, and to guarantee the bonds, notes, or refunding bonds as set forth in Section 10.

(c) The county may enter into agreements with the authority for the orderly transfer of all or any part of its system and to enter into agreements with the authority to assume to pay or to refund bonds, refunding bonds, and notes issued by the county or loan agreements entered into by the county to acquire, construct, or equip all or any part of a system.

(d) The county may advance, donate, and lend money to the authority and provide that funds and grants available to it for assistance shall be paid to the authority.

(e) The county has the power to enter into any contract or agreements with the authority that the board deems necessary to carry out the purposes of this act.

SECTION 16. Neither this act, nor anything herein contained, shall be construed as a restriction or limitation upon any powers which a county or municipality might otherwise have under any laws of the state, but shall be construed as cumulative of, and supplemental to, any such powers. Nothing herein shall be, construed to deprive the State of Tennessee and its governmental subdivisions of their respective

police powers, or to impair any power of any official or agency of the state and its governmental subdivisions, which may otherwise be provided by law.

SECTION 17. The authority is hereby authorized to enter into contracts and agreements to receive rights and assets from any municipality, which pursuant to a resolution of its governing body, shall have sold, leased, transferred, dedicated, donated or otherwise conveyed its system rights and assets to the authority for ownership and operation by the authority. Any municipality seeking to enter into such agreements with the authority shall have the same rights and liabilities as it would otherwise have in entering into a similar agreements with a water/wastewater treatment authority as provided by Tennessee Code Annotated, Title 68, Chapter 221, Part 6, and as provided by the utility district law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 18. This act is remedial in nature and shall be liberally construed to accomplish its purpose of providing for a systematic and efficient means of distributing and encouraging the best utilization and conservation of water resources and wastewater services and the powers herein granted may be exercised without regard to requirements, restrictions, or procedural provisions contained in any other law or charter except as herein expressly provided. Provided, that nothing in this act shall be deemed to supersede any general law. The continued operation of any municipality entering into an agreement with authority, as provided in Section 17, shall be in compliance with the utility district law, Tennessee Code Annotated, Title 7, Chapter 82.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 20. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Fayette County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 21. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 20.

Passed: April 9, 2024.

Levee and Drainage Districts

Acts of 1909 Chapter 185

SECTION 1. That the County Court of any county in this State is hereby vested with the jurisdiction, power, and authority at any regular, special, or adjourned session to establish a drainage district or districts, and to locate and establish levees, and cause to be constructed, as hereinafter provided, any levee, ditch, drain, or watercourse, or to straighten, widen, deepen, or change any natural watercourse in such county, or provide for the same being done whenever the same will be of public utility or conducive to the public health or welfare and as hereby provided. The Court here vested with this jurisdiction and authority is the County Court held and presided over by the County Judge or Chairman, and not the Quarterly County Court, and all references in this Act to the County Court is to the court so held by the County Judge or Chairman, unless otherwise stated.

SECTION 2. That before any County Court shall establish a drainage or levee district, or any levee, ditch, drain, or watercourse improvement, as provided for in this Act, as petition, signed by one or more persons owning land that will be affected by or liable to be assessed for the expenses of the proposed improvement, in which the improvement is expected to be made, setting forth that any body or district of land in such county, described by metes and bounds or otherwise, so as to convey an intelligible description of such lands, is subject to overflow, or too wet for profitable cultivation, and that the public health or welfare will be promoted by draining, ditching, or leveeing the same, or by changing such watercourse, or by in part changing such watercourse by cutting across bends of the same and shortening its length, or by cleaning out its natural bed or deepening or enlarging such bed, or by giving such watercourse a new outlet, or any or all of these and similar things pertaining to the proposed improvement, and setting forth in said petition as near as may be the starting point, route and terminus, and lateral branches, if with proper prayer for purpose desired; and there shall be filed with said petition a bond, with good security, in such penal sum as the County Clerk may deem adequate, to be approved by him, and conditioned for the payment of all preliminary expenses till refunded, and of all costs and expenses incurred in the proceedings in case the County Court does not grant the prayer of the petition, or the petition is dismissed for any cause. The County Court may at any time deemed proper order said bond increased in penalty or insufficiently, (sic)

and make all necessary orders to this end.

SECTION 3. That after such petition has been so filed and bond taken and approved, the County Court shall, at the first session thereafter, regular, special or adjourned (and may at a later session), appoint a disinterested and competent engineer and have placed in his hands a copy of said petition, and he shall proceed to examine the lands described in said petition, and any other lands that would be benefited by said improvement, or necessary in carrying out such improvement, and survey and locate such drain or drains, ditch or ditches, levee or levees, improvement or improvements, as may be practicable to carry out the purposes of the petition and which will be of public benefit or utility or conducive to the public health or welfare. He shall make return of and file his proceedings with the County Clerk, which returns shall set forth the starting point, the route, the terminus or termini of the ditch or ditches, drains, or other improvements, and the course and length of the same, approximately, through each tract of land as far as may be practicable, and the total length and the course and the elevation, as near as may be, of all lakes, ponds, and deep depressions in said district, and the fall obtainable across said district, and the boundary of the proposed district, and the description of each tract of land therein, as shown by the tax books, and the names of the owners thereof, as shown by the tax books, together with the probably (sic) cost of the improvement, and such other facts and recommendations as he may deem material.

The court may at any time recall the appointment of any engineer made under the provisions of this Act, if deemed advisable to do so, and appoint another to act in his place.

That the ditches and drains herein provided for shall be surveyed and located along the general course of the natural streams and watercourses, or in the general course of the natural drainage of the lands of said district, unless there should be some special and good reason why the natural course should be departed from to secure a new and better outlet, or for any other good reason, and having due regard to the straightening and shortening of such natural streams, watercourses, and course of natural drainage.

Whenever such ditch or drain crosses any railroad tract or right of way, it shall be located at the place of the natural waterway across said right of way, it shall be located at the place of the natural waterway across said right of way, unless said railroad company should have provided another place in the construction of its roadbed for flow of the water, or unless another place for so crossing its right of way shall be agreed upon by said railroad company; and if located at the place provided by or agreed upon by the railroad company, such company shall be estopped from afterwards objecting to such location on the ground that it is not the place of the natural waterway.

The engineer may employ necessary help--such as axmen, rodmen, etc.--returning an itemized expense account.

SECTION 4. That upon the filing of the return of the engineer, the County Court shall examine the return; and if the plan seems to be expedient and meets the approval of the court, it shall order the County Clerk to cause notice to be given, as hereinafter provided; but if it does not appear to be expedient, and is not approved, the court is hereby authorized to direct said engineer, or another engineer selected by it, to prepare another plan. If the court should deem the proposed improvement inexpedient or inadvisable, after an examination of the return of the engineer, or after a second or further return, it may dismiss the petition and proceedings, and, in that event, it shall adjudge all costs and expenses incurred against the petitioners and the sureties on said bonds. When the plan, if any, shall have finally met the approval of the court, it shall order the County Clerk to issue a summons, or writ, to the Sheriff of the proper county, said writs to run in the name of the State, commanding the Sheriff to summons the persons named in said writ to appear before the court on the day set by it for the hearing of said petition. Said writ or summons shall name therein to be served the owners of all the tracts or lots of land not petitioners, within the proposed levee, improvement, or drainage district, as shown by the tax books of the county, or by affidavit filed, and upon the persons in actual occupancy of the lands or lots, and also upon any lien holder, or incumbrancer is a nonresident of the State, or his name or residence cannot be ascertained after diligent inquiry, and these facts are made to appear by affidavit filed, then publication shall be made for such party for two consecutive weeks in some newspaper of the county where the proceeding is pending notifying such party or parties of the pendency and prayer of said petition, and to appear at the time set for the hearing thereof, the last publication to be at least twenty days before the time set for such hearing. Proof of such publication may be made as now provided by law in Chancery cases, and who are actual owners, or such lien holder or incumbrancer, may be made to appear to the Clerk by the affidavit of any person acquainted with the facts or by the averments of the petition if sworn to.

If at the time set for the hearing it shall appear to the court that any person entitled to notice as herein provided has not had such notice, the hearing shall be adjourned till such person can be given the required notice, and the court shall not lose jurisdiction of the subject matter or of the person already properly notified by such adjournment or postponement. The persons concerned may appear and be heard without formally answering such petition in writing.

SECTION 5. That any person claiming damages as compensation for or on account of the construction of such improvement shall file such claim in the office of the County Clerk at least five days prior to the day on which the petition has been set for hearing, and on failure to file such claim at the time specified shall be held to have waived his rights thereto; provided, if such person be an infant or a non compos mentis, and without regular guardian, or such guardian has not been notified of the proceeding as herein provided for notice, a guardian ad litem for such person, who may file such claim for damages, if deemed proper, for the person so under disability within the time above allowed or within five days after so appointed.

SECTION 6. That the County Court, upon the hearing of said petition at the time set for hearing, or at the time to which the matter has been adjourned or continued, shall proceed to determine the sufficiency of the petition in form and manner, which petition may be amended at any time, as to form and substance, before final action thereon; and if the court should find that such levee or drainage or improvement district would not be for the public benefit or utility, or conducive to the public health or welfare, it shall dismiss the proceedings; but if the court should find such improvement conducive to the public health or welfare, or to the public benefit or utility, it shall determine and adjudge the necessity therefor of such levee or drainage district; and if no claim for damages has been filed, as provided in Section 5 of this Act, the court may, if deemed advisable, locate and establish said district, or may refuse to establish the same, as the court may deem best; and at such hearing the court may order said engineer, or a new engineer appointed by it, if deemed advisable, locate and establish said district, or may refuse to establish the same, as the court may deem best; and at such hearing shall be continued till the filing of such further report. If any claims for damages have been filed, as provided in Section 5 of this Act, the court shall not establish such district till viewers have been appointed and have reported, and the court shall proceed to appoint three viewers to assess such damages, who shall be disinterested freeholders of the county, and not related to any party interested in the proposed improvement, not themselves interested in a like improvement, and the engineer appointed by the County Court as aforesaid shall accompany said viewers and furnish such information as may be called for by them concerning the survey of said improvement.

SECTION 7. That the viewers appointed to assess damages, after being duly sworn to act impartially and faithfully to the best of their ability, shall proceed to view the premises and determine and fix the amount of damages to which each claimant is entitled, and file reports in writing with the County Clerk showing the amount of damages each claimant would be entitled to because of the establishment of the proposed improvement. The report of the viewers shall be filed as soon as practicable; and if any of them fails or refuses to act, for any reason, or they do not proceed to act with promptness, the court may appoint others as viewers in the place of any or all of them. In estimating the damages, the viewers shall give the value of the land proposed to be taken without deduction, but incidental benefits which may result to the owner by reason of the proposed improvement may be taken into consideration in estimating the incidental damages.

SECTION 8. That after the filing of the report of the viewers, the court shall consider the amount of damages awarded in deciding whether such levee or drainage district should be established; and if in its judgement the probable cost of construction is not a greater burden than should be properly borne by the land benefited by the improvement, and the improvement is conducive to the public health or welfare, or to the public benefit or utility, then the court shall locate and establish such drainage or levee district by proper order or judgement to be entered of record, and the court shall thereupon proceed to determine the amount of damages sustained by each claimant, and may hear evidence in respect thereto, and may increase or diminish the amount awarded by the viewers, as may seem just and right. Any party aggrieved may appeal from the decision of the court in establishing, or refusing to establish, the improvement district, or its decision in the allowance of damages, such appeal being to the Circuit Court, and any party so desiring to appeal shall have the right to have the benefit of such appeal at any time within ten days after such decision is made without formally praying an appeal by filing with the Clerk of the County Court a notice of such appeal, at the same time filing with him a bond, to be approved by said Clerk in such sum as he may deem adequate, and conditioned to pay all costs and expenses of the appeal, unless the finding of the Circuit Court shall be more favorable to the appellant or appellants than the finding or decision of the County Court.

The Circuit Court shall hear any such appeal de novo; and if the appeal be from the amount of damages allowed by the County Court, the amount ascertained and fixed by the Circuit Court shall be entered of record, but no judgement shall be entered therefor. The amount thus ascertained shall be certified by the Clerk of the Circuit Court to the County Court, which court shall thereafter proceed as if such amount had been by it allowed the claimant as damages. If the appeal is from the action of the County Court in establishing, or refusing to establish, the drainage or levee district, the Circuit Court shall enter such order as it may deem just and proper in the premises, and the Clerk of said court shall certify the same to the County Court, which shall proceed thereafter in the matter in accordance with the order of the Circuit Court. In the Circuit Court in such cases the cases shall be docketed with the appellant or appellants as plaintiffs and the adversary parties as defendants, and where there are several appellants on questions

of damages, the Circuit Court may consolidate the causes and hear or try them together, if practicable, making proper findings or order as to each; and in such appeals from orders of the County Court made at the same session where there are several appellants, at their request only one transcript shall be made out by the County Court Clerk.

On such appeals it shall rest in the discretion of the Circuit Court how the costs shall be adjudged and distributed among the litigants; and the trial in that court shall be with or without a jury as the court may deem the right of the parties to be under the parties issues to be tried, the right to a jury being accorded wherever the parties have such right under the law of the land.

SECTION 9. That after the amount of damages due any claimant or claimants shall have been finally ascertained and fixed by the County Court, the amount of all such damages shall by said court be required to be paid, in the first instance, by the parties benefited by said levee or drainage district, or be secured, to be paid upon such terms and conditions as the County Court may deem just and proper; and after said damages have been paid, or secured, as aforesaid, the County Court shall enter a proper order of condemnation showing all such lands are appropriated and belong to such drainage or levee district for all its necessary purposes. In establishing any such levee or drainage district, all necessary lands may be appropriated as herein provided, and a right of way as much as two hundred (200) feet wide may be so appropriated, if deemed necessary, for the situs and location of any ditch or drain, or for the location of a new route or channel for any natural watercourse for the whole way or parts of the way of its course; and the natural bed of any watercourse in such district may, in so far as the same may be utilized and necessary, be so appropriated to the end that such bed or channel may be cleaned out, deepened, or widened; but the provision in this section as to width of such right of way shall not prevent the County Court from ordering appropriated such other lands as may be deemed necessary for the purposes of such improvement district under the provisions of this Act.

SECTION 10. That after such levee or drainage district is so established by the County Court, and all damages paid or secured, if the County Court is of opinion that the report of the engineer already made is not sufficiently full or definite to enable the proper letting of contracts for the construction, of the improvement, or, for other reasons, is not as full and definite as it should be, the court shall direct said engineer, or another appointed by the court for the purpose, to make a further and more complete survey and estimates of such district and cost of proposed improvements, and report to the court as to the same giving all necessary and required information; how much of said improvement will be upon each tract of land, as nearly as practicable, giving definite estimates as to cost and character of work, and dividing the work into convenient sections for making contracts, etc., and giving such other particulars as the court may see fit to direct, and such report of such engineer shall be made and filed with the County Clerk without unreasonable delay; and if such engineer fails to act with reasonable promptness, the court may remove him and appoint another in his stead.

SECTION 11. That when the drainage or levee district, or other improvement herein provided for, shall have been located and established as provided for in this Act, the County Court shall appoint three Commissioners, one of whom shall be a competent civil engineer, and two of whom shall be freeholders of the county, not living within the levee or drainage district, and not interested therein, or in a like question, nor related to any party whose land is affected thereby; and they shall, as soon as practicable after their appointment, and after being duly sworn to perform their duty faithfully and impartially to the best of their ability, inspect and classify all the lands benefited by the location and construction of such drainage or levee district in a graduated scale of benefits, naming the tract or tracts of each owner and so classifying the same, each tract to be numbered according to the benefit received, as below provided, by the proposed improvement; and they shall make an equitable apportionment and assessment of the costs, expenses, cost of construction, fees and damages assessed for the construction of any such improvement, and make report in writing thereof to the County Court. In making said estimate and apportionment, the lands receiving the greatest benefit shall be marked on scale of one hundred, and those benefited in a less degree shall be marked with such percentage of one hundred as the benefit received bears in proportion thereto. This classification, when finally established, shall remain as a basis for all future assessments connected with the objects of said drainage or levee district, unless the County Court, for good cause, shall authorize a revision thereof. In making such classification, said Commissioners are authorized to divide the land of one owner lying in one body into more than one tract, and classify each subdivision thereof, if they are of opinion that portions of such entire tract will be more benefited than other portions, and especially when such entire tract is a large one, and that it will be more equitable and just to so classify it in subdivisions.

In the report of such Commissioners they shall specify each tract of land by reasonable description and the ownership thereof as the same appears on the tax books of the county or as the same has been previously adjudged in the proceeding, and the court shall cause notice to be served upon each person whose name appears as the owner, and upon any person in actual occupancy of the land, which notice shall state the amount of special assessments apportioned to each owner on each tract or lot, the day set for hearing the

same before the court, that all objections thereto must be made in writing and filed with the County Clerk on or before noon of the day set for hearing; and said notices shall be signed by the County Clerk and served at least five days before the time set for the hearing. If any such owner be a nonresident of the State, or his name or residence is unknown and cannot be ascertained after diligent inquiry, then service of such notice upon the resident agent or attorney of such person shall be sufficient; if there be no such resident agent or attorney of such person, then the assessment may be made without notice, just as taxes are assessed without notice in such cases. When the day set for hearing has arrived, and the hearing is not continued by the court for good reason, as it may be, and when the hearing is had, the County Court shall proceed to hear and determine all objections made and filed to said report, and may increase, diminish, annul, or affirm the apportionment and assessments made in such report, or in any parts thereof, as may appear to the court to be just and equitable; but in no case shall it be competent to show that the lands assessed would not be benefited by the improvement; and when such hearing shall have been had, the County Court shall assess such apportionment so fixed by it upon the lands within such levee or drainage district. If the first assessment made by the court for the original cost of any improvement as provided in this Act is insufficient, the court may make an additional assessment in the same ratio as the first.

If for any reason the court annuls in toto, or sets aside such report of the Commissioners, it shall order them to make a new report, or shall remove them and appoint new Commissioners to act as in the first instance if desired by the parties concerned.

SECTION 12. That the assessments shall be levied upon the lands of the owners so benefited in the ratio aforesaid, and shall be collected in the same manner as taxes for county purposes, except as herein specially provided, and the funds so collected shall be kept as a separate fund, and shall be paid out only for purposes properly connected with such improvement, and on the order or warrant of the Judge or Chairman of the County Court.

SECTION 13. That an appeal may be taken to the Circuit Court of the County from the order of the County Court fixing the assessment of benefits upon the lands in the same manner and time as herein provided for appeals from the assessment of damages, including the provisions as to consolidating cases, making transcript, etc., and certifying to the County Court the action and doings of the Circuit Court.

SECTION 14. That when any appeal is taken from any order of the County Court made in any proceedings before it under this Act, the County Court may employ counsel to represent the interests of the levee or drainage district affected by such appeal, on the trial thereof in the appellate courts, and the expense of such counsel shall be paid out of the drainage fund of such district.

SECTION 15. That in any county where a levee or drainage district is sought to be established the County Court Clerk of such county shall provide a book to be known as the "Drainage Record", and to be paid for by the county, and said Clerk shall keep therein a full and complete record of all proceedings in each case arising under this Act, including all order made by the County Court, and certified from the Circuit Court, and a copy of the original petition shall be enrolled in said Drainage Record, and all bonds required to be given.

SECTION 16. That the fees of the County Clerk in proceedings under this Act shall be the same as for similar services now allowed by law, and in such case the County Court may allow said Clerk an additional sum for extra services, or services not covered by existing fee bills, or statutes, to be fixed by the court, and paid as other costs and expenses in the case or proceeding.

SECTION 17. That where any assessments made and levied under this Act cannot for any reason be enforced, and part of the work has been done, the County Court shall proceed as to any or all lands benefited by said improvement in the same manner as if the appraisalment and apportionment of benefits had never been made, in which event any payments already made shall be duly credited to those who have paid the same.

SECTION 18. That after a drainage or levee district has been located and established as provided for by this Act, the County Court shall appoint two Directors of such district, said Directors to be owners of lands, or interested in lands, in such district, and at least one of those first appointed to be one of the petitioners for the establishment of said district, or his successor in estate or interest, said Directors to hold their offices for two years from the date of appointment, and these two thus appointed and their successors, together with the Judge or Chairman of the County Court, shall constitute the Directors, or Board of Directors, of such district, and as such Directors they shall have the general control and management of the business affairs of such district and supervision of the same, and be vested with power and authority to make contracts, as provided by this Act, for all improvement to be done in said district.

If there should be a vacancy in the office of the Director appointed as aforesaid, because of death, resignation, or other reason, the County Court shall appoint another Director of like qualifications to fill such vacancy till the end of the two years' term, and for sufficient reason the County Court may remove a

Director so appointed, but not till such Director has had at least five days' notice of the time of the hearing, and of the grounds on which he should be removed, as alleged, and he shall thus be entitled to be heard and to introduce proof upon the issue as to whether he should be so removed as a Director; and if, on the hearing, the decision of the County Court is that he be removed, he may appeal therefrom, on giving proper cost bond, to the Circuit Court of the county, where the matter shall be heard anew and such judgement given as that court deems just and proper. If a Director is removed, the County Court shall appoint another to serve the remainder of the two years' term, having like qualifications as to ownership of lands, etc., as herein provided.

At the end of each two years' term the office of the two appointed Directors shall be again filled by appointment by the County Court from among those owning or interested in lands in such district. The Judge or Chairman of the County Court shall be Chairman of said Board of Directors, and said Board shall elect one of the other Directors Secretary and Treasurer of the Board, and as such Treasurer he shall give bond in the sum of twenty-five thousand dollars to faithfully account for all money coming into his hands as such Treasurer, said bond to be approved by the County Court and payable to the county or State, for the use of such district, and shall be recorded in the Drainage Record.

SECTION 19. That no contracts for improvements to be done in such drainage or levee district shall be made until after the Commissioners provided for by this Act have made their inspection, classification, and apportionment as directed in Section 11 hereof, nor until said question of classification and apportionment and assessment of benefits has been determined and settled by the court; but after the said Commissioners and the court have so acted, then such contracts may be made by the Board of Directors of the district. Before entering into any contract for improvements, the Board of Directors of the improvement district shall cause notice to be given once a week for four consecutive weeks in some newspaper published in the county wherein such improvement is located, and such additional publication elsewhere as they may direct of the time and place of letting the work of construction of said improvement, and in such notice they shall specify the approximate amount of work to be done in each section, and the time fixed for the commencement and completion thereof, and they shall award contract or contracts for each section of the work to the lowest responsible bidder, exercising their own discretion as to letting said work as a whole or in sections, and reserving the right to reject any and all bids and readvertise the letting of the work.

Each person bidding for such work shall deposit with the Treasurer of the Board of Directors in cash or certified check a sum equal to ten per centum of the amount of the bid, not in any event, however, to exceed ten thousand dollars, said deposit to be returned to him if his bid is not successful; and, if successful, to be retained as a guarantee only of his good faith in entering on said contract.

The successful bidder shall be required to execute a bond, with sufficient sureties, payable to the county, for the use and benefit of the drainage or levee district, in an amount equal to twenty-five per centum of the estimated cost of the work so let, or he may deposit such amount in cash with the Treasurer of the Board of Directors as security for the performance of his contract, and upon the execution of such bond or the making of such deposit, the deposit originally made with his bid shall be returned to him.

SECTION 20. That the said Board of Directors shall employ a competent engineer to take charge and supervision of the construction of such improvement work, contracting with him for compensation for his services in such sum or at such rate as may be agreed upon, and to be paid as other expenses of such district. The Directors may remove such engineer and contract with another, if they see fit for any reason.

The engineer in charge of the construction shall furnish the contractor monthly estimates of the amount of work done on each section, and upon filing the same with the County Court Clerk, the Judge or Chairman of the County Court shall draw a warrant in favor of such contractor for eighty per centum of the value of the work done according to the estimate; and when said work is completed to the satisfaction of the Board of Directors and said engineer, and so certified by him and said Board of such certificate is filed with the County Clerk, then the Judge or Chairman shall draw a warrant in favor of the contractor for the balance due. All such warrants shall be drawn upon the County Trustee or Treasurer as ordinary county warrants are drawn, but shall be payable only out of the fund provided for such drainage or levee district, and shall so state upon their face. The Board of Directors shall require such engineer to give bond in such sum as they may deem proper for the faithful performance of his duties, such bond to be payable to the county or State, for the use of such improvement district, and filed with the County Clerk and recorded in the Drainage Record.

SECTION 21. That whenever any railroad or public highway will be beneficially affected by the construction of any improvement or improvements in such district established hereunder, it shall be the duty of the Commissioners appointed to classify and assess benefits to determine and return in their report the amount of the benefit to such railroad or highway, and notice shall be served as to such railroad upon its nearest station agent, as provided in case of an individual property owner; and when such special assessments have been approved and fixed by the County Court, as hereinbefore provided, as to such

railroad, it shall be a debt personally from the railroad company, and, unless the same is paid by the railroad company as special assessment, it may be collected in the name of the county in any court having jurisdiction; and as to a highway, such assessment shall be paid by the county out of the general county fund or highway tax fund, such assessments to be paid into the fund of such drainage, levee, or improvement district.

SECTION 22. That whenever the making of such improvement across a public highway necessitates the building of a bridge over the same, the county shall build and construct the same and pay all cost thereof out of the county bridge fund, if such fund be provided, and, if not, out of the general county fund.

SECTION 23. That the owner of any land or lot that has been assessed for the payment of the cost of the location and construction of any ditch, drain, or water course, as hereinbefore provided, shall have the right to use the ditch, drain, or water course as an outlet for lateral drains from said land or lot.

SECTION 24. That the assessments as provided for by this Act shall be collected by the County Trustee as county taxes are collected, except as herein provided, and the funds so collected shall be kept as a separate fund, and shall be paid out only for purposes properly connected with such improvement on the order or warrant of the County Judge or Chairman; but such assessments may be collected by bill filed in Chancery, as hereinbelow provided, and no personal property of the owner of land so assessed shall be liable or distrained upon for such assessment, but the land so assessed only shall be liable for such assessment.

SECTION 25. That the improvement in the drainage districts herein provided for may consist solely, if so desired by those concerned in the changing in whole or part of the course or channel of a natural water course, or in straightening, as far as practicable, such water course and cleaning out so much of its natural channel as it is desired to utilize; or the improvement in such drainage district may, in addition to the main ditch, or drain, or channel, include such other lateral and other ditches and levees as may be deemed proper or necessary.

SECTION 26. That any person owning lands within any drainage district who desires to establish a subdistrict within the limits of the original district for the purpose of securing more complete drainage may file his petition with the County Clerk, asking the County Court to establish such subdistrict, and describing the lands to be affected thereby so as to convey an intelligible description of such lands; and the bond and all other proceedings shall be the same as herein provided for the establishment, formation, and construction of original districts and improvements thereof, including the assessments of damages and assessment of benefits; and when established and constructed, it shall be and become a part of the drainage system of such drainage district, and be under the control and supervision of the Board of Directors of such drainage district; provided, however, such subdistrict shall only be established when conducive to the public health or welfare, or to the public benefit or utility; and, provided, further, that any special assessments made for the benefit of such subdistrict shall be secondary in the lien and in right to the assessments for the benefit of the original district.

SECTION 27. That if the County Court shall determine that the estimated cost of reclamation and improvement of such district of land or levee or drainage district is greater than should be levied in a single year upon the lands benefited, the court may fix the amount that shall be levied and collected each year, and may issue drainage bonds of the county, bearing not more than six per centum annual interest, said interest payable annually, and may devote such bonds at par, with accrued interest, to the payment of the expenses and work as it progresses, or may sell the same at not less than par, with accrued interest, and devote the proceeds to such payment; and if, in the sale of said bonds, a premium is received, such premium shall be credited to the drainage fund; and should the cost of such work exceed the estimate, a new apportionment of the assessment may be made and levied and other bonds issued and sold in like manner, but in no case shall the bonds run longer than twenty years. Any property owner may pay the full amount of the benefit assessed against his property before such bonds are issued and receive a receipt in full therefor. Such payment shall be made to the County Trustee, and it shall be the duty of the County Clerk to certify to the Trustee the amount of any such assessment when requested to do so, and the Trustee shall enter the same upon the assessment lists in his hands in a separate place provided therefor, and shall furnish the County Clerk with duplicate receipts given for all assessments so paid in full, one of which the Clerk shall deliver to the Judge or Chairman of the County Court, and the Trustee shall also give a receipt to the property owner so paying in full.

The terms and times of payment of the bonds so issued shall be fixed by the Board of Directors of the improvement district, and such bonds shall be signed by the Judge or Chairman of the County Court and countersigned by the Clerk of the County Court, each of said officers signing his name officially, and shall be verified either by the county seal or seal of the County Court Clerk. Said bonds shall be issued for the benefit of the district numbered thereon, and each district shall be numbered by the County Court and recorded by the County Clerk in the Drainage Record, said record showing specifically the lands embraced

in said district and upon which the assessment has not been previously paid in full.

Each bond shall show expressly upon its face that it is to be paid only by assessments levied and collected on the lands within the district so designated and numbered, and for the benefit of which district such bond is issued; nor shall any assessment be levied or collected by the payment of said bond or bonds, or the interest thereon, on any property, real or personal outside the district so numbered, designated, and benefited. Such bonds shall be in denominations of not less than fifty dollars; and when such district lies in more than one county, the County Court of each county shall so determine whether bonds shall be issued to meet the expenses, etc., of the improvement so far as the lands of the district lie in that county; and if so issued, the bonds shall be signed by the Judge or Chairman of the County Court of such county and countersigned by the County Court Clerk, and verified by the county seal or seal of the County Clerk, and shall be payable only out of the assessments levied for such improvement on the lands in such county, as provided hereby when such district is wholly in one county.

SECTION 28. That if the Board of Directors of any improvement district provided for by this Act deems best instead of issuing bonds, they may direct that warrants shall be issued or drawn on such district or on the County Trustee, by the Judge or Chairman of the County Court, to be paid out of the funds of such district only, and at such times as the assessments may be due, or as may be due, or as may be deemed best, the time of the maturity of assessments as fixed being considered, such warrants to be issued or drawn for all lawful demands on such district and to bear interest at not more than six per centum per annum.

SECTION 29. That where a proposed or desired improvement will require a location in more than one county, applications by petition shall be made to the County Court of each of said counties as provided by this Act for applications where the improvement to be made lies wholly in one county, and signed by one or more persons owning lands lying in each county to be affected, or assessed for the proposed improvement; and when such petitions have been filed, the County Court of the county in which the larger or largest per centum of the lands to be affected by such improvement lies shall appoint a competent engineer to make survey, etc., of such proposed improvement district in the same manner as when the proposed improvement lies wholly in one county, and such engineer shall proceed in the same manner as when the improvement lies wholly in one county, and said engineer shall make out duplicate reports of his survey and work and file one with each of the County Court Clerks in the counties where the petitions for such improvement is filed; and after such reports of the engineer are so filed, the County Court of each of said counties shall proceed as herein provided for improvement districts located wholly in one county till the point in the proceeding is reached when viewers are to be appointed to assess damages, as provided by this Act; and as to such viewers, the County Court of the county in which the larger or largest per centum of the lands to be affected or assessed on account of such improvement is located, or lies, shall appoint two viewers, and one of such viewers shall be appointed by the County Court of each of the other counties concerned, if more than one other county; and if only one other, by the County Court of such county, said viewers to have the same qualifications, etc., as hereinbefore provided for viewers. When so appointed, the viewers shall meet as soon as practicable at some convenient point to be designated by the Clerk of the County Court of the county, the court of which appoints two of the viewers and shall then proceed to assess damages, etc., as hereinbefore provided for districts lying in one county only, said engineer rendering them like assistance, as hereinbefore provided; and when their work is completed, the viewers shall make out one copy of their report for each of said counties, signing same, and shall file a copy of such report with each of the County Court Clerks of the counties where such petitions have been filed for the establishment of such improvement or district.

SECTION 30. That when the viewers have so reported, each of said County Courts shall proceed as herein provided in other cases till the point is reached to appoint Commissioners to make assessments and apportion the same as to the lands affected, when the County Court of the county in which the larger or largest per centum of the land lies to be assessed or affected, shall appoint two of said Commissioners, one of these appointees to be a competent engineer, and the other County Court, or Courts, shall appoint one of said Commissioners each, the Commissioners so appointed to have the same qualifications as hereinbefore provided; and when so appointed, they shall, as soon as practicable, meet at some convenient place to be designated by the County Court Clerk of the county, the court of which has appointed two of the Commissioners, one being an engineer, and shall then proceed to assess the lands in such district, and apportion the assessments in the same manner as herein provided where such district lies wholly in one county, and shall report in like manner, and shall file a copy of their report with the Clerks of the County Courts in each county having lands within such improvement district; and when such Commissioners have so reported, each of said County Courts shall proceed as to said reports and in levying assessments, etc., as provided by this Act, in cases of districts lying in one county only.

SECTION 31. That in cases of levee or drainage districts so lying in more than one county, the Board of Directors of such district shall consist of one member from each county, to be appointed by the County

Court of such county, and the Judge or Chairman of the County Courts of each of said counties shall be members of such Board of Directors, and the qualifications, powers, and duties of such Board of Directors, shall be the same as provided by this Act for Boards of Directors and members thereof in improvement districts lying entirely in one county. The County Courts of the respective counties shall have the same right to remove the viewers, Commissioners, and Directors appointed by such court, and to appoint others in their stead, and to fill vacancies that the County Courts have, as provided by this Act, where such improvement district lies wholly in one county. The Judge or Chairman of the County Court of the county in which the larger or largest percentum of the lands of such improvement district lies shall be Chairman of such Board of Directors, with authority to call meetings of the Board; and said Board shall elect one of the appointed Directors Secretary and Treasurer of the Board of Directors, and such Treasurer shall give bond, etc., as provided by this Act, such bond or a duplicate of same to be filed with the County Clerk in each of the counties and recorded in the Drainage Record, said bond to be taken before and approved by the County Court of the county in which the larger or largest per centum of the lands of the district lies.

SECTION 32. That the assessments provided for by this Act, and to be collected for the purposes herein provided, shall be entered upon a book to be provided by the County Court Clerk, at the expense of the county, for this purpose, in a similar manner to that in which taxes are entered upon the tax books, such books showing the tracts of lands, amounts of assessments, etc., and such book, when so made out, shall be furnished to the County Trustee for collection of assessments so levied. Said book shall be called "Drainage Assessment Book," and shall be made out by the County Court Clerk of the county in which the particular assessment is levied, and said book may be made out but once, if practicable, for the entire assessment for the particular improvement project; but if not practicable, then a new drainage assessment book may be made out for a shorter period, or for each year, and furnished the County Trustee; and the assessments levied under the provisions of this Act shall become due and payable and delinquent at the same time State and County taxes become due and delinquent, and such assessments shall bear interest at the legal rate after they become delinquent.

SECTION 33. That the assessments provided for by this Act, when made and levied, shall be and become valid liens upon such lands so assessed just as State and county taxes are liens upon lands; and when such assessments have been due and delinquent for sixty days, bills may be filed in the Chancery Court of the county, or Chancery District, in which the lands lie, upon which such assessments are due and delinquent, for the collection thereof out of such lands by a sale thereof in all cases, except in cases where the assessment is made against a railroad company or a public highway, as herein provided for. Such bills in Chancery shall be filed in the name of the county in which the lands are situated for the use of the improvement district for the benefit of which the assessments were made, and against the owners, if known, and, if unknown, against them as such; and the owners of all lands upon which such assessments are delinquent may be made defendants to the same bill as parties thereof. When it is desired by the Board of Directors, or other interested party entitled to sue, to file such bill, the County Trustee, upon request, shall make out a statement or list, showing all the lands upon which such assessments are so delinquent, and the names of the owners thereof, as appears upon the Drainage Assessment Book or showing any tract or tracts assessed to unknown owners, if such be the case, and certify as Trustee to the correctness of such statement or list as the same appears upon said book, and in such Chancery suit such certified statement or list shall be prima facie proof of the facts so certified to and that such assessments are delinquent and sufficient proof to authorize a decree of sale in the absence of rebutting proof of the facts shown by such certified statement. Such suits in Chancery shall be proceeded with as other suits are in said court, except that the court may hear the case as to any one or more of the defendants, whether ready to be heard as to other defendants, or not, and so proceed to sale and final decree as to any one or more of the defendants, though the case be not disposed of as to other defendants. When a sale is ordered in such suit, and is made and reported, the Clerk and Master of such court so making the sale shall report what public taxes are a lien upon any tract so sold in favor of the State, county, or any municipality, and the court shall see that this is done, and any such taxes, if the sale be confirmed, shall be first paid out of the proceeds of such sale before such delinquent assessments are paid. Upon confirmation of such sale by the Chancery Court, it shall divest title out of the owner and vest it in the purchaser, and award a writ of possession if asked for; but where title is so vested in a purchaser the land so purchased shall still be subject, in the hands of the purchaser, his heirs, or assigns, to any other assessments not yet due, or unpaid, that may have been made and fixed or levied upon it at the time of such confirmation of sale, for the benefit of the improvement district on account of which such sale has been made. When any such sale is made by decree of the Chancery Court, it shall be made for case, and the owners of lands so sold shall have two years from the date of the confirmation of such sale in which to redeem the same by paying to the Clerk and Master of such court making the sale the amount paid by the purchaser for said land, with legal interest thereon, to the date of redemption, and also a further sum equal to ten per centum of the amount so paid by the purchaser for said land. In such proceedings in Chancery Court the attorney or solicitor employed and attending to the suit shall be allowed as a fee ten per centum of the amount found due as an assessment

or assessments on each tract of land decreed sold, the same to be charged up in the decree as part of the judgement for which the land is to be sold; and when such lands are redeemed, as herein provided, and this fact is made satisfactorily to appear to the Chancery Court, the court shall enter a decree in the cause, adjudging the land so redeemed and declaring it to be the property of the owner so redeeming, or if his heirs or assigns, if redeemed by his heirs or assigns; and if necessary may award a writ of possession to put the person so redeeming in possession of the land.

Provided, however, that infants and persons who are lunatics or of unsound mind shall have the further period of one year after the removal of such disability in which to redeem their lands sold under the provisions of this section and this Act, under like terms as to amounts to be paid, in redemption, as above provided.

SECTION 34. That the assessments provided for by this Act shall, if to paid by the owners of the land assessed, be collected only out of the land so assessed for improvement purposes, and shall not be collected, by distress warrant or otherwise, out of any other property, real or personal, of the owners of the land so assessed under the provisions of this Act.

SECTION 35. That it shall be a sufficient signing, in the sense of this Act, of the names of petitioners to the petitions herein provided for, if their names are signed by their attorney at law or by an agent authorized so to do.

SECTION 36. That engineers employed by Boards of Directors of improvement districts to supervise the work, etc., shall be paid for their services such salary or sums as may be agreed upon between them and such Boards of Directors: That engineers appointed hereunder by the County Courts shall be paid for their services at such rates as the courts appointing them may fix, and, if not so fixed, at the rate of five dollars per day while engaged in the work, and, in addition, all actual traveling expenses, an itemized account of such expenses to be kept by them and reported and sworn to; that the viewers and Commissioners provided for by this Act shall be paid at the rate of three dollars per day while engaged in the work, and, in addition, all actual expenses, including board paid for, itemized accounts for the same being reported and sworn to; and that other necessary help aiding the engineers, viewers, or Commissioners--such as chain carriers, axmen, etc.--shall be paid not more than two dollars per day.

For collecting and paying out assessments under this Act, the County Trustee shall receive the same compensation he receives for collecting public taxes; and for any certified statements furnished by him, the same fees per one hundred words as are allowed Clerks of Courts for certified copies of records; and if there be any services required of any person under the provisions of this Act, and the rate of pay therefor is not provided for hereby, then the County Courts shall not be entitled to receive any pay for their services, but only be reimbursed or paid their actual expenses incurred on account of attending to their duties as Directors, an account of the same to be kept, made out, and sworn to by each.

SECTION 37. That if any person to whom the work, or any portion of the work, in such improvement district has been let shall fail to perform the same according to the terms specified in his contract, then the cash deposited by him shall be forfeited for, the benefit of such district and be paid into its fund; or if bond has been given by such contracting party so failing, then recovery of the damages sustained may be had by suit in the name of the payee in such bond for the use of such district, and such damage on judgement therefor collected and paid into the fund of such district.

SECTION 38. That the owners of land which require combined drainage may provide for the establishment of a drainage district, or location and construction of drains, ditches, and water courses upon their own lands by mutual agreement in writing duly signed, acknowledged, and filed with the County Clerk. Such agreement may include the location, the character or work to be done, the adjustment of the damages, the classification of the lands to be benefited thereby, the amount of special assessments to be levied, when the same shall be levied, or so many of these or other provisions as may be agreed upon, and to such extent shall be as valid and binding as though performed in the mode and manner provided for in this Act. Upon the filing of the agreement with the County Court Clerk, the County Court shall establish such drainage district and locate the ditch, drain, or water course provided for in said mutual agreement according to the terms thereof, and shall thereafter have full and complete jurisdiction of the parties and subject-matter, and order such procedure under the provisions of this Act as may be required or necessary to carry out the object, purpose, and intent of such agreement, and to complete and construct the desired improvement, and shall retain jurisdiction of the same as fully as in other cases made and provided for in this Act.

SECTION 39. That the preliminary expenses of such levee or drainage district, ditch, drain, or water-course improvement provided for by this Act (not including contracts for construction) may be paid by order of the Quarterly County Court of the county in which the lands lie of such improvement district out of the general county fund, the same, if so paid, to be refunded to the county out of assessments collected from the lands of such improvement district when so collected; and if not so repaid, for any reason, then to be adjudged against and collected out of the bond of the petitioners required by this Act, and thus repaid

to the county. If the Quarterly County Court should not see fit to order such preliminary expenses so paid, and the parties to whom such expenses may be owing are not willing to agree to wait till a fund for their payment can be provided by special assessments upon such district, then the County Court by proper order shall require the petitioner or petitioners to pay to the County Court Clerk a fund sufficient to pay such preliminary expense, and the bond required of petitioners by this Act shall be liable for such preliminary expenses, and judgement thereon may be rendered at any time by the County Court to the end such fund for expenses be provided, just as courts render judgements on cost bonds, and one such judgement shall not prevent other judgements on the same bond, so the sum of the judgements does not exceed the penalty of the bond; provided, however, such fund for expenses may be paid in from time to time, under the orders of the court, as the same may be needed; and, provided, further, that all sums so paid by the petitioners or their sureties on their bonds shall be refunded and repaid to the person or persons so paying the same out of the funds of such improvement district when such funds have been realized under the provisions of this Act.

SECTION 40. That this Act is not intended to apply to Reelfoot Lake, or Wolf River in Fayette and Shelby Counties and its tributaries and the waters thereof, or to authorize the draining of same, and this Act shall not be construed to in any way authorize the draining of said lake, or Wolf River in Fayette and Shelby Counties, and the bottom lands thereof, and its tributaries. Provided, however, that the bottom lands of Wolf River in Fayette and Shelby Counties and its tributaries may be included in a drainage district under the provisions of this Act as amended whenever a majority of the owners of such lands (the majority to be reckoned by the number of acres owned) shall petition for the inclusion of said lands in such district.

As amended by: Private Acts of 1923, Chapter 385.

SECTION 41. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 25, 1909.

Nepotism

Private Acts of 1989 Chapter 105

SECTION 1. This act shall be known and may be cited as "The Fayette County Employees Uniform Nepotism Policy Act of 1989".

SECTION 2. As used in this act, unless the context otherwise requires:

- (1) "Governmental entity" means any Fayette County agency, authority, board, commission, department or office within the executive, judicial branch or legislative branch of county government or any autonomous Fayette County agency, authority, board, commission, department, or office;
- (2) "Relative" means a parent, foster parent, parent-in-law, son-in-law, daughter-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, brother-in-law, sister-in-law, adoptive parties or other family members who reside in the same household; and
- (3) "County employee" means any person who is employed by the any county governmental entity of Fayette County.

SECTION 3. Within each governmental entity, no county employees who are relatives shall be placed within the same direct line of supervision whereby one (1) relative is responsible for supervising the job performance or work activities of another relative; provided, however, to the extent possible, the provisions of this act shall not be construed to prohibit two (2) or more such relatives from working within the same county governmental entity.

SECTION 4. When, as a result of marriage, county employees are in violation of the prohibition established by Section 3, such violation shall be resolved by means of such transfer within the governmental entity, transfer to another governmental entity, or resignation as may be necessary to remove such violation. The appointing authority of such governmental entity shall advise the employees of each of the alternatives available to remove such violation. Such employees shall be given the opportunity to select among such available alternatives. If such employees are unable to agree upon any such alternative within sixty (60) days, then the appointing authority shall take appropriate action to remove such violation.

SECTION 5. The prohibition established by this act shall not be applied retroactively but shall be adhered to by each governmental entity in all hiring and employee transaction after the ratification of this act as required in Section 7.

SECTION 6. The provisions of this act shall be applied uniformly and shall constitute the nepotism policy of each governmental entity. No such governmental entity shall adopt a nepotism policy which conflicts with the provisions of this act.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Fayette County, Tennessee, before September 1, 1989. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.

Passed: May 22, 1989.

Administration - Historical Notes

County Clerk

The following acts once affected the office of county clerk in Fayette County. They are included herein for historical purposes.

1. Acts of 1829, Chapter 100, stated in the preamble that Henry M. Johnson, deceased, owed the Bank Agency of Fayette County, having been found to be in default in the approximate amount of \$521.25, as the agent of the said Bank, and it appeared further that there was a deficiency of about \$600 which the said Johnson collected in his lifetime as the Clerk of the County Court and collector for the County, and Sarah L. Johnson, widow of the said Henry M. Johnson desired to pay the same as the Administratrix of Johnson's estate. This Act permitted the widow to pay the above amounts in equal annual installments provided good and sufficient bond is first given.
2. Private Acts of 1919, Chapter 274, declared that all females, married or single, over the age of 21, and residents of the county appointing them, were eligible to serve as deputies in the office of the County Court Clerk in the several counties named in the Act, including Fayette.
3. Private Acts of 1919, Chapter 678, stated that women over the age of 21 would be allowed to serve as deputies in the office of the Clerks of all the Courts in Fayette County, with all the rights privileges, powers, and obligations of all other deputy clerks.

County Legislative Body

The following acts once applied to the quarterly court or the county legislative body of Fayette County and are included herein for historical purposes. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Acts of 1824, Chapter 36, provided that the Court of Pleas and Quarter Sessions for the newly formed county of Fayette would meet at the home of Robert G. Thornton, until otherwise provided for by law, on the first Monday in December, March, June, and September.
2. Acts of 1824, Chapter 102, re-scheduled the terms of the County Courts in several of the counties, including Fayette County, whose Quarterly Court would meet in the future on the second Monday in February, May, August, and November.
3. Acts of 1825, Chapter 318, rearranged the opening dates for the terms of the Courts of Pleas and Quarter Sessions in several of the western state counties. Fayette County would convene Court on the second Monday in January, April, July, and October.
4. Acts of 1827, Chapter 44, was the authority for the County Courts of Haywood, Fayette, Tipton, Shelby, and Madison Counties, a majority of the Justices being present, on the first day of the first term of the year, to select three Justices from their own body to hold their county courts for the remainder of the year with the same powers in civil and criminal cases as the regular court may have, and with the power also to select another Justice if one chosen should fail to perform or be absent due to illness.
5. Acts of 1829-30, Chapter 15, reinvested Justices of the Peace with the duties incidental to them as members of the Quarterly County Court, which had been previously taken away from them and given to Boards of County Commissioners.
6. Acts of 1832, Chapter 67, permitted the County Court of Fayette County to dismiss a suit if judgment had not been given and to release the judgment if it had been given, against Hugh C. Crozier, and others, who were bail for a Mr. Mussellmann, convicted of showing tricks without a license.
7. Acts of 1835-36, Chapter 6, permitted every county to organize a court which would meet on the first Monday in every month at the Court House situated in the county seat. A great portion of the jurisdiction formerly exercised by the County Courts in civil and criminal matters were transferred to the Circuit Courts meeting in the County, including all jury trials which might arise

during the administration of estates.

8. Acts of 1835-36, Chapter 17, defined the jurisdiction of the Courts conducted by Justices of the Peace, pursuant to the 1835 Constitution, placing some limitations upon them which they did not formerly have, setting up rules of procedure, and establishing a schedule of fees which the Justices could charge. Forms for some of the bonds used in the Courts and for some of the written pleas found in the practice before the tribunals were included in the Act. The whole range of activities permitted to take place in the Justice's Courts were generally covered by this law.
9. Acts of 1835-36, Chapter 74, was the enabling legislation for the County Court of Fayette County to appropriate any money in the County treasury not otherwise appropriated, for the satisfaction of any claim which an individual may have against the County for work done under contracts made with the Internal Improvement Board of the county. The Justices would judge the validity of all claims before they were paid and could require any quantum of proof to be submitted they may considered necessary.
10. Acts of 1870, Chapter 48, stated that the Act passed on November 11, 1869, Chapter 15, which re-established the Quarterly Court of Fayette County and the Quorum Court, was hereby re-enacted and Acts of 1869-70, Chapter 49, which repealed the said Act, was repealed as the same applied to Fayette County.
11. Acts of 1871, Chapter 21, stated that an additional Justice of the Peace would be elected by the qualified voters within the limits of the town of Lagrange in Fayette County, who would have their office in said city, and the town Constable was authorized and directed to hold the election and to tally and certify the vote count to the Governor who would issue a Commission to the person elected.
12. Acts of 1889, Chapter 190, rescheduled the starting dates of the terms of the Quarterly Court in Fayette County from the first Monday in January, April, July, and October to the first Tuesday in the very same months.
13. Private Acts of 1929, Chapter 99, stated that in Fayette County the Justices of the Peace would be entitled to receive as compensation for their services the sum of \$3.00 per day for each day of attendance at any regular or special session of the Quarterly Court of the said County, and, in addition, shall be paid all such mileage, ferrriage, and tolls as allowed by law.
14. Private Acts of 1931, Chapter 212, made Justices of the Peace ineligible to serve in Fayette County as a member of the County Highway Commission, Road Superintendent, or to do any other work in connection with the management, control, or working of the highways where the compensation was fixed by the County Court, but this Act shall not legislate anyone out of office on the Highway Commission. Vacancies occurring would be filled by the Chairman of the County Court until the first Monday in April, 1931, and until their successors were elected and qualified.
15. Private Acts of 1957, Chapter 137, fixed the compensation of the Justices of the Peace in Fayette County, identified by the use of the 1950 Federal Census figures, at \$5.00 per day for each day spent at regular and extraordinary meetings of the Quarterly County Court.
16. Private Acts of 1965, Chapter 190, was rejected and disapproved by the Fayette County Quarterly Court and never became an effective law. The Act provided that, beginning with the general August election in 1966, an additional Justice of the Peace would be elected in every incorporated municipality who would be in addition to the number presently elected. They would take office and hold terms as other Justices of the Peace.
17. Private Acts of 1967, Chapter 484, amended Private Acts of 1967, Chapter 357, Section 3, by reducing the requirement for publishing proposed new ordinances from two newspapers to one newspaper.

County Mayor

The references below are of acts which once applied to the office of county judge, or county executive in Fayette County. They are included herein for historical purposes only.

1. Acts of 1856, Chapter 253, created the position of County Judge for every county in the State, who would be a person learned in the law and hold his office for a term of four years after being elected by the popular vote of the people in the County. The Quorum Courts of the counties were abolished and their responsibilities where assigned to the Judge provided herein who would also attend to the duties of the County Chairman. All the jurisdiction of the County was enunciated in Section 6 and the Clerk was assigned to wait upon the County. The Judge would also fulfill the positions of accounting officer and general agent of the county and his responsibilities with reference to those two positions were outlined in the Act. Proper dockets and records would be kept and the Judge could practice law in every Court except his own.

2. Acts of 1857-58, Chapter 5, repealed Acts of 1856, Chapter 253, and restored the Quorum Court and the County Chairman to their former positions.
3. Acts of 1867-68, Chapter 30, created the office of County Judge in Perry, Decatur, Cheatham, and Lauderdale Counties and in Section 14 extended the provisions of the Act to Fayette County.

County Register

The following acts once affected the office of county register in Fayette County, but are no longer operative.

1. Private Acts of 1915, Chapter 226, allowed the Registers of Fayette County to appoint women over the age of 21 as Deputy Registers and gave the women the power and authority to serve.
2. Private Acts of 1919, Chapter 274, made all women, married or single, over 21 years of age, and a resident of the county appointing them, eligible for appointment as a Deputy Register in the Register's Office of the several counties named in the Act, Fayette County being among them.

County Trustee

The following acts once affected the office of county trustee in Fayette County, but are no longer operative.

1. Private Acts of 1917, Chapter 778, amended Public Acts of 1911, Chapter 46, to provide that the County Trustee in Fayette County, identified by the use of the 1910 Federal Census figures, who was charged with the collection of State and County revenues, taxes, funds, and moneys, shall at the time of the qualification enter into a bond, with approved sureties, payable to the State of Tennessee, in the amount of \$50,000 conditioned upon the proper collection and accurate accounting by him of all moneys mentioned above. Section 8-11-103, Tennessee Code Annotated, now regulates the bond for County Trustees.
2. Private Acts of 1919, Chapter 274, made all females, married, or single, over the age of 21 and residents of the county appointing them, eligible for appointment as a Deputy County Trustee in Weakley, Rutherford, Montgomery, Greene, Giles, and Fayette Counties.

Levee and Drainage Districts

The following act once affected Fayette County, but is no longer operative.

1. Private Acts of 1923, Chapter 385, amended Private Acts of 1909, Chapter 185, Section 40, by adding the Wolf River, its bottom lands and tributaries to Reelfoot Lake as exceptions to the provisions of this law.

General Reference

The following private or local acts constitute part of the administrative and political history of Fayette County but are today no longer operative because they have either been superseded, repealed, or failed to receive local approval.

1. Acts of 1824, Chapter 132, stated that the Commissioners, when appointed by the County Courts of Gibson, Dyer, Hardeman, Tipton, Fayette, Weakley, Obion, and McNairy Counties, lay off and sell the lots in the seats of justice for those counties, shall have, exercise, and possess all the powers extended by this act to the Commissioners designated for the city of Brownsville. Section 4 of this act named the county seats for the above counties specifying that the county seat in Fayette County would be called Somerville.
2. Acts of 1827, Chapter 12, set up a Treasury Department for the Western District of the State taking in the counties of Shelby, Fayette, Hardeman, McNairy, Hardin, Perry, Henderson, Carroll, Henry, Weakley, Obion, Dyer, Tipton, Haywood, Madison, and Gibson. A treasurer would be appointed for the agency by the joint ballot of both Houses of the General Assembly, who would operate under the same rules and be paid the same compensation as others in the State. The office would be located at Jackson in Madison County and the Sheriffs, Collectors, and other county officials would pay the money due the State at this office rather than at Nashville.
3. Acts of 1829, Chapter 158, appointed Joseph Cotton, Robert Cotton, F. Titus, Daniel Johnson, D. Jarnigan, Samuel Harper, and Charles Micky, as managers to raise \$7,500 by lottery scheme which would be used in cleaning out obstructions from the Wolf River but, before they could enter upon the plan, a bond of \$20,000 was required to be made.
4. Acts of 1831, Chapter 85, declared that all the deeds signed by Daniel Johnson as one of the Commissioners and Secretary to the Board appointed by law to dispose of the public lots in the town of Somerville in Fayette County which have been proved and registered, as required by law, are good and valid conveyances and are acceptable as proof in any court in the same way as if they were signed by all the Commissioners.

5. Acts of 1833, Chapter 34, opened the Planters Bank of Tennessee with an authorized capital stock of two Million Dollars, authorizing the Bank to establish branches in several Tennessee cities where stock would be sold and registered. In Somerville, John Brown, William S. Gray, H. A. Parker, Asbury Crenshaw, and John Cooper would supervise the affairs of the Bank.
6. Acts of 1833, Chapter 54, established the Farmers and Merchants Bank of Memphis with a capital stock allowed which would not exceed \$600,000, divided into \$100 shares. Banks for the subscription of stock were to be opened in several cities listed in the Act. At Somerville those named to supervise the Bank's business were Benjamin F. Gray, George Smith, John Cooper, William Davis, and Solomon Duty. At Lagrange, George F. Thompson, John Anderson, James Ruffin, Samuel B. Harper, and John M. Moss.
7. Acts of 1833, Chapter 55, was the authority for the Commissioners of navigation for the Wolf River to draw out of the Internal Improvements funds of Fayette County an amount sufficient to enable them to pay off the balance due to contractors who have satisfactorily completed their work on that project, provided that the Internal Improvement funds had not been otherwise appropriated. Records were to be kept of all transactions involving these funds.
8. Acts of 1833, Chapter 180, was the legal authority for Edmund W. Tipton, the Surveyor of the 11th Surveyor's District, to maintain and keep the land office in his home in Fayette County.
9. Acts of 1837-38, Chapter 7, made it the duty and responsibility of the Surveyors of Hardin, McNairy, Hardeman, and Fayette Counties, to extend the southern boundary of their respective counties to the line recently run by the Commissioners of the State acting under the authority of Acts of 1833, Chapter 46.
10. Acts of 1841-42, Chapter 159, stated that the last Notary Public elected by the County Court of Fayette County was required to keep his office in the town of Lagrange and it was the duty of the County Court, whenever a vacancy should occur, to fill the same, immediately and to assign one Notary Public to Lagrange and the other to Somerville.
11. Acts of 1847-48, Chapter 38, directed the Comptroller of the State of Tennessee to issue his warrant to the estate of Matthew Woodson, of Fayette County, for \$47.94, which was the amount paid by the said Matthew Woodson, while yet alive, to the Entry Taker of Fayette County for 383.5 acres of land which Entry was later declared to be void.
12. Acts of 1867-68, Chapter 99, made Public Acts of 1867-68, Chapter 65, Page 80, applicable to Fayette County, setting aside all laws which conflicted with it and fixing the annual compensation of the President of the Board of County Commissioners at \$500 and of the members of the Commission at \$300. The above cited act created a three member Board of County Commissioners in Madison County, who would be residents of the county for at least one year, who would serve a three year term, and the first members were to be appointed by the Governor. Vacancies on the Commission would be filled by the remaining members of the Board for the unexpired portion of the term. The Commissioners must be sworn and make bond for \$2,000.00. They would hold four regular sessions each year at the times established for the Quarterly County Court, all of whose powers and duties were taken from the court and vested in the Commission. In addition, the Commissioners were given certain specific powers enumerated in the act. All the Magistrates were likewise relieved of all their responsibilities as members of the County Court. This Act was repealed by Acts of 1869-70, Chapter 15.
13. Acts of 1868-69, Chapter 18, incorporated Whitfield Boyd, J. J. Holloway, John H. Key, William C. Trent, Joseph A. Hill, J. J. Pulliam, Joel L. Pulliam, and their associates, as a body corporate and politic to be called the "Somerville Bank."
14. Acts of 1869-70, Chapter 15, repealed Acts of 1867-68, Chapter 99, Section 26, which in effect established a Board of County Commissioners for Fayette County. The Magistrates and the County Court were restored to their former positions and status.
15. Acts of 1869-70, Chapter 49, repealed all laws creating Boards of County Commissioners in Tennessee and those laws which were expressly or impliedly repealed by them were revived, restored, and reenacted to their full force and effect as formerly possessed by them.
16. Acts of 1875, Chapter 48, empowered the County Court of Fayette County at its meeting in April, 1875, or at any term thereafter, to elect a Notary Public for the 6th Civil District of the County.
17. Acts of 1897, Chapter 124, set up an annual salary schedule for all the county officials, except County Judges, which was based on the population of the county in which the official served, depriving them of all their fees, commissions, emoluments, and prerequisites, and requiring them to file a sworn, itemized statement each month with the County Judge, or Chairman, of the Collections taking place in the particular office. This Act was declared unconstitutional in Weaver

v. Davidson County (1900), 104 Tenn. 315, 59 S.W. 1105, but this one and some which followed have evolved into the current salary statutes under which the State and county officials now operate.

18. Private Acts of 1909, Chapter 22, was enabling legislation for the Worshipful Master, and the other officers, of the Macon Lodge #120, Free and Accepted Masons, in Fayette County, Tennessee, to sell at public auction in Macon, to the highest and best bidder for cash, all the grounds and buildings belonging to the Lodge. The proceeds of the sale would first be applied to the amount the Lodge had spent on the College, the Lodge building, and the grounds, and the remainder would be divided equally between the Lodge and the free public school in Macon.

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