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Road Law

Dear Reader:

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

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

Sincerely,

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Road Law

Private Acts of 1971 Chapter 164

SECTION 1. This Act shall be known and may be cited as the Overton County Road Superintendent Act.

SECTION 2. In Overton County the management of the county road system, including bridges shall be the responsibility of a county road superintendent, to be elected by the qualified voters of the county at the August, 1972 general election and every four (4) years thereafter, who shall take office on September 1, following his election and serve for a term of four (4) years or until his successor is elected and qualified. An incumbent road superintendent shall be eligible to succeed himself in office without limitation as to the number of terms. The county road superintendent in Overton County shall receive an annual salary of ten thousand dollars (\$10,000.00) which shall be paid in the same manner as other county officials are paid. In addition to such salary a pick-up truck shall be furnished and maintained by the county for road work. If a vacancy occurs in the office of county road superintendent, the governing body of the county shall elect some qualified person to serve until the next general election, at which time a successor shall be chosen by the qualified voters of the county, to serve the remainder of the term.

Before entering into the discharge of his duties, the county road superintendent shall take and subscribe to an oath in writing before the county court clerk that he will perform with fidelity the duties of the office as county road superintendent and shall enter into a bond in the amount of fifty thousand dollars (\$50,000.00), payable to the county and conditioned upon the faithful discharge of his duties and for the accounting of all money and property coming into his hands in his official capacity. The premium for one-half (1/2) the bond shall be paid out of the county road fund in the same manner as other disbursements are made.

SECTION 3. The county road superintendent shall be the head of the county highway department and shall have general control over the location, relocation, construction, reconstruction, repair and maintenance of the county road system of the county, including bridges but not including such roads and bridges as are under the supervision of the state department of highways.

The county road superintendent is authorized to determine the total number of employees of the county highway department, to determine personnel policies, hours of work, to establish job classifications. The compensation established by the superintendent shall be in keeping with the compensation paid for similar services in the county and surrounding area.

The county road superintendent shall keep such books and records as necessary to carry out the operations of the county road department or as directed by the governing body of the county.

The superintendent shall have supervision and control over and shall be responsible for all machinery, equipment, tools, supplies and materials owned or used by the county in the construction, reconstruction, repair and maintenance of the county roads and bridges. He shall make or cause to be made a complete inventory of such machinery, equipment, tools, supplies and materials and file copies of the same with the county governing body and the comptroller of the treasury within thirty (30) days after assuming office. All machinery, equipment and tools shall be plainly marked as the property of the county road department and each item shall be numbered and the number entered on the inventory filed by the county road superintendent.

Thereafter, on or before September 15 of each year he shall again make and file a complete inventory with the county governing body and the comptroller of the treasury. It is the duty of the county judge or chairman or other chief executive officer and/or the governing body of the county to examine the inventories for compliance with this provision and upon his or the governing bodies determination that the inventory does not comply with the requirements of this provision, he shall notify the county director of accounts, who shall cause to be withheld from the superintendent any funds due him until the county and county court chairman or other chief executive officer of the county is able to certify compliance with this provision to the governing body.

SECTION 4. Budgeting for the county road department and the purchasing or contracting for all machinery, equipment, tools, supplies and materials and contractual services for the county road department and the fiscal procedures concerning same shall all be performed in accordance with provisions of chapters 12, 13 and 14 of Title 5 of the Tennessee Code Annotated.

Sales of obsolete, surplus or unusable machinery, equipment, tools, supplies and materials shall be made in accordance with the provisions of chapter 14 of Title 5 of the Tennessee Code Annotated.

All funds received by or for the county for road or highway purposes shall be promptly deposited with the

county trustee and shall be expended only upon disbursement warrant drawn upon the trustee, all in accordance with the provisions of chapter 13 of Title 5 of the Tennessee Code Annotated.

Expenditures of funds for the operation of the county road department shall be made within the limits of the approved budget and the appropriations made for the department, in accordance with the provisions of chapters 12, 13 and 14 of Title 5 of the Tennessee Code Annotated.

SECTION 5. The superintendent shall not authorize or permit the trucks or road equipment, the rock, crushed stone or any other road materials to be used for any private use or for the use of any individual for private purposes and his failure to see that this provision is enforced is a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), in the discretion of the court. Any employee of the county road department who shall use any truck or any other road equipment of any rock, crushed stone or other road material for his personal use, or sell or give away the same shall be immediately discharged. No truck or other road equipment or any rock, crushed stone or any road material shall be used to work private roads or for private purposes of owners thereof. The use of any trucks or any other road material of the county highway department for other than official county road purposes, as herein provided, is a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), in the discretion of the court. Each separate use of the same for other than official county road purposes shall constitute a separate offense and be subject to a separate fine. Any person whose property is improved by having road material placed thereon in violation of this provision shall be liable to suit for the value of such improvement and a penalty equal to one hundred per cent (100%) of the value of such improvement, to any person who shall sue therefor for the benefit of the county and himself, the value of the improvements to go to the county and the penalty to go to the person suing.

SECTION 6. Neither the county road superintendent nor any employee of the county road department shall be financially interested in or have any personal interest, either directly or indirectly, in the purchase of any supplies, machinery, materials, or equipment for the department or system of roads for the county, nor in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies and materials; nor shall the county road superintendent or any employee thereof accept or receive, either directly or indirectly, from any person, firm, partnership or association to whom any contract may be awarded, any rebate, gift or other thing in money or thing of value or any promise, obligation or contract for future reward or compensation.

Violation of any of the provisions of this section constitutes official misconduct and a misdemeanor in office, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00) and removal from office as provided by Section 8-2701 et seq., Tennessee Code Annotated.

SECTION 7. The county roads superintendent shall submit quarterly to the governing body of the county a full and complete report of its activities, showing in such reports the amount of road funds on hand at the beginning of the quarter, together with an itemized statement of all amounts expended for labor, machinery, supplies, materials, equipment and other expenditures during such quarter, together with the complete list of all articles purchased, the number of laborers employed and the amount paid each, the number of miles of road constructed, repaired or maintained, or fraction thereof, and where located. If the report is rejected by the governing body by resolution setting forth the grounds of rejection, the power of the county road superintendent to obligate appropriated funds shall be suspended until the county judge or chairman or other chief executive officer of the county shall certify to the governing body that the grounds of rejection in the resolution have been met and complied with.

SECTION 8. No person shall be eligible for employment in any capacity on the roads of said county or by the county road superintendent or draw any compensation in any manner whatsoever from the road funds of said county, who is related, within the second degree, either by blood or marriage, to the county road superintendent.

SECTION 9. Chapter 439 of the Private Acts of 1935 is amended by deleting Section 5 in its entirety.

SECTION 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Acts which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 11. This Act shall have no effect unless it is approved by a majority of the voters voting in an election to be held for the purpose of approving or rejecting it. Within sixty (60) days after this Act becomes a law, the county election commissioners of Overton County shall call an election for Overton County to be held not less than thirty (30) days nor more than ninety (90) days from the date of the call. The ballots used in the election shall have printed on them the title of this Act and voters shall vote for or against its approval. The votes cast in the election shall be canvassed and the results proclaimed by the

county election commissioners and certified by them to the secretary of state as provided by law in the cases of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of approval or rejection of this Act. The cost of the election shall be paid by Overton County.

SECTION 12. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 11, it shall be effective upon becoming a law, the public welfare requiring it. For the purpose of electing the Road Superintendent it shall be effective upon being approved as provided in Section 11. For all other purposes it shall be effective on September 1, 1972.

PASSED: May 18, 1971.

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