



April 30, 2024

Fayette

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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Fayette



Fayette County Courthouse

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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.

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 insufficiency, (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 percentum 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, ferriage, 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 were 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.

Chapter II - Animals and Fish

Animals and Fish - Historical Notes

The following is a listing of acts that at one time affected, but no longer appear to have any effect on, hunting, fishing or animal control in Fayette County. They are included herein for reference purposes.

1. Acts of 1870, Chapter 108, made it unlawful for any person to trespass upon the lands of another in Rutherford and Fayette Counties for the purpose of hunting, trapping, or netting any game, without having first obtained the consent of the owner. It was likewise termed unlawful for any person to shoot, wound, or destroy any quail, or partridges, in the said counties, from April 1 to September 1 each year. Violators could be fined not less than \$5 nor more than \$25 per offense, one-half to go to the former and one-half to the school fund of the county, and a failure to pay the fine could lead up to 30 days in jail.
2. Acts of 1870-71, Chapter 89, amended Section One of an Act entitled "An Act for the preservation of game in Rutherford and Fayette Counties," Chapter 108, above, so as to make it apply only to the enclosed lands of the owners in Fayette County.
3. Acts of 1871, Chapter 1, amended Acts of 1870, Chapter 108, above, as amended, to make the act and all its provisions applicable to Shelby County and Tipton County, and Section 2 set the closed season on quail, and partridges, from April 1 to October 1 of each year.
4. Acts of 1879, Chapter 198, declared it to be illegal for any person to take any fish in any of the waters of Dickson, Houston, Cheatham, Davidson, Rutherford, Williamson, Shelby, Fayette, Tipton, and Carroll Counties, except by baited hook and line, or by trot line. Whoever catches fish in the counties named by means of gill nets, set nets, seines, gigs, grab hooks, baskets or traps, or by any other means than those set out above as permitted was guilty of a misdemeanor and could be fined from \$25 to \$100. This Act did not apply to the Cumberland, Tennessee and Big Hatchie Rivers.
5. Acts of 1885, Chapter 133, expressly repealed Acts of 1879, Chapter 198, above, as the act applied to Dickson, Houston, Cheatham, Williamson, Rutherford, Carroll, Fayette, Shelby, and Tipton Counties.
6. Acts of 1897, Chapter 240, provided that the residents of the Counties of Hardin, Gibson, Crockett, Tipton, Fayette, Franklin, Grundy, and Marion may catch fish, except from the first day of April to the first day of June each year, in any of the waters in the said counties except by the use of poison, dynamite, or a wing net across any stream.
7. Acts of 1897, Chapter 303, amended the Tennessee Code so as to make the times in which it would be unlawful for anyone to shoot, kill, or destroy quail, or partridges in Fayette County from March 1 to November 1, instead of from April 1 to October 1, as provided in that law.
8. Acts of 1899, Chapter 149, rendered it unlawful for any person owning horses, cattle, sheep, swine, or goats, to permit said stock, willfully or knowingly, to run at large. Anyone so doing was

liable for all damages which might be done by the stock while at large, for which a lien may issue to the satisfaction of any person so injured. The action was also termed a misdemeanor for which a fine could be imposed in addition to the liability for damages.

9. Acts of 1901, Chapter 204, amended Section 2221, of Milliken and Vertrees compilation of Tennessee Laws so as to make the times in which it is unlawful for anyone to shoot, kill, or destroy quail, or partridges, in Fayette County to run from February 1, to December 1, instead of from April 1 to October 1, as was now the case. Further, it was contrary to the law for any person to ship quail from Fayette County during any season of the year, dead or alive, for which fines could be levied from \$10 to \$25.
10. Acts of 1901, Chapter 206, repealed so much of Sections 2958 to 2968 of the Tennessee Code as the same applies to Fayette County. These Sections made it lawful to take fish in Fayette County in any manner and in any of the waters except by poison, or explosives.
11. Acts of 1901, Chapter 497, amended Acts of 1901, Chapter 204, Section One, above, so as to make the dates of the closed season on quail run from March 1 to December 1 instead of from February 1 to December 1, as originally written in that act.
12. Acts of 1903, Chapter 83, amended Acts of 1901, Chapter 497, above, by changing the closed season on quail to run from February 1 until November 1, instead of from March 1, until December 1.
13. Acts of 1903, Chapter 212, declared it unlawful to take, capture, kill, or wound fish in any of the running streams of Fayette County in any manner other than by angling with hook and line, or by a trot line, but minnows, not over four inches in length, could be taken for bait with any net which did not exceed ten feet in length. Fines ranged from \$10 to \$50 for violators, which went into the school fund and jail terms from 10 to 30 days could be given. All magistrates were declared to be game wardens in their respective districts and were obligated to report all violations coming to their attention.
14. Acts of 1903, Chapter 493, made it illegal to capture, kill, shoot, or wound, or destroy, any red, or gray, squirrel in Fayette County but this Act would not prohibit shooting them with a gun between June 1 and November 1 of each year. Fines for breaking this law could go from \$10 to \$50 for each separate offense which would be paid into the common school fund. The Grand Jury was given inquisitorial powers relative to this act which the Judge could charge to them.
15. Private Acts of 1915, Chapter 449, declared it unlawful in Fayette County, identified by the use of the 1910 Census figures, for any person to shoot, kill, or injure by any method, quail, partridges, or doves, except in the seasons therein provided, which ran from December 15 to the following February 15 for quail and partridges, and from August 1 until November 15 for doves. It was also against the law to gig, spear, shoot, or kill by dynamite, or other explosives, or catch with a seine or wing net, any fish in any running stream. The Game Wardens, Sheriff, Deputies, and Constables had the duty of vigorously enforcing this law which established a schedule of fines running from \$5 to \$25 which would become a part of the common school funds.
16. Private Acts of 1917, Chapter 92, stated that in Fayette County it would be illegal for any person to shoot, kill, capture, or injure by any other means, any quail, partridges, field larks, or other insect destroying birds for a period of two years following the passage of the Act. Fines going from \$10 to \$25 would find their way into the common school funds.
17. Private Acts of 1917, Chapter 292, declared it to be a misdemeanor for any person to shoot, kill, injure, or capture in any manner whatsoever, any quail, or partridge, dove, or squirrel, in Fayette County, except within the seasons and times therein specified: for quail and partridge, from November 22 until the following March 5; for doves, from July 1 until November 1; for squirrels, from June 1 until January 1. Fines for violations could range from \$5 to \$50.
18. Private Acts of 1921, Chapter 729, amended Private Acts of 1915, Chapter 152, Section 54, so as to remove all counties with a population of not less than 31,490 nor more than 31,500, which covered Fayette County, from the provisions of the law, as amended, which established a Department of Game and Conservation, and, in addition, regulated many of the activities concerning animals and birds.
19. Private Acts of 1921, Chapter 730, amended Public Acts of 1919, Chapter 61, Section 14, which was a rather stringent general dog law for the State so as to provide that Assessors or Trustees, in Fayette County, shall receive, in addition to the fifteen cent fee provided for in the act, an added fee of ten cents for each dog licensed by them which amount shall be paid to him out of the fees collected for the dog licenses.
20. Private Acts of 1921, Chapter 976, amended Private Acts of 1917, Chapter 292, Section 2, by

changing the dates for the open season on quail in Fayette County from November 22 until March 5 following to November 22 until February 1 following.

21. Private Acts of 1923, Chapter 486, rescheduled the dates of the open season on quail in Fayette and Hardeman Counties to be from November 22 until the following March 1.
22. Private Acts of 1925, Chapter 89, stated that the open season for the shooting of quail in Fayette, Hardeman, Haywood, and Lauderdale Counties would run from December 10 until March 1 of the year following, and open season on squirrels in the same counties would endure from July 1, until January 1 of each year.
23. Private Acts of 1925, Chapter 460, recited that the rabbit, commonly called the cottontail rabbit, was classified as game in Fayette County and to open season in which the rabbit may be hunted, taken, or killed, in Fayette, Hardeman, and Haywood Counties, shall run from November 25 until the following March 1 of each year. All persons violating the terms thereof were subject to fines from \$10 to \$25 but any farmer, tenant, or renter, or his boys, may kill rabbits in any season and time of the year when they became a menace to crops.
24. Private Acts of 1927, Chapter 126, rendered it illegal for any person, firm, or corporation, to take, catch, or kill, any fur, or hair bearing animal by means of a box-trap, snare, steel trap, net, dead fall, or any other device in Fayette County. Penalties ranged from \$10 to \$25 but nothing therein was intended to prohibit the killing of rabbits and squirrels as was permitted under the law, and any farmer, tenant, or land owner may kill fur bearing animals when they become a menace to his crops and poultry.
25. Private Acts of 1927, Chapter 188, amended Private Acts of 1925, Chapter 89, Section 2, above, by changing the open season on squirrels to run from June 1 until January 1 of each year instead of from July 1 until January 1 of each year as was formerly the case.
26. Private Acts of 1927, Chapter 749, declared it to be against the law for any person to kill, take, or injure any quail in Fayette County, identified by the 1920 Federal Census, except during the time between December 10 in each year until February 15 of the following year. Violators could get fines from \$10 to \$25.
27. Private Acts of 1931, Chapter 23, specifically repealed Private Acts of 1927, Chapter 126, above, so as to make the open season for the trapping of fur bearing, or hair bearing, animals in Fayette County conform to the general law of the State on this subject.
28. Private Acts of 1931, Chapter 49, amended Private Acts of 1927, Chapter 749, above, by changing the dates of the open season for the shooting of quail from December 10 to the following February 15 so that it would run from November 20 until February 15 of the following year.
29. Private Acts of 1935, Chapter 247, declared that from here on it would be unlawful for any person to hunt, or kill, deer in Fayette County for a period of five years following the passage of the Act. All violators would be fined not less than \$50 and be imprisoned for not less than 30 days nor more than 6 months in the discretion of the trial judge.

Chapter III - Bond Issues

Bond Issues - Historical Notes

A listing of the acts which authorized various bond issues for Fayette County is included below for reference purposes, although these acts are no longer current.

Courthouse

1. Private Acts of 1925, Chapter 280, Page 1026, provided that the Quarterly Court of Fayette County was authorized to issue up to \$100,000 in bonds, at an interest rate not to exceed 6%, and to mature over a period no longer than 25 years, to build and equip a new Court House in Somerville, all of which was subject to the approval of the people voting in a referendum election held for that purpose. The essential details of the issue were incorporated into the Act and the additional tax levy to amortize the bonds was mandated as long as any are outstanding. The Act names the Court House Finance and Executive Committee heretofore appointed by the Quarterly Court and consisting of W. G. Shelton, Chairman of the County Court, W. S. Piper, W. A. Weber, C. W. Stainback, L. D. McAuley, P. R. Beasley, and W. M. Mayo, to superintend and direct the sale of the bonds and the design and construction of the building. The County Trustee would handle the funds and keep appropriate and accurate records.

Debts

1. Private Acts of 1915, Chapter 144, Page 144, was the lawful authority for the County Court of Fayette County to borrow money and to execute notes therefor to pay, liquidate, settle, compromise, and adjust any outstanding and unpaid debt of the county but at no time would the aggregate borrowed for this purpose exceed \$30,000. The loan may be accomplished by Resolution of the court which would contain all the essential details but the interest rate could not exceed 6%. The court could levy a special tax annually not to exceed 15 cents per \$100 property valuation until all borrowed money was repaid.
2. Private Acts of 1921, Chapter 542, Page 1708, allowed Fayette County to settle and pay off all its outstanding debts, evidenced by time warrants heretofore issued, and for this purpose to issue coupon interest bearing bonds up to \$50,000 at an interest rate of 6%, or less, and maturing no longer than 20 years from issue, and the same were exempt from taxation. All the essential details for valid bond legislation and the mandatory tax levy were included in the legislation.
3. Private Acts of 1927, Chapter 110, Page 236, amended Private Acts of 1915, Chapter 144, Section One, so that the Quarterly Court of Fayette County has the authority at any regular, or special term, to borrow money and to order the execution of proper notes therefor for the purpose of paying and settling any outstanding and unpaid debts of the County but the entire amount outstanding for this reason at any one time should not exceed \$60,000.
4. Private Acts of 1931, Chapter 33, Page 83, broadened the authority of the Fayette County Quarterly Court to settle and pay off outstanding debts, school warrants, and road and ridge warrants, heretofore issued, and to issue and sell up to \$150,000 in general obligation bonds of the County at interest rates no higher than 6% and to mature over period no longer than 30 years. All the details and the tax levy were present.
5. Private Acts of 1931, Chapter 330, Page 844, ratified and validated all the prior proceedings of the Fayette County Quarterly Court held on May 21, 1931, in connection with the issuance of \$50,000 in notes to secure funds for the payment of current operating expenses pending the collection of taxes due on March 1, 1932. The interest rate was 6%, and all aspects of the transaction were approved notwithstanding the lack of any statutory authority at the time.
6. Private Acts of 1935, Chapter 133, Page 293, ratified, confirmed, and legalized all prior actions of the Quarterly Court in the issuance of \$20,000 in the notes of the county, dated January 1, 1935, bearing interest at 6%, and due not later than July, 1945, and the indebtedness which these notes would pay was also validated but a like amount of debts must be paid and discharged. The Court was required to levy a special tax within the limits of Private Acts of 1915, Chapter 144, until the notes were paid in full, and interest.

Roads

1. Private Acts of 1907, Chapter 526, Page 1771, was the enabling law for the Quarterly Court of Fayette County to issue up to \$200,000 in bonds, at an interest rate not over 5% and to mature no longer than 30 years from issuance but all could be called and paid after 15 years, to construct good roads in the County. The details and the tax levy requirement were provided adequately. All of this Act depended upon the approval of the people voting in a referendum election on the proposition. The County Court at its first term after the passage of this Act would elect a committee of five who would have charge and control of the construction of the roads. The first four roads built under this Act would begin at Somerville and proceed in the four general directions from that point.
2. Private Acts of 1927, Chapter 773, Page 2521, allowed the Quarterly Court to issue bonds in such sums as the Court may elect to build hard surfaced roads of concrete, gravel, asphalt, or other substances, and permanent bridges as needed but the amount was not to exceed \$1,000,000, and the proposed issue would be approved in an election before being issued. Interest was pegged at 6% and the maturity period fixed at a maximum 30 years. When all the details were decided, the election would be held on that proposal. All the details were provided, plus the mandatory tax levy, if the people approved of the issue.
3. Private Acts of 1947, Chapter 192, Page 539, was the legislative authority for the Quarterly Court of Fayette County to issue its bonds up to \$150,000, to buy highway machinery and equipment and to construct, improve, and maintain the roads and bridges. The legal interest rate was fixed at 5%, or less, and the Court could arrange the maturity schedule as it deemed proper. All the essential details and tax levy were contained in the legislation.

Schools

1. Private Acts of 1917, Chapter 592, Page 1812, was the legal authority for Fayette County to issue

and sell its bonds in an amount not to exceed \$40,000 to build and equip a high school for the county. The interest rate was 6%, or less, and the maturity schedule could not exceed 20 years. The necessary details of the issue were set out, the Quarterly Court was obligated to levy a tax until the bonds and interest were paid off, and the Trustee would handle the funds and keep the proper records.

2. Private Acts of 1917, Chapter 825, Page 2580, was the enabling legislation for the Quarterly Court to issue and sell up to \$50,000 in 6%, or less, bonds, to mature no later than 30 years from date of issuance, to erect, furnish, and equip school buildings for the County which fund was to be used by the County Board of Education to discharge indebtedness therefor. All the details of the bonds, their issue and handling, and their payment were included within the Sections of this law.
3. Private Acts of 1929, Chapter 409, Page 1067, allowed the Quarterly Court of Fayette County, subject to the approval of the people in a referendum election, to issue \$25,000 in bonds to build and equip a high school in Moscow, Tennessee. The details and tax levy were present in the law. A committee, to be called the High School Building Committee, was provided who would supervise the bond issue and the construction of the school. The Committee would be made up of the Chairman of the County Court, two other members of the Court, and two members of the Board of Education. The Trustee would disburse all the proceeds from a separate account and keep the necessary records.
4. Private Acts of 1929, Chapter 444, Page 1173, permitted the Quarterly Court of Fayette County, after the same had been approved by the people in a referendum election, to issue up to \$75,000 in bonds, at an interest rate of 6%, or less, and to mature over a schedule no longer than 30 years, to build and equip a high school in Somerville, Tennessee. The details of the form of the bond and the manner of its issue, and the mandate of the Quarterly Court to levy a tax to amortize the bonds over the specified maturity period are all stated in the act. A committee, whose composition was the same as in the prior act above would supervise the sale and payment of the bonds and the construction of the school. The ballot in the referendum would be marked simply "For" or "Against" the issue.

Chapter IV - Boundaries

Creation of the County

Acts of 1824 Chapter 36

SECTION 1. That a county, to be called and known by the name of Fayette, be, and the same is hereby, established west of Hardeman and east of Shelby, beginning on the southwest corner of Hardeman county running thence north to the fifty sectional line in the tenth district; thence west to a point one mile west of the third range line in the eleventh district, the east county line, to the south boundary of the state; thence east on said south boundary line, to the beginning.

SECTION 2. That, for the due administration of justice for said county, the courts of Pleas and Quarter-Sessions and Circuit Courts of said county shall be held at the dwelling-house of Robert G. Thornton, until otherwise provided for by law to wit: the courts of Pleas and Quarter-Sessions on the first Monday in December, March, June, and September, and the Circuit Court on the fourth Monday in June and December, in each year, each term to be held one week, if necessary, under the same rules, regulations and restrictions, and to have and exercise the same powers and jurisdiction, that other courts of judicature, of like grades, in this state may have or possess.

SECTION 3. That the sheriff of said county shall open and hold an election, at the place of holding courts in said county, on the first Thursday, and succeeding day, of January, for the purpose of electing field officers for the militia of said county, under the same rules, regulations and restrictions pointed out by law in similar cases, and the militia of said county shall compose the ____ regiment.

SECTION 4. That it shall be the duty of the commandant of said regiment, having been first commissioned and sworn according to law, to divide his regiment into such number of companies as he shall think best for the convenience of said companies; and it shall further be the duty of the said commandant, to issue writs of election for company officers, according to law, as provided for in other cases of elections for company officers.

SECTION 5. That the commissioners appointed by an act of the present session of the General Assembly, entitled "An Act to amend an act appointing commissioners to fix on the permanent seats of justice in the counties therein names," be, and they are hereby, directed to fix upon a site for the seat of justice for the county of Fayette, and that they have all the powers and privileges, an emoluments, in fixing upon the seat

of justice in said county, as are given them in the said act, as well as the said act is intended to amend.

SECTION 6. That the aforesaid county of Fayette shall be attached to the fifteenth solicitorial district, and the eighth judicial circuit, in the state of Tennessee.

Passed: September 29, 1824.

Change of Boundary Lines

Acts of 1821 Chapter 32

COMPILER'S NOTE: This section is the only section which applies to Fayette County, the remaining parts of the act did not apply.

SECTION 7. That the following described lines shall be the bounds of one other county which may hereafter be laid off west of the said last described bounds: Beginning on the south west corner of the last described bounds, running thence north to the 5th sectional line in the 10th district; thence west to a point one mile west of the 3d range line in the 11th district; thence south parallel with said range line to the south boundary of the state; thence east on said boundary to the beginning. And that the following described lines shall be the bounds of one other county which may hereafter be laid off north of Shelby county: Beginning on the line separating the 11th and 13th districts, at a point two miles west of the first range line in the 11th district; running thence west on said dividing line to the middle of the Mississippi river; thence down the main channel of the same to the north west corner of Shelby county; thence east with the north boundary of Shelby county, and the last mentioned bounds, to a point three miles east of the 2d range line in the 11th district; thence north parallel with the said line to the beginning. Which two last described bounds shall be attached, and be a part of Shelby County, until otherwise provided for by law, and shall enjoy all the privileges, and (be) subject to all the duties as citizens of Shelby county, with this exception, that no tax shall be laid or collected in the said bounds for the purpose of erecting public buildings in the county of Shelby.

Passed: November 7, 1821.

Acts of 1883 Chapter 81

SECTION 1. That the line between the county of Tipton and the counties of Fayette and Shelby, be and the same is hereby changed as follows:

Beginning at a point on the line between Tipton and Fayette counties where the Memphis and Louisville railroad crosses East Beaver Creek; thence down said creek with its meanders to the point where the same empties into Middle Beaver Creek, on the line between Fayette and Shelby counties; thence up said Beaver Creek with its meanders to the south line of Tipton county, so as to include all territory of Shelby and Fayette counties lying north and east of said creeks, in Tipton county, and that all property real and personal within said territory be assessed for taxes after the year 1883, in said Tipton county: Provided, however, no tax shall be assessed on said property for the payment of bonds issued by the county of Tipton, under the general improvement laws of the State, to the Memphis and Paducah railroad.

SECTION 2. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 13, 1883.

Public Acts of 2023 Chapter 183

COMPILER'S NOTE: This Act is a special legislation that does not appear in Tennessee Code Annotated.

SECTION 1. The boundary line between Shelby County and Fayette County shall be revised so that the new boundary line is established as follows:

Starting at 881979.25, 339362.988 using state plane coordinate system feet to the north ROW line of U.S. Route 64 and also being the Shelby/Fayette Census County line used during the 2020 decennial census, then continuing to follow the north ROW line of U.S. Route 64 to 882208.999, 339462.774 being the southeast corner of the city of Arlington boundary and the north ROW of Braggs Drive. 882446.823, 347518.595 to 882678.993, 347556.253 north to 882999.026, 352890.871 being the north line of Donaldson Drive, then 883069.42, 352904.659 to 883088.68, 353336.334 to 882946.247, 353335.427 north to 883405.242, 359782.405 west 883159.589, 359801.227 north 883187.697, 360769.797 to 883183.462, 361179.937 then with a line identified as "county line" in the Fayette County parcel data

883494.906, 361324.25 then with a line identified as "county line" in the Fayette County parcel data 883199.561, 361485.534 then with a line identified as "county line" in the Fayette County parcel data 884030.465, 361643.962 then with a line identified as "county line" in the Fayette County parcel data 883502.208, 362294.051 northerly 883570.648, 362509.372, to 883621.035, 362788.147 then to the south ROW line of 1-40 883683.362, 363764.332 to 884088.462, 368912.876 to 884122.047, 369526.035 to south side of ROW 884183.894, 370489.372 crossing ROW 884184.303, 370519.051 to 884139.163, 371413.127 to 884117.892, 372149.138 to 884020.079, 374931.699 crossing railroad 884161.515, 378467.292 to north line of the city of Arlington boundary then southwesterly to 884078.532, 378415.714 being the Shelby/Fayette Census County line used during the 2020 decennial census.

SECTION 2. This act takes effect January 1, 2024, the public welfare requiring it.

Passed: April 24, 2023.

Boundaries - Historical Notes

The following is a summary of acts which authorized boundary changes for Fayette County.

1. Acts of 1833, Chapter 46, stated that the line run and marked by John Thompson, the Commissioner appointed by the State of Tennessee, between the States of Tennessee and Mississippi, being the 35th Degree of North Latitude, was the official boundary between the two States. It was made the duty of the official Surveyors in Hardin, McNairy, Hardeman, Fayette, and Shelby Counties to recognize this line and to cause the boundaries of their counties to conform to it.
2. Acts of 1883, Chapter 125, changed the boundaries between Fayette County and Hardeman County beginning at the point where the south line of the land, owned by E. Chambers, crossed said line and run west 70 poles, then north 18 poles, then west 102½ poles, then north 214 poles, then east 136 poles, then north 165 poles, then east 22 poles to the said county line so as to include those lands now owned by E. Chambers, R. H. Beard, and J. W. Bass, within the limits of Hardeman County.
3. Private Acts of 1907, Chapter 429, moved the lands belonging to James Parsons, now included in Hardeman County, from that county into Fayette County.

Chapter V - Court System

General Sessions Court

Private Acts of 1997 Chapter 60

SECTION 1. The General Sessions Court Judge of Fayette County shall take office September 1, 1998, and shall be elected at the regular August election in 1998. The judge shall hold office for an eight (8) year term and shall be subject to the conditions and duties of the general law, except as provided in this act. The judge shall be a licensed attorney in good standing, shall devote full time to the duties of the office, and shall be prohibited from the practice of law or any other employment which conflicts with the performance of the judge's duties as judge.

SECTION 2. Effective September 1, 1998, the compensation of the judge shall be the same as that for a General Sessions Court Judge in a county of the third class as such classes are provided by the general law in effect on May 1, 1997, and shall be payable in equal monthly installments, and the total salary, including supplements, shall be subject to periodic adjustment according to the provisions of Tennessee Code Annotated, § 8-23-103 in effect on May 1, 1997. It is the express intention of the General Assembly to establish the compensation of the General Sessions Court Judge as a full time judge and as if Fayette County were a county of the third class, as defined in Tennessee Code Annotated, § 16-15-5001, or a subsequent statutory enactment, despite Fayette County not meeting the definition of a county of the third class on the basis of population.

SECTION 3. Effective September 1, 1998, the General Sessions Court shall have juvenile jurisdiction and concurrent jurisdiction with the Circuit and Chancery Courts over probate cases, domestic relations cases, and mental health commitments. Regardless of which court is exercising jurisdiction, probate cases, domestic relations cases, and mental health commitments shall continue to be filed in the clerk's office where such cases are currently filed. Notwithstanding any limitation on annual supplements in the general law or a subsequent statutory enactment controlling supplements to the contrary, the Judge of the Court of General Sessions shall receive the total amount of the supplements authorized by the law in effect in May 1, 1997, for such judge. Notwithstanding any provision of law to the contrary, the judge shall also receive ten thousand dollars (\$10,000) a year as a supplement for conducting mental health commitment

proceedings.

SECTION 4. 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 County Legislative Body and certified 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 a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 4.

Passed: May 21, 1997.

Court System - Historical Notes

Board of Jury Commissioners - Jurors

The following acts once affected jurors or boards of jury commissioners in Fayette County, but are no longer operative.

1. Acts of 1835-36, Chapter 3, was passed subsequent to the 1835 State Constitution and established a Supreme Court, composed of three Judges, one from each Grand Division of the State, in which the Court would meet each year at Knoxville, Nashville, and Jackson. Fayette and 16 other counties were assigned to the Western Division.
2. Private Acts of 1929, Chapter 97, provided that, thereafter in Fayette County, identified by the use of the 1920 Federal Census, jurors would be paid as compensation for their services the sum of \$3 per day for each day served, but the Foreman of the Grand Jury of the county would be paid \$5 for each day served.
3. Private Acts of 1943, Chapter 202, created a three member Board of Jury Commissioners who would be appointed by the Circuit Judge and hold office at the Judge's pleasure. They would be householders or freeholders of the county and not have any litigation pending. Two members of the Board were authorized to act in all matters. Commissioners would be sworn as prescribed in the Act and organized by selecting one of their members as Chairman. The Circuit Court Clerk, also sworn, would serve as a Clerk to the Board. The Commissioners would select at least 200 names of persons meeting the state law qualifications for jurors whose names were to be written upon slips of paper and placed in the jury box and recorded in the book kept for that purpose. At least 20 days before the opening of Court, the Board would meet and cause at least 40 names to be drawn from the box by a child under the age of ten which would be the jury venire for that term of court. The Board would certify the list drawn by the child, leaving one copy with the Clerk and filing the others with the Court. At least ten days prior to the opening of Court, the Clerk would deliver a list to the Sheriff who would summon the people selected. The Grand Jury would be drawn from those selected in open court but the Judge could appoint the Foreman personally. Commissioners were to be paid \$5 per day but not over \$25 in one year. Penalties were provided for violators and no one could be excused except by the Judge.

Chancery Court

The following acts form an outline of the development of equity jurisdiction in Fayette County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification.

1. Acts of 1824, Chapter 14, revised most of the details of the lower court system of Tennessee as related to the Chancery Courts and made it the duty of the Justices of the Supreme Court to hold the Chancery Courts of the State at the times and places specified. The Court for all the counties west of the Tennessee River, which were not previously named, would be held at Jackson in Madison County on the second Monday in April and October.
2. Acts of 1827, Chapter 79, set two terms for the Chancery Courts for the Divisions then in operation but did not change the organization west of the Tennessee River which would continue to operate as they had in the past. The other Courts would meet at Franklin, Columbia, Charlotte, and Paris, in addition to the Court of Chancery at Jackson.
3. Acts of 1829, Chapter 52, stated that the Circuit composed of Wayne, Hardin, McNairy, Hardeman, Shelby, and Fayette Counties would also be a Chancery Division which would hold the Court for the District at Bolivar, in Hardeman County, on the first Monday in May and in November. A Clerk and Master would be appointed for the court at Bolivar who would serve as other Clerks and Masters and be paid the same.
4. Acts of 1829, Chapter 104, changed the opening dates for the times of the Chancery Court

meeting at Bolivar to the second Monday in March and September instead of the first Monday in May and November, all conflicts being expressly repealed.

5. Acts of 1835-36, Chapter 4, enacted pursuant to the 1835 State Constitution, divided Tennessee into three Chancery Districts, the courts of each of which would be presided over by a Chancellor, instead of the Supreme Court Justices, who would be appointed by joint ballot of the General Assembly, and who would continue to hold the Courts at least twice each year. Each Grand Division was further broken down into Chancery Districts under this law. The Seventh District of the Western Division was composed of the counties of Fayette and Shelby, and the Court for the District would meet at Somerville on the fourth Monday in May and November each year.
6. Acts of 1837-38, Chapter 14, declared that the Counties of Fayette, Shelby, Hardeman, and McNairy would thereafter compose a Chancery District in the Western Division whose court was to convene at Somerville on the fourth Monday in May and November. The Court formerly meeting at Bolivar was abolished and all of the cases pending in that Court concerning the four counties mentioned above were ordered to be transferred to the Court at Somerville. The Chancellor of the Western Division was to appoint a Clerk and Master to serve at Huntingdon, one at Somerville, and one at Charlotte, provided that the present Clerks and Masters continued in office until the appointments were made. The Clerk and Master, when appointed, would name a Deputy to stay at the county seat of each of the counties.
7. Acts of 1839-40, Chapter 108, required the Chancellor of the Western Division to hold a special term of the Chancery Court at Somerville in Fayette County on the first Monday in March next with the authority to try all pending cases.
8. Acts of 1845-46, Chapter 21, provided that all the cases in Chancery arising in the counties of Shelby and Tipton, which were formerly tried in the Chancery Court at Somerville, were transferred to the new Chancery Court at Memphis for the counties of Shelby and Tipton.
9. Acts of 1851-52, Chapter 352, declared that all suits in Chancery originating in Tipton County would thereafter be brought and tried in the Chancery Court at Somerville in Fayette County.
10. Acts of 1853-54, Chapter 55, stated that, after the election of the Chancellors in the State by the people, the Chancellor at Bolivar would hold court on the first Monday in March and September and the Chancery Court at Somerville was to begin its term on the third Monday in March and September of each year.
11. Acts of 1855-56, Chapter 158, scheduled the Chancery Court terms for all the counties in the Western Division which were Henry, Weakley, Obion, Dyer, Gibson, Tipton, Hardeman, Lauderdale, Madison, Haywood, and Fayette where the court would convene on the second Monday in May and November.
12. Acts of 1857-58, Chapter 88, organized the Chancery Courts of the State into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Divisions. Fayette County was in the Western Division which also had in it the counties of Henry, Weakley, Obion, Dyer, Madison, Haywood, Hardeman, Tipton, Lauderdale, Gibson, and Shelby. Court would commence in Somerville for Fayette County on the third Monday in May and the second Monday in November.
13. Acts of 1857-58, Chapter 93, Section 6, changed the Chancery Court terms in Hardeman, Tipton, Lauderdale, and Fayette Counties, where the Chancery Court terms would begin on the third Monday in May and November at Somerville.
14. Acts of 1866-67, Chapter 4, provided that the terms of the Chancery Court at Somerville in Fayette County would be held on the second Monday in May and the first Monday in November.
15. Acts of 1870, Chapter 32, organized the entire system of Equity Courts in Tennessee into 12 Chancery Districts. The 10th Chancery District was made up of the counties of Hardeman, Madison, Haywood, Tipton, Fayette, and Lauderdale.
16. Acts of 1870, Chapter 47, scheduled the court terms for the Chancery Courts of every county in the state. Fayette County would commence the terms of the Chancery Court on the second Monday in March and September.
17. Acts of 1873, Chapter 107, amended Acts of 1870, Chapter 47, Section 10, above, by changing the opening dates of the Chancery Court terms in Fayette County to the fourth Monday in March and September.
18. Acts of 1885 (Ex. Sess.), Chapter 20, was the next complete revision of the lower court system of the state, forming eleven Chancery Divisions. The 10th Chancery Division comprised the counties of Fayette, Tipton, Haywood, Lauderdale, Dyer, Obion, Weakley, and Gibson. Court would begin in Somerville in Fayette County on the first Monday in February and August. This Act, and others,

was cited in the case of Flynn v. State, 203 Tenn. 341, 313 S.W.2d 249 (1958).

19. Acts of 1889, Chapter 23, rearranged the terms of court for several of the Chancery Courts in the 10th Chancery Division but allowed Fayette County to continue the court dates of the first Monday in February and August.
20. Acts of 1895, Chapter 99, changed the opening dates for the Chancery Court terms of several of the counties in the 10th Chancery Division, including Haywood, Tipton, Obion, Gibson, Dyer, Lauderdale, Weakley, and Fayette whose Chancery Court terms would begin on the fourth Monday in April and October.
21. Acts of 1899, Chapter 427, was a major reorganization of the entire lower judicial system of Tennessee. The State was divided into ten Chancery Divisions of which the Ninth contained the counties of Dyer, Obion, Lake, Weakley, Gibson, Lauderdale, Haywood, Tipton, Hardeman, and Fayette where the Chancery Court would begin its terms on the third Monday in April and October.
22. Acts of 1903, Chapter 591, rearranged the schedule of court terms in the 9th Chancery Division shifting Fayette County's Court to open on the second Monday in May and November.
23. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was the next complete overhaul of the lower court system and the last to appear in the volumes of the Private Acts. All changes hereafter would be Public Acts and appear in the Tennessee Code Annotated. Fourteen Chancery Divisions were formed of which the 9th Division was made up of the counties of Dyer, Gibson, Haywood, Lake, Obion, Lauderdale, Tipton, Weakley, and Fayette whose Chancery Courts were set to start its terms on the second Monday in May and November.
24. Public Acts of 1974, Chapter 547, created an additional Chancellor for the 9th Chancery Division to be elected in the regular August election in 1974. This act has been superseded by T.C.A. 16-2-506 which included Fayette County in the 25th Judicial District.

Chancery Court - Clerk and Master

The reference list below contains acts which once applied to the clerk and master in Fayette County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1837-38, Chapter 117, stated that nothing in a prior act, passed earlier in the session which regulated the Chancery Courts of the Western Division would be so construed as to affect any of the Clerks and Masters at Somerville, Huntingdon, Charlotte, and Brownsville, who could hold their offices until their term expires.
2. Private Acts of 1919, Chapter 274, provided that females over the age of 21 years, married or single, and residents of the county appointing them, were eligible to be appointed as Deputies in the office of the Clerk and Master of the Chancery Court. The act was in force in the counties of Weakley, Rutherford, Montgomery, Greene, Giles, and Fayette.
3. Private Acts of 1919, Chapter 575, fixed the annual salary of the Clerk and Master of Fayette County at \$1,000, provided the Clerk and Master filed a sworn, itemized statement annually with the County Judge, or Chairman, showing the total amount of fees collected the previous year. If the fees were less than the salary, the County was required to pay the difference, but, if the fees were more, the Clerk and Master could keep the excess portion as his own.
4. Private Acts of 1919, Chapter 687, declared that women over the age of 21 years were eligible to serve as Deputies in the offices of all the Court Clerks in Fayette County with all the rights, privileges, powers, and obligations as any other Deputy serving in the same office.
5. Private Acts of 1919, Chapter 731, provided that women over the age of 21 and residents of the County were eligible for appointment to the office of Deputy Clerk and Master in Fayette County, identified by the use of the 1910 Census figures. They would have and exercise all rights, privileges, powers, and authority as other Deputy Clerks and Masters.
6. Private Acts of 1927, Chapter 8, fixed the annual salary of the Clerk and Master in Fayette County at \$1,500 but, if the fees of the office exceeded that amount, the Clerk and Master would be allowed to retain the surplus. In the accounting of the fees, the Clerk and Master did not have to include those received for service as a Special Receiver, or as a Commissioner. The Clerk and Master must file a sworn, itemized statement at the end of the year with the County Judge, or Chairman, showing the fees collected. If they do not equal the salary, the county must pay over the difference.
7. Private Acts of 1927, Chapter 695, amended Private Acts of 1919, Chapter 575, above, by increasing the annual salary of the Clerk and Master from \$1,000 to \$1,500, payable under the same terms and conditions which were not changed.

8. Private Acts of 1931, Chapter 333, amended Private Acts of 1919, Chapter 575, above, by adding a provision to the effect that the fees and allowances received by the Clerk and Master when acting as Trustee, Receiver, or Special Commissioner, by appointment of the court, and the fees and commissions received from the collection of delinquent taxes, would not be included in the itemized statement of the fees collected which was to be filed under the requirements of that act. This act was repealed by the one following.
9. Private Acts of 1933, Chapter 324, expressly repealed Private Acts of 1931, Chapter 333, above, in its entirety.

Circuit Court

The following acts were once applicable to the circuit court of Fayette County but now have no effect, having been repealed, superseded, or having failed to win local approval.

1. Acts of 1824, Chapter 36, which formed Fayette County, provided for the Circuit Court of the county to meet at the house of Robert G. Thornton on the fourth Monday in June and December until otherwise provided by law, court to be in session for one week under the same rules and regulations as other courts. Fayette County was assigned to the 8th Judicial Circuit.
2. Acts of 1824, Chapter 102, reset the court terms for the Circuit Courts of the counties in the 8th and 9th Judicial Circuits. The counties named, without placing them in the circuits, were Wayne, Hardin, Madison, Haywood, Tipton, Shelby, McNairy, Gibson, Dyer, Obion, Weakley, Hardeman, and Fayette whose Circuit Court would convene on the second Monday in April and October.
3. Acts of 1825, Chapter 102, stated that the Circuit and County Courts for Fayette County would thereafter be held in Somerville and all process which was outstanding and returnable to the house of Robert G. Thornton was to be returned to Somerville. Joseph Cotton, Robert Cotton, Thomas G. Hudson, John Brown, Miles Beauford, and David Jernigan were named as additional Commissioners for the town of Somerville.
4. Acts of 1825, Chapter 318, rescheduled the Circuit Court terms for the counties in the 8th and 9th Judicial Circuits. The counties involved were McNairy, Hardeman, Shelby, Tipton, Haywood, and Madison. The Circuit Court would start on the first Monday in June and December in Somerville in Fayette County.
5. Acts of 1827, Chapter 53, rearranged the terms of the Circuit Court in the 8th Judicial Circuit transferring Fayette County to the second Monday in June and December.
6. Acts of 1829, Chapter 52, formed the 10th and 11th Judicial Circuit in Tennessee. The Tenth Judicial Circuit was composed of the counties of Wayne, Hardin, McNairy, Hardeman, Shelby, and Fayette. The Judges of the new circuits would be elected by the joint ballot of both Houses of the General Assembly and be compensated to the same extent as any other Judge.
7. Acts of 1835-36, Chapter 5, was enacted subsequent to the formation and adoption of the 1835 Constitution. Circuit Courts would be established throughout the State and be held three times a year in each county. Eleven Judicial Circuits were organized in the State with the counties of Shelby, Fayette, Hardeman, McNairy, Hardin, and Wayne being designated as the 11th Judicial Circuit. The Circuit Court of Fayette County would convene on the third Monday in January, May, and September.
8. Acts of 1837-38, Chapter 116, changed the opening dates for several counties throughout the State. Section 7 of this Act changed the terms for the Circuit Courts in Shelby, Hardeman, McNairy, and Fayette Counties. The Circuit Court in Somerville would start its terms on the fourth Monday in February, June, and October.
9. Acts of 1839-40, Chapter 21, Section 16, reset the terms of the Circuit Courts in the counties of McNairy, Hardeman, Shelby, Tipton, and Fayette whose Circuit Court would meet on the third Monday in January, May, and September.
10. Acts of 1845-46, Chapter 21, rearranged the terms of the Circuit Courts in Shelby, Tipton, Hardeman, and Fayette counties where the Court would convene on the second Monday in February, June, and October of each year.
11. Acts of 1857-58, Chapter 98, was a complete revision of the lower Circuit Court system of the State which was divided into sixteen Judicial Circuits. The 15th Judicial Circuit contained the counties of Tipton, Shelby, Hardeman, and Fayette where the Court would take up the term dockets on the second Monday in February, June, and October.
12. Acts of 1867-68, Chapter 4, provided that the Circuit Court of Fayette County would be held on the second Monday of March, July, and November in Somerville.

13. Acts of 1870 (2nd Ex. Sess.), Chapter 31, divided the State into 15 regular, and one special, Judicial Circuits in this wholesale re-ordering of the lower court system of the State after the adoption of the 1870 State Constitution. The 14th Judicial Circuit was made up of the counties of Fayette, Tipton, Lauderdale, Hardeman, and the special court at Bartlett in Shelby County.
14. Acts of 1870 (2nd Ex. Sess.), Chapter 46, set up the schedule of Circuit Court terms for every county in the State of Tennessee according to Judicial Circuits. Fayette County's Circuit Court would meet on the third Monday in February, June, and October.
15. Acts of 1870, Chapter 82, provided for the Probate Judge of Shelby County to hear the Circuit Court docket at Bartlett and was therefore invested with all the power and jurisdiction to do so. The Court at Bartlett in Shelby County was moved out of the 14th Judicial Circuit and into the 15th Judicial Circuit.
16. Acts of 1881 (Ex. Sess.), Chapter 20, was the next complete revision of the lower court system of Tennessee which was separated into fourteen regular, and one special, Judicial Circuits. The 13th Judicial Circuit consisted of the counties of Hardeman, Fayette, Tipton, Lauderdale, Dyer, and Lake, and the Judge of this Circuit would hold the Chancery Court of Lake County. The Circuit Court terms in Fayette County would begin on the third Tuesday in January, May, and September.
17. Acts of 1899, Chapter 427, reorganized the entire lower judicial system of Tennessee. Fourteen Judicial Circuits were formed and the counties of Obion, Lake, Dyer, Lauderdale, Tipton, Fayette, and Weakley were all assigned to the 14th Judicial Circuit. Court terms in Fayette County would begin on the third Monday in March, July, and November.
18. Acts of 1905, Chapter 59, created the 16th Judicial Circuit, taking the counties of Hardeman, Madison, and McNairy from the 12th Judicial Circuit, and the counties of Tipton, Fayette, and Lauderdale from the 14th Judicial Circuit, and joining them together to form the 16th Judicial Circuit. Only the civil jurisdiction of the Circuit Court of Madison County was included in the transfer, the criminal jurisdiction being left in the 12th Judicial Circuit. Court terms were established for all the counties, Fayette County's Circuit Court being designated to begin on the fourth Monday in March, July, and November at Somerville. The Governor would appoint a Judge and an Attorney-General for the new Circuit to serve until the next general election when the people would elect their successors.
19. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, divided Tennessee into twenty Judicial Circuits in the last organizational Act for the Judiciary appearing in the volumes of Private Acts. The 16th Judicial Circuit contained the counties of Hardeman, McNairy, Lauderdale, Madison, Tipton, and Fayette. The Circuit Court terms would start on the fourth Monday in March, July, and November.

Circuit Court - Clerk

The following acts have no current effect, but once applied to the Fayette County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Acts of 1903, Chapter 255, was an act which established the annual salaries of Circuit Court Clerks only and which classified them according to the population of the county in which they served. The Clerks were to file a sworn itemized statement before January 1 with the County Judge or Chairman, showing all the fees collected in the office. If the fees were less than the salary fixed for the Clerk, the County was obliged to make up the deficiency but, if the fees exceeded the salary, the Clerk could retain the excess for his own. According to census data for 1900, the Circuit Court Clerk of Fayette County would have been paid \$1,000. This Act along with several others of a similar nature eventually led to the current salary statutes under which the State presently operates.
2. Private Acts of 1919, Chapter 274, stated that females, married or single, over the age of 21, and residents of the county appointing them, were eligible to serve as a Deputy in the office of the Circuit Court Clerk with the same authority and duties as other Circuit Court Clerks. This act applied to Weakley, Rutherford, Montgomery, Greene, Giles, and Fayette Counties.
3. Private Acts of 1919, Chapter 687, provided that women over 21 years of age could serve as Deputy Clerks in the offices of the Clerks of all the Courts of Fayette County, identified by the use of the 1910 Federal Census. As deputies, they were given all the rights, privileges, powers, and obligations as other deputies.
4. Private Acts of 1927, Chapter 217, in Fayette County, set the annual salary of the Circuit Court Clerk at not less than \$1,500 per year, and, in case the fees of the office did not amount to that sum, the county was to supplement the same up to that figure on the warrant of the County

Judge, or Chairman. The Clerk was required to file with the County Judge, or Chairman, a sworn, itemized statement showing the total amount of fees collected by the office, but, if the fees exceeded the salary specified, the Clerk could retain the surplus as his own.

District Attorney General - Assistants and Criminal Investigators

The following acts once affecting Fayette County are no longer in effect but are listed here for historical purposes.

1. Acts of 1824, Chapter 36, placed Fayette County in the 15th Solicitorial District of the State.
2. Acts of 1835-36, Chapter 28, made each Solicitorial District in the State to coincide with each Judicial Circuit having criminal jurisdiction.
3. Public Acts of 1973, Chapter 91, created the office of Assistant District Attorney General for the 16th Judicial Circuit for Fayette, Hardeman, Lauderdale, McNairy and Tipton Counties. This act has been superseded by T.C.A. 16-2-506 which entitled the counties of the 25th Judicial Circuit to four Assistant District Attorneys Generals.

Secretarial Assistance

The following acts are no longer in effect but are listed here for historical purposes.

1. Public Acts of 1957, Chapter 150, stated that the compensation of the Stenographer for the Chancellor of the Ninth Chancery Division would be \$2,400 annually, payable in equal monthly installments from the State Treasury, but none of the provisions for payment which were set out in Public Acts of 1943, Chapter 125, would be affected.
2. Public Acts of 1963, Chapter 309, amended Public Acts of 1957, Chapter 150, by increasing the annual salary of the Stenographer for the Chancellor of the Ninth Chancery Division from \$2,400 to \$3,600, payable under the same terms and conditions.
3. Public Acts of 1967, Chapter 137, amended Public Acts of 1957, Chapter 150, as amended, by increasing the annual salary of the Chancellor's Stenographer from \$3,600 to \$4,800.

Chapter VI - Education/Schools

Superintendent or Director of Schools

Private Acts of 1931 Chapter 313

COMPILER'S NOTE: Section 2 may be superceded by general law.

SECTION 1. That in counties of Tennessee, having a population of between 28,890 and 28,892, according to the Federal Census of 1930, or any subsequent Federal Census, shall elect a County Superintendent of Education for a term of two years, or until his or her successor is elected.*

SECTION 2. That the election of said superintendent shall be held in conjunction with the general county elections held every biennium.

SECTION 3. That the said Superintendent of Education shall be elected for the first time in the election to be held in counties having the aforementioned population at the regular county election held in August, 1932, and that the Superintendent elected at said election shall hold office for a period of two years or until his or her successor is elected.

SECTION 4. That all laws or parts of laws in conflict with this law be and the same are hereby repealed.

SECTION 5. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: June 2, 1931.

Education/Schools - Historical Notes

Board of Education

The following act once affected the board of education in Fayette County but is no longer operative.

1. Private Acts of 1994, Chapter 141, would have provided for the transition from seven (7) year terms to four (4) year terms for the members of the Fayette County Board of Education, but did not receive local approval.

Superintendent or Director of Schools

The acts referenced below once affected the office of superintendent of education in Fayette County, but are no longer operative.

1. Private Acts of 1931, Chapter 300, stated that, in Fayette County, which was identified by the use of the 1930 Federal Census, the people would elect a County Superintendent of Education for a term of two years, which election was to be held in conjunction with the general county elections held every two years. The first election would be in August, 1932, and the term of office would start on September 1 and continue for two years.
2. Private Acts of 1933, Chapter 169, amended Private Acts of 1931, Chapter 300, to increase the term of the School Superintendent from two years to four years, and to change the year of the first election from 1932 to 1933.
3. Private Acts of 1933, Chapter 883, amended Private Acts of 1933, Chapter 169, by changing the year of the election for the Superintendent of Schools to 1934 instead of 1933.
4. Private Acts of 1961, Chapter 155, repealed Private Acts of 1931, Chapter 300.

General Reference

The following acts constitute part of the administrative and political heritage of the educational structure of Fayette County but are no longer operative since they have either been superseded, repealed, or failed to receive local approval.

1. Acts of 1829, Chapter 57, appointed Bennett H. Henderson, Wilson S. Gray, John Brown, Jesse Allen, and William W. Crawford as additional Trustees for Somerville Academy in Fayette County who would have all the powers and privileges of the other Trustees.
2. Acts of 1829, Chapter 60, incorporated John Anderson, Charles McGhee, John Booth, William Booth, Orville C. Rivers, Samuel B. Harper, Joel L. Jones, Howell Myrick, John H. Moss, James Titus, John Ragan, Sam W. Killen, George Gray, and Frazier Titus, as the Trustees of Lagrange Academy in Fayette County with succession for 50 years and the authority to have a seal. The Trustees could promulgate their own rules and regulations for the Academy. Section 3 of this Act incorporated John Anderson, Charles Michie, John Booth, William Booth, Orvil C. Rivers, James Titus, John Ragan, Samuel M. Killen, George Gray, and Frazier Titus, as the Trustees for the Lagrange Female Academy which would operate under the same rules and regulations as the Female Academy in Bolivar.
3. Acts of 1829, Chapter 158, named John Blackwell, William Davis, John C. Cooper, Elias Counts, Jarman Coons, Samuel Johnson, and Charles Thompson as managers to draft any type of lottery scheme they thought proper to raise up to \$8,000 for the benefit of the Somerville Male and Female Academy but before doing so they were to make bond in the amount of \$20,000 with the Governor.
4. Acts of 1829, Chapter 265, appointed Robert Cotton and William Irons, as additional Trustees for Lagrange Academy with the same powers and privileges as the others.
5. Acts of 1831, Chapter 240, was the Act of incorporation for the Trustees of the Somerville Female Academy for a succession of 20 years who would hold the title to property in their name. Some general rules for the government, organization, and management of the school were enumerated in the Act. Those named as incorporators were William S. Gray, Benjamin F. Gray, A. G. Hunter, Michael Cody, Bennett H. Henderson, Washington L. Hannom, John C. Cooper, Robert A. Parker, Thomas C. Hudson, J. Higgason, J. B. McClellan, John Brown, and James Hamilton. Bennett H. Henderson was named as the President and Michael Cody as the Secretary.
6. Acts of 1835-36, Chapter 96, incorporated William Lavesque, Erwin Wilder, James Hunter, Durant Hatch, John Lawston, Thomas H. Lester, Henry G. Smith, Jephtha Towles, N. Wilder, and E. Baker, as the Trustees of the Oakland Academy in Fayette County.
7. Acts of 1835-36, Chapter 110, incorporated James G. Hall, Washington Eddings, George Thompson, William Kerk, William Guerrunt, Littlebury D. Stoval, John R. Arnold, Richard Clem, and George M. Bowers, by the name of the Athens Male and Female Academy in Fayette County whose Charter was to be identical with that of the Oakland Academy.
8. Acts of 1839-40, Chapter 41, incorporated Somerville College in Fayette County, naming as Trustees, conditional upon their acceptance of the post, but, in no case would the number of Trustees exceed 21, John B. Ayers, A. J. Spirey, Edward H. Whitfield, John Bell, Champ C. Conner, William Warren, Joel L. Jones, John L. Townes, Nathaniel G. Smith, William Buckhannon, R. T. Daniel, Hardy W. Sharp, Amos Jarman, Joseph B. Outlay, John Wood, Joseph Lane, H. Owen, William Ragan, William Leigh, John D. Johnson, and Alfred Milliken. Many general rules and

regulations were contained in this law.

9. Acts of 1847-48, Chapter 206, was an Act incorporating A. T. Favish, B. H. Porter, T. G. Neel, William W. Nelson, C. A. Newbern, James Meneese, and F. McLaren, as the Trustees of the Macon Male Academy and S. T. Neel, John Granbury, R. H. Brown, J. W. Wright, Jacob Han, A. T. Favish, and George W. Fisher as the incorporators of the Macon Female Academy, both in Fayette County. The authority to operate and manage the schools was conferred upon the incorporators and Trustees.
10. Acts of 1849-50, Chapter 57, Section 14, incorporated Calvin Jones, Duke Williams, H. S. Dickerson, Edwin Dickinson, John C. Cooper, William H. Williamson, Joseph Higgason, H. D. Wilson, Henderson Owen, L. C. Hardwicke, and Joseph B. Littlejohn, as the Somerville Female Institute with the appropriate guidelines and regulations to get them into business.
11. Acts of 1849-50, Chapter 158, Section 9, changed the name of the Macon Female Academy in Fayette County to the Macon Female Institute and by the latter name would it thereafter be known and incorporated.
12. Acts of 1849-50, Chapter 262, Section 6, incorporated Matthew Rhea and M. J. Long, of Fayette County, as the proprietors of the Fayette Lyceum for young ladies being given all the powers and authority incidental to the corporate institutions of the day.
13. Acts of 1853-54, Chapter 240, Section 12, amended the Act which incorporated the Fayette County Male Academy so as to change its name to the "Somerville Model School for Young Gentlemen" but the change in name would in no way alter anything else. In addition to the current assets and property of the school, the act appointed John W. Harris, John C. Waddell, James A. Anderson, Phillip B. Glenn, William Burton, Edwin Dickinson, E. S. Tappan, William B. Washington, and Josian Higgason, as commissioners to sell stock in the school up to \$50,000 in \$50 shares so as to enlarge the Academy buildings and construct a Steward's Hall.
14. Acts of 1855-56, Chapter 53, established Lagrange Female College as a corporation and a joint stock company, with shares of stock set at \$50 per share, and which corporation would be governed by a Board of Trustees. The Act named Edmund Winston, Charles W. Hunt, Hugh Davis, Willie B. Jones, F. W. Cossitt, Richard J. Bass, George Paulson, Whitson A. Harris, and William A. Turner, as the first Board of Trustees. The rules and regulations attendant to the management of corporate scholastic institutions were conferred upon the Board of Trustees.
15. Acts of 1855-56, Chapter 238, established a college near Lagrange in Fayette County which would be called the Lagrange Synodical College which was and thereafter would be under the care of the synod of Memphis in general connection with the Assembly of the Presbyterian Church of the United States. A Board of Trustees, no less than 16 nor more than 25, was incorporated and named to the first Board were Rev. J. H. Gray, J. H. Gillespie, J. A. Rodgers, J. D. Kirtland, A. H. Caldwell, J. H. Miller, Z. Conky, J. N. Cocke, P. R. Bland, E. S. Campbell, J. B. Neely, J. B. Maclin, T. S. Stuart, William A. Gray, J. W. Jones, T. G. Anderson, W. A. Hall, L. McNeely, A. Johnson, S. J. Reid, C. S. Palmore, Robert Locke, J. L. T. Sneed, and T. L. Dunlap.
16. Acts of 1855-56, Chapter 241, Sections 6 and 7, amended a prior 1854 Act so as to name John C. Cooper, William Burton, Joel S. Pulliam, A. M. Shaw, George W. Reeves, John D. Stanley, J. Higgason, and R. N. Nesbitt, as the Trustees, and Commissioners instead of those specified in the amended act. All the rights, powers, and privileges of the former Trustees were bestowed on them.
17. Acts of 1897, Chapter 138, was the legal authority for the Trustees of the Somerville Male Academy to sell and convey by deed the real estate held by them as Trustees of the said Academy which would operate to vest a good title in the Grantees thereof. All money derived from the sale of the said properties would be reinvested in other school property within the corporate limits of the town of Somerville.
18. Acts of 1897, Chapter 232, was the enabling law for the Mayor and Aldermen of Somerville to issue interest bearing bonds up to \$5,000 which money would be used exclusively in the purchase and improvement of the "Somerville Female Institute," but none of this would take place until the same had been approved by the people in a referendum held for that purpose. If approved, the bonds would pay interest at 6%, or less, and mature within a five to 30 year time frame. The Quarterly Court was obligated to levy a tax until all the bonds were repaid with interest.
19. Acts of 1907, Chapter 236, abolished the office of District Directors and placed the schools under the control of a County Board of Education and a District Board of Advisors. Quarterly Court at its meeting in July, was to divide the County into five school districts from each of which one member of the Board would be elected, and the Superintendent of Schools would serve as Secretary.

Terms were for two years and one was to have at least a primary school education. The duties of the Chairman of the Board of Education, the Secretary, and the Board members were all set out in the act. Each member was to make a full and accurate report on the public schools of his district and would be paid \$1.50 to \$3.00 per day up to 30 days a year. The three member Advisory Board would be elected by the people, discharge the duties catalogued in the act, and keep proper records of all transactions. Several counties exempted themselves from the application of this act but Fayette County was not one of them. This act was part of the litigation in the case of Whitthorne v. Turner, 155 Tenn. 303, 293 S.W. 147 (1927).

20. Private Acts of 1917, Chapter 814, organized the Fayette County school system into two classes to be known as the elementary schools and the public high schools. The elementary schools involved the first eight grades and would have all the subjects required by law taught in them. The public high schools would be four years and would be designated as two year, three year, and four year schools. The Board would employ at least three teachers in the four year high school, two teachers in the three year school, and at least one teacher in the two year school. Nothing in this Act would be construed as taking away from the High School Board their power to make contracts for the consolidation of the high school funds. The County Court had the duty to elect a High School Board in accordance with the law.
21. Public Acts of 1925, Chapter 115, has been codified as Title 49, Tennessee Code Annotated, and Section 33 abolished all school districts which were not taxing districts.
22. Private Acts of 1931, Chapter 319, abolished the officer known as the Truant Officer in Fayette County, making it the duty of teachers to report absences of students to the County Superintendent who would give written notice to the students' parents, or guardians. If, after five years of the notice, the parent, or guardian, did not enter the errant children in school, the matter would be turned over to the Sheriff, a Deputy, or a Constable, who would obtain arrest warrants for the parents, who may be fined on conviction.

Chapter VII - Elections

Elections - Historical Notes

Districts - Reapportionment

The act listed below once affected the civil districts in Fayette County, but is no longer operative regarding elections.

1. Acts of 1835-36, Chapter 1, required the General Assembly by Resolution to appoint Commissioners to lay off every county in the State into Civil Districts, the number of Civil Districts being dependent upon the population of qualified voters in the respective county. In Fayette County those named to lay off the county were Daniel Johnson, Spencer Jackson, John Blackwell, William Garrant, and Richard B. Jarman.

Elections

The following is a listing of acts for Fayette County which affected the elective process, but which have been superseded or repealed. They are listed here for historical and reference purposes.

1. Acts of 1824, Chapter 1, established eleven Presidential Electoral Districts in Tennessee of which the Eleventh District was made up of the counties of Wayne, Hardin, Perry, and all the counties west of the Tennessee River. The election would occur on the first Thursday and Friday in November, 1824.
2. Acts of 1826, Chapter 3, apportioned the State for representation in the General Assembly into 20 Senatorial Districts and 40 Representative Districts. The counties of Haywood, Madison, Tipton, Hardeman, Fayette, and Shelby constituted one Senatorial District whose polls would be compared at Bolivar in Hardeman County. One Representative would be elected by the counties of McNairy, Hardeman, Fayette, Shelby and Tipton, jointly.
3. Acts of 1827, Chapter 17, divided Tennessee into eleven U.S. Presidential Electoral Districts, allocating the counties of Henry, Weakley, Obion, Carroll, Gibson, Dyer, Henderson, Madison, Haywood, Tipton, McNairy, Hardeman, Fayette, and Shelby to the 11th District.
4. Acts of 1832, Chapter 4, established 13 U.S. Congressional Districts in the State. The 13th U.S. Congressional District consisted of the counties of Perry, Henderson, McNairy, Hardeman, Fayette, Shelby, and Tipton.

5. Acts of 1832, Chapter 9, set up 15 Presidential Electoral Districts in Tennessee. The 14th District contained the counties of Hardeman, Hardin, Henderson, McNairy, Madison, Fayette, and Shelby.
6. Acts of 1833, Chapter 71, designated the counties of Hardeman, Fayette, Shelby, and Tipton as one State Senatorial District whose votes would be counted and compared at Somerville, and the counties of Fayette and Shelby would jointly elect one of the 40 State Representatives in the General Assembly.
7. Acts of 1833, Chapter 76, provided for a call of a Constitutional Convention of 60 delegates who would be elected on the first Thursday and Friday in March next, and those elected as delegates would meet in Nashville on the third Monday in May, next, to revise, amend, alter the present, or form a new, Constitution for the State. Fayette County would elect one Delegate to the Convention alone.
8. Acts of 1835-36, Chapter 39, organized Tennessee into 15 Presidential Electoral Districts and assigned the counties of Hardeman, Hardin, Henderson, McNairy, Madison, Fayette, and Shelby to the 14th Electoral District.
9. Acts of 1842, Chapter 1, divided Tennessee into 25 Senatorial Districts and 50 Representative Districts in the General Assembly. The 25th Senatorial District was made up of the counties of Hardeman, Fayette, and Shelby with the polls to be counted in Somerville. Fayette County would elect one Representative alone and share another with Hardeman and Shelby counties.
10. Acts of 1842, Chapter 7, formed eleven U.S. Congressional Districts in the State, placing the counties of McNairy, Hardeman, Fayette, Shelby, Tipton, Haywood, Lauderdale, and Dyer in the 10th Congressional District.
11. Acts of 1851-52, Chapter 196, set up 10 U.S. Congressional Districts in the State. The Tenth District was composed of the counties of Madison, Haywood, Hardeman, Fayette and Shelby.
12. Acts of 1851-52, Chapter 197, apportioned the State for representation in the State Legislature. Fayette County would elect one Representative alone and share a floater with Tipton and Shelby counties. Fayette and Shelby Counties constituted one Senatorial District whose votes would be tallied at Samuel Leaks in Shelby County.
13. Acts of 1853-54, Chapter 151, Section 2, stated that the polls for the floating Representative for the counties of Tipton, Fayette, and Shelby would be compared at the house of Colonel Samuel C. Leaks in Shelby County.
14. Acts of 1865-66, Chapter 34, was a post Civil War act establishing 8 U.S. Congressional Districts in Tennessee. The 8th U.S. Congressional District comprised the counties of McNairy, Hardeman, Fayette, Shelby, Tipton, Madison, and Haywood.
15. Acts of 1869-70, Chapter 105, authorized a referendum election to be held across the State on the question of calling a Constitutional Convention to amend, revise, or form and make a new State Constitution. The Ballot would be marked simply "For" or "Against". The Convention would have 75 delegates and each county would have the same number of delegates as they had representatives. The delegates elected would convene in Nashville on the second Monday in January, 1870.
16. Acts of 1871, Chapter 146, reapportioned the State for the General Assembly. Fayette County would elect one Representative alone and share another with Obion, Lake, and Shelby Counties. Of the 25 Senatorial Districts, the 23rd was made up of the counties of Shelby, Fayette, and Tipton.
17. Acts of 1872, Chapter 7, organized Tennessee into nine U.S. Congressional Districts and the Ninth contained the counties of Shelby, Tipton, Fayette, and Hardeman.
18. Acts of 1873, Chapter 27, separated the State into ten U.S. Congressional Districts of which the Tenth District was composed of the counties of Shelby, Fayette, and Hardeman.
19. Acts of 1881 (Ex. Sess.), Chapter 5, made the number of Senators in the General Assembly to be 33 and the number of Representatives in the House to be 99, both to be permanently fixed at that figure.
20. Acts of 1881 (Ex. Sess.), Chapter 6, reapportioned the State to conform to the new numerical quantity of Senators and Representatives: of the 99 Representatives, Fayette County would elect one alone and share a floater with Hardeman County, and Fayette and Tipton Counties constituted one State Senatorial District.
21. Acts of 1882, Chapter 27, delineated ten U.S. Congressional Districts in the State of Tennessee. Hardeman, Fayette, Shelby, and Tipton Counties made up the 10th U.S. Congressional District.

22. Acts of 1891, Chapter 131, apportioned Tennessee according to the 1890 Census for representation in the U.S. Congress. There were ten Congressional Districts and the 10th contained the same four counties as before, Shelby, Fayette, Hardeman, and Tipton.
23. Acts of 1891 (Ex. Sess.), Chapter 10, organized the General Assembly into Districts according to the 1890 Census. Of the 99 Representatives Fayette County would elect two alone and share another one with Lauderdale, Tipton, Haywood, Shelby, and Hardeman. Fayette County and Tipton County made up the 31st State Senatorial District.
24. Acts of 1901, Chapter 109, created ten U.S. Congressional Districts, allocating to the 10th Congressional District the counties of Shelby, Hardeman, Tipton, and Fayette.
25. Acts of 1901, Chapter 122, was the last act to apportion the General Assembly of the State for the next 65 years, or more. Haywood County and Fayette County combined to make up the 31st State Senatorial District. Fayette County would elect one Representative alone and share a floater with Shelby County.
26. Private Acts of 1921, Chapter 635, which became law without the Governor's signature, amended Acts of 1901, Chapter 109, by detaching Fayette County from the 10th U.S. Congressional District and attaching it to the 8th U.S. Congressional District.
27. Private Acts of 1939, Chapter 304, stated that the families of George Laster, Woodrow Jackson, E. F. Collins, Hays Fowler, E. C. Cravins, and R. H. Galey, all of whom resided and voted in the 10th Civil District of Fayette County would thereafter be permitted to vote in the 23rd Civil District in all National, State and County elections, so long as they maintained their residence as it was.
28. Private Acts of 1941, Chapter 170, declared that no person could vote in any general, special, called, or compulsory election in Fayette County unless such person was previously registered as a qualified voter in the said county. Registration in such counties would take place every four years.

Chapter VIII - Health

No current private acts in force.

Chapter IX - Highways and Roads

Public Works

Private Acts of 1974 Chapter 234

SECTION 1. This Act shall be known and may be cited as the Fayette County Public Works Act.

SECTION 2. There is hereby created a county board of public works which shall have complete charge of the working and maintenance of all public roads in Fayette County, except such as are maintained by the state or federal departments of transportation. This function will be accomplished by creation of a department of public works.

As amended by: Private Acts of 1995, Chapter 61

SECTION 3. Section was deleted in its entirety by the Private Acts of 1995, Chapter 61.

SECTION 4. The county board of public works shall consist of five (5) members, all of whom shall be resident citizens of Fayette County, and no one holding any other office in the county shall be eligible to be a member of said board. The board members shall be appointed by majority vote of the quarterly county court. In addition, the county judge or chairman shall serve as a non-voting ex-officio sixth (6th) member of the board. The five (5) appointees shall serve two (2) year terms from the first day of September next succeeding their date of appointment which shall be made by the quarterly county court of Fayette County at its July term in even years. One of the members so elected shall at the time of his election be a resident of the First, Second or Third Civil District of said County; one a resident of the Fourth, Fifth or Sixth Civil District of said County; one a resident of the Seventh, Eighth or Ninth Civil District of said County; one a resident of the Tenth, Eleventh or Twelfth Civil District of said County; and one a resident of the Thirteenth, Fourteenth or Fifteenth Civil Districts of said County, and shall offer themselves as candidates for the group of civil districts in which they reside. The quarterly county court shall in like manner fill any vacancies which may occur for the unexpired terms thereof.

Such members shall receive for their duties as members of the county board of public works salaries on a monthly basis as follows:

Chairman	\$150.00
Secretary	120.00
All Other Board Members	100.00

As amended by: Private Acts of 1988, Chapter 157

A majority of the board shall constitute a quorum. The board shall elect its own chairman and secretary. The board shall hold public meetings at least once each month at such regular time and place as the board may determine, and special meetings upon the call of the chairman. Such meetings shall be for the purpose of discussing and considering in a body any and all such matters as may pertain to the carrying out of the work, and to hear and consider petitions and complaints, and to attend to such other business or duties as may be necessary. It shall establish its own rules of procedure.

Any member of the board may be removed from office for cause upon a vote of two-thirds (2/3) of the members of the quarterly county court, but only after preferment of formal charges by a resolution of a majority of such governing body and following a public hearing before it.

Before the board shall adopt any proposed budget, it shall submit same to the quarterly county court for approval or rejection. The board shall prepare such a budget after appropriate consultation with the budget committee of the quarterly county court.

The board shall develop and adopt a personnel and salary plan for the department; or in lieu of this, the board may choose to approve and adopt any county-wide plan concerning public works' employees that may have been adopted by the quarterly county court.

SECTION 5. Before entering into the discharge of their duties, the members of the board shall take and subscribe to an oath in writing before the county court clerk that they will perform with fidelity the duties of their offices as members of the county board of public works and shall each enter into a bond in the amount of ten thousand dollars (\$10,000) 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 the bond shall be paid out of the public works fund in the same manner as other disbursements are made.

SECTION 6. The board shall maintain an office in the county seat of Fayette County, Somerville, Tennessee, where all books, records and other materials pertaining to its work shall be kept. At all meetings of the board, it shall be the duty of the secretary to keep an accurate account of all business transacted, and accurate minutes of the meetings in a well-bound book. These minutes at the next meeting shall be read, approved and signed by the secretary and chairman of the board. These records are subject to inspection by any person at all reasonable times.

SECTION 7. The board shall have general supervision, control, and management of county policies relating to all public roads, levees, culverts and bridges of the county, and shall have general supervision of all work to be done in repairing and building roads, building levees, building bridges, and all other matters pertaining to the same.

As amended by: Private Acts of 1995, Chapter 61

The board has the authority within its budgetary limits to contract with any county, city, state, federal, or private entity to secure the provision of services mandated under this Act. The board is also hereby given jurisdiction over the receipt and expenditure of all road funds belonging to the county from whatever source, subject to the limitations of this Act and subject to any restrictions the quarterly county court may place on this authority.

The board has the authority and duty to classify all county roads by grade in accordance with Sections 54-903 and 54-904 of the Tennessee Code Annotated and to submit to the quarterly county court a long range maintenance and improvement plan for the county road system and for sanitary services.

SECTION 8. The board of public works shall submit reports periodically to the quarterly county court, the frequency and manner of which shall be determined by said court, which constitute a full and complete accounting of their activities and of the activities of the department. Such a report will show the amount of road funds on hand at the beginning of the period, together with an itemized statement of all amounts expended for labor, machinery, supplies, materials, equipment and other expenditures during the period, as well as a complete list of all articles purchased, the number of persons employed and the amount paid each, the number of miles of road constructed, repaired or maintained, or fraction thereof, and where located.

SECTION 9. It shall be a duty of the board to employ a superintendent of a department of public works who shall serve it at its will and pleasure. Neither the board nor the superintendent shall expend in any fiscal year a sum in excess of the revenues approved by the quarterly county court for manifestation of the public works function.

SECTION 10. The superintendent shall be responsible for the implementation and interpretation of the general policies specified by the board and the day-by-day operation of the department, including the

operation and management of all services, equipment, facilities, and employees which are herein provided for, as well as preparation of a regular and timely payroll. The superintendent shall enforce all rules, regulations, programs, plans and decisions of the board and the quarterly county court. Within the limits of a budget, a salary plan and a job classification plan as approved by the board, the superintendent shall hire, dismiss, promote and demote all employees and fix their duties, except that the engagement of technical consultants and advisors, such as engineers and architects, shall be subject to the approval of the board, and subject to budgetary limitations.

As amended by: Private Acts of 1995, Chapter 61

Said superintendent, with the approval of the board may acquire and dispose of all property necessary to effectuate the purposes of this Act. Title to such property shall in all cases be taken in the name of the county. The superintendent, under direction of the general policies of the board, shall have control over the location, relocation, construction, reconstruction, repair and maintenance of the road, bridge systems of the county.

As amended by: Private Acts of 1995, Chapter 61

The superintendent, subject to the approval of the board, shall let all contracts. He may, however, make purchases of supplies and materials up to a cost of one thousand dollars (\$1,000) within budgetary limits, without prior approval, subject to such rules as the board may prescribe. Purchases of supplies, materials, and equipment costing more than five hundred dollars (\$500) shall be let by bidding or as the board shall determine. Any contract for construction exceeding two thousand dollars (\$2,000) shall be advertised by the superintendent for competitive bids after reasonable notice.

The salary of the superintendent shall be fixed by the quarterly county court, subject to a recommendation by the board. The superintendent shall be a person who is qualified by training and experience for supervision over the maintenance and operation of the facilities and services herein provided for, in accordance with the qualifications approved in a personnel plan adopted by the board. Such person need not be a resident of the county or of the state at the time of his selection.

The superintendent shall enter into a bond in an amount to be determined by the board, 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 the bond shall be paid out of the public works fund in the same manner as other disbursements are made.

SECTION 11. It shall be a duty of the superintendent or his designee to list all claims and accounts against the department of public works in a well-bound book, to keep all such claims and vouchers always on file in his office, and to keep a list of all warrants drawn on the public works fund in the order drawn, as well as stubs of all warrants drawn on said fund. All paid vouchers or receipts shall be carefully filed and kept, and all records are subject to inspection by any person at any reasonable time.

No claim or account or other amount shall be paid out of the public works fund except upon warrant drawn by the department, signed by the superintendent, and co-signed by the chairman of the board. These warrants shall be drawn upon the funds in the hands and custody of the county trustee. At each monthly meeting, the superintendent shall make a full and complete report of all such financial transactions, as well as on other activities of the department.

SECTION 12. The superintendent under the direction of the general policies of the board, 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 board. All machinery and equipment shall be plainly marked as the property of the public works department and each item shall be numbered and the number entered on the inventory filed by the superintendent. Thereafter, on or before September 15 of each year he shall again make and file a complete inventory with the quarterly county court. It is the duty of the county judge or chairman to examine the inventories for compliance with this provision; upon his determination that the inventory does not comply with said requirements, he shall notify the county trustee, who shall cause to be withheld from superintendent any funds due him until the county judge or chairman is able to certify compliance with this provision.

SECTION 13. It shall be a duty of the superintendent under the direction of the general policies of the board to have all public roads, culverts, levees, and bridges of the county kept in repair, including the proper erection of traffic and highway signs. This work shall be done in the most economical way as practicable in order to make permanent and lasting improvements. Subject to the stipulations of this act, he may purchase and sell trucks, dozers, graders, tractors, tools and other necessary equipment and materials and may employ necessary labor to operate such equipment and to work in performance of the duties of the department. Some work may be done by private contractor with approval by the board. Such work must be let to the lowest bidder after advertising the nature and amount of work as well as the

place and time for bidding for two weeks in a newspaper with county-wide distribution, subject to the right to reject any and all bids. All such work shall be under the supervision and according to the plans and specifications to be furnished by the superintendent, and no payment for work or material shall be made until the same has been inspected and received and approved by the superintendent or his designee. It shall also be the duty of the superintendent to keep all public roads in the county in as near the same state of repair as may be practicable.

As amended by: Private Acts of 1995, Chapter 61

SECTION 14. The superintendent shall develop a plan for provision of road, bridge for the county which is to be submitted to and approved by the board. Such plan must also be submitted to the Fayette County Regional Planning Commission for study and a written report to be rendered to the quarterly county court within ninety (90) days after such submission, unless by resolution the quarterly county court allows a longer period of study. Such a plan of services shall set forth at a minimum the identification (sic) and proposed timing of the services to be rendered. No construction or acquisition of facilities may be undertaken until the recommended plans of the board and the planning commission, including necessary engineering and financing plans, are submitted to the quarterly county court for final approval and adoption.

As amended by: Private Acts of 1995, Chapter 61

SECTION 15. The procedure for opening, closing, or changing the location of public roads shall be submission of a written petition, signed by the applicant, to the chairman of the board of public works, specifying in particular the changes or action asked. Subsequent procedures are the same as provided by general law, Tennessee Code Annotated, Sections 54-906 et seq.

SECTION 16. This Act should not be interpreted in any way to limit the county from use of general enabling legislation applicable to all counties of Tennessee with regard to roads, bridges, and other public works facilities and services or use of county bonds for the financing of facilities in behalf thereof, so long as there is not conflict with the provisions of this Act. All county properties, records and other assets and liabilities owned or in custody of the board of roads and bridges at the time this act becomes effective are hereby transferred to the new department of public works. The quarterly county court is hereby authorized to transfer to the department of public works all properties, records and other assets and liabilities owned or in custody of other existing departments performing like functions.

As amended by: Private Acts of 1995, Chapter 61

SECTION 17. The members of the present board of roads and bridges shall serve in the interim as the board of public works as created herein and are eligible for appointment to said board by the quarterly county court, for a term or terms beginning September 1, 1974 as provided for in this Act.

SECTION 18. The board shall not authorize or knowingly 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. 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). Any employee of the public works department who shall use any truck or any other road equipment or 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 public works department for other than official departmental 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). Each separate use of the same for other than official departmental 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. Such a suit shall be filed by the county attorney in behalf of and for the benefit of Fayette County, any recovered damages accruing to the public works fund.

SECTION 19. Neither the superintendent nor any member of the board 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 or (sic) roads for the county, nor in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies and materials; nor shall any member of the board, or the 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 fifty dollars (\$50.00) and removal from office as provided by Sections 8-2701 et seq., Tennessee Code Annotated.

SECTION 20. It shall be unlawful and a misdemeanor for any person to place any obstruction in or on any public road or bridge and it shall be deemed an obstruction if such are placed in the ditches or drains along

said road or to divert any water course from its usual natural course into or on said road in any way or manner so as to cause the road to become muddy or otherwise damaged. The superintendent is authorized to remove or cause to be removed any fence, gate, or other obstruction from the roads, bridges and ditches of the county and to clean out and clear all fences and ditches along or adjacent to the county roads within public rights-of-way. Transmission lines, telephone or telegraph lines or poles may be placed on and along the right-of-way of any county road under the direction and with the permission of the superintendent.

SECTION 21. The quarterly county court is hereby authorized to assign the performance of any and all reasonable public works functions other than those specifically enumerated in this act to the board and to the department as it sees fit by a resolution adopted by majority vote.

SECTION 22. Chapter 454 of the Private Acts of 1941, Chapter 223 of the Private Acts of 1919, Chapter 738 of the Private Acts of 1919, Chapter 75 of the Private Acts of 1921, Chapter 109 of the Private Acts of 1927, Chapter 271 of the Private Acts of 1929, Chapter 324 of the Private Acts of 1931, Chapter 454 of the Private Acts of 1941, Chapter 143 of the Private Acts of 1949, Chapter 46 and 227 of the Private Acts of 1955, Chapter 154 of the Private Acts of 1961, Chapter 480 of the Private Acts of 1968, Chapter 331 of the Private Acts of 1970 and Chapter 76 of the Private Acts of 1973, are hereby repealed in their entirety, and all subsequent amendments thereto.

SECTION 23. 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 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 24. 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 court and certified by him to the secretary of state.

SECTION 25. For the purposes of approving or rejecting the provisions of this Act, as provided in Section 24, this Act shall be effective upon becoming a law, the public welfare requiring it.

Passed: March 7, 1974.

Speed and Load Limits

Private Acts of 1968 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 newspaper of general circulation in Fayette County, 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 _____. Said ordinance may be considered at any meeting of the County Court of Fayette County at any time within two weeks after the date said ordinance was filed."

As amended by: Private Acts of 1968, Chapter 484

SECTION 4. Acting as herein set forth said County Court of Fayette County may by ordinance establish speed and/or load 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.

Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Fayette County, but which are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1835-36, Chapter 5, incorporated Epps Moody, Eastin Morris, Robert Cotton, John T. Foster, Thomas Boothe, George Anderson, John Anderson, James F. Gaines, Henry Kirk, John Brown, Jared Hotchkiss, Robert A. Parker, and James Gray, all of Fayette County, ten more named persons from Shelby County, and six more individuals from Hardeman County, collectively, as the Trustees of the Lagrange and Memphis Railroad Company.
2. Acts of 1837-38, Chapter 108, declared that the provisions of the law of the present General Assembly authorizing the Governor to subscribe to one-half of the stock in the works of internal improvement is construed to apply also to macadamized roads and to the Lagrange, Somerville, and Memphis Railroad Company.
3. Acts of 1837-38, Chapter 208, appointed fourteen people from Shelby County, and John H. Ball, John C. Cooper, Matthew Rhea, William A. Jones, A. J. Henry, William D. Wilkinson, Peter Culp, and John Blackwell, all from Fayette County, as Commissioners to open books for stock subscriptions to the Memphis, Somerville, and Bolivar Turnpike Company, which was to be a road at least twenty-five feet wide, well-drained, and graded from the center to the sides. Other rules and requirements of its operation and management were set out in the Act including a partial schedule of toll rates which were allowed to be charged.
4. Acts of 1837-38, Chapter 224, incorporated a Turnpike Company with a capital of \$60,000 to construct a graded turnpike from Jackson in Madison County to Somerville in Fayette County by way of Denmark. The act had the names of the persons from Madison County, five from Haywood County, and James Smith, _____ Griffin, Thomas Dodson, and Willie Shane, all from Fayette County, who would be Commissioners to open books and sell stock in the said Turnpike Company. The remainder of the organizational details were left up almost entirely to the Commissioners.
5. Acts of 1837-38, Chapter 229, was the legislative authority for the Governor to increase the amount of stock, which the State had bought through the Internal Improvement Program, in the Memphis and Lagrange Railroads, provided the President of the said Railroad make application for the same.
6. Acts of 1837-38, Chapter 271, appointed Edmund S. Tappan, John C. Cooper, Asbury Crenshaw, Henry G. Smith, John C. Spence, Hiram Faine, Edwin Watkins, John H. Bull, Andrew J. Henry, John Cobbs, Durant Hatch, Albert G. Hunter, Henderson Owen, James F. Ruffin, Simon H. Walker, Josiah Higgason, William Reeves, Edwin Whitmore, and Joseph B. Littlejohn, all residents of Fayette County, as Commissioners to open books and raise stock up to \$25,000 to build a sanded, or graded, road and turnpike from Belmont to Somerville in Fayette County. The road could be continued to Randolph in Tipton County by way of Concordia. When one-third of the road was completed, a toll gate could be opened at an appropriate spot.
7. Acts of 1837-38, Chapter 309, permitted the Memphis and Lagrange Railroad, previously incorporated in the 1837-38 session of the General Assembly, to raise the amount of their authorized capital stock to \$425,000 in order to continue the construction of the lateral branch of the Railroad from Somerville to Jackson, or to some other point to connect with the Central Railroad from Jackson to the Mississippi River. The entire proposition would be subject to and governed by all the existing laws relative to railroads.
8. Acts of 1839-40, Chapter 101, was the authority for the President and the Directors of the Lagrange and Memphis Railroad Company to increase its capital stock to Two Million Dollars to

enable the Company to complete the main road from Memphis to Lagrange, the branch line from Somerville to Moscow, and the extension of the branch from Somerville to Jackson in Madison County, and for any other incorporated work in the Counties of Shelby, Fayette, Hardeman, Hardin, and McNairy. Regulations were promulgated in the Act to accomplish the objectives.

9. Acts of 1841-42, Chapter 18, allowed the further time of two years to the Lagrange and Memphis Railroad, starting January 1, 1842, to complete their main line between Memphis and Lagrange and the branch from Moscow to Somerville. (Note: There were other railroads being built which involved Fayette County but the Memphis to Lagrange Railroad seemed typical of the plight and the struggles of railroads which proliferated in Tennessee before and subsequent to the Civil War.)
10. Acts of 1843-44, Chapter 21, incorporated John Ingraham and Andrew Turner, as the "Jackson, Somerville, and Memphis Turnpike Company" which was obligated to open and construct a turnpike and ferry across the Hatchie River near Atwood on the road leading from Jackson to Denmark to Somerville and Memphis. Three years were allowed as the time in which the road must be completed. When the road was completed, inspected and accepted, the company could charge tolls for the use of the road and ferry which must always have a suitable and safe boat available for use.
11. Acts of 1843-44, Chapter 62, authorized the County Courts of the Counties of Shelby, Fayette, and Hardeman, through which the stage road must run, to order that the first class roads in their respective counties be opened to the width of forty-five feet, or less, as the Courts might consider to be practical and proper.
12. Acts of 1843-44, Chapter 67, named William Jones, John H. Ball, John C. Cooper, B. Douglass, L. P. Williamson, H. B. S. Williams, L. J. Coe, and James Ruffin, of Fayette County, plus eleven more who were from Shelby County, as Commissioners, to open books and sell stock to build a turnpike road from Memphis to Somerville. The statute also named J. I. Potts, E. T. Collins, E. W. Harris, J. W. Burton, W. B. Hamblin, and Thomas Winston, of Fayette County, and eight additional people from Shelby County, as Commissioners for a turnpike road from Memphis to Lagrange by way of Germantown, with rules and guidelines included in the Act.
13. Acts of 1843-44, Chapter 73, allowed the Memphis and Lagrange Railroad Company the further time of four years from and after January 1, 1844, to complete the main road from Memphis to Lagrange and the branch line from Moscow to Somerville and, in the future, five Directors of the Railroad would constitute a quorum to do business.
14. Acts of 1845-46, Chapter 114, listed eight people from Shelby County and L. H. Coe, J. C. Cooper, Burchett Douglas, H. J. Cannon, John Cobb, Calvin Jones, and William Ruffin, of Fayette County, as Commissioners to open books and sell stock up to \$100,000 in \$25 shares to make and build a turnpike road from Memphis to Somerville with the authority to extend the same to Bolivar and the Commissioners would have and enjoy all the rights and privileges of other turnpike companies.
15. Acts of 1849-50, Chapter 249, Section 3, made it the duty of the Governor to appoint three Commissioners, who were not stockholders in any railroad company, who owned no real estate south of the Hatchie River, and who resided west of the Tennessee River and north of the Hatchie River, to assess the value of the State's interest in the Memphis and Lagrange Railroad and to report the same to the Governor who would then convey the interest to the Memphis and Charleston Railroad Company with all the attendant rights, privileges, and liens.
16. Acts of 1851-52, Chapter 280, Section 11, amended the Charter of the Memphis and Somerville Road so that whenever five miles of the said road were completed, the County Court of Shelby County would appoint three Commissioners to examine the same, and, if that portion had been completed according to the Charter, a toll gate may be opened. Another amendment required the Company to open their road to a width of thirty feet including ditches and with a plank track at least ten feet wide within that width.
17. Acts of 1853-54, Chapter 225, repealed that part of the Charter of the Memphis and Somerville Turnpike Company which required the Company to build their road to the Fayette County line. The width of the road would be eighteen feet of which at least nine feet would be built of wood or some other equally substantial material.
18. Acts of 1865-66, Chapter 14, granted the Memphis and Somerville Plank Road Company additional time until January, 1868, to build bridges and parallel roads in accordance with the provisions of their Charter, but no toll would be collected until the Company had put the road in good and usable condition. However, non-compliance with the provisions of their charter would not work a forfeiture of it.

19. Acts of 1901, Chapter 136, was a general road law applying to all counties under 70,000 in population according to the 1900 Census. The County Court of each County would elect one Road Commissioner from each road district which would be co-extensive with the civil districts of the County, who would have general supervision over the roads and bridges in that district, who would be sworn and bonded, procure tools, materials, and equipment and be paid \$1.00 per day up to ten days a year. The County Court would assign the road hands to work, and set the number of days to be worked at no less than five nor more than eight, and fix the price to be paid for a team and wagon. The Court would levy a special road tax of two cents per \$100.00 for each day of work set to be done by the road hands, two-thirds of which could be worked out. The Commissioners would name the overseers in the district to be in immediate supervision of the road hands, who would be male citizens, outside cities, between the ages of 21 and 45 years. Roads were to be indexed and classified according to width and surfacing material type, and in case of construction, specifications were set up to be met. Procedures were established for the filing, hearing, and disposition of petitions to open, close, or change roads. In addition, County Courts were obligated to levy a road tax of not less than twenty cents per \$100.00 property valuation. This act was part of the litigation in the case of Carroll v. Griffith, 117 Tenn. 500, 97 SW 66 (1906).
20. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, above, in several minor particulars but primarily in the procedures for the disposition of the petitions to open, close, or change a road especially when the power of eminent domain had to be invoked.
21. Private Acts of 1917, Chapter 596, required the Quarterly County Court of Fayette County to levy a road tax of \$4 each year on every male resident between the ages of 21 and 50, provided each should have the privilege of working eight hour days on the county roads instead of paying the \$4. If the tax is not paid to the Trustee by February 1 of each year, those failing to pay must work eight days of eight hours each on the roads as directed by those legally authorized to supervise them. In addition, they could be subjected to fines from \$10 to \$50 and to confinement in the county workhouse for a period of not less than 30 days. All funds collected under this Act would be expended on the roads in the District from which they came.
22. Private Acts of 1919, Chapter 223, was probably the first comprehensive Road Law for Fayette County, by population designation, although the margin relates the law as being applicable to Fentress County. The Act provided for the Quarterly Court of Fayette County to elect three members to a Highway Commission for one, two, and three year terms, and the Court could also remove them from office. The Commissioners would be sworn and bonded, elect one of their members as Chairman for one year, and another as Secretary to serve for two years. The members would be paid \$100 annually, and the Secretary \$300 annually as compensation for their services. The Commission would have the general supervision, control, and management of roads and the District Road Commissioner would be the immediate supervisor of the roads in his District. Good records were required to be kept of all the transactions taking place. The Commission had the authority to employ a Road Superintendent at a salary no greater than \$150 a month, who would be in immediate charge of the department, and whose duties were generally specified in this law. The Commission would designate the roads to be worked, would buy tools, equipment, and materials, and could be fined for willful neglect of their duty. The Quarterly Court would assign road hands to the roads to be worked. They would work from 8 to 12 days, decided by the Quarterly Court who would further levy a special road tax from 20 cents to 70 cents per \$100 property valuation each year. All males between the ages of 21 and 50 must work the required number of days or pay fifty cents for each one missed. This act specifically repealed Private Acts of 1917, Chapter 596.
23. Private Acts of 1919, Chapter 738, amended Private Acts of 1919, Chapter 223, above, by inserting a new Section 11-a into the Act which set up a registration fee schedule from \$1.25 for a two-horse wagon to \$5.00 for log wagons which must be paid before the owner could lawfully operate those vehicles in Fayette County. Upon the payment of the fee, the County Court Clerk would issue a certificate of compliance and would pay over the fees collected thereunder to the County Trustee each quarter. Any person failing to register their vehicle and obtain the certificate was subject to a fine from \$5 to \$20.
24. Private Acts of 1921, Chapter 17, expressly repealed Private Acts of 1919, Chapter 738, above.
25. Private Acts of 1921, Chapter 75, amended Private Acts of 1919, Chapter 223, above, by striking out of Section 12 of the Act the words and figures "fifty cents" and inserting in their place the words and figures "one dollar," which would increase the commutation rate for road hands to that amount for each day of required service missed on the roads.
26. Private Acts of 1927, Chapter 109, expressly repealed Private Acts of 1921, Chapter 75, above, in

- its entirety, and was in turn repealed by Private Acts of 1974, Chapter 234.
27. Private Acts of 1929, Chapter 271, amended Private Acts of 1919, Chapter 223, above, in Section One by increasing the annual salary of the Commissioners from \$100 to \$500; in Section 9 by inserting a new Section which allowed the Commissioners to employ one, or more, District Supervisors for each civil district who would make a list of all road hands in the civil district and the wagon teams available for road work, and complete the same by the first Tuesday in January of each year. District Supervisors must work the required number of days worked over that number. Section 12 was amended to require the Quarterly Court to assess a tax of 50 cents per day on all males between 21 and 50 years of age living outside of cities which could be worked out on the roads. Section 13 was changed to read that any person liable therefor who did not appear for work would be deemed to commute and the full amount of taxes would become due and payable and, if not paid in 30 days, the tax would be delinquent and subject to the processes used to collect delinquent taxes. Section 15 was amended to set up the procedures for filing, hearing, and disposing of petitions to open, close, or change county roads and Section 23 and 25 made it the duty of the County Road Supervisor to report the names of all the road hands to the Trustee.
 28. Private Acts of 1931, Chapter 234, amended Private Acts of 1929, Chapter 505, Section 2, which is listed as applicable to Fayette County but Private Acts of 1929, Chapter 505, applies to Memphis, Tennessee and is obviously a wrong citation. In all probability Private Acts of 1929, Chapter 271, above, was intended. The amendment changed the date on which the District Road Supervisors must report the names of road hands and owners of wagons and teams from the first Tuesday in January of each year to the first Tuesday in April of each year. This Act was repealed by Private Acts of 1974 Chapter 234.
 29. Private Acts of 1941, Chapter 454, was the next road law for Fayette County containing only a general repealing clause, however. The Act created a five member Board of Roads and Bridges who would be elected by the people for two year terms and who could not hold any other county office. The County Election Commission would hold an election within 60 days after passage of the Act to elect the Board members who would serve until September 1, 1942. Members would choose a Chairman and a Secretary from their number, the Secretary being remunerated at the rate of \$360 a year and the other members at \$120 a year. They would employ a Road Superintendent at \$175 a month, or less, to serve at their pleasure and direction. The Board would be in general charge of all the activities of the road work in Fayette County including the making of all contracts and the disbursement of funds. The Board would keep an office open at the county seat, employing the necessary clerical help for keeping records and would meet regularly once each month to consider the business of the Board and attend called meetings when essential. Regulations and restrictions were imposed upon some activities, as the issuance of payment vouchers, certain records were required, and an annual audit of accounts would be necessary. The Board might employ one, or more, District Superintendents in each civil district, to serve under them and the County Superintendent, and they would report on the number of road hands and teams in their Districts. All must work the number of days set by the County Court between 8 and 12, and then be paid for days worked over that number. The Quarterly Court must levy a road tax of fifty cents for each day of compulsory labor on all males between 21 and 50, except those living in incorporated towns but this amount can be worked out on the roads. Anyone failing to appear for work would be deemed to have elected to commute and the full amount of tax would be due and payable with a penalty if not paid within 30 days, and would further be guilty of a misdemeanor. Provisions were made for the filing and disposition by prescribed procedures of petitions to open, close, or change roads, and for the payment of damages if eminent domain were involved. No one could obstruct a bridge or a road without penalty. This Act was repealed by Private Acts of 1974, Chapter 234.
 30. Private Acts of 1949, Chapter 143, amended Private Acts of 1941, Chapter 454, the Fayette County Road Law, by increasing the annual compensation of the Secretary of the Board of Roads and Bridges from \$360 to \$600 each year, of the members of the Board from \$120 to \$360 a year, and the ceiling on the monthly salary of the Road Superintendent was raised from \$175 to \$200. This Act was repealed by Private Acts of 1974, Chapter 234.
 31. Private Acts of 1955, Chapter 46, amended Private Acts of 1941, Chapter 454, Section 1, by increasing the upper limit on the monthly salary of the Road Superintendent from \$200 to \$300. This Act was repealed by Private Acts of 1974, Chapter 234.
 32. Private Acts of 1955, Chapter 227, amended Private Acts of 1941, Chapter 454, the Fayette County Road Law, by rewriting Sections 7, 8, 9, 10, and 11 of that Act. Section 7 provided for one, or more, District Superintendents for each civil district who could not hold any other county

office, and who must count and report no later than the third Monday in January the number of road hands and teams in his district. Section 8 stated that the Board would assign the road hands to their positions and the Quarterly Court would fix the number of days to be worked at no less than 8 nor more than 12 and set the value of a day's work for a wagon and team. Section 9 repeated the road tax levy of 50 cents for each day's compulsory labor with the same provisions for non-payment but changed the notice procedures a little. Section 10 was rewritten virtually as it was prior to the amending statute and Section 11 made the failure to appear for road work a misdemeanor, also, and provided for fines from \$5 to \$20 for violators. This Act was repealed by Private Acts of 1974, Chapter 234.

33. Private Acts of 1961, Chapter 154, amended Private Acts of 1941, Chapter 454, so that members of the Board of Roads and Bridges would be elected for two year terms by the Quarterly Court starting them on September 1, 1962, and would be chosen in the July term in the even years thereafter. The compensation for the members of the Board was increased to \$600 a year and that of the Secretary to the Board was raised to \$840 a year, and the monthly salary of the Road Superintendent was set at \$450. All the remainder of Private Acts of 1941, Chapter 454, would remain in full force and effect. This Act was repealed by Private Acts of 1974, Chapter 234.
34. Private Acts of 1968, Chapter 480, amended Private Acts of 1961, Chapter 154, above, by increasing the annual pay of members of the Board of Roads and Bridges from \$600 to \$900 the annual compensation of the Secretary from \$840 to \$1,200, and the monthly salary of the Road Superintendent from \$450 to \$500. This Act was repealed by Private Acts of 1974, Chapter 234.
35. Private Acts of 1970, Chapter 331, amended Private Acts of 1961, Chapter 154, Section 4, as amended, by increasing the monthly salary of the Road Superintendent set therein from \$500 to \$600. This Act was repealed by Private Acts of 1974, Chapter 234.
36. Private Acts of 1973, Chapter 76, did not amend any Act but established the salary of the members of the Board of Roads and Bridges at \$125 a month, of the Chairman of the Board at \$150 a month, of the Secretary of the Board at \$175 a month, and of the Road Superintendent at \$800 per month. This Act was repealed by Private Acts of 1974, Chapter 234.

Chapter X - Law Enforcement

Offenses

Fireworks

Private Acts of 1957 Chapter 138

SECTION 1. That in counties of this State having a population of not less than 27,500, nor more than 27,600, by the Federal Census of 1950, or any subsequent Federal Census, it shall be unlawful for any person, firm or corporation to sell or have in possession for purposes of sale fireworks as the same are defined by the general statute upon this subject enacted by the current session of the General Assembly. Any person, firm or corporation violating the provisions of this Act shall be guilty of a misdemeanor and punishable accordingly.

SECTION 2. That this Act shall be void and of no effect unless within 6 months from the date of final legislative action thereon the same shall be approved and ratified by a two-thirds majority of the Quarterly County Court.

SECTION 3. That this Act shall take effect from and after July 1, 1957, the public welfare requiring it.

Passed: February 28, 1957.

Law Enforcement - Historical Notes

County Rangers

The following act once applied to the County Ranger in Fayette County but is no longer in effect.

1. Private Acts of 1957, Chapter 244, authorized supplemental compensation for County Rangers not to exceed \$1,200 in any calendar year which was entirely discretionary with Quarterly Court as to whether granted.

Militia

Those acts once affecting Fayette County, which related to the militia and to other law enforcement agencies other than the sheriff, are mentioned below in chronological order.

1. Acts of 1824, Chapter 40, designated the militia of Fayette County as the 88th Regiment of Tennessee and assigned the militia of the Counties of Fayette, Shelby, Tipton, Haywood, and Madison to the 14th Brigade. The field officers of those units were scheduled to meet at Jackson on the first Thursday in February, 1825, to select a Brigadier General to command the brigade.
2. Acts of 1825, Chapter 69, was a new military code for the State which contained Tables of Organization and rules, regulations, or directives for every conceivable situation. Fayette County's unit continued as the 88th Regiment and the Regimental Muster and drill would occur on the third Saturday in September annually. The Counties of Shelby, Tipton, Haywood, and Fayette made up the 14th Tennessee Brigade.
3. Acts of 1827, Chapter 60, scheduled the county drills for the militia units in the counties of Shelby, Hardeman, and Fayette. In Fayette County, the county drill would be held on the Monday and Tuesday preceding the third Friday and Saturday in September of each year.
4. Acts of 1835-36, Chapter 21, organized the State Militia in accordance with the stipulations contained in the new 1835 State Constitution, and constituted the whole new military code of the State. The Table of Organization showed the Fayette County units as the 126th and the 127th Regiments which were to be a part of the 22nd Brigade which also had in it the Counties of McNairy, Hardeman, and Shelby.
5. Acts of 1837-38, Chapter 157, was a schedule of the dates set aside for the county musters and drills for every militia unit in the State. In the 22nd Brigade the times were fixed for the counties of McNairy, Hardeman, Shelby, and for Fayette's unit which would muster and drill countywide on the Thursday and Friday following the first Friday and Saturday in September of each year.
6. Acts of 1841-42, Chapter 187, assigned Fayette County and Shelby County as the 23rd Brigade of Tennessee Militia which would be a part of the Fourth Division. The white males in the counties between the ages of 18 and 45 may hold an election on the first Saturday in March 1842, for the selection of a Brigadier General to command the Brigade and the person getting the highest number of votes would be the Brigadier General.
7. Acts of 1861 (Ex. Sess.), Chapter 3, was the law under which the militia of Tennessee raised, organized, and equipped the States forces for the Civil War. This Act also placed the State and all the armed services in a state of preparation for war.

Chapter XI - Taxation

Assessor of Property

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 has 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 a 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.

Adequate Facilities Tax

Private Acts of 2001 Chapter 69

SECTION 1. This act shall be known and may be cited as the Fayette County Adequate Facilities Tax.

SECTION 2. As used in this act, unless a different meaning appears from the context:

(a) "Board of adjustments and appeals" means the board established in Fayette County to hear grievances regarding purported irregularities in fees or taxes assessed under this act.

(b) "Building" means any structure constructed for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home. "Building" does not include any structure used for agricultural purposes.

(c) "Building permit" means a permit for development issued in Fayette County, whether by the county or by any city therein.

(d) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expense, for the purchase, construction, or replacement of the physical assets of the community are included.

(e) "Certificate of occupancy" means a license for occupancy of a building or structure issued in Fayette County, whether by the county or by any city therein.

(f) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to, or increases the floor area of a residential or non-residential use.

(g) "Dwelling unit" means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(h) (1) "Floor area" for non-residential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(2) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, attics, porches and garages.

(i) "Governing body" means the county commission of Fayette County.

(j) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(k) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and includes the plural as well as the singular number.

(l) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by

persons who do not have tax-exempt status or which are intended or used for the residence of any individual.

(m) "Public building" means a building owned by the State of Tennessee or any agency thereof; a political subdivision of the State of Tennessee, including but not necessarily limited to, counties, cities, school districts and special districts; or the federal government or any agency thereof.

(n) "Public facility" means a physical improvement undertaken by the county or any city, including, but not limited to the following: roads and bridges; parks and recreational facilities; jails and law enforcement facilities; schools; libraries; government buildings; fire stations; sanitary landfills; water, wastewater and drainage projects; airport facilities and other governmental capital improvements benefiting the citizens of the county and/or city.

(o) "Residential" means property developed for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize Fayette County to impose a tax on new development in the county payable at the time of issuance of a building permit or certificate of occupancy if the tax was not collected upon the issuance of the building permit but not upon the issuance of the building permit and also the issuance of the certificate of occupancy. The tax shall be collected only one time. It shall be collected at the time of the issuance of the building permit unless this act has not yet been adopted and then such tax shall be collected upon issuance of the certificate of occupancy. The purpose of such tax is to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of development within Fayette County, except as provided in Section 6 herein, is declared to be a privilege upon which Fayette County may, by resolution of the governing body, levy a tax in an amount not to exceed the rate set forth in Section 7.

SECTION 5. The governing body shall impose the tax authorized herein by resolution after adopting a capital improvements program indicating the need for the cost of public facilities anticipated to be funded, in part, by this tax and after finding that the need for such public facilities is reasonably related to new development in the county. The resolution of the governing body imposing such tax shall state the rate of tax on new residential and non-residential development. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (a) Public buildings.
- (b) Places of worship.
- (c) Barns or outbuildings used for agricultural purposes.
- (d) Replacement of buildings taken by eminent domain by any public body; replacement structures for previously existing buildings destroyed by fire, or other disaster; or replacement on the same site of any building which either has had a privilege tax paid upon it, or has been utilized as a residence for three (3) years immediately preceding the date of application for a building permit.
- (e) Mobile homes with actual cash value of less than ten thousand dollars (\$10,000). The cash value of mobile homes shall be determined by using the Formost Insurance Company appraisal figures for mobile homes.

SECTION 7. For the exercise of the privilege described herein, Fayette County may impose a tax on new development not to exceed one dollar (\$1.00) per gross square foot of new residential development and new non-residential development. The county may develop a tax rate schedule by which residential and non-residential uses are classified by type for the purpose of imposition of the tax authorized herein. The establishment of the rate for the purpose of the tax per square foot shall require a two-thirds (2/3) vote of the county legislative authority.

SECTION 8. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined by the county official duly authorized by the county executive. If the building permit is issued by the county, then the county building commissioner or other responsible official shall receive payment in full in cash or other negotiable instrument as specified by resolution of the county and as approved by the county attorney. If the building permit is issued by a city, then the city shall, before issuance of the building permit or certificate of occupancy, require evidence by a valid certificate executed by the county building commissioner that the full amount of the tax due the county has been paid. No building permit for residential or non-residential development as herein defined shall be issued in any incorporated or any unincorporated area of Fayette County unless the tax has been paid in full to the

county or a negotiable instrument, approved by the county attorney and payable to the county, has been received. The issuance of a building permit by any city official, without a certificate from the county that the tax has been paid shall render the city liable to the county for the sum or sums that would have been collected by the county, had the certificate of tax paid been required by the city.

The tax due herein is declared to be a lien against the real property upon which the development has occurred until paid and shall be superior to all other liens on such property except for property tax liens. Said tax shall be added to the property tax and must be paid at the same time as the real property tax is paid. Interest of one percent (1%) per month, and a penalty of one-half percent (½%) per month or fraction thereof shall be added to the tax due if not paid when first due, unless the taxpayer successfully contests the applicability of such tax by appeal as provided in this act. Notice of such lien may be, but is not required to be recorded in the office of the register of deeds. Such lien may be enforced by action instituted in the chancery court of Fayette County for sale of the real property to enforce this lien.

SECTION 9. All tax funds collected by the county shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

SECTION 10. The authority to impose this privilege tax on new development in Fayette County is in addition to all other authority to impose taxes, fees, assessments, or other revenue- raising or land development regulatory measures granted either by the private or public acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 11.

(a) Any person aggrieved by the decision of the county building commissioner or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

- (1) By payment of the disputed amount to Fayette County and by notifying the official that the payment is made under protest; and
- (2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment.

(b) Appeals shall be heard by the Fayette County board of adjustment and appeals for development fee or adequate facilities tax. A hearing shall be scheduled within forty-five (45) days of the written request for appeal. A board of adjustment and appeals shall render a decision on all hearings within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the board for further information. The board of adjustment and appeals shall act as a quasi judicial body whose purpose is to determine the intent of the act, its applicability to the appellant, and to rule upon the interpretation of the official. The board shall not be bound by formal rules of evidence applicable to the various state courts.

Hearings before the board shall proceed as follows:

- (1) The building commissioner shall explain his or her ruling and the reasons for the ruling.
- (2) The appellant shall explain his or her reasons for protesting the ruling.
- (3) The board may request further information from any county official, including, but not limited to the county executive, county commissioners or committee members, the county attorney, or the county development staff. The board does not have the power to subpoena.
- (4) The board shall deliberate and render a decision by a majority vote. Decisions shall be reduced to writing and copies shall be sent to all parties and shall become a part of the minutes of the board. Decisions of the board of adjustment and appeals shall be final, except that either the building official or the person aggrieved may seek review of the board's actions by certiorari and supersedeas to the chancery court of Fayette County, provided that an application to the court is made within sixty (60) days of the written decision of the board.

SECTION 12. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Fayette County. This act shall be deemed to create an additional and alternative method for Fayette County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the county.

SECTION 13. If any provisions 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 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 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county commission of Fayette County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county commission and certified by him to the Secretary of State.

SECTION 15. 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 14.

Passed: July 12, 2001.

Hotel/Motel Tax

Private Acts of 1990 Chapter 125

SECTION 1. As used in this act unless the context otherwise requires:

- (1) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental entity, or any other group or combination acting as a unit.
- (2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
- (4) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.
- (5) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
- (6) "County" means Fayette County, Tennessee.
- (7) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (8) "Clerk" means the county clerk of Fayette County, Tennessee.

SECTION 2. The legislative body of Fayette County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, by resolution of the county legislative body, in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. The proceeds of the tax authorized by this act shall be allocated to and placed in the county general fund, to be designated and used for such purposes as specified by resolution of the county legislative body.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the clerk as provided in Section 5(b).

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 5. (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted

in the form of a deduction in submitting his or her report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the clerk and approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once a year and shall report on the audits made on a quarterly basis to the county legislative body.

The county legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and shall be liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the county, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

For his or her services in administering and enforcing the provisions of this act, the clerk shall be entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under authority of this act shall be refunded by the clerk.

SECTION 11. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 12. If any provisions 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 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 13. 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 shall be certified by the presiding officer of the county legislative body to the Secretary of State.

SECTION 14. 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, this act shall take effect upon being approved as provided in Section 13.

Passed: January 31, 1990.

Litigation Tax

Private Acts of 1981 Chapter 126

SECTION 1. There is hereby imposed a litigation tax on the privilege of litigating a civil or criminal action in the general sessions court of Fayette County. The litigation tax shall be levied on each case filed in the general sessions court in Fayette County in the amount of one dollar (\$1.00), to be assessed and collected as part of the cost of the cause.

The term "case" shall include ex parte as well as adversary or contested proceedings.

SECTION 2. The litigation tax provided in Section 1 shall be collected by the clerk of the court in which the cases are filed. The clerk shall be accountable for and shall pay over the revenue to the county Trustee quarterly, nor later than the tenth (10th) of the month immediately following the end of the quarter in which such collections are made.

SECTION 3. The Trustee shall deposit the taxes herein collected in the Fayette County General Fund. Provided, however, such taxes shall be subject to appropriations by the county legislative body for courthouse renovation or maintenance.

SECTION 4. 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 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 5. 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 before October 1, 1981. 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 6. 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 5.

Passed: May 20, 1981.

Motor Vehicle Tax

Private Acts of 1963 Chapter 7

SECTION 1. That for the privilege of operating upon and using the public streets, roads, and highways in Fayette County, Tennessee, except State maintained roads and highways, there is hereby levied upon each motor driven vehicle a special wheel or privilege tax in the amount of twenty-five dollars (\$25.00) on each such motor driven vehicle, and this tax shall be paid in addition to all other taxes. Provided, further, this tax shall not apply nor the same shall be required to be paid on farm tractors, motor bicycles, and scooters. As amended by:

Private Acts of 1967, Chapter 178

Private Acts of 1979, Chapter 160

SECTION 2. That this wheel or privilege tax shall apply and be paid on each motor driven vehicle whose owner resides in Fayette County. The said tax shall likewise apply and be paid on all motor driven vehicles by any person, firm or corporation which owns, drives or operates a motor driven vehicle on or over the streets, roads or highways in Fayette County, for at least forty-five (45) days during any calendar year, such person, firm or corporation shall be liable for the payment of the privilege tax on said motor vehicle levied hereunder.

SECTION 3. That the tax levied herein shall be collected by the County Court Clerk of Fayette County at the same time he collects the State privilege license tax upon the operation of motor driven vehicles. The County Court Clerk of Fayette County shall not issue to any resident of said County a State license for the operation of a motor driven vehicle unless at the same time such resident shall purchase the appropriate license as herein provided for the operation of his motor driven vehicle under this Act. Any person who purchases from the clerk a state license but does not pay the tax levied herein shall sign and file with the clerk an affidavit stating that he is not a resident of Fayette County and does not presently intend to operate a motor vehicle on the streets, roads or highways in Fayette County for forty-five (45) days or more during the period for which the privilege or wheel tax is levied. The payment of the license fee herein provided shall be evidenced by an emblem, sticker or receipt in the form of a decal to be approximately displayed by affixing the same on the windshield of said motor driven vehicle. The design of the emblem, sticker or decal shall be determined by the County Court Clerk and the expense incident thereto shall be paid from the County general funds.

The tax herein levied shall entitle the owner of a motor driven vehicle to operate the same from the first day of April each year to the thirty-first day of March of the next succeeding year, and the same

proportionate reduction shall be made as is now made in the case of State registration of motor driven vehicles where such motor driven vehicles are registered after April 1, for any reason. The County Court Clerk for his services in issuing such licenses, shall be entitled to a fee of fifty cents (50¢) for each license so issued, to be collected from the person purchasing the same, and the Clerk's fee shall be in addition to the tax hereinabove provided for. Provided further, any motor driven vehicle upon which a current license fee has been paid, should said motor driven vehicle be sold, traded, demolished, destroyed or otherwise change ownership, the current license holder may obtain from the County Court Clerk a current replacement emblem, sticker or decal, upon the payment of a fee of fifty cents (50¢), and the County Court Clerk shall be entitled to said fee for the issuance of the replacement license.

The County Court Clerk shall report all funds collected by him monthly and pay the same over to the Trustee of Fayette County and said funds shall be applied as hereinafter provided for.

As amended by: Private Acts of 1967, Chapter 208.

Be it further enacted, that the proceeds of the tax herein imposed, when collected in the hands of the county trustee, shall be applied in the following manner:

(1) Twenty percent (20%) of the amount so collected shall be applied to the County General Fund.

(2) Eighty percent (80%) of the amount so collected shall be applied to the County Public Works Fund.

As amended by: Private Acts of 1979, Chapter 160

SECTION 5. That any person violating the provisions of this Act by operating a motor driven vehicle on or over the streets, roads or highways in Fayette County, being liable and without the payment of the tax herein levied, such person upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00).

Any person who knowingly files with the clerk a false affidavit shall be guilty of perjury and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00) or imprisoned for not more than six (6) months, in the discretion of the court.

As amended by: Private Acts of 1967, Chapter 208

SECTION 6. That the provisions of this Act are hereby declared to be severable. If any of the sections, provisions, words, clauses, phrases or parts be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent now and hereby declared that this Act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 7. That this Act shall take effect from and after its passage, the public welfare requiring it, but said Act shall not become effective until the same has been approved by a two-thirds vote of the Quarterly County Court of Fayette County at any regular or special session. The presiding officer of such body shall proclaim the approval or non-approval and certify the same to the Secretary of State.

Passed: January 13, 1963.

Private Acts of 2000 Chapter 116

SECTION 1. Upon approving the provisions of this act in accordance with the requirements of Section 7, the county commission of Fayette County hereby levies a special wheel or privilege tax in the amount of twenty-five dollars (\$25.00) for the privilege of operating upon and using the public streets, roads and highways in Fayette County, Tennessee, except city and state maintained roads and highways.

SECTION 2. Such special wheel or privilege tax shall be paid in addition to all other taxes and shall apply and be paid on each motor driven vehicle whose owner resides in Fayette County; provided, however, such tax shall not apply nor shall the same be required to be paid on farm tractors, motor bicycles and scooters. The provisions of this act shall not be construed in any manner that conflicts with the prohibitions contained within Tennessee Code Annotated, Sections 6-55-502(c) and 7-51-702.

SECTION 3. Such special wheel or privilege tax shall be collected by the county court clerk of Fayette County at the same time the clerk collects the state privilege tax for the operation of motor driven vehicles. The county court clerk of Fayette County shall not issue to any resident of the county a state license for the operation of a motor driven vehicle unless at the same time such resident shall also purchase the appropriate license as herein provided for the operation of the resident's motor driven vehicle under this act. Any person who purchases from the clerk a state license but does not pay the special wheel or privilege tax herein provided shall sign and file with the clerk an affidavit stating that he or she is not a resident of Fayette County. The payment of the license fee herein provided shall be evidenced by an emblem, sticker or receipt in the form of a decal to be appropriately displayed by affixing the same on the state license plate of such motor driven vehicle. The design of the emblem, sticker or decal shall be determined by the county commission and the expense incident thereto shall be paid from the county general funds.

The special wheel or privilege tax shall entitle the owner of a motor driven vehicle to operate the same

concurrent with the state license motor vehicle privileges, and the same proportionate reduction shall be made as is now made in the case of state registration of motor driven vehicles when such motor driven vehicles are registered. The county court clerk for the services in issuing such licenses, shall be entitled to a fee of one dollar (\$1.00) for each license so issued, to be collected from the person purchasing the same, and the clerk's fee shall be in addition to the tax hereinabove provided for. Provided further, any motor driven vehicle upon which a current license fee has been paid, should such motor driven vehicle be sold, traded, demolished, destroyed or otherwise change ownership, the current license holder may obtain from the county court clerk a current replacement emblem, sticker or decal, upon the payment of a fee of one dollar (\$1.00) and the county clerk shall be entitled to such fee for the issuance of the replacement license.

The county court clerk shall report all funds collected monthly and pay the same over to the trustee of Fayette County and such funds shall be applied as follows. Such special wheel or privilege tax, when collected in the hands of the county trustee, must be allocated in the following manner:

One hundred percent (100%) of the amount so collected, excluding clerk's fees, shall be applied to the debt service fund for the retirement of debt for the construction of schools.

SECTION 5. Any person violating the provisions of this act by operating a motor driven vehicle on or over the streets, roads or highways in Fayette County, being liable and without the payment of the special wheel or privilege tax, upon conviction shall be fined not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100).

Any person who knowingly files with the clerk a false affidavit shall be guilty of perjury, and upon conviction, shall be fined not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100) or imprisoned for not more than six (6) months, in the discretion of the court.

SECTION 6. 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 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 7. This act shall have no effect unless and until it is approved by a two-thirds (2/3) vote of the county commission of Fayette County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county commission and certified 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 as provided in Section 7.

Passed: May 15, 2000.

Taxation - Historical Notes

Assessor of Property

The following acts were superseded, repealed or failed to win local ratification, but they are listed here as a reference to laws which once affected the Fayette County Assessor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1919, Chapter 676, granted the authority to the Quarterly County Court of Fayette County, identified by the use of the 1910 Federal Census figures, to fix the annual salary of the Tax Assessor at no less than \$1,000 and no more than \$1,500 per annum which amount, so fixed, would be paid out of the Treasury of the County.
2. Private Acts of 1927, Chapter 696, created the office of Delinquent Poll Tax Collector in Fayette County, who would be appointed by the County Judge, or Chairman, for a term of two years. The Act named T. H. Griffin as the first Delinquent Poll Tax Collector who would serve until the Judge appointed his successor at the April, 1928, term of Court. All polls not paid by May 1, 1927, and on or before March 1 of each year thereafter were delinquent and would be turned over to the Collector who would be paid seventy cents, plus the usual fee for the service of process, for each one collected. It was the duty of the Delinquent Poll Tax Collector to assess all he came across who were liable to pay. The list of delinquents would be a judgment against them on which distress warrants could be issued. The Collector shall use only the receipt books furnished by the Trustee, would not accept partial payments, and would pay over all money collected to the Trustee. The Collector could inspect all payrolls, and other records, conduct hearings and summon witnesses.
3. Private Acts of 1929, Chapter 449, amended Private Acts of 1927, Chapter 696, Section 1, above, by giving the appointing power for the Delinquent Poll Tax Collector to the Quarterly Court,

- instead of the County Judge, or Chairman, and by making the first appointment by the Court due in the April, 1929, term, and by adding the words "and execute" after the word "issue" in Section 4.
4. Private Acts of 1931, Chapter 223, created the office of Delinquent Poll Tax Collector in all counties with a population of no less than 22,193 nor more than 30,000, which would include Fayette County according to the 1930 Federal Census. This Act is virtually a duplicate of the 1927 Act, above, which was already in effect in Fayette County.
 5. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, Section 2, above, by providing that all poll taxes not paid by May 1, 1931, or by March 1 of each year hereafter after the year in which they become due, would be turned over to the Delinquent Poll Tax Collector for collection; also, in Section 2, by stating that in every instance where it may come to the attention of the Delinquent Poll Tax Collector that any eligible male citizen, who is liable under the law for the payment of poll taxes for previous years, but was not assessed, it was the duty of the Collector to assess and collect the same.
 6. Private Acts of 1931, Chapter 757, expressly repealed Private Acts of 1931, Chapter 223, above, as it was amended, in its entirety.
 7. Private Acts of 1933, Chapter 706, expressly repealed Private Acts of 1919, Chapter 676, above, in its entirety.
 8. Private Acts of 1951, Chapter 566, made it the duty of the Tax Assessor of Fayette County to devote his entire time to the duties of his office and to open and maintain during business hours an office in the courthouse where he would be accessible to all taxpayers. Section 2 fixed the annual salary of the Tax Assessor at \$3,600 payable in equal monthly installments out of the County Treasury on the warrant of the County Judge, or Chairman.

Taxation

The following is a listing of acts pertaining to taxation in Fayette County which are no longer effective.

1. Acts of 1824, Chapter 119, directed that the County Trustee of Hardeman County to pay over to the Trustee of Fayette County the amount of County taxes which had, or would thereafter be, collected by the Sheriff of Hardeman County for lands in 1824 which were lying within the county of Fayette.
2. Acts of 1825, Chapter 95, was the authority for the County Courts of Shelby County and Fayette County to lay a tax not exceeding 25 cents per 100 acres on all taxable land for the next five years for the improvement of the Wolf River as it runs through those counties. The money collected in either County was to be spent in that County. The County Courts were also enabled to appoint Commissioners to supervise the work and the expending of the funds.
3. Acts of 1829, Chapter 44, made it lawful for Fayette County Quarterly Court, a majority of the Justices being present, to lay a tax, not to exceed the State and County tax, at the first Court each year, as long as may be necessary, to raise a fund to complete the building of a Court House in Somerville. The Sheriff shall collect the tax and pay it over to the Commissioners charged with the oversight of the Court House construction.
4. Acts of 1870, Chapter 50, was the authority for counties and cities to impose taxes for county and municipal purposes in the following manner, (1) that all taxable property shall be taxed according to its value upon the principles established in regard to State taxation, and (2) that the credit of no county, city, or town, shall be given, or loaned, to any person, firm, or corporation, except upon the consent of a majority of the Quarterly Court, or the Mayor and Aldermen, and upon an election being held wherein three-fourths of the voters approve the proposition. Several counties exempted themselves from the requirement of the three-fourths plurality in the election, stating that for the next ten years, a simple majority of the voters could validly approve. Fayette County was not an exempting county.
5. Private Acts of 1917, Chapter 596, authorized the Quarterly Court of Fayette County to levy a tax of \$4 each year on each male resident between the ages of 21 and 50 but the tax could be worked out on the county roads at a rate of 50 cents per day.
6. Private Acts of 1967, Chapter 178, amended Private Acts of 1963, Chapter 7, in Section 1 by increasing the amount of the tax from \$5 to \$10 and by deleting Section 4 which delegated this revenue to be used for the payment of teachers salaries and substituted a provision that the tax be divided one-half for teachers salaries and one-half to go to Board of Roads and Bridges for the maintenance of roads and bridges in the county.
7. Private Acts of 1967, Chapter 208, amended Private Acts of 1963, Chapter 7, by adding the

provision after the second sentence in Section 3 which required an affidavit to be filed by a non-resident of the county and by adding the paragraph seen at the end of Section 5.

8. Private Acts of 1971, Chapter 120, amended Private Acts of 1963, Chapter 7, by deleting Section 4, which divided the revenue between teacher's salaries and the road department, and inserted a new Section which applied these funds to any annual deficit incurred by any hospital operated by Fayette County. Any excess over that requirement would be placed in the general fund.
9. Private Acts of 1972, Chapter 255, amended Private Acts of 1963, Chapter 7, as amended, by deleting Section 4 and inserting a new Section 4 which directed the proceeds of the wheel tax in Fayette County, when collected in the hands of the Trustee, to be applied one-half to the extent necessary to pay any annual deficit occurred in the operation of any hospital by the county and the surplus over that, if any, would be placed in the general fund, and the other one-half would go to the Road and Bridge Funds. This Act was rejected by the County Court and never became effective under the Home Rule Amendment to the Constitution.
10. Private Acts of 2003, Chapter 38, amended Private Acts of 2001, Chapter 69, relative to the Fayette County Adequate Facilities Tax. The act failed to receive local approval.

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