

**PRIVATE ACTS  
OF  
MARSHALL COUNTY, TENNESSEE**

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**REVISED EDITION**

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**COUNTY TECHNICAL ASSISTANCE SERVICE  
THE UNIVERSITY OF TENNESSEE  
INSTITUTE FOR PUBLIC SERVICE  
NASHVILLE, TENNESSEE**

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## PREFACE

County government in Tennessee is a political subdivision of state government. As a political subdivision, county government has only that authority which is delegated to it by the state. In Tennessee, the process of delegation of power from state government to county government is accomplished through legislative action of the general assembly, either through a general (public) act or private act. In the case of the general act, the general assembly grants certain powers which have general application to all or a large number of counties across the state. These general acts are assembled and codified in the Tennessee Code Annotated which is revised and published on an annual basis and is widely available. However, finding individual county legislation (private acts) is not so easy since it is not published in the official code.

The presence of a large body of private legislation in this state is the result of two basic factors. First, although the Tennessee Constitution mentions some county government offices, the provisions of the Tennessee Constitution dealing with county government lack detail, thereby allowing the general assembly wide latitude in county government administration. Secondly, the Tennessee General Assembly has seen fit to enact much of the law relating to county government on an individualized county-by-county approach. The result has been that the 95 counties in Tennessee operate under both general laws and private acts. This body of private legislation is a mass of separate acts, with each applying to only one or a very small group of counties. Since these acts affect counties on an individual basis, they are not included in the Tennessee Code Annotated but rather are published annually in separate volumes.

The result of this past method of publication of private legislation has been the accumulation of a large portion of county law in a cumbersome mass of chronologically arranged volumes which at last count numbered over 120 books. To further complicate matters, the older volumes have not been reprinted, so that there are today only a handful of complete sets of the private acts in existence. Nevertheless, scattered through these hard-to-obtain volumes is the only public record of those laws from which Tennessee counties draw a large portion of their authority to govern and under which they operate daily. Before the County Technical Assistance Service began compilation of the private acts on a county-by-county basis, there was no statewide effort to organize these acts into a body of current law easily accessible for reference by county officials and interested citizens. It is our hope that this volume of The Private Acts of Marshall County will provide a useful reference for county administration in Marshall County.

We are indebted to the Marshall County legislative delegation for its continued support of the County Technical Assistance Service and this compilation.

## HOW TO USE THE PRIVATE ACTS OF MARSHALL COUNTY

At least three methods can be used to locate a private act contained in this volume. The method used will depend on the amount of information you have at the outset of your research.

First, when you have no information about any specific act but merely a general question as to the law on a given subject, the table of contents can be used to ascertain the pages of this volume pertaining to that particular subject area. The chapter headings found in the table of contents are arranged alphabetically and conform to what the compiler believes to be the most commonly used terms found in county government in Tennessee. You should note, however, that the table of contents is general in nature and is not a word index.

A second method can be used if you already know the year and chapter number of an act in question. The parallel reference table in the back of this volume affords a reference to the pages containing the desired act or acts.

Finally, if you have a copy of the Tennessee Private Acts Index (The Michie Co., Charlottesville, VA, 1984; currently LexisNexis) it can be used as a more complete word index. Upon ascertaining the chapter and year of the private act of interest, the parallel reference table in this volume can be used to locate the private acts.

The private acts currently in effect for the county are reprinted in this volume. When going through this volume you will note that there are some acts noted herein which are no longer current laws due to subsequent passage of acts which have superseded them in usage. The compiler has described these acts which have been superseded in historical notes at the end of the chapter wherein the current act on the subject is reprinted. Under topic headings throughout this volume, brief summaries or references are made to general law codified in Tennessee Code Annotated that deals with the particular topic.

The acts that are printed in full in this volume include any subsequent amendments to the act. Although no statement is made regarding whether the amendatory act was ratified, the ratification was checked by the compiler to insure that the amendatory act was approved locally and is in effect.

**This compilation is updated through the 2007 Session of the 105th Tennessee General Assembly.**

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## **CHAPTER I - ADMINISTRATION**

ADMINISTRATION

BUDGET SYSTEM

PRIVATE ACTS OF 2005

CHAPTER 17

SECTION 1. There is hereby created a County Budget Committee of Marshall County, Tennessee. The Committee shall consist of five (5) members of the Marshall County Board of Commissioners (formerly known as the Marshall County Quarterly Court) and the County Mayor (formerly known as the County Judge) who shall be an ex officio non-voting member of the Committee. The five (5) members shall be elected as set forth in the Rules, Regulations & Procedures of the Marshall County Board of Commissioners; provided, however, the first committee was elected by the County Quarterly Court at its regular April 1965 term. A Chairman of the Committee shall be elected by the Committee. The County Director of Accounts and Budgets shall also be an ex-officio non-voting member of the Committee and shall in addition be the ex-officio non-voting secretary of the Budget Committee. The County Board of Commissioners may in its discretion allow members of the Budget Committee such compensation for their services as the Court may deem proper. Any provision for compensation, as well as provision for printing, publicity, supplies and other necessary expenses of the Budget Committee, shall be payable from the County General Fund and shall be included in the annual appropriation. The Budget Committee shall perform all of the duties respecting county budgets and appropriations previously performed, by the County Finance Committee and shall perform such other duties as herein provided.

SECTION 2. That there is hereby created a fiscal year for Marshall County and for each office, department, institution, activity, and agency thereof, which fiscal year shall begin on the first day of July of each year and shall end on the thirtieth day of June next following. Such fiscal year shall constitute the budget year, and the year for accounting and reporting of each and every office, department, institution, activity and agency of the County government; but the aforesaid provision shall be in addition to, and not in lieu of, any accounting and reporting now required of any official by general law.

SECTION 3. The County Superintendent of Roads shall on or before the first day of June of each year, file with the Director of Accounts and Budgets an itemized statement of the funds estimated to be required for the county road program for the ensuing fiscal year and for the construction, operation, repair and maintenance of the county road system and for the general administration of the highway department, together with an estimate of the highway and road funds expected to be received during such fiscal year.

The County Board of Education shall, after preparing its annual budget as now provided by law, file such budget with the Director of Accounts and Budgets by the fifteenth day of June each year for inclusion in the complete budget document to be presented to the Budget Committee.

The Director of Accounts and Budgets, on or before the first day of June of each year, shall file with the Budget Committee of the County Commission an itemized statement of the amount

which the Director estimates is necessary to be expended from the County General Fund, the debt service funds, and from all other funds (excluding highway fund, school funds, and funds derived from the sale of bonds), together with an estimate of the revenue to be received during the next fiscal year.

Each of the other operating departments, institutions, officers and agencies shall file with the Director of Accounts and Budgets on or before April 1 of each year a detailed estimate of its requirements for expenditures from the county's funds for the ensuing year.

It shall be the duty of each official, office, department, institution, agent, or employee of the county government to furnish in writing such information, in such form and at such time as may be requested by the Budget Committee.

SECTION 4. The Budget Committee shall review and propose the annual budget. Such budget shall contain an itemized and classified plan of all proposed expenditures and estimated receipts for the ensuing fiscal year, and shall conform to the uniform classification of accounts established by the Director of Accounts and Budgets. These accounts shall conform to the uniform chart of accounts established by the Comptroller of the Treasury pursuant to general law.

Opposite each item of estimated revenue the budget shall show in opposite parallel columns the amount actually collected for the last completed fiscal year, a revised estimated amount for the current fiscal year, and the estimate for the ensuing fiscal year.

Likewise, opposite each item of proposed expenditures the budget document shall show the amount actually expended for such item during the last completed year, the probable amount which will be spent during the current fiscal year and the proposed appropriations or expenditures estimated for the ensuing fiscal year.

In preparing the budget, the Budget Committee may revise, as it deems necessary, the estimates or requests made by the various departments, offices, institutions and agencies of the county, but any county official or employee shall be entitled to a hearing before the Budget Committee with reference to any contemplated changes in such officials budget requests or estimates. If applicable, in accordance with Tennessee Code Annotated, Section 49-2-301, any change in the expenditure of money as provided for by the board of education budget shall be ratified by the board of education.

The Budget Committee shall certainly and fully provide in the budget for all requirements of debt service, interest and bond maturities and for any cash deficit in any fund at the beginning of the fiscal year, and shall propose a tentative tax rate for the ensuing fiscal year.

SECTION 5. On or before August 25th of each year the Budget Committee shall cause a synopsis of the proposed budget, and a statement of the tax rate required to finance the proposed budget, to be prepared and provided to all County Commissioners and published in the newspaper having general circulation in such county. Said publication shall also contain a notice of public hearing to be conducted by said Budget Committee at which any citizen or commissioner of the county shall have the right to appear and state such citizen's views on the budget. Provided that such public hearing shall be held by the Budget Committee before but no later than fifteen (15) days prior to the fourth Monday of September of each year.

Following such public hearing, the budget committee shall make any final revisions of the proposed budget document and prepare corrected proposed copies for presentation to the County Board of Commissioners not later than September 15 of the current fiscal year. In addition to these requirements, if the budget is not approved in the July session of the County Commission, the Director of Accounts and Budgets will present a resolution for a Continuing Budget to be passed in July for the County from which to operate until at such time as the new budget is approved.

SECTION 6. The Budget Committee shall present the budget to the Board of Commissioners on or before its regular September session each year or at a special September if necessary. The proposed budget shall be accompanied by a budget message explaining the financial program and outlining the services, work and activities to be financed by the proposed budget and a brief discussion of the means proposed for financing the expenditure program set forth in the budget. With the proposed budget, the Budget Committee shall deliver to the Board of Commissioners a budget appropriation resolution and a tax levy resolution.

The Board of Commissioners may alter or revise the proposed budget except as to provision for debt service requirements and for other expenditures required by law. If applicable, in accordance with Tennessee Code Annotated, Section 49-2-301, any change in the expenditure of money as provided for by the board of education budget shall be ratified by the board of education. The Board of Commissioners shall finally adopt a budget not later than the fourth Monday in September. Pending such final adoption the Director of Accounts and Budgets is hereby authorized to make temporary allotments for expenditures for essential county services, in amounts not in excess of the comparable allotment for an average quarter of the preceding fiscal year.

The budget, the appropriation resolution, and the tax levy resolution, as adopted, shall be spread upon the minutes of the Board of Commissioners.

SECTION 7. The appropriations made in the appropriation resolution, or any amendment thereto, shall constitute the limit to expenditures for the various purposes and from the several funds of such county for the fiscal year covered by said resolution, and no expenditures shall be made or obligation created in excess of such limitation. Provided, further, that any resolution presented to the Board of Commissioners or other governing body in any fiscal year, after the original appropriation resolution has been adopted and the tax rate for the year fixed by said Board of Commissioners, which provides for an appropriation in addition to those made in the original budget appropriation resolution, shall specifically provide sufficient revenue or other funds to meet expenditures to be made in consequence of such additional appropriation.

Provided, further, that if at any time during the fiscal year it shall become apparent that the revenues of any of the County's funds together with its unencumbered cash balance at the beginning of such year, will not be sufficient to equal the amount of the original appropriations, it shall be the duty of the Director of Accounts and Budgets and the County Mayor, or in such person's absence the Commission Chairman, to impound the appropriations from such fund in such amount as shall appear necessary, subject to the written approval of the Budget Committee, it being the intent that no appropriation shall exceed the available revenue and no check shall be issued unless sufficient revenue is available to liquidate the obligation.

The appropriation made by the Board of Commissioners or other governing body, as provided above, shall constitute authorization for expenditure; and expenditures may be made and

obligations created against any appropriation to an aggregate total of the amount appropriated for such item. However, the expenditures and encumbrances against the amounts appropriated shall be made only in consequence of issuance of a purchase order and subsequent of an order issued by appropriate department heads and approval of the invoice by the Director of Accounts and Budgets; except that payrolls shall first be checked and approved for payment by the various department heads or otherwise as provided by law and county obligations imposed by law. No expenditures made or obligations created in any manner other than so specified or authorized in this Chapter shall be valid or binding against the county. Provided, however, that the Budget Committee may issue such regulations as it deems necessary for the prompt handling of bona fide emergencies, and the improvement, control and effectiveness of the fiscal procedures for Marshall County and said rules and regulations shall have the same force and effect as if they had been incorporated and enacted by this statute.

Expenditures from all other funds of the county, except school funds, shall be made by disbursement checks on the County Trustee signed by the County Mayor, or in such person's absence the Commission Chairman, and the Director of Accounts and Budgets, and no other official, department, institution or agency of the county shall issue negotiable checks or vouchers for such expenditures. But before any disbursement check shall be issued in discharge of any obligation, a detailed invoice or statement thereof shall be filed with the Director of Accounts and Budgets, and it shall be the Director's duty to carefully check all such invoices to determine if they are correct, if the goods or services have been received or rendered as stated, and if the obligation is just, authorized (by the department head's signature) and legally binding on the county.

Bills and accounts incurred in accordance with authorized appropriations shall be paid promptly in order that the county may obtain the benefits of cash discounts; and for this purpose, it shall not be necessary for any such bill or account to be filed and recorded by the County Clerk or to be approved before payment by the Board of Commissioners or by any committee or commission appointed by it.

SECTION 8. That the Director of Accounts and Budgets shall make a report at the end of each month to the Budget Committee and the Board of Commissioners showing the condition of the Budget. The monthly report for November will be combined with December and reported in the January court agenda since there is no December court meeting. Such report shall show the appropriation for each fund, the total expenditures for the month and the year to date, the amount of outstanding encumbrances and the amount of the unencumbered balance. The report shall also show the estimated revenue for the year for each fund, the revenues for the month and the year and the unrealized portion of the total estimated revenue.

At such time the Chairman of the Budget Committee shall advise the Board of Commissioners of the condition of the budget, and of any adjustment or reduction of appropriation which should be made, and shall recommend any other action deemed advisable by the Budget Committee that the Board of Commissioners should make in order that the budget shall be kept in balance.

SECTION 9. Any official or employee of the county, or of any institution or agency thereof, who shall fail or refuse to perform the duties required of such person by this Chapter, or who shall fail or refuse otherwise to conform to the provisions of this Chapter shall be guilty of a failure of

duty and shall be subject to the provisions of the general law for removal of public officials from their office or position.

SECTION 10. The provisions of this Chapter, except as provided in Section 3, shall not apply to county school funds for any purpose, the County Board of Education or the Director of Schools unless approved by the State Commissioner of Education.

SECTION 11. There is hereby created the office of Director of Accounts and Budgets who shall be a county employee, and who shall be appointed by the County Budget Committee with the approval of the Marshall County Board of Commissioners. The Director shall be qualified by training and experience in the field of accounting to perform such Director's duties in a proficient manner and in accordance with generally recognized principles of governmental accounting. Before assuming the duties the director shall execute a corporate surety bond, the amount of which shall not be less than fifty percent (50%) of the Trustee's bond amount. Said bond shall be approved by the Board of Commissioners and shall be recorded in the office of the Register of Deeds in the same manner as are the bonds of all county officials. The premium for such bond shall be paid from the County General Fund.

The compensation of the Director of Accounts and Budgets shall not be less than forty thousand dollars (\$40,000) per annum and shall be appropriated annually by the Marshall County Board of Commissioners. The amount of such compensation and the amount of compensation for any assistants, as approved by the County Budget Committee, and other necessary expenses of the Director's office, as approved by the County Budget Committee, shall be provided for by an annual appropriation from the County General Fund, and shall be set annually by the Board of Commissioners.

The Director of Accounts and Budgets shall have power, in accordance with such regulations as may be established from time to time by the County Budget Committee, to appoint and remove his assistants, to prescribe their duties, and to fix their salaries within the limits of the annual appropriation.

In the event the Director of Accounts and Budgets becomes incapacitated for less than thirty (30) consecutive days for the performance of the duties of office, the Budget Committee shall appoint a Director of Accounts and Budgets Pro Tempore and is authorized to sign checks and purchase orders and execute such other documents as shall be necessary to maintain the operations of the County that pertain to the Office of the Director of Accounts and Budgets.

In the event the Director of Accounts and Budgets becomes incapacitated for more than thirty (30) consecutive days for the performance of the duties of office for an extended period of time, the Budget Committee shall select a qualified person to serve as Acting Director of Accounts and Budgets for the duration of the incapacitation of the Director of Accounts and Budgets, subject to the approval of the Board of Commissioners of Marshall County at the next regular meeting of such court. The Acting Director of Accounts and Budgets shall execute a corporate surety bond in an amount and under the conditions set forth in this Section and shall be authorized to exercise the powers and perform the duties of the Director of Accounts and Budgets set forth in this Act.

For purposes of this section, “incapacitated” means mentally and/or physically unable to perform the duties of office as deemed by a licensed professional in the medical and/or psychiatric field.

SECTION 12. There shall be set up and maintained in the office of the Director of Accounts and Budgets a system of fiscal procedure, control and centralized accounting, hereinafter set out and described, which shall be under the administrative control and direction of the Director of Accounts and Budgets. Such system shall be conducted in full accordance with the general law of this State respecting the duties and responsibilities of the Fiscal Agent of the County.

The system of fiscal procedure, control and accounting herein provided shall conform to generally accepted principles of governmental accounting and shall be in substantial agreement with the recommendations of the Governmental Accounting Standards Board.

The system shall include such records and procedures as may be required to accurately reflect the assets, liabilities, income, and expenditures of each fund of the County, together with such records, accounts and files as are necessary to record and control:

- (1) The transactions relating to county revenue, and the revenues for each of its several funds.
- (2) The transactions relating to the adopted budget and appropriations, including the expenditures and encumbrances against each item of appropriations.
- (3) The transactions relating to the bonded debt; and
- (4) Such other records as may be necessary to facilitate the operation of the adopted budget and the proper accounting for each item of county expenditure.

SECTION 13. It shall be the duty of the Director of Accounts and Budgets to post and otherwise keep the records of the central accounting system; to verify all bills, invoices, payrolls and claims against the county before payment; and to check the settlements and reports of the various officials and department heads of the county government.

The Director shall also, after careful pre-audit of invoices, bills and claims against the county or any of its funds, prepare disbursement warrants on all county funds. It shall be the duty of such Director to sign all county disbursement warrants as evidence of such Director’s audits and approval of the expenditure made thereby, but no disbursement warrant drawn on the County Trustee shall become a county liability payable by the County Trustee until such warrant shall also have been signed by the County Mayor or Chairman, County Superintendent/Director of Schools, or other official or officials whose signatures are required on such warrants.

The Director shall install a uniform classification of accounts, including a classification of revenues and expenditures, to be used in accounting, budgeting, and financial reporting respecting all county funds, offices, agencies, and activities of the county governments, and shall prescribe the forms to be used by each official and employee of the county in connection therewith.

The Director shall set up and maintain a double entry system of accounting for recording the transactions of all of the county's funds, including both proprietary and budgetary accounts, in conformity with the requirements of the general law.

The Director shall set up the necessary accounts to properly record the annual budget and each appropriation made by the Marshall County Board of Commissioners. All encumbrances, expenditures or other charges against any item of the budget shall be promptly recorded in order that the unencumbered balance of each item of the budget shall be readily ascertainable at all times.

The Director shall pre-audit all payrolls of the county except for school employees before payment and shall maintain complete earnings records of each employee of the county.

SECTION 14. Excepting taxes such as the County Trustee is authorized to collect, the payment of all monies to the County Trustee by any collectors authorized by statute, or by anyone on account due the county, shall be made only by issuance of a receivable warrants issued by the Director of Accounts and Budgets instructing the Trustee to receive the amount named, for which the Trustee shall issue a receipt, duplicate of which shall be delivered to the Director of Accounts and Budgets to be used by the Director in posting the accounting records.

SECTION 15. Before any obligation against the county shall be paid or any disbursement warrant or voucher issued therefore, a detailed invoice or statement approved by the head of the office, department or agency for which the obligation was made shall be filed with the Director of Accounts and Budgets. The Director shall make a careful pre-audit of such invoice or statement, including a comparison with any encumbrance document previously posted or filed authorizing such obligation, and shall approve for payment only such items as appear to be correct, properly authorized, and not exceeding the otherwise unencumbered balance of the allotments or appropriations against which they are chargeable. Disbursement warrants shall be promptly prepared for all such approved items by the Director of Accounts and Budgets and mailed or delivered to the payees thereof. The Director is authorized and empowered to install and institute a purchase order system by assigning to each Department Head certain purchase order numbers for their usage. All purchases in excess of Five Hundred Dollars (\$500) made by any Department Head, shall bear the approval of the Director relative to price, need and availability of revenue, otherwise the obligation would not be binding on the County of Marshall. The dollar amount mentioned in the preceding sentence may be modified by the approval of the Marshall County Board of Commissioners.

A duplicate copy of all disbursement warrants, with all original invoices or other supporting documents attached thereto, shall be kept on file in the office of the Director of Accounts and Budgets in accordance with disposition schedules established pursuant to general law..

SECTION 16. Each official, office, department, institution, agency, board, committee, commission or employee of the county shall furnish such information and make such reports as may be required to properly maintain the central accounting system and fiscal procedures herein authorized and prescribed, and such information and reports shall be furnished at such times and in such form as may be prescribed by the Director of Accounts and Budgets.

The records of all county officers, departments, and agencies shall be made available by their respective officials or employees for examination at all reasonable hours by the Director of Accounts and Budgets.

SECTION 17. That any and all private acts prescribing fiscal procedures in direct conflict with the provisions of this act are hereby repealed, specifically Chapter 69 of the Private acts of 1965, and its amendatory acts, as follows: Chapter 253 of the Private Acts of 1967; Chapter 174 of the Private Acts of 1984 and Chapter 143 of the Private Acts of 1992, and any other acts amendatory thereto.

SECTION 18. 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 19. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Marshall County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 20. 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 19..

Passed: March 17, 2005.

## ADMINISTRATION

### BUDGET SYSTEM

Counties in Tennessee may operate their budgeting system under one of the three optional general laws on the subject or under the provisions of private acts or county or metropolitan government charters. The three optional general laws dealing with budgeting are the County Budgeting Law of 1957, the County Financial Management System of 1981 and the Local Option Budgeting Law of 1993. If neither an optional general law nor a private act or county charter has been adopted, the county may have established a budget committee by resolution to serve in an advisory role to the county legislative body. Also see T.C.A. §§ 5-9-401 through 5-9-407, and T.C.A. § 49-2-301 (school budget). Most counties are subject to a general law dealing with the procedure for making budget amendments that is codified at T.C.A. § 5-9-407.

The County Budgeting Law of 1957 is found in title 5, chapter 12 of Tennessee Code Annotated. It is a general law establishing procedures for the preparation and adoption of county budgets for all county funds, activities and agencies. The County Budgeting Law of 1957 is permissive legislation and in order to come under its provisions, counties must adopt a resolution by 2/3 vote of the county legislative body or pass the proposal in a referendum. Section 5-13-111 of Tennessee Code Annotated specifically provides that the 1957 general law does not affect either private acts then in existence or prevent the enactment of private legislation for Tennessee counties creating central accounting systems, the position of budget director, or other budgeting procedures.

The County Financial Management System of 1981 is codified at T.C.A. § 5-21-101 *et seq.* This law provides an optional system and methods of controlling the financial affairs of a county, including budgeting, purchasing, and investment processes. This act is permissive in nature and can be activated by a two-thirds (2/3) vote of the county legislative body, or by a majority vote in a referendum election.

The Local Option Budgeting Law of 1993 is an optional general law located at T.C.A. §§ 5-12-201 through 5-12-217. This law may be adopted by a two-thirds (2/3) vote of the county legislative body. This law may be adopted and used in conjunction with the County Budgeting Law of 1957 or the County Financial Management System of 1981, or used alone. This optional law provides procedures for the formulation, adoption and amendment of an annual budget that includes deadlines for action. If a county legislative body operating under this law fails to adopt a budget by August 15, the portion of the budget prepared by the department of education goes into effect, and similarly, the remainder of the budget as proposed by the county executive or budget committee goes into effect.

The following acts once created a budgeting system for Marshall County, but they have been specifically repealed or superseded by current law. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1929, Chapter 22, established a budget and purchasing commission in Marshall County consisting of two competent persons and the chairman of the County Court. The terms were one year at a salary of \$25 per year. It was the obligation of the Commission to prepare a budget including every purpose for which money was to be expended, and to recommend a tax rate in accordance with it. They would also contract for

and buy all the supplies needed for the departments and institutions of the county government.

2. Private Acts of 1945, Chapter 112, made the County Judge the purchasing agent of the County and thereby repealed by implication corresponding provisions concerning purchasing in the 1929 Act, above. Guidelines for making normal and emergency purchases were written into the Act and a salary of \$300 per annum, payable monthly, is fixed for the one performing this service. This Act was expressly repealed by Private Acts of 1965, Chapter 69.
3. Private acts of 1945, Chapter 121, provided for a budget system for Marshall County. A Budget Committee of two members of the county court and the County Judge, as Chairman, was created. The fiscal year was specified as being from July 1 through June 30 of the following year and the Roads Department, the School System, and the County Judge's office would all file budget requests. The Committee would prepare the budget, estimate the forthcoming revenues, arrive at a tax rate, and allocate funds in the most expedient manner. The County Judge would report monthly on the condition of the budget to the County Court. This Act was repealed by Private Acts of 1965, Chapter 69.
4. Private Acts of 1945, Chapter 127, provided for a system of fiscal procedure, control, and accounting for Marshall County. A Division of Accounts was created in the office of the County Judge. The Judge was authorized to employ a competent person as County Accountant who would keep the records of the central accounting system. This Act was also repealed by Private Acts of 1965, Chapter 69.
5. Private Acts of 1965, Chapter 69, as amended by Private Acts of 1967, Chapter 253, private Acts of 1984, Chapter 174, and Private Acts of 1992, Chapter 143, provided for a budget system for Marshall County. This act was repealed by Private Acts of 2005, Chapter 17.

ADMINISTRATION

COUNTY ATTORNEY

PRIVATE ACTS OF 1977

CHAPTER 29

SECTION 1. The office of County Attorney for Marshall County is hereby created.

SECTION 2. The county Attorney shall be a licensed attorney of the state of Tennessee, shall be not less than thirty (30) years of age, and shall be otherwise legally qualified for such office. The Quarterly County Court of Marshall County shall elect a County Attorney at its October 1976 term, and the term of office of said County Attorney shall be for two (2) years. Said term shall commence on the third Monday of October of even-numbered years. Thereafter, a County Attorney shall be elected by the Quarterly County Court of Marshall County at the last regular meeting of the Marshall County Legislative Body prior to the beginning of the term of office. Should a vacancy occur in the office of County Attorney prior to the expiration of the two-year term, the Quarterly County Court shall elect a County Attorney for the unexpired term.

SECTION 3. It shall be the duty of the county attorney, upon written request, to issue opinions and advice to the county commission, county executive, the chairmen of committees of the county commission and upon written request from any of such officers to request opinions from the State Attorney General. The county attorney shall draft or review, or both, contracts of the county, attend meetings of the county commission and the county executive in their official capacities in litigation as plaintiff or defendant, and upon direction of the county commission or the county executive represent other county officeholders in their official capacity as the county attorney will issue written opinions and advice to other county officers. Copies of all opinions issued by the county attorney shall be filed as directed by the county commission. In the event of the disability of the county attorney, because of a conflict or for any other reason, the county commission or county executive shall have authority, upon the recommendation of the county attorney, to employ other counsel or paralegals to associate in specific matters with the county attorney.

As amended by: Private Acts of 1991, Chapter 6.

SECTION 4. The compensation of the county attorney for attending meetings of the county commission and for issuing opinions and advice as provided for in Section 3 shall be a salary in an amount to be fixed from time to time by the county commission. For services performed by him in addition to attending meetings of the county commissions and rendering opinions and advice, the county attorney shall be compensated at a reasonable rate to be fixed by the county commission.

As amended by: Private Acts of 1991, Chapter 6.

SECTION 5. Nothing in this Act shall be construed as having the effect of removing any incumbent from office or abridging the term of office of any official prior to the end of the term for which he was elected.

SECTION 6. No provisions of this Act shall be construed in any manner to affect the office of Back Tax Attorney for Marshall County.

SECTION 7. Private Acts of 1947, Chapter 196 and Private Acts of 1951, Chapter 270, relating to the office of County Attorney for Marshall County, are hereby repealed.

SECTION 8. 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 9. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Marshall County before October 30, 1977. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and shall be certified by him to the Secretary of State.

SECTION 10. 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, including the salary provision in Section 4, this Act shall become effective upon being approved as provided in Section 9, the public welfare requiring it.

Passed: April 7, 1977.

## ADMINISTRATION

### COUNTY ATTORNEY

The office of county attorney is not a constitutional office nor is it an established office under general law. The office of county attorney may be set up by private act. The county mayor is authorized by T.C.A. § 5-6-112 to employ counsel where there is no county attorney established by private act or county or metropolitan government charter.

The general law at T.C.A. § 49-2-203 authorizes the board of education to employ legal counsel to advise or represent the board. The County Uniform Highway Law authorizes county highway departments subject to this general law (most counties) to employ legal counsel or to solicit the use of legal counsel retained by the county to prosecute or defend litigation caused by or necessary to the operation of the county highway department. T.C.A. § 54-7-110. There may be other private acts which allow other governmental departments to hire attorneys.

The following acts once affected the appointment, election, or office of the county attorney in Marshall County. These acts are included for historical reference only.

1. Private Acts of 1947, Chapter 196, created the office of county attorney in Marshall County who was to be paid \$600 per year for his legal assistance. This act and its amendment were repealed by Private Acts of 1977, Chapter 29.
2. Private Acts of 1951, Chapter 270, amended the above act by deleting the requirement that the county attorney has been a resident of Marshall County for five years.

## ADMINISTRATION

### COUNTY CLERK

The county clerk, formerly the county court clerk, is a constitutional office as provided by article VII, section I of the Constitution of Tennessee. The county clerk is popularly elected for a term of four years. T.C.A. § 18-6-101. The bond required for county clerks is \$50,000 in counties with a population greater than 15,000 and \$25,000 in counties with a population less than 15,000. T.C.A. § 18-2-201.

Most of the duties of the county clerk are specified in the general law (public acts) codified in Tennessee Code Annotated. The county clerk is the clerk of the county legislative body. The clerk keeps the official record (minutes) of the legislative body. The county clerk is responsible for the issuance of marriage licenses and pawnbrokers' licenses. The county clerk is the collector for a number of local and state taxes including local wheel taxes, local hotel/motel taxes, wholesale beer tax, business taxes and vehicle registration fees. T.C.A. § 18-6-105. The clerk's salary is determined in accordance with T.C.A. § 8-24-102. The basic fee schedule for the county clerk is found at T.C.A. § 8-21-701.

## ADMINISTRATION

### COUNTY LEGISLATIVE BODY

Each county in Tennessee, except those with a metropolitan form of government, has a county legislative body, which is also formally known as the board of county commissioners, or informally known as the county commission.

The county legislative body, or board of county commissioners, is composed of not less than nine (9) nor more than twenty-five (25) members. The board reapportions the county into districts from which county commissioners are elected. These districts must be apportioned on the basis of population so that each commissioner represents substantially the same number of people. No more than three commissioners may be elected from the same district. T.C.A. § 5-1-108.

The county legislative body replaced the quarterly county court as provided in the Public Acts of 1978, Chapter 934, T.C.A. § 5-5-101 *et seq.* The county commissioners are vested with all the legislative powers and duties formerly vested in justices of the peace, but possess no judicial powers and are not charged with any judicial functions. Under T.C.A. § 36-3-301, members of county legislative bodies may solemnize marriages.

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

1. Private Acts of 1939, Chapter 190, directed that the quarterly county court would meet in regular session on the second Mondays in January, April, July, and October of each year. This act was repealed by the Private Acts of 1943, Chapter 135.
2. Private Acts of 1945, Chapter 128, redirected that the quarterly county court meet in regular session on the second Mondays in January, April, July, and October of each year. This act was repealed by the Private Acts of 1988, Chapter 159.
3. Private Acts of 1949, Chapter 547, provided that all Justices of the Peace in Marshall County using population figures, shall get \$5.00 per day for their attendance at all regular, called, or special meetings of the Quarterly County Court. Nothing was mentioned about mileage. This act was repealed by Private Acts of 1974, Chapter 170.
4. Private Acts of 1961, Chapter 18, also set the salary of the Justices of the Peace in Marshall County for their attendance at meetings of the County Court at \$10 per day. This act was properly ratified and became a law only to be repealed by Private Acts of 1974, Chapter 170.

## ADMINISTRATION

### COUNTY MAYOR

All counties in Tennessee, except those with a metropolitan form of government, must have an elected county executive who is formally entitled county mayor unless entitled county executive by private act. T.C.A. § 5-6-101. The county mayor serves a four year term.

The county mayor is the chief executive officer of the county and has all of the powers and duties formerly exercised by the county judge except judicial powers. The county mayor serves as a nonvoting, ex officio member of the county legislative body, and the county mayor or a representative of the county mayor serves as a nonvoting member of all committees of the legislative body. T.C.A. § 5-6-106. The county legislative body may elect the county mayor as its chairman. However, the county mayor may refuse to serve as chairman. T.C.A. § 5-5-103. If the county mayor is not elected chairman, then the county mayor may veto legislative resolutions of the county legislative body. T.C.A. § 5-6-107.

Except as otherwise provided by law, the county mayor appoints members of county boards and commissions and county department heads. Such appointees are subject to confirmation by the county legislative body. T.C.A. § 5-6-106(c). It is important to recognize that most boards and department heads are provided for by general law or private act, and this residual appointive power of the county mayor may not be applicable.

The county mayor is authorized to employ one or more clerical assistants as may be necessary for the performance of his or her official duties. The county mayor sets the compensation for these clerical assistants within the amount appropriated for this purpose by the county legislative body. T.C.A. § 5-6-116.

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

1. Public Acts of 1856, Chapter 253, provided for a County Judge to be elected for four years in every county of the State who would be learned in the law, and who would be commissioned as other judges in the State. The Quorum Courts were abolished and their obligations given to the County Judge. The Judge would hold the County Court on the first Monday in every month, disposing of the agenda of the Quarterly Court first when they were scheduled to meet on the same days. Both the judicial and administrative duties and jurisdiction are prescribed in the Bill as well as the duties of the Clerk. The Judge would be paid \$5.00 per day for each day attended at monthly and Quarterly Courts plus whatever additional compensation the Quarterly Court might grant him. This act was repealed by Public Acts of 1857-58, Chapter 5, and all Quorum Courts were restored.
2. Acts of 1885, Chapter 71, provided that Section 316 of Thompson and Steger's Code be amended so that the people of White County could elect a County Judge for a four year term who would be no less than thirty years of age, a citizen of that county, and a person of good moral character, who would exercise and enjoy all the powers and privileges of other County Judges. Public Acts of 1875, Chapter 70, was amended to transfer all the authority of the

County Chairman to him. The Judge's salary would be at least \$500 a year, payable quarterly. Section 7 of this act made all of its provisions applicable to Marshall County who would also have a County Judge. See Item 4 below.

3. Acts of 1887, Chapter 84, repealed so much of Acts of 1885, Chapter 71, as the same was applied to Marshall County, and restored the office of County Chairman in full as it existed prior to that Act, and abolished the office of County Judge. The present Judge would summon the Court on the first Monday in April, 1887, to select a County Chairman. The Clerk of the County Court would continue to be the Clerk for the Chairman. See State v. Leonard, 86 Tenn. 485, 7 SW 453 (1888).
4. Private Acts of 1919, Chapter 504, provided that such sections, parts, and provisions of Acts of 1885, Chapter 71, and those Sections which amended the Acts of 1875, relative to the election of the County Judges of Shelby, Knox, Davidson, Montgomery, and Williamson Counties, as the same may be construed to be applicable to Marshall County, are all repealed in their entirety.
5. Private Acts of 1933, Chapter 170, as amended by Private Acts of 1937, 354, Private Acts of 1945, Chapter 151, Private Acts of 1949, Chapter 836, Private Acts of 1951, Chapter 285, created the office of county judge for an eight year term beginning on September 1, 1934. The county judge was the financial agent for the county. The act abolished the office of chairman of the county court and conferred the powers and jurisdiction of the chairman to the county judge.
6. Private Acts of 1937, Chapter 345, amended Private Acts of 1933, Chapter 170, by adding the provision at the conclusion of Section 13, setting up an additional salary of \$300 a year for the County Judge as his compensation for services as financial agent.
7. Private Acts of 1945, Chapter 151, amended Private Acts of 1937, Chapter 345, above, by changing the salary figure of the County Judge as financial agent from \$300 to \$1,200 a year.
8. Private Acts of 1949, Chapter 836, amended Private Acts of 1945, Chapter 151, by increasing the salary of the Judge from \$1,200 to \$2,100 a year as financial agent.
9. Private Acts of 1951, Chapter 285, deleted all of Section 6 from Private Acts of 1933, Chapter 170, which created the office of County Judge for Marshall County. This Section granted the Judge the power and authority to grant fiats for writs of attachment or injunctions and certiorari and supersedeas as Chancellors and Circuit Judges have and to appoint receivers and to hear cases on writs of Habeas Corpus.

## ADMINISTRATION

### COUNTY REGISTER

The office of county register is a constitutional office, established by article VII, section 1 of the Constitution of Tennessee, and is regulated by the general statutes found in Tennessee Code Annotated, title 8, chapter 13; title 10, chapter 7 (public records); title 47, chapter 9 (U.C.C. Secured Transactions); and title 66 (real property and registration of instruments). The salary of the county register is determined in accordance with T.C.A. § 8-24-102.

The principal duty of the county register is the registration of instruments which the law requires to be, or allows to be, filed or recorded. These instruments include, but are not limited to: deeds of conveyance of real estate, powers of attorney, deeds of trust, mortgages, liens, land sale contracts, plats, leases, military discharges, and papers under the Uniform Commercial Code. The purposes of such registrations are also varied. The records of the register's office provide a public record of real property ownership, liens and various other transactions that affect the public interest. The basic fee schedule for the register is found at T.C.A. § 8-21-1001.

## ADMINISTRATION

### COUNTY TRUSTEE

The county trustee is one of the county officers established by article VII, section 1 of the Constitution of Tennessee. The office is regulated by title 8, chapter 11 of Tennessee Code Annotated. Duties of the county trustee regarding the collection of property taxes are codified in Tennessee Code Annotated, title 67, chapter 5. The county trustee is elected by the qualified voters of the county to serve a four year term. T.C.A. § 8-11-101. Upon election the trustee must take the required oath of office and enter into a surety bond. T.C.A. § 8-11-102. For other statutes pertaining to the many duties of the trustee as a fiscal officer, see volume 14 of the combined general index of T.C.A. under "County Trustee". The salary of the county trustee is determined in accordance with T.C.A. § 8-24-102.

ADMINISTRATION

HORTON HIGHWAY UTILITY DISTRICT

PUBLIC ACTS OF 1965

CHAPTER 319

SECTION 1. That the College Grove Water Utility District of Williamson County, Tennessee, created by decree of the County Court of Williamson County, Tennessee, pursuant to the provisions of Sections 6-2601 to 6-2636, inclusive, of Tennessee Code Annotated, is hereby authorized to see and convey to The Horton Highway Utility District of Rutherford, Williamson and Marshall Counties, Tennessee, created by decree of the County Court of Marshall County, Tennessee, pursuant to the provisions of said Sections 6-2601 to 6-2636, inclusive, all or any portion of its complete waterworks system, including any related facilities, and to execute and deliver to said The Horton Highway Utility District such deeds, bulls of sale and other documents as shall be considered desirable by the parties; provided, that prior to or concurrent with such sale, said College Grove Water Utility District shall retire all of its then outstanding indebtedness.

SECTION 2. That all laws or parts thereof in conflict herewith be to the extent of such conflict hereby repealed.

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

Passed: March 17, 1965.

**COMPILER'S NOTE:** This is a "Special" Public Act which is not printed in the Tennessee Code Annotated and is published herein for the convenience of those county officials involved.

## ADMINISTRATION

### PURCHASING

The laws regarding purchasing for county governments are not uniform and several options exist. The county education department has its own purchasing law (T.C.A. § 49-2-203(A)(4)), but this law is superseded in those counties that adopt the statutes of the optional County Financial Management System of 1981. T.C.A. § 5-21-106 et seq. Further, in counties that have adopted the County Purchasing Law of 1957, another optional general law, the county board of education may or may not use the central county purchasing system depending upon the approval of the state commissioner of education. T.C.A. § 5-14-115.

The County Uniform Highway Law, at T.C.A. § 54-7-113, provides a purchasing law for the county highway department when purchasing for the department is not governed by private act or when the county has not adopted either the County Purchasing Law of 1957 or the County Financial Management System of 1981. Nevertheless, even where private acts generally govern the purchases of the county highway department, purchases of less than \$10,000 do not have to be publicly advertised and competitively bid. The purchasing provisions of the County Uniform Highway Law do not apply to Shelby, Davidson, Knox, and Hamilton counties.

Purchases from the general fund are governed by the County Purchasing Law of 1983, T.C.A. § 5-14-201 et seq., unless the county operates under a county or metropolitan government charter, or has adopted the County Financial Management System of 1981 or the County Purchasing Law of 1957. Also, this general law does not apply to counties with private acts if the private act provides for public advertising and competitive bidding for purchases over \$10,000 or a lesser amount.

The County Purchasing Law of 1957, found in T.C.A. §§ 5-14-101 through 5-14-116, may be adopted by the voters in a referendum or by a two-thirds (2/3) vote of the county legislative body. This act is one of the three companion Fiscal Control Acts of 1957. Under this act the county executive appoints a purchasing agent subject to the approval of the county legislative body. T.C.A. § 5-14-103. The purchasing agent must be qualified by training and experience to perform the required duties. T.C.A. § 5-14-103.

The person appointed as purchasing agent must have a corporate surety bond of not less than \$10,000 nor more than \$25,000. The salary is not to be in excess of other county officials as prescribed in T.C.A. §§ 8-24-101 and 8-24-102. T.C.A. § 5-14-103(b). The director of accounts and budgets also serves as the purchasing agent in some counties. The primary duties of the purchasing agent are to: (1) purchase all supplies, materials, equipment and contractual services, (2) arrange for rental of all machinery, buildings and equipment, (3) transfer materials, supplies and equipment between county departments, and (4) supervise the central storeroom. T.C.A. § 5-14-105 et seq.

The County Financial Management System of 1981 is found in T.C.A. §§ 5-21-101 through 5-21-129. This law provides for the consolidation and establishment of a financial management system for all county funds operated through the county trustee, including purchasing. The system is similar in scope to the 1957 acts; however, under this act the county operates under one act rather

than three. This system must be approved by a two-thirds (2/3) vote of the county legislative body or a majority of the voters in order to be effective in any county. T.C.A. § 5-21-126.

Under the County Financial Management System of 1981, a finance department is created to administer the finances of the county and all funds handled by the county trustee, in conformity with generally accepted principles of governmental accounting and rules and regulations established by the state comptroller of the treasury and state commissioner of education. T.C.A. § 5-21-103. Unlike the 1957 laws, school funds are managed under this system just like all other county funds. The commissioner of education may remove the school department from the system if records are not maintained properly and timely. T.C.A. § 5-21-124.

The County Purchasing Law of 1983, T.C.A. § 5-14-201 et seq., applies to purchases by authorized officials using county funds, except that it does not apply to purchases from county highway funds, county education funds, or purchases by counties that have adopted the County Purchasing Law of 1957 or the County Financial Management System of 1981. Neither does this act apply in counties operating under a county or metropolitan government charter. Furthermore, the act does not apply to counties with private acts if the private act provides for public advertising and competitive bidding for purchases in excess of \$10,000 or a lesser amount as established by the private act.

Tennessee Code Annotated § 5-14-204 requires that all purchases and leases or lease-purchase agreements made under the County Purchasing Law of 1983 shall be made or entered into only after public advertisement and competitive bidding, except for (1) purchases costing less than \$10,000, (2) goods or services which may not be procured by competitive means because of the existence of a single source or because of a proprietary product, (3) supplies, materials or equipment needed in an emergency situation, subject to reporting requirements of the county legislative body and the county executive, (4) leases or lease-purchase agreements requiring payments of less than \$10,000 per year, and (5) fuel and fuel products purchased in the open market by governmental bodies. County legislative bodies may lower the dollar amount required in this act and may also adopt regulations providing procedures for implementing this act.

Counties with populations over 150,000 are authorized to make purchases under \$10,000 without competitive bids or proposals, but these counties may retain their present competitive bidding requirements or establish different limits by private act or charter provision. T.C.A. § 12-3-1007.

County governments may use pricing discounts obtained by the National Association of Counties (NACo) Purchasing Alliance by considering the NACo price in the same manner as a formal bid or informal quotation under the county's bidding laws. T.C.A. § 12-3-1008. The Tennessee Department of General Services (TDGS) may upon request, purchase supplies and equipment for any county. Counties, without public advertisement and competitive bidding, may purchase under the provisions of contracts or price agreements entered into by TDGS. Also, county governments may purchase goods, except motor vehicles, under federal General Services Administration (GSA) contracts, to the extent permitted by federal law or regulations. T.C.A. § 12-3-1001.

Counties are authorized to distribute and receive bids, proposals and other offers electronically, but are prohibited from requiring small or minority owned businesses to receive or respond electronically. T.C.A. § 12-3-704.



## ADMINISTRATION

### GENERAL REFERENCE

The administration of county government is placed, through a coordination of duties and responsibilities, in various elected or appointed officials, plus various boards, agencies and commissions. For general law on county administration, see Tennessee Code Annotated, title 5 (Counties) and title 8 (Public Officers and Employees). Specific subject headings in the combined general index in volumes 14, 15, and 16 of T.C.A. may be checked for other statutes relating to county administration. These duties are summarized in the Tennessee County Government Handbook, a CTAS publication.

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

1. Acts of 1837-38, Chapter 55, incorporated the town of Lewisburg under the Mayor-Alderman type of government.
2. Acts of 1837-38, Chapter 157, placed Marshall County in the 12th Brigade of the State Militia with Bedford and Maury Counties. The county drills and musters for Marshall would come on the second Monday and Tuesday in September of each year.
3. Acts of 1837-38, Chapter 203, provided that the County Court of Marshall County by a majority vote shall have the power and authority to appropriate any monies arising from the sale of lots in Lewisburg, if there should be a surplus after erecting the public buildings, to the payment of the expenses incurred in running and surveying the line of the said county which was for the purpose of establishing the same.
4. Acts of 1855-56, Chapter 244, gave the Quarterly County Courts of Bedford, Marshall, and Maury Counties the authority to subscribe to whatever amount of stock in the railroads running through the same as the Courts might deem advisable but any purchase of said stock must first be approved by the voters in a referendum election held for that purpose.
5. Acts of 1870-71, Chapter 50, authorized counties and cities to impose taxes for county and corporate purposes on the conditions that (1) all taxable property be taxed, (2) the credit of the county or city would not be loaned to any person, firm, or corporation unless it was first authorized by the County Court to be submitted to the people for a vote and then passed by three-fourths of those voting, and (3) cannot become a stockholder in any firm unless the same procedures were followed and the same conditions observed. Twenty-seven counties, Marshall among them, exempted themselves from the requirement that three-fourths of the voters must approve, being content to accept the will of a bare majority of the voters.
6. Acts of 1879, Chapter 241, directed the Comptroller of the State to issue his warrant on the Treasurer of the State for \$225, payable to F. M. Davis, Tax Collector for Marshall County for the years 1873 and 1874, as indemnity for losses sustained by him as said tax collector.

7. Private Acts of 1933, Chapter 168, removed the disabilities of infancy from Ewell Braly Craig of Marshall County so as to allow him to take the State Bar Examination, and, if passed successfully, to obtain a license to practice law.
8. Private Acts of 1933, Chapter 686, amended Section 10726 of the Tennessee Code so that counties in the same bracket of population as Marshall County would constitute counties of the fourth class and their officials be compensated as follows: The Trustee, \$2,500, the Sheriff, \$1,200, the Clerk and Master, \$1,200, the County Court Clerk, \$2,500, the Circuit Court Clerk, \$1,200, and the Register, \$1,200.
9. Private Acts of 1935, Chapter 98, removed the infancy of Thomas H. Lawrence, Jr., of Chapel Hill in Marshall County, conferring upon him all the rights, powers, and obligations of an adult.

## **CHAPTER II - ANIMALS AND FISH**

ANIMALS - FISH

PUBLIC ACTS OF 1976

CHAPTER 424

SECTION 1. It shall be lawful to hunt and take deer in Marshall County with a rifle, shotgun, or with a bow and arrow.

As amended by: Public Acts of 1977, Chapter 253.

SECTION 2. This Act shall take effect on becoming a law, the public welfare requiring it.

Passed: February 16, 1976.

**COMPILER'S NOTE:** This is a special public act not printed in Tennessee Code Annotated. Public Acts of 1977, Chapter 253, rewrote Section One as it appears, changing the former Section making the act unlawful except with a shotgun, using one solid ball or slug or with bow and arrow.

## ANIMALS - FISH

In Tennessee, the wildlife resources agency has exclusive jurisdiction of the duties and functions formerly held by the game and fish commission or of any other law relating to the management, protection, propagation, and conservation of wildlife, including hunting and fishing. T.C.A. § 70-1-301. The general statutes dealing with wildlife resources are found in title 70 of the Tennessee Code Annotated.

Stock laws or fence laws were for many years a source of bitter controversy in Tennessee counties. The general fence law for the state is now contained in T.C.A. title 44, chapter 8.

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 Marshall County. They are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1897, Chapter 276, amends Acts of 1895, Chapter 127, which was a law for the protection of fish across the State so as to make it lawful to take fish from any of the streams, lakes, rivers, or ponds within the counties of Wayne, Perry, Humphreys, Marshall, Union, and Campbell by grabbling and gig except in the months of March, April, and May.
2. Acts of 1897, Chapter 314, exempted Bedford and Marshall Counties from all the provisions of Acts of 1895, Chapter 127, except insofar as that Act prohibited the catching, killing, or wounding of fish by poison or by dynamite.
3. Acts of 1899, Chapter 3, made it unlawful in Marshall, Rutherford, and Montgomery Counties to hunt, kill, capture, shoot, wound or otherwise destroy any quail or partridge from the 15th day of February to the 15th day of November in each and every year. One must have the written permission to do so on the land of another even in open season. The fine for violation ranged from \$10 to \$50 and one could be given up to 60 days in the jail or workhouse.
4. Acts of 1899, Chapter 33, amended Section 1 of the Acts of 1897, Chapter 276, above, to make it unlawful to take or catch fish in any of the streams, lakes, or ponds, except the Tennessee River in any manner whatever except by hook and line or by trot line in the counties named therein.
5. Acts of 1899, Chapter 230, declared it unlawful for anyone to use gig, grab hook, gill net, trap or basket, for capturing or killing fish in Marshall County, and for using any seine or net in capturing fish during spawning season or when they are on the shoals, and further made it unlawful to seine in any stream in the county with any net except a minnow net having meshes less than two inches. The fine for violation was not less than \$5.00 nor more than \$20.
6. Acts of 1901, Chapter 225, made it lawful to catch fish in Marshall County in every way and at all times except by use of explosives, poisons, wing nets and dams across the streams of the county. All laws in conflict with this law were repealed.

7. Private Acts of 1915, Chapter 472, subject to the successful outcome of a referendum in which the people would vote upon the issue, provided that, in addition to all the other lawful fences in Marshall County, using population figures, a fence built with good size, substantial posts set firmly in the ground not more than 20 feet apart with four strands of barbed, or smooth wire, four planks, or rails, fastened securely to said posts, the first to be from ten to fifteen inches above the ground and the others to be from ten to thirteen inches above the first and second, and the fourth to be ten to fifteen inches above the third, and with the provision that the fence material could be combined if one so desired, and also made it unlawful for sheep, goats, or swine to run at large. The fines could range from \$1.00 to \$25 for each offense.
8. Private Acts of 1915, Chapter 554, asked that an election be held on September 25, 1915, to ascertain whether or not certain livestock be permitted to run at large in Marshall County. The Election Commission would give twenty days notice by advertising in the newspapers, and they would appoint all officers necessary to conduct the same. The ballot would be marked simply "For" or "Against" and the results would be certified to the Commission at the Courthouse in Lewisburg. The expenses of the election would be paid out of the county treasury.
9. Private Acts of 1917, Chapter 507, made it the responsibility of all those who sell poultry at retail or wholesale to keep records of the names, addresses of purchasers, quantity bought, and description of the poultry sold, which would be given to the Sheriff. This was an attempt to curtail the larceny of poultry in Marshall County. The Sheriff would turn a copy over to the County Court Clerk to keep. If anyone should offer poultry for sale without complying herewith, it was the duty of the other person to notify the Sheriff or the nearest Justice of the Peace, or Peace Officer, who would immediately investigate. Any juvenile second offender would be required to serve some time. Fines for the first, and subsequent offenses went from \$5.00 to \$50. This Act was repealed by the one following.
10. Private Acts of 1919, Chapter 31, repealed Private Acts of 1917, Chapter 507, above, as it was written.
11. Private Acts of 1919, Chapter 122, directs that an election be held in Marshall County at the same time as the general election in August, 1920 to ascertain the will of the voters and the people regarding whether or not Marshall County's livestock would run at large.
12. Private Acts of 1919, Chapter 457, declared it to be lawful for any citizen of Marshall County to fish in any stream at any time with hook and line, trot line, net, or seine except that it was still unlawful to poison, shoot, or kill with dynamite or other explosives. A citizen could also hunt and kill squirrels at any time or season but was not authorized to enter the lands of another for that purpose without having permission, nor would a license be required for either action in Marshall County.
13. Private Acts of 1921, Chapter 128, amended Private Acts of 1919, Chapter 457, above, by deleting all of Section One, which concerned fish and by amending Section Three so that "No fees or licenses shall be charged or collected under the Game Laws of Tennessee for hunting squirrels as stated in Section Two of that Act".

14. Private Acts of 1921, Chapter 133, by the use of population figures, stated that time from November 15 to February 15 of the following year is declared to be an open season for hunting and killing quail or partridges in Marshall County during which time they could be hunted and killed lawfully but at no other seasons.
15. Private Acts of 1927, Chapter 291, authorized an election to be held on April 23, 1927, wherein the voters of Marshall County could express their desires on whether or not stock would be permitted to run at large. The election Commission would give proper notice, appoint officials, and conduct the same under the general election laws of the State. The results would be certified to the Commission and the County would pay for the election out of regular county funds.
16. Private Acts of 1927, Chapter 628, made it unlawful to permit livestock such as horses, mules, asses, cattle, sheep, goats, and hogs to run at large in Marshall County. Anyone knowingly allowing the same would be guilty of a misdemeanor and subject to a fine of \$5.00 to \$25. The person damaged was given a lien on the trespassing stock which could also be taken up, fed, and cared for and the cost of this could be included in the lien.
17. Private Acts of 1931, Chapter 470, allowed any citizen of the State to shoot or kill squirrels at any time in Marshall County but not upon the enclosed or tillable lands of another without permission. No fees or licenses would be charged for hunting squirrels under this Act.
18. Private Acts of 1935, Chapter 221, substantially reenacted the provisions of Private Acts of 1931, Chapter 470, above, except that the no license or fee charge was omitted from this Bill.
19. Private Acts of 1935, Chapter 246, made it lawful in Marshall County to hunt, trap, and kill all fur-bearing animals, except red foxes, and take and sell the fur thereon between "November 15 and the following February 15, which period is to be considered the open or trapping season for such fur-bearing animals".
20. Private Acts of 1935, Chapter 761, declared it to be lawful for all residents of Marshall County to catch, or take fish of any kind at any time during the year from all the streams of said county by any method except explosives, poison, nets, seines or traps.
21. Private Acts of 1935 (Ex. Sess.), Chapter 142, declared that all persons hunting, trapping or killing game in Marshall County shall obtain a license from the County Court Clerk before doing so. The cost of the license was set at \$5.00 which would go into the school funds. The license must be carried on the person or be available for inspection at all times. The residents and land owners of Marshall County and all the adjoining counties were exempted from this requirement. Violators were subject to a fine from \$10 to \$50.
22. Private Acts of 1951, Chapter 523 declared that an open season on the hunting of foxes in Marshall County would be from the first day of November to the last day of February. This Act was specifically repealed by the Public Acts of 1976, Chapter 672. Public Acts of 1976, Chapter 672 states that "prior to the opening of any season for the taking of wildlife that the Wildlife Resources Agency conduct a survey to determine that the taking of wildlife is without the danger of extinction or undue depletion." Thus, because of the results of this

survey, the fox was considered an animal that was in danger of depletion so acts which would permit its removal were repealed.

## **CHAPTER III - BOND ISSUES**

## BOND ISSUES

Bond issues have been authorized by private legislation, but general law now has provisions covering bond issues needed by counties. Most of the private legislation authorizing counties to issue bonds, or to borrow money on short term notes, contained similar provisions. Generally, these common provisions concerned limitations on the rate of interest to be paid, the maximum number of years for the maturity period, and an additional tax levy for general obligation bonds, the proceeds of which were placed in a sinking fund and used to amortize the bonds and interest over the specified maturity period.

For many years the authority of counties to issue bonds was contained in many different chapters of Tennessee Code Annotated. Recently, the authority to issue bonds and notes has been consolidated in the Local Government Public Obligations Act of 1986, T.C.A. § 9-21-101 et seq. However, the older authority to issue bonds for school purposes remains in title 49, chapter 3 of Tennessee Code Annotated.

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

### AGRICULTURE EXPERIMENT STATION

1. Private Acts of 1917, Chapter 761, authorized the Quarterly County Court of Marshall County to issue \$150,000 in 5%, 20 year maturity bonds, to purchase a farm or farms for an Agriculture Experiment Station for Middle Tennessee which would be deeded to the University of Tennessee for that purpose. A committee of five would be appointed to explore all the possibilities of the project and report back to the court. If the bonds were issued, advertisement must be made in specified papers of the bond sale, the details of the bonds fixed in the County Court Resolutions, and in additional tax levy made for the sinking fund.

### DEBTS

1. Private Acts of 1929, Chapter 23, authorized the Quarterly County Court of Marshall County to issue \$190,000 in 5%, ten to thirty year bonds to pay off certain outstanding debts specified in the act, including some previous bond issues, and if any money were left in this bond issue, the same would go into the sinking fund. All details of the form of the bonds and the issue were included with the provision that the County Trustee would keep all the records and disburse the moneys.
2. Private Acts of 1929, Chapter 300, amended Private Acts of 1929, Chapter 23, above, by permitting the bonds to be issued to be "interest bearing special coupon bonds" as well as "interest bearing coupon bonds" and to set both maturity limit schedules at thirty years from date of issuance.
3. Private Acts of 1941, Chapter 214, permitted the Quarterly County Court to issue \$70,000 in 2½% bonds, maturity schedules to be determined by the court, to pay and retire a schedule of debts listed in the act involving roads, bridges, courthouse, jail, and schools. All necessary details as to the form of the bonds and the tax levy were present. These bonds were declared exempt from taxation by other levels of government.

## HOSPITAL

1. Private Acts of 1933, Chapter 359, subject to the favorable outcome of a referendum held for that purpose, the Quarterly County Court would be allowed to issue \$50,000 in bonds at 6% maximum interest, and to mature according to a schedule to be determined by the Court to purchase land, erect, repair, maintain, equip, and improve a county hospital building.

## JAIL

1. Private Acts of 1937 (Ex. Sess.), Chapter 29, also subject to a popular approval via referendum, the County Court may issue \$50,000 in 5% bonds, or less to mature according to a schedule dictated by the court, to erect and furnish a county jail in Lewisburg. The County Trustee would handle the money and keep the records while the County Court would fix the details of the bond forms and the tax rate levy.

## LAKE

1. Private Acts of 1937, Chapter 483, permitted the Court to issue \$3,000 in 5%, 4 year bonds, which would be exempt from taxation to aid in acquiring, establishing, or constructing a lake in cooperation with the State Government or the Federal Government. Ads must be run in certain newspapers concerning the bond sale.

## ROADS

1. Private Acts of 1925, Chapter 15, validated all prior actions had by the Quarterly County Court of Marshall County preliminary to the issuance of \$40,000 in bonds to be used solely for the purchase of any or all of the turnpike roads in the county, and contracts of that nature being previously entered into were ratified, confirmed and made valid. The said bonds, when delivered, shall be the valid and binding obligations of the county.

## SCHOOLS

1. Private Acts of 1935, Chapter 596, authorized Quarterly County Court to issue \$15,000 in interest bearing serial coupon bonds to be used to erect and equip a school building for High School and Elementary School purposes at Cornersville. They would be general obligation bonds with a 5% maximum interest rate and would mature according to a schedule to be determined by the County Court.
2. Private Acts of 1935, Chapter 678, provided for a \$10,000 bond issue under the same terms as mentioned above to erect and equip a High School and Elementary School on present school grounds at Belfast, Tennessee.
3. Private Acts of 1935, Chapter 762, authorized the Quarterly Court to issue \$25,000 in 5% bonds, maturing at optional times, and in forms described by the Court, to erect and equip a school building for elementary school purposes within the corporate limits of Lewisburg, Tennessee.
4. Private Acts of 1935 (Ex. Sess.), Chapter 5, cites in the preamble that the Quarterly County Court had by Resolution issued \$25,000 in 3½% bonds to build a High School and an Elementary School in Chapel Hill, Tennessee, and their authority to so do had been questioned. This act validates, confirms, and legalizes all those prior proceedings, including a non-compliance with Private Acts of 1923, Chapter 47, and makes them legal, binding obligations of the county. The court must levy a sinking fund tax in order to pay off these bonds.

5. Private Acts of 1935 (Ex. Sess.), Chapter 23, also validated and legalized all the prior proceedings had by the County Court on June 10, 1935 in the issuance of \$25,000 in 3½%, 25 year bonds, to build and equip an elementary school in Lewisburg, which bonds were issued prior to this act under Private Acts of 1935, Chapter 762, and makes all of them the general obligations of the county.
6. Private Acts of 1935 (Ex. Sess.), Chapter 24, validates, confirms, and legitimized all previous actions taken in connection with the issuance of \$10,000 in 3¼%, 10 year bonds, on June 10, 1935, to build, and equip a High School and Elementary School at Belfast, Tennessee.
7. Private Acts of 1935 (Ex. Sess.), Chapter 26, validated actions taken on the same day, June 10, 1935, by the County Court in reference to issuing \$15,000 in 3¼%, 15 year bonds to build a high school and elementary school in Cornersville, Tennessee.
8. Private Acts of 1937, Chapter 484, ratified, confirmed, validated and legalized all the Quarterly Court action taken in connection with the issuance of \$20,000 in 4%, 20 year bonds, including non-compliance with private Acts of 1923, Chapter 47, on April 5, 1937. All essential details were observed in the language of the Act.
9. Private Acts of 1947, Chapter 184, permitted the issuance of \$25,000 in 2%, 8 year bonds for the purpose of building and equipping school buildings in Marshall County by the Quarterly Court of that County. These would be general obligation bonds to be paid out of the sinking fund.

#### GENERAL

1. Acts of 1866-67, Chapter 41, allowed the Quarterly County of Hawkins County by a two-thirds vote of the members present to issue coupon bonds to pay the debts of the county but not to be used to pay debts incurred in aid of the recent rebellion. Section 3 of the Act extended all its provisions and obligations to Marshall County and to Bedford County.
2. Private Acts of 1923, Chapter 47, made it unlawful for the County Courts of Marshall County, using population figures, to authorize the issuance and sale of bonds for any purpose without first submitting the issue to a public referendum vote to be held under the general law concerning elections. A majority of the votes cast shall be sufficient if there is an existing statute authorizing the said bond issue.
3. Private Acts of 1929, Chapter 12, amends Private Acts of 1923, Chapter 47, above, by making the requirement of a referendum prior to the issuance of bonds inapplicable to renewal or refunding bonds or bonds issued to pay the debts of the county.

## **CHAPTER IV - BOUNDARIES**

## BOUNDARIES

### CREATION OF THE COUNTY

#### PRIVATE ACTS OF 1835-36

#### CHAPTER 35

SECTION 1. That a County is hereby established on the west of Bedford, the east of Maury, the northeast of Giles, and the northwest of Lincoln, to be known and distinguished by the name of Marshall, late Chief Justice of the United States, to include the territory contained in the following described lines, running the courses and distances hereinafter described, to wit: Commencing at a point eleven and a half miles due west of Shelbyville, running northwardly and southwardly to the Williamson and Lincoln county lines, leaving to Bedford county four hundred and seventy five square miles and no more; thence west with the Williamson County line between Williamson and Bedford counties to the Maury County line; thence to a point five miles north of Duck River, in a line the north from the point twelve miles east of Columbia; thence south to said twelve mile point, east of Columbia, to a stake in Carthel's field; thence three hundred and four poles south to two ironwoods; thence south nine and a half degrees west two miles to a hackberry and black walnut; thence south nineteen and a half degrees west two miles to a sugar tree and ironwood; thence south thirty eight degrees west two miles to a point in John Vincent's lot; thence south forty-seven and a half degrees west two miles to a sugar tree and ash, near Holt's mill; thence south fifty-seven degrees west two miles to a point in Thomas Cheatham's lot; thence south two miles and one hundred and twenty-eight poles to Giles county line on the ridge; thence eastwardly along the line between the counties of Maury and Giles, eight miles one hundred and thirty-two poles, on a straight line to the Buckeye, corner of Bedford, Lincoln, Maury and Giles counties; thence south along the line between Lincoln and Giles seven miles; thence south eighty-eight and a half degrees east four miles and two hundred and twenty-four poles to five sugar trees; thence north thirty-two and a half degrees east two miles to a stake in a field; thence north forty-two degrees east two miles to a beech; thence north fifty-one and a half degrees east two miles to a chinquapin oak, in Baty's field; thence north sixty-one degrees east two miles to a cherry tree in Petersburg; thence north seventy and a half degrees east 2 miles to two sugar trees, near Win. J. Davidson's; thence north five and a half degrees west two miles and one hundred and seventy-six poles to a chinquapin oak, on the Elk ridge being the line run and marked by Hugh B. Bighain, including within the above described boundaries all the territory contained within the several times, amounting to about three hundred and fifty-one square miles.

SECTION 2. That for the due administration of justice the several courts of said county of Marshall shall be holden at the house of Abner Houston, until the seat of justice shall be located and a suitable house erected for that purpose. The county court shall, in the meantime, have full power and authority to adjourn the courts to such other place in said county as the justices may deem better suited for the holding the same, and more for the public convenience, and to adjourn to the seat of justice, when in their judgment and necessary arrangements are made; and all writs and other process made returnable to either place shall be returnable to the place to which said court may have been removed by the said justices. And the said courts to be holden in and for said county of Marshall shall have and exercise the same powers and jurisdiction under the like limitations and restrictions as other courts in the State.

SECTION 3. That all officers, civil and military, in said county, shall continue to hold their offices and exercise all the functions thereof, until their successors are elected according to the provisions of the amended constitution and the laws made in pursuance thereof. And said county of Marshall shall elect her officers, civil and military, under the amended constitution, under the same rules and regulations, and in the same manner, as other counties in this State; and the said county of Marshall shall possess equal powers and privileges, in all respects, as other counties: Provided, nothing in this act shall be so construed (as) to deprive the counties of Bedford, Maury, Lincoln and Giles from having and exercising jurisdiction over the territory composing said county and the citizens thereof, in as ample manner as is now possessed, until the election and qualification of county officers for said county, as provided for by law; Provided, also, that nothing in this act shall be construed to prevent the courts in the counties of Bedford, Maury, Giles and Lincoln from rendering judgments, or the sheriffs of said counties from selling under such judgments, any lands or other property within the bounds of said county of Marshall, for taxes, cost and charges, for any proceeding year; nor to prevent said sheriffs from collecting any taxes already due for any preceding year; nor to levy and sell under any execution issued from any judgment already rendered, or to be rendered on any suit commenced interior to the organization of said county, in as ample manner as if this act had not been passed.

SECTION 4. That Richard Warner, Williamson Smith, Holman R. Fowler, George A. M'Bride and William D. Orr, are hereby appointed commissioners, a majority of whom shall be competent to net; and they shall, before the first day of April next, designate a place as near the centre of said county as an eligible site can be procured, and within three miles of the centre, at which they shall procure by purchase or donation, or otherwise, at least fifty acres of land, for which they shall cause a deed to be executed to them and their successors in office, and they shall return their proceedings to the county court of said county, and the same shall be recorded in the clerk's office.

SECTION 5. That it shall be the duty of the County Court of said county to appoint five commissioners, to whom the commissioners appointed by this act shall convey the land acquired for the use of said county, on which they shall lay off a town, with as many streets, at least eighty feet wide, as they shall deem necessary, reserving at least four acres for a public square, and a lot of one acre each for a jail, a male school or academy, a female school, and two acres for the erection of churches; and the said town, when so laid off, shall be known by the name of Lewisburg in honor of Merriwether Lewis.

SECTION 6. That the commissioners shall sell the lots in said town on a credit of at least twelve months, after giving due notice thereof in one or more newspapers in this State, and shall take bonds with sufficient securities, payable to themselves and successors, and shall make titles in fee simple, as commissioners to the purchasers of said lots.

SECTION 7. That the money's arising from the sales of said lots shall constitute a fund for defraying the purchase of said tract of land on which said town shall be located, and for the erection of public buildings.

SECTION 8. That the commissioners shall superintend the erection of the court house, jail, and other necessary public buildings, and shall let out such buildings as the county court of said county shall order to be erected, on such terms and conditions as said court shall direct, and shall take bonds with sufficient securities from the undertakers, payable to them and their successors, in the sum of \$10,000, conditioned for the faithful performance of their contracts.

SECTION 9. That before said commissioners cater on their duties, they shall take an oath or affirmation to execute all the duties enjoined on their faithfully and impartially according to the best of their knowledge and understanding; and shall moreover enter into land with sufficient security, payable to the chairman of the county court and his successors in office, in the sum of \$10,000 conditioned for the faithful performance of the duties enjoined on them by law, which bond shall be deposited in the clerk's office in the county court, and shall not be so construed as to render one of the commissioners security for another.

SECTION 10. That the commissioners shall keep a regular and correct statement of all moneys by those received and expended, which, when required, shall be exhibited to the county court, and when the necessary public buildings are completed, said commissioners shall pay over all surplus moneys to the county trustee for county purposes; and they shall be allowed by the county court a reasonable compensation for their services.

That the justices of the county court upon a majority of the whole number voting in the affirmative, may appropriate funds for the improvement of the public square and streets in the town of Lewisburg, the moneys therein ordered to be paid to the county trustee for county purposes, or any part thereof it they should deem proper.

Amended by: Acts of 1837-38, Chapter 202

SECTION 11. That the first five commissioners mentioned in this act shall receive three dollars for each day they may be necessarily engaged in performing the duties required of them to be paid by the trustee of said county of Marshall.

SECTION 12. That the county of Marshall shall be entitled to her rateable proportion of the common school and academy and internal improvement funds, in the same manner that old counties are entitled to the same.

SECTION 13. That on the first Thursday in April next, it is hereby made the duty of the sheriffs of Bedford, Maury and Lincoln Counties, by themselves and their deputies, to open and hold elections, for the purpose of receiving the voters of the qualified voters residing in each fraction taken from the several counties to form the said county of Marshall, at which election the polls shall be opened at 10 o'clock A.M., and closed at 4 o'clock P.M.; and no person shall vote at said elections except he has resided in the fraction taken off to form a part of said county of Marshall six months immediately preceding said election, in which the election shall be held, and those who wish to vote for the new county shall put "Marshall" on their tickets, and those against it shall put the words "Old County" on their tickets, and no vote shall be counted except the above named word or words be upon it; and shall any person vote at either of said elections not being a qualified voter or not residing in the fraction in which said election is held, such offender, on conviction thereof, shall forfeit and pay the sum of twenty dollars, to be recovered before any tribunal having cognizance thereof.

SECTION 14. That the elections for that fraction taken from Bedford shall be held at the house of Abner Houston and Chapel Hill; for that fraction taken from Maury, at James Davis, Cedar Spring, and at Galloway's near the Big Spring; for that fraction from Lincoln, at Thomas Short's and at Maulding and Goodrioh's stores.

SECTION 15. That immediately after the elections, the sheriffs of Lincoln, Bedford and Maury, shall make return to the Governor, a full statement of all the votes both for and against the establishment of the said county of Marshall; and if it shall appear that a majority of the qualified voters voting in each fraction taken from old counties to form said new county, the Governor shall forthwith issue his proclamation, setting forth that the said county of Marshall has become a constitutional county, and in that event, said county shall be immediately organized agreeable to this act.

SECTION 16. That a line may be run from the southwest corner of Marshall County to the Lincoln line, taking a part of Giles in the northeast corner of said county, not reducing Giles below her constitutional limits of six hundred and twenty-five square miles; and when so taken off, it shall be the duty of the sheriff of Giles county to hold an election in said fraction under the same rules, regulations and restrictions, as named in this act for other elections; and if, upon counting out the votes, it shall appear that a majority of the qualified voters voting in said fraction have voted in favor of becoming a part of Marshall county, the sheriff shall notify the Governor of that fact, who shall, by proclamation declare that said fraction of Giles county is a part of Marshall county: Provided, that before the sheriff of Giles county shall be permitted to open and hold an election in compliance with the provisions of this act, such persons as are interested shall exhibit a fair map of the county of Giles, showing that after the proposed reduction of said county, the said old county contains at least six hundred and twenty-five miles; said survey as he made by Mitchell K. Jackson of Franklin County, and in the event of his failure may act from any cause, then any competent surveyor residing in the county of Franklin, who shall make his return of said survey on oath: And provided, also, that Lincoln County shall not be reduced below as constitutional limits and the sheriff of Giles shall give ten days notice of the time and place of holding the election in the fraction taken from Giles, and that the election in that fraction shall be held on the last Thursday of March, 1836.

SECTION 17. That if that part of Giles named in this act should vote to become a part of Marshall county at any time prior to the holding of elections in the other fractions, so much territory as comes in Marshall county from Giles shall be stricken from the south part of the Lincoln fraction, and the remainder of the Lincoln fraction may vote themselves to Marshall county as provided for by this act, to hold the elections in said remainder agreeable to this act.

SECTION 18. That if the county of Marshall should be permanently established agreeably to the provisions of this act, it shall and may be lawful for officers of the General Assembly, to hold their offices and discharge the duties of the same for the time for which they were elected, and should there be vacancies in said county of Marshall, such vacant office shall be filled as the law directs; and it shall be the duty of the sheriffs of Maury county to hold the election to fill the same; and if any civil district or districts should be divided by the lines of the said county of Marshall passing through them, it shall be may be lawful for the county court of said county, and the courts of the several counties from which said county has been taken, to attach the said fractions to other districts in their respective counties, or form a district or districts of one or more fractions as said courts may think proper.

SECTION 19. That said county of Marshall shall be attached to the Middle division, and appeals, in the nature of writs of error, and writs of error shall be taken to the supreme court at Nashville; and said county of Marshall shall be attached to the sixth chancery district of the Middle division, the court for which is held at Shelbyville, in Bedford county; and said county of Marshall shall be attached to the eighth judicial circuit, and the circuit courts thereof shall be held on the fourth Mondays of March, July and November.

SECTION 20. That the justices of the peace elected for said county, may be qualified by any justice of the peace of any adjoining county, and that the first county court for said county shall be held on the first Monday in June next, and that said county shall in all respects be organized according to the laws passed at the present session of the General Assembly for re-organizing the State governments.

SECTION 21. That should the county of Marshall be established pursuant to the act, the judge of the eighth judicial circuit shall hold the first circuit court that comes on afterwards in the county of Lawrence, and the judge of the 11th circuit shall hold the second court, and ever afterwards the said judges shall alternately hold the circuit courts in the said county of Lawrence, in the order above specified.

Passed: February 20, 1836.

## BOUNDARIES

ACTS OF 1837-38

### CHAPTER 199

SECTION 1. That the western boundary line of Marshall county shall be altered in the following manner, (viz:) commencing at the point where the western boundary line now crosses Duck river, running thence with the meanders of Duck river down to the mouth of Cedar creek, thence running to the point in Dr. Anderson's field, where present boundary line; and, also the territory lying between the present line strikes the same, and thence with the present line, and the line herein established shall constitute part of the territory of Marshall county, and the citizens residing therein shall enjoy all the privileges and be subject to all the duties of other citizens of Marshall county. Provided, the sheriff of Maury county shall have right to collect any taxes which may not have been paid by the inhabitants residing in said territory, and to enforce payment of any judgment which has been heretofore rendered, or which may be rendered against any of them in any suit now pending in any court of Maury county.

SECTION 2. It shall be the duty of the sheriff of Marshall county, after giving twenty days notice of time and place to hold an election in that fraction of Marshall taken from Maury county, lying north of Duck river, and if a majority of the qualified voters residing in said fraction shall vote in favor of being again attached to Maury county, he shall make return thereof to the succeeding county court of Maury county, and said return shall be entered of record, and from the date of such record the said fraction shall constitute part of Maury county: Provided, that if the territory mentioned in this section shall be attached to Maury county, the sheriff of Marshall shall have all the powers therein which are conferred by the proviso to the first section of this act upon the sheriff of Maury.

SECTION 3. That the dividing line between the counties of DeKalb and White, running north from the four tree mile, on Dibrell's road, be so changed as to run with the line of the eighth district to the Jackson county line, leaving all the citizens residing in said eighth district in the county of White.

SECTION 4. That the line of Powel county as established by this General Assembly, be so changed as to exclude the long islands from said county and to leave them in the county of Sullivan.

PASSED: January 27, 1838.

BOUNDARIES

ACTS OF 1837-38

CHAPTER 272

SECTION 1. That the line heretofore run and marked, and now known as Cotner's line commencing at a point eleven and one half miles due west from Shelbyville, and running thence due north to the Williamson county line, and the line run and marked, and known as Bigham's line, commencing at the same point, and running thence in a southwardly direction to the Lincoln county line, be, and the same is hereby established and made the dividing line between the said counties of Bedford and Marshall.

SECTION 2. That nothing in this act shall prevent the sheriff of Marshall county from collecting any taxes or money due on judgments and executions, which may be in his hands for collection at the time of the passage of this act, within the territory over which the county of Marshall at this time exercises jurisdiction, but in all cases he shall proceed to collect the same as though this act had not been passed.

Passed: January 17, 1838.

## BOUNDARIES

ACTS OF 1841-42

CHAPTER 179

**COMPILER'S NOTE:** Section 1 deals with the county line between the counties of Knox and Grainger, and does not concern Marshall County.

SECTION 2. That the territory lying north and east of a line beginning at the south west corner of Marshall county, on the old line dividing Maury and Giles counties; running thence a south east direction to James Reynolds; thence to David Wilks; thence to Thomas Gills; thence south east, so as to strike the corner of Marshall county, south of Cornersville and Lincoln county line, be, and the same is hereby attached to said county of Marshall: Provided, that in running said line, Giles county shall not be reduced below six hundred and twenty-five square miles, to be ascertained by actual survey: and provided also, that a majority of the qualified voters living in said fraction, and voting in the election hereinafter provided for, shall vote in favor of being attached to said county of Marshall: Provided, that before that fraction of Giles county intended to be attached to Marshall county, shall hold any election, or by any other manner, be recognized as a part of Marshall county; said county of Marshall, or section so intended to be detached from and added to said Marshall county, at their cost, shall cause the county of Giles to be surveyed by a sworn surveyor, who shall not be a resident in either county, or fraction, and if, upon the actual survey of said county of Giles, it shall be ascertained that the said county of Giles will not be reduced below the constitutional number of square miles, then, and in that case, the said fraction shall compose a part of Marshall, as provided in this act; said surveyor shall make return of the plat and certificate to the Secretary of State, and the Governor shall make proclamation accordingly.

**COMPILER'S NOTE:** Section 3 repeals an act from 1836 to alter the dividing line between Marion and Hamilton counties and does not concern Marshall county.

**COMPILER'S NOTE:** Two "Section Fours" appear in this act. The first Section four establishes the dividing line between Marion and Hamilton counties to be the original line from November 3, 1833 and not the line from 1836 that was repealed in Section 3 of this act.

SECTION 4(sic). That the constable in the Cornersville District, in Giles county, shall open and hold an election at the town of Cornersville, at such time as he may appoint, after giving ten days notice at three of the most public places in said fraction, at which way qualified votes, being in said fraction, shall be entitled to vote, and should a majority of said voters vote in favor of being attached to said county of Marshall, the Territory lying South and East of said line, as aforesaid, shall be, and the same is hereby attached to Marshall county.

Passed: February 4, 1842.

## BOUNDARIES

### ACTS OF 1870

#### CHAPTER 34

SECTION 1. That the territory of Giles County lying north and east of the line beginning on the top of the ridge in Giles and Marshall County line, at the west end of Enoch Smith's farm, not far from Wesley Griffis; running thence, in a southern direction with a land, to the Bear Creek Church road; thence with said road to the mouth of the lane in the Cornersville and Lynnville road that divides the farm of P. T. Cox and Richard Wilkes; thence south with the Cornersville and Lynnville road to a large poplar in the road where the Cornersville and Lynnville road turns east; thence with the old Huntsville and Columbia road to the Christian Church near D. G. Ussey's, the same being the line of the seventeenth district of Giles County; thence with the said Huntsville and Columbia road and the civil district line, to what is known as the G. W. Day farm and Easlick's mills; then east, so as to strike the line that divides the lands of S. G. Marsh and W. W. Simmons, near the Cornersville and Pulaski turnpike; thence east with said Marsha and Simmons' line to the southeast corner of said Marsh's farm; thence north to the middle of Richland Creek; thence east up Richland Creek, meandering the same to the point where the Giles and Marshall County line crosses the creek near James Moore's shall be, and the same is hereby attached to and constitute a part of Marshall County.

SECTION 2. That the territorial fractions, taken from Giles and added to Marshall County by this act, shall continue liable for its pro rata of all debts contracted by Giles County before the passage of this act, and the said fraction shall be entitled to its proportion of any stocks or credits belonging to Giles County.

SECTION 3. That the State and County taxes of said fraction for the year 1870, shall be collected by the Tax Collector of Giles County, and when collected in said fraction, the county tax shall be paid to the County Trustee of Giles County, and constitute a part of the county revenue of Giles County.

SECTION 4. That as the public welfare requires it, this act shall take effect from and after its passage.

Passed: June 30, 1870.

## BOUNDARIES

The private act has often been used as a means for transferring parcels of land from one county to another, often because the boundary lines would bisect an individual landowner's property, placing the landowner under the jurisdiction of two counties. This type of boundary change was often very general in its description of the land transferred, without any metes and bounds description. The following is a summary of acts which authorized boundary changes for Marshall County.

1. Acts of 1837-8, Chapter 272, established the dividing line between Marshall and Bedford counties. The line ran from Cotner's line due north to the Williamson county line, to Bigham's line and then south to the Lincoln county line.
2. Acts of 1845-46, Chapter 31, changed the lines between Marshall and Maury Counties beginning at a point running south from Duck River, fifty feet north of William D. Baldrige's dwelling house, running thence west 50 feet; thence south 120 feet; thence east to the present line so as to include the entire dwelling house of the said Baldrige and to attach the same to Marshall County.
3. Acts of 1853-54, Chapter 181, changed the lines between Maury and Marshall counties so as to move the dwelling house of James W. Baird into Marshall County and declared him to be a citizen of that county.
4. Acts of 1855-56, Chapter 161, in Section One moved the farm of James Old from Maury County into Marshall County; in Section 3, transferred the residence and plantation of James M. Reynolds and George W. Wiles into Maury County; and in Section Four moved George Whitson's farm from Maury into Marshall County.
5. Acts of 1855-56, Chapter 173, rearranged the lines between Bedford County and Marshall County so as to include the entire farm of E. G. Hamilton in Bedford County.
6. Acts of 1859-60, Chapter 100, detached the residence and farm of M. H. Hughes from Marshall County and placed it into Williamson County.
7. Acts of 1859-60, Chapter 210, transferred the residence and out houses belonging to Nathan Landen from Maury County into Marshall County.
8. Acts of 1866-67, Chapter 9, moved the property of Thomas W. Brents from Bedford County into Marshall County. This act was repealed by Acts of 1867-68, Chapter 20.
9. Acts of 1867-68, Chapter 20, repealed Acts of 1866-67, Chapter 9, concerning Bedford County, and in Section 3 moved the farm of William Buchanan from Lincoln County into the 4th Civil District of Marshall County.
10. Acts of 1867-68, Chapter 60, changed the lines between Marshall and Rutherford Counties so as to include all the properties of Thomas Burnett, Sarah Johnson, W. A. McCord, and John Haily in Rutherford County.

11. Acts of 1870-71, Chapter 121, transferred the lands of John B. Wilkes and John Coffey to Maury County from Marshall County directing that taxes for 1871 be paid to Maury County.
12. Acts of 1875, Chapter 120, provided that the line between Marshall and Maury Counties be changed to run with the Franklin and Lewisburg Turnpike Road from Hardison's old storehouse to the south bank of the Duck River.
13. Acts of 1877, Chapter 165, changed the boundaries between Marshall and Williamson Counties so as to include in the 22nd Civil District of Williamson County the dwelling and outhouses of W. O. Smithson and N. J. Wood and the tracts of land upon they are located, and the 50 acres of land belonging to G. R. Rucker, which would be cut off thereby, is transferred to Marshall County.
14. Acts of 1879, Chapter 21, detached the lands of James Perry, Mr. Pollis, and D. W. Kincaid from Marshall County and attached them to Giles County. See Wilson v. State, 143 Tenn. 68, 224 SW 172 (1920).
15. Acts of 1879, Chapter 57, amended an 1870 act to throw all the lands of W. T. Marsh, or which are connected to that tract into Marshall County instead of Giles County.
16. Acts of 1883, Chapter 124, changed the boundaries between Rutherford and Marshall Counties so as to include fractions of the farms of S. B. Holt and J. A. Joice (sic) which now lie in the 8th Civil District of Rutherford County in Marshall County.
17. Acts of 1887, Chapter 48, altered lines between Marshall, Maury, and Williamson Counties so as to include portions of the farms of J. S. Flemming, W. P. Flemming, and S. C. Smithson lying in Maury and Marshall Counties in Williamson County.
18. Acts of 1889, Chapter 112, transferred the farm of Racine England from Marshall into Bedford County.
19. Acts of 1889, Chapter 129, moved about 25 acres belonging to George A. Reed and located in the 9th Civil District of Marshall County into Williamson County.
20. Acts of 1895, Chapter 216, has a rather meager description of the involved lands in Section 2 of the Act but actually moved the farms and homes of Mike Crawell, W. A. Crawell, Jasper W. Dickens, W. H. Moon, J. W. Hopkins, and J. P. Crawell into Bedford County from Marshall County.
21. Acts of 1899, Chapter 421, transferred the entire farms belonging to Erwin Purdom, S. R. Purdom, and Mariah Hardison from Maury County into Marshall County.
22. Acts of 1901, Chapter 307, changed the line between Marshall and Rutherford Counties so that the whole of the farms of W. F. Ogilvie and E. S. Hughes were included in Rutherford County.
23. Acts of 1901, Chapter 308, detached all the land belonging to T. M. Burgess, N. M. Smith, M. L. Burgess, W. N. Poarch, T. L. Poarch, James Gosnell, Mrs. S. J. Harris, and Mrs. Emma Moore from Giles County and attached them to Marshall County.

24. Acts of 1905, Chapter 28, moved the farms of J. S. Cainer and J. B. Smithson from Giles County into Marshall County.
25. Acts of 1905, Chapter 67, moved the land of T. M. Liles from Lincoln County into Marshall County.
26. Private Acts of 1907, Chapter 101, provided that the land now owned by Howard Fox and located in the 17th Civil District of Giles County be included in the 4th Civil District of Marshall County.
27. Private Acts of 1907, Chapter 490, moved the lands of J. E. Hopkins and Mrs. Sallie Brown, now in the 11th Civil District of Bedford County, into Marshall County and the lands of Sandy Moon and Elgin Cooper, located in the First Civil District of Marshall County were moved into Bedford County.
28. Private Acts of 1909, Chapter 101, directs that the present line between the counties of Giles and Marshall be changed so that the land now owned by Howard Fox who is in the seventeenth district of Giles County be included in the fourth civil district of Marshall county.
29. Private Acts of 1915, Chapter 384, was declared unconstitutional by the Tennessee Supreme Court in the case of Giles County v. Marshall County (1915), 133 Tenn. 415, 181 SW 308, because the Marshall County line in some places was less than eleven miles from the county seat of Giles County and the defect could not be cured by pushing the line back at those points.
29. Private Acts of 1925, Chapter 640, moved a certain tract of land belonging to G. W. Stallings situated in the Fourth Civil District of Marshall County, containing ten acres, more or less, into Giles County.

## **CHAPTER V - COURT SYSTEM**

## COURT SYSTEM

### BOARD OF JURY COMMISSIONERS - JURORS

All private acts creating county boards of jury commissioners were repealed by § 22-2-201 of Tennessee Code Annotated, except in Davidson, Knox and Hamilton counties. The general statutes dealing with jurors and juries can be found in T.C.A. title 22. County boards of jury commissioners are described in T.C.A. § 22-2-201, and the qualifications of a juror are listed in T.C.A. § 22-1-101.

The following acts once affected jurors or boards of jury commissioners in Marshall County, but are no longer operative. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Private Acts of 1907, Chapter 324, created a Board of Jury Commissioners for Marshall County who would be appointed by those Judges with criminal jurisdiction in the county. The three member Board would be composed of discreet freeholders, not lawyers or county officers who have no suit pending in court and no more than two of the same political party. They would take an oath and select one of their members Chairman. The Board would be served by the Circuit Court Clerk who would also be sworn to secrecy about jury lists. The Board would select from the rolls of the county a list of people equal to 1/5 of the voters of the last presidential election but no more than 4,000 nor less than 250 which would be initialed by all the members and be the official jury list for the next two years. Their names would be entered in a well bound book and also placed upon a scroll which would be placed in a box which would be locked and sealed, From 10 to 15 days prior to the opening of the term of court, the box's seal would be broken and a number of names chosen by a child under ten years of age. These would be the regular and grand juries for that term of court. These names would also be entered in a well-kept book and their names be certified to the Sheriff so that he could summon them to jury duty. Only the Judge could excuse them from service and he for the excuses only mentioned in the act. Provisions for special juries, and alternate jurors were set up.
2. Private Acts of 1911, Chapter 204, did not repeal the 1907 Act, above, but created another Board of Jury Commissioners along the same lines as that act but making a few changes. The number of names to be chosen would still equal one fifth of those votes cast in the last presidential election but were limited to no more than 1,000 nor less than 250. The remainder of this act contained the same provisions as the 1907 act, analyzed above. This act was expressly and entirely repealed by the one below.
3. Private Acts of 1947, Chapter 466, repealed Private Acts of 1911, Chapter 204, listed above, in its entirety without making any alternate provisions.
4. Private Acts of 1949, Chapter 544, provided that the County Court of Marshall County at its regular session next preceding the regular terms of court would appoint the 25 jurors to serve at the upcoming term. If the interest of the county should require, a larger panel then 25 may be selected but not to exceed 90. At least one juror would come from each Civil District, and the Justice may name this juror from his district if he is present in court. If he

is not present, the other justices will name them. If more than 37 are to be selected, the Justices shall name over that amount trying to be as equal in each district as possible.

5. Private Acts of 1949, Chapter 545, set the salary of the regular juror in Marshall County at \$4.00 per day plus all ferriage and toll fees allowed by law for each day's attendance as a regular juror. All of the above would be paid out of the regular county funds.
6. Private Acts of 1953, Chapter 342, was the next act creating a Board of Jury Commissioners for Marshall County. This act also had all the provisions and the same mechanics for compliance as were established in the 1907 and 1911 acts except the limitations placed on the number of names to be selected by the Board was no more than 1000 and no less than 800. Special or additional panels would be taken from the sealed box in the presence of the presiding Judge but in the same manner as before, all to take place in open court.
7. Private Acts of 1961, Chapter 16, set the compensation of all people serving as jurors of any sort in Marshall County at \$7.50 per day. This act was properly ratified by the Quarterly County Court, but was superseded by state law.

## COURT SYSTEM

### CHANCERY COURT

The chancery courts are the traditional trial level equity courts in Tennessee. Equity law deals with matters not traditionally addressed by the common law (case law) of the law courts or the statutory law. Equity acts when a traditional law court remedy is not adequate to reach a just result. In Tennessee, chancery courts have exclusive jurisdiction over some matters that are traditionally considered to be equity cases, but the statutory law has given chancery courts concurrent jurisdiction with the circuit courts over most civil cases.

Marshall County, under the provisions of § 16-2-506 of Tennessee Code Annotated, is part of the 17th judicial district. The general law on chancery courts is found in title 16, chapter 11 of Tennessee Code Annotated, and title 17 applies to judges and chancellors.

The following acts form an outline of the development of equity jurisdiction in Marshall 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 1835-36, Chapter 35, provided that the several courts of newly created Marshall County would be held at the house of Abner Houston, or at some other place to which the County Court was allowed to adjourn them, until the county seat were selected and the court house built. Marshall County was placed in the 6th Division of the Middle Division of the Chancery Courts with appeals therefrom being heard in Nashville.
2. Acts of 1839-40, Chapter 66, declared that Marshall County would constitute a separate Chancery Division in the Middle Tennessee Section of Chancery Court whose court would be held at the Court house in Lewisburg on the third Monday in February and August. The Court would be organized in accordance with the provisions of Public Acts of 1835, Chapter 41.
3. Acts of 1841-42, Chapter 9, provided that after the passage of this Act Chancery Court terms in Marshall County would begin on the second Monday in March and September, repealing that portion of Acts of 1839-40, Chapter 66, which required otherwise.
4. Acts of 1851-52, Chapter 178, changed court terms for most of the counties in the Middle Division of the Chancery Court of Tennessee. Marshall County's court would commence on the fourth Monday in February and August. The other counties mentioned in this Act were Wayne, Lawrence, Giles, Hickman, Humphreys, Dickson, Robertson, Maury, Williamson, Stewart, Montgomery, and Davidson.
5. Acts of 1855-56, Chapter 150, provided that the Chancery Court of Marshall County would be held beginning on the first Wednesday after the third Monday in February and August. The other sections of this act made changes in other chancery divisions.
6. Acts of 1857-58, Chapter 88, restructured the entire lower court system of Tennessee by creating the East, Middle, West, Fourth, Fifth, and Sixth Chancery Divisions. Marshall

County was assigned to the Middle Division with court terms scheduled to start at Lewisburg on the third Monday of February and August.

7. Acts of 1867-68, Chapter 64, amended the prior act creating the Fourth Chancery Division by adding Hickman and Lawrence Counties to the Fourth Division which also included Giles, Maury, Williamson and Marshall Counties. Court terms at Lewisburg in Marshall County would begin on the second Monday in May and November.
8. Acts of 1870, Chapter 32, created twelve Chancery Division in Tennessee. Marshall County was placed in the 8th Chancery Division with Williamson, Maury, and Giles Counties.
9. Acts of 1870, Chapter 47, declared court terms for all the respective Chancery Divisions of Tennessee. Marshall in the 8th Division was scheduled to start Chancery Court terms on the second Monday in May and November.
10. Acts of 1885 (Ex. Sess.), Chapter 20, divided Tennessee into eleven Chancery Divisions placing Marshall County in the Fourth Division with Warren, Cannon, Rutherford, Bedford, Franklin, Lincoln, and Moore and provided for Chancery Court terms to start in Lewisburg on the first Monday in May and November. This act was the basis of a lawsuit in Flynn v. State, 203 Tenn. 341, 313 SW2d (1958), but involved only the Criminal Court at Memphis.
11. Acts of 1887, Chapter 213, among other things changed the opening dates for the Chancery Court for Marshall County to the first Tuesday after the first Monday in June and December.
12. Acts of 1899, Chapter 427, reorganized the entire lower court structure for Tennessee. The State was divided into ten Chancery Divisions. The Fifth Division was composed of Rutherford, Bedford, Marshall, Williamson, Lincoln, Lawrence, Maury, Giles, Lewis, and Wayne counties. Court terms would begin in Marshall county on the first Monday in March and September.
13. Acts of 1901, Chapter 494, amended Acts of 1899, Chapter 427, by changing the Chancery Court terms in the 5th Chancery Division with Marshall County being scheduled to begin on the first Monday in February and August.
14. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, again reorganized the whole lower court system in the State, creating fourteen Chancery Divisions. Marshall County remained in the 5th Chancery Division which also now included Rutherford, Bedford, Moore, Lincoln, Giles, Maury and Lawrence Counties. Court would start in Marshall County on the first Monday in February and August. All acts subsequent to this one relating to the courts were printed in the separate volumes of public acts and many years were not researched.
15. Public Acts of 1968, Chapter 561, amended T.C.A. 16-241 by deleting the old Section and adding a new Section which showed the 5th Chancery Division being composed of Rutherford, Bedford, Lincoln, Moore, and Marshall Counties whose court term would begin on the first Monday in February and August where they have remained. See the statement at the beginning for the counties now in the 5th Chancery Division.

## COURT SYSTEM

### CHANCERY COURT

#### CLERK AND MASTER

The office of clerk and master of the chancery court is covered by title 18, chapter 5 of Tennessee Code Annotated and mentioned in article VI, section 13 of the Constitution of Tennessee, which provides that the clerk and master will be appointed by the chancellor. The salary of the clerk and master is determined in accordance with T.C.A. § 8-24-102.

The basic fee schedule for clerks of court, including the clerk and master, is found at T.C.A. § 8-21-401. Tennessee Code Annotated § 16-16-203 provides the authority for the clerks and masters who are serving as the clerks of probate courts to accomplish a variety of clerical and judicial acts involving the probate of wills and the administration of estates.

The reference list below contains acts which once applied to the clerk and master in Marshall County.

1. Private Acts of 1911, Chapter 392, fixed the compensation of the Clerk and Master in Marshall County using population figures, at \$1,000 a year, provided a sworn, itemized statement was filed with the County Judge, or Chairman, showing the total amount of fees collected in his office. If the fees were less than the salary, the county was required to make up the difference, but, if the fees were more than the salary, the Clerk and Master could retain the excess.
2. Private Acts of 1915, Chapter 591, declared that all women over 21 years of age who had been residents of the county appointing them for one year or more were eligible to serve as Deputy Clerks and Master with all the rights, powers, duties, and obligations as other Deputies.
3. Private Acts of 1929, Chapter 583, fixed the salary of the Clerk and Master of Marshall County at \$1,800 per year, payable \$450 per quarter, provided the Clerk and Master would file a sworn, itemized report every quarter showing the amount of fees collected in his office. If the fees were less than the \$450 the county would pay the difference, but if the fees were more, the excess would be carried over to the next quarter and applied. However, if the fees exceeded the \$1,800 on an annual basis, the Clerk and Master could retain them. This act was repealed by the one below.
4. Private Acts of 1933, Chapter 145, set the salary of the Clerk and Master in Marshall County at \$1,200 a year, payable \$300 a quarter under the same conditions regarding insufficient and excess fees collected as stated above. This act repealed Private Acts of 1929, Chapter 583.
5. Private Acts of 1945, Chapter 311, amended Private Acts of 1933, Chapter 145, by changing \$1,200 in Section One, Three, and Five to \$1,600, thus raising the salary of the Clerk and Master, and by changing the \$300 quarterly payment to \$400, and excluded the Clerk and Master's fee for making transcripts of records from those for which he was accountable in fixing his salary.

6. Private Acts of 1951, Chapter 706, amended Private Acts of 1933, Chapter 145, as it was amended by Private Acts of 1945, Chapter 311, by increasing the salary of the Clerk and Master from \$1,600 to \$2,400 annually, payable at \$600 per quarter instead of \$400 all other terms and conditions to remain as they were.

## COURT SYSTEM

### CIRCUIT COURT

The circuit court is the traditional trial level “law” court (as opposed to equity court) with broad civil and criminal law jurisdiction. Traditionally, the circuit courts (the “law” courts) applied the common law (case law) and the statutory law. The circuit courts continue to act as law courts, but Tennessee’s statutory law has given the circuit courts concurrent jurisdiction with the chancery courts in most civil matters. Circuit courts exercise criminal law jurisdiction as well as civil law jurisdiction in most counties in Tennessee, but in some counties a separate criminal court has been established.

Marshall County, by general law found in § 16-2-506 of Tennessee Code Annotated, is part of the 17th judicial district. Title 16, chapter 10 of Tennessee Code Annotated contains the general law applicable to the circuit court. Judges and chancellors are covered by title 17 of Tennessee Code Annotated.

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

1. Acts of 1835-36, Chapter 35, provided that the courts of newly created Marshall County would be held at the house of Abner Houston until the county seat had been selected and the court house built. The County Court could adjourn the courts to another location until that 8th Judicial Circuit and court terms would begin on the fourth Monday of March, July and November.
2. Acts of 1837-38, Chapter 116, changed the times for holding the Circuit Court in the 8th Judicial Circuit in the counties of Maury, Giles, Hickman, and Marshall County which was scheduled for the first Monday in February, June, and October.
3. Acts of 1837-38, Chapter 296, changed the starting dates for the Circuit Court terms in Giles and Marshall Counties. Marshall would begin Circuit Court on the first Monday of February, June, and October but the first term after the passage of this act would be held according to the old schedule.
4. Acts of 1845-46, Chapter 39, changed Circuit Court terms in Lewis, Hickman, Giles, Maury, and Marshall County which went to the third Monday in April, August, and December.
5. Acts of 1847-48, Chapter 132, changed the starting dates of the terms of Circuit Court in Hickman and Marshall Counties. Marshall County would start Circuit Court terms on the fourth Monday in March, July, and November.
6. Acts of 1849-50, Chapter 9, again altered beginning dates of the Circuit Court in Hickman and Marshall Counties. This time Marshall was slated to begin on the third Monday in April, August, and December.

7. Acts of 1851-52, Chapter 322, changed the Circuit Court terms on Marshall County so that they would begin on the second Monday in February, June, and October but again stating that the first term after this act would be according to the old schedule.
8. Acts of 1857-58, Chapter 98, reorganized the judicial structure of Tennessee into sixteen Judicial Circuits. Marshall County as in the 11th Judicial Circuit with Maury, Lewis, and Giles counties and court terms in Lewisburg would begin on the second Monday in February, June, and October.
9. Acts of 1865, Chapter 37, provided in this first post Civil War Act that Lawrence, Giles, Maury, Lewis, and Marshall Counties would constitute the 11th Judicial Circuit, changed the court terms in Lawrence County, attached Haywood and Madison Counties to the 15th Judicial Circuit and abolished the 14th Judicial Circuit.
10. Acts of 1866-67, Chapter 33, changed the starting dates for the Circuit Court terms in Marshall County to the first Monday in February, June, and October.
11. Acts of 1867-68, Chapter 64, changed court terms in the 11th Judicial Circuit in Hickman, Lewis, and Lawrence counties, but not in Marshall County.
12. Acts of 1867-68, Chapter 67, changed Circuit Court terms in Hickman and Marshall county whose court would start on the second Monday in February, June, and October.
13. Acts of 1870, Chapter 31, divided Tennessee into fifteen Judicial Circuits and the 9th was made up of Williamson, Maury, Giles, Lawrence, and Marshall Counties.
14. Acts of 1870, Chapter 46, set court terms for all the State's Judicial Circuits. Marshall County Circuit Court, in the 9th Circuit, was scheduled to begin on the second Monday in February, June, and October.
15. Acts of 1871, Chapter 73, created a separate Criminal Court in Williamson, Maury, Giles, and Marshall counties. These courts were given the criminal jurisdiction formerly exercised by their Circuit Courts but the Circuit Court Clerk would continue as the Clerk of this Court, and the Sheriff would attend and wait on this court as he did other courts. All the criminal case records would be certified to this Court and the County Court would summon a venire of Jurymen. Judges were permitted to interchanged and the regular Attorney- General of the 11th Circuit would prosecute the cases. The Governor would appoint an interim Judge until the regular Judge could be elected at the next general election. The terms of the courts were prescribed in the Bill. Marshall County's Criminal Court would start on the first Monday in April, August, and December, at Lewisburg. This Act was specifically repealed by Acts of 1877, Chapter 143.
16. Acts of 1877, Chapter 143, repealed Acts of 1871, Chapter 73, which created a separate criminal court for Williamson, Maury, Giles, and Marshall counties which would be effective on September 1, 1878, when all criminal jurisdiction would be returned to the Circuit Courts of those counties and all process revised accordingly. The Criminal Court docket in Marshall County would be taken up on the first Thursday of the Circuit Court Term and all matters will be attended to on that day.

17. Acts of 1879, Chapter 95, amended Acts of 1877, Chapter 143, Section 5, so that the Criminal Court docket in Marshall County shall be taken up on the second Monday of the Circuit Court term instead of the first Thursday and that day shall hereafter be the starting date for the criminal court.
18. Acts of 1885 (Ex. Sess.), Chapter 20, divided the State into 14 Judicial Circuits plus a special circuit in Shelby County. This special circuit in Shelby was the basis for the litigation in Flynn v. State, 203 Tenn. 341, 313 SW<sup>2</sup> 249 (1958). The 8th Judicial Circuit was composed of Wilson, Rutherford, Cannon, Bedford, and Marshall counties whose court terms would start in Lewisburg on the second Monday in April, August, and December.
19. Acts of 1887, Chapter 213, changed the terms of Circuit Court in Bedford and Marshall Counties. Marshall would start on the second Monday in March, July, and November. Section 3 of this act provided that the Judge of the Circuit Court would select a day upon which the criminal business of Marshall County would be taken up and this day could be changed from time to time by the Judge as the public interest may require.
20. Acts of 1891, Chapter 172, changed the terms of the Circuit Court in Marshall County from Tuesday after the second Monday in March, July, and November to Tuesday after the third Monday in the same months.
21. Acts of 1899, Chapter 427, redone the lower courts of Tennessee by dividing the State into fourteen Judicial Circuits placing Wilson, Rutherford, Bedford, Marshall, Cannon and Williamson Counties in the 8th Judicial Circuit. Terms of circuit court in Marshall County would begin on the Tuesday after the third Monday in March, July, and November.
22. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was the next reorganization of the lower court system. Tennessee was divided into twenty judicial circuits. The 8th Circuit consisted of Bedford, Cannon, Rutherford, and Marshall County whose court terms would begin on the Tuesday after the third Monday in March, July, and November.
23. Public Acts of 1963, Chapter 262, created a new Judicial Circuit by removing Bedford and Marshall Counties from the 8th Judicial Circuit and Lincoln and Moore counties from the 7th Judicial Circuit and combining those four counties into the new 23rd Judicial Circuit. Court would begin in Marshall County on the first Tuesday in March, July, and November. The Governor would appoint the first Judge and the Attorney General who would serve until the next general election when their successors would be elected and qualified. The Judge was authorized to employ a Secretary at \$300 a month, or less who would serve at the pleasure of the Judge and travel as he might direct.

## COURT SYSTEM

### CIRCUIT COURT

#### CLERK

The office of circuit court clerk is governed by the general statutes found in Tennessee Code Annotated, title 18, chapter 4. The salary of this office is determined in accordance with T.C.A. § 8-24-102.

The following acts have no current effect, but once applied to the Marshall County Circuit Court Clerk. They were repealed, superseded, or never received local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1903, Chapter 255, was a general law of the State establishing the salaries of the Circuit Court Clerks only according to population count. Marshall County's Circuit Court Clerk would have been paid \$750 per year under this law.
2. Private Acts of 1919, Chapter 775, was made applicable to Marshall County and to Warren County by using population figures. The act established the annual salary of the Circuit Court Clerk at \$900 provided he filed a sworn, itemized statement with the County Judge, or Chairman showing the total amount of fees collected by his office. If the fees were less than the salary, the county would make up the difference, but, if the fees exceeded the salary the Clerk could keep the excess.
3. Private Acts of 1923, Chapter 115, provided that the Circuit Court Clerk of Marshall County, using population figures, would get \$1,200 a year salary if he filed with the County Judge the statement mentioned above showing the fees collected and the conditions concerning excess and insufficiency remained as they were. This Act repealed Private Acts of 1919, Chapter 775.
4. Private Acts of 1929, Chapter 295, amended Private Acts of 1923, Chapter 115, by increasing the annual salary of the Circuit Court Clerk from \$1,200 to \$1,800 with all other terms and conditions to remain as they were. This act was repealed by the one below.
5. Private Acts of 1933, Chapter 143, repealed Private Acts of 1923, Chapter 115, as amended, and provided that the salary of the Circuit Court Clerk would be \$1,200 a year and he would be allowed \$10 a week, not to exceed two weeks per term of court for clerical or stenographical assistance. He must file a sworn, itemized report every quarter with the County Judge or Chairman, showing the total amount of fees collected in his office. If the fees were less than \$300 plus the amount actually expended for assistance the county would pay the difference. When accounts were reconciled at year's end, he could keep the excess, if any. This act was repealed by the one following.

6. Private Acts of 1947, Chapter 23, fixed the salary of Marshall County's Circuit Court Clerk, using population figures, at \$1,800 annually, payable \$450 per quarter, plus \$15 a week for clerical or stenographic help, not to exceed two weeks in each term of court, and the rules for reconciling the salary and accounts remained as they were. This act repealed Private Acts of 1933, Chapter 143, in its entirety.

## COURT SYSTEM

### DISTRICT ATTORNEY GENERAL

#### ASSISTANTS AND CRIMINAL INVESTIGATORS

The office of district attorney general, including assistant district attorneys and criminal investigators, is covered by title 8, chapter 7 of Tennessee Code Annotated. Section 16-2-506 of T.C.A. establishes the judicial districts of the trial courts and establishes the number of assistant district attorneys general and criminal investigators in each judicial district. According to T.C.A. § 16-2-506, Marshall County is in the 17th judicial district. Secretarial assistance to district attorneys is authorized, but subject to the approval of the executive director of the district attorneys general conference, the comptroller of the treasury, and the commissioner of finance and administration. T.C.A. § 8-26-101(2)(G) - (1)(K).

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

1. Public Acts of 1963, Chapter 265, created the office of assistant district attorney general for the 23rd judicial district of which Marshall County is no longer a part.
2. Public Acts of 1968, Chapter 527, created the office of an additional assistant district attorney general for the 23rd judicial district. The district attorney general was authorized a suitable person who must be at least the age of twenty-one, learned in the law, and licensed to practice law in Tennessee. This act no longer applies to Marshall County as it is now in the seventeenth judicial district.
3. Public Acts of 1977, Chapter 401, created an additional full-time position of assistant district attorney general for the 23rd judicial district. This act does not apply to Marshall County as it is no longer a part of the 23rd judicial district.

COURT SYSTEM

GENERAL SESSIONS, PROBATE, AND JUVENILE COURT

PRIVATE ACTS OF 1974

CHAPTER 344

SECTION 1. a. That there is hereby created a General Session, Probate and Juvenile Court in and for Marshall County, Tennessee. When exercising the jurisdiction conferred upon the General Sessions Court, the Court shall be designated the General Sessions Court of Marshall County, Tennessee; when exercising the jurisdiction conferred upon the Probate Court the Court shall be designated the Probate Court of Marshall County, Tennessee; and when exercising the jurisdiction conferred upon the Juvenile Court the Court shall be designated the Juvenile Court of Marshall County, Tennessee. When the term "Court" is used herein without qualification it shall, unless the context requires otherwise, refer to the Court herein created when acting as General Sessions Court, Probate Court, or Juvenile Court.

Marshall County, Tennessee, shall provide a court room in the Town of Lewisburg, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court, and pay for the same out of the general funds of said County.

b. Notwithstanding the foregoing, effective on the first day of April, 1997, the Probate Court of Marshall County shall cease to exist as a separate court and the jurisdiction of the Probate Court of Marshall County shall be transferred to the Chancery Court of Marshall County.

As amended by: Private Acts of 1996, Chapter 144.

SECTION 2. That

a. The General Sessions Court is vested with all of the jurisdiction and shall exercise all of the authority conferred upon Justices of the Peace, upon the Court of General Sessions of Marshall County, Tennessee, and now or hereafter conferred upon Courts of General Sessions by general law, in civil and criminal cases, suits and actions; and the Justices of the Peace of said County are hereby divested of all such jurisdiction and authority, but any Justice of the Peace of said County may issue criminal and search warrants against and accept appearance bonds from any person charged with an offense committed in the district for which such Justice of the Peace was elected, but all process issued by Justices of the Peace shall be returnable to the General Sessions Court of Marshall County, Tennessee. The authority of said Justices of the Peace of said County in their capacity as members of the Quarterly County Court, or in the performance of the rites of matrimony, is in no wise affected by this Act.

Said General Sessions Court shall also have jurisdiction, concurrent with the Circuit and Chancery Court, of all civil actions, legal and equitable, in which the amount in controversy does not exceed the sum of Five Thousand Dollars (\$5,000.00), exclusive of interest and costs.

b. Before the issuance of any warrant in any civil case, the plaintiff shall secure the costs by executing a cost bond with good security in a sum not less than Twenty-five Dollars (\$25.00), or by making a cash cost deposit of not less than Five Dollars (\$5.00) or more than Twenty-five Dollars (\$25.00), or shall take the oath prescribed for poor persons, and on motion, the Court may increase the amount of such bond or deposit.

c. The Rules of pleading and practice, forms a writs and process and stay of and appeals from judgments in civil cases of said General Sessions Court shall be the same as for Justices of the Peace, except where now or hereafter expressly provided to the contrary for Courts of General Sessions by general law, in which case said general law shall prevail.

d. In all matters the costs and fees of said General Sessions Court shall be the same as those provided for Justices of the Peace. The fees and other compensation of the Sheriff, his deputies, constables, game wardens and State highway patrolmen for the execution of writs and process of said General Sessions Court, and the attendance and mileage of witnesses shall be the same in said Court as those provided for the Courts of Justices of the Peace. The fees and compensation due for services rendered by said General Sessions Court shall be paid to the Clerk of said Court and by him accounted for as hereinafter provided. Said costs, fees, and mileage of witnesses, the fees, commissions and emoluments of the Sheriff, his deputies, constables, State highway patrolmen, game wardens and other officers, for services to said Court, and the fines and forfeitures adjudged by it shall be handled, accounted for and disbursed as required by law.

e. When any defendant is brought before said General Sessions Court charged with any crime or misdemeanor, it shall be the mandatory duty of the Judge of said Court to inform said defendant of his constitutional rights, and to advise him as to his right to employ and be represented by counsel and his right to make a statement or decline to make any statement, and to aid said defendant, in so far as it is necessary and reasonable, in contracting counsel and relatives or friends, and in procuring the attendance of witnesses.

f. Separate dockets shall be kept in said General Sessions Court for civil and criminal cases. Upon the Civil Docket shall be entered the style of each case, the date of issuance of the warrant or process, and the return of the process, in brief form, action of the Court on the case, both interlocutory and final orders, judgments, executions, garnishments, lists of the fees of the Court, the Sheriff, his deputies, constables, game wardens and State highway patrolmen for their services, fees of witnesses for attendance, et cetera, and credits for payments upon judgment and upon the costs. All cases shall be indexed and the dockets shall be substantially in the form of those of Justices of the Peace. The Criminal Docket shall be kept in a like manner.

g. The Clerk of the Circuit Court of said County shall act as Clerk of said General Sessions Court, and when acting as Clerk of said General Sessions Court shall be designated "Clerk of the General Sessions Court of Marshall County, Tennessee". The fees, commissions and emoluments of said General Sessions Court shall accrue to said County. The Clerk of said General Sessions Court shall pay to said County monthly all fees, commissions and emoluments of said General Sessions Court, and the same shall become a part of the general funds of Marshall County, Tennessee. The Clerk of said General Sessions Court and his deputies shall have concurrent authority with the Judge thereof to issue warrants and other process and writs, other than those which the law requires shall be issued only by a judicial officer.

h. The Sheriff of said County, or any deputy sheriff or constable thereof, shall serve legal process, writs and papers issued from said Court with the same authority as provided by law in regard to Justices of the Peace Courts.

i. All of the official dockets, records, and papers in cases that are undisposed of or pending in the Court of General Sessions of Marshall County, Tennessee, shall be delivered to said General Sessions Court.

j. Said General Sessions Court shall have authority to hear, determine and render final judgement in all undisposed of cases originating in the Court of General Sessions of Marshall County, Tennessee, as if such cases had originated in said General Sessions Court.

SECTION 3. That the Probate Court shall have jurisdiction over all matters over which jurisdiction is now or hereafter vested in Probate Courts; and jurisdiction over all probate matters over which jurisdiction is now or hereafter vested in the County Court of Marshall County, Tennessee, including but not limited to jurisdiction vested in the County Court by Tennessee Code Annotated, Section 16-709 through 16-713, inclusive; and Tennessee Code Annotated, Sections 34-1008 and 34-1017, inclusive; and the County Court of Marshall County, Tennessee, is divested of the jurisdiction conferred upon the Probate Court. All matters over which the Probate Court has jurisdiction, now pending in the County Court, shall be concluded in the Probate Court.

SECTION 4. That Juvenile Court shall have jurisdiction over all matters over which jurisdiction is now or hereafter vested by law in Juvenile Courts; and all Juvenile matters over which jurisdiction is now or hereafter vested in the County Court of Marshall County, Tennessee, including but not limited to the jurisdiction conferred upon said County Court by Tennessee Code Annotated Sections 37-201 through 37-281, inclusive; and the County Court of Marshall County, Tennessee, is divested of said jurisdiction. All Juvenile matters now pending in the County Court of Marshall County, Tennessee, shall be concluded in the Juvenile Court.

SECTION 5. a. That the Clerk of the County Court of said County shall act as Clerk of the Probate and Juvenile Courts and when acting as Clerk of said Courts shall be designated "Clerk of the Probate and Juvenile Courts of Marshall County, Tennessee". The Clerk shall, at the expense of the County, acquire and maintain a seal containing the designation "Clerk of the Probate and Juvenile Courts of Marshall County, Tennessee;" and minute books and other necessary records for said Courts separate and apart from the minute books and records of the County Court. All fees and charges in said Court shall be the same as fees and charges in County Courts and shall be collected, accounted for and disbursed as all fees and charges in County Courts.

b. The county legislative body of Marshall County by resolution duly adopted, shall cause the transfer of the clerking duties of the county clerk which relate to the Probate Court of Marshall County and the Juvenile Court of Marshall County in accordance with this subsection. The county legislative body shall transfer the clerking duties relating to the Probate Court from the County Clerk to the Clerk and Master when adequate space is available to accommodate this transfer, but not later than the first day of April, 1997, whereupon the clerking duties of the Clerk and Master relating to probate matters shall be conducted as part of Chancery Court jurisdiction in accordance with general law. The county legislative body shall transfer the clerking duties relating to the Juvenile Court from the County Clerk to the Circuit Court Clerk when adequate space is available to accommodate this transfer. When the Circuit Court is acting as clerk of the Juvenile Court, the Circuit Court Clerk shall be designated as the clerk of the Juvenile Court of Marshall County, Tennessee, and shall

acquire and maintain a seal containing such designation. The clerk of the Juvenile Court shall maintain records of this office separate from the other records maintained by the Circuit Court Clerk. Any less received by the Circuit Court Clerk when acting as clerk of the Juvenile Court shall be accounted for and disbursed as other fees of the Circuit Court Clerk.

As amended by: Private Acts of 1996, Chapter 144.

SECTION 6. That the Court herein created shall have jurisdiction to punish for contempt, concurrent with Circuit and Chancery Courts.

SECTION 7. That there shall be one Judge for said Court, who shall be a duly and legally licensed lawyer, with not less than Three (3) years experience in the general practice of law, and with all the qualifications and the same term of office as provided by the Constitution for inferior Courts, and the oath shall be the same as that provided for Circuit Judges and Chancellors.

SECTION 8. That the compensation of the Judge of said Court shall be Twelve Thousand Dollars (\$12,000.00) per annum, payable in equal monthly installments out of the general funds of Marshall County, Tennessee.

SECTION 9. That the Judge of the Court herein created shall be elected at the election for Judicial officers in 1974, and thereafter as provided by the Constitution of the State of Tennessee for Judges of inferior Courts.

SECTION 10. That the Circuit Court of Marshall County, Tennessee, shall have jurisdiction to exercise, by appeal or otherwise, appellate review of all proceedings of the Court created by this Act.

SECTION 11. That if the Judge of the Court herein created fails to attend, can not preside in a pending case or can not for any reason hold Court, a majority of the attorneys present may elect one of their number who has the qualifications of such Judge, and when elected he shall take the same oath and have the same authority as the regular Judge of said Court, to hold the Court and perform all of the duties of said Judge for the occasion.

SECTION 12. That in the case of a vacancy for any cause, the Governor shall have the power to appoint some qualified person to fill such vacancy until the first day of September following the next biennial August election occurring more than Thirty (30) day after the vacancy occurs or until his successor is qualified.

SECTION 13. That this Act shall not be construed to prohibit the Judge of the Court herein created from practicing law; provided that he shall be prohibited from practicing law in any matter over which the Court may exercise jurisdiction.

SECTION 14. That Private Acts of Tennessee of 1945, Chapter No. 466, the caption of which is set forth in the caption hereof, as amended by the Private Acts of 1951, Chapter 286 and the Private Acts of 1957, Chapter 312 is repealed. The Private Acts of 1933, Chapter 170 as amended by the Private Acts of 1951, Chapter 285, the Private Acts of 1937, Chapter 354, the Private Acts of 1945, Chapter 151 and the Private Acts of 1949, Chapter 836 and all other Private Acts relating to Marshall County are repealed in so far as, but only in so far as, they conflict with the provisions of this Act.

SECTION 15. That this Act shall not take effect unless approved by a Two-thirds (2/3) vote of the Quarterly County Court of Marshall County, Tennessee, prior to the election for Judicial officers held in 1974.

SECTION 16. That each Section, subsection, paragraph, and provision of this Act is severable, and that should any portion of the Act be held unconstitutional or invalid, the same shall not effect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the General Assembly declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 17. That this Act shall take effect on September 1, 1974; provided that the provisions hereof regarding the election of the first Judge of the Court shall take effect at the time of the election of Judicial officers in August of 1974, the public welfare requiring it.

Passed: March 25, 1974.

**COMPILER'S NOTE:** Tennessee Code Annotated Section 37-1-101(c) provides that Private Acts establishing juvenile courts are repealed to the extent that they are inconsistent with the Tennessee Code Annotated provisions. Tennessee Code Annotated Section 16-16-102 provides that Private Acts establishing courts of probate jurisdiction are repealed to the extent that they are inconsistent with some positive provision of Tennessee Code Annotated.

## COURT SYSTEM

### GENERAL SESSIONS COURT

The general statutes on courts of general sessions are found in title 16, chapter 15 of Tennessee Code Annotated. The purpose of this general law is to create a statewide system of general sessions courts, but T.C.A. § 16-15-501(c) expressly provides that counties may create general sessions courts by private act, giving them both the jurisdiction and powers conferred by general law and such further jurisdiction and power as each county may require. The salary of the general sessions judge is governed by T.C.A. § 16-15-5003. The compensation received by the general sessions court clerk is set by T.C.A. § 8-24-102.

The following acts once affected the general sessions court of Marshall County, but are no longer in effect and are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1945, Chapter 466, created a General Sessions Court for Marshall County to be located at Lewisburg but could entertain cases in other places. The act prescribed the jurisdiction of the court and divested the Justices of the Peace of all their jurisdiction except to issue criminal and search warrants for all those charged with an offense committed in the District. Separate dockets would be kept for the civil and criminal cases by the Clerk who would also be responsible for the fees. The first Judge would be appointed by the Governor but all others would be elected; the salary was \$1,800 per year but the Judge could continue to practice law. This act as amended was expressly repealed by Private Acts of 1974, Chapter 344.
2. Private Acts of 1951, Chapter 286, amended Private Acts of 1945, Chapter 466, in Section 3 by changing the requirements of an appearance bond by making it payable in cash and ranging from \$5 to \$25 and in Section 2 by giving the Justices of the Peace the authority to issue a mittimus to any arresting officer in case of the prisoner's failure to make bond.
3. Private Acts of 1957, Chapter 312, by striking the \$1,800 salary figure and substituting \$3,000 in Section 9.
4. Private Acts of 1974, Chapter 344, repealed expressly Private Acts of 1945, Chapter 466, Private Acts of 1951, Chapter 286, and Private Acts of 1957, Chapter 312. Further, Private Acts of 1933, Chapter 170, as amended by Private Acts of 1951, Chapter 285, Private Acts of 1937, Chapter 354, Private Acts of 1949, Chapter 151 were also repealed insofar as they conflicted with Private Acts of 1974, Chapter 344.
5. Private Acts of 1974, Chapter 170, repeals Chapter 547 of the Private Acts of 1949 and Chapter 18 of the Private Acts of 1961; and provides that the Justices of the Peace attending quarterly court in Marshall County shall receive twenty-five dollars per diem, and no mileage.
6. Private Acts of 1987, Chapter 13, repeals Chapter 170 of the Private Acts of 1974.

## COURT SYSTEM

### JUVENILE COURT

The Juvenile Court Restructure Act of 1982, as amended, is codified in Tennessee Code Annotated §§ 37-1-201 through 37-1-214. Its purpose is to provide adequate juvenile court services in every county. Tennessee Code Annotated § 37-1-203 provides that the general sessions courts shall exercise juvenile court jurisdiction except in counties or municipalities wherein juvenile courts are specially provided for by law.

Special juvenile courts may be created by law (private act) to exercise juvenile court jurisdiction in a county or in contiguous counties. Counties must provide funding for such special juvenile courts. T.C.A. § 37-1-205.

Clerks of general sessions courts are required to maintain separate minutes, dockets, and records for all juvenile matters in those counties in which the general sessions court is also the juvenile court. T.C.A. § 37-1-210. The clerk of a special juvenile court is a duly elected clerk of another court in the county designated by resolution of the county legislative body, except where a duly elected clerk is provided by law (private act or charter). Clerks of the special juvenile courts are given the same duties, authority and obligations provided for clerks of other courts of record. T.C.A. § 37-1-211.

Tennessee Code Annotated § 37-1-159 provides that the juvenile court shall be a court of record. Any appeal from final disposition of a case, except the transfer of a child to be dealt with as an adult under T.C.A. § 37-1-134, may be made to the circuit court for a trial de novo.

## COURT SYSTEM

### SECRETARIAL ASSISTANCE

Secretarial assistance to judges and chancellors is now provided on the basis of need by the administrative director of the courts, under the provisions of Tennessee Code Annotated § 17-1-401. Their salaries are set by the administrative director of the courts and the commissioner of finance and administration with the approval of the chief justice of the supreme court, under T.C.A. § 17-1-402. The general law provisions are now the sole authority for providing secretarial assistance to trial judges and chancellors.

## **CHAPTER VI - EDUCATION/SCHOOLS**

EDUCATION - SCHOOLS

BOARD OF EDUCATION

PRIVATE ACTS OF 1989

CHAPTER 95

SECTION 1. The Board of Education of Marshall County is hereby authorized to establish the date for the opening of the school term in such county.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Marshall County. 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 3. 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 2.

Passed: May 11, 1989.

EDUCATION - SCHOOLS

BOARD OF EDUCATION

PRIVATE ACTS OF 1961

CHAPTER 17

SECTION 1. That Members of the School Board attending meetings of the School Board in Marshall County, Tennessee shall be entitled to and shall receive Ten Dollars (\$10.00) per diem, and no mileage.

SECTION 2. That all laws and parts of laws in conflict with this Act, be and the same are, repealed.

SECTION 3. That this Act be submitted to the Quarterly Court of Marshall County at its next regular session. That if said Quarterly County Court approved this Act by two thirds majority, that this Act take effect from and after said approval, the Public Welfare requiring it.

Passed: January 26, 1961.

EDUCATION - SCHOOLS

BOARD OF EDUCATION

PRIVATE ACTS OF 1982

CHAPTER 282

SECTION 1. Private Acts of 1933, Chapter 147, and Private Acts of 1951, Chapter 62 are repealed.

SECTION 2. There are hereby created nine (9) educational districts for Marshall County, which shall be the same as the nine (9) county commission districts as Marshall County may now be constituted or may hereafter be constituted. Such educational districts shall be numbered the same as the county commission districts. Each educational district shall be entitled to one (1) member on the Board of Education as set out hereinafter.

SECTION 3. There is hereby created the Board of Education of Marshall County to be composed of nine (9) members to be elected by the qualified voters of each educational district of said county. Board members must reside in the educational district which they represent and possess the qualifications provided by law. Each member of the Board of Education shall hold office for a period of six (6) years from September 1, next following his or her election at the August General Election and until his or her successor shall be elected and qualified; however, current Board members presently holding office shall automatically continue in office for the term in which they were elected or appointed.

SECTION 4. That until their successors are elected and duly qualified, the following shall constitute and compose the Board of Education of said County:

Max Allen Jordan, for the First Educational District.  
John W. Turner, for the Second Educational District.  
Bill Gold, for the Third Educational District.  
Cornell M. King, for the Fourth Educational District.  
Claude McMillion, for the Fifth Educational District.  
Charles Cheatham, for the Sixth Educational District.  
Robert Webb, for the Seventh Educational District.  
Ed Daughrity, for the Eighth Educational District.  
Fred Stacey, for the Ninth Educational District.

In the August General Election in 1982, a Board member shall be elected for a six (6) year term from each of Districts 2, 5 and 8. In the August General Election in 1984, a Board member shall be elected for a six (6) year term from each of Districts 1, 4 and 7. In the August General Election in 1986, a Board member shall be elected for six (6) year term from each of Districts 3, 6 and 9. Successors elected thereafter shall be elected for six (6) year terms.

SECTION 5. Vacancies on the Board of Education shall be filled in the manner prescribed by law. Any Board member that is currently holding office, or hereafter holding office, that was

appointed to such Board of Education because of a vacancy on said Board, shall serve until the next General Election in August, at which time an election will be held for the unexpired portion of the term of the vacated member.

SECTION 6. The Board of Education shall have all the rights, powers, liabilities, duties and compensation as are provided for County Boards of Education under Title 49 of Tennessee Code Annotated or as otherwise provided by law.

SECTION 7. Nothing in this Act shall be construed as having the effect of removing an incumbent from office or abridging the term of any official prior to the end of the term for which he or she was elected or appointed.

SECTION 8. 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 and applications of the Act, which can be effective without the invalid provisions or applications, and to that end the provisions of this Act are declared to be severable.

SECTION 9. This act shall have no effect unless the same shall be approved by a two-thirds (2/3rds) vote of the county legislative body of Marshall County at or before its next regularly scheduled meeting following the approval of this Act by the Governor. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body of Marshall County and certified by him to the Secretary of State.

SECTION 10. 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 10.

Passed: March 18, 1982.

**COMPILER'S NOTE:** We are advised by the office of the Secretary of State that Private Acts of 1982, Chapter 282, was approved by the Marshall County Legislative Body on April 19, 1982, thus making the same effective.

## EDUCATION - SCHOOLS

### BOARD OF EDUCATION

General statutes regulating county boards of education and elementary and secondary education in the public schools may be found in T.C.A. title 49, chapters 1 through 6. County boards of education must be popularly elected to staggered four-year terms from districts of substantially equal population. The county legislative bodies are authorized to establish districts for county board of education members by resolution instead of having to rely on private acts for reapportionment. T.C.A. § 49-2-201.

Members of county boards of education must have a high school diploma or general education equivalent. However, a few counties are purported to be excluded by narrow population exception. Board members who fail to participate in state sponsored training are subject to removal by the commissioner of education. T.C.A. § 49-2-202.

The following acts once affected the board of education in Marshall County but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1907, Chapter 236, created a Board of Education for every county in the State, abolishing the District Directors of the school districts in the counties and establishing District Boards of Advisors to take their place. The County Court was required to divide their county into five school districts, composed of whole civil districts from which one member of the Board of Education would be appointed by the county court. The Superintendent of Schools would be Secretary to this Board. The duties of the Chairman, the Board of Education as a whole, the Secretary, and the District Advisory Boards are all enumerated in the Bill. Each member would report on the conditions of the schools in his area and the scholastic census. Some counties exempted themselves from the application of this act in Section 17 by the use of population figures according to the Census of 1900. This Act did not apply to city schools and was construed by the court in the case of Whitthorne v. Turner, 155 Tenn. 303, 293 SW 147 (1927).
2. Private Acts of 1911, Chapter 355, amended Public Acts of 1907, Chapter 236, Section 17, by striking out the figures 16,850 to 17,000 in Section 17 apparently with the intention of having it apply to Marshall County as is indicated in some works or private act. However, these figures do not apply to Marshall County whose population in 1900 was 18,763. Consequently Marshall County was not exempted from the 1907 Act.
3. Private Acts of 1915, Chapter 341, amended Public Acts of 1907, Chapter 236, Section 17, by striking out "16,850 and 17,000" and inserting in its place, "16,850 and 17,031," and "22,600 and \$22,670," according to the census of 1910, and these figures would include Marshall County whose 1910 population was 16,872, and the effect would be that the 1907 Act did not apply to Marshall County. Henderson and Bedford counties were the others involved. This Act was entirely repealed by the one following.

4. Private Acts of 1917, Chapter 134, repealed Private Acts of 1915, Chapter 341, which exempted Marshall, Bedford, and Henderson Counties from the provisions of the 1907 State Act on Boards of Education.
5. Private Acts of 1933, Chapter 147 created a Board of Education in Marshall County which allowed for seven members who would be elected from the seven electoral districts that existed in 1930. This act was expressly repealed by Private Acts 1982, Chapter 282.
6. Private Acts of 1949, Chapter 546, provided that members of the Board of Education in Marshall County would receive \$5.00 per day for every day's attendance at regular, called or special meetings of the Board. This Act was apparently superseded by Private Acts of 1961, Chapter 17, published herein.
7. Private Acts of 1951, Chapter 62 amended Private Acts of 1933, Chapter 147 by providing that the Board of Education for Marshall County should consist of eight districts. This act was expressly repealed by Private Acts of 1982, Chapter 282.

EDUCATION - SCHOOLS

MORGAN SCHOOL

PRIVATE ACTS OF 1927

CHAPTER 293

SECTION 1. That the County Board of Education of Lincoln County, Tennessee, and the County Board of Education of Marshall County, Tennessee, be, and they are hereby authorized to purchase jointly and equally the school property located at or near Petersburg, Tennessee, known as the Elizabeth Training School property, being property located in Lincoln County, Tennessee, and the Morgan School property being property located in Marshall County, Tennessee, and to own, control and repair the same at their joint and equal expense, and to pay for said property and any repairs and improvements made from time to time, and that they are further authorized in the purchase of said property to execute such note or notes, secured by a lien or liens on property to be so purchased as in the judgment of said County School Boards may be right and proper, note or notes so executed to bear interest at the rate of six percent (6%) per annum, payable annually, and said property to cost not exceeding Fifteen Thousand Dollars (\$15,000.00), said Town of Petersburg, being located in both the County of Marshall and the County of Lincoln.

SECTION 2. That the deeds for said property, when executed, in the event of the purchase of said property by said Boards of Education, shall be executed so as to make the title to such property so purchased, vest jointly and equally in said two Boards of Education, subject to the provisions and requirements of this Act.

SECTION 3. That the said Lincoln County Board of Education and the Marshall County Board of Education be, and they are hereby authorized to maintain, run and operate in said Morgan School Property, when so purchased, a four year High School at Petersburg, Tennessee, and that they are further authorized to cooperate in the operation of said School, and in paying the expenses of said High School, which expenses to be borne by said County Boards of Education in the proportion that the enrollment of students enrolled, the County Board of Education of Lincoln County, Tennessee, to pay such sum as will be its just proportion, based on the enrollment of students from Lincoln County, Tennessee, and the County Board of Education of Marshall County, Tennessee, to pay its just proportion of said operating expenses based on the enrollment of students in said High School from Marshall County, Tennessee.

SECTION 4. That said County Board of Education are authorized to maintain and operate at Petersburg, Tennessee, in what is known as the Elizabeth Training School property an Elementary School, the expense of the operation and maintenance of such school to be borne by the County Board of Education of said Lincoln County, Tennessee, and the County Board of Education of said Marshall County, Tennessee, in the proportion that the enrollment of students from Lincoln County, Tennessee, and Marshall County, Tennessee, shall bear to the total number of students enrolled, and as is provided for the expense of the operation of said High School.

SECTION 5. That in the event any part, or all of said property so purchased jointly as herein authorized by said County Boards of Education, shall be by said County Board of Education sold,

that the proceeds realized from the sale of such property shall be reinvested in other property in the Town of Petersburg, Tennessee, for similar School purposes.

SECTION 6. That a private school may be continued with the High School herein provided for in what is known as "Morgan School Property," provided and so long as the Trustees of what is known as said Morgan School may cooperate with said two County Boards of Education in a legal way, and maintain a legal standard of efficiency that will be acceptable to the two County Boards of Education, and said Board of Trustees of said Private School, and provided the Trustees of said Private School shall at all times bear and pay or provide or cause to be paid their full proportion of the expenses of said School.

SECTION 7. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: April 7th, 1927.

EDUCATION - SCHOOLS

MORGAN SCHOOL

PRIVATE ACTS OF 1951

CHAPTER 29

WHEREAS, Morgan School, a well known private preparatory school located at or near Petersburg, Tennessee, for more than sixty years, closed its doors and was sold under the hammer during the spring of 1950, and conveyed by deed dated April 17, 1950, executed by Henry Wade, Trustee, R. W. Morgan and R. K. Morgan, conveying the title to the real estate hereinafter described to Marshall County an one-half undivided interest, and unto W. W. Gill, his heirs and assigns, forever, an one-half undivided interest, for and in consideration of the sum of Forty Thousand (\$40,000.00) Dollars, cash in had paid, the receipt of which was thereby acknowledged, and which said deed appears of record in the Register's Office of Marshall County, Tennessee, in Deed Book L-4, Page 376, and also in the Register's Office of Lincoln County, Tennessee, in Deed Book M-6, Page 452, et seq., to which said deed reference is here had for particulars, said deed further reciting an option in favor of Lincoln County, Tennessee, to purchase the one-half undivided interest of W. W. Gill for the sum of Twenty Thousand (\$20,000.00) Dollars, plus accrued interest, upon the passage of this Act, and the real estate being conveyed by said deed being described therein as lying and situated in the corporate limits of the Town of Petersburg, Tennessee, in the 5th Civil District of Marshall County, Tennessee, and described as follows:

Beginning at a stake in a fence on the north side of the Lewisburg Pike and 40 ft., of the southwest corner of W. A. Moore's lot; thence North 25 degrees West 882 feet to a stake; thence South 65 degrees West 711 feet to a stake at the edge of a stone fence and at the edge of said pike; thence South 43¼ degrees East with the edge of said fence 823 feet to a stake on the turn of said pike; thence North 65 degrees East 450 feet to the beginning, containing 10.38 acres by survey made by E. L. conveyed to Morgan School, a corporation, by deed of W. B. Moore, dated July 1, 1919, and recorded in Deed Book J-3, Page 569, in the Register's Office of Marshall County, Tennessee; and being the same property conveyed unto Marshall County, its successors and assigns, an one-half undivided interest, and unto W. W. Gill, his heirs and assigns, an one-half undivided interest, by Henry Wade, Trustee, which said deed appears of record in the Register's Office of Lincoln County in Deed Book M-6, Page 452, et seq., and in the Register's Office of Marshall County, Tennessee, in Deed Book L-4, Page 376, to which said deed reference is here had for particulars; and

WHEREAS, the termination of the use of the physical properties of Morgan School for educational purposes would leave a considerable geographical section of Marshall and Lincoln Counties without adequate school facilities, and would necessitate the building of one or more additional schools by said two counties, jointly or separately, or in lieu thereof a corresponding increase in the present county school transportation problems of these two counties, necessitated by the transportation of young people from this area to other areas of said two respective counties where school are now existing; and

WHEREAS, because of the above recited facts, it would be economical, wise and fitting that said two counties of Marshall and Lincoln jointly purchase, own and operate said Morgan School

facilities as a school for the young people inhabiting this area of said two counties, except that the premises on which the said Morgan School was located lies entirely within the territorial boundaries of Marshall County, and enabling legislation is necessary before either of said two counties might purchase and own and control any interest in any properties lying outside of its territorial boundaries or might supervise and control a school outside its territorial boundaries; and

WHEREAS, at the aforesaid sale of Morgan School property the same was bid in by and conveyed to Marshall County, Tennessee, and to W. W. Gill, in one-half undivided interest, one-half undivided interest, with an option from said W. W. Gill to Lincoln County, Tennessee, to purchase said one-half interest upon the passage of necessary enabling legislation; and

WHEREAS, by action duly taken by the Quarterly County Court of Lincoln County, Tennessee, an amount was authorized to be appropriated, which said amount not to exceed \$30,000.00, with which to purchase said one-half interest in and to said property for the sum of \$20,000.00, plus accrued interest, the balance of the appropriation, or so much thereof as necessary, to be expended for necessary repairs, alterations and equipment required to operate said school as an approved grade school according to the regulations of the State Department of Education, said Quarterly County Court of Lincoln County, Tennessee, authorizing said monies to be borrowed temporarily from local banks on short term paper;

Now, Therefore,

SECTION 1. That Lincoln County, Tennessee, shall be hereby authorized to purchase, own and hold an one-half undivided interest in the property known as the Morgan School in the Town of Petersburg, in the 5th Civil District of Marshall County, Tennessee, and hereinabove described, by the exercise of option hereinabove recited, to purchase the one-half undivided interest in said property now owned by W. W. Gill for and in consideration of the payment of \$20,000.00, plus accrued interest from the date of the above said deed, to-wit, April 17, 1950.

SECTION 2. That Lincoln County, Tennessee, shall be authorized to pay for the said interest in said property and to make further expenditures, along with Marshall County, Tennessee, for personal property, equipment, repairs, alterations and/or improvements necessary and required to operate said school as an approved grade school according to the regulations of the State Department of Education, the aggregate initial expenditures of Lincoln County for the above purpose not to exceed \$30,000.00, and that Lincoln County be hereby authorized to appropriate said sum of not exceeding \$30,000.00, or as much hereof as may be necessary for said purposes, and to raise said amounts appropriated by regular tax levy or levies, and the financing of said transaction, or transactions, to be accomplished by the issuance and renewals of short term interest bearing warrants of the County and/or by bond issue now or later, or either or both, or otherwise as determined by the discretion of the Quarterly County Court of Lincoln County, Tennessee, in the same way and manner and with the same authority they would have if said property were located within the territorial limits of Lincoln County, Tennessee.

SECTION 3. That from the date of purchase of said interest in said property by the respective Boards of Education of Lincoln County, Tennessee, and Marshall County, Tennessee, shall have the right to jointly operate said school and to provide between themselves by specific written agreement entered into by each of said Boards of Education, and entered upon their

respective minutes for the supervision of said school, said operation and supervision to be in accordance with the rules and regulations laid down by the State Department of Education.

SECTION 4. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 18, 1951.

## EDUCATION - SCHOOLS

### SPECIAL SCHOOL DISTRICTS

The following act created a special school district in Marshall County that no longer exists.

1. Private Acts of 1909, Chapter 442 created a special school district in Marshall and Bedford Counties. The children living within the boundaries for this special school district as established in this act were to attend school in this special school district unless the county board of education otherwise directed. All public school pupils residing in the territory defined by this act were to receive the same per capita as every other student in the county. The school district was to have three directors with vested with all of the powers of the general school law of 1873.

## EDUCATION - SCHOOLS

### SUPERINTENDENT OR DIRECTOR OF SCHOOLS

After the passage of the Education Improvement Act of 1991, the elected office of superintendent of public instruction (county superintendent of education) was phased out. Replacing the superintendent is a director of schools, who is an employee of the county board of education; however, the continued use of the title superintendent is permitted. The director of schools is employed by the board under a written contract of up to four years duration under T.C.A. § 49-2-203(a). The duties of the director of schools are enumerated in T.C.A. § 49-2-301.

## EDUCATION - SCHOOLS

### GENERAL REFERENCE

The general state statutes regulating education are found in title 49 of Tennessee Code Annotated. Of particular interest to county officials are chapter 2 (Local Administration); chapter 3 (Finances); chapter 6, part 20 (School Property); chapter 6, part 3 (Elementary and Middle Schools); and chapter 6, part 4 (Junior and Senior High Schools).

The following acts constitute part of the administrative and political heritage of the educational structure of Marshall County but are no longer operative since they have either been superseded, repealed, or failed to receive local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1840, Chapter 104, Section 10, provided that the county courts of Bedford, Marshall, Franklin, Coffee and Warren counties were authorized in all cases where practical and in the public's interest where there was a conflict and interference between the boundaries of common school districts and townships containing school lands to appoint three Commissioners whose duty it would be to change the boundaries so as to constitute one school district, and report their decision to the County Court for affirmation. School money would be paid accordingly.
2. Acts of 1841-42, Chapter 22, provided that where fractional parts of Lincoln County had been laid off into common school districts, the commissioners therein shall be elected, qualified, and in all things governed in the same manner and by the same regulations applicable to commissioners of townships. They would each report the scholastic census of their areas to the County Court Clerk as required by law and the County Court would distribute the school funds according to this report. Section 3 of this Act made the entire law applicable also to Marshall County.
3. Acts of 1841-42, Chapter 121, Section 1, declared that James C. Record, George W. Haywood, James Osburn, Levy Cochran, Thomas Ross, Benjamin Williams and John Paxton were incorporated as Marshall Academy with all the rights and privileges incidental to corporations and all people who had made donations or contributed work to the Academy could vote for the seven Trustees to be elected.
4. Acts of 1849-50, Chapter 91, Section 4, authorized the Trustees of Lewisburg Academy to establish a branch of the said academy in Lewisburg for girls to share equally with the male branch in all monies on hand or to be appropriated, and in monies to be drawn from the county treasury in the future.
5. Acts of 1868-69, Chapter 65, Section 8, allowed the county court to sell the Male and Female academies lots in Lewisburg and the buildings to the highest and best bidder on a credit not to exceed 12 months with approved security. The proceeds would be held in trust by the Trustee who could lend the money out at interest but which would eventually be reinvested in real property by the academy. It was made the duty of the county court to rebuild the academies at a proper and appropriate time.

6. Acts of 1883, Chapter 161, authorized citizens living on either side of the line between Bedford and Marshall Counties in the neighborhood of the Palmetto Academy, and who were not conveniently located in relation to a school in their respective counties to form themselves into a school district by meeting at some appropriate place for voting and electing three school directors. The Sheriff would hold the election and certify the results. No more than two of the directors could live in the same county. This act was repealed by the Acts of 1905, Chapter 231.
7. Acts of 1901, Chapter 290, created a joint school district between Marshall and Maury Counties consisting of the 12th School District of Marshall County and the lands of Mrs. Huldah Harrison, Harve Clymore, Joel Clymore, W. R. Brown, R. G. Baxter, Jesse Lunsden, L. J. Ring, William Roberson, Mrs. Malissa Sharp, Jesse Cheek, Jim Wells, G. W. Harber, Calvin Hardison, A. C. Hardison, W. Jackson, Mrs. Caroline Shires, Mrs. Mattee Shires, and W. E. Elsteen in Maury County. School directors would be elected in an election held by the Sheriff who would certify the school census to each county court who would direct the Trustee to pay the district the pro rata share of school funds from each county. Any person holding a certificate from the superintendent of school in either county was eligible to teach in this school. This Act was repealed by Acts of 1903, Chapter 173, below.
8. Acts of 1903, Chapter 173, repealed Acts of 1901, Chapter 290, which created a special school district in Marshall and Maury Counties.
9. Private Acts of 1905, Chapter 231, repealed Acts of 1883, Chapter 161, which created the Palmetto School District.
10. Private Acts of 1905, Chapter 315, created a special school District with the same metes and bounds as School District #20 which shall also be called School District #20. Several families in Williamson and Rutherford Counties were given express permission to patronize the school. The County Superintendent of Marshall County would appoint the three Directors to serve until the next general election in August. This School District would receive its pro rata share of the school funds from all three counties.
11. Private Acts of 1905, Chapter 383, also created Special School District #19 which would have the same boundaries as old School District #51. The County Superintendent would appoint the three Directors and the Trustee would give them their share of school funds.
12. Private Acts of 1907, Chapter 442, formed a special school District in Marshall and Bedford counties composed of the territory in the farms belonging to Mrs. B. F. Chapman, Mrs. W. A. Montgomery, W. M. Phillips, W. A. Gold, W. M. Jennings, and W. T. Pardue, all of Marshall County, and T. J. Blackwell, Mrs. Mattee Darnell, S. B. Word, Hugh Smalling, David Glasscock, and Mrs. J. H. Glasscock all in Bedford County. The District shall have three Directors, as others did, and be given its pro rated share of school money.
13. Private Acts of 1923, Chapter 451, provided that the county Superintendent's certificates issued under the 1873 Act of the General Assembly, and all acts subsequent to and amendatory of that Act were made permanent in Marshall County and the holders of these certificates were declared exempt from further examination, if they were not out of office as County Superintendent or otherwise discontinue school work for more than three

successive years. This Act would in no way affect the duties or compensation of County Superintendents.

14. Private Acts of 1931, Chapter 222, amended Private Acts of 1923, Chapter 451, by making the Superintendent's certificates valid in every county of the State as well as permanent.
15. Private Acts of 1933, Chapter 148, abolished the office of Attendance Officer in the school system of Marshall County, Tennessee, and required the Sheriff, the Deputy Sheriffs, and the Constables of said county to execute all warrants and other process issued in cases arising under the compulsory school attendance law at the instance of the County Superintendent of Public Instruction all costs connected to the same to be taxes against the defendant.
16. Private Acts of 1933, Chapter 149, amended Private Acts of 1923, Chapter 451, by increasing the numbers of years a school Superintendent could be away from school work without having to be examined for a certificate renewal from three to six years.

## **CHAPTER VII - ELECTIONS**

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1905

CHAPTER 264

SECTION 1. That the County of Marshall in this State shall hereafter consist and be composed of five Civil Districts instead of Eighteen Civil Districts.

SECTION 2. That said five Civil Districts are established, and constituted, and embraced in the territory or portions of said county, described as follows:

Civil District No. 1 shall embrace, comprise, and include the territory in Civil Districts Nos. 8, 9, and 10 as now established and existing; Civil District No. 2 shall embrace, comprise, and include the territory in Civil Districts Nos. 6, 7, 16, and 11 as now established, and existing; Civil District No. 3 shall embrace, comprise, and include the territory in Civil Districts Nos. 5, 12, and 15, as now established, and existing; Civil District No. 4 shall embrace, comprise, and include the territory in Civil Districts Nos. 13, 14, and 17, as now established and existing; Civil Districts Nos. 1, 2, 3, 4, and 18, as now established and existing; Provided, however, that all election precincts now established and existing in said county, shall continue and shall be legal election precincts in and for the several Civil Districts of said county as herein and hereby established in which such precincts may be located until changed by lawful authority; Provided further, there may be more than one registration place in each district for the registration of voters, and such additional place or places to be designated by the County Court of said county; and Provided further, that all the several school districts and road districts in said county shall remain as now existing, until changed by lawful authority; and Provided further, that hereafter, in the election of School Directors, there shall be three Directors elected for each school district as now existing, or as may be hereafter created.

SECTION 3. That all laws or parts of law in conflict with this Act be, and are hereby repealed.

SECTION 4. That this Act take effect from and after July 5, 1906; Provided, that the present Justices of the Peace shall serve until their successors are elected and qualified.

Passed: April 6, 1905.

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1911

CHAPTER 14

SECTION 1. That the Acts of 1905, Chapter 264, be, and is hereby, amended by creating and establishing out of what is now the Fifth Civil District under said Act the Sixth Civil District of said county of Marshall, which shall embrace and include all of the territory embraced in and which compose the First, Eighteenth, and Second Civil Districts prior to and at the date of the passage of said Act of 1905, Chapter 264, creating the Fifth District as created by said Act to embrace and include only the territory included in the Third and Fourth Civil Districts of said county as they existed prior and up to the passage of said Act of 1905, and the boundaries of said Fifth and Sixth Districts are hereby fixes accordingly.

SECTION 2. That as soon after the passage of this Act as practicable an election be held by the Election Commissioners of said county in the manner and under the present requirements and restrictions of an additional Justice of the Peace for and of said Fifth and Sixth Districts, which shall serve as such until the next regular election for Justice of the Peace; and the present Justice of the Peace of said districts under this Act shall be and remain the Justice of the Peace of said Districts as constituted and established by this Act.

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

Passed: February 3, 1911.

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1915

CHAPTER 460

SECTION 1. That there be and is hereby created and established for and within the County of Marshall, in this State, a Civil District.

SECTION 2. That the boundaries of said Civil District shall be as follows: Beginning in the line between Marshall and Giles County, and the southwest corner of the land of A. B. Taylor, and the corner of the land of C. B. Clift, running thence with the line between said counties south 86-1/2 east 64-1/2 poles to center of Cornersville and Pulaski Pike; thence south 87-3/4 east 332-1/4 poles to the West boundary line of the lands of I. H. Fox, transferred from Giles to Marshall County in 1915; thence south 2 west 113-1/5 poles; thence south 85 east 66-4/5 poles; thence 10 west 20 poles to a set rock, a corner of the land of Trigg; thence south 87 east 36 poles to a rock in the public road, a corner of the Emerson land; thence with the center of said road, north 28 west 12 poles; thence north 9 west 29 poles; thence north 1, west 20 poles; thence north 3-1/2 west 24 poles; thence north 3 west 85 poles; thence north 58 east 12 poles; thence north 2 poles to the spring; thence north 77-1/4 east 10 poles to said road; thence north 21-1/4 east 30 poles; thence north 58-1/4 east 13-3/4 poles; thence south 87 east 24-24/25 poles thence north 3-1/4 east 153-3/5 poles to center of Richland Creek; thence up the center of said creek, north 47 east 15-1/5 poles; thence north 69-1/2 east 29 poles; thence north 52-3/4 east 25 poles; thence north 65-1/2 east 16-1/2 poles; thence north 43 east 20 poles; thence north 18 east 28 poles; thence north 44-1/2 east 5 poles; thence north 56 east 16 poles, thence south 61-3/4 east 13-1/2 poles; thence south 42-1/2 east 11 poles; thence south 53-1/2 east 25 poles; thence south 68-1/11 east 15-1/2 poles to a point in said creek, the northwest corner of the land of Davis Lordon transferred from Giles to Marshall County in 1903; thence south 2-3/4 west 220-2/5 poles; thence south 85-1/2 east 110 poles to center of road; thence with road south 13-1/2 west 78 poles; thence south 64-3/4 east 104-1/2 poles; thence south 9, west 17 poles; thence south 69 east \_\_\_\_ poles to a point in the field; thence south 8-1/4 west 80-3/4 poles to a point on top of the ridge; thence with said ridge south 87 east 32 poles; thence south 9-3/4 west 59 poles; thence south 5 west 52 poles; thence south 9-3/4 west 16 poles; thence south 87 east 11-3/5 poles; thence south 2-1/4 east 56 poles; thence south 86-1/2 east 74 poles to the old line between Giles County and Marshall, thence with said old line south 1-7/8 east 690 poles to the corner between Lincoln and Marshall; thence on same direction 505 poles to the center of the public road; thence with the center of said road, south 78-3/4 west 14 poles; thence south 64-1/2 west 52 poles; thence south 71 west 85 poles; thence south 64-1/2 west 52 poles; south 52-1/4 poles to the center of Bradshaw Creek in the line between the lands of S. J. Halling and B. R. Irwin, said creek bearing north 6 east 6-1/2 poles; thence north 39 east 30 poles, and also bearing from said corner south 6-1/2 west 16 poles; south about 45 west; thence west about 18 poles; north 15 west about 180 poles; north 25 west 613 poles; north 35 west 613 poles; north 45 west to the beginning, being that fraction taken from Giles County and added to Marshall, as shown in House Bill No. 821.

SECTION 3. That all persons being and living in said boundary shall be and constitute the seventh new civil district of Marshall County.

SECTION 4. That the election Commissioners for Marshall County shall order an election open and held on the first Thursday in August, for the purpose of electing for the Seventh Civil District of Marshall County, two Justices of the Peace and one constable, who shall hold their office until the regular August election next succeeding this election, or until their successors are elected and qualified.

SECTION 5. That this Act take effect from and after its passage, July 1, 1915, the public welfare requiring it.

Passed: May 13, 1915.

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1925

CHAPTER 75

SECTION 1. That the Acts of 1905, Chapter 264, be, and is hereby, amended by creating and establishing out of what is now the Fourth Civil District under said Act, the Seventh Civil District of said County of Marshall, which shall embrace and include all of the territory embraced in and which composed the Thirteenth and Fourteenth Civil Districts prior to and at the date of the passage of said Acts of 1905, Chapter 264, and creating the Fourth District by this Act to embrace and include only the territory included in the Seventeenth Civil District of said county as it existed prior and up to the passage of said Act of 1905, and the boundaries of said Fourth and Seventh Districts are hereby fixed accordingly.

SECTION 2. That the Justices of the Peace now residing within the territorial limits of the said Fourth District created by this Act shall be and remain the Justices of the Peace for said District; and that as soon after the passage of this Act as practicable an election be called and held by the Election Commissioners of said County of Marshall, in the manner and under the requirements and restrictions now prescribed by law, for two additional Justices of the Peace for and of said Seventh District, who shall serve as such until the next regular election for Justices of the Peace.

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

Passed: February 3, 1925.

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1951

CHAPTER 39

SECTION 1. That a new civil district be, and is hereby, created in Marshall County which shall be known and designated as the Eighth Civil District and which shall include and be composed of the territory which was embraced within the Old Fifth Civil District of said County prior to the enactment of the Private Acts of 1905, Chapter 264, and Act approved April 11, 1905, by the terms of which Act old districts Nos. 5, 12 and 15 were combined as the new 3rd district; that Belfast shall be the voting place in said new district; that on the Third Monday in March, March 19, 1951 a lawful election shall be held in said district, under laws governing the holding of elections in said County, for the purpose of electing two justices of the peace, one constable and one member of the County Board of Education, who shall serve until the next regular elections for such officers in Marshall County, their terms to coterminous with the terms of office of other such officers in said county.

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

Passed: January 23, 1951.

## ELECTIONS

### DISTRICTS - REAPPORTIONMENT

The general provisions concerning county organization are found in title 5, chapter 1 of Tennessee Code Annotated. Section 5-1-101 enumerates the counties and § 5-1-108 deals with the apportionment of the county legislative bodies into a maximum of twenty-five county commissioner districts within each county that is not under a metropolitan government charter. Under T.C.A. § 5-1-111, the county legislative bodies must make necessary district boundary changes or completely redistrict a county so that the members represent substantially equal populations based on the most recent federal census at least every ten years. Upon application of any citizen affected, the chancery court of such county has original jurisdiction to review and amend the apportionment or to order an apportionment where none has been made.

Maps and legal descriptions of the boundaries of the county commissioner districts may be found in one of the following offices: county clerk, county election commission, state coordinator of elections, secretary of state, and the division of local government, office of the comptroller of the treasury.

Civil districts by that name are no longer used as district boundaries for election of legislative body members. These civil district boundaries have been left undisturbed as they existed prior to the first reapportionment of the quarterly county courts for real property record-keeping purposes only. T.C.A. § 5-1-112.

The acts listed below have affected the civil districts in Marshall County, but are no longer operative regarding elections.

1. Private Acts of 1907, Chapter 224 directed that the line between the third and fourth civil districts in Marshall County be changed such that J. L. Beatty would be in the third instead of the fourth civil district.
2. Private Acts of 1911, Chapter 431, changed the line between the 3rd and 4th Civil Districts so as to include the farms of J. M. Robbins, P. A. McKnight, and J. N. Brown in the Third Civil District.
3. Private Acts of 1915, Chapter 620, changed the lines between the 3rd and 4th Civil District by moving the lands of P. S. Gipson, William Hood, and T. N. Scott from the 4th into the 3rd Civil District.
4. Private Acts of 1915, Chapter 622, also changed the borders between the 3rd and 4th Civil Districts by including all the lands of W. T. Allen, 24 acres belonging to C. R. Mullens next to Allen's, W. R. Hills, and J. H. Hills, Jr. in the 3rd Civil District.
5. Private Acts of 1917, Chapter 567, provided that the lines be changed between the old 14th and 15th Civil Districts so that the lands of E. O. Edwards be included in the 15th Civil District.

6. Private Acts of 1917, Chapter 568, changed the lines between the old 14th and 17th Civil Districts by moving the lands of M. A. Caneer into the 14th District.
7. Private Acts of 1919, Chapter 508, also altered the lines between the 14th and 17th Civil Districts by transferring 112 acres belonging to Marcus A. Cancer into the 14th Civil District. This was seemingly the same property mentioned in Item 5, above.
8. Private Acts of 1921, Chapter 226, changed the line between the 2nd and 3rd Civil Districts by moving 117 acres of S. N. Liggett into the 3rd Civil District, and further, changed the lines between the 3rd and 4th Civil Districts by detaching the farm of Thad Beasley and 59 acres of W. B. Adams from the 4th and placing both into the 3rd Civil District.
9. Private Acts of 1921, Chapter 486, changed the boundaries between the new 3rd and 4th Civil Districts by moving 305 acres of L. B. Fowler, 167 acres of O. K. Turner, 57 acres of W. B. Clift, 29 acres of J. F. Emerson, 17 acres of Mrs. Della Lawrence and 48 acres, which was part of the farm of E. N. Collins into the Third, and changed the lines between the 12th and 15th Civil Districts by moving the 100 acres of W. T. Thompson into the 15th Civil District.
10. Private Acts of 1923, Chapter 143, moved the 38 acres belonging to Mrs. M. N. Jordan from the 4th Civil District to the 3rd Civil District of the County.
11. Private Acts of 1923, Chapter 243, altered the lines between the 4th and 6th Civil District by moving 12 acres of W. T. Turner, 18 acres of W. C. Caneer, 16 acres of Joe Rutledge, and 50 acres of H. T. Cochran from the 6th District to the 4th Civil District.
12. Private Acts of 1923, Chapter 552, moved the farm belonging to E. D. Richardson, containing 99 acres, more or less, from the 13th Civil District to the 17th Civil District.
13. Private Acts of 1925, Chapter 186, changed the new 3rd and the new 7th Civil District so as to include the farms of J. D. Hill, N. C. Hill, and Mrs. N. P. Gipson in the new 7th District.
14. Private Acts of 1925, Chapter 249, was an exact duplicate of Private Acts of 1925, Chapter 186, above.
15. Private Acts of 1927, Chapter 649, changed the 2nd and 3rd Civil Districts by detaching the farm of F. B. Houston from the Second and placing it in the Third Civil District.
16. Private Acts of 1927, Chapter 758, also duplicated Private Acts of 1927, Chapter 649, above.

## ELECTIONS

Elections in Tennessee are now governed by the general statutes found in Tennessee Code Annotated title 2, chapters 1 through 19. Of particular interest to county officials is chapter 12, which covers the county election commission. The employment of administrator of elections and deputies by the county election commission is authorized by T.C.A. § 2-12-201. Tennessee Code Annotated, Section 2-12-208 sets a minimum salary for certified administrators of elections based on a percentage of the assessor's salary, and provides for certification tests, state contribution to each certified administrator's salary and other budget requirements.

Title 3, chapter 1 of Tennessee Code Annotated reapportions the state into senatorial and representative districts for the general assembly. Tennessee Code Annotated § 3-1-102 places Marshall County in the 34rd state senatorial district (along with Maury and Williamson counties), while T.C.A. § 3-1-103 places it in the 57th representative district. Marshall County is part of the 17<sup>th</sup> U.S. congressional district, under the provisions of T.C.A. § 2-16-103.

The following is a listing of acts for Marshall 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 1842 (Ex. Sess.), Chapter 1, apportioned Tennessee for the General Assembly. Marshall County would elect one Representative and share another with Bedford with the polls to be counted at Reynoldsburg. Marshall and Bedford would share the 12th State Senatorial District and the polls would be taken at Farmington in Marshall County.
2. Acts of 1842 (Ex. Sess.), Chapter 7, divided the State into eleven U.S. Congressional Districts placing Franklin, Lincoln, Bedford, and Marshall Counties in the 5th.
3. Acts of 1851-52, Chapter 196, divided Tennessee into ten U.S. Congressional Districts. The 6th was made up of Franklin, Bedford, Marshall, Lincoln and Maury Counties.
4. Acts of 1851-52, Chapter 197, apportioned the State for the General Assembly giving Marshall County one Representative alone and letting the county share another with Lincoln and Giles Counties and the ballots would be counted at the home of W. F. Smith. Bedford and Marshall would form one Senatorial District with the polls to be taken at Farmington.
5. Acts of 1865, Chapter 34, delineated the State into 8 U.S. Congressional Districts probably due to the decimation of the Civil War. The Fourth District was made up of Rutherford, Cannon, Coffee, Franklin, Lincoln, Bedford, and Giles Counties.
6. Acts of 1871, Chapter 146, was the state's apportionment according to the census of 1870. There were 25 Senatorial Districts of which Marshall, Franklin, and Lincoln Counties formed the 13th. Marshall would elect one Representative alone.
7. Acts of 1872, Chapter 7, created 9 U.S. Congressional District. The Fourth consisted of Franklin, Lincoln, Marshall, Bedford, Coffee, Cannon, and Rutherford Counties.

8. Acts of 1873, Chapter 27, also provided for ten U.S. Congressional Districts. The 5th was made up of Franklin, Lincoln, Marshall, Moore, Bedford, Coffee and Rutherford Counties.
9. Acts of 1881 (Ex. Sess.), Chapter 6, reapportioned the State for the General Assembly. Marshall County would elect one Representative and share one with Rutherford and Bedford Counties. Of the 33 Senatorial Districts Marshall County and Williamson County composed the 16th District.
10. Acts of 1882 (Ex. Sess.), Chapter 27, divided Tennessee into ten U.S. Congressional Districts. The Fifth was made up of Cannon, Coffee, Franklin, Lincoln, Moore, Marshall, Bedford, and Rutherford Counties.
11. Acts of 1890 (Ex. Sess.), Chapter 24, was a statewide election law applicable to counties over 70,000 in population and cities over 9,000 according to the 1880 census.
12. Acts of 1891 (Ex. Sess.), Chapter 10, apportioned the State according to the 1890 Federal Census. Marshall County would elect only one Representative to the General Assembly and share the 21st Senatorial District with Lincoln County.
13. Acts of 1901, Chapter 109, out of the ten U.S. Congressional Districts formed by this Act. The 5th was composed of DeKalb, Cannon, Rutherford, Marshall, Bedford, Coffee, Moore, and Lincoln Counties.
14. Acts of 1901, Chapter 122, placed Lincoln and Marshall Counties in the 19th State Senatorial District and provided that Marshall County would elect one Representative.
15. Private Acts of 1911, Chapter 13, amended the General Election laws of the State enacted in 1897 and primarily concerned with the registration of voters so as to exclude Marshall County from the requirement that voters be registered and that registration be a prerequisite to voting.
16. Private Acts of 1911, Chapter 40, seems to be an exact duplicate of Private Acts of 1911, Chapter 13, which is mentioned above.
17. Private Acts of 1961, Chapter 307, set the per diem of all election officials in Marshall County at \$5 per day. This Act was properly ratified and became law until it was superseded by the 1972 Act, Adjourned Session, which set a minimum of \$15 per day for election officials.

## **CHAPTER VIII - HEALTH**

## HEALTH

For the general statutes relating to health, see Tennessee Code Annotated title 68, with particular reference to chapter 2 (Local Health Services). Chapter 2 provides for the creation of county and district health departments, boards of health, and cooperation between counties and cities in the establishment of such departments and boards. It also details the operation and financing of local health services. See volumes 14, 15 and 16 (Combined General Index) of T.C.A. for reference to statutes on specific health topics.

## **CHAPTER IX- HIGHWAYS AND ROADS**

HIGHWAYS AND ROADS

PRIVATE ACTS OF 1955

CHAPTER 238

SECTION 1. That Chapter No. 337 of the Private Acts of the General Assembly of the State of Tennessee for the year 1953, the caption of which Act is set forth in the caption of this Act, be and the same is hereby repealed.

SECTION 2. That this Act shall apply to Marshall County, Tennessee.

SECTION 3. That for the purpose of providing an efficient system of laying out, building, constructing, re-constructing, maintaining and repairing of public roads in Marshall County, Tennessee, public roads in said county shall be classified as Federal Aid Roads, State Maintained Roads and County Maintained Roads.

SECTION 4. That the Office of County Road Superintendent shall be a person not less than twenty-one (21) years of age and of good moral character and shall be a graduate of an accredited school of engineering or shall have had at least five (5) years of practical experience in a supervisory capacity in the construction or maintenance of public roads, except that the experience and educational requirements set out herein shall not be construed to prevent an incumbent County Road Supervisor from succeeding himself in office without limitation as to the numbers of terms. The County Road Superintendent shall be elected by the qualified voters of Marshall County at the regular election held in August 1974, to take office September 1, 1974. His term and those terms of all succeeding County Road Supervisors shall be four (4) years.

As amended by:       Private Acts of 1974, Chapter 344.

Before beginning the performance of the duties of the said Office, the County Road Superintendent shall execute a good and solvent bond, to be approved by the County Judge, in the amount of twenty thousand dollars, for the faithful performance of his duties and for a proper accounting of all property of the County coming into his hands. And he shall take an oath to support the Constitution of the United State of America, and the Constitution of the State of Tennessee, and to faithfully and impartially perform the duties of his Office, to the best of his ability.

The County Road Superintendent shall be paid an annual salary equal to that authorized for the compensation of the county assessor of property as set out in Tennessee Code Annotated, Section 8-2405, which shall be payable in twelve (12) equal monthly installments, drawn by the County Judge on the general road fund provided for in this Act.

As amended by:       Private Acts of 1967, Chapter 254  
Private Acts of 1972, Chapter 297  
Private Acts of 1974, Chapter 347.

In the case of the death, resignation, removal, or vacancy for any cause, in the Office of County Road Superintendent, the Quarterly County Court of said County shall elect another

qualified person to fill said vacancy, who shall hold said office for the remainder of their term, and until his successor is duly elected and qualified.

SECTION 5. The County Road Superintendent shall keep on file in his office a statement showing the various road sections in the several civil districts and also such road sections as are partly within one district and partly within another; and said County Road Superintendent shall make report to the Quarterly County Court of said County at the regular quarterly sessions thereof, in which report he shall make an itemized statement of the expenditures or disposition of all road and bridge funds during the preceding quarter, showing in said report to whom such funds have been paid and the amount paid each person, and for what materials or services the same were paid, and on what roads and bridges said services were performed.

As amended by: Private Acts of 1978, Chapter 186.

SECTION 6. That it shall be the duty of the County Road Superintendent to determine the roads and bridges to be built, worked or maintained, and the necessary changes if any to be made in any roads or bridges, to supervise the rural road construction and maintenance in said county. Said County Road Superintendent shall have general supervision of all road work, maintenance, repairing, constructing, grading and drainage of county roads, and the building and maintenance of all bridges, not maintained by the State of Tennessee, or the Federal government. Said County Road Superintendent shall determine and recommend to the purchasing agent the machinery, materials, tools, equipment and supplies required for the construction and maintenance of county roads and bridges. It shall be the duty of the County Road Superintendent to employ such laborers, supervisors, mechanics, and other workers as in his judgment may be necessary for the construction and maintenance of all county roads and bridges, and to fix their compensation. But no person shall be employed by said County Road Superintendent who is related to him by affinity or consanguinity within the third degree according to the civil law.

As amended by: Private Acts of 1959, Chapter 18.  
Private Acts of 1972, Chapter 297

SECTION 7. That all warrants drawn on any general or special road fund, or gasoline tax fund, or bridge fund of said county, shall be signed by the County Road Superintendent, counter signed by the County Judge or Chairman, otherwise to be void, and it shall be a misdemeanor on the part of the County Trustee to honor or pay out any sum of money on any warrant not so signed and countersigned.

SECTION 8. That it shall be the duty of said County Road Superintendent to negotiate with the Highway Department of the State of Tennessee for the rental or lease of machinery or other equipment if necessary to proceed with road work in said county. The County Road Superintendent shall have the general supervision of the expenditure of the gasoline money received from the State of Tennessee, and all other revenue that may be available for the improvement of county roads and bridges.

However, the County Road Superintendent shall make no contract or agreement to lease, rent, or hire, and he shall not make any purchase or contract or purchase any material, equipment, machinery, tools, gasoline or other fuel, tires, supplies or articles of any nature or description, in any amount; and he shall not exchange any equipment or material, without first obtaining the written approval of the County Judge of said County; and in no event shall any such contract, agreement or

purchase be made unless there are at the time thereof sufficient road funds in the hands of the County Trustee available for immediate cash payment thereof; and upon delivery of any such material, equipment, machinery, tools, gasoline or fuel, tires, supplies, or articles of any nature or description, said County Road Superintendent shall immediately and forthwith issue and deliver to the seller, or sellers, or contractors, a warrant or warrants in payment therefor, which warrant or warrants shall be countersigned by the County Judge. Any contract or agreement made contrary to the provisions of this section shall be void.

SECTION 9. That said County Road Superintendent shall not lend himself, his office, nor any of his employees or any county owned equipment, material; nor shall he use the same, for the purpose of working upon, repairing, maintaining or constructing any road, roadway, or driveway, or otherwise making any improvement, upon any privately owned property. Any if any employee of the County shall violate this provision, it shall be the duty of the County Road Superintendent to immediately discharge him, and the duty of the County Judge to refuse to sign any warrant for pay for services rendered after said violation.

SECTION 10. That the Superintendent of the workhouse in said County, shall be the Sheriff of the county, who shall serve ex-officio and without additional compensation, as provided by law in such counties as have declared the county jail to be the workhouse or in counties where the jail is used as a workhouse. And it shall be the duty of the superintendent of the workhouse to turn over or deliver to the County Road Superintendent the custody and control of all workhouse prisoners that have been or may hereafter be committed to the workhouse whenever the said County Road Superintendent shall demand them for the purpose of working said prisoners on the roads of the county. Nothing in this Act shall be construed so as to release the sheriff or jailer from any responsibility for such prisoners which may be now or hereafter imposed by law, except when such prisoners are actually working or going to and returning from work or are under the direction of the County Road Superintendent. It shall be the duty of the County Road Superintendent to work all of the prisoners committed to the workhouse upon the roads of the county, except such prisoners as are physically unfit for hard labor, and excepting female prisoners; but prisoners shall not be required to work during periods rendered unsuitable and unfit by weather conditions.

The County Road Superintendent shall have the power and authority to employ such guards as may be necessary to safely keep said prisoners while working and going and returning from work.

SECTION 11. That it shall be the duty of the County Road Superintendent to file on the first day of each Calendar month with the County court Clerk, an itemized account containing the names of all workhouse prisoners he has worked during the preceding month and the days and parts of days worked by each, together with an itemized account of all expenses incurred in transporting them to and from work, and which account so rendered and filed include a statement of the amount due for board of said workhouse prisoners during the preceding month, which board account shall be according to that rate fixed and prescribed by the Quarterly County Court as provided by law; provided, however, that the board for any prisoner or prisoners of the workhouse shall not be included in this statement, nor paid thereunder, unless said prisoner was committed to said workhouse under a mittimus properly issued by a Court of proper and competent jurisdiction in said county; and said County Court Clerk shall place the same upon the appropriate docket of the county court and the accounts so certified and filed shall be paid out of the general road fund for said county court; and the accounts so certified and filed shall be paid out of the general road fund for said county, by warrant drawn on said fund issued and signed by the County Road Superintendent and countersigned by the County Judge. Provided, however, that no turnkey fees shall be paid out of

said general road fund, and no board shall be paid out of said road fund for any female prisoner or any prisoner physically or mentally unable to perform hard labor.

SECTION 12. That all applications to open, change, close or restore to the public use any and all county public roads, shall be made by written petition to the County Road Superintendent, stating the district or districts in which the road is located, or is to be located, giving a complete description of the present road and the desired change or changes, and shall also state the names of the landowners to be affected thereby. The County Road Superintendent shall, within ten days after the application has been filed with him, notify the owners of land affected by said change, of the date on which he will be present at the beginning point mentioned in said petition, to act on the application. If any landowner affected by the proposed change is a non-resident of Tennessee, then such notice shall be given to his agent or attorney residing in the county, and such notice shall be binding on the landowner. The County Road Superintendent shall attend at the appointed time and place if he has given the proper notice as required herein, and he shall act upon the application, assess the damages, if any, against the county and report his action to the Quarterly County Court, and file with his report the original application or petition and notice to landowners and a full report of his action on the same, stating the new location of the road so opened, changed or closed, and the amount of damages allowed to the parties damaged.

The County Road Superintendent may adjourn the hearing in such cases from time to time and summon witnesses through the sheriff or his deputies and shall have power to administer oaths to witnesses. All findings of the County Road Superintendent shall be in writing and certified to the Quarterly County Court. The County Judge or chairman shall have the petition and the report entered upon the record in the Office of the County Court Clerk and the amount of damages entered upon the appropriation docket; and there shall be appropriated a sufficient amount of money to pay all damages to landowners affected, and warrants issued to the proper parties therefor. Any party or parties dissatisfied with the action of the County Road Superintendent in the premises may appeal to the next term of the Circuit Court of Marshall County, provided the appeal is perfected within ten days from the date of the appropriation for damages.

The County Road Superintendent may of his own motion and upon his own initiative, refuse to consider any petition so filed, or may open, change, close or restore to the public use any and all roads without a petition, by observing all of the essential requirements as set out above in the case of petitions.

The County may condemn said necessary rights of way by the procedure provided by the Statutes of Eminent Domain of the State of Tennessee.

SECTION 13. That the County Road Superintendent shall not contract with himself or with any member of the Quarterly County Court or any other public official of Marshall County, Tennessee, in any manner, either directly or indirectly, for any material or in any manner pertaining to the construction, maintenance and repair of roads or bridges, or with any one related to himself by affinity or consanguinity within the third degree according to the civil law.

SECTION 14. That the Quarterly County Court of Marshall County, Tennessee shall at the January term of said Court, each year, levy for road purposes an ad valorem tax of not less than five cents nor more than twenty cents on each one hundred dollars worth of taxable property in the county, to be collected by the county trustee; provided, that the ad valorem tax on merchants shall be collected by the county court clerk.

In adopting the budget of the county road system for the fiscal year July 1, 1983, through June 30, 1984, and annually thereafter, the legislative body of Marshall County shall make provisions in the budget for local revenues for county road purposes; such provisions shall be in a maximum amount as determined by such legislative body, but such provisions shall not be less than an amount equal to at least ten cents (10¢) on the local county tax rate.

As amended by: Private Acts of 1974, Chapter 347  
Private Acts of 1983, Chapter 13.

SECTION 15. That all taxes collected from the above tax source or other sources for county road purposes, and other road taxes, except the gasoline tax fund, collected for or received by the county through the State or any of its agencies, shall constitute the general road fund of the county.

SECTION 16. That all contracts between said county for the grading of roads, construction and maintenance thereof, and for construction and repair and maintenance of bridges, and all other forms of improvements on the county roads and bridges shall be signed on behalf of the county by the County Road Superintendent, in triplicate, one copy to be kept on file in the Office of the County Court Clerk, one to be kept by the Purchasing Agent of the County, and the other given to the contractor.

SECTION 17. That if any sections or portions of this Act are declared unconstitutional such section or portion of the Act shall be considered severable, and the remainder of this Act shall remain 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 portion or part had not been included herein.

SECTION 18. That all laws and parts of laws applying to Marshall County, Tennessee in conflict with this Act, be and the same are hereby repealed.

SECTION 19. That it shall be the duty of the County Road Supervisor to prepare a five (5) year construction and improvement program which shall be revised and updated at the beginning of each succeeding fiscal year. The priorities for the proposed improvements shall be established based on traffic, functional classifications, and the desirable levels of service and safety necessary for educational, religious, industrial and other institutions and establishments.

As amended by: Private Acts of 1974, Chapter 348.

SECTION 20. That this Act shall have no effect unless the same shall be approved by a majority of the voters voting in an election to be held for such purpose. Such election shall be held at every voting place in Marshall County at the same time as the regular election for County officers in August, 1956, and it shall be the duty of the Election Commissioners of Marshall County to cause separate ballots to be printed containing nothing save the title of this Act. Voters shall vote for or against its adoption. The votes cast at such election shall be canvassed by the County Board of Election Commissioners upon the first Monday following the election and the results shall be proclaimed by such Board and certified to the Secretary of State. The qualification of voters shall be that provided by law for participation in general elections and all laws applicable to general elections shall apply to an election held hereunder.

SECTION 21. That Section 19 shall take effect from and after the passage of this Act, the public welfare requiring it. The remaining portions of this Act, if the same is approved in

accordance with Section 19, shall take effect on the first Monday following the regular election in November, 1956. In the event this Act is approved by a vote of the people, the present members of the County Highway Commission shall hold over until the next Monday following the general election in November, 1956, and until that date shall function under the Private Acts of 1953, Chapter 337.

Passed: March 8, 1955.

**COMPILER'S NOTE:** Part of this act may have been superseded by the County Uniform Highway Law. See Tennessee Code Annotated, Title 54, Chapter 7.

## HIGHWAYS - ROADS

General law on highways and roads can be found in title 54 of Tennessee Code Annotated. In 1974, the general assembly enacted the "County Uniform Highway Law," which has had a substantial effect on road law in Tennessee's counties. Found in title 54, chapter 7 of Tennessee Code Annotated, the County Uniform Highway Law applies to most counties in the state. The counties with a population in excess of 200,000 (Shelby, Davidson, Knox and Hamilton) are excluded from this law.

The County Uniform Highway Law deals extensively with the position of "Chief Administrative Officer" of the county road department. The chief administrative officer is defined in T.C.A. § 54-7-103 as a county road superintendent, county road supervisor, county engineer, director of public works, or any similar elected or appointed official. The qualifications of the chief administrative officer are set out in T.C.A. § 54-7-104. The qualifications of candidates for elected and appointed offices are reviewed by the Tennessee highway officials certification board. Qualified candidates for popular election are certified by this board to the state coordinator of elections who forwards this certification to the county election commission. T.C.A. § 54-7-104(a).

The term of office is set at four years by T.C.A. § 54-7-105, and the minimum salary of the chief administrative officer is set by T.C.A. § 8-24-102. T.C.A. § 54-7-106. The bond of the chief administrative officer is set at \$100,000 by T.C.A. § 54-7-108.

Most of the duties of the chief administrative officer are specified in T.C.A. § 54-7-109. This section names the chief administrative officer as the head of the county highway department and gives this officer general control over the road system and the personnel employed by the county road department. However, in those counties with popularly elected highway commissions (provided by private act), the general policy decisions over the highway system remain with the elected highway commission. The chief administrative officer annually submits a county road list which includes a summary of all changes approved the previous year by the county legislative body and the reason for the change, and makes recommendations to the county legislative body respecting proposed changes to the county road list and the classification of roads. T.C.A. § 54-10-103.

The County Uniform Highway Law also gives the chief administrative officer authority to employ legal counsel (T.C.A. § 54-7-110), requires the preparation of an annual plan for road improvement (T.C.A. 54-7-111), and provides for the supervision and control of all equipment and materials owned by the county highway department (T.C.A. § 54-7-112).

The use of county equipment or materials for private purposes is prohibited by T.C.A. § 54-7-202. Any personal financial interest in the purchase of any supplies, machinery, materials or equipment by any chief administrative officer, county highway commissioner, member of the county governing body, or any employee of the county highway department is expressly forbidden by T.C.A. § 54-7-203.

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

1. Acts of 1855-56, Chapter 218, incorporated the Duck and Elk River Valley Rail Road with a capital stock permitted initially of \$260,000 which could be issued and sold by the Directors. The railroad would run from Shelbyville in Bedford County to the Alabama state line through Lewisburg and Pulaski. Several directors were named in the act from each County who would be in charge of the company until the regular Board was formed and organized.
2. Acts of 1901, Chapter 136, may have been the first comprehensive road law for the State furnishing the foundation upon which many road laws were to follow. The Act applied to all counties under 70,000 in population. Road districts would be the same as Civil districts and the County Court would elect one Road Commissioner from each for two year terms, at a salary of \$1.00 per day, not to exceed ten days in a year. The County Court would fix the number of days to be worked on the road at no less than five nor more than eight, fix the rate for commutation and for teams and wagons. A tax of two cents per \$100 would be levied by the Court, two-thirds of which could be worked out. Commissioners would name overseers for sections of roads in their area who would immediately supervise the programs. All males between 21 and 45 were required to work on roads. Specifications were written for roads, and the manner of handling petitions for opening, closing, or changing roads, and for working prisoners were both specified. The County Court could designate certain roads to be worked by contracts as was granted. This Act was the subject of litigation in Carroll v. Griffith, 117 Tenn. 500, 97 SW 66 (1906). This act was repealed by Private Acts of 1978, Chapter 198.
3. Acts of 1905, Chapter 478, amended the 1901 Act above in several minor particulars but primarily in the manner of dealing with petitions for closing, opening, and changing roads.
4. Private Acts of 1915, Chapter 564, appears to be the first special road law for Marshall County. Three citizens, one of each from certain geographical areas of the county, would form the County Road Commission serving staggered three year terms. The Commissioners would have general supervision of all roads and bridges exercising such powers as were granted in the Act, making required inspections of roads, and receive compensation as limited therein. Civil Districts and Road Districts were co-extensive and the County Court would appoint a District Commissioner from each for two year terms who would in turn appoint Overseer for one year to supervise two to five mile sections of road. Any district commissioner who appointed a notoriously incompetent overseer was guilty of a misdemeanor. Regulations for the conduct of all these officials were specified. The County Court would fix the compulsory work days on the roads and the rates to be allowed for horses and wagons, and would levy a ten to twenty cent road tax, six cents of which would be used on special county highways. All males between 18 and 50 years of age were required to work the roads under the regulations and policies established by this law. The roads were to be classified into four classes, defined by width in the act, and then the remainder is concerned with establishing procedures for opening, closing and changing roads, for application of the power of eminent domain and for working prisoners on the roads. An abutting property owner's tax of twenty cents per \$100 was ordained against those living on new pikes and highways. This law was construed and its constitutionality upheld except for the furnishing of feed to the horses of the wagon and team in an interesting opinion contained in Galaway v. State, 139 Tenn. 485, 202 SW 76 (1918).

5. Private Acts of 1919, Chapter 362, allowed any incorporated turnpike companies in Marshall County to abandon, sell, or dispose of any portion of their roadbeds, provided there shall remain at least five consecutive miles of turnpike with only one toll gate authorized. They may remove or relocate the toll gate anywhere on the turnpike except it could not be in a place less than one mile from the corporate limits of any city or town.
6. Private Acts of 1919, Chapter 459, amended Private Acts of 1915, Chapter 564, by making five the minimum number of days to be worked on the roads and by providing for an ad valorem tax levy between ten and twenty cents per \$100 which would go into a road fund and as nearly as possible the amount collected from a certain road district would be spent there.
7. Private Acts of 1921, Chapter 64, conferred the right to condemn property for road materials by eminent domain upon the County Roads Commissioners of Marshall County and to provide for payment of compensation in damages therefor, and to permit the taking of possession of the condemned property upon the filing of the petition for that purpose.
8. Private Acts of 1921, Chapter 826, permitted the County Court of Marshall County by using population figures to purchase any turnpikes, toll roads, or roads, including road beds, bridges, and toll houses within the limits of the county, and to operate the same after purchase and collect proper toll rates. If there should be an excess of money from the tolls, the rates would be reduced, or the excess would be placed in a fund to buy other turnpikes. The powers conferred herein would be exercised by the Quarterly County Court who would determine the method of financing. They could hire a Superintendent of Turnpikes at \$50 a month or less, to be in charge of all the county-owned turnpikes. Accurate records of all the financial transactions would be kept and presented to the County Court.
9. Private Acts of 1921, Chapter 834, allowed all persons, firms, or corporations owning and operating toll roads in Marshall County to charge tolls for motor vehicles passing through their gates in accordance with a table for toll rates set out in the law, the highest being fifty cents for a truck over 1½ tons capacity.
10. Private Acts of 1923, Chapter 262, made the County Road Commissioners also the Commissioners of Turnpikes and Toll Roads in Marshall County to exercise the powers and to discharge the duties therein imposed. They would inspect all the turnpikes at least twice a year and cause each company to repair their roads as the Commissioners directed, any failure to do so being declared punishable by action of the Attorney General.
11. Private Acts of 1933, Chapter 172, was the next road statute for Marshall County although it did not repeal the 1915 Act. This Act created the position of County Road Superintendent and placed upon him all the duties formerly assigned to the County Road Commission. The Superintendent salary would be \$900 a year plus no more than \$50 per month automobile, or traveling expense. The Act agrees in most particulars with its predecessor except that the (1) ad valorem tax rate for roads was set at from five to twenty cents, (2) the Superintendent was elected by the people for two years but could be fired by the County Court, (3) compulsory road working days were from five to ten for males 21 to 50 years old, and (4) Whit A. Bryant was named as the first Road Superintendent to serve until September 1, 1934. This Act and all amendments were repealed by Private Acts of 1945, Chapter 148.

12. Private Acts of 1935, Chapter 491, amended Private Acts of 1933, Chapter 172, by (1) defining one state of incompetency for which the County Court could dismiss the Road Superintendent as being his failure to work at least 75% of those eligible for road work, (2) by providing the penalty for violation of the prohibition against contracting with family and relatives to the 4th degree of consanguinity to be twice the amount involved in the contract same to go in the general road fund, (3) at least one-half of the ad valorem road tax collected in a certain road district would be spent in that district, (4) by deleting Sections 16 through 30 and rewriting them to assess all males 21 to 50 years of age with three 8 hour days labor or payment of a commutation fee of \$1.00 by June 1 of each year and (5) that all former Road Commissioners would return all tools, equipment, and road funds in their hands over to the Road Superintendent immediately.
13. Private Acts of 1937, Chapter 874, amended Private Acts of 1935, Chapter 491, in Section 5, by adding a provision that the Road Superintendent must first obtain the approval of the county purchasing committee of all contracts to purchase and purchases by him before any warrant would be paid, and further, that he must secure approval by the Quarterly County Court by Resolution of all persons to be employed by him and their salaries, and, he would furnish to each meeting of the Quarterly Court an inventory of all tools, supplies, and equipment and a statement of all cash or other valuables on hand, and a list of all contracts outstanding or incomplete.
14. Private Acts of 1939, Chapter 449, repealed Private Acts of 1935, Chapter 491, in its entirety, amended Private Acts of 1933, Chapter 172, to make Section Two read that the County Road Superintendent would be elected for four years beginning in August, 1940, but could not succeed himself, but this would not affect the term of the current official. Then the remainder of Chapter 172 was repealed in full, and a new one written. Some of these provisions were (1) roads were classified into three classes of State and County Roads, (2) the Road Superintendent would keep financial records and make specified reports, (3) the Superintendent would keep his office in the Court house, (4) the salary would be \$75 per month and expenses, (5) he must be trained in road building and observe all restrictions placed on purchasing, (6) he would have charge of all workhouse prisoners and keep accurate records on them. The remainder of the act was similar to the ones which came before.
15. Private Acts of 1941, Chapter 395, amended Private Acts of 1939, Chapter 449, by striking out the second paragraph of Section 9 which provided that the Road Superintendent could not purchase any article over \$25 without the consent of the County Judge and, in no case, unless sufficient funds to pay were present. The Superintendent could not work on any private property or use county personnel or material thereon unless the owner pays in full for all the costs which would go to the credit of the general road fund. Violation would subject one to a fine of \$10 to \$500.
16. Private Acts of 1943, Chapter 358, amended Private Acts of 1939, Chapter 449, by reducing the term of the Road Superintendent from four years to two years beginning in September, 1944 and serving until 1946 when he would be elected for a two year term, and by repealing all the rest of Section 3.
17. Private Acts of 1945, Chapter 148, repeals Private Acts of 1933, Chapter 172, and all the Acts amendatory thereto.

18. Private Acts of 1945, Chapter 171, was the road law substituted for the repealed act above. The changes were not every great except the term of the Road Superintendent was for two years, his salary would be \$2,100 a year, his bond, \$5,000, and he could hire a Clerk, or Bookkeeper at a salary not to exceed \$75 per month. The County Judge must approve his purchases over \$25, the Sheriff would be the ex-officio Superintendent of the Workhouse, and there were no provisions for compulsory road labor. All the other provisions were re-enactments of the prior laws. This act was repealed by Private Acts of 1953, Chapter 336.
19. Private Acts of 1947, Chapter 138, amended Private Acts of 1945, Chapter 171, by deleting all of Section 16 and inserting a new provision that all taxes collected from the road tax source, or any other similar source, for county purposes, and other road taxes including the receipts from the State or Federal Governments, shall constitute the general road fund of the county.
20. Private Acts of 1947, Chapter 580, amended Private Acts of 1945, Chapter 171, by adding at the end of Section 10 a provision that nothing in this Act shall supersede or conflict the provisions of the Tennessee Code as applying to the Board of Workhouse Commissioners, and that the Board may in its discretion prescribe the labor to be done by prisoners and such work need not be confined to roads alone but may be done on buildings, grounds, etc, or on other work in which the county may be interested.
21. Private Acts of 1953, Chapter 336, repealed Private Acts of 1945, Chapter 171, in its entirety, effective on September 1, 1954.
22. Private Acts of 1953, Chapter 337, was the new road law for Marshall County. This Act created four Highway Districts out of the Civil Districts, and also a County Highway Commission composed of one member from each District and the County Judge, as Chairman, who would be selected by the Quarterly County Court at its July, 1954 meeting and at every two years thereafter. The Commission would meet on the first Monday of every month thereafter, after selecting one of their members as Secretary. The Commission would select a County Road Superintendent at a salary not to exceed \$300 per month, who would be 25 years old, or more, and skilled in road and bridge building and maintenance, not related to any member of the Commission and who was required to take an oath and make a bond. The Commission would be in overall charge of the road program in the county, and would negotiate with the State Highway Department to rent or lease equipment, have general supervision over all expenditures of gasoline tax money, but could not contract for anything unless sufficient funds were available to pay. No employee was permitted to work nor any material of the county be used on private work at the risk of those guilty being immediately discharged. The Sheriff would turn over all county prisoners for work on the road and accurate records would be kept concerning these prisoners by the Commission on the amount of work they did towards working out their fines and costs. This act was repealed by Private Acts of 1955, Chapter 238.
23. Private Acts of 1978, Chapter 186, amended Private Acts of 1955, Chapter 238, in Section 5 by removing the requirement that the Road Superintendent maintain an office in the Courthouse.

## **CHAPTER X - LAW ENFORCEMENT**

LAW ENFORCEMENT

JAILS AND PRISONERS

PRIVATE ACTS OF 1945

CHAPTER 149

SECTION 1. That in counties of this State having a population of not less than 16,010 persons, and not more than 16,040 persons, according to the Federal Census of 1940, or any subsequent Federal Census, the Quarterly County Courts are authorized to pass a resolution fixing the jailer's fees in such county at an amount not in excess of twenty-five cents per day in addition to the amount now provided by law for keeping and feeding each prisoner in the county jail or workhouse.

SECTION 2. That for keeping and feeding each prisoner in his jail in such counties as come under the provisions of this Act, such jailer is authorized to receive and accept such amount as herein provided and fixed by the said Quarterly County Court.

SECTION 3. That when such amount is fixed by resolution by the Quarterly County Court the same shall be paid under the same conditions and in the same manner as is now provided by law.

SECTION 4. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 6, 1945.

## LAW ENFORCEMENT

### JAILS AND PRISONERS

The general law on jails and prisoners can be found in Tennessee Code Annotated title 41. Of particular interest to county officials are chapter 2 (County Workhouse), chapter 4 (Jails and Jailers), and chapter 8 (County Correctional Incentives Act). For the state law on jailers fees, see T.C.A. §§ 8-26-105 and 41-8-106. Two or more counties may enter into an interlocal agreement providing for a jail and/or workhouse to serve the contracting counties under T.C.A. §§ 5-7-105, 41-4-141, and 41-2-151. Each county that is a party to an interlocal agreement for a jointly operated jail would no longer be required to maintain a separate jail.

## LAW ENFORCEMENT

### MILITIA

For many years during the early portion of Tennessee's history, the county units of the state militia were a vital part of the peace keeping and law enforcement arm of the state, being subject to call when certain conditions existed.

## LAW ENFORCEMENT

### OFFENSES

Some counties in Tennessee have made various activities illegal within their boundaries by the enactment of private legislation. Some of these were billiard playing, operating dance halls, shooting fireworks, and things of a similar nature.

## LAW ENFORCEMENT

### SHERIFF

The office of sheriff is one of the county offices established by article VII, section 1 of the Constitution of Tennessee, and it is regulated by the general statutes found in title 8, chapter 8 of Tennessee Code Annotated. The qualifications for the office of sheriff are more stringent than for most county offices. These qualifications are detailed in T.C.A. § 8-8-102. Many of the duties of the sheriff are specified in T.C.A. § 8-8-201. The sheriff's salary is determined in accordance with T.C.A. § 8-24-102. The statutes authorizing the sheriff to petition the court with criminal jurisdiction for the employment of deputies and assistants and the setting of salaries for deputies and assistants are found in T.C.A. § 8-20-101 et seq. Also, the sheriff may appoint such personnel as may be provided for in the budget adopted for the sheriff's department. T.C.A. § 8-20-120. For additional statutes relating to the sheriff, refer to the combined general index of Tennessee Code Annotated, volumes 14, 15, and 16, under specific topics relating to law enforcement, county jails and workhouses.

The following acts have no current effect but are included here for reference purposes since they once applied to the Marshall County Sheriff's Office. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1855-56, Chapter 10, granted an extension of time to the family and to the estate of W. B. Holden, a deceased Sheriff of Marshall County in which to pay the taxes collected by him to the State, the same being due and unpaid at this time.
2. Private Acts of 1917, Chapter 268, set the salary of the Sheriff of Marshall County, using population figures, at \$1,200 per year provided he filed an annual report with the County Judge or Chairman, showing the total amount of fees collected by his office. The statement would be itemized and sworn to. If the fees failed to equal the amount of the salary, the county would pay the difference but, if the fees exceeded the salary, the Sheriff was allowed to retain the excess. This act was repealed in Item 4.
3. Private Acts of 1929, Chapter 682, amended Private Acts of 1917, Chapter 268, by increasing the salary of the Sheriff from \$1,200 to \$1,600 a year. This Act was repealed by the one below.
4. Private Acts of 1933, Chapter 144, set the annual salary of the Sheriff of Marshall County at \$1,200, payable at \$300 a quarter, provided a sworn, itemized statement was filed each quarter showing the fees collected by his office. If the fees were less, the county paid the difference, but, if the annual fees were in excess of the salary the Sheriff could retain them but not at the quarter periods. Any excess at the quarter was carried over to the next quarter. This Act repealed expressly the Private Acts of 1917, Chapter 268, and Private Acts of 1929, Chapter 682.
5. Private Acts of 1945, Chapter 150, amended Private Acts of 1933, Chapter 144, by raising the Sheriff's salary to \$1,800 a year, payable at \$450 per quarter.

6. Private Acts of 1947, Chapter 51, fixed the Sheriff's salary at \$2,400 annually, payable at the rate of \$600 per quarter under the same terms and conditions expressed in Private Acts of 1933, Chapter 144.

## **CHAPTER XI - TAXATION**

## TAXATION

### PRIVATE ACTS OF 1929

#### CHAPTER 873

SECTION 1. That this Act shall apply to all counties of the State having a population of not less than 17,370, nor more than 17,380, according to the Federal Census of 1920, or any subsequent Federal Census.

SECTION 2. That any such county, acting by and through its Quarterly County Court, shall be and is hereby authorized to levy and collect annually for general county purposes a tax not to exceed Thirty-five Cents (35¢) on each One Hundred Dollars (\$100.00) of taxable property in such county, and this authority shall exist in the Quarterly County Court regardless of the amount of such taxes authorized to be levied and collected by the general revenue law of the State, or otherwise.

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

Passed: April 11, 1929.

**COMPILER'S NOTE:** The constitutionality of this statute was attacked but upheld by the Supreme Court in Nashville, Chattanooga and S&L Railroad v. Marshall County, 161 Tenn. 239, 30 SW2d 268 (1930).

TAXATION

ADEQUATE FACILITIES TAX

PRIVATE ACTS OF 2001

CHAPTER 22

WHEREAS, Marshall County, Tennessee, is experiencing considerable growth in population and need for services and public facilities; and

WHEREAS, Marshall County is in need of additional revenue with which to fund its capital improvement program to meet the needs of its growing citizenry; and

WHEREAS, a privilege tax on new development is a fair and equitable way to raise funds to meet the demand for additional public facilities; now, therefore,

SECTION 1. This act shall be known and cited as the “Marshall County Adequate Facilities Tax”.

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

(1) “Board of adjustments and appeals” means the board known as the Marshall County Board of Zoning Appeals..

(2) “Building” means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home. “Building” does not mean any structures used primarily for agricultural purposes.

(3) “Building permit” means a permit for development issued in Marshall County, whether by the county or by any city therein.

(4) “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 expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

(5) “Certificate of occupancy” means a license issued for occupancy of a building or structure in Marshall County, whether by the county or by any city therein.

(6) “Commercial” means the development of any property for commercial use, except as may be exempted by this act.

(7) “Development” means the construction, building, erection, or improvement to land providing a new building or structure, which provides floor area for residential or commercial use.

(8) “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.

(9)

(A) “Floor area” for non-residential development means the total of the gross horizontal area of all floors, including usable basement 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 in the case of non-residential facilities: 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.

(B) “Floor area” for residential development means the total of the gross horizontal area of all floors, including basements, cellars, or attics which is heated and/or air-conditioned living space, or designed to be finished into heated and/or air-conditioned living space at a future date.

(10) “General plan” means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-102. For purposes of this act only, a general plan may consist solely of the land development plan element, which sets out a plan or scheme of future land usage.

(11) “Governing body” means the county commission of Marshall County, Tennessee.

(12) “Major Street or road plan” means the plan adopted by the planning commission, pursuant to Tennessee Code Annotated, Sections 13-3-402 and 13-4-302, showing, among other things, the general location, character, and extent of public ways and the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways.

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

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

(15) “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, that a place of worship does not include buildings or portions of buildings which are used for purposes other than worship and related functions or which are intended to be leased, rented or used by persons who do not have tax-exempt status.

(16) “Public buildings” 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.

(17) “Public facility or facilities” means a physical improvement undertaken by the county or 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.

(18) “Residential” means the development of any property for a dwelling unit or units.

(19) “Subdivision regulations” means the regulations adopted by the Marshall County regional planning commission pursuant to state statutory authorization on October, 1968, as amended, by which the county regulates the subdivision of land.

(20) “Zoning resolution” means the resolution adopted by the governing body pursuant to state statutory authorization on September 18, 1989, as amended by Chapter 22 of the Private Acts of 1989 and Chapter 173 of the Private Acts of 1990, by which the county regulates the zoning, use and development of property.

As amended by: Private Acts of 2007, Chapter 61.

SECTION 3. It is the intent and purpose of this act to authorize Marshall 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 so as 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 new development within Marshall County, except as provided in Section 6 herein, is declared to be a privilege upon which Marshall 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, 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:

- (1) Public buildings;
- (2) Places of worship;
- (3) Barns or outbuildings used for agricultural purposes;

(4) Replacement structures for previously existing structures destroyed by fire or other disaster; or

(5) A structure owned by a nonprofit corporation which is a qualified 501(c)(3) corporation under the Internal Revenue Code.

SECTION 7. For the exercise of the privilege described herein, Marshall County may impose a tax on new development not to exceed one dollar (\$1.00) per gross square foot of new residential or commercial development. The county may develop a tax rate schedule by which residential and commercial users are classified by type for the purpose of imposition of the tax authorized herein.

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 or, if a building permit is not required, at the time of application for a certificate of occupancy from the county or city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. The revenue collected from this tax shall be collected by the county building official or other responsible official, and the proceeds deposited with the county trustee and used exclusively for capital projects, including, but not limited to, debt service related to such improvements or projects, in the general fund, school fund, special revenue funds, debt service fund or other capital projects funds as designated by resolution of the board of county commissioners of Marshall County. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Marshall County unless the tax has been paid in full to the county.

SECTION 9. The authority to impose this privilege tax on new development in Marshall 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 10

(a) Any person aggrieved by the decision of the county building official 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 Marshall 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) The Marshall County board of adjustments and appeals shall hear appeals. Hearing shall be scheduled within thirty (30) days of the written request for appeal.

(c) The board of adjustments 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.

(d) The board of adjustments and appeals shall act as a quasi-judicial body whose purpose is to determine that intent of this act, its applicability to the appellant, and to rule upon the interpretation of the official. The board will not be bound by formal rules of evidence applicable to the various courts of the state.

(e) Hearings before the board shall proceed as follows:

(1) The county building official shall explain his ruling and the reasons for his ruling.

(2) The appellant shall explain his 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, committee members, the county attorney, or the county planning staff. The board will not have the power to subpoena.

(4) The board will deliberate and render a decision by a majority vote. Decisions will 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 Marshall County Board of Adjustments and Appeals shall be final, except that either the building official, or the person aggrieved, may seek review of the board's action by certiorari and supersedeas to the chancery court of Marshall County, Tennessee, provided that an application to the court is made within sixty (60) days of the written decision of the board.

SECTION 11. All taxes/funds collected under the provisions of this act shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

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 Marshall County. This act shall be deemed to create an additional and alternative method for Marshall 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 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 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Marshall County before December 1, 2001. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by such officer 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 as provided in Section 14.

Passed: March 29, 2001.

TAXATION

ASSESSOR OF PROPERTY

RECORDATION OF DEEDS

PRIVATE ACTS OF 1961

CHAPTER 306

SECTION 1. That in all counties of this State having a population of not less than 16,751 nor more than 16,950 according to the Federal Census of 1960 or any subsequent Federal Census, before any person in Counties to which this Act is applicable, may have recorded any deed conveying in fee the title to any real estate, such person must first present such instrument to the County Tax Assessor, who shall 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 in which such property is located and a description of each tract of land so conveyed, by reference to the adjoining land owners or such other description as may designate said property. As evidence of the fact that the provisions of this section have been complied with, the County Tax Assessor shall place on the margin or the back of each deed, a stamp or his signature.

SECTION 2. That the County Registers in the counties to which this Act may be applicable are expressly forbidden to record deeds conveying in fee the title to any real estate until such instruments have been presented to the County Tax Assessor and his stamp or signature has been placed thereon, indicating the provisions of this Act have been complied with.

SECTION 3. That provided at any time the Tax Assessor or his Deputy should not be available, in that event the Register may receive and note such instruments, but it shall not be recorded until the provisions of this Act shall have been complied with.

SECTION 4. That all laws or parts of laws in conflict with this Act are hereby repealed.

SECTION 5. 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. Its approval or non-approval shall be proclaimed by the residing officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

SECTION 6. That this Act shall take effect for the purpose of validating the same as provided for in Section 5 above, from and after its passage, and for all other purposes ten days after its approval by the Quarterly County Court, having jurisdiction to approve or disapprove it, the public welfare requiring it.

Passed: March 15, 1961.

## TAXATION

### ASSESSOR OF PROPERTY

The assessor of property is a constitutional officer provided for in article VII, section 1 of the Constitution of Tennessee to be elected by the qualified voters for a term of four years. For general law on the office of county assessor of property, see Tennessee Code Annotated title 67, chapter 1, part 5.

The salary of the assessor is set by the county legislative body in accordance with T.C.A. § 67-1-508 at an amount not less than the salary provided for the assessor by T.C.A. § 8-24-102. Also, T.C.A. § 67-1-508 provides that any assessor of property who has been trained and designated as a "Certified Assessment Evaluator" will be paid additional compensation by the state. Further, any assessor of property who has earned the title of "Tennessee Certified Assessor" or "Residential Evaluation Specialist" will be paid additional compensation by the state. The assessor is authorized by T.C.A. § 67-1-506 to appoint a deputy assessor for each 4,500 parcels of property over and above the first 4,500 parcels.

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 Marshall County Assessor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1911, Chapter 411, proposed to amend a statewide law on taxation by setting the salary of the Tax Assessor of Marshall County at \$700 per year by the use of population figures. However, erroneous population figures were used and this act never really applied because of that error.
2. Private Acts of 1921, Chapter 251, provided for the Tax Assessor of Marshall County to be paid \$1,200 annually on the first Monday in July of each year if the work of the Assessor for that year was completed; if the work was unfinished, then the payment would be made when the work was all done.
3. Private Acts of 1945, Chapter 199, amended Private Acts of 1921, Chapter 251, by increasing the salary of the Assessor from \$1,200 to \$1,800 a year under the same terms and conditions.
4. Private Acts of 1955, Chapter 247, amended Private Acts of 1921, Chapter 251, by striking from Section 1 all the language requiring an annual payment of the Assessor's salary and establishing in its place a monthly payment plan except the last month's pay would be withheld until the assessments for that year were completed.
5. Private Acts of 1957, Chapter 311, amended Private Acts of 1921, Chapter 251, by increasing the salary of the Assessor from \$1,200 to \$3,000 a year payable monthly.
6. Private Acts of 1963, Chapter 168, also amended Private Acts of 1921, Chapter 251, by raising the Assessor's annual salary from \$3,000 to \$5,000 payable monthly, repealing Private Acts of 1957, Chapter 311.

7. Private Acts of 1967-68, Chapter 252, amended Private Acts of 1921, Chapter 251, by again raising the Assessor's salary this time from \$5,000 to \$6,000 but also made it his duty to compile the Tax Rolls of Marshall County and transmit them to the Trustee on or before October 1 of each year and the compensation for this duty is included in the higher salary.

TAXATION

LITIGATION TAX

PRIVATE ACTS OF 1983

CHAPTER 58

SECTION 1. A litigation tax of five dollars (\$5.00) on all civil cases and fifteen dollars (\$15.00) on all criminal cases shall be levied and taxed as part of the costs in all actions filed in the General Sessions, Circuit, Chancery, and Probate Courts of Marshall County.

SECTION 2. The tax imposed herein shall be collected by the clerks of the respective courts and paid over to the trustee each month.

SECTION 3. Upon receipt of the tax imposed herein, the trustee shall deposit such funds as follows:

One-fourth ( $\frac{1}{4}$ ) to a fund to be used exclusively for the purpose of maintaining and/or improving the courthouse and other county-owned buildings.

Three-fourths ( $\frac{3}{4}$ ) to a fund to be used exclusively for law enforcement purposes.

SECTION 4. The Private Acts of 1967, Chapter 251, Private Acts of 1967-68, Chapter 386, and the Private Acts of 1971, Chapter 29, are hereby repealed.

SECTION 5. This Act shall have no effect unless it is approved by two-thirds ( $\frac{2}{3}$ ) vote of the county legislative body of Marshall County. Its approval or non-approval 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: March 31, 1983.

TAXATION

MOTOR VEHICLE TAX

PRIVATE ACTS OF 1979

CHAPTER 73

SECTION 1. For the privilege of using the public roads and highways, except state maintained roads, in Marshall County, there is levied upon motor-driven vehicles and upon the privilege of the operation thereof, except farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, motorcycles under ten (10) horsepower and except all motor-driven vehicles owned by any governmental agency or governmental instrumentality, a special privilege tax for the benefit of the county, which tax shall be in addition to all other taxes, and shall be in the amount of fifty dollars (\$50.00) for each such motor-driven vehicle. This tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which lives within, or who operates such motor-driven vehicle on, over, or upon the streets, roads, or highways of the county, state-maintained roads excluded.

As amended by: Private Acts of 1999, Chapter 58.

SECTION 2. It shall be and is hereby declared to be unlawful for any owner of a vehicle to operate or allow to be operated any motor-driven vehicle over the streets, roads, or highways of the county, state-maintained roads excluded, without the payment of the tax herein provided having been made as herein required, prior to such operation thereof. Provided further, that nothing in this act shall be construed as permitting and authorizing the levy of and the collection of a tax against non-residents of the county to which this Act applies and to owners of such vehicles using the streets, roads, and highways of the county, who live r reside without the bounds of the county, but who do not come within the provisions of this Act, and within a reasonable construction of the provisions hereof.

SECTION 3. The privilege tax or wheel tax herein levied, when paid together with full, complete, and explicit performance of and compliance with all provisions of this Act, by the owner, shall entitle the owner of the motor-driven vehicle for which said tax was paid, and the decal or emblem (wheel tax sticker) referred to herein, shall be affixed for clear display on the lower right corner of the license plate, to operate this vehicle over the streets, roads, and highways of the county from November 1, 1978 of each year to the next succeeding year. When a motor-driven vehicle becomes taxable under the terms and provisions of this Act, the proportionate reduction shall be made as to the cost of the privilege tax or wheel tax for new residents and will be charged quarterly on the balance of their wheel tax from date of residence until the time their state tag expires, to be paid into the hands of the clerk therefor, as is now made in issuance of the privilege tax payable to the State of Tennessee and collected by the clerk, under the provisions of the general laws of this State. Quarterly credit shall be given on unused portions of the wheel tax sticker for the purpose of upgrading their state tag. Replacement of any lost, stolen, or mutilated wheel tax sticker shall cost five dollars (\$5.00). It shall be and is hereby declared to be unlawful for any person to operate any motor-driven vehicle, taxable hereunder, over or upon the streets, roads, or highways of the county, or any municipality thereof, state-maintained roads excluded, without payment of this privilege tax

levied hereunder and without full and complete compliance with all provisions hereof, which shall be enforceable by the Sheriff's Department of Marshall County, Tennessee. Any person violating any provision of this Act shall, upon conviction, be subject to a civil penalty not to exceed fifty dollars (\$50.00).

As amended by: Private Acts of 1999, Chapter 58,  
Private Acts of 2004, Chapter 93.

SECTION 4. Residence in the county shall constitute prima facie evidence of use by such resident of roads and highways of the county, other than state-maintained roads, without regard to whether such resident resides within the boundaries of a municipal corporation within the county. Any person establishing a new residence within the county shall be allowed thirty (30) days thereafter within which to comply with the provisions of this Act.

SECTION 5. The tax levied under this chapter shall be collected for the tax year beginning September 1, 1999, and for every year thereafter.

The tax herein levied shall be paid to and collected by the County Clerk of Marshall County, who shall collect this tax at the same time he collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The clerk shall not issue to a resident of said county a state license for a motor-driven vehicle taxable hereunder unless, at the same time, such owner shall purchase the license or pay the privilege tax levied hereunder for the operation of each of his motor-driven vehicles under the provisions of this act.

Payment of the privilege tax imposed hereunder shall be evidenced by receipt issued in duplicate by the clerk, the original of which shall be kept by the owner, and a decal or emblem shall also be issued by the clerk, which shall be affixed for clear display to the vehicle. For his service in collecting the aforesaid tax and in issuing the receipt therefor and delivering the decal or emblem to the owner, the clerk shall be entitled to fifty cents (50¢) which shall be deducted from the amount of tax collected hereunder; this fee shall be in addition to any fee or commission allowed to the clerk under Tennessee Code Annotated, Section 8-21-701 (57).

The clerk shall pay the net proceeds from the tax imposed hereunder to the Marshall County Trustee, who shall distribute such proceeds on the following basis:

(a) Forty dollars (\$40.00) of the proceeds of the tax herein imposed shall be used exclusively to retire the county school bond indebtedness.

(b) Seven dollars and fifty cents (\$7.50) of the proceeds of the tax herein imposed shall be paid to the Highway Fund for general road purposes.

(c) Two dollars and fifty cents (\$2.50) of the proceeds of the tax herein imposed shall be paid to the General Fund to fund the excessive cost of operating the Marshall County Jail.

The failure to affix the decal or emblem (wheel tax sticker) in the manner prescribed herein, shall constitute a violation of this Act.

The decal or emblem (wheel tax sticker) referred to herein, shall be affixed for clear display on the lower left (driver's) side of the rear window of vehicles with visible rear window, or on the lower left corner (driver's) side, of the windshield of vehicles having no clearly visible rear window, such as motorcycles, convertibles, and large trucks. The failure to affix the decal or emblem (wheel tax sticker), in the manner prescribed herein, shall constitute a violation of this act.

As amended by: Private Acts of 1982, Chapter 208,  
Private Acts of 1983, Chapter 27,  
Private Acts of 1999, Chapter 58,  
Private Acts of 2004, Chapter 93.

SECTION 6. Except as provided in Section 1, there shall be no exemptions from compliance with the Motor Vehicle Privilege Tax as imposed by this act except as allowed by the general law of the state of Tennessee.

As amended by: Private Acts of 2004, Chapter 93.

**COMPILER'S NOTE:** It is our information that this Act was locally approved by the County Legislative Body of Marshall County on April 23, 1979, thus making the provisions of this law effective.

TAXATION

OCCUPANCY TAX

PRIVATE ACTS OF 1993

CHAPTER 30

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

(1) "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.

(2) "Clerk" means the Trustee of Marshall County, Tennessee.

(3) "County" means Marshall County, Tennessee.

(4) "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.

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(8) "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.

As amended by:        Private Acts of 2003, Chapter 8.

SECTION 2. The legislative body of Marshall County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount not to exceed seven percent (7%) of the rate charged by the operator. The amount of such tax shall be set from time to time by resolution of the county legislative body of Marshall County. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

As amended by: Private Acts of 2005, Chapter 34.

SECTION 3. The proceeds received by the county from the tax shall be retained by the county and deposited into the general fund of the county, 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 the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to Marshall County.

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 from or charged to him, 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 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 to the clerk in the form of a deduction in submitting his 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 or other authorized collector of the tax authorized by this act shall be responsible for the collection of such tax and shall place the proceeds of such tax in such 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. (a) 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 (12%) percent per annum, and shall be liable for an additional penalty of one (1%) percent 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 knowing or willful refusal of an operator to collect or remit the tax or knowing or willful refusal of a transient to pay the tax imposed is a violation of this act and shall be punishable by a civil penalty for each occurrence with said penalty to be imposed as state law allows. Each occurrence shall constitute a separate violation. As used in this section, "each occurrence" means each day.

(b) Nothing in this section shall be construed to prevent the clerk, or other authorized collector of the tax, from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

As amended by: Private Acts of 2004, Chapter 71,  
Private Acts of 2005, Chapter 34.

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 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 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.

Notice of any tax paid under protest shall be given to the clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the General Fund (or other fund) of Marshall County to be used for the purposes stated in Section 3 of this act.

SECTION 12. 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 13. 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 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lauderdale County. 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 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: March 11, 1993.

## TAXATION

Most of the general law on taxation can be found in title 67 of Tennessee Code Annotated. The chief revenue source for county government is the ad valorem tax on real and personal property. The statutes dealing with the county property tax, including assessment, levy, collection, and enforcement, are found in title 67, chapter 5. Assessments are reviewed by the county board of equalization, which is covered by title 67, chapter 5, part 14. Another large source of county revenue is the local option sales tax. The authority for the local option sales tax is codified at T.C.A. title 67, chapter 6, part 7. While the property tax may be levied by the county legislative body alone, the local sales tax must be approved by the qualified voters in a referendum. Other general law granting taxing authority for counties may be found in other sections of the code. These may be found through use of the combined general index to the Tennessee Code Annotated. In some areas private acts may be used for authority to levy a tax at the county level. The revenue sources available to county governments, and the authority for such taxes and fees either in general law or private acts, are summarized in the CTAS publication County Revenue Manual.

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

1. Private Acts of 1967, Chapter 251, imposed a litigation tax of \$2.00 as a part of all Marshall County Court Costs. The "Marshall County Improvement and Maintenance Fund" would be supported by the tax so collected.
2. Private Acts of 1967-68, Chapter 386, amended the above act providing that all the operations of the fund shall be included in the budget adopted by the county legislative body and all expenditure made in accordance with the Marshall County Budget Law.
3. Private Acts of 1976, Chapter 204, set up a \$15 motor vehicle tax on all vehicles in Marshall County except farm tractors and farm machinery not generally operated on public roads. The County Clerk was to collect the tax and issue a decal at an additional 75¢ fee. This act was not approved locally.
4. Private Acts of 1996, Chapter 211, authorized the county to levy and collect a privilege tax on new land development in the county known as the Marshall County Adequate Facilities Tax. This act was not adopted by the county legislative body.
5. Private Acts of 2000, Chapter 157, authorized an adequate facilities tax in Marshall County. This act was not approved locally within the time limitation specified in the act (July 1, 2000) and therefore never became effective.

**PARALLEL REFERENCE TABLE**

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